

**COMPLEMENTARY REMARKS
BY THE GOVERNMENT OF GREECE
TO COMMISSIONER'S FOR HUMAN RIGHTS COUNTRY REPORT**

Paragraph 36

The Supreme Court's judgment No 460/2013 regarded certain provisions of Law 3838/2010 that concerned the acquisition of Greek citizenship by foreigners' children born in Greece or having attended Greek school (2nd generation immigrants - Article 1A), as unconstitutional. Therefore, the application of Article 1A has been suspended until the forthcoming modification of the Greek Citizenship Law, which must be consistent with the above decision. The acquisition of Greek citizenship by naturalization is not affected and the relevant law continues to be applied in the same way.

Paragraphs 70 and 97

With respect to the competent legal professionals' training in anti-discrimination law and practice, including anti-racism, we would like to note that the programme of studies of the National School of Judges was expanded in March 2013, in order to include six three-hour courses on racism and xenophobia, which draw from the relevant international legal instruments and national legislation. Thus, all judges and prosecutors receive training and awareness-raising on the issues of racism and xenophobia, both in the regular course of their studies and in terms of seminars held. As for the discussions with the Council of Europe Directorate General of Programmes, they have been planned to take place probably in autumn.

As regards the training of police personnel, there is a continuous effort for their further training on human rights and more specifically on dealing with incidents of racism or intolerance and on respecting the particularities of those belonging to vulnerable social groups living in our country. The training includes theoretical classes and practical exercises and takes place during the basic training of police cadets, police constables and border guards and further on. Further, it is worth noting that approximately two hundred (200) agents of the Hellenic Police, who serve in the newly- established Anti-Racist Violence Sections/State Security Subdivisions/Attiki and Thessaloniki Security Divisions, and in the Anti-Racist Violence Units/Security Subdivisions/Attiki Security Directorate and Anti-Racist Violence Offices/ Subdivisions/Security Departments of the Country's Police Directorates, have attended a two-day (2) special training, from 23/1 till 02/02/2013, in five (5) training courses, where the following topics have been elaborated:

- Social and anti-racism issues
- Public security issues
- Racism-xenophobia. Dealing with vulnerable social groups

- Legislation "On Racism"
- Illegal migration and racism
- Detection of racist motives
- Phenomena of racism in Greece and the experience of the recording network of racist violence incidents
- International human rights protection - present concerns

Paragraphs 73 and 98

The Panhellenic Socialist Movement (PASOK) and the Democratic Left (DIMAR) submitted on May 30th a law proposal on 'combating manifestations of racism and xenophobia'. The party of New Democracy (N.D.) also submitted on May 30th a law proposal on 'amendments to law 927 of 1979 and other provisions'. Another law proposal on "combating racism and crimes of a racist character" was submitted on 4 June by the Coalition of the Radical Left- Unitary Social Front (SYRIZA)

Paragraph 107

The policeman concerned is no longer a member of the Police Force since 24.2.2010.

Paragraph 108

Regarding possible amendments to the definition of torture contained in Article 137 of the Criminal Code in order to align it with Article 1 of the 1984 UN Convention against Torture, we would like to report that this task will be assigned to a special Law-drafting committee, which will be working on the amendment of the Penal Code and is expected to be set up and convene shortly.

Paragraph 116

Article 19 of Law 4058/2012 provided for the exception of police, coastguard and fire-brigade officials from the criminal law proceeding, which is applied for crimes caught in the act and entails the immediate arrest of the offender and referral to the criminal prosecutor. This exception concerns minor offenses, prosecuted only following a complaint, which were allegedly committed by the above-mentioned officials during the performance of their duties and because of them. The provision does not in any way exempt law enforcement officials from regular criminal law procedures for any offense.

It is widely known that police officers, during the performance of their duties, face the resistance and denial of the offender, to plead the violation of the law. Most of the times the offender, immediately after he is brought to the police department, or even after many hours, when he is summoned to enter a plea, he tries to create a diversion by lodging a criminal complaint against the arresting police officer, in order to coerce him, indirectly, to abstain from certifying that the infringement took place. Before the aforementioned provision was enacted, the following were applied: After the detainee lodged a criminal complaint against the police officer who had arrested him, before the duty police officer, followed the procedure which

is applied for crimes caught in the act and as a result, the accused police officer had to cease the execution of his duty, due to his detention, so that he would be referred to the competent prosecutor according to the provisions of the Criminal Law Procedure Code (unless the prosecutor ordered that the accused policeman would not be arrested). In addition, it is common practice during police operations and especially during precautionary police controls, or at the moment that the crime is ascertained, for the perpetrators who are being controlled, to threaten with charges against the police officers, for alleged verbal abuse, physical injury and threat, with the obvious purpose to coerce them not to proceed to further legal actions.

This illicit practice created the need to exempt police officers from the procedure which entails their direct arrest and referral to the prosecutor, so they cannot be extorted by such methods. When an offence is committed against a person who is arrested for committing a crime, by a policeman, the latter is accountable to justice (when the offence is prosecuted only following a complaint) through the regular criminal law process and not through the criminal law procedure applied in crimes caught in the act, which would involve the immediate arrest of the police officer and his direct referral to the criminal prosecutor, thus resulting in the obstruction of the execution of his duties. The purpose of this provision is not to provide immunity and protection to police officers who act arbitrarily and abuse state power at the expense of the citizen, but to ensure the proper and effective action of the police units. Police action is certainly weakened, when police officers have to be arrested during a police operation, due to the application of the criminal law procedure applied for crimes caught in the act, a practice which could undoubtedly prove detrimental to public order and safety and affect the broader public interest.

Furthermore, this provision cannot be regarded as contrary to the constitutional principle of equality, which requires uniform treatment of persons who are under the same or similar conditions and prohibits the arbitrary equation of different situations, since this 'selective' treatment of the police, as regards the application of the criminal law procedure, is reserved only for cases of minor infringements, allegedly committed by police officers during the performance of their duties, namely when they act as state organs, serving the public interest.

Paragraphs 120 and 134

a. On the initiative of the Ministry of Public Order and Citizen Protection, specialized units tasked with tackling racist violence are being established throughout the country. More specifically, on the basis of the provisions of Presidential Decree 132/2012 (Official Gazette A' 239), two (2) Departments and sixty eight (68) Offices for dealing with incidents of racist violence are being set up all over Greece. The objective of these units is to combat in a substantial and effective manner the phenomenon of violence against individuals or groups of individuals, which is attributed to racist motives.

b. The above legislative initiative is part of the more general government policy that aims at the effective and decisive fight against racist phenomena that endanger

the cohesion of the Greek society. We would like to stress that racist incidents are carried out by specific groups and/or individuals, whose attitudes are foreign to our political culture, the values underpinning Greek society, our history and democratic traditions.

c. The main objective of the aforementioned regulation is the prevention and the more effective handling of incidents which may threaten public order, and concern the commission of crimes/offences and the public incitement, causing and/or impelling to criminal acts against individuals or groups of persons that are motivated by their race, colour, religion, descent, and national or ethnic origin.

d. The Hellenic Police attributes great importance to the field of human rights. Thus, the Hellenic Police in order to avoid the development of a xenophobic climate and/or the outbreak of racist phenomena, has been issuing relevant orders and instructions to regional Police Services giving special emphasis to their obligation to show absolute respect for the citizens' personality and individual rights and for equally treating everyone without any discrimination on the grounds of race, national or ethnic origin, religion, etc. The political leadership of the Ministry of Public Order and Citizen Protection has repeatedly expressed their will to fully and effectively address the phenomena in question.

e. For this reason, a unified mechanism for recording racist incidents and a unified data base with a view to monitoring the relevant cases have already been set up. The process of recording incidents of racist violence has already started. Circular order no. 7100/11/21-or', dated 21/08/2012, which has been forwarded to all competent departments, contains instructions on recording the data in question. The data are recorded twice a year, and are forwarded to the Ministry of Justice, Transparency, and Human Rights.

f. Moreover, for the effective protection of the citizens' rights against any arbitrary behaviour on the part of State organs, penal provisions providing for stricter sentences, have been enacted, such as the provisions of Law 1500/1984 (Penal Code articles 137A', 137B', 137G', and 137D'). In conformity with the aforementioned provisions, violent acts or acts insulting human dignity are punished as felonies. In addition, Articles 239, 325, and 326 of the Penal Code provide that the preliminary examination regarding violations of Articles 137A"-137D' by police officers, is carried out by the Internal Affairs Division / Hellenic Police Headquarters (Law 2713/1999). In this context, by order of the Hellenic Police Chief (6004/1/182, dated 24/10/2012), the first priority of the aforementioned Division is to deal with complaints made by foreign citizens (under detention or not) regarding ill-treatment, affront to their dignity, and physical injuries caused by police officers and mainly by police officers that were called to deal with incidents of racist violence provoked by groups of unknown individuals against foreign citizens.

Paragraph 125

Under the five-digit telephone number **11414**, which operates on a 24-hour basis in the State Security Subdivision/Attica Security Division (173 Alexandras Ave), the

citizens may report or make complaints on the commission of any racist acts. It is worth noting that on the one hand the abovementioned number may receive calls from both landlines and mobile ones, and on the other hand the anonymity as well as the secrecy of the communication are secured.

Possibility of ratification of certain treaties

1. Greece attaches great importance to all international instruments related to the European Convention on Human Rights. Protocol no 12 to the ECHR has been ratified by 18 States (less than 40% of the Member States of the Council of Europe) and signed by a further 19 States, including Greece. The European Court of Human Rights has so far delivered only a very small number of judgments interpreting the provisions of the Protocol. The incorporation of an international instrument such as Protocol No. 12 into the domestic legal order requires a prior careful analysis of their possible impact on national legislation and practice, by various competent departments of the Administration, which also take into consideration experiences of other, actual or potential, State Parties, as well as the relevant case-law of the European Court of Human Rights.
2. Ratification of the Convention on the Participation of Foreigners in Public Life at Local Level is not currently considered. It is to be noted that the above Convention has only been ratified by 8 Member States of the Council of Europe (no ratifications or accessions have taken place since 2005) and has been signed by a further 5 States. It is also to be noted that in line with the above mentioned judgment of the Supreme Court (see information under para. 36 hereabove), the provisions on the participation of third country nationals to local elections are considered unconstitutional.
3. As for the European Convention on Nationality (1997), its ratification is under consideration.