

GREECE

CAT A/46/46 (1991)

129. The Committee considered the initial report of Greece (CAT/C/7/Add.8) at its 63rd and 64th meetings, held on 15 November 1990 (CAT/C/SR.63 and 64).

130. In his introduction to the report, the representative of the State party informed the Committee that the question of adherence to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had been recently submitted to the Greek Parliament. As soon as that instrument had been approved, Greece would be bound by all the international instruments aimed against torture.

131. The members of the Committee welcomed the report, which complied with the Committee's general guidelines and which was clear and informative on the de jure and de facto situation regarding the implementation of the Convention. They also welcomed the commitment of Greece to the eradication of torture, which was reflected, inter alia, by its acceptance of the optional provisions of articles 21 and 22 of the Convention. They felt, however, that some additional information was needed on certain issues relating, in particular, to articles 10 to 13, 15 and 16 of the Convention.

132. Members of the Committee noted that the provisions of the Convention had been well incorporated into Greek legislation, but they wished to know more about their practical implementation in the country and about any problems which might have been encountered in that respect. In that connection, they wished to receive details on persons actually convicted of torture before and after Greece had ratified the Convention. They also observed that the Convention was not entirely self-executing and asked what steps had been taken under Greek law to ensure the implementation of provisions of the Convention, such as those contained in its articles 4, 5, 10 and 11, which were not automatically applicable. In addition, further information was requested on the functions of judicial bodies, particularly the Prosecutors' Office, and their role in preventing and punishing torture, on specific examples of criminal cases in which reference had been made to the European Convention on Human Rights, and on legal provisions establishing the right to individual petition under article 25 of that Convention. It was also asked whether there was any procedure that could lead to the dismissal of prosecutors and judges and how conflicts of opinion, if any, between authorities that could order the institution of criminal proceedings were resolved.

133. With reference to the information provided in the report on the period of the colonels' dictatorship in Greece, it was asked what measures had been taken to prosecute those responsible for torture or ill-treatment during that period, whether the victims had received any form of compensation and whether it was still possible to prosecute persons for acts committed during the colonels' regime.

134. Referring to article 1 of the Convention, members of the Committee wondered whether the prohibition and elimination of torture as defined in the Convention were fully provided for by Greek

law. In that connection, they expressed the wish to receive the full text of article 137 of the Greek Penal Code in order to clarify that point.

135. In connection with article 2 of the Convention, more information was requested on the duration and conditions of pre-trial detention. It was asked, in particular, which officials had the right to arrest and what guarantees the person arrested had during the period of custody, whether those responsible for breaches of the provisions governing pre-trial detention were criminally responsible, whether anyone had been prosecuted for such offences, what external or internal supervision was exercised over the actions of the police forces, how conditions of detention were monitored, what was meant by the terms “indictment division” and “correctional division”, referred to in the report, and what legal measures had been taken to implement paragraph 3 of article 2 of the Convention.

136. With reference to article 3 of the Convention, members of the Committee sought clarification of the reasons for the broad interpretation given by Greek authorities to article 33 of the Convention relating to the Status of Refugees, of administrative practices in that regard, and the number of foreigners who had been extradited in the past five years. They also asked how long an asylum-seeker was required to wait for a decision on his or her case and what living conditions were like during that time.

137. With regard to article 4 of the Convention, it was asked what the difference was, under article 6 of the Greek Constitution, between an offence and a crime and which legislative acts contained relevant lists or definitions; whether any persons guilty of torture had been prosecuted, convicted and punished; what were the contents of Act No. 1500/84 relating to the criminal punishment of persons guilty of torture; and why the penalties applicable to acts of torture ranged from five years’ to life imprisonment.

138. On the subject of universal jurisdiction, members of the Committee wondered whether the implementation of articles 5 to 8 of the Convention was actually guaranteed under Greek law. They asked, in particular, whether a foreigner accused of having practised ill-treatment or torture upon another foreigner in a foreign country could be prosecuted in Greek courts, whether torture was one of the crimes committed abroad which were punishable under article 8 of the Greek Penal Code, whether international and internal provisions relevant to extradition could conflict and whether, for the purpose of a decision on extradition, the requirement of a prison sentence of over two years was in any way subdivided.

139. Turning to articles 10 and 11 of the Convention, members of the Committee wished to know whether there were any educational programmes and instructions to prevent and eradicate torture for the police, the armed forces, medical personnel and prison officers. They also requested detailed information about the treatment of persons in detention and about any allegations and inquiries concerning torture or ill-treatment in the prison system.

140. More generally, and in connection with articles 12 and 13 of the Convention, members of the Committee wished to know how many complaints of torture or ill-treatment had been received by Greek judicial authorities, how those complaints had been investigated, and how many persons had been convicted in such cases. They also wished to know at what stages of the proceedings an accused person’s lawyer was or was not permitted to be present, why in one of the cases described

in the report the Public Prosecutor had not instituted criminal proceedings until the facts had been brought to the attention of the international community, and whether, apart from filing complaints with the Public Prosecutor or another official responsible for investigation proceedings, there were any channels for seeking redress or compensation, such as an independent human rights commission or an ombudsman's office.

141. With reference to article 14 of the Convention, more detailed information was requested in respect of redress and rehabilitation for victims of torture. It was asked, in particular, what the amounts and sources of financial compensation paid to victims were, whether the procedure to seek redress took place automatically or had to be instituted by the victim, whether the right to redress was covered by the Greek Civil Code in addition to the Penal Code, whether the State assumed responsibility for Government officials if the latter were found guilty of acts of torture, and whether any other administrative process existed in Greece to provide compensation to victims of torture.

142. Referring to article 15 of the Convention, members of the committee wished to know what was the legal basis for guaranteeing that evidence obtained under torture would not be taken into consideration by the courts.

143. In his reply, the representative of Greece stated that the implementation of the Convention in his country had not given rise to any difficulties. The Convention had not been expressly invoked before the Greek courts and the courts had not handed down any decisions based on it since that instrument had only recently been ratified by Greece. The right to individual petition before the European Commission on Human Rights had been recognized on the basis of a declaration of the Minister for Foreign Affairs. The representative further provided a detailed description of the functions of the public prosecutor in accordance with the Greek Code of Penal Procedure and provided information on the procedure applied in case the prosecutor failed to institute proceedings. In the event of a disagreement during an investigation between the examining magistrate and the public prosecutor, the decision was taken by a three-member court composed of a presiding judge and two other judges. Public prosecutors enjoyed the same status as judges and, like the latter, were appointed for life and subject only to the authority of a disciplinary council composed of senior judges and prosecutors.

144. The representative stated that after the fall of the dictatorship in his country, special legislation had been enacted to provide compensation for the victims and that, in particular, disability pensions had been awarded to victims of torture. Torturers had been tried and received harsh sentences. No amnesty law had been adopted for acts committed under the colonels' regime, but acts for which no proceedings had yet been instituted were subject to prescription in accordance with the conditions established by the Penal Code.

145. Referring to article 2 of the Convention, the representative stated that the trial of persons accused of a crime had to take place within 12 months after the warrant of pre-trial detention had been issued. Such warrants could be extended to 18 months and the accused was entitled to appeal against them. A person arrested flagrante delicto or pursuant to a warrant had to be brought before the examining magistrate within 24 hours. Police officers were both authorized and bound to arrest any person in the act of committing a crime. From the time of arrest, the accused enjoyed all the rights of detainees including the right to consult and be defended by a lawyer of his choice.

Investigating authorities were bound to inform the accused of his rights. Failure to observe the rights of an arrested person was punishable by up to five years' imprisonment. The provision whereby the order of a senior officer constituted no justification for an unlawful act had been incorporated in the Greek Penal Code in 1984.

146. With regard to article 3 of the Convention, the representative referred to a document submitted to the United Nations High Commissioner for Refugees containing the Greek definition of a refugee and the conditions in which asylum was granted by Greek authorities. The document was available to the Committee. He pointed out that the length of the procedure for the granting of asylum varied from case to case.

147. Referring to article 4 of the Convention, the representative indicated that, in accordance with Greek law, an offence was punishable by up to five years' imprisonment and a crime by more than five years' imprisonment or the death penalty. In Greece, torture was a crime.

148. With regard to universal jurisdiction, the representative explained that article 2 of the Greek law ratifying the convention expressly provided that Greek criminal legislation applied to nationals and to foreigners for any offence that was covered by article 4 of the Convention, in accordance with the conditions laid down in article 8 of that instrument. The law in question recognized the jurisdiction of Greek courts in respect of complaints of acts of torture regardless of where they had been committed. According to the Greek Code of Criminal Procedure, if a crime that was punishable universally and by Greek law had been committed abroad by a foreigner who was in Greek territory, the Greek courts had jurisdiction to try that crime without extraditing the accused. In accordance with article 8 of the Greek Penal Code, Greek courts had jurisdiction in respect of any criminal act for which international treaties ratified by Greece provided for the application of Greek criminal legislation, regardless of the nationality of the person who had committed the act and regardless of the legislation of the country in which the act had been committed. International instruments took precedence over internal law. In the absence of any international treaty, the Greek Code of Penal Procedure applied. Extradition was thus possible only in connection with an act punishable by a prison sentence of more than two years, unless an international agreement provided otherwise.

149. With reference to articles 10 and 11 of the Convention, the representative stated that police officers and prison officials were taught about human rights and the prohibition of torture as part of their normal instruction. Legislation on the Greek prison system enacted in 1989 provided for treatment designed to achieve the social rehabilitation of prisoners. Although such provisions were considered satisfactory, Greek authorities acknowledged that their implementation gave rise to difficulties since prisons in Greece were overcrowded and no new prisons had been built in the past 20 years owing to the shortage of funds.

150. In connection with article 12 of the Convention, the representative referred to three cases where police officers had been accused of committing acts of torture. In one case, the accused had been acquitted and the other two cases were still pending before the courts.

151. In relation to article 14 of the Convention, the representative stated that it was impossible to set standards relating to compensation for torture victims in Greece since the amount depended on

the specific circumstances of each case and compensation was granted only where the victim had submitted a request for it.

Concluding observations

152. In their concluding remarks, the members of the Committee welcomed the oral replies of the representative of Greece to their questions and expressed the wish to receive from the Greek Government, in its next periodic report, detailed information on the situation of detainees and the regime applicable to them.

153. The representative of Greece assured the Committee that his Government would not fail to provide the information requested.

CAT A/49/44 (1994)

148. The Committee considered the second periodic report of Greece (CAT/C/20/Add.2) at its 181st and 182nd meetings, held on 22 April 1994 (CAT/C/SR.181 and 182) and has adopted the following conclusions and recommendations:

A. Introduction

149. The Committee thanks the State party for its report and for its continuing cooperation in the constructive dialogue with the Committee. It takes note of the information submitted in the report as well as the oral presentation of the delegation of Greece.

150. Greece has complied with its obligation to submit an initial report and a second periodic report under article 19 of the Convention.

151. The Committee wishes to express its appreciation to Greece for its obvious willingness to deal with the various issues raised by the Committee.

B. Positive aspects

152. The Committee feels that Greece has a very advanced legislative and administrative scheme for the implementation of human rights values contained in the international instruments.

153. The Committee also regards as very positive the fact that the Government of Greece has continued to take practical measures to promote and protect human rights and in particular to bring about the total and effective eradication of torture and other similar treatment.

154. It is also encouraging that judicial and administrative proceedings have been undertaken to investigate violations of human rights, especially torture.

C. Subject of concern

155. However, the Committee is concerned at the practice of severe ill-treatment which seems to be an ongoing problem occurring in some police stations.

D. Recommendations

156. The Committee recommends that the advanced legislation in Greece for preventing the ill-treatment of accused persons be fully applied in practice.

157. The Committee also recommends that more attention be given to adequate training on the prohibition of torture to medical personnel.

158. In addition, the Committee expects to receive answers to the various questions addressed to the Greek delegation, especially those concerning refugees.

CAT A/56/44 (2001)

83. The Committee considered the third periodic report of Greece (CAT/C/39/Add.3) at its 460th, 463rd and 469th meetings, held on 2, 3 and 8 May 2001 (CAT/C/SR.460, 463 and 469), and adopted the following conclusions and recommendations.

A. Introduction

84. The Committee welcomes the third periodic report of Greece, although it notes that the report, due in November 1997, was submitted with two years' delay.

85. The report does not fully conform with the Committee's guidelines for the preparation of State party periodic reports as it fails to include new relevant case law and details of complaints regarding alleged acts of torture and other cruel, inhuman or degrading treatment or punishment. The Committee nevertheless wishes to express its appreciation for the additional oral information given by the State party delegation.

B. Positive aspects

86. The Committee particularly welcomes the following:

- (a) The existing legal framework and array of institutions in place for the protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) The adoption of Act 2298/95 establishing new institutions to guarantee the rights of prisoners;
- (c) The use of specially trained personnel from outside the prison service, and under the supervision of the Public Prosecutor, to intervene in cases of serious disorder in prisons;
- (d) The assurances received that the head of delegation will recommend the publication by the responsible State party authorities of the 1996 and 1997 reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visits to Greece;
- (e) The State party's ongoing contributions to the United Nations Voluntary Fund for the Victims of Torture.

C. Subjects of concern

87. The Committee expresses concern that, although the domestic legislation provides a satisfactory framework for protecting human rights in general and of certain Convention rights in particular, difficulties in effective implementation, which may amount to a breach of the Convention remain, including the following:

- (a) Evidence that the police sometimes use excessive or unjustifiable force in carrying out their duties, particularly when dealing with ethnic and national minorities and foreigners;

(b) The harsh conditions of detention in general and, in particular, the long-term detention of undocumented migrants and/or asylum-seekers awaiting deportation in police stations without adequate facilities;

(c) The severe overcrowding in prisons, which aggravates the already substandard material conditions and may contribute to inter-prisoner violence;

(d) The lack of comprehensive training of medical personnel and law-enforcement officers at all levels on the provisions of the Convention.

D. Recommendations

88. The Committee recommends that:

(a) Urgent measures be taken to improve conditions of detention in police stations and prisons and that undocumented migrants and/or asylum-seekers who have not been convicted of a criminal offence not be held for long periods in such institutions;

(b) Such measures as are necessary to prevent overcrowding of prisons should be taken as well as continuing steps to find alternative penalties to imprisonment and to ensure their effective implementation;

(c) Such measures as are necessary, including training, be taken to ensure that in the treatment of vulnerable groups, in particular foreigners and ethnic and national minorities, law enforcement officers do not resort to discriminatory practices;

(d) Steps be taken to prevent and punish trafficking of women and other forms of violence against women;

(e) Steps be taken to create detention facilities for undocumented migrants and/or asylum-seekers separate from prison or police institutions, and urges the State party to complete its proposed new building construction for aliens as a matter of urgency;

(f) The next report of the State party, due in November 2001, be submitted in accordance with the Committee's guidelines for the preparation of periodic reports and include, inter alia: (i) requested statistics disaggregated by gender, age and nationality; (ii) relevant case law; (iii) comprehensive information relating to articles 3, 4, 12, 13 and 16 of the Convention.