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Political Rights**

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Summary record of the 2268th meeting

Held at Headquarters, New York, on Wednesday, 23 March 2005, at 10 a.m.

Chairperson: Ms. Palm

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (continued)

Initial report of Greece (continued)
(CCPR/C/GRC/2004/1; CCPR/C/83/L/GRC)

1. *At the invitation of the Chairperson, the delegation of Greece took places at the Committee table.*

2. **The Chairperson** invited Committee members to ask any additional questions they might have concerning questions 1 to 13 on the list of issues.

3. **Ms. Wedgwood** requested more information regarding 122 cases of alleged use of force by police officers against Roma individuals, brought to the Committee's attention by non-governmental organizations. Attempts to investigate the cases had often led to dead ends, such as "no information" or "investigation tabled".

4. Pursuant to a protocol signed by Greece and Turkey, undocumented Turkish aliens had been returned to Turkey without being afforded the right to apply for political asylum. She wanted to know whether undocumented aliens in general were allowed to apply for asylum.

5. She wondered whether the health-care standards referred to in paragraphs 375 (5) and (6) of the report (CCPR/C/GRC/2004/1) could be maintained in prisons in rural areas, and whether concrete protocols existed to that effect.

6. **Mr. Rivas Posada** said that he was encouraged by Greece's awareness of domestic violence and by its efforts to combat it. Nevertheless, the State party must strive to accelerate the enactment of specific legislation.

7. The minimum percentage of women candidates for elected office (report, para. 891), while insufficient, was a step towards women's adequate representation in government. He requested more information on measures taken by Greece towards that end, specifically regarding women's participation in ministries, Government departments and Parliament.

8. **Mr. Khalil** requested additional information about the fate of the 225 individuals accused of

trafficking in human beings, including whether they had been prosecuted and, if so, how many had been convicted and the nature of their sentences. Where only 34 of 156 victims had received assistance, he wanted to know what had happened to the others. He requested clarification of a discrepancy between two consecutive paragraphs of the written questions, which stated, respectively that most of the victims were staying legally in Greece and that most of them had departed while a small number were still in Greece.

9. The written replies to question 7 dealt with one case of exploitation of Albanian children; he asked for more information about the remaining six cases. Also, several hundred victims of child labour had escaped from State-run centres into the hands of traffickers; he wondered whether an investigation had been conducted to establish their fate.

10. **Mr. Lallah** said that he was interested in the impact of counter-terrorism legislation on certain rights, and sought more information on detention without trial of individuals suspected of involvement in terrorist activities, the access of such persons to the courts and the available remedies. He wanted to know how such legislation dealt with extradition, for example, if a terrorism suspect in Greece was wanted in another country for questioning or trial.

11. He wanted to know, in connection with paragraphs 454 to 456 of the report, what procedures existed to deal with a debtor who either was unwilling to pay or disposed of property to avoid payment, and whether such cases were considered civil matters.

12. **Mr. O'Flaherty** agreed that the delegation needed to provide more comprehensive replies to question 6, for example, the "positive results" referred to in its opening remarks. The number of victims of trafficking — 156 — appeared low when compared to the stated magnitude of the problem. He was particularly disturbed by the failure of the State party to assist minors, especially those who were unaccompanied, and wondered how it could allow such a lapse. He wanted to know what means the Government used to reach out to victims, other than waiting for them to be caught in the criminal justice system, and how the inter-ministerial discussions and activities referred to in the written answer to the question translated into action. He requested more information on Government programmes to assist victims of trafficking in their countries of origin.

13. Reports by NGOs and other organizations had raised serious concerns about the detention of illegal immigrants, including the lack of beds and mattresses; limited hot water; infestations of scabies; and restricted contact with the outside world. He requested more information, specifically on conditions at the Mytilini facility. He wanted to know why NGO access to such facilities was restricted or, in some cases, prohibited.

14. **Sir Nigel Rodley** said that according to a report by Amnesty International issued in 2002, alleged use of lethal force by law enforcement officers was investigated by the police, often by colleagues of the perpetrators. Those found guilty were convicted of the minor crime of manslaughter; the sentence was deprivation of liberty, which was inevitably suspended. He wanted to know of cases, if any, in which officials had been more severely sanctioned for wrongfully causing death during duty.

15. When an 18-year-old Albanian had been shot dead by law enforcement officials while crossing the border, the Government had refused to grant entry visas to the only witnesses to the shooting. Its refusal pointed to possible collusion between the police and other authorities in preventing the course of justice to protect the police from the law.

16. **Mr. Ando** wished to know, first, whether article 5, paragraph 2, of the Constitution of Greece was equivalent to article 2, paragraph 1, of the Covenant in ensuring the equality of all before the law. Noting with satisfaction the importance given to international law in the Constitution, he wondered however whether the difference between the stipulations of grounds for distinction in the two instruments might have any implications for the country's international obligations. Similarly, the Covenant listed rights from which there could be no derogation in the event of emergency, while the Constitution took the opposite approach, stipulating those from which derogation was permitted. To what extent, for instance, could citizens be required to perform compulsory labour in an emergency?

17. **Mr. Kourakis** (Greece) said that the concern shown by the United Nations to strike a balance between measures against terrorism and respect for human rights, as reflected in Security Council resolution 1373 (2001), was also demonstrated in his country's anti-terrorism laws. Two framework decisions of the European Union had also influenced Greek legislation. Under Greek law the exercise of

fundamental rights could not be assimilated to terrorist acts, unless innocent people were thereby harmed. Such cases were covered by criminal law which provided for the punishment of offenders, even in the case of freedom fighters, if they committed acts of violence against civilians. It had been clearly established by the courts that terrorism was not a political crime in Greece, which had ratified all United Nations conventions on the subject.

18. **Ms. Telalian** (Greece), referring to the high-level report cited earlier, emphasized that Greece, like all the European Union States, agreed that there was no justification for acts of terrorism, as defined in the draft comprehensive convention currently being prepared within the European Union. Greece had incorporated into its domestic law European legislation depoliticizing acts of terrorism.

19. With regard to Mr. Lallah's question on article 5 of the Constitution, no one could be extradited for the defence of freedom and extradition was subject to strict conditions enumerated in the Penal Code. Greece did not tolerate violence against civilians and responded to such acts in accordance with the principle "extradite or prosecute" (*aut dedere aut judicare*).

20. **Mr. Kourakis** (Greece), while stressing the efforts made to harmonize all the different norms in force in Greece, wished it to be clear what the hierarchy was. The Constitution was the highest level, over international conventions, which in turn prevailed over ordinary laws. In most cases, those interpreting the norms would endeavour to reconcile them, giving precedence to the Constitution in the event of conflict.

21. Concerning the written reply to question 8, between 5 and 6 per cent of convicted persons went to prison in Greece, the others receiving non-custodial or suspended sentences. There nevertheless remained a problem of overcrowding in prisons, although, according to Council of Europe data, prison occupancy rates in Greece were among the lowest in Europe. It was true that the capacity of Korydallos prison in Athens was but one third of its actual occupancy, but that was because of a wish expressed by the detainees to remain in Athens, near friends and family.

22. To solve the current problem of overcrowding, the Government was taking six measures. First, it was seeking to transfer detainees in Korydallos prison to less crowded ones, particularly agricultural prisons, by offering them incentives, such as shorter prison terms.

It was improving facilities in the less crowded prisons, equipping them with libraries, computers and other such amenities. In cooperation with municipalities and the Red Cross, it was offering alternatives to imprisonment, through community service and the possibility of serving sentences by working. A commission in the Ministry of Justice was studying the possible depenalization of punishable acts of minor importance, such as debt. In the case of foreign detainees, who counted for 50 per cent of the prison population, Greece was offering to finance the building of prisons in neighbouring countries, to which citizens of those countries could be transferred from Greek prisons. Lastly, as 40 per cent of prisoners in Greece had drug-related problems, persons suffering from substance addiction were being transferred to specific detoxification centres.

23. Turning to imprisonment for failure to fulfil a contractual obligation, he stressed that no one remained in prison for debt in Greece, the only exception being where a debtor had sufficient means to satisfy his creditor but preferred to place his assets elsewhere for his own benefit.

24. **Mr. Gogos** (Greece) referred to article 48 of the Constitution of Greece, which defined the three preconditions for declaration of a state of siege, namely, war, mobilization in response to an imminent threat against national security or an armed coup aimed at overthrowing the democratic regime. The third precondition did not include acts of terrorism, except where the aim was to overthrow the democratic region, as must be decided by Parliament.

25. **Mr. Stavrou** (Greece) said that the principles of proportionality and necessity governed the use of firearms by police officers in Greece, who were allowed to use weapons only in strictly defined circumstances, particularly in self-defence or against imminent threat to life. Copies of United Nations guidelines on observance of human rights were issued to police officers, who were sensitized to the need to safeguard citizens' rights and freedoms and to maintain the rule of law.

26. Non-governmental organizations were expressly allowed access to detention centres under a circular order issued in 2003 by the Chief of Police. Efforts were being made to improve conditions of administrative detention, which could not exceed three months. Regarding complaints against police officers, a

small proportion involved Roma. As many of the cases were new, no final decision had yet been taken, which was why there had been few convictions. A police officer had, however, recently been sentenced to 13 years' imprisonment for excessive force against a young Roma. While there was no provision for civilian review of the disciplinary procedure applied to police officers, the Office of the Ombudsman could make recommendations in the case of human rights violations.

27. **Ms. Telalian** (Greece) said that Greek laws were prevented by the Constitution from differentiating between citizens and non-nationals in the exercise of rights. Foreigners were, for instance, free to form associations and to exercise all fundamental rights. The Covenant prevailed over domestic law and was, in a sense, directly applicable in the Greek legal system. The Constitution specified certain rights that were granted to Greek citizens but were either not available or not directly available to non-nationals, such as the right to free exit from and entry into the country, the right to vote and the right to form political parties, but those exceptions were permitted under international law. She noted that during the recent review of the Constitution no group from the civil society had raised objections or requested amendments to those provisions.

28. **Mr. Vallianatos** (Greece), referring to question 14 on the list of issues, said that article 3 of the Greek Constitution described the Eastern Orthodox Church of Christ as the "prevailing" religion. That term did not mean that the Church was the dominant or State religion but merely reflected the fact that the Orthodox religion had played a fundamental role in the history and cultural life of the Greek nation and was the religion of the overwhelming majority of Greeks. It also described the organizational relations between the State and the Church but did not introduce any kind of discrimination against other religions. The administrative and judicial practice regarding other religions had improved in the past 10 years: there had, for instance, been no prosecutions for proselytizing; applications to operate houses of worship had nearly all been approved; and religious affiliation was no longer listed on identity cards. The State paid the salaries of Church clergy as a result of an agreement between the State and the Church in which the Church had surrendered large portions of its landholdings for distribution by the Government to needy farmers.

Regarding the distinction in article 13 of the Constitution between “known” and “unknown” religions, he said that a “known” religion was one whose doctrine, teaching and practice were open to the public. A religion was presumed to be “known” until proved otherwise; the final decision on the issue rested with the courts, where clear definitions and much jurisprudence had been established. Two cases in that connection still had not been resolved: the “Dodecatheists”, who worshipped the twelve gods of ancient Greece, and the Scientologists, who at the current stage had been classified as an association, not a religion.

29. **Mr. Gogos** (Greece), responding to question 16 on the list of issues, said that, under Greek law, all males performed military service but there were provisions to allow conscientious objectors to perform civilian service, which was longer than military service by six to eleven months. In recent years military authorities had been reducing the length of military and civilian service. The period of service added for conscientious objectors was even longer if the objection was based on philosophical or moral beliefs rather than religious ones, eleven months as opposed to six. The generally longer term of civilian service was justified by the principle of proportional equality of rights and obligations, namely, the fact that those serving in the military tended to assume greater risks and hardships and serve further from home. Greece therefore believed that its legislation and practice in that field was in conformity with article 18 of the Covenant.

30. **Ms. Mouzakiti** (Greece), referring to question 17 on the list of issues, said that the rules governing the press in Greece conformed to the requirements of article 19 of the Covenant. Article 14 of the Constitution established that the press was free and that censorship and other preventive measures were forbidden. Freedom of expression was a personal right and press freedom served as an institutional guarantee of that right. However, both the Constitution and the Covenant allowed specific restrictions in the interest of protecting other rights and constitutional goals. The exercise of rights needed to be balanced and proportional. In particular, article 14 of the Constitution allowed the seizure of printed matter in circulation, provided an order had been issued by the Procurator’s Office which was based on grounds specified in the Constitution. There had been no

seizure of a newspaper or magazine in the past few years but a book with a religious subject had been seized in 2003 on the grounds that it was gratuitously offensive and blasphemous, much the same grounds as had been used by the European Court of Human Rights in allowing restrictions on freedom of expression in certain cases. That book seizure had been the only such seizure, and was under appeal in the Court of Appeals.

31. **Mr. Kourakis** (Greece), responding to question 18 on the list of issues, which dealt with racially discriminatory or anti-Semitic articles in the media, said that criminal prosecutions had been initiated in the two cases involving, not articles, but advertisements for apartments and letters to the editor, both with allegedly racially discriminatory content. The apartment owners had singled out certain undesired groups from abroad, claiming that they had no stable income, and the letters to the editor had condemned the political situation in the occupied territories in Palestine. The Greek courts had found that the principles of freedom of contracts and freedom of expression protected the authors involved from criminal prosecution. They had further stated that in general a vigorous and free press was vital to a functioning democracy and that xenophobia and racial hatred should be fought by self-regulation in the form of codes of ethics, guidelines and incentives for good reporting on combating racism and xenophobia and by education of the public through schools and exhibitions to reject such ideas. The new law on equality of treatment in employment was comprehensive in its goal to eliminate discrimination, prohibiting discrimination based on religion, belief, disability, age or sexual orientation.

32. **Mr. Kyriazopoulos** (Greece), responding to question 19 on the list of issues regarding the non-registration of certain associations that included the words “Macedonian” or “Turkish”, said that freedom of association was fully protected in the Greek legal system. Any interference with that freedom needed to be carefully scrutinized by national courts under strict standards and must be motivated by a pressing social need to protect national security or public safety and order. There was no general prohibition against using certain words in the denomination of an association. The adjective “Macedonian” was used extensively, especially in northern Greece where two and a half million Macedonian Greeks lived. However, another small group of people in the region attached a different

meaning to the word and had a different, non-Greek agenda. To allow them to use the term in designating an association and create a legal entity and name with that adjective would cause confusion and undermine the rights of others. He pointed out that the European Court of Human Rights had ruled that non-registration of an association on the basis of its memorandum of purpose and its name was allowed under the European Convention for the Protection of Human Rights and Fundamental Freedoms. Similar reasoning had applied when the Supreme Court of Greece had rejected the application of a particular association that included the adjective “Turkish” in its appellation.

Protection of the family (articles 23 and 24 of the Covenant)

33. **Ms. Despotopoulou** (Greece) noted that corporal punishment was strictly prohibited under the guidelines for the operation of welfare units. Furthermore, any sexual abuse committed at any such institution constituted a penal offence. To date, no abuses of any kind had been reported in the context of institutional care. The Ministry of Social Affairs was carefully monitoring such criminal behaviour and was taking the necessary measures to protect and care for abused children and provide them with any necessary assistance, in cooperation with other competent authorities. In the past few years, Greece had shown an increased sensitivity to issues concerning the rights of the child, had ratified the United Nations Convention on the Rights of the Child and had taken appropriate measures to widely publicize the principles of that Convention. Moreover, it periodically submitted reports on problems encountered in the protection of children and had recently established the office of a Children’s Ombudsman.

Right to take part in public affairs and protection of national minorities (articles 25, 26 and 27 of the Covenant)

34. **Ms. Grigoriou** (Greece), referring to the regulations on the acquisition of nationality, said that the law made a distinction between nationality at birth and acquired nationality. Naturalization was acquired in accordance with criteria laid down by law, such as ties with the country. The law provided for a long period of residence of 10 years for foreigners wishing to acquire the Greek nationality to prove their ties with the country. Stateless persons or refugees had to live in

the country for only five years. None of the foregoing conditions applied to people of Greek origin, “omogenis”, whose forebears had emigrated for economic reasons, or to Greeks who lived in Eastern Europe or the former Soviet Union. They were automatically granted Greek nationality, since they had always been considered Greeks.

35. **Ms. Telalian** (Greece) said that, in accordance with the Lausanne Treaty of 1923, special minority rights were granted only to members of the Muslim minority in Thrace. In that regard, she cited an Explanatory Report to the Council of Europe Framework Convention on the Protection of National Minorities. In the view of all the Greek Governments past and present, no other group fulfilled the objective and internationally recognized criteria for official recognition as ethnic or national minorities. Such criteria referred to the size of the group, its distinct linguistic and cultural characteristics and its wish to be treated as a minority. Furthermore, States had a certain margin of appreciation when it came to the official recognition of a certain group of persons as a minority. Special circumstances prevailing in a specific State were also taken into account.

36. In certain villages in the northern Greek region of Macedonia, there was a very small number of persons who claimed to have a distinct ethnic and national “Macedonian” identity, and who wished to be recognized as a minority in Greece. Those claims had been rejected by all Greek Governments as being politically motivated and having nothing to do with human rights; they also created a climate of insecurity and tension. Moreover, there were Greeks in that same area who spoke a Slavic oral idiom, but had never considered themselves as having a distinct ethnic or national identity. The Greek authorities and international human rights monitors handled that political issue with particular sensitivity. The use of the name “Macedonian” to identify the existence of a national minority in Greece could not be accepted for the same reasons that Greece could not accept the use of the name Macedonia by a neighbouring country.

37. The Roma were recognized as a vulnerable social group whose situation called for special measures on the part of the Greek authorities. However, the Roma themselves had repeatedly expressed the wish not to be considered a minority within Greek society. Other groups had made similar explicit requests. The non-recognition of a group as a minority did not prevent

that group from enjoying all the civil and political rights to which Greek citizens were entitled under the law. Access to Greek public services was open to all Greeks irrespective of their ethnic, religious or cultural background. Furthermore, more and more Roma were becoming involved in decision-making processes concerning measures aimed at improving their situation.

38. **Mr. Stavrou** (Greece) said, in response to question 23, that police officers had been instructed to be even more sensitive in handling cases of detainees considered particularly vulnerable. For example, following a meeting between police officials and representatives of the European Roma Rights Centre and the Greek Helsinki Monitor, police personnel were instructed through a circular issued in August 2004 to use exclusively the international term Rom/Roma or the term Gypsy in referring to that ethnic group and eschew the use of derogatory terms.

39. The implementation of the positive measures undertaken by society towards the Roma population had sometimes encountered obstacles deriving mainly from the difficulties in coexistence between different lifestyles. On recognizing that the Roma population was a vulnerable group, the Government had developed an ambitious programme aimed at their social integration into Greek society. Of paramount importance had been the establishment of the inter-municipal Roma network, comprising all municipalities within the Roma administrative domain. That initiative had highlighted the local authorities' active interest in Roma social integration. The so-called Rom-network, as well as Romas' representatives, contributed substantially to planning, incorporation, implementation and assessment procedures.

40. **Mr. Khalil** said the written answers provided by the delegation showed that there had been substantial improvements in the country over the past 10 years. He was grateful for the clarification of the meaning of "known" and "unknown" religions, but would appreciate further clarification of the term "Dodecateists". Why were three religious groups — the Orthodox Church, Judaism and Islam — recognized as legal persons of public law, while all the other religious groups were considered as legal persons under private law?

41. He asked why the construction of the first Islamic conference centre and mosque in Athens had been delayed and whether the Government intended to ensure that such construction would resume in the near future. Referring to paragraph 667 of the report, he wondered what action the Government had taken on the recommendations of the Council of Europe Commissioner for Human Rights and the National Commission for Human Rights with respect to the legislation concerning the establishment of places of worship. The appointment of Muftis by the State had gone uncontested from 1923 until 1990. Since the enactment of Law 1920/1991, especially in recent years, some members of the Muslim community had contested appointment by the State and demanded that Muftis be elected, which was what had happened. Had that issue been resolved in consultation with the Muslim community?

42. He wondered whether the Government envisaged further reductions in the terms of "unarmed" service and of the "alternative civilian service" for conscientious objectors. His impression that conscientious objectors were in an unduly vulnerable position had been reinforced by a reported case of an individual who had been stripped of his status as a recognized conscientious objector for refusing to do 30 months of community service because of its punitive nature. He had reportedly been given a 20-month suspended sentence by a military court in June 2003. Should he refuse to do military service if called on to do so, he would have to serve that sentence. There were reportedly some 20 individuals in identical situations.

43. Noting that those who refused to perform alternative civilian service were declared insubordinate, he wished to know whether insubordination led directly to a court martial, and whether conscientious objectors had the right to choose between the two alternatives to military service. He would also welcome any justification for the practice of depriving conscientious objectors of their status if they carried out trade union activities or participated in a strike.

44. **Mr. Rivas Posada** said that he had been rather uncomfortable with the explanation given in relation to the seizure of a book, a case which was still pending before the appeals court. The issue of confiscation raised many questions. It was stated in paragraphs 725 and 726 of the report that in 1986 the Athens Court of

First Instance had rejected an attempt to confiscate a book, holding that it was a work of art, even if its content was considered inappropriate. It was therefore surprising that a few years later, a change had occurred in the authorities' attitude with regard to the confiscation of books for reasons which had been explained, but which were not completely convincing from a legal standpoint. The Committee was also concerned at the proliferation of racist publications, despite the existence of Law 2910/2001 prohibiting such publications, which the authorities were apparently reluctant to apply.

45. Concerning the delegation's explanation as to why the Government refused to register associations with the words "Macedonian" or "Turkish" in their name, although that practice had political connotations, some doubts remained as to its legality. While the measures taken to address the issue of the abuse of children were welcome, concrete information was still missing, including on officials of centres or institutions who had been prosecuted and punished for mistreating or abusing children. He would be grateful for information about women's representation in Parliament and at high levels of Government.

The meeting rose at 1 p.m.