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Mr Nikolaos TOSKAS

Alternate Minister of Interior and of Administrative Reconstruction of Greece

Mr Nikos PARASKEVOPOULOS

Minister of Justice of Greece

Strasbourg, 25 July 2016

Dear Ministers,

I take the opportunity to follow up to the interesting discussions we had on certain human rights issues during my visit to Greece from 3 to 8 July.

I noted with interest that a draft law on the establishment of a national mechanism for investigating incidents of arbitrariness in security forces and in detention facilities was submitted to a ten-day public consultation as from 12 July. In the report following my 2013 visit to Greece, I expressed deep concern about persistent reports of ill-treatment, including torture, committed by law enforcement officials, notably against migrants and Roma, and urged the authorities to eliminate the institutional culture of impunity. In its report issued last March the Council of Europe Committee for the Prevention of Torture (CPT) reiterated its grave concern about the widespread and deep-rooted problem of police ill-treatment in Greece. The CPT urged the authorities to fully acknowledge the phenomenon of police ill-treatment and called for a comprehensive strategy and determined action to address it. It added that the current system of investigations into allegations of ill-treatment by law enforcement officials is characterised by a number of systemic failings by the police as well as judicial authorities.

In view of the above, the planned establishment of an independent complaint mechanism covering all law enforcement and detention facility agents is indeed welcome. It was one of the major recommendations contained in my 2013 report on Greece, as well as a measure required by the Council of Europe Committee of Ministers supervising the execution of a series of European Court of Human Rights' judgments concerning excessive use of force by Greek law enforcement forces (*Makaratzis* group of cases).

I understand that the above draft law defines the Greek Ombudsman as the national complaint mechanism competent for collecting, registering and investigating complaints concerning arbitrariness by law enforcement and detention facility agents. The Ombudsman is accorded the power of issuing a report containing recommendations addressed to the disciplinary bodies of the authorities concerned. The latter should subsequently implement these recommendations or issue a report setting out the reasons for not following them.

I welcome the fact that the Ombudsman, an independent and efficient national human rights structure, will be empowered to investigate following receipt of complaints and to carry out *ex officio* investigations. However, in order to constitute a significant improvement in practice, this first step requires the immediate allocation of sufficient and adequate financial and human resources to the Ombudsman's Office. While I am aware of the deep economic recession in Greece, it is my firm belief that the work of national human rights structures, such as the Greek Ombudsman, should be strengthened because of their critical role in safeguarding human rights during economic crises. In addition, in line with my predecessor's Opinion concerning Independent and Effective Determination of Complaints against the Police of 2009, the Greek version of which is attached, I invite you to envisage enlarging the scope of the mechanism's competencies, which should not be limited to issuing non-binding recommendations to the disciplinary bodies of the relevant authorities. I further encourage you to include in the draft law a regular and public review procedure so as to assess the functioning of the mechanism and to enhance its efficiency and effectiveness.

I trust that such a mechanism, as long as it meets the criteria of effectiveness contained in the above-mentioned Opinion by my predecessor, would contribute to the fight against impunity for serious human rights violations (cf. Council of Europe Committee of Ministers Guidelines on eradicating impunity for serious human rights violations, adopted in 2011).

The second major issue I would like to tackle in this context relates to your authorities' efforts aimed at fighting and eradicating racism, homophobia and other forms of discrimination. I have noted with satisfaction the adoption in 2014 and 2015 of measures aimed at consolidating the legislative framework against racism and homophobia. The operationalization of prosecutors specialised in hate crime, such as the one I met in Athens, is also a very welcome step. I have also been informed that a new draft law on equal treatment has been submitted to public consultation and on which I would appreciate receiving more information.

Notwithstanding, I remain worried about reports I received during my latest visit to Greece indicating an increase of hate crime in Greece. The Racist Violence Recording Network (RVRN) recorded 81 incidents of hate crime in 2014 and 273 in 2015. What I find especially alarming is that the RVRN in 2014 and 2015 recorded 21 and 16 hate crime incidents respectively where law enforcement agents were involved. Also striking is the fact that unlike 2014, when the majority of the reported incidents concerned migrants, 2015 witnessed a significant increase in reported homophobic incidents, representing nearly two thirds of the recorded incidents.

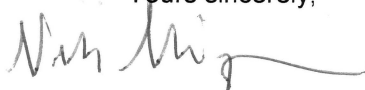
This situation shows that there is an urgent need to enhance implementation of the existing anti-hate crime legislation, including an increase in the number of cases prosecuted and tried, leading to a more developed and stronger case-law with clear legal reasoning providing guidance to police investigators and legal professionals. In this context, it is of utmost importance to provide systematic, continuous anti-discrimination training to law enforcement officials, prosecutors and judges. Greece can usefully draw on the rich expertise of the Council of Europe's European Programme for Human Rights Education for Legal Professionals (HELP) which for many years has been enhancing the capacity of judges, lawyers and prosecutors in Council of Europe member states.

I would also like to stress the importance of collecting and analysing hate crime data in a more systematic and comprehensive manner. I noted the establishment of an inter-ministerial working group tasked with facilitating hate crime data collection. I would appreciate receiving further information about the results of its work as well as data regarding the number of hate crime cases prosecuted and of sentences pronounced by courts. I would also welcome information on the nature of the sentences imposed and the proportion of these cases involving law enforcement officials.

All these measures should go hand in hand with public awareness-raising targeting in particular members of social groups that are habitually victims of hate crime, so as to enhance their trust and encourage them to report to competent authorities such incidents which appear to remain underreported. In this regard, I encourage you to rapidly proceed to the adoption of the pending draft law aimed at transposing Directive 2012/29/EU on the rights, support and protection of victims of crime.

I look forward to receiving your reply and continuing a constructive dialogue with you and the Greek government.

Yours sincerely,



Nils Muižnieks