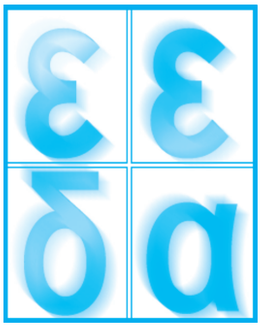
NATIONAL COMMISSION FOR HUMAN RIGHTS

ANNUAL REPORT 2008



ATHENS 2009

The Summary Report can be accessed at the website of the NCHR
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mr. Kostis Papaioannou

FOREWORD

by the NCHR President, Kostis A. Papaioannou

The Annual Report of the National Commission for Human Rights, according to its founding law, records its activities and work of the previous year. It also refers to issues relating to the functioning of the Commission, at the national and international level, and its cooperation with the government.

The assessment of the global situation reveals three important issues that may pose serious risks in terms of human rights in the future. The first aspect is related to the economic crisis, a crisis with still unfathomable dimensions and duration. Over time it is very likely for this crisis to create social tension and severe rupture of social cohesion. Large segments of the population, indigenous and alien, are experiencing strong pressure in the economic and labour field, while the decline of the welfare state and the mechanisms of social security weakens a valuable social safety net.

The second aspect, which is interlinked with the previous one, relates to migrant and refugee population. The inadequate policies of social integration combined with the great number of migrants living in the grey zone of non-legitimization constitute an extremely negative setting. Moreover, the serious shortcomings of the asylum system undermine the protection of refugees, which constitutes an international obligation of our country. Recent protests by Muslim migrants are a worrying signal and enhance the extreme urgency of taking measures, such as the creation of those infrastructures that will allow the unimpeded exercise of their religious rights. Furthermore, it is the responsibility of the state to take initiatives and act towards the social integration of migrants and the protection of law, both at the national and local level, so as to contain the actions of those who take advantage of the citizen's insecurity by instigating xenophobia and racism with significant consequences on social cohesion and peace. The great responsibility of the media, often exacerbating this feeling of insecurity needs to be underlined.

The third factor concerns the operation of the law enforcement personnel as guarantors of citizens' rights. Incidents of police arbitrariness, including the Grigoropoulos homicide which generated the December of 2008 riots, need to be addressed. Besides, there is a significant number of convictions of Greece by international bodies for incidents of police brutality. The NCHR proposed to the Ministry of Interior the joint preparation of a new curriculum for human rights training of police. The proposition was accepted in principle. The planning of the curriculum is in progress, but its continuation depends both on the political will and financial support by the Ministry. The problem, however, of police violence will not be resolved solely *via* training. Several and important interventions are also required in other areas, such the effective investigation and attribution of responsibility for reported incidents.

The Commission's work, during the year covered by this Report, is depicted mainly in its decisions, which cover a wide range of topics, and as provided for by the founding law, are adopted either at the request for an advisory opinion *re* bills or on its own initiative. An indicative reference to some of these decisions follows.

The challenges relating to the correctional system being at the heart of the Commission's concerns (see "Decision regarding detainees' rights and detention conditions in Greek prisons", 10.04.2008), the NCHR paid particular attention to the developments of the past autumn, when mass mobilisations of prisoners took place. The Commission sought cooperation with the Ministry of Justice proposing that the measures combating prison overpopulation include effective provisions to address the chronic structural problems of the correctional system. In this context, we were also invited by the Parliamentary Inter-party Committee for the Correctional System (26.11.2008), and by the Minister of Justice to state our views. However, it can hardly be argued that significant progress has been made. The detention conditions remain problematic and the chronic shortcomings require radical reform of the correctional policy. This was also highlighted

at the NCHR's conference "Detention conditions and rights of detainees in Greek prisons", which was the theme set by the UN Office of the High Commissioner for Human Rights for the events commemorating the 60th anniversary of the Universal Declaration of Human Rights.

One of the outcomes of the Conference was the decision of the Commission regarding the "Criminal Record of Juveniles and Young Adults" (an issue raised by parents of former juvenile detainees, by teachers at prison schools and by social workers). The decision included a series of recommendations that combine both the need to facilitate social reintegration and combat the social stigmatization of young offenders through their access to employment and the need to protect public safety and society as a whole. It recommended, *inter alia,* the non registration in the criminal record of decisions involving reformatory measures and of sentences involving detention in correctional facilities when the juvenile is younger than 15 years old during the perpetration of the crime.

In addition, the NCHR adopted a decision on disclosure of personal data relating to criminal prosecutions or convictions. The NCHR took the view that the prosecutor's right to disclose personal data regarding prosecutions and convictions raise serious constitutional issues and questions of compatibility with the ECHR, because they affect fundamental rights of the accused and convicted persons.

Furthermore, the NCHR stated its views with regard to the abolition of religious oath and its replacement by political oath. The reason for addressing anew the issue of religious oath was a recent conviction of Greece by the European Court of Human Rights. The NCHR reached the conclusion that even optional religious oath, which is the case with the Civil Procedure Code, violates the freedom of religious conscience.

The disciplinary proceedings initiated against the President of the Association of Prosecutors of Greece, gave the NCHR the opportunity to address the issue of freedom of speech and protection of freedom of association of judicial functionaries, without, though, touching upon the aspects of the specific case. The decision emphasized that the provisions of the Constitution and international human rights instruments provide for the protection of freedom of speech of judges in general; a protection that prevails over any contrary provision of the law. In particular, the right of freedom of expression of the representatives of judiciary's unions is protected by special legislative guarantees when it comes to the functioning of Justice, the exercise of the powers of administrative bodies, and the publicizing of their views on issues of civil rights. The NCHR has underlined that this right strengthens the guarantees of independence of the judiciary.

The NCHR has also commented analytically upon the Bill "Reforms for the Family, Children and Society". With regards to the newly introduced civil pact, the NCHR focused on the need for its *ratione personae* to be expanded so as to cover homosexual couples stressing that their exclusion constitutes discrimination based on sexual orientation. The Ministry of Justice in response pledged to create a special committee to address the question, however, the commitment has not been materialized. Moreover, the NCHR phrased several reservations and recommendations for the improvement of the draft provisions of the civil pact regarding, *inter alia,* its publicity, termination, alimony. Regarding the questions of family law, the NCHR was surprised by the lack of prior consultation and thorough assessment of the implementation of the progressive provisions of Law 1329/1983, as regards the surname of spouses and parent-child relationships. The NCHR pointed out that the draft provisions lack coherence, nor do they generate the necessary legal certainty. Furthermore, the Committee expressed serious reservations on the basis of the best interests of the child, *re* the joint exercise of parental custody after divorce, annulment of marriage or termination of marital cohabitation. In addition, the NCHR submitted some indicative observations in relation to adoption, the existence of an irrebuttable presumption of marriage breakdown because of serious acts of domestic violence, the amendment of the provision relating to the surname of spouses and the opinion of the mother for the regulation of parental care of children outside marriage. Finally, the NCHR

pointed out those provisions which should, according to its previous positions, be included in the Bill.

The NCHR's report and recommendations on the situation and rights of Roma in Greece are also of particular importance. The report is the product of consultation with stakeholders and persons involved in Roma issues. The NCHR having noted the existence of a gap between the adoption of positive policies and measures for Roma and their effective implementation in the field, it attempts a summary review of the so far implementation of the Integrated Program of Action for the Social Integration of Greek Roma. The report makes a series of recommendations to the Greek state towards a comprehensive policy for Roma, as a result of the will to respect human rights and comply with the requirements of relevant national and international bodies.

Finally, the NCHR adopted a "Declaration on the protection of forests and the environment." Having, also, in the past dealt with environmental issues and considering that the catastrophic fires of 2007 tragically highlighted the need for taking a stand on issues of environmental protection, the Commission decided to conduct consultations with relevant bodies and experts. The Declaration, *inter alia*, refers to the responsibility of both the State and the 'users' of the environment as well as to the shaping of state policy on forests focusing primarily on the consistent application of the triangle "prevention-suppression-management".

This is the 10th year since the NCHR started functioning and it has acquired its own distinct position in the protection of human rights in Greece. In its composition there is a creative co-existence of government representatives, trade unionists, political parties' representatives, civil society actors, independent authorities, academics and independent experts. The NCHR has developed a culture of dialogue which is rare in other manifestations of social and political life. From the first day of its operation it has sought to adopt its decisions by consensus and it has avoided marginal majorities. Thus, it has preserved its advisory, consultative role. However, the institutions entitled to be proud of their *de facto* independence and reliability, are also entitled to the attention of the State. It should not be acceptable that the State promotes legislation and policies in vital human rights areas (correctional system, political asylum, civil pact) without consulting with the NCHR, the competent advisory body; it should not be acceptable that the NCHR, is informed on those important issues by the media; it should not be acceptable that the NCHR is contacted by the Ministries at such a late stage that makes it impossible to submit comprehensive observations. Thus, despite the generally satisfactory level of cooperation with the Ministries, the non communication to the NCHR –or at least in a timely fashion– of bills for commenting constitutes a major omission on the part of the Administration, as we have noted repeatedly. The institutional role of the Commission requires the observance of this procedure and the failure of the Ministries to do so, renders our work considerably difficult.

In symbolic terms, the visit of the NCHR Bureau to his Excellency the President of the Republic in order to present the Annual Report constitutes a momentum for the Commission. Moreover, meetings were held with the President of the Parliament Mr. Sioufas, the Minister of Interior Mr. Pavlopoulos and the Minister of Justice, Mr. Chatzigakis. The important role of the Ministries' representatives in the NCHR, who are entrusted with the responsibility of interactive information and facilitation of contacts between the Commission and Administration, needs to be noted. The NCHR, also, presented its positions on particular issues at meetings of Parliamentary Committees, as the Inter-party Committee for the Correctional System and the Special Permanent Committee on Equality, Youth and Human Rights. A key concern of the Commission was the cooperation and consultation with civil society actors. The NCHR seeks to enrich the debate and its positions by the contribution of entities and experts on various issues and to create permanent channels of communication with actors not represented in the Commission. The positive response and the effective contribution of those invited needs to be highlighted. *Ad hoc* consultations were initiated regarding the correctional system, the environment and special

education for children with disabilities.

Moreover, a key condition for the productive functioning of the Commission is its staffing with scientific personnel and secretarial support for its increasing needs. The high level of its performance should be credited to the staff of the NCHR; their high professionalism and personal devotion certainly provides for the needs of the Commission, without, nonetheless, resolving the persistent problem of limited resources. New fields to explore, the need to collect scientific data, the enhancement of NCHR's public presence and its effective intervention, as well as its even more active participation in international decision-making, will all require the increase of its human resources.

At the international level, the activities of the NCHR have also been intensified, as the national human rights structures mature as an institution. Thus, the Commission coordinates its actions with other national structures in the framework of groups set up either on a geographic basis, such as the European Group, or on a thematic, for example the EU network of national experts on immigration and asylum. These partnerships concern the administrative and institutional coordination of actions with homologue commissions within the framework of the UN High Commissioner for Human Rights, the Council of Europe, and the Fundamental Rights Agency of the EU. Moreover, the Commission continues to have an active role in the dialogue platform established between the national human rights institutions of Arab and European countries, now focusing on immigration and women's rights. At the end of 2008, the tenure of the NCHR as a member of the European Coordinating Committee, in which it participated since 2002, was completed,

It should also be noted that the funding problems of the NCHR are still unresolved. The *ad hoc* approval of the Commission's expenses from the budget of the Secretariat General of the Government works effectively due to the, mutually, good intentions and understanding. However, this operation inevitably creates a rigid framework and limits the ability of the Commission to plan ahead and materialise its activities. This point has also been underlined by the Subcommittee on Accreditation, which has stressed that a funding framework allowing full autonomy is key to the effective independence of the Commission.

At this point, we would like to highlight the great loss of Professor George Papadimitriou. His inexhaustible faith in the value of human rights, to which he devoted much of his activity throughout his life has been his mark. The NCHR notes the particular contribution of G. Papadimitriou to its own establishment, since he was among those who pioneered for the establishment of a national human rights institution in Greece. He drafted the founding law of the Commission in 1998 and remained a stable ally in its work.

Legal Framework and Organisational Structure of the NCHR

1. Law No. 2667/1998 establishing the NCHR[1]

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 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

1. As amended by Law 2790/2000, Law 3051/2002 and Law 3156/2003.

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.

6. 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.

7. 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

Article 19
Final provision

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

2. Current Members of the NCHR

1. The President of the Special Parliamentary Commission for Institutions and Transparency, Mr. A. Stavrou.

2. A representative of the General Confederation of Greek Workers, Mr. N. Fotopoulos (Mr. D. Stratoulis as his alternate).

3. A representative of the Supreme Administration of Civil Servants' Unions, Mr. K. Smyrlis (Mr. N. Hatzopoulos as his alternate).

4. Six representatives of Non-Governmental Organizations active in the field of human rights protection: for Amnesty International Greek Section, Mr. K. Papaioannou (Ms. G. Zervou as his alternate); for the Hellenic League for Human Rights, Mr. G. Ioannidis (Mr. K. Tsitselikis as his alternate); for the Marangopoulos Foundation for Human Rights, Mr. L.-A. Sicilianos (Ms. A. Yotopoulou-Marangopoulou as his alternate); for the Greek Council for Refugees, Ms. A. Chrissochoidou-Argyropoulou (Ms. I. Nikolakopoulou-Stefanou as her alternate); for the Greek League for Women's Rights, Ms. S. Koukouli-Spiliotopoulou (Ms. X. Petrinioti as her alternate); and for the Panhellenic Federation of Greek Roma Associations, Mr. C. Labrou (Mr. E. Demetriou as his alternate).

5. Representatives of the political parties represented in the Greek Parliament: for New Democracy, Mr. C. Naoumis (Mr. G. Nikas as his alternate); for PASOK, Mr. K. Botopoulos (Ms. N. Paraskevopoulou as his alternate); for KKE Mr. G. Goussetis (Mr. D. Kaltsonis as his alternate); for SYRIZA, Mr. N. Theodoridis (Mr. S. Apergis as his alternate); for LAOS Ms. V. Tsabieri (Mr. A. Mitsopoulos as her alternate).

6. The Greek Ombudsman, Mr. G. Kaminis (Mr. A. Takis as his alternate).

7. One member of the Authority for the Protection of Personal Data proposed by its President, Mr. N. Fragakis and from 30.05.2008 Mr. A. Roupakiotis (Ms. P. Fountedaki as his alternate).

8. One member of the National Radio and Television Council proposed by its President, Ms. I. Avdi-Kalkani (Ms. E. Demiri as her alternate).

9. One member of the National Commission for Bioethics proposed by its President, Mr. G. Maniatis (Mr. I. Vlachogiannis as his alternate).

10. Two personalities widely recognized for their expertise in the field of human rights protection, designated by the Prime Minister: Mr. N. Klamaris (Ms. T. Antoniou as his alternate) and Mr. A. Makridimitris (Ms. A. Kaloudi, as his alternate).

11. One representative of the: Ministry of Interior, Public Administration and Decentralisation, Ms. M. Kotronia and from 28.08.2008 Mr. I. Zannetopoulos (Mr. K. Argyrou and from 28.08.2008 Ms. A. Belia as alternates); Ministry of Foreign Affairs, Mr. P. Pararas; Ministry of Justice, Ms. E. Kolponidou-Boudoura (Ms. L. Pappa, as her alternate); Secretariat General of Public Order, Mr. K. Kordatos (Mr. I. Chalkias and from 21.04.2008 Mr. S. Panoussis as alternates); Ministry of National Education and Religious Affairs, Mr. E. Syrigos (Ms. I. Chila, as his alternate); Ministry of Labour and Social Security, Mr. D. Kontos (Mr. I. Prassinos, as his alternate); and Secretariat General of Communication and Information, Ms. M. Papada-Chimona (Mr. C. Oikonomou as her alternate).

12. From the Faculty of Law, Aristotle University of Thessaloniki, Mr. A. Manitakis (Mr. P. Stangos, as his alternate); Faculty of Law, Democritus University of Thrace, Mr. G. Kalavros (Mr. S. Minaidis, as his alternate); General department of Law, Panteion University, Mr. T. Tzonos.

13. One member of the Athens Bar Association, Mr. E. Zerveas and from 28.08.2008 Ms. M. Kouveli (Ms. M. Kouveli and from 28.08.2008 Mr. T. Christopoulos as alternates).

It is worthy to note the originality of the law provisions concerning the NCHR membership and the election of the President and the two Vice-Presidents. Each institution participating in the NCHR 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 the NCHR. This particular, liberal system ensures the NCHR's independence and impartiality.

3. The Organisational Structure of the NCHR

Since October 2006, Mr. Kostis Papaioannou (representing Amnesty International-Greek Section) is the President of the NCHR. Ms. Angeliki Chryssohoidou-Argyropoulou is the 1st Vice-President, and Ass. Prof. Linos-Alexandros Sicilianos is the 2nd Vice-President.

NCHR has established five Sub-Commissions:

1. The Sub-Commission for Civil and Political Rights (Head, Prof. L.-A. Sicilianos)

2. The Sub-Commission for Social, Economic and Cultural Rights (Head, Mr. N. Fragakis and from 29.05.2008 Mr. N. Theodoridis)

3. The Sub-Commission for the Application of Human Rights to Aliens (Head, Ms. A. 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, Ass. Prof. G. Kalavros)

According to the Rules of Procedure 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 NCHR (Plenary) for discussion and decision.

The NCHR employs three Legal/Research Officers (Ms. Christina Papadopoulou, Ms. Lydia-Maria Bolani and Ms. Tina Stavrinaki; it also employs two Executive Secretaries (Ms. Katerina Pantou and Ms. Aggeliki Vassilaki).

In 2003 the NCHR acquired its own premises in Athens (Neofytou Vamva, 6, 10674 Athens); it also maintains its own website (www.nchr.gr).

DECISIONS AND OPINIONS OF THE NCHR

1. Decision on the Replacement of Religious Oath by Civil Oath[1]

I. Introduction

In the light of the recent judgment of the ECtHR in the case of *Alexandridis v. Greece,* the NCHR decided to address once more the question of religious oath. In the said judgment the ECtHR held that the fact that the complainant had to disclose before the Greek court that he is not orthodox and that he did not wish to take the religious oath in order to take the attorney's license, was in violation of his freedom of religion. The judgment exposes the problematic practice of religious oath and the need to amend the relevant legislative framework. The NCHR wishes to stress that it has already recommended the abrogation of religious oath and its replacement by civil oath on two different occasions.

II. The issue

Freedom of religion is provided for by article 13 of the Greek Constitution, article 9 of the ECHR and article 18 of the ICCPR. The Constitution protects both aspects of freedom of religion: freedom of religious conscience and freedom of the manifestation of religious beliefs. Freedom of religious conscience includes the freedom to choose, preserve, change or abandon a specific religion or religion in general. The ECtHR has held in its judgment *Kokkinakis v. Greece* that freedom of religion is "one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned." Furthermore, in the *Buscarini v. San Marino* judgment, it held that freedom of religion "entails, *inter alia,* freedom to hold or not to hold religious beliefs and to practise or not to practise a religion."

In the judgment *Alexandridis v. Greece,* the ECtHR held that "the freedom to manifest one's religion or belief has also negative content, the right of one not to be forced to manifest his religious beliefs or to act in a certain way on the basis of which his religious beliefs can be presumed".

Therefore the obligation to manifest one's religious beliefs, as a consequence of the existing legal framework regarding oath taking, given that civil oath taking is provided only for those who expressly state that they are not Greek-orthodox (articles 194, 218, 220, 236 & 398 Code of Criminal Procedure, article 19 Code for Civil Servants, article 3 Military Service Regulation), cannot be considered as constitutional. Since the negative content of freedom of religion is also protected, it becomes evident that it is violated when for example an atheist witness has to manifest his religious beliefs and to convince the Court about them so as not to take the religious oath.

In order to make the practice of oath taking compliant with the Constitution and international conventions, in the cases it is prescribed, the religious oath must be replaced by the civil oath. Civil oath taking does not *a priori* violate "negative" freedom of religion because it is a general and neutral measure that does not presuppose adherence to a particular religion.

The NCHR also notes that rendering religious oath optional, as in the case of article 408 of the Civil Procedure Code –according to which a witness is asked whether he/she wants to take the religious or the civil oath–, is not satisfactory for the following reasons: a) given that Greeks are, in their vast majority, Greek Orthodox, the choice of civil oath by any individual would automatically be interpreted as admitting that he/she is not Greek orthodox, which, in turn, could potentially allow prejudice against him/her; b) it has been observed that judges do not offer witnesses the choice as to which oath they want to take. As a result, the witnesses themselves need to express their affirmative wish to take the civil oath, thus generating the presumption that they are not Greek orthodox.

Due to dominant stereotypes in the Greek society alternative oath taking equals with

1. Decisions and opinions are published in extensive summaries with footnotes omitted.

admission on the part of a civil oath taker that he/she is not Greek orthodox. Thus, this is a practice that allows for assumptions to be drawn regarding the religious beliefs. Therefore, in order to sufficiently protect the 'negative' freedom of religion, the only solution is the replacement of the religious oath by the civil one. The NCHR also notes that the Conseil d'Etat has held that both religious and civil oath are equally valid.

Furthermore, it has been argued that religious oath taking is unconstitutional also when practiced by Greek orthodox individuals. On the basis of the Gospel, Holy Church Rules and a Circular issued by the Ecumenical Patriarch, it has been maintained that religious oath taking is not allowed in Christian religion; therefore, such practice is unconstitutional since it obliges individuals to act in a way that is in violation of their religious beliefs.

III. Recommendations

On the basis of all the above, the NCHR recommends the replacement of the religious oath by the civil one and, as a consequence, the amendment of the following provisions: a) article 408 Code of Civil Procedure (oath for witnesses); b) article 218 Code of Criminal Procedure (oath for witnesses); c) article 217 Code of Criminal Procedure (verification of witness's identity); d) article 194 Code of Criminal Procedure (oath for experts); e) article 236 Code of Criminal Procedure (oath for interpreters); article 398 Code of Criminal Procedure (oath for the juries); f) article 19 Code for Civil Servants; g) article 3 Military Service Regulations.

2. Comments on the 3rd Periodic Report to be Submitted to the Committee for the Rights of the Child (CRC)

The NCHR carefully examined the draft Report communicated to it by the Ministry of Foreign Affairs. The NCHR is confident that the CRC general guidelines for periodic reports will be taken fully under consideration by the Ministry at the final report to be submitted. The Report presents the positive steps that have indeed been taken for the protection of the rights of the child in Greece during the past few years. The NCHR has repeatedly dealt with children's rights and has submitted recommendations to the competent Ministries. On the basis of its previous decisions and the practice of the CRC, it submits the following comments which may enrich the Greek Report.

I. General measures of implementation of the Convention (articles 4, 42 and 44 para 6)

It would be useful for the Report to include in summary the legislation adopted for the protection of children's rights and especially the recent ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Regarding the information provided for the health treatment of aliens, a distinction should be made between adults and minors.

There is no information regarding the distribution of education services in rural areas and the islands. Tables nos 2 and 3 present numbers without depicting the situation per region, as suggested by the CRC. It would also be useful to include a table depicting the ratio between children and health services in rural areas.

Regarding the NCHR, the Ombudsman and the National Observatory for the Rights of the Child it would be useful to clarify each organ's competence, especially with reference to the guarantees of their independence.

The NCHR notes that, since April of 2007 until today, the National Action Plan for the Rights of the Child has not been implemented.

The Committee has repeatedly recommended the coordinated processing of statistical data collected with a view to facilitate the effective implementation of the Convention. The said coordination could be assigned to the National Observatory for the Rights of the Child provided it is appropriately staffed.

It is noted that the continuous training of teachers and staff in health services in areas where large numbers of Roma, minorities' members or migrant children reside does not take into consideration the content of the Convention. The translation of the Convention in Albanian to be included in an informative leaflet regarding the educational system addressed to parents is not comprehensive. On the other hand, the Ombudsman has issued a leaflet in 8 languages titled "The International Convention for the Rights of the Child in Simple Words". It is necessary to translate the Convention in Romani and to distribute it in all the country as well as to inform the teachers and parents about its content.

II. Definition of a child (article 1)

The NCHR notes the positive amendment to article 121 of the Penal Code according to which a minor is considered a person at the age of 8 up to 18 years completed.

III. General Principles (articles 2, 3, 6 and 12)

The general principles of non-discrimination, best interest of the child, and respect for the views of the child need to govern the National Action Plan for the Rights of the Child and to be reflected in all State policies. Furthermore, a precondition for the actual respect of the said principles is to train the staff of the services and authorities involved, as well as to brief all vulnerable groups.

Regarding non-discrimination, the NCHR has included in its comments on the Greek Report to be submitted to CERD extensive observations regarding the new legislation for combating discrimination and its weaknesses (Law 3304/2005) in relation to: a) its limited scope; b) the representation of victims of discrimination by legal entities and associations; c) the burden of

proof, the active legalization of entities and associations and the need to amend the Codes of Civil and Administrative Procedure; d) the limited competences of the national equality bodies; e) the limited dissemination of the new legislation both to the public and civil servants.

Regarding equal access to education and health services, the NCHR has recommended the establishment of tutoring for Roma children. In relation to unaccompanied minors, the NCHR has noted the need for their tutoring until they learn Greek satisfactorily and their allocation in classes on the basis of their nationality instead of their age.

In the light of article 29, para 1, the NCHR has noted that despite the establishment of intercultural education and the special provisions of the Law, the teaching of language, culture and religion of alien students has not been implemented.

In the context of article 6, the NCHR has, already since 2001, noted that the living conditions of Roma residing in encampments are particularly precarious and a very high percentage suffers from hepatitis A and B.

As far as article 12 is concerned, the NCHR notes that article 1511 of the Civil Code in conjunction with article 681C of Civil Procedure Code providing for the views of the child to be taken into account by the court in cases of parental custody trials is not often applied. Moreover, it stressed the need for the establishment of family courts and the social service provided for by Law 2447/1996 which will contribute to the effective protection of the child's interest.

The NCHR has recommended in the past for the Muslim weddings by proxy to 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. Furthermore, the NCHR has adopted the view that marriages between Greek citizens and solemnized in Greece –irrespective of creed– are only valid if both members of the couple are of majority age.

IV. Civil rights and liberties (articles 7, 8, 13-17 and 37 (a))

The NCHR considers as a major concern the *de facto*, but not *de jure*, problem of registration of Roma in civil registers, which causes problems in many other areas such as their transactions with public services. The Ombudsman has suggested the establishment of a special registration process.

Although the practice of providing migrants' children born in Greece with a document of the civil register certifying the birth of the child but not with a proper birth certificate is not illegal, it causes problems to their registration in kindergartens and schools and to their transactions with other public services. Therefore, the Ministry of Interior should issue a circular to clarify that the aforementioned document equals the birth certificate as far as children rights are concerned.

The report should mention the decision of the European Committee of Social Rights on the merits of the complaint of the *World Organisation against Torture (OMCT) v. Greece*, according to which article 17 of the European Social Charter was violated because Greek legislation does not provide for the effective prohibition of corporal punishment and other forms of degrading treatment of children. The NCHR considers as a positive step the adoption of Law 3500/2006 on domestic violence but it has underlined several shortcomings of its provisions.

While the new legislation reflects several guiding principles of the CRC regarding the definition of basic terms such as family, school, violence, it is necessary to inform, sensitize and train all persons involved, including law enforcement personnel.

The NCHR notes that in June of 2006 a Committee for Studying and Addressing Bullying at Schools was established under the auspices of the NCHR. The aim of the Committee is to recommend preventive and suppressive measures to combat violence at schools. Members of the Committee are representatives of the Greek Federation of State School Teachers of Secondary Education, the Greek Federation of State School Teachers of Primary Education, the Greek

Federation of Students' Parents, the Greek Society of Criminology, the Department of Criminology of Panteion University, the Centre of Penal and Criminological Studies of Athens University, the Deputy Ombudsman for Children's Rights, and the Marangopoulos Foundation for Human Rights.

The NCHR notes that the Report refers to the recommendation of the Hellenic Data Protection Authority to the Ministry of National Education regarding: a) the non-inclusion of religious affiliation to the degrees of elementary and secondary education schools; b) the fact that legal guardians who do not wish their children to attend the class of religion should not be asked to declare whether they are atheists or whether they adhere to another religion. Given that six months have passed since the said recommendation was issued it would be advisable for the Report to include the measures, if any, taken or planned by the State to implement it.

Law 3597/2007 regarding the operation of private radio and television stations requires that the main language of transmission or subtitles be Greek. The NCHR notes that the law should be interpreted and implemented in accordance with the current practice in order for the operation of Turkish or other languages speaking stations is not obstructed and by extension to protect the access to information of children not familiar with Greek.

New legislation has criminalized internet use for the active or passive promotion of child pornography. However, the NCHR underlined the legislative lacuna regarding protection of children from harmful material and the effective supervision of places providing internet access.

V. Family environment and alternative care (articles 5, 18 para 1 and 2)

It is necessary that updated information regarding the percentage of the population living under the threshold of poverty which is 20% is included in the report. The NCHR, in its comments upon the Action Plan for Social Inclusion (2005-2006) of the Ministry of Employment and Social Protection, had noted that although there are various benefits for groups of high risk of social exclusion (e.g. unemployed, persons with disabilities, elderly) there is no comprehensive plan for minimum guaranteed income like in other EU States.

It would be useful for the Report to include more information regarding the so far development of the 16th action of the National Action Plan for the Rights of the Child, which aims at combating child poverty in cooperation with the organization "Volunteers' Society".

The NCHR notes the high percentage of Roma parents without social security. Special measures should be taken to address this issue and special departments in social services are required.

Apart from the methods of early prevention of child abuse, targeted training is required for all professionals working with children so that incidents of child abuse are effectively investigated and dealt with.

VI. Health and social care

The NCHR notes that Law 3386/2005 provides for the unconditioned access of under age irregular migrants to medical treatment in conformity with article 24 of the Convention for the Rights of the Child. It also underlines the need to increase, both in number and activities, the socio-medical centres which have produced very positive results for the Roma communities.

The NCHR notes that during the round table which it organised in cooperation with the Greek Federation of Persons with Disabilities titled "The UN Convention on the Rights of Persons with Disabilities and Greece", representatives of the government and political parties stated that they are in favour of the ratification of the convention. During the round table the NCHR proposed the creation of a new section at the office of the Greek Ombudsman dealing with the rights of persons with disabilities. Furthermore, the ratification of the UN Convention needs to be followed by a dissemination campaign informing children with disabilities of their rights while sensitizing the public in relation to discrimination against children with disabilities.

The CRC has recommended to Greece to hire additional qualified staff to support children with disabilities in the fields of health and education in the framework of the general

educational system. The bill titled "Special education for ensuring equal opportunities to persons with disabilities" recently drafted by the Ministry of Education and put into public consultations (unfortunately only for 10 days) constitutes an important tool to identify the needs as well as the potential impediments in the implementation of the law.

Given that the CRC refers specifically to the living conditions of Roma, especially the housing problems, the Report should mention the decision of the European Committee of Social Rights on the merits of the complaint by the *European Roma Rights Centre (ERRC) v. Greece,* according to which article 16 of the European Social Charter was violated due to lack of permanent or temporary residences, non-facilitation of campers, forced evictions and the infliction of other sanctions at their expense. Regarding forced evictions, the NCHR has noted that usually there is care for Roma's resettlement in another location, even in an encampment. As a result the same phenomenon takes place anew in another area.

In relation to the housing loan program of the Ministry of Interior , the NCHR has further noted that two important problems need to be addressed: a) the fact that the Roma do not fully comprehend the procedure (e.g. their obligation to pay back the loan) and b) the fact that the Ministry of Interior cannot exercise control, due to legal impediments, over the handling of the funds by the local authorities. The Secretary General of the Ministry has stated that complaints regarding granting loans to non beneficiaries have been communicated to the Public Prosecutor.

VII. Education, leisure and cultural activities

The NCHR is satisfied with the clarification of the Ministry of Education that all minors living in Greece irrespective of their residence status have the right to enroll in schools of primary and secondary education.

However, the access of Roma children to education poses great challenges because of the negative attitude of both parents and teachers in spite of the efforts of the State.

The NCHR notes that the curriculum of the teachers of the minority primary schools at the Special Pedagogical Academy of Thessaloniki is a three year one, whereas that of teachers of regular schools is a four year one.

VIII. Special measures of protection

Regarding refugees and asylum seekers the NCHR has recommended a number of measures for the amelioration of the asylum procedure. It has also stressed that article 9, para 1 of PD 220/2007, which regulates minors' access to education, is more restrictive than article 28 of the Convention which does not set any restrictions upon the right to education.

In relation to unaccompanied minors, the NCHR has proposed several measures which reflect the recommendations of the CRC in General Comment No. 6, whereas it has called for the ratification of the UN Convention on the Reduction of Statelessness.

With regard to child labour, the NCHR takes the view that the considerable number of unaccompanied minors in Greece calls for the establishment of a body in charge of their care and ensuring that the laws are complied with for those minors, above the age of 15, who wish to be employed.

Furthermore, because of the important number of street children, a comprehensive policy that will take into account all the factors generating this serious phenomenon is required. More information is needed regarding the efforts to approach street children and sensitize public opinion.

The NCHR expressed its satisfaction for the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Law 3625/2007). However, it noted that Greece has still not ratified the Council of Europe Convention on Action against Trafficking in Human Beings nor the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The NCHR has recommended the establishment of a National Rapporteur on Trafficking for the systematic registration of data on trafficking and their promotion to the competent authorities for the evaluation and

updating of the National Action Plan. Furthermore, it underlined the absence of provisions for the prevention of trafficking in the anti-trafficking law.

The NCHR noted that according to article 47 of Law 3386/2005, a residence permit is provided to potential trafficking victims under the condition that they cooperate with the prosecutorial authorities. A filed complaint by the victim should suffice, though, given their fear for reprisals. Furthermore, the one month reflection period is considered as too short and should be extended to three months.

The NCHR also noted that the decriminalization of beggary has not materialized although it was recommended by the CRC.

The Report should make reference to the PD 240/2007 regarding the beneficial calculation of the days of imprisonment of juveniles in case of school and other educational institutions' attendance.

The NCHR expressed its dissatisfaction for the institutionalized treatment of juvenile offenders; it has also stressed that, according to article 5, para 1 (d) of the ECHR, appropriate infrastructures and assistance to the juvenile by specialized personnel is required, otherwise the detention is not legal. The absence of appropriate detention facilities for juveniles has also been underlined by the Ombudsman for the Child.

3. Decision regarding Freedom of Expression and Freedom to Unionize of Judicial Functionaries

The Prosecutor of Areios Pagos initiated disciplinary proceedings against the President of the Public Prosecutors' Union of Greece, Mr. Bagias for the content of his interview in the newspaper "TA NEA" of 3 April 2008. The issue of the appropriateness of disciplinary action and referral to disciplinary proceedings occupied public opinion and was followed by press releases issued, *inter alia*, by the European Commission, actors from the justice sector, such as unions of judicial functionaries, bar associations, and civil society organisations. The NCHR Plenary debated and adopted a decision on the question of protection of freedom of expression and freedom of association of judicial functionaries.

The Constitution (articles 14, para 1 and 23, para 1), the ECHR (articles 10 and 11) and the ICCPR (articles 19 and 22) provide for the freedom of expression, including freedom of the press, and the freedom to unionize, beneficiaries of which are also the judicial functionaries.

Furthermore, according to article 91, para 5 (b) and (c) of the Code for the Organization of the Courts and the Status of Judicial Functionaries the public expression of an opinion by a judicial functionary does not constitute a disciplinary offence (unless it is intended to undermine the prestige and/or authority of justice) nor the participation and the activities within recognised associations of judges and the expression of opinion and criticism within the framework of syndicalist activity.

It is evident that these provisions protect both the broader right of judicial functionaries to express views for socio-political issues of public concern, such as the dangers posed to civil rights by the operation of surveillance cameras, and the narrower manifestation of the said right i.e. criticizing the way other judges exercise their duties.

As far as representatives of judicial functionaries unions are concerned, criticizing the administrative bodies of Justice, such as the Higher Judicial Council, the Minister of Justice or the Prosecutor of Areios Pagos (who acts as the supervisor of all public prosecutors) constitutes not simply a right but also an obligation on their part. Furthermore, taking into account, on the one hand, that the freedom of judicial functionaries to unionize is highly protected and on the other hand, that the right to go on strike is unavailable to judicial functionaries (article 23, para 2 of the Constitution), it is evident that freedom of expression of their unionist representatives is critical.

Moreover, freedom of expression as provided for by article 10 of the ECHR constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress. As the ECtHR has held freedom of expression is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb according to the demands of pluralism, tolerance and broadmindeness without which there is no democratic society.

Besides, there is no doubt that courts, as is the case with all other public institutions, are not immune from criticism and scrutiny, irrespective of the need for them to enjoy public confidence. The freedom of expression is also secured to those taking part in the mechanism of justice: they are certainly entitled to comment on the administration of justice in public, but their criticism must not overstep certain bounds. In that connection, account must be taken of the need to strike the right balance between the various interests involved, which include the public's right to receive information about questions arising from judicial decisions, the requirements of the proper administration of justice and the dignity of the legal profession.

Criticism may be considered excessive and, consequently, be subject to limitations only when the facts upon which it is grounded lack any factual basis, so as to prevent that public confidence in public officials be endangered for no reason. Taking into consideration the aforementioned, the NCHR takes the view that in a democratic society the expression of opinion regarding matters pertaining to the institution of Justice and the debate generated around it contributes to the improvement of the Justice mechanism and does not undermine its prestige.

The unions of judicial functionaries can contribute effectively in such a constructive dialogue. Besides, the protection of freedom of expression is inextricably linked with freedom of association. Moreover, when union representatives express opinions in the framework of political public debate or regarding issues of public interest, the ECtHR has accepted limitations only in exceptional cases. The Court attributes particular significance, when it comes to debates pertaining to issues relevant to the society as a whole, to preserving the citizens' right to express freely their views without the fear of being sanctioned.

In Greece, so far, there has been only one relevant decision of Areios Pagos, in which –concerning the interpretation of article 91, para 5 (b)– the Court held that the expression of opinions pertaining to bills regulating the operation of Justice does not constitute a disciplinary offence. In its *obiter dictum* it held that the right of judicial functionaries to express their views on issues pertaining to the independence of Justice and judicial functionaries is unambiguous.

The Commission, without getting into the particulars of the case, underlined that the Constitution and international human rights instruments protect the general freedom of expression of judicial functionaries. In particular, they protect both the right of representatives of judicial functionaries' unions to express their opinions regarding the function of Justice, the way its administrative organs exercise their duties, and the right to criticize and to publicize their views regarding civil rights.

The Commission took the view that the above rights reinforce the guarantees of independence of Justice. Limitations to the freedom of expression need to comply with the principle of proportionality and be necessary in a democratic society, especially if they are manifested as sanctions. Public criticism of state organs constitutes a guarantee for the rule of law and should be perceived as contributing to the service of Justice and not undermining its prestige.

4. Comments on the Bill "Reforms for the Family, the Children and the Society"

Chapter One: "Civil Union Pact"

I. History

In December of 2004, the NCHR adopted a decision regarding discrimination on the basis of sexual orientation and the legal recognition of homosexual couples. On 26.03.2008 the NCHR's President communicated a letter to the Minister of Justice reminding him of the Commission's views and asking him to reconsider the provisions of the bill titled: "Reforms for the Family, the Children and the Society", which excludes couples of the same sex from its *ratione personae*. In his letter, the President noted that the bill, by excluding same sex couples from its scope, fails to take into account the prevailing factual social needs, nor does it comply with the State's obligation of non-discrimination on the basis of sexual orientation. The Minister of Justice replied by issuing a press release stating that the Ministry does not intend to act discriminatorily and that the Minister adopts the recommendation of the NCHR for the establishment of a working group which will examine all aspects of the legal recognition of homosexual couples.

The NCHR then replied to the Minister of Justice with a letter underlying the need for setting a concrete time-frame by the end of which the working group will have completed its work and submitted its recommendations; it also underlined the need for gay community representation within the working group and that the inclusion of all couples irrespective of their sexual orientation in the civil union provisions, prevents any discrimination.

It needs to be stressed that up to today the Ministry of Justice has not informed us regarding the establishment of the working group.

On 27.05.2008 a new version of the bill was communicated to the NCHR, which includes two chapters: the "Civil Union Pact" and "Amendments to the Civil Code regarding Adoption, Divorce, Surname of Spouses and Parental Custody".

II. General Observations

The NCHR cannot comprehend the reasons for which the provisions regulating the civil union pact are included in the same bill introducing amendments to family law, nor the reasons for which the provisions of the pact are not incorporated into the Civil Code.

III. Comments on the part of the Explanatory Report regarding the Civil Union Pact

The NCHR notes that the provisions for the Civil Union Pact (hereinafter CUP) are not comprehensive and do not ensure the required certainty of law. The Explanatory Report perceives and presents the CUP as inferior compared to the religious and/or civil marriage, whereas at the same time it seems to have an apologizing tone by using phrases such as: "the CUP will facilitate couples' decision to get married". Furthermore, it continuously presents the religious marriage as the "best" option for couples.

IV. Comments on the provisions

A) Exclusion of homosexual couples

As already mentioned, in 2004 the NCHR underlined the need for legal recognition of homosexual couples on the basis of international human rights law prohibiting discrimination based on sexual orientation. The NCHR's decision of 2004 underlined all international and national provisions which *per se* or/and in combination prohibit discrimination against lesbians, bisexuals, gays and transsexuals and provide for the basis of instituting for them the CUP: articles 2, 7 & 16 UDHR, articles 8, 12 & 14 ECHR, article 2, para 1 of 12 Protocol to the ECHR, article 17, paras 1 & 2, articles 23 & 26 ICCPR, articles 2, para 1, 4, para 1, 5 & 9, 25, para 1 of the Constitution. The fact that the Greek legislator introduces a new institution from which it expressly excludes homosexual couples constitutes direct discrimination on the basis of sexual orientation which runs contrary to articles 8 & 14 ECHR. The ECtHR has held that sexual orientation falls under article 14, and also that "the notion of the 'family'

is not confined solely to marriage-based relationships and may encompass other *de facto* 'family ties' where the parties are living together outside of marriage".

Legal recognition of homosexual couples varies in other European countries, whereas in some of them there is more than one type of legal recognition.

The Fundamental Rights Agency in a recent report noted that the equal protection of LGBT in the EU is still not complete and stressed the need for improvements in all areas emphasizing, though, the legal recognition of homosexual couples.

The NCHR asks once more for no discrimination against LGBT and the safeguard of their fundamental rights on the basis of supranational rules prescribing the eradication of stereotypes and social prejudices.

B) Article 1: Conclusion of CUP

The NCHR noted that the CUP should enter into force not when the contract is signed by the two parties in the presence of the notary but after the contract is catalogued at the registry office in order for the appropriate publicity to be ensured.

C) Article 2: Requirements

Para 1: The NCHR criticized the provision of the bill requiring full capacity for the conclusion of the CUP, given especially the fact that a person may contract marriage, which entails more serious legal consequences, even if he has diminished capacity. The NCHR took the view that individuals of diminished capacity should be able to conclude CUP under the conditions set by the Civil Code for the case of marriage.

D) Article 4: Termination

The NCHR took the view that when the CUP is terminated by an agreement of both parties drafted by a notary, the entry into force of the termination should begin after it is catalogued at the registry office.

The NCHR noted that in the case the CUP is terminated unilaterally via a declaration by one of the parties before a notary and then served to the other party, the entry into force of the termination should start three months after the declaration has been catalogued at the registry office in order for the other party to have some time to adapt to the new situation.

Para 2 provides for the *ipso jure* termination of the CUP when one of the parties contracts marriage with a third party. *Ipso jure* termination without any notification of the other party runs contrary to the principle of good faith, since the other party may be under the impression that the CUP is still valid. Therefore, the NCHR took the view that in order for the certainty of law to be ensured, para 2 needs to provide for the marriage certificate to be catalogued where the CUP has been previously catalogued and to be served to the other party of the CUP.

E) Article 6: Financial relations

According to article 6 the parties to the CUP may regulate their financial relations when they conclude the CUP before the notary by including the relevant provisions in the CUP and not at a later stage. The NCHR held the view that the contracting parties should have the possibility to regulate at a later stage their financial relations if they wish to, by amending the original CUP and submitting it to the registry office.

F) Article 7: Alimony

According to article 7, para 1 the parties when they conclude the CUP they may include an agreement regarding alimony in case one of the two parties cannot support themselves after the CUP is terminated. However, it is not clear whether there can be a claim for alimony if no relevant agreement has been included in the CUP. Therefore, the NCHR took the view that the provisions of the Civil Code regarding alimony after divorce should apply *mutatis mutandis* after the termination of the CUP in case no previous agreement has been reached.

According to the bill the agreement regarding alimony will not be valid in case the CUP is terminated *ipso jure.* The NCHR held the view that the need for alimony should not depend on the way the CUP is terminated. The need for alimony is an objective fact and by rendering it dependent upon the way the CUP is terminated, the legislator violates the principle of equality since the same situation –the need for alimony– is regulated differently on the basis of how the CUP

was terminated. Therefore, the alimony agreement should remain valid irrespective of how the CUP is terminated.

G) Article 8: Presumption of paternity

The NCHR recommended the addition of a provision according to which children who are born inside or outside of CUP are assimilated to those born inside marriage irrespective of whether the CUP is terminated or annulled.

The NCHR also recommended that the provisions of Civil Code regarding artificial insemination be applied *mutatis mutandis* to couples having concluded CUP.

H) Article 9: Children's surname

According to article 9 children's surname will consist of the surnames of both parents, unless they have agreed otherwise when concluding the CUP. The NCHR agrees with the phrasing of the provision in question and proposes the amendment of article 1505 of the Civil Code, according to which a child takes automatically the surname of the father if the parents have not declared otherwise at the registry office.

I) Article 11: Inheritance

According to article 11 of the bill the partner of the deceased inherits 1/6 of the inheritance if the deceased has children and 1/3 if the deceased has other relatives (parents, siblings etc). The percentages for spouses are 1/4 and 1/2 respectively. This differentiation is not reasoned. The CUP might be a form of union more 'loosen' than marriage, but any differentiation in legal provisions must serve a real need. Derogations that are simply introduced just to emphasize the difference between CUP and marriage and the implicit preference for the latter are not acceptable. Therefore, the NCHR recommended the change of the percentages to 1/5 and 1/2 respectively.

J) The omission of the mutatis mutandis application provision (former article 12)

The NCHR is surprised by the deletion from the bill of the article according to which provisions of public servants law, labour law and social security law concerning spouses are also applied to parties to CUP. According to the Explanatory Report that provision was deemed necessary in order to provide for equal and fair treatment for individuals, who live in couple without having been married. The NCHR considers necessary for the provision in question to be included in the bill and recommends for the *mutatis mutandis* application to parties to CUP of the relevant provisions, after the CUP has lasted for two years in order for fictitious CUPs to be avoided.

Chapter 2: Amendments to the Civil Code on Adoption, Divorce, Surname of Spouses and Parental Custody

The NCHR is surprised by the decision of the Ministry of Justice to amend provisions of family law without having first organised a public consultation with competent bodies and experts and without having thoroughly studied and evaluated the provisions introduced 25 years ago with the assistance of experts. Furthermore, it would like to note that the bill in question does not take into account previous recommendations of the NCHR regarding provisions that should be amended.

A) Parental custody (article 21)

The introduction of the rule of joint custody after the divorce or annulment constitutes a dangerous repealing of basic family law principles safeguarding the interests of the child. Preserving joint custody, given that basic terms of the provision are unclear, such as "usual acts of the child's daily life' will cause harmful tensions for children and more frequent intervention of the courts for disputes to be resolved.

The Explanatory Report acknowledges the fact that the new provision may indeed result in an increase of disputes and that it requires mature parents.

Due to the obvious problems likely to be caused by the provision in question, the NCHR recommends that it be withdrawn from the bill.

B) Adoption (article 14)

The NCHR took the view that should the court substitute for the consent of the parents for their child to be given for adoption –after they

have authorized the initiation of the adoption procedure–, there should be proof that they are indeed of unknown residence.

C) Divorce (article 19)

The NCHR holds the view that certain serious acts of domestic violence and any attempt on the spouse's life should constitute irrebuttable presumption of irreparable breakdown of marriage.

D) Spouses surname (article 20)

According to the said article, the wife may take her husband's surname if they both agree to that. The Explanatory Report states that this provision allows spouses to hold the same surname if they so wish so that they are able to prove their relation status easier, especially when involving in any transactions abroad, and given that the surname of the spouse is not included in passports or identity cards.

The NCHR considers this provision not to comply with the safeguard of substantive equality of two sexes and with the continuity of women's personality. Furthermore, this provision may endanger safety of transactions since it does not ensure the continuity of women's identity through potential successive surname changes. Moreover, this provision is not compatible with the principle of equality of sexes as provided for by the Constitution and CEDAW.

E) Article 1532 CC

The NCHR proposed an amendment to article 1532 CC (consequences of improper exercise of custody): the exercise of any kind of violence against a minor to constitute case of improper exercise of custody.

F) Children born outside of marriage

Regarding the custody of children born outside of marriage the article in question provides that the father who has recognized his child may be assigned the custody in whole or in part after he applies to court, if that is in the best interest of the child. The NCHR took the view that the consent of the mother should be required for the assignment of parental custody, in whole or in part, to the father, in order for abusive practices to be avoided.

G) Provisions that should be included in the bill

The NCHR has already stated its position regarding marriage of minors and marriage of minors by proxy, which should be included in the bill in question.

The NCHR also repeats its recommendation for the amendment of para 2 of article 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.

5. Declaration on the Protection of Forests and the Environment

The National Commission for Human Rights,

Having dealt with environmental issues also in the past,

Bearing in mind that the protection of the environment, sustainable development and the balance of the ecosystem, are all crucial for the survival of the Greek society and the planet as a whole; that environmental protection needs to constitute a primary criterion for all political and economical decisions of the State and the conduct of citizens and corporations; that the radical change of everyone's attitude vis-à-vis the nature and the environment is compelling, as pollution is not generated by corporations and the production of merchandises alone but also by irresponsible citizens, the use of harmful energy resources and non-recyclable products,

Considering that the mega-fires of 2007 have had multidimensional destructive consequences, both in direct and indirect ways, and that we all need to learn the lessons to be drawn by them,

Being concerned with the intensified global warming which is one of the factors that cause fires of smaller or larger scale,

Considering that legating healthy and biodiverse forests to future generations is our obligation,

Taking the view that the question of the forests needs to be addressed in priority,

notes that:

I. Regarding the Responsibility of the State and the Formation of its Environmental Policy

A) Consistent implementation of the triptych 'prevention-suppression-management'

The 1993 Report of the Parliamentary Commission on the Study of Fires and Measures for a Long-term and Effective Response to Them, needs to be brought into play, with the required updating, in particular the recommendations regarding the upgrading of the Forestry Service and the establishment of a Uniform Scientific Body of Fire-Protection as well as the unification of the triptych 'prevention-suppression-management', which needs to constitute the basis for any environmental policy to be developed.

In the said triptych, priority should be given to prevention, as, when effective, it renders suppression obsolete. The NCHR attributes particular importance to the recommendations of the Report for the prevention of fires prioritizing institutional measures for safeguarding public property, eradicating social pressure and punishing arsonists and land-grabbers, and the establishment of forests protection teams (voluntary or mandatory) by the Local Administration. Prevention at the local community level, whereas suppression should remain within the mandate of central services.

Therefore, a new planning of forests protection at the national level is required so that implementation of the triptych 'prevention-suppression-management' is ensured. The fragmentation of the triptych and the assignment of piecemeal competences to different bodies should be avoided, as coordination at all three levels is a *sine qua non* for the effective protection of forests.

B) Effective environmental governance for sustainable development

The substantiated WWF Report on environmental governance and forests protection is extremely useful. It needs to be thoroughly perused; particular attention should be given to its conclusions and recommendations regarding the dispersing and confusion of competences amongst the various Ministries and Public Services and the need for the establishment of inter-ministerial structures for the coordination of actions and decisions on environmental protection; moreover, attention should be given to the recommendations on the re-organization of forests management services, including a comprehensive reform of the Forestry Service, the establishment of an effective protection body of the country-side, the creation of a specialized body on forests fires and the effective use of groups of volunteers.

The recommendation for the establishment of an autonomous Ministry of Environment needs to be considered carefully. The current fusion of

the Ministry of Environment and the Ministry of Public Works seems, indeed, negative for the environment and needs to be remedied. Besides, the assignment of environmental competences and responsibilities to various Ministries causes confusion and ineffectiveness. Interministerial coordination as well as a uniform environmental policy binding to all Ministries and Local Administration entities involved, are urgently required. Furthermore, national environmental policy must comply with EU environmental policy. Prompt planning and effective environmental governance aiming at a sustainable development and sound urban planning policy of Greece may contribute to the rescue of the environment. Should an autonomous Ministry of the Environment add itself to the list of existing administrative and bureaucratic mechanisms, would render the entire enterprise entirely useless. The reform of central services dealing with environmental issues should not abrogate the competence and responsibility of the Local Administration bodies.

C) The jurisprudence of the Conseil d'Etat must be complied with

Compliance with the Conseil d'Etat's jurisprudence is crucial for the protection of the environment. The CdE holds that a forest register, as provided for by the Constitution, must be urgently compiled. This constitutes a precondition for any effective forestry policy.

In this context, the mapping of all burned areas on an annual basis is also required as well as their constant monitoring in order to prevent illegal settlements or any other unlawful use and to facilitate the planning of their restitution.

Finally, no derogation from the constitutional provision prohibiting the alteration of the use of forests and forests' expanses, including parks and urban green areas according to the Conseil d'Etat, is justified. Zero tolerance and zero lenience to trespassers, arsonists and destroyers of forests and greenery. The laws for the protection of the environment must be observed and the culprits be punished.

II. The Subjective Perception of the Environment and the Right to its Protection

A) The environment as common good and the protection thereof as everyone's right

A new perception of the right to the environment is required in order for it to be disconnected from its atomocentric meaning, which empowers individuals with its exclusive use, possession and exploitation in the sense of private property. No human owns the environment. It is the natural place of man's existence and as such, it is a common good beyond frontiers and sovereigns. It belongs to us all.

While the State is obliged to protect the environment as common good, every individual is entitled to request its protection by the State and the public and private authorities, as well as to pursue it even by recourse to courts. In this sense, the right to the environment is not easily integrated into one of the three known human rights categories. This specificity is at the root of its characterization as a "third generation" right.

B) Protection of the environment as a right to information and participation of its users in the decision making process concerning it

The protection, collective management or use of the environment is embedded in its perception as a right. As a right of each and everyone, it may be exercised against the State and the public services, by demanding due measures of protective and suppressive character. As a right of collective use and management, it substantiates claims for participation in all procedures that concern its protection. The users of the environment are entitled to being fully informed for any matter regarding it and participate in decisions *re* its protection and management. It is a participatory right.

C) Environmental organizations should be granted rights similar to those granted to consumers' organizations

The recognition of the right to environmental protection as a participatory right entails the

institutional recognition of the importance and role of environmental organizations. Their actions constitute a type of organisation and protection from environmental abuses, which need to be encouraged and deserve to be acknowledged by the State and the residents of a particular area.

Thus, the NCHR recommends that the EU grants to environmental organizations special collective *locus standi* and rights of participation to decision making processes, like in the case of consumers organizations.

D) The right to the environment entails individual and collective responsibilities

The right to environmental protection entails grave responsibilities at the individual, collective, and State level. The responsibility for the protection of the environment lies with each and every one of us and with local communities, which ought to act on their own initiative and in cooperation with the Local Administration entities.

Such responsibility encompasses reasonable use, our daily life and habits, preservation and sustainability, for our generation and the coming ones. The recent environmental disasters brought humanity before a tragic truth: ecological devastation can only be addressed via the development of an environmental conscience and cooperation at the local, national and global level.

6. Comments on the National Strategic Plan for Social Protection and Social Inclusion 2008-2010

The Ministry of Employment and Social Solidarity communicated to the NCHR its National Strategic Plan (NSP) for Social Protection and Social Inclusion 2008-2010. The NCHR expressed its satisfaction over the Ministry's intention to enter into consultation regarding this important issue, certain aspects of which the NCHR has previously dealt with.

The NCHR was asked to submit its views and recommendations *re* the fields of social inclusion, pensions, health and long-term care in relation to the following questions: a) the main challenges the country faces; b) the results of the existing measures as provided for by the previous Plan of 2006-2008; c) the improving actions and policies; d) the four main priority policies in the framework of social inclusion and the need for their modification. The NCHR was also asked to provide any other comment.

The NCHR took into account the aims set by the Open Method of Coordination in the framework of the EU for the fields of social inclusion, pensions, health and social care.

I. Social Inclusion

A) Main Challenges

The NCHR has stressed the need for a concrete strategy to address the problems of women in the labour market, the problems of Roma, refugees, migrants and people with disabilities to access public services and participate in the labour market. The access of the elderly to health services is also problematic, especially in the absence of close family members.

We also note the importance of disseminating the new legislation combating discrimination and the protection mechanisms provided for.

B) Results of existing measures

The NCHR has not so far dealt with this issue.

C) Improving actions and policies

The NCHR supports the participation of NGOs and bodies representing those groups facing problems in accessing services and the labour market.

When the NCHR had commented upon the previous NSP in 2005, it had proposed the inclusion of more vulnerable groups to the provisions. Taking into account the existing situation, asylum seekers need also to be included therein. It also noted that the reception centre for asylum seekers on the island of Samos with a capacity for 650 persons does not suffice to cover the needs.

Regarding Roma, the NCHR recommended the expansion, both in numbers and activities, of the socio-medical centres, which have produced very positive results, as well as the provision of supportive teaching to Roma children.

The NCHR has already noted the need for Greek language classes to unaccompanied minors. The distribution of the children should be based on their nationalities, and not on their age, so as to facilitate the learning process.

Moreover, the NCHR stressed anew the need for the ratification of the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol with a view to enhance the effective protection of their rights. The NCHR's proposal for the establishment of a Deputy Ombudsman for the rights of persons with disabilities is noteworthy. Furthermore, the ratification of the Convention needs to be followed by an extensive dissemination campaign addressed both to children with disabilities and the general public. Moreover, a national database needs to be created which will record all disability cases for the more effective distribution of available funding and supportive programs.

The NCHR noted the need for actions regarding the social and professional integration of former detainees. In its Report for the rights of detainees and detention conditions, it stressed the need for the effective organization, staffing and operation of 'EPANODOS' (legal person of private law dealing with the integration of former detainees). Furthermore, it recommended the lifting of the hindrances to the social and

professional integration of former detainees, such as the barriers for employment in the public sector because of previous convictions, as well as the implementation of the existing legislation regarding alternative penal sanctions as a means to decrease the prison population.

D) Basic priority policies: preservation or review?

Priority No. 1, Strengthening employment, especially of women and youth, the long-term unemployed and vulnerable groups: Without undermining the usefulness of its materialization measures, the NCHR noted the lack of full compliance with the relevant Directives (2002/73/EC, 2000/43/EC, 2000/78/EC) as well as the lack of measures for the effective implementation of the Greek legislation incorporating those Directives. The NCHR has stressed in previous reports commenting on the bills incorporating the directives the need for the improvement of the provisions regarding the burden of proof and the active legitimation of legal entities and associations and their inclusion into the Codes of Civil and Administrative Procedure.

The NCHR would like to note that women, who indeed face great problems regarding their access to and conditions of employment, do not constitute a 'group', but the one half of the population. Moreover, the character and nature of their problems differ from those of 'vulnerable' groups. Therefore, they should not be treated as a group. The measures for the promotion of the equality of sexes included in the 2006-2008 Report are useful but inadequate since they do not effectively address the aforementioned problems regarding compliance with EC law and the problems in relation to the reconciliation of family and professional life. The European Commission had asked from the member states to include the problems of inequality of sexes in the 2006-2008 Report. Unfortunately the said Report was not particularly inclusive.

Priority No. 2, Addressing the disadvantaged status of persons and groups regarding education and vocational training: This is a very important issue interlinked with priority No. 1.

Priority No. 3, Supporting the family and the elderly: Although the measures included in the 2006-2008 Report are useful, the protection of the family via the support of both men and women –*inter alia* with measures facilitating the harmonization of family and professional life–, is not at all satisfactory, as the NCHR has repeatedly noted. The said measures also provide assistance to the elderly members of a family. However, several serious problems, both in law and in practice, obstruct the harmonization of family and professional life, deter young people from having a family and do not contribute to the quality of family life.

The NCHR will come back to the said question updating its decisions. Nevertheless, it notes that the case brought before the European Court of Justice by the European Commission versus Greece regarding the age limits of men and women and other requirements for pension rights, is still pending. This issue cannot be addressed on an *ad hoc* basis; it needs to be resolved by simultaneously improving the harmonization of professional and family life.

Priority No. 4. Social inclusion of persons with disabilities, migrants and persons/groups with cultural/religious particularities: This priority needs to be maintained and to take into account the views of those institutions which are actively involved with the promotion and protection of the rights of the aforementioned groups.

II. Pensions

The NCHR has not addressed this issue.

III. Health and Long-term Care

The NCHR has not dealt with the areas of health and long-term care as far as their main challenges and the results of the existing measures are concerned. However, regarding relevant actions and policies the NCHR has addressed the issue of access to health services of undocumented migrants. It has recommended: the abolition of article 84(1) of Law 3386/2005 in so far it forbids medical care for undocumented migrants in cases of non-emergency; the access to medical care in cases of emergency to cover both stabilization and rehabilitation of undocumented migrants' health; the access to medical care to

cover preventive medical check; the establishment of pre-natal and post-natal health care for women; the issuing of residence permit for humanitarian reasons to persons who suffer from health problems irrespective of previous possession of residence permit; and the abolishment of disciplinary and penal sanctions for medical personnel in case they provide medical care beyond the limits prescribed by Law.

The NCHR also re-iterated its position regarding the need for the hospital of the Korydallos prison as well as the psychiatric hospital to fall under the competence of the Ministry of Health and to be integrated into the National Health System. It expressed its satisfaction over the announcement by the competent authorities regarding the materialization of the above recommendation. The NCHR, also, noted that the prisons which are not located in urban areas should be staffed with medical and paramedical personnel so that primary care may be provided and emergency incidents handled. Furthermore, it stressed the need to facilitate the access of detainees to public hospitals.

7. Disclosure of Personal Data concerning Criminal Prosecutions and Convictions

I. Introduction

Law 3625/2007 modified Law 2472/1997 (Protection of Individuals with regard to the Processing of Personal Data) providing for the disclosure of personal data concerning criminal prosecutions and convictions. The disclosure of such data was the exception under previous legislation. The legislator invoked the need to protect the society and to facilitate the punishment of criminal offences.

Restrictions imposed on the protection of personal data interfere with constitutionally protected rights such as private life and the presumption of innocence in conjunction with the respect of human dignity. The disclosure restricts the private sphere and may lead to the individual's public defamation by the mass media. Extensive publicity may affect the right to a fair trial. On the other hand, the protection of vulnerable groups is taken into account; consequently, the disclosure of personal data is considered to contribute to the prevention of crimes committed against them.

II. The amendment in the context of the legal framework in force

Law 3625/2007 ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OPSC) and introduced modifications to the criminal law and the law of criminal procedure.

Article 8, para 3, in conjunction with para 1 of Law 3625/2007 provides for the disclosure by the prosecutor of the data concerning prosecution or convictions related to crimes, felonies or offences of intent, in particular against life, sexual liberty, financial exploitation of sexual life, personal freedom, property, rights related to property, violations of the legislation related to drugs, conspiracy against public order as well as offences committed against minors.

A) The amendment in the light of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

According to the Protocol all States Parties are obliged to prohibit the sale of children, child prostitution and child pornography (article 1). Furthermore, they are obliged to ensure that, as a minimum, the acts and activities aiming to the sale of children, child prostitution and child pornography are fully covered under their criminal law, whether such offences are committed domestically or transnationally or on an individual or organized basis; Acts and activities such as, offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, etc (article 3).

It is evident that the list of crimes for which the disclosure of data is permitted is quite broader and is not restricted to the crimes provided for by article 3 of the Protocol.

Article 8 of the Protocol provides for the adoption of appropriate measures in order to protect the rights and interests of child victims at all stages of the criminal procedure. According to article 8, para 1 (e) of the Protocol, "States Parties should protect, as appropriate, the privacy and identity of child victims and take measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims." Given that the amended provision does not stipulate clearly enough the data to be disclosed, it is probable for the disclosure to lead to information related to the minor. Therefore, the disclosure cannot be considered the most appropriate measure to protect the rights and interests of child victims.

Moreover, it should be mentioned that according to para 6 of article 8 of the Protocol, "nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial." Whereas the interests of the child are prioritized at all stages of the criminal procedure, it is expressly provided that all guarantees of fair trial should be fully respected.

B) The amendment in the light of the European legislation for the protection of personal data

Greece has ratified the Convention for the Protection with regard to Automatic Processing of Personal Data (Council of Europe, No. 108). According to article 6, personal data relating to criminal convictions may not be processed automatically unless domestic law provides for appropriate safeguards. Moreover, Recommendation No. R(87)15 of the Committee of Ministers to Member States regulating the use of personal data in the police sector stipulates in Principle 5.2.ii that "communication to other public bodies is exceptionally permissible if, (a) the communication is undoubtedly in the interest of the data subject and either the data subject has consented or circumstances are such as to allow (a) clear presumption of such consent, or if (b) the communication is necessary so as to prevent a serious and imminent danger."

The Explanatory Memorandum of the aforementioned Recommendation clarifies that "(…) the danger referred to in b must be both serious and imminent. It was thought appropriate to qualify the danger in this way given that Principle 5.2.ii is only concerned with exceptional cases justifying communication. Where a serious but non imminent danger exists, communication could take place in accordance with the provisions of Principle 5.2.ii.a".

The amendment does not require the "serious and imminent danger" condition. Both the object and aim of the disclosure are formulated in such general terms that their compatibility with the European provisions is seriously doubted. In addition, the broad list of crimes for which the disclosure is permitted leaves an important margin of appreciation to the competent Prosecutor.

Furthermore, the amended provision does not seem to satisfy the condition set by article 8, para 5 of the Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data, according to which, "processing of data relating to offences, criminal convictions or security measures may be carried out only under the control of official authority, or if suitable specific safeguards are provided under national law, subject to derogations which may be granted by the Member State under national provisions providing suitable specific safeguards."

It is doubtful whether the prosecutor, given his role in the criminal procedure and the lack of any other review of his decision concerning the disclosure, is sufficiently fair and objective.

III. The amendment and the protection of human rights

A) Restrictions on the right to privacy

Article 9 of the Constitution provides for the inviolability of private life. The protection of private life is closely related to human dignity and personal freedom. The disclosure of personal data related to prosecutions or convictions affects in most of cases in a negative way professional and social life of the person involved.

In a democratic society, a balance should be stricken between the protection of privacy and the freedom of information (article 14 of the Constitution) taking into consideration particular elements and facts of each case. As difficult as it may be to formulate a general rule about the conflict between privacy and freedom of the press, nonetheless restrictions upon privacy by the disclosure –especially in the case that would lead to the public defamation and pillorying of the person involved– would not be acceptable in every case.

The European Court of Human Rights recognizes the importance of personal data's protection in the context of private and family life and reviews strictly the conditions under which their processing takes place. In cases of disclosure without the person's consent, the Court attributes great importance to the procedural guarantees. The Court does not exclude the possibility for the protection of confidentiality to be outweighed by the interest in investigation and prosecution of a crime, but it requires that domestic law affords appropriate safeguards.

Furthermore, the European Court of Justice in its recent case-law recognizes that at the stage of the application in individual cases of the legislation implementing Directive 95/46 –at national level–, a balance must be found between the rights and interests involved.

In view of the above analysis, each ordinance issued by the competent Prosecutor permitting the disclosure of personal data concerning prosecutions or convictions should include without any exception a specific and thorough justification. Should the European Court of Human Rights examine a relevant case, it will review this condition in order to decide whether domestic guarantees are effective.

B) The presumption of innocence and the freedom of information

According to the ECHR case-law, all State authorities are bound to respect the presumption of innocence. Despite the personal and functional independence guarantees provided for the Prosecutor or any prosecuting authority, it is possible for the latter to violate the presumption of innocence, given especially that they have the absolute procedural control over the preliminary criminal proceedings. The Court requires that in cases of information presented to the public by State authorities, any statement that would lead to the presumption that the person concerned is guilty should be avoided.

The disclosure of personal data by the competent prosecuting authorities carries a particular burden in the eyes of the public and the accused does not have the means to respond to that in an effective way. Moreover, in the case of serious crimes, derogations from the presumption of innocence should be strictly examined, given the important risk for the accused.

Although it is difficult to find the balance between the right to information and the rights of the accused, it should be noted that the legislation must always take into consideration the evident advantageous position of the mass media. The close link between the presumption of innocence and the influence of mass media on public opinion is reflected on the special legislation that provides for limitations and rules with regard to the process of information and the image of the accused by the mass media in the context of criminal procedure. Despite the legal framework and the role of the Greek National Council for Radio and Television, it should be noted that sanctions do not manage to protect the person involved from being stigmatized as guilty. The burden of proof is *de facto* shifted to the accused because of the publicity, as it would be unrealistic to allege that the judges and the jury remain unaffected by the information presented without caution and discretion.

C) The lack of remedy against the disclosure of personal data

The Prosecutor enjoys a wide margin of appreciation regarding the aim of the disclosure as well as the data to be disclosed. Furthermore, during the period between the closure of the investigation and the issuing of court's judgment, the accused has no remedy against the disclosure. As the person involved is in the unfavourable position of being accused and cannot by any means defend his/her interests and rights restricted by the disclosure, one cannot but consider that the question of access to justice is raised.

IV. Issues related to the principles of proportionality and legality

A) The disclosure of prosecutions: a necessary measure?

We need to distinguish between two cases depending on the time the disclosure takes place: a) when the accused has already been arrested, and b) when the individual concerned is still wanted. In the former case, both the protection of the society and the completion of the criminal procedure are fulfilled if his/her provisional detention is ordered, in accordance with the conditions set by the law. Thus, the measure of disclosure constitutes a repressive measure additional to the one of deprivation of liberty.

On the other hand, if the person in question is not yet arrested, it could be argued that the disclosure of his/her data would protect the society from the fugitive and facilitate the criminal procedure. Nonetheless, taking into consideration the aforementioned reservations concerning the general wording of the provision providing for the disclosure, the prosecutor should always implement strictly the principle of proportionality with regard to the disclosure as such, the timing

and its reasoning.

B) The disclosure of data related to convictions: additional punishment?

The protection of data related to convictions reflects the effort to minimise the unpleasant consequences of the conviction itself. It also reflects the faith of a democratic society in its own system of criminal justice that has been attributed the necessary guarantees to impose the sanction and to pursue the normalization of the convicted person's life via the serving of the sentence.

The constitutionally protected publicity of the courts' sittings operates as a balancing factor between the legislative, executive and judicial function of the State and constitutes a manifestation of citizens' participation in a democratic society. However, the publicity of trials may be limited on the basis of the protection of moral principles, the private and family life of the parties, in the interest of the proper administration of justice, the best interest of the child; thus, giving priority to privacy.

The consequences of the disclosure for the convicted person depend on the interest of the public opinion *re* the specific case. In practice, the negative consequences of the disclosure are added to the ones of the sentence; they could amount to an additional sanction that is not prescribed by law and is not imposed by a judge.

V. Concluding remarks

The National Commission for Human Rights (NCHR) takes the view that the disclosure of personal data as it is provided for by Law 3625/2007 is not in conformity with the Constitution and the European Convention for Human Rights.

The NCHR considers that the broad scope and wording of the provision in question, in view of the relevant provisions of the Optional Protocol to the Convention on the Rights of the Child, because of its non compliance with the obligation of specificity, adequacy and absolute necessity of restrictions on rights in a democratic society, the lack of the requirement for a serious and imminent risk for the processing of personal data –according to European law–, and mainly because of the doubtful necessity and effectiveness of the measure with regard to the aims pursued, render the provision unconstitutional and contrary to European law of human rights.

8. Comments on the Bill "Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation-Harmonization of Legislation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006"

The bill under consideration adapts Greek legislation to Directive 2006/54/EC recasting 4 directives on gender equality in matters of employment and occupation. The deadline for the directive's transposition expired on 15.08.2008. Directive 2002/73, which was transposed by Law 3488/2006, is one of the codified directives. The NCHR had commented upon the relevant bill. Whenever necessary, it will reiterate its previous comments; the Commission wishes to express its satisfaction for the inclusion of several of its recommendations in the final draft of the latter bill.

The NCHR would like to note that Directive 2006/54 allows for more favourable national provisions, while it prohibits, as well as the Greek Constitution, any limitation of the existing national level of protection. Therefore, attention needs to be paid while new provisions are introduced or existing ones are amended. The NCHR would like to stress that its comments aim at ensuring the effective implementation of the legislation, a key requirement of which is the correct formulation of procedural rules and their incorporation into the codes of procedure. NCHR's effort to contribute in this area falls within the general program of National Human Rights Institutions to strengthen the administration of Justice (see Nairobi Declaration, adopted at the Ninth International Conference of National Institutions for the Promotion and Protection of Human Rights).

I. General comments

The Explanatory Report notes that the bill does not fully transpose Directive 2006/54, as it leaves out the chapter regarding equal treatment in occupational social security schemes (chapter 2 of Title II), due to problems that this transposition would create in the civil servants' pension scheme. Greek law sets different retirement ages and different minimum-service requirements for men and women in the Civil and Military Pensions Code. The NCHR notes that the European Commission has lodged a –still pending– recourse against Greece with the European Court of Justice, for this matter. The European Commission takes the view that the pension scheme of civil servants is "occupational" and that, therefore, it falls under article 141 EC Treaty (equal pay for male and female workers) which does not allow for any exceptions to the principle of equal treatment of men and women. Thus, by maintaining the above different prerequisites for entitlement to a retirement pension, Greece has violated article 141. The legislator is awaiting the ECJ's judgment in order to proceed to full compliance with the provisions of Directive 2006/54 regarding social security.

Given that the bill under consideration abolishes, replaces or complements provisions of previous legislation, the NCHR took the view that the latter, still in force, should be incorporated into the bill. This way, the new Law will include all the provisions concerning gender equality in employment and occupation, thus facilitating the employees in knowing their rights. This method will also serve the aim of Directive 2006/54, which consolidates in a sole and comprehensive instrument all the Directives to be abrogated.

II. Provisions of the bill

A) Article 2: Definitions

The definition of 'indirect discrimination' included in the bill is restrictive compared to the Directive's definition and previous Greek legislation transposing Directive 2002/73 and Directives 2000/43 and 2000/78.

B) Article 3: Principle of equal treatment - Prohibition of discrimination

The meaning of article 2, para 2 (a) of the Directive is not accurately reflected in element (a) of the article under examination.

C) Article 4: Access to employment-Conditions and terms of employment

The NCHR expressed its satisfaction for the

recognition of the rights prescribed in article 16 of the Directive (return from maternity leave) to both sexes. However, it proposed a more accurate phrasing of the said provision, as well as an additional provision qualifying as discriminatory 'any unfavourable treatment of a woman which is related directly or indirectly to her pregnancy, or to maternity or of parents which is related, directly or indirectly to their parental duties or to their parental or adoption leave or to other measures facilitating the harmonization of family and professional life'.

D) Article 5: Equal pay

The NCHR expressed its satisfaction for the clarification of the beneficiaries of family allowances paid by the employer.

E) Article 6: Termination of employment relationships

The NCHR welcomed the express prohibition of acts of victimisation by the employer against an employee as a reaction to his/her filing a complaint or any legal proceedings or testifying or taking any other action relating to the enforcement of the Law transposing the Directive. However, it proposed a broader phrasing of the provision so as to cover all possible forms of victimization, such as exclusion from vocational training, in all possible cases.

The NCHR also noted that in the bill the terms 'vocational training' and 'vocational education' are used interchangeably, which may lead to confusions. The term 'vocational training' is preferable, as it is broader and is also the one used in the Directive itself. Furthermore, as this article prohibits not only dismissal, but also any other adverse treatment, the NCHR suggested that its title be: "Protection against victimization", in according with the Directive's terminology.

F) Article 7: Dissemination of information

The NCHR expressed its satisfaction for the addition to article 11 of Law 3488/2006 transposing Directive 2002/73 of the employer's obligation to prevent and suppress any form of discrimination based on sex, and especially that of harassment and sexual harassment. This addition concretizes the more general obligation of promoting equality of men and women included in the said Law and the bill under consideration. The NCHR, also, welcomed the extension of the *ratione personae* scope of the said obligation by the inclusion of those responsible for vocational training. However, in order for the provision to cover the whole material scope of the Law, the NCHR recommended some complementary additions to the provision. The NCHR also suggested that its title be: "Obligation to promote gender equality"

G) Article 8: Legal protection

Law 3094/2003 establishing the Ombudsman provides that the Ombudsman cannot deal with complaints pending before courts or other authorities. Furthermore, it provides that recourse to the Ombudsman does not suspend the deadlines for filing a legal claim or complaint. Thus, in case the Ombudsman's intervention does not bear any fruits the victim may be deprived of his/her judicial protection, especially when the deadline is quite short (e.g. 60 days for seeking the annulment of an administrative act, 3 months for challenging a dismissal) whereas the timely exercise of legal remedies effectively precludes the protection the Ombudsman may afford to the victims. The provision, as it stands, forces the victim to choose between the Ombudsman and the courts and discourages recourse to the Ombudsman, an option which may offer the necessary protection more speedily and inexpensively, while at the same time alleviating the caseload of the courts. The NCHR recommended that the Ombudsman should be able to deal with cases, even if complaints have been lodged with courts, up until the case is discussed at court.

Competence of associations, organisations and other legal entities to exercise the victim's right before judicial or other authorities: This matter, as well as the burden of proof, are crucial to the effective judicial protection of victims, who, often, being afraid of victimization, or not cognizant of their rights, or due to lack of evidence or financial means, do not have recourse to courts or administrative authorities.

The provision in question maintains the shortcomings of the corresponding provision of

Law 3488/2006 transposing Directive 2002/73, which had already been criticized by the NCHR: it is more restrictive in comparison with the relevant provision of the Directive (it does not provide for the *locus standi* of the legal entities to bring cases to the courts, but only to intervene in cases already brought by the victims themselves) and it is not incorporated into the relevant Codes of Procedure, thus being ineffective. What is required for the provision to be effective under Greek procedural law is that the legal entities exercise of the victim's rights as their representatives, but rather in their own name, without excluding the exercise of the victim's rights by him/herself.

The NCHR noted that the rights attributed to the legal entities by the Directive are of procedural character. Thus, the Code of Civil Procedure, the Code of Administrative Procedure and the Presidential Decree 18/1989 regulating the procedure before the Conseil d'Etat need to be amended. In order for the procedural provisions to comply with the Directive, they need to provide for the active legitimation and the legal interest of legal entities before civil and administrative courts, as well as for their standing to intervene in civil and administrative trials in favour of the victim, even if the latter is not a member of the former.

As the NCHR has recommended, in its comments on the bills transposing Directives 2000/43, 2000/78 and 2002/73, the procedural provisions should apply to all cases deriving from violations of the Law and be based on the following principles:

They should provide for the right of legal entities or associations of private or public law, defending human rights or being active in areas falling under the scope of the bill, to: a) exercise the rights provided for by the Law in support of the victims. The legal deed needs to be served on the person whose rights are being exercised and he/she needs to have the right of intervention at every stage of the trial; b) intervene in support of the victim at every stage of the trial.

The requirement of "consent" of the complainant in order for the legal entities and associations to pursue his/her legal protection is not in accordance with the text of the Directive (article 17, para 2) which speaks of "approval" that can also be given at a later stage. The requirement of "consent" may result in exceeding the set time limits and thus, in depriving the complainant of the provided legal protection. The Directive does not provide for a certain form of approval. Therefore, it can be given in several ways. If the legal deed is served on the victim and he/she does not express any objection until the case is discussed at court, then it has to be presumed that he/she has given his/her approval.

The NCHR also recommended that the bill provide expressly that in case the victim does not take part in the trial, the *res judicata* should operate in his/her favour and not at his/her expense. This is very important for the effective protection of the victims and it is accepted by the courts with respect to certain trials conducted by legal entities under the Code of Civil Procedure.

Furthermore, according to the Code of Administrative Procedure, it is solely the victim who may lodge administrative complaints. Therefore, a provision needs to be added to the bill so that administrative complaints may also be lodged by legal entities and associations for violations of the Law.

H) Article 9: The Ombudsman

The NCHR welcomed the appointment of a Deputy Ombudsman for Gender Equality.

I) Article 10: Burden of proof

The Community rule for the burden of proof is that the person complaining of being discriminated against is only required to invoke and prove facts from which the discrimination is presumed. However, article 10 of the bill excludes the application of the aforementioned burden of proof rule to non-judicial proceedings. This general exclusion covers all proceedings before any authorities other than courts; thus, also quasi-judicial recourses and complaints before administrative authorities, such as competent ministries, the Labour Inspection or the Ombudsman (which the Explanatory Report mentions as an example of an authority to which this rule does not apply), which, according to the Directive, must implement the burden of proof rule. Therefore, the provision under consideration

is not in compliance with Directive 2006/54.

J) Article 12: Gender mainstreaming

Article 12 of the bill incorporating article 29 of the Directive omits the term "actively", which expresses the demand for the most appropriate and effective measures for the promotion of substantive equality, also required by the Greek Constitution (article 4, para 2, in conjunction with article 116, para 2).

III. Strengthening the Labor Inspection Body (SEPE)

The NCHR has already in the past stressed that SEPE cannot efficiently perform its duties, despite the efforts of its staff, due to lack of human resources and of the necessary infrastructure, a problem also noted by SEPE itself in its annual reports. If SEPE is not strengthened so as to cover all the sectors and all the regions of Greece, its effectiveness will diminish even further. The 'precedent' of 'equality offices' of SEPE which never really operated due to lack of staff is indicative of the problematic situation. Furthermore, it is necessary for SEPE to be restructured so as to effectively contribute to resolution of disputes and, by extension, to the decrease of recourse to courts. Moreover, its staff needs to be continuously trained, especially regarding legislative and jurisprudential developments.

IV. Measures for the harmonization of family and professional life

The NCHR stressed anew the need for effective measures for the harmonization of family and professional life. It recalls certain measures that it has recommended:

a) The granting of parental leave as an autonomous, non-transferable right to all employees of both sexes, in both the private and the public sector, the replacement of their pay with social benefits, and the maintenance of their social security.

b) The granting of paternal leave, to be given at the same time as maternity leave, to those categories of employees for whom it is not yet provided (such as civil servants) and its extension for those already entitled to such leave (the duration of paternal leave in the private sector is only two days).

c) The extension of these measures to adoptive parents. In addition, special measures need to be taken for single-parent families.

d) The organisation of working time by law or through collective bargaining or other consultation mechanisms, so as not to allow for unilateral arrangement by the employer.

e) The regulation of matters related to the organization of employment and, especially, the promotion of flexible forms of occupation (part-time, tele-working) on an optional basis and with safeguards for the rights of employees.

f) The qualitative and quantitative improvement of supporting structures for all employees, taking into account the good practices of other States.

The NCHR expressed its satisfaction for the fact that provisions regarding the aforementioned issues were included in the National General Collective Labor Agreements of 2006-2007 and 2008-2009 and asked for their full and effective implementation, as well as their further expansion.

9. Report and Recommendations on Issues Concerning the Situation and Rights of the Roma Population in Greece[1,2]

I. Introduction

In the last ten years or so, there has been a large number of reports,[3] publications, studies, and events (conferences, congresses, etc.) on Roma, as well as resolutions and decisions of international organisations and judgments by international jurisdictional bodies. The shared assumption of all those agencies and actors is that there is a gap between the adoption of policies and positive measures and their substantive implementation in the field, thus, resulting into the Gypsies being victims of negative discrimination and social exclusion.

This increasing concern for the Roma is not in itself good news, as it reflects the lack of real statutory guarantees at the national and international level. In Greece, the Gypsies/Roma are included in numerous administrative instruments, action plans and national strategies

1. The present Report was fully translated in order to be submitted to the Committee on the Elimination of Racial Discrimination and to the Independent Expert on Minority Issues, Ms. G. MacDougall. Thus, the full text of the report is included in the Annual Report.

2. The present report is a revised form of the position paper on the situation and rights of the Roma population in Greece which was discussed in the Plenary Session of 02.10.2008 of the Commission and drafted by Ms. C. Papadopoulou, Human Rights Officer of the NCHR. Mr. A. Takis, Deputy Ombudsman, has co-signed the revised text. The report takes into account the spirit and the content of the fruitful discussion which took place, and incorporates as far as possible the proposals and comments –constructive, yet frequently not in agreement with one another– of the NCHR members, and particularly of those who submitted them in writing (S. Spiliotopoulou, P. Stangos, N. Theodoridis, C. Botopoulos). The report has been supported by the *ad hoc* Working Group on Roma affairs (L. Argyropoulou-Chrysochoidou, P. Stangos, A. Takis, C. Lambrou, N. Theodoridis, C. Botopoulos, I. Nikolakopoulou-Stefanou, and L. Divani, former member of the NCHR and compiler of the 2001 report on Roma affairs), of agencies and individuals (A. Takis, Deputy Ombudsman, M. Voutsinou, and A. Papadopoulou, advisor at the Ombudsman Authority, the Union of Greek Roma, the Panhellenic ROM Youth Association, the Sofades ROM Association, the Panhellenic Union of Greek Roma, the National Focus Centre on Racism and Xenophobia, the Hellenic Human Rights Union, the Oikokoinonia NGO, the Klimaka NGO, the Arsis NGO, the Praksis NGO, the Doctors of the World, the Greek Helsinki Monitor, the Directorate for Development Programmes of the Interior Ministry, the General Secretariat of Public Order, the Office of the Minister of the Environment, Planning and Public Works, the Secretariat General of Public Order, the KELPNO, the Municipalities of Athens and Trikala, the ROM Inter-municipal Network, the Administrative Regions of Attica and Western Greece, N. Christopoulou, anthropologist, E. Katoufa, journalist/social worker, M. Tsafou, sociologist), who in different capacities and from various positions are active and/or involved directly in the management of Roma issues. The problems and the proposed solutions were further elaborated and discussed at the two meetings-consultations convened by the Commission (11.7 and 20.11.2007). The Commission would like to express its warmest thanks to all those who have contributed to the formulation of the proposals and to an understanding of the issues touching upon the situation of the Gypsies in Greece today. The author of the report made *in situ* visits to and had discussions with the residents at the Roma settlements or encampments at Halandri, Attica, the Gallikos river, and Evosmos, Thessaloniki.

3. As to the Gypsies/Roma in Greece and/or Europe, the following are noted by way of indication: European Roma Rights Centre, *Focus: Roma in Greece* (ERRC, 2000); International Helsinki Federation of Human Rights, *The Situation of Roma in Selected European Countries: Report to the OSCE Conference and Other Forms of Intolerance* (Cordoba, Spain, June 2005); Minority Rights Group International, *Roma Poverty and the Roma National Strategies: the Cases of Albania, Greece and Serbia* (September 2005); ERRC & Greek Helsinki Monitor, *Cleaning Operations: Excluding Roma in Greece* (Country Report Series, No. 12, April 2003); Greek Helsinki Monitor, Centre on Housing Rights and Evictions et al., *Greece: Continuing Widespread Violation of Roma Housing Rights* (October 2006); OMCT & GHM, *Torture and Other Forms of Ill-treatment in Greece in 2003: The Situation of Women, Roma and Aliens* (Hearing of the EU Network of Independent Experts in Fundamental Rights, 16 October 2003); Save the Children, *Denied a Future: Report on Greece* (2003); Greek Group for Minority Rights, *Roma in Greece: History and Present-Day Reality* (2002) [in Greek]; J.P. Liegeois and N. Gheorghe, *Roma/Gypsies: a European Minority* (1999); M. Pavlou, *Racism and Discrimination against Immigrants and Minorities in Greece: the State of Play* (HLHR-KEMO Annual Report 2007); COHRE, ERRC, GHM and MSF, *Serial Abuses in Need of Rigorous Response* (2007); World Bank Involvement in Roma Issues, www.worldbank.org.

(National Report on Strategy for Social Protection and Social Integration 2003-2005, 2006-2008, 2008-2010, National Strategy for the European Year of Intercultural Dialogue 2008, etc.), without, however, there having been any notable improvement of things in the field. It is also known that Greece has been compromised at the international level by a number of convictions by international jurisdictional bodies and is at the top of the list of states negatively assessed as regards Roma issues.[4]

A racist trend against Roma has made its appearance in various European countries, and is at times resulting in extreme policies, measures and aggressive manifestations (such as fingerprinting of the Roma, racist statements by senior state functionaries, etc.), as those recently observed in neighbouring Italy, the Czech Republic, and in some other EU countries.[5] These phenomena render even more necessary and urgent a comprehensive policy on Roma inclusion in Greece, a net improvement of the existing programmes, and a strict monitoring of their effectiveness in practice. In fact, in spite of the observed delays in the implementation of the measures adopted on paper, and in spite of the obvious distance between the declared goals and the results produced, no overall assessment of the progress of the programmes has been completed so far. Against this background, there seems to be a direct connection between state inadequate intervention, and the manifestations of aggressive behaviour of non-Roma towards Roma.

In this state of affairs, the NCHR has decided to attempt an examination of the situation of the Roma in Greece today, and to formulate recommendations for the elimination of social exclusion, from the viewpoint of human rights and non-discrimination, and by adopting a holistic approach. Obviously, the effectiveness of NCHR's recommendations to the competent State authorities is interwoven with necessary changes in the way of looking at the Roma and of co-existence with them on the part of the society as a whole. It goes without saying that comprehensive changes in attitude are necessary, both on the part of the collective bodies representing Roma communities and the Roma themselves.

II. History of the involvement of the NCHR in Roma issues

The NCHR adopted a first position paper on Roma issues[6] in the second year of its operation (in 2001, before there was a body representing the Greek Roma within the Commission) by means of which it recommended that the state should take up its responsibilities as regards the solution of the problems of Roma, and adopt policies for the sensitisation of society. In 2003, the NCHR[7] increased its membership by adding two NGOs (over and above the original four) to its composition, one of which was the Panhellenic Federation of Greek Roma Associations. A number of member-agencies of the NCHR are active in issues of Roma protection (there is an in extenso account of the composite actions of the Ombudsman on Roma below). The accumulated experience of the Ombudsman via in situ monitoring of settlements and the investigation of individual cases constitutes the empirical base of the NCHR. The Commission is convinced that the two institutions' complementary roles may increase the possibilities for an effective State response. Apart from the Ombudsman, the PASOK and SYRIZA political parties have tabled questions in this connection in Parliament (primarily on issues of resettlement and education); non-governmental organisations examine various matters depending upon the range within which they act; and the representatives of the ministries inform -if not always adequately- the Commission on their Roma related actions.

The NCHR systematically includes Roma issues whenever it is asked to comment upon

4. See more below, in the section of the report devoted to this subject.
5. See in this connection (and on Greece), Human Rights First, *2008 Hate Crime Survey: Violence against Roma* (2208).
6. See, NCHR, "The situation of Roma in Greece", *Annual Report 2001*, p. 179 seq.
7. By decision 06.02.2003 of the Plenary, by virtue of article 2, para 1 (c), and article 9 of Law 2667/1998.

Greek reports to Treaty Bodies, national action plans, or bills touching upon protection from discrimination.[8] In addition, it makes specific reference to Roma whenever it consults with representatives of international experts and/or bodies.[9] At these meetings and in its comments on the State reports, the NCHR has noted, inter alia: the lack of co-operation of the local authorities for the resolution of problems faced by Roma. The difficulties in the implementation of integration programmes due to the lack of unity in the representation of Roma. The *de facto* problem of registration of Roma in civil registers, due-inter alia- to omissions on the part of the competent services of the central administration and of local government, a deficiency impeding the planning and implementation of appropriate actions. The problem of the non-inclusion of Roma originating from the Balkans in the programmes. The difficulties in the implementation of the subsidized housing loans programme due to the lack of understanding of the procedure on the part of Roma and, in addition, due to unclear competencies between local government and the Interior Ministry. The illegal character of the forced evictions of Roma from encampments in various regions of the country, without them being offered a resettlement in another site meeting conditions of safety and minimum dignity. The need to build upon the good practice of the medical-social centres. The ineffectiveness of the measures adopted so far aiming at the integration of Roma children into the educational process. Last, but not least, the inadequate investigation of cases of alleged use of force by police officers against Roma, and of discriminatory treatment and abuse with probable racist motives by non-Roma citizens.

During 2007, the NCHR set up an *ad hoc* group on Roma issues and convened two working-meetings attended by a wide range of agencies (NGOs, collective expressions of Gypsy citizens, university academics, public administration and self-government, independent authorities, etc). Many of these submitted views and proposals regarding the interconnected fields where violations occur: housing, education, health services, employment, and problems in relations with state and municipal administrative procedures. Furthermore, in October 2007, the President of the Commission, K. Papaioannou, together with the Deputy Ombudsman A. Takis, had a special meeting on Roma issues with the General Secretary of the Ministry of Interior, Mr P. Georgiadis.

Amongst the members of the NCHR, the Ombudsman, by virtue of his mandate, and particularly with his new competence (by virtue of Law 3304/2005) as Agency for the Promotion of the Principle of Equal Treatment, has substantive contact with and understanding of the problems of Roma and of the obstacles as regards the management and resolution thereof. Aspects of his experience in the investigation of individual cases, via performing *in situ* inspections and undertaking, as of 2005, of a "composite action for the improvement of housing condition of Roma", appear in a series of his findings, in the Authority's annual reports, in the special report (2004) of the Human Rights Section on "Disciplinary/ administrative investigation of complaints against police", and in the published conclusions of the

8. See, NCHR, "Comments on the Report of Greece to the UN Committee on Economic, Social and Cultural Rights", *Annual Report 2002*, p. 181 seq.; "Comments on the Reports of the Ministry of Justice and of Public Order to the UN CAT", *Annual Report 2001,* p. 229 seq.; "Comments on Bill '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)", *Annual Report 2003,* p. 223 seq.; "Comments on the First Report of Greece on the International Covenant on Civil and Political Rights", *Annual Report 2003,* p. 249 seq.; "Comments on the Report of the Ministry of Foreign Affairs on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination", *Annual Report 2007,* p. 177 seq.; "Views and proposals of the NCHR on the National Report on Strategy on Social Protection and Social Integration 2008-2010, which was approved by the Plenary Session of 10.07.2008.

9. Working-meetings with: Ms. G. McDougall, Independent Expert of the UN on Minority Issues (Sep. 2008), CPT Delegation (Aug. 2005), joint conference on issues of racism with the ECRI (18.11.2004), a series of meetings with the Council of Europe Commissioner for Human Rights and/or with representatives of his office.

December 2007 European Working-Meeting, co-organised with the Office of the Commissioner for Human Rights of the Council of Europe, on the elimination of the social exclusion of Roma. An inter-sectional team on Roma issues operates within the Ombudsman's Office, while a network of exchange of information with agencies and civil society unions active in the protection of Roma rights has been set up.

III. Definitions and basic field data about the Roma in Greece[10]

The Roma who live in Europe do not constitute a homogeneous group, but a mosaic of populations, while a variety of names are given to them in different countries: Tsingani in Greece[11] (but also 'Katsiveli in villages in Northern Greece, from the medieval Italian 'cattivello'), Gitanos in Spain, Ciganos in Portugal, Cale, Gitans, Tsiganes or Manouches in France, Kaale in Finland, Sinti and Zigeuner in Germany, Zingari in Italy, Roma in a number of countries in south-eastern Europe, etc. The Gypsies refer to the non-Gypsies as Balamé or Gatzé, which signifies the 'other race', i.e., the non-Gypsies.

The beginning of their migration is dated to circa the 11th century AD. The basis on which it is believed that they originally came from Northern India is linguistic: it has been found that Romani or Romanes idiom (which takes the form of at least 20 dialects and more than 60 idioms, and is not a written language, but is primarily used as a code of communication not understood by non-Gypsies) resembles to other linguistic forms of that region in morphology and vocabulary. During the course of their migration, these groups of Roma/Gypsies encountered other 'Travellers', of indigenous European origin -Quinquis in Spain and Portugal, Tinklers/Tynkers or Travellers in Ireland and England, Jenische in Germany, Omsreifere in Scandinavia, etc. Their relations with the Roma/Gypsies are not entirely clear, but they have also adapted themselves to the wandering life for various reasons, such as poverty, wars, etc.

In the administrative and political instruments of the countries where Roma groups are present, various terms and paraphrases reflecting the State policy are used. In France, the periphrasis 'Personnes d' origine nomade' (persons of nomadic origin) was used up to 1972, while today it has been replaced by the term 'Roms et Gens de Voyage' (Rom and Travellers), a term based on the habitus of the individuals, which also includes the groups of non-Indian origin, and free of negative or cultural associations -in accordance with the 'sacro-sainte laicité' of French democracy.

The term 'Gypsy' is not generally regarded as derogatory, but it involves negative connotations in certain European countries, such as Germany. As far as Greece is concerned, this seems to be an acceptable term for most groups, whereas the term 'Rom' and/or 'Roma' (which means 'man' in Romani) is increasingly used in the "politically correct" discourse, as it has the advantage of differentiation from terms imposed by the non-Roma. It is a term corresponding more to the will of the Gypsy groups of Central and Eastern Europe (constituting approximately 70% of the total Gypsy population in Europe), and it has been used by the international organisations, particularly in the last 20 years. In the present report, both terms are used interchangeably, as they are familiar to and acceptable by the groups present in Greece.

In Greece, the Gypsy presence is traced back in the 14th century, while after the Asia Minor Disaster (1922), there has been a major migratory wave of Gypsies coming to Greece from Constantinople and Smyrna regions. It should be noted that Greek nationality was given to Gypsies living in Greek territory in 1955 by Legislative Decree 3370/1955. This remained in effect a dead

10. For a collection of various academic approaches providing stimuli for thinking on the Roma of Greece, see the volume published by the Hellenic Ethnology Society, *The Roma in Greece* (Athens 2002) [in Greek].

11. It is conjectured -but without scientific certainty- that the term derives from a heretical group in the Byzantine world who were called 'Athingani' -'untouchable'- variations on which were to be used in many countries. According to another version of the theory, this comes from the negative prefix 'a-' and the verb 'thingano' (touch), that is 'untouchable'.

letter until 1979, when new statutory regulations attempted to settle the issue of the nationality of the Gypsies. A considerable concentration of Gypsy population is observed in various areas of Attica and Thessaloniki, in the Western Peloponnese, in Thrace, in Chios and Lesvos islands, and in a number of cities in the rest of the country's geographical divisions.

It is extremely difficult to calculate the exact number of Roma in Greece –and elsewhere– as there is no systematic way of collecting data regarding ethnic identity (the last census recording racial origin or mother tongue was that of 1951, and in that, the Gypsy population amounted to 7,429 persons). Conservative estimates speak of approximately 250,000 individuals of Gypsy origin, with clear tendency to becoming sedentarised, whereas the degree of their sedentarisation is closely linked to their labour needs. It should be noted that a significant number of newly-arrived Gypsies, originating mainly from Albania and the countries of former Yugoslavia, has been added to the overall Gypsy population. The residence of these newly arrived Gypsies in Greece goes relatively unimpeded, as the public authorities tend to avoid addressing the problems of this particular group. Nevertheless, it should be noted that frictions between them and the indigenous Gypsies are observed. In any event, insufficient light has been cast upon these differentiations within the Gypsy population, as high demographic rates, relatively high geographical mobility of the Gypsy population, and the de facto problem of registration of Roma in civil registers, make difficult any attempts at census-taking, on top of causing problems in many other areas –such as transactions with public authorities.

IV. Routes of identity: 'Gypsy' identity, or composite identity?

From the time of their appearance in Europe, until very recently, the Gypsies were perceived by politicians and the intelligentsia in two diametrically opposed ways: the dominant state approach veered between persecution (or elimination), assimilatory policies, regulated control and toleration of Gypsy groups, whereas intellectuals (particularly under the ideological horizon of 19th century's Romanticism) frequently developed a discourse stressing the exoticism of the Gypsies as a kind of 'familiar aliens', who live next to us, but not with us. Attitudes, preferences, practices and behaviours of the Gypsies were interpreted as expressions of a unified 'Gypsy culture': the Gypsies are 'by their nature' wanderers and nomads,[12] are gifted with 'second sight', etc. It should be noted, however, that as regards the Gypsies' qualities, they are ascribed mostly negative ones, that is, those which non-Gypsies would not ascribe to themselves.

A third approach, originating in the sphere of social sciences, began to be articulated in the 70's. This approach was proposing a new way of looking at majority-minority social relations, and examined the defining characteristics of the Gypsies as a causal function of relations and interactions with the majority population. The research is directed to the examination of the characteristics of the Gypsies, either as a development of a kind of counter behaviour to the norms of the majority, or as a survival strategy (resilience) and interaction of Gypsies with the socio-economic parameters of the society of the majority, or as a combination of both the above. More recent approaches are adopting a rights' discourse (human rights, the right of social inclusion and participation), stressing the necessity, on the one hand, of Gypsies' participation in the shaping of the policies concerning them, and, on the other, of statutory guarantees for the adoption and implementation of positive measures in view of eliminating inequalities.

The dynamics of the evolution of Gypsy identity[13] and of the Gypsy self-perception in

12. For a comprehensive study of the mobility, territoriality, and of the ways of settlement, sedentarisation, and migration of Gypsy groups, see E. Karathanasi, *The Dwelling of the Gypsies: The Bio-Space and the Socio-Space of the Gypsies* (Gutenberg, Library of Social Science and Social Policy, Athens 2000) [in Greek].

13. See in this connection, E. Papataxiarchis, "Concerning the Cultural Construct of Identity', in Society for the Humanities' Study (ed.) *Concerning Constructs, Topics II* (Nisos, Athens 1996) [in Greek], p. 197.

Greece seems to be differentiated from that in the rest of Europe to a certain extent. This difference is important as it determines the ideological basis on which the Gypsy communities lay claim to their rights and define their strategies/tactics. In the case of a de jure minority, its members are subject to special statutory regulations as to their rights and obligations; whereas in the case of a de facto minority, its members are not entitled to, or do not desire, to make reference to the minority status.[14]

While most Roma groups in Europe seem to line up with the minority approach, and, consequently, use its conceptual framework in their search for rights[15] (almost all intergovernmental and non-governmental organisations refer to the Gypsies as the "biggest minority in Europe"), many of the Gypsy collectivities in Greece state[16] that they prefer a claimant platform on the basis of 'vulnerable' group.[17] Their quest for recognition, acceptance and equality is pursued not on the basis of ethnic differentiation, but on that of ethnic 'likeness with particularities'. They compare themselves with other groups with a 'multiple' identity (e.g., Vlachs, Black Sea Greeks, Arvanites), and they underline their readiness to fulfill their obligations towards the state (fulfillment of military obligations, Gypsy victims of the German Occupation,[18] etc).

This choice seems to stem either from the actual marginalisation of the group as a result of socio-economic mechanisms that perpetuate particularity,[19] or from a reservation over the usefulness of adopting 'minority' terms (due to the stigmatisation in the use of the term in the Greek context and administrative practice).

At times, the desire of belonging to Greece is exaggerated (e.g. it is argued that the Gypsy groups are of ancient Greek descent), and this may arise from the –unconscious– realisation that, in Greece, citizenship is based on the jus sanguinis principle and shared descent, and not upon a 'civic' Greekness. Such a non-civic Greekness, in conjunction with the ideological construct of the cultural supremacy of the Greeks, and of Greece –as the foundation of European civilisation– has rendered the 'otherness' and/or minority status rather problematic.

The majority of the non-Roma Greeks perceives Roma as 'problematic' and considers that their non successful integration is the result of their own culture and attitude. This is

14. In the contemporary approach governing the minorities' law, the so-called subjective approach has been adopted: this means that, inter alia, a decisive factor for the recognition of a group as a minority is its expressed will to be perceived as such.

15. For a line of thought as regards the legal definition of the concept of a 'minority', see L.-A. Sicilianos and A. Bredimas (eds.), *The protection of Minorities. The Framework Convention of the Council of Europe* (Ant. N. Sakkoulas, Athens-Komotini 1997) [in Greek]. Also, for a pragmatic and critical scientific review of the minority phenomenon, see K. Tsitselikis and D. Christopoulos (eds.), *The Minority Phenomenon in Greece* (Kritiki, Athens 1997) [in Greek].

16. See published Declaration of Self-Determination at the 3rd Panhellenic Conference of the Panhellenic Federation of Greek Roma Associations, Thessaloniki 28.04.2001: "We, the Greek Gypsies, declare categorically and in every direction that we are an indissolubly united part of Hellenism and any other type of reasoning and approach by whomsoever expressed will meet with our opposition".

17. For an analysis of the exclusion-on-a-minority-basis v. exclusion-on-a-socio-political- basis, see A. Vaxevanoglou, *Greek Gypsies, Marginalised and Patres Familias* (Alexandreia, Athens 2001) [in Greek].

18. The Gypsies speak proudly of the bust of Vasilis Mitros, 'Capetan Gyftos', erected a few years ago in the town of Kymi. With regard to the recognition of the Gypsy victims of the Holocaust, it is debated, even beyond the frontiers of Greece, whether it was based on racial hatred or whether it was due to their delinquent activities. This rather disturbing 'competition' of the extent of victimization, reflects the small leverage which the Gypsies exert over the decision-making circles and policy centres.

19. This is an option adopting an analysis of the social inequalities on the basis of "class", and rejecting the 'post-Marxist' and postmodern concept of perpetual differentness, as a conscious choice. See in this connection, C. Katsikas and E. Politou, *The Rejected Other: Gypsies, Members of Minorities, the Repatriated, and Aliens in Greek Education* (Gutenberg, Athens 1999) [in Greek].

corroborated by the fact that once a Gypsy achieves its integration to the society (on the basis of a series of indicators, e.g., steady job and settlement, inclusion in social security schemes, etc), he automatically stops being perceived as Gypsy by the non-Gypsies. At the other end, the Gypsy perceives himself rather as a neglected and, therefore, marginalised member of the Greek family than as a member of a 'minority' within the majority. This is why the Greek Roma criticize the -in their view- greater effort of the Greek State to address the problems of aliens (including those of Roma descent), while it still neglects 'its own' poor and marginalised Gypsies.

In any event, from the point of view of the NCHR, neither presumption of 'Greekness', nor that of 'Gypsyness' is required for the defense of the Gypsies' rights. The 'otherness'[20] of the Gypsies is of importance to the extent that it constitutes the major reason for social exclusion. The Commission neither adopts, en bloc, nor rejects the 'ethnic' platform for claims, and is fully aware of the dynamics and complexity of the shaping of composite identities in contemporary societies. Thus, the NCHR proposes a 'definition' not of 'Gypsyness, but rather of the subjects entitled to benefit from a series of positive measures on the part of the state and the society; measures which aim at eliminating their disadvantaged position and their exclusion from the society and at ensuring their access to the mechanisms of production and distribution of goods within the state.

V. The case of the Muslim Gypsies of Thrace

During the 1980s, a part of the Muslim Gypsies of Thrace were incited to migrate primarily to the Prefecture of Attica (Gazi, Kolonos, Votanikos, Keramikos, Lavrio) as manual workers in high-risk sectors. The process by which Muslim Gypsies determine their own identity is of a more complex character than is the case of other groups. The residents of the old settlements define themselves as Turks. Only the formerly itinerant groups are self-defined as 'Gyfti' or 'Gioufti' ('Athingani' for the Greek side); they retain Romani as their mother tongue, and they reject the use of the derogatory Turkish word 'çingen' for themselves. In the last 15 years, considerable numbers of the formerly itinerant groups tend to abandon Gypsy cultural characteristics and the Romani idiom, in an attempt to avoid the stigma accompanying the 'Gypsy identity'. Some Gypsy groups use religion as the basis of their self-identification ('Muslims'), without necessarily observing the Muslim rituals in full.

In recent years, the Greek State has emphasized the division of the minority of Thrace into three constituents: the persons of Turkish origin, the Pomaks, and the smaller group of the Athingani/Roma. The Greekness of the Gypsy constituent is somewhat over-emphasized, within the context of a generalized effort to avoid the absorption of the Pomaks and Gypsies by the constituent of Turkish origin. However, the actual link connecting the constituents within the minority is their common expectations of their inclusion and participation in the society to which they belong.[21]

VI. On the edge of the city

The Gypsies usually settle on vacant sites owned by the state, municipalities, or other legal persons of public law, and more rarely on private land, with the tolerance or indifference of the owners, or because of the inability of the latter to enforce judicial measures. When an urban development plan for the aforementioned sites comes forward –either for a public purpose or following pressures from the local population–, the mechanisms of compulsory removal are

20. For a line of thinking in connection with the conditions on which otherness becomes 'of interest', see D. Christopoulos, *Otherness as a Power Relation: Aspects of the Greek, Balkan and European Experience* (Kritiki, Athens 2002) [in Greek].

21. See S. Troubeta, *Fabricated Identities for the Muslims of Thrace* (Kritiki, Athens 2001) [in Greek]; E. Avramopoulou and L. Karakatsanis, *Routes of Identity: from Western Thrace to Gazi* (Athens 2001) [in Greek] at www.kemo.gr.

activated, taking the form of forced eviction (issuing of protocols of administration eviction), or of tearing down the constructions ('cleaning-up' operations). Access to water, electricity, garbage removal, drainage, etc. are totally defective, if present at all. This is the context where exclusion is built up, and where the possibility of peaceful co-existence of the communities is subverted. Thus, the Roma encampments and/or settlements, in conjunction with the inequalities in income distribution, and the other deficiencies of the Greek welfare State and public planning, are transformed into areas of acute tension between those living there and those in the vicinity.

The Roma community is not fully familiar with private ownership (possession, disposal, ownership). Settling in private sites or public areas does not, a priori, take place with the intention of exercising control over them: what Property Law interprets as a violation of the right to property, could be described as 'diakratesis', i.e. where there is no will or intention to act as owner.[22] In addition, competitiveness in the economic field intensifies the contrast between two systems of management of space: the one (that of Roma) which is based on 'quasi-possession' and the group, and the other which is based on ownership and the individual; thus, the obstacles to the use of land by Roma groups are intensified.

The Gypsies settlement on the property of others is the main factor for the persecution which they undergo; moreover, the observed tendency to become sedentary is often undermined by the local reactions and the discontinuity of public policies. Because of their functional illiteracy and the negative prejudice of the authorities, they are more confused by bureaucratic procedures than non-Gypsies are. Being unfamiliar with the real estate market, when they buy land (thanks to the housing loans, within the framework of the Integrated Action Programme, a considerable number of Gypsies have bought land and/or houses), it is often either not suitable for building, or falling outside the town plan. Thus, they put up makeshift constructions or build houses, only to have them knocked down by the demolition squads; typically, the Roma illegal constructions are demolished in a more frequent fashion than in the case of the illegal constructions of non-Roma.

Having been for centuries the target of various forms of aggressiveness, the Gypsies have developed noteworthy *survival strategies*,[23] including exercising economic functions[24] that often call for circumstantial changes of location. In the process of their gradual sedenterisation and urbanisation, they frequently face the hostility of local communities and the ineffective way in which their problems are managed by the State. By extension, they adopt behaviours of introversion and resistance to influences from outside the group, since the former threaten the cohesion of the latter, thus, perpetuating their marginalisation. A still prevalent foundational feature of their social organisation is the extended patriarchal family, with all that this entails in terms of power relations within the family life cycle. Gypsy women, within their own social group, are the victims of multiple discrimination to a much greater extent than men, and the violations of their fundamental rights within the context of the group and outside of it are particularly marked.[25] The networks of support and interdependence

22. A term used by A. Georgiadis and M. Stathopoulos for the act which is marked by physical exercise of power over something, but is not governed by the will that this should come into the ownership of the possessor: see *Civil Code: Interpretation, Case-Law, Bibliography, Volume V, Property Law* (P. Sakkoula, Athens 1985) [in Greek] p. 219. On the territoriality of the Gypsy groups as compared with that of the ambient community, see E. Karathanasis, op. cit., pp. 243-281.

23. On the modes of social organisation of Roma see, K. Kozaitis, "Aliens among Foreigners: Social Organization among the Roma of Athens" (1997) 26 *Urban Anthropology*, p. 165.

24. See L. Leontidou, *Cities of Silence: Workers' Settlement in Athens and Piraeus* (ETBA, Athens 1989) [in Greek].

25. This is also stressed in the comments of international organs and commissions, such as CEDAW and the HRC, on Greece, in which they request that the country takes measures for their elimination.

within the Gypsy community are still strong. The choice of self-employment and that of mobility is connected with the exceptionally limited range of opportunities available to Gypsies. It is also connected with the efforts they make to be less dependent upon those who reject them, through the feeling of security when being employed in the 'family business'. In addition, the delinquency associated with drug trafficking and use observed in certain Roma settlements and encampments, complicates further the internal hierarchies and power relations and compromises smooth co-existence with the vicinity.

Parents see their children as 'extra labour' available, whereas economic and emotional dependence on the family and the broader Gypsy environment is very powerful. Functional illiteracy and lack of connection with the State institutions and functions is quasi generalised, and communication with the non-Gypsy environment is very restricted. A conflict with the paternal family, the clan, or the community, in the name of certain alien ideals or practices, would result in the loss of their sole support asset.

VII. Protection framework: findings of international bodies, convictions of Greece by international jurisdictional mechanisms

The major international instruments binding upon Greece form a complex of principles and rules constituting a framework of reference for the defense of Roma rights (primarily the provisions protecting the family, the free development of the personality, the personal dignity, and non-subjection to discrimination): ICCPR, ICESCR, CEDAW, CERD, CRC, CAT, European Convention on Human Rights, European Social Charter. In the domestic protection framework, article 21 of the Constitution is the principal foundation for measures in favour of the housing rehabilitation of Roma,[26] while other social policies can find their grounding in the same article and/or in articles 4, 5, 7, and 16 of Law 3304/2005 on the 'implementation of the principle of equal treatment irrespective of racial or ethnic origin, religious or other affiliations, disability, age or sexual orientation' completes the legal protection framework.

The regulatory framework of the international instruments is reinforced by the action of a number of international organisations, and by a system of organs and mechanisms for the monitoring of their implementation with increased jurisdictional powers. In recent years, Greece has been convicted six times for violations of Roma rights: four from the European Court of Human Rights,[27] one from the European Committee of Social Rights[28] (Council of Europe), and one from the Commission on Human Rights of the United

26. According to which, "the acquisition of a home by the homeless or those inadequately sheltered shall constitute an object of special state care". In addition, the provisions of the revised Code of Municipalities and Prefectures (Law 3463/2006), and at an earlier date, article 19 of Law 2946/2001, constitute legal foundations.

27. *Bekos-Koutropoulos*, Judgement 13.12.2005: three violations, two of articles 3 (abuse by the police and absence of effective investigation) and 14 (failure to investigate a racist motive). *Karagiannopoulos,* Judgement 21.06.2007, two violations of article 2 (injury by the police resulted to permanent handicap and absence of effective investigation). *Petropoulou-Tsakiri,* Judgement 06.12.2007, violation of articles 3 (absence of effective investigation into abuse by the police) and 14 (failure to investigate a racist motive and racist behaviour). *Sampanis et al*., Judgement 05.06.2008, violation of article 14 (treatment involving discrimination), in conjunction with article 2 of the 1st Protocol (right to education), and article 13 (absence of the possibility of real recourse). This was the notorious case of the segregation of Roma children at a school at Aspropyrgos.

28. *Complaint No. 15/2003 by the European Roma Rights Centre against Greece*, Decision on the Merits (08.12.2004). Three violations of article 16 of the European Social Charter (inadequacy of available permanent housing, lack of facilities for temporary shelter, and forcible eviction).

29. *Communication 1486/2006 by Andreas Kalamiotis against Greece*, Views of the Human Rights Committee (24.07.2008): Violation of article 2, para 3 (right to effective legal remedy and compensation) in conjunction with article 7 (prohibition of torture) of the ICCPR. The case concerned the lack of effective investigation on the alleged use of force by police officers; the Commission held that besides the satisfactory compensation of the victim, Greece should take measures so as to avoid similar violations in the future.

Nations.[29]

Furthermore, the European Committee of Social Rights of the Council of Europe has admitted the collective complaint (28.03.2008) of the International Centre for the Legal Protection of Human Rights (INTERIGHTS)[30] over issues of forced evictions without the provision of alternative housing, and the absence of means of substantive protection; emphasis is put on the failure of Greece to act along the lines indicated by the previous decision over the collective complaint of the European Roma Rights Centre.

Moreover, the concluding observations of CEDAW[31] on the sixth periodical report on Greece speak of a system of multiple discrimination regarding access to education, medical treatment, and employment in the case of Roma women, and call upon Greece to take positive measures to deal with the matter. The CAT,[32] in its recommendations after the examination of Greece's fourth periodic report, speaks of ill-treatment by police officers during the course of forced eviction operations, and calls upon Greece to take measures to stop these phenomena and to punish those responsible. The CERD[33] proposes the adoption of positive measures and policies, more particularly to ensure access by disadvantaged populations (including the Roma) to specialised training programmes. The CRC,[34] in its concluding comments, expresses its dissatisfaction at the very poor health and education of Roma children, and recommends closer collaboration with NGOs specialised in children's rights, as well as the reinforcement of an understanding of the Convention itself by Roma children; moreover it recommends that the settling of matters pending with the state and municipalities concerning Roma children should be facilitated, that the allowances scheme to families with children of school age is improved, and, more generally, it recommends the adoption of positive measures as to all aspects of the exclusion of Roma children, with emphasis on street children, and of an improvement in the system of social benefits and policies, with the participation of the Roma themselves in the formulation of the latter. The CESCR[35] expresses its grave concern over continuing discrimination against the Roma at the level of social rights, in spite of the measures taken (within the framework of the Integrated Plan of Action), over the evictions and all the problems in connection with the housing situation, over the low standard of education and health, the ill-treatment by the police with effective impunity, etc. It also recommends a more exact assessment of the actual needs, the participation of the Roma in the formulation of programmes, and the evaluation of the effectiveness of the measures taken. The CCPR,[36] for its part, expresses grave concern over the instances of the use of unjustified violence on Roma by the police, the failure to adequately investigate these occurrences, and the leniency of judges in the few cases which have reached the courts, resulting in a status of effective impunity.

The ECRI (European Commission against Racism and Intolerance), in its third report on Greece,[37] refers to the problem of integration of Roma children into the educational process, and recommends the intensification of efforts to

30. *Complaint No. 49/2008 by the International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece*, Decision on Admissibility (23.09.2008).

31. Committee on the Elimination of Discrimination against Women, *Concluding Comments: Greece,* CEDAW/C/GRC/CO/6 (02.02.2007).

32. Committee against Torture, *Conclusions and Recommendations: Greece,* CAT/C/CR/33/2 (10.12.2004).

33. Committee on the Elimination of Racial Discrimination, *Concluding Observations: Greece,* CERD/C/304/Add.119 (27.04.2001).

34. Committee on the Rights of the Child, *Concluding Observations: Greece,* CRC/C/15/Add.170 (02.04.2002).

35. Committee on Economic, Social and Cultural Rights, *Concluding Observations: Greece,* E/C.12/1/Add.97 (07.06.2004).

36. Human Rights Committee, *Concluding Observations: Greece,* CCPR/CO/83/GRC (25.04.2005).

37. European Commission against Racism and Intolerance, *Third Report on Greece,* CRI (2004)24 (08.06.2004).

eliminate direct and indirect discrimination. In 2001, in the lengthy report[38] drawn up by a delegation of the Council of Europe which visited Greece with the special mission of examining the situation of the Roma, emphasis is laid on the problems of housing, living conditions and education, while the issue of the multiple discrimination of Roma women is underlined. The former Human Rights Commissioner of the Council of Europe, Alvaro Gil Robles, in his 2006 report to the Committee of Ministers and the Parliamentary Assembly 'on the status of the human rights of the Roma, Sinti and Travellers in Europe',[39] refers to the problem of non-absorption of funds for the improvement of living conditions in Roma encampments due to the unwillingness of the municipalities, lack of transparency and mismanagement of funds. The present Human Rights Commissioner of the Council of Europe, Thomas Hammarberg, and/or staff of his office have repeatedly visited encampments in different parts of the country, and made recommendations on the same issues and in the same spirit. In October 2007, the Commissioner and the UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari,[40] issued a joint statement addressed to the European governments, calling upon them to take positive measures on the right to housing of Roma in Europe. In conclusion: all the institutions/organisations without exception stress the need to take positive measures to counter discrimination, the inadequacy of the State response, and the need for credible and comprehensive investigation of the alleged cases of abuse and probable racist motives on the part of the police.

At the level of EU institutions and initiatives, and on the part of civil society at a European level, a large number of initiatives on Roma issues have been taken. Various studies show that few countries in Europe manage to absorb sufficient Community resources available from the structural funds that could be used for the improvement of the situation of Roma populations. It is worth noting that Greece absorbed in the period 2000-2005 only 28.7 million euro (from EQUAL, the European Social Fund/ESF, and the European Regional Development Fund/ERDF).

In May 2004, the EU Network of Independent Experts in Fundamental Rights, in its report on the state of fundamental rights in Europe, called upon the Union to produce a Directive aiming at the integration of the Roma. On the more specific issue of education, in April 2006, the EUMC (the predecessor of the FRA, i.e., of the Fundamental Rights Agency) made public a comprehensive report[41] on the access of the Roma to education in the countries of the EU, the findings of which were discouraging. The research of the EUMC as a whole has demonstrated that the Roma are the most vulnerable group in terms of manifestations of racism in the whole of Europe.

In March 2008, the European Roma Policy Coalition was formed. Within this body, eight major European NGOs work together on the creation of a unified European Framework Strategy for the Integration of the Roma. The starting-point for this joint action was the important Resolution by the European Parliament (adopted on 31.01.2008) on a European Strategy for the Roma. In this, the European Parliament called upon the Commission to submit to the Council a progress report on the formulation of such strategy before the end of 2008. It also urged the Fundamental Rights Agency of the EU to include 'tsiganophobia' among the priority issues in its working-programme, and favoured a 'bottom-up' approach to the issue, through collaboration with the Roma themselves. A little earlier (on 14.12.2007), the European Council had called upon "the member states and the Union to

38. Council of Europe, Directorate General III-Social Cohesion, *Field Visit of a Delegation of the Council of Europe in Greece on Roma Issues,* 10-12 June 2001: Report (23.07.2001).

39. CommDH(2006)1 (15.02.2006).

40. Joint Statement by Council of Europe Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari, CommDH/Speech (2007)16 (24.10.2007).

41. European Monitoring Centre on Racism and Xenophobia, *Roma and Travellers in Public Education: An Overview of the Situation in the EU Member States* (May 2006).

use every means to improve the degree of integration [of the Roma], and the Commission to examine existing policies and to submit a progress report by the end of June 2008". In January 2008, on the initiative of Spain, an Inter-governmental European Network was set up in Seville, consisting of 12 member-countries (including Greece), with a view to improve the utilization of the Structural Funds' resources (the latter being the main financing source for the social cohesion programmes). The third meeting of the managing committee of this Network was held in Lesvos on 2 and 03.10.2008. At the EU level, and on the initiative of the European Commission, on 16.09.2008 a summit meeting on the improvement of the position of the Roma communities throughout Europe was held in Brussels.[42] The meeting was attended by ministers of the member-states of the EU and candidate countries for membership, as well as representatives of the Open Society Institute, the World Bank, Roma unions, and two Roma members of the European Parliament (from Hungary). The working document of the meeting notes the means and policies available at the EU level for the promotion of Roma inclusion, as well as the major differences as to their implementation in the member-states. The document makes reference to the medical-social centres operating in Greece (funded with 100,000 euro per annum by the European Social Fund) as a good practice. The Greek Ombudsman participated in the meeting.

In terms of actions of the NHRIs, the Greek NCHR (and the Ombudsman, as the National Body for the Promotion of the Principle of Equal Treatment) are not alone in their efforts against the social exclusion of Roma in Europe. By way of example, we note the recent report on Roma by the French National Human Rights Commission, and the special notes on Roma issues by the Ombudsmen of Spain and Portugal.

VIII. The Integrated Action Plan for the Social Inclusion of Greek Roma (IAP): a review

At the request of the NCHR to the Interior Ministry's representative within the Commission, the most recent note of review (Sept. 2008) on the IAP (adopted in 2001 and put into action in 2002, succeeding the National Policy and Measures for the Greek Gypsies Framework of 1996) and the Housing Loans Programme, was sent to the Commission. In addition, information on educational actions in schools and other educational and vocational training programmes involving Roma are also contained in the report of activities of the Ministry of Education to the NCHR for the year 2007.[44]

The IAP is part of the National Action Plan for the social inclusion of vulnerable groups of the population; the Deputy Minister of the Interior is responsible for the monitoring and co-ordination of the programme within the context of the Inter-Ministerial Committee, where all the jointly-responsible ministries sit. It has two pivotal priorities: the infrastructures (addressing the rehabilitation of the Roma in terms of housing), and the services, in the fields of education, health, employment, culture, and sport.

The Housing Loans Programme involves the granting of 9,000 housing loans of a sum of 60,000 euro each, with a subsidised interest rate and the guarantee of the Greek State (should they become actionable). The programme also provides for other infrastructure works (e.g., water supply, drainage, etc. projects) carried out by local government with state funding. According to the note of review mentioned above, the programme is under constant review, and its latest version (Joint Ministerial Decision 33165/23-06-06) provides for the "consideration of social criteria of assessment", the setting up of assessment committees at the local level including Roma

42. Commission Staff Working Document, *Community Instruments and Policies for Roma Inclusion,* COM(2008)420, Brussels, SEC(2008)XXX.

43. See "Étude et propositions sur la situation des Roms et des Gens du Voyage en France" (07.02.2008) www.cncdh.fr; The Portuguese Ombudsman, Roma Related Activities 04-07, www.provedor-jus.pt; Ombudsman of Spain, Issues Concerning Roma Population, www.defensordelpueblo.es.

44. See NCHR, *Annual Report 2007*, p. 361 seq.

representatives and social workers, the involvement of local government in the actions, the simplification of the procedures for the submission of applications, and a strict monitoring of the loans' granting procedures; in 2005, the existing data base was updated, and new tools for a more effective management of the loans have been added. However, given that more than 80% of the total sum has already been drawn down, even if these adjustments were observed to the letter, they have come somewhat belatedly. In a self-critical mood, the note of review observes that "… The State funding of the programme might make Roma place total reliance on state support", and notes the need for an increased sense of responsibility on the part of the Roma representatives.

Another aspect of the infrastructure part of the programme is the "Construction of settlements and/or purchase of sites for the construction of individual housing carried out by the municipalities, on public, municipal, or communal land to Greek Roma included in the loans programme." This action falls within the competences of the municipalities and the communes. There is provision for "the possibility of purchase of land –by the Local Government Organisations with the funding support of the Ministry of the Interior– for re-settlement, or improvement of the housing situation in areas with acute problems" (such action has occurred –at a cost of 5.76 m. euro– in 18 local government authorities), "the construction of basic infrastructures (water supply, drainage, electric lighting, road works, children's playgrounds) in new settlements". Also provided for is "the construction of permanent settlements." The results of this part of the actions on housing seems rather modest (some 230 dwellings have been constructed in total), according to the figures quoted in the Ministry's note.

The third action on housing is the "improvement of the living conditions in existing settlements until such time as a viable solution of permanent housing rehabilitation is achieved", that is, re-settlement of temporary settlements, setting up of temporary settlements (557 prefabricated dwellings up to now), construction of basic infrastructures in existing settlements, construction of health infrastructures (30 medical-social centres and three mobile medical-social units). There is also provision for the "construction of cultural and educational infrastructures". This part of the programme also seems to have had meagre results. However, according to all accounts and evaluations the operation of the medical-social centres is very satisfactory and constitutes a good practice. In order to obtain funding, the local government bodies have to submit proposals assessed by a committee where the central administration, the local government and the Roma communities are represented. So far, such projects have been approved in 92 municipalities, with a budget of 80.54 m. euro in total; 42.20 m. euro have already been paid.

On the services part of the programme, educational activities are provided for by the Ministry of Education and Religious Affairs, aiming at the inclusion of Roma children in the educational system: facilitating school registration, providing a 'travelling pupils card' and some financial support to the pupils' families, creating a network of mediators, in-service training of teachers and administrative staff - sensitisation of public opinion, and the production and publication of special teaching material for pupils and teachers. The first phase of the 'Inclusion of Roma Children in the School' programme has been completed, and has been put up for tender again. In the last three years, it has been implemented by the University of Thessaly, and had a budget of 5,307,351 euro; it includes 170 'intervention schools' (support classes, creative workshops, in-service training of teachers and administrative staff), and 170 'monitoring schools'. There is information on the number (8,065) of pupils registered at the intervention schools in the school year 2006-2007, but there is no information as to how many of these have completed the school year. In addition, according to the report of activities, various actions in the sphere of education, training and continuous education addressed to Roma citizens are being implemented.

In the field of health (Ministry of Health and Social Solidarity), there is provision for preventive health and vaccination programmes carried out by

means of mobile medical-social units visiting the encampments, and medical-social centres targeting Roma who live in organised settlements.

In the field of employment (Ministry of Employment and Social Solidarity), the note of review states that "programmes of integrated interventions for socially vulnerable groups of the population are being implemented", and that "projects are also being implemented within the framework of the European Programme 'Equal'".

As regards culture and sport (Ministry of Culture), it is reported that the Ilio 'Mouseioskev' Cross-cultural Workshop is in operation, its object being the Gypsy culture; visits by Roma pupils to museums and theatre performances, 26 'houses of culture' in 13 municipalities, and participation in team sport programmes. There is reference to the operation of the ROM Inter-municipal Network, where take part municipalities with Roma communities and Roma representatives; the network successfully collaborates with the central administration, local agencies, NGOs, etc. The note of review concludes with the statement that the programme will be evaluated, the data will be updated, and a long-term action plan for its fourth period will be drawn up.

As the Ombudsman aptly notes, in Greece, an integrated statutory and regulatory framework effectively ensuring the participation of the Roma in social life is, in effect, non-existent (with the exception of scattered and/or outdated regulations, such as the Public Health Provision of Ministerial Decision No. Γ.Π/23641, OG B' 973/15.07.2003, dealing with the settlement of itinerants). The IAP lacks the legal guarantees which would contain undermining factors, such as inadequate administrative procedures, non-sensitized citizens or civil servants and state organs acting illegally. This deficiency has been identified both by the Roma themselves and by a number of political and administrative decision makers interested in the empowerment of the Roma community.

Along with the need to fill the legal gaps, there exist additional facets of the social exclusion of the Gypsies reflected over and around the housing issue. It is no coincidence that, among the actions on housing which have been designed, the loans programme has advanced furthest (indeed, it is almost completed), in spite of the fact that it applies only to one type of settlement, is costly, and prone to mismanagement. The rest of the actions face the negative stance of the local authorities and communities. The municipalities are very reluctant to attempt any form of registering the Roma residing in and/or passing through their areas; they invoke the fact that any record based on 'racial' criteria is prohibited by law. However, a municipality ought to know the number of, those among its citizens, who are in need of protection and support so that the appropriate action to be planned. This action should not be based on racial criteria, but on the premise of citizens' equality regarding access to the services provided by the municipality and by other state structures.

IX. Playing hide-and-seek with racism in the school playground

In the whole of Europe, circa 50% of Roma pupils –with small differentiations from one country to another– do not complete the primary school curriculum, even if registered.[45] Young Roma are out on the streets of the city from an early age, and their socialisation is distorted.

Many studies have dealt with the educational needs of Roma children and large sum of public money has been spent on the design and implementation of special programmes, the production of educational material, and the training of teachers in schools engaged in inter-cultural education. However, these programmes are designed on inadequate demographic data. The Roma do not take part in the decision-making process regarding their children's education, the particular local conditions are not taken into account, there are no mechanisms in place for the monitoring and assessment of the implementation of such programmes, and the co-ordination of the institutions involved is non-sufficient. First and

45. See European Monitoring Centre on Racism and Xenophobia, op.cit. fn 41.

foremost major economic and human resources are required on the part of the state, in order to include the Roma children in the educational process. It is also recommended that terms such as 'race',[46]"people' and 'minority' are prudently used.

A factor often underestimated is that, even when Roma children are enrolled in school,[47] they will probably have to face the objections of their own family and social environment. The latter may try to discourage the children from attending classes, and go to work instead, contribute to the family income, and remain 'one of them'. In order for Roma children to remain at school, they have to be accepted as such, i.e. be depicted in the books and the curriculum. The school must manage to convince them that, should they complete the class, they will have a better life than if not. On the other hand, Roma parents should also acknowledge the fact that their children's defective education is part of the vicious circle perpetuating their social exclusion. It is essential to recognize that the inclusion of Roma children in the educational process and the rest of the aspects of their social integration are totally interconnected; therefore, any educational measure to be taken should be part of an overall social policy scheme.

X. A scheduled action of the NCHR

The NCHR has scheduled for May 2009 a seminar, to be jointly organised with the Roma Section of the Directorate for Social Cohesion of the Council of Europe, for lawyers and NGOs defending Roma in national and international courts. The goal of the seminar is to turn to account strategic litigation on issues of discrimination and the treatment of Roma in Greece which may contribute to reversing administrative practices and social attitudes.

The NCHR, within the framework of setting up an ad hoc working group for the training in human rights of the police force -a proposal accepted by the Minister of Interior-, will propose as a starting point of the cooperation agenda, inter alia, the judgments of the European Court of Human Rights concerning Roma abuse by police. The police itself needs both to acknowledge the problem and accept the findings and recommendations of the domestic and international bodies. Otherwise, no human rights course will be able to prevent cover-up and impunity.

XI. An effective policy vis-à-vis the Roma: Recommendations of the NCHR to the Greek state

In the light of the aforementioned, the NCHR submits a number of recommendations aiming at eliminating the social exclusion of Roma:

1. The Commission underlines the urgency for taking measures and shaping comprehensive policies in a holistic manner. Conditions in the field leave no room for further negligence, inertia, or ineffective interventions.[48]

2. The Greek State needs to change the way in which it apprehends and responds to the repeated recommendations of all domestic and international bodies dealing with Roma. Execution of the judgments of the European Court for Human Rights and compliance with the

46. It is worth drawing attention to the campaign recently initiated by the German Human Rights Institute for the elimination of the use of the term 'race' in public documents, in view of the fact that it is of dubious usefulness in any context of social policies and/or legislative interventions.

47. It should be noted that in the research carried out in the late '90s by Ekpaideftiki & Anaptyxiaki SA in six municipalities in Western Attica where a significant number of Roma resides, lack of acceptance was stated as the main problem (among housing, employment, education and lack of acceptance) by the Roma themselves.

48. Attention should be drawn, by way of indication, to the calls (20.11.2008) by senior UN officials to a number of European countries, including Greece, to undertake "urgent actions for the elimination of inadmissible conditions of poverty, marginalisation and exclusion experienced by the Roma in Europe": 'UN experts urge European wide action to lift conditions of exclusion and stop violence against Roma', www.unric.org.

observations of other jurisdictional organs are an obligation, and not an option.

3. Policies should be based on systematic needs assessment and collection of data of their beneficiaries. Particular attention should be paid to the method of data collection and use in order to prevent any potential abuse thereof. Guarantees such as confidentiality, consent of the subject, credibility of the bodies and individuals collecting the data and monitoring mechanisms are necessary.[49]

4. Addressing the social exclusion of the Roma must be a priority of both the policy makers and the police.

5. Policies and measures should aim at providing substantive support to the group, but the ultimate aim is mainstreaming of the policies concerning Roma. Participation of the Roma in the decision-making is essential.

6. Gender perspective must be an essential component of all policies, in order to address the phenomenon of multiple discrimination of women both within the group, and within society as a whole.

7. As regards the IAP, an independent external evaluation of its implementation so far is a precondition for any future improvement. A comprehensive study of housing programmes by Region/Municipality needs to be developed prior to the new phase of the IAP. The study should take into account the distribution of the Roma population by region and their actual housing and educational needs. Central co-ordination is essential, as is the collaboration of the Roma themselves.

8. The next phase of the housing programme should include identification and distribution of tasks and responsibilities of all public authorities involved in the management.[50] Effective inter-ministerial - and inter-institutional - co-ordination of actions is also needed.

9. The success of the medical-social centres should be further turn to account by expanding the services provided by them and by increasing their number.

10. Inclusion of Roma children in the educational process should be a priority. To this aim, an accurate recording of the school-age population of each region and the systematic collection of statistics on the educational status of Roma on a local scale are essential. The determination of educational priorities by special interventions at the level of each school unit is equally important.[51]

11. Incentives should be given to teachers so as to remain in schools with Roma students for a reasonable period, as well as to Roma families so as to facilitate the registration of children at schools (e.g., allowances to families when their children complete the course, thus discouraging drop-outs). It is also important that resources are available for social-counselling services (on the successful model of 'learning mentor', tested in other countries, e.g. in Denmark and in Britain) at school and at the municipality. It would be useful to train Roma to act as mediators between the Roma communities and schools.

12. The segregation of Roma children is unacceptable, as is their allocation at schools away from their residence.

13. Efforts to link vocational training and/or continuous education programmes (with particular emphasis on children aged between 12 and 18 who have never taken part in the educational process) with the labour market[52] via incentives given to potential employers.

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49. See the proposals for a solution to this major issue of the Minority Rights Group International, *Disaggregated Data Collection: a Precondition for Effective Protection of Minority Rights in South-East Europe* (2006).

50. This role has been undertaken by the Ombudsman, in determining, for example, the positive obligation of a municipality, ensured by the intervention of the Region, to find a suitable site for re-settlement before the expulsion of Roma from the place where they are living. The improvement of the living conditions of the Roma living in the municipality is part of the obligation of the local government organisations to show special social care for their citizens in need (see, inter alia, Articles 24, 261, 249, 262 of the Code of Municipalities and Communes).

51. In this context, the recent initiative of Eurostat for the development of common statistical indicators to facilitate the

10. Criminal Record of Juveniles and Young Adults

I. Introduction

The NCHR organized a conference regarding the 'Detention Conditions and the Rights of Detainees in Greek Prisons' on the 4th of December 2008 to commemorate the 60th anniversary of the Universal Declaration for Human Rights. One of the sessions addressed the vulnerable groups of detainees, including juveniles. During the vivid discussion that followed parents of former juvenile offenders, teachers and social workers stressed the problems that the criminal record poses to their access to the labour market and by extension to their full integration into the society.

The NCHR took the view that this is a serious issue concerning a vulnerable group and decided to deal with the criminal record of juvenile offenders. When the 1st Sub-Commission convened, it decided to address also the criminal record of young adults given that the penitentiary treatment of both groups is the same.

II. The Law

Criminal record is regulated by articles 573-579 of the Code of Criminal Procedure (hereafter CCP). Regarding juveniles, every court decision imposing detention in a penitentiary facility or reformatory measures is registered in the criminal record (article 574, para 2, el. (bb) CCP). Furthermore, the registrations of reformatory measures cease to be in force and their use is precluded when the juvenile turns 17 years old (article 578, para 1, el. (b) CCP), whereas the registrations of penitentiary detention are deleted 5 years after the sentence has been served, in case of a sentence not exceeding 1 year, and after 8 years in case of a sentence exceeding 1 year, unless during that time a new conviction takes place (article 578, para 1 el. (e) CCP). In case of a conditional release the period of 5 or 8 years begins after the testing period is completed.

Apart from the aforementioned special provisions, the criminal record of juveniles is regulated as that of adults regarding, for example, who has access to their criminal record, which sentences are registered in the criminal record of judicial use and which ones in the criminal record of general use.

In relation to those provisions we need to note the following: 1) According to article 121, para 1 of the Penal Code an individual is not considered a juvenile when he/she completes 18 years of age. Furthermore, according to article 125, para 1 PC any reformatory measures elapse when the juvenile turns 18 years old. However, article 578, para 1, el. (b) CCP provides that the registrations of reformatory measures cease to be in force when the juvenile turns 17 years old. Thus, the said provisions are evidently inconsistent as far as age limits are concerned.

2) Whereas, in accordance with article 574, para 2, el. (ba) CCP convictions for petty offences are not registered in the criminal record of adults, the court decisions for reformatory measures, that is for petty offences committed by juveniles (given that article 128 PC provides that for petty offences only reformatory measures are prescribed) are registered. Thus, the situation of juveniles is more aggravated in comparison with the one of adults.

3) The provisions regulating the criminal record of juveniles seem to be inconsistent *re* one additional point. While article 578, para 1, el. (b) CCP provides that the registrations of penitentiary or reformatory measures cease to be in force when the juvenile turns 17, el. (e) requires the lapse of 5 or 8 years for the registrations involving detention in penitentiary facility. Those

monitoring of education is welcome.

52. On the model of the Spanish 'ACCEDER' vocational training programme for Roma: within this framework there is in advance provision for the signing of agreements with public services (local government authorities, etc.) and private companies to employ the trainees (183 agreements signed with the broader public sector and 350 agreements signed with the private sector). The programme is cited as a good practice by a large number of bodies involved in Roma affairs, including the working-document of the summit meeting at EU level mentioned above, of 16.09.2008.

two provisions combined with the special provisions for juveniles of the PC (articles 121-133 PC) concerning reformatory or therapeutic measures or penitentiary detention, but not for penitentiary measures, allow us to conclude that article 578, para 1, el. (b) applies only to reformatory measures.

4) The criminal record falls under the scope of Law 2472/1997 "Protection of individuals with regard to the processing of personal data". Article 2 defines as "sensitive personal data" the data concerning racial or ethnic origin, political views, religious or philosophical beliefs, membership in labour unions, health, social care, sexual life, criminal prosecutions or convictions [...]. Furthermore, "processing of personal data" shall mean any operation or set of operations which is performed upon personal data by Public Administration or by a public law entity or private law entity or an association or a person, whether or not by automatic means such as collection, use, disclosure etc.

According to article 7 of Law, "1. The collection and processing of sensitive data is prohibited. 2. Exceptionally the collection and processing of sensitive data, as well as the establishment and operation of the relevant file, will be permitted by the Authority, when [...] (e) the processing is carried out by a Public Authority and is necessary for the purposes of [...] (bb) criminal or correctional policy and pertains to the detection of offences, criminal convictions or security measures [...]".

According to article 4, para 1 of the said law: "Personal data, in order to be lawfully processed must be [...] (b) adequate, relevant and not excessive in relation to the purposes for which they are processed" [principle of proportionality]. The standing provisions regulating criminal record do not comply with the principle of proportionality.

III. The problem

The problem, though, that mostly preoccupies the NCHR is the negative effect of the criminal record to the efforts of juvenile offenders to integrate back into the society especially in relation to their access to the labour market.

Studies have shown that there is a direct correlation between criminal record and lack of access to the labour market. For example, studies in Australia showed that it is less likely for former detainees to get a job than people with chronic diseases, disabilities or communication difficulties. Only applicants with intellectual or psychiatric disabilities were rated lower.

No access to the labour market apart from significantly obstructing the social reintegration of former offenders may also lead to the perpetration of new crimes. The 'official stigmatization' via the criminal record creates a long-term, if not permanent, deterioration of the offender's social status. As a result reoffending might constitute the compulsory alternative for those who cannot be employed. Studies have shown that employment may reduce reoffending from 30 to 50% and that 60% of former detainees could not find a job because of their criminal record.

The problematic situation has an even greater impact on juvenile offenders since they constitute a particularly vulnerable group. The stigmatization of juvenile offender via his criminal record is disproportionate given that the process of his social integration is not completed. The damage that may be caused to his self-esteem and the way he is perceived by society as a whole might prove to be destructive for his future.

Although most studies lack a multidimensional examination of the concurring and interlinked causes preventing reintegration of juvenile offenders, in our view, the criminal record should be considered as one of the important factors. For a successful reintegration several problems need to be resolved, and the the criminal record is one of them.

According to a Greek study from 1933 until 1999-2000 only one out of five former juvenile detainees was not imprisoned again or sentenced. One out of four interviewees said that it was probable to reoffend in case his/her reintegration efforts are not fruitful. Almost 80% of juvenile offenders commit new crimes. Furthermore, a Greek psychiatric study showed that unemployed juvenile offenders reoffended twice as much as those who were employed.

Moreover, even when they manage to find a full-time job, the salary they get is inadequate to cover their needs. They are lore likely to get jobs in the unskilled personnel sector, where a clear criminal record is not a requirement.

Therefore, the correlation between criminal record and lack of access to the labour market is clear, and it often results to recidivism.

The socially beneficial process of encouraging juveniles to change their life is undermined when they know or feel their mistakes of the past will hinder every step of the social and economic life. This is corroborated by teachers and social workers employed in penitentiary facilities. They face great difficulties in convincing juveniles to attend classes since they take the view that graduating from school will not be useful given that they won't be able to be employed due to, inter alia, their criminal record.

The NCHR stresses that juveniles constitute a special category of offenders given that youth misbehavior or misconduct not conforming to social norms is often part of the growing up process and, more often than not, disappears upon transition to adulthood. On the basis of the aforementioned, the NCHR considers the reform of juvenile criminal record to the direction of maximum limitation of its use as necessary.

IV. International instruments addressing the criminal record of juveniles

NCHR's standing is not based solely on humanitarian grounds and the need for a second chance to juvenile offenders. It is also based on a number of international regulations.

A) The Convention for the Rights of the Child

The criminal record of juveniles is not expressly regulated by an international convention. However, according to article 40, para 1 of the Convention for the Rights of the Child: "States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society".

This phrasing is based on the view that juvenile offenders must be protected, as much as possible, from the negative effects of stigmatization and that their misbehavior should be addressed not via punishment but via educational-pedagogical measures. The Committee for the Rights of the Child has noted that many children in conflict with the law are also victims of discrimination, e.g. when trying to get access to education or to the labour market. It is necessary to take the appropriate measures to prevent such discrimination, inter alia, by assisting child offenders to reintegrate in society.

Furthermore, referring to article 40, para 1 of the Convention the Committee has stated that "reintegration requires that no action may be taken that can hamper the child's full participation in his/her community, such as stigmatization, social isolation, or negative publicity of the child. For a child in conflict with the law to be dealt with in a way that promotes reintegration requires that all actions should support the child becoming a full, constructive member of his/her society".

Thus, the State needs to reform the criminal record of juvenile offenders so as to facilitate their reintegration in society as prescribed by the Convention. It also needs to reform it for another reason.

According to article 37 el. (b) of the Convention: "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time".

B) The shortcomings of Greek practice

Law 3189/2003 on the "Reform of penal legislation for juveniles and other provisions" provided for a number of reformatory and therapeutic measures that render the imprisonment of juveniles the last resort. However, the law is not adequately implemented

in practice, as noted by the Committee on the Rights of the Child. As noted by the Ombudsman for the Rights of the Child, the number of "social monitors" assigned with the task of supervision of the new reformatory measures for juveniles is very small. The implementation of certain reformatory measures violates other legislative provisions of labour law for example. These structural and legislative obstacles result in courts sentencing juveniles to imprisonment and, by extension, marking their criminal record.

Therefore, the Greek State does not comply with article 37 of the Convention, but also 'hinders' the reintegration of juveniles via their marked criminal record as a result of the non-implementation of reformatory and therapeutic measures.

C) The recommendations of the Committee on the Rights of the Child

The CRC has dealt with the criminal record of juveniles. Referring to article 16 of the Convention (right to privacy) noted that: "the records of child offenders should be kept strictly confidential and closed to third parties except for those directly involved in the investigation and adjudication of, and the ruling on, the case. With a view to avoiding stigmatization and/or prejudgements, records of child offenders should not be used in adult proceedings in subsequent cases involving the same offender". It also recommended that the States parties introduce rules allowing for an automatic removal from the criminal records of the name of the child who committed an offence upon reaching the age of 18, or –for certain serious offences, where removal is possible at the request of the child–, if necessary, under certain conditions (e.g. not having committed an offence within two years after the last conviction).

The General Assembly of the UN has taken a similar view. According to the Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.

D) The recommendations of the Committee of Ministers of the Council of Europe

The Committee of Ministers has addressed the criminal record of juvenile offenders. According to its Recommendation No. R (84) 10 on the Criminal Record and Rehabilitation of Convicted Persons criminal records are principally intended to provide the authorities responsible for the criminal justice system with information on the antecedents of the person on trial, in order to assist them in making a decision appropriate to that individual. Any other use of criminal records may jeopardize the convicted person's chances for social reintegration, and should, therefore, be restricted to the utmost. Furthermore, in relation to authorities or persons entitled to receive extracts from criminal records, the Committee recommends to States to restrict to the utmost the communication of decisions relating to minors. Furthermore, the Report on which the above recommendation was based, recommended the limitation, to the maximum extent possible, of the access the criminal record of juveniles except from the authorities of the criminal justice system, as a means to increase the chances of social reintegration of juveniles.'.

With the recommendation No. R (87) 20 on Social Reactions to Juvenile Delinquency, the Committee of Ministers recommended to States to ensure that criminal records of juveniles are confidential and only communicated to the judicial or other relevant authorities and that are not used after the persons in question come of age, except on compelling grounds provided for in national law.

Lastly, with another recommendation, (2003) 20 concerning New Ways of Dealing with Juvenile Delinquency and the Role of Juvenile Justice, the Committee of Ministers, recommended to States to facilitate the entry of juvenile offenders into the labour market, and to make every effort to ensure that young adult offenders under the age of 21 are not forced to disclose their criminal record to prospective employers, except where the nature of the employment dictates otherwise.

It is evident that the provisions regulating the criminal record of juveniles are not in compliance with the aforementioned rules and

recommendations. The long periods of time (5 or 8 years) that need to lapse for the criminal records to be cleared, as well as the large number of authorities and persons who can access the criminal record of juveniles do not follow the desirable regulation of the criminal record so as to avoid the stigmatization of juveniles and to facilitate their social reintegration.

V. The case of young adults

According to article 133 PC, the persons considered as 'young adults' are those who at the time of the crime committed, were 18-21 years old. In the case of young adults the courts may impose a reduced sentence (article 83 PC). Thus, the legislator takes the view that although these individuals are adults a reduced sentence will contribute to preventing recidivism.

This approach is adopted because it is considered that the maturation process of the persons in question is not complete. Besides, from a psychological and psychiatric point of view the category of young adults as such is disputed since it is argued that they do not have characteristics differing from those of adolescents.

It needs to be noted that according to article 12, para 1 of the Correctional Code "young detainees are the detainees of both sexes from the age of 13 to the age of 21." Thus, their correctional treatment is the same with that of adolescents following the tendency to expand the ratione personae of criminal law to young adults.

The tendency to expand the ratione personae of criminal law to young adults is supported by international instruments. According to Beijing Rules (3.3), "Efforts shall also be made to extend the principles embodied in the Rules to young adult offenders". Furthermore, the Committee of Ministers has recommended to States to review, if necessary, their legislation on young adult delinquents, so that the relevant courts also have the opportunity of passing sentences which are educational in nature and foster social integration.

On the basis of the aforementioned, the NCHR taking into account that: a) the criminal record of young adults is regulated by the provisions applicable to all adults and b) the obstacles caused to the social reintegration of young adults, an almost equally vulnerable group as that of adolescents, due to their criminal record, considers the reform of their criminal record as necessary.

VI. Recommendations

The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives when dealing with child offenders.

The NCHR, on the basis of all the above, and considering that the non reintegration of young offenders opposes the interests of the society as a whole due to the danger of recidivism, recommends the following:

A) In relation to the criminal record of juveniles

1. The non registration in the criminal record of decisions involving reformatory measures

2. The non registration in the criminal record of sentences involving detention in correctional facilities when the juvenile is younger than 15 years old during the perpetration of the crime.

3. When the juvenile is older than 15 years during the perpetration of the crime, his/her criminal record to be cleared three years after the sentence has been served if the sentence is less than one year, and 8 years if the sentence is over 1 year, unless during that time a new conviction takes place.

4. The access of the authorities as defined in article 577 el. (d) CCP to the criminal record of judicial use to be prohibited when they act as potential employers and to be limited to the criminal record of general use.

5. The NCHR taking into account both the need to facilitate the social reintegration of juvenile offenders and the need to protect the society as a whole, calls upon the State to define which serious offences will be registered in the criminal record of general use.

B) In relation to the criminal record of young adults

1. The criminal record to be cleared 5 years after the sentence has been served, in case the sentence is less than one year, and after 8 years in case the sentence is over 1 year, unless during that time a new conviction takes place.

2. The access of the authorities defined in article 577 el. (d) CCP to the criminal record of judicial use to be allowed when acting as potential employers, solely when the conviction relates to the character of the employment for which the former offender is a candidate.

3. The NCHR taking into account both the need to facilitate the social reintegration of juvenile offenders and the need to protect the society as a whole, calls upon the State to define which serious offences will be registered in the criminal record of general use.

NCHR's Activities at the Domestic, European and International Level

1. Domestic Level

Education and Training of Greek Police in Human Rights: an NCHR initiative: In the recent years, the performance and attitude of Greek Police with respect to implementing human rights principles in policing, has been very poor, to say the least. This fact is reflected, inter alia, in a series of convictions of Greece by the European Court of Human Rights, for cases of police abuse and ill-treatment violating the relevant articles of the ECHR. It has also and repeatedly made the headlines in both the Greek and foreign media.

At the initiative of the Sub-Commission on Human Rights Education and Promotion, in mid 2008 the NCHR submitted a project proposal to the Ministry of Interior, regarding the establishment of a Joint Working Committee (hereinafter, the JWC) on the design of an education and training programme for the Greek Police, aiming at improving its record in terms of respect of human rights in policing. This proposal was approved by the Ministry and the above mentioned Committee was eventually established, composed of a number of Police officials and a few members of the NCHR familiar with Human Rights Education. The pre-conditions set by the NCHR for the launch of this project were the following: that it is mutually understood as a joint venture; and that the Police's involvement in it comes as a result of it being aware and conscious of the existing lacunae to be filled in terms of human rights respect in policing.

The Committee has met twice so far: in March, and July 2009. At these meetings the overall framework and content of the programme was designed and debated, on the basis of a list of priority areas selected by the representatives of the Police. The main challenge identified during these meetings, is how to effectively create a feeling of "ownership" of the programme by both the Police and the NCHR.

The programme will consist of three consecutive phases, based on the Training of Trainers concept. At the first phase, a small team of 7 to 8 persons –from within the already established JWC– will design the programme in co-operation with experts on police training from abroad. The second phase will consist of that first team training a larger number of Police Trainers. The third and final phase of the programme will consist of the training reaching the end group, i.e. the police staff.

At the current moment (July 2009), the NCHR has submitted to the Head of the Greek Police and the Ministry of Interior a few options on training experts from abroad, as well as a preliminary budget for the implementation of the first phase. It is expected -and hoped- that the response will come as soon as possible, so that the first phase of the programme materializes before the end of 2009.

On the 04.12.2008, the NCHR organised a conference on the "Detention Conditions and the Rights of Detainees in Greek Prisons" to commemorate the 60th anniversary of the Universal Declaration for Human Rights. Academics, experts, judges and lawyers took part in the conference, which was under the auspices of the Greek Parliament, and was divided in three sessions. The first session –titled "Detention conditions under the microscope of monitoring bodies"– focused on the reports, findings and recommendations of national and international bodies concerning the detention conditions in Greece. The second session -"Vulnerable Groups of detainees"- addressed the issues of imprisoned juveniles, aliens, women, drug addicts and mentally ill persons. The final session focused on "Measures for the improvement of detention conditions: infrastructure and alternative penalties".

Furthermore, the NCHR held an ad hoc consultation, on the 03.11.2008, regarding the implementation of Law 3699/2008 "Education of persons with disabilities or special educational needs." The respective bill was voted only after 10 days it was put in public consultation by the Ministry of Education. The NCHR could not comment on the bill in such a short notice. Nevertheless, because of the importance of the Law it decided to hold a consultation with various institutions dealing with education of disabled persons issues in order to submit recommendations on the effective implementation of the law and the actual access to education of persons with special educational needs.

Moreover, the NCHR's Bureau and/or staff had the following meetings upon request: a) with

the Greek Office of the High Commissioner for Refugees and NGOs dealing with refugees' issues, b) with representatives of Human Rights Watch visiting Greece, c) with the National Commission of Social Protection, d) with the UN Independent Expert on minority issues, G. McDougall, e) with representatives of the Association for Men's and Fathers' Dignity, f) with the Permanent Commission on Public Administration, Public Order and Justice of the Parliament, g) with the Special Permanent Commission on Equality, Youth and Human Rights of the Parliament and the Parliamentary Inter-Party Committee for the Correctional System, h) with the Commissioner for Human Rights of the Council of Europe, T. Hammarberg, i) with the President of PASOK, G. Papandreou, and j) with the member of the Parliamentary Assembly of the Council of Europe, B. Cilevics.

Furthermore, the NCHR's Bureau and/or staff had the following meetings on their own initiative: a) with the President of the Parliament, D. Sioufas, b) with the Secretary General of the Government, A. Karras, c) with his Excellency, the President of the Hellenic Republic, K. Papoulias, d) with the Minister of Interior, P. Pavlopoulos, and e) with the Minister of Justice, S. Hatzigakis.

Members and/or staff of the NCHR also took part as panellists in the following conferences-seminars: a) "Social exclusion, criminal phenomenon and human rights", b) "Citizen's rights and data protection", c) Roundtable for the Correctional System, d) "60 Years from the Universal Declaration of Human Rights: Challenges for the Future", d) "Racial Discrimination and Human Rights".

2. European and International Level

In the framework of the Council of Europe the NCHR participated in the: a) 5th Roundtable of European National Human Rights Institutions and the Commissioner for Human Rights (Dublin, 16-17 September 2008) on the theme "Domestic Rights: Strengthening Independent National Structures", b) Workshop for specialised staff of national human rights structures "Rights of Persons deprived of their liberty: The role of national human rights structures which are OPCAT mechanisms and of those which are not" (Padua, 9-10 April 2008), c) Workshop for specialised staff of national human rights structures "Protecting the human rights of irregular migrants: the role of national human rights structures" (Padua, 17-19 June 2008), d) "The Council of Europe Websites: A Tool for NHRSs' Work" (Strasbourg, 4-5 November 2008), e) "Setting up an active network of independent non-judicial human rights structures-Annual Meeting of Contact Persons" (Strasbourg, 19-20 November 2008), and f) Workshop for specialised staff of national human rights structures "The protection of the rights of Roma people by the national human rights structures" (Budapest, 24-25 February 2009).

In the framework of the European Union the NCHR took part in the: a) 1st meeting of the Fundamental Rights Agency with National Human Rights Institutions (Vienna, 16 May 2008) and b) 1st Conference of the Fundamental Rights Agency on the theme of "Freedom of expression, cornerstone of democracy: Listening and communicating in a diverse Europe" (Paris, 8-9 December 2008).

In the framework of the cooperation with other national human rights institutions, the NCHR participated in the: a) Meeting of the European Coordinating Committee (Geneva, 14 April 2008), b) 3rd Arab-European Dialogue on Human Rights for National Human Rights Institutions (Rabat, 6-8 May 2008) on the theme of "Migration", c) Meeting of the European Coordinating Committee (Dublin, 9 June 2008), d) Meeting of the European group of National Human Rights Institutions (Dublin 17 September 2008), e) Meeting of the European group of National Human Rights Institutions (Nairobi, 21 October 2008), f) Meeting of contact persons of the European group of National Human Rights Institutions (Oslo, 6-7 November 2008), g) Meeting of the European Coordinating Committee (Berlin, 11 February 2009), and h) 4th Arab-European Dialogue on Human Rights for National Human Rights Institutions (The Hague, 11-13 March 2009) on the theme of "Migrant Workers' Human Rights".

In the Framework of the United Nations, the NCHR took part in the: a) 20th Session of the

International Coordinating Committee of National Human Rights Institutions (Geneva, 14-18 April 2008), b) 21st Session of the International Coordinating Committee of National Human Rights Institutions (Nairobi, 21 October 2008), c) 9th International Conference of National Human Rights Institutions (Nairobi, 21-24 October 2008) on the theme "National Human Rights Institutions and the Administration of Justice", and d) 2nd Meeting of the Dialogue of the UN High Commissioner on Refugees on Protection Challenges (Geneva, 10-11 December 2008), on the theme of "Protracted Refugee Situations."

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