

C.

RESPONSE OF THE MINISTRY OF PUBLIC ORDER
TO THE REPORTS OF THE EUROPEAN COMMITTEE FOR THE
PREVENTION OF TORTURE AND INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT (CPT)

ON ITS VISITS TO GREECE FROM 25 MAY TO 6 JUNE 1997
AND 26 OCTOBER TO 2 NOVEMBER 1999



HELLENIC REPUBLIC
MINISTRY OF PUBLIC ORDER
HEADQUARTERS OF HELLENIC POLICE
ALIENS DEPARTMENT
TRANSNATIONAL AND INTERNATIONAL
AFFAIRS SECTION

Athens, June 2, 2000

**FOLLOW- UP REPORT OF THE GREEK GOVERNMENT IN
RESPONSE TO THE CPT'S REPORT ON ITS VISITS TO GREECE
CARRIED OUT FROM 25 MAY TO 6 JUNE 1997 AND FROM 26
OCTOBER TO 2 NOVEMBER 1999**

The Greek Government has thoroughly examined the Reports drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in regard to its visits to Greece in 1997 and 1999, and more particularly its comments, recommendations and requests set out therein.

The Greek Government considers the CPT's Reports as a valuable contribution to the continuous and systematic efforts made by Greece to further improve the situation regarding detention conditions, medical care, building infrastructure and other matters of CPT's interest.

A. CPT's visit to Greece

A delegation of CPT carried out a visit from 26 October to 2 November 1999 to the prisons of Korydallos and Avlona as well as to a number of Police Services: Attica General Police Directorate, Drapetzone Police Station (Piraeus), Glyfada Police Station, Kolonos Police Station, Omonia Police Station, Police Station at Athens Airport, Holding area for foreigners at Athens Airport, Piraeus holding Center for Aliens, Athens transfer Center for prisoners, Piraeus transfer Center for prisoners, Alexandroupolis Police Station and Police Directorate and Transitional Detachment holding facility for illegal aliens at Feres.

B. ANSWERS TO THE CPT'S OBSERVATIONS

1. General remarks on short-term detainees

According to the provisions in force, in the above-mentioned places of detention are detained:

- a. Persons who have been arrested as perpetrators of crimes committed in *flagrante delicto* or with regard to whom the competent judicial authorities have ordered their detention only for the period requested for their transfer to the prison or their referral before the court.
- b. Persons who have been sentenced to an imprisonment term ranging from 1 to 30 days and if their prison sentence cannot be possibly served in special wards of the prisons. But this happens very rarely.
- c. Persons against whom the process of expulsion has been instituted.
- d. Persons who have been placed under protective custody (*insane persons, drunkards, etc.*) until it has been rendered possible for them to be expelled or to be received by their relatives.

The regulations of the Greek Police describe in detail and clarity the conditions concerning places of detention as well as duties to be carried out by Police Officers and their conduct against the detainees. Pursuing to these regulations, the places of detention must meet elementary sanitary conditions as well as the necessary requirements so as to prevent escapes, suicide attempts and self-inflicted injuries by the detainees. The places of detention must be of adequate size, clean, frequently disinfected and thoroughly maintained. To this end, a continuous control must be exercised and the competent police authorities shall be provided with clear instructions upon what is expected of them.

2. Places of detention

- i. **Places of detention of the Security Directorate of Attica housed at the 7th floor of the Athens Police Building.**

- a. The above mentioned places of detention are divided into two (2) wings (men-women) and consist of twenty (20) cells, of overall capacity of eighty (80) persons.
- b. Four (4) persons, as a rule, are being held in each cell. However, occasionally and for fairly short periods more than four detainees have to share the same cell.
- c. Natural light in the above mentioned places is adequate and no less than what exists in policemen's offices at the respective Department.
- d. The artificial lighting of the cells is also adequate.
- e. The cells are equipped with an autonomous and effective ventilation system.
- f. The sanitary conditions of the cells are regularly controlled. Minor works of plumbing are carried out whenever deemed necessary, so as to maintain and improve the existing facilities.
- g. Since April 20th of this year, when the operation of the Amigdaleza detention places has begun, the number of the detainees held in the detention places of the 7th floor at the Athens Police Building has been considerably reduced and, as a rule, it does not exceed the cell's capacity. The anticipated operation anew of Hellinikon's detentions places is bound to further improve the existing situation.

ii. Juveniles' detention cells housed at the 3rd floor of the Athens Police Building

- a. These places consist of three (3) cells, of a total capacity of six (6) persons, which are exclusively used for the detention of juveniles.
- b. As a rule, detainees have only to stay for short period of time in these cells. Due to the particularity of their condition (children and adolescents) they are brought before the court authorities the soonest possible.
- c. In case that more than six foreign minor detainees await

expulsion, the special places designed for juvenile detention are available at Amigdaleza's detention center.

iii. Places of detention at the Police Station of DRAPETSONA.

- a. The detention cells at the Police Station of Drapetsona are recently built on the basis of the plans elaborated by the competent services of the Ministry of Public Order and the Piraeus Urban Development Directorate.
- b. The detention cells are divided into two (2) wards (men-women) and have a total capacity of eighty five (85) persons. There is also a ward, which is used for a short-period detention of illegal immigrants who are under refolement procedure.
- c. There is a spacious corridor connecting each of the prisoners' wards (men-women), and prisoners are allowed to come out of their cells and spend time there, freely, in groups.
- d. The number of women prisoners is usually small, therefore they have adequate space to move in their cells and in their ward corridor.
- e. As a matter of fact there is no secure area, which would allow the physical exercise of the prisoners in this Police Station.
- f. The detainees (men - women) are being supplied with hot water on an around the clock basis. Five (5) boilers are available and regular maintenance is carried out.
- g. The above mentioned detention cells are cleaned on a daily basis by the Police Station's cleaning crews, while the area is disinfected by the Public Sanitary Services or private companies on a regular, scheduled basis.
- h. The food offered to the prisoners is cooked at the Drapetsona police restaurant and it is exactly the same as that offered to police officers. It consists of two meals (lunch - dinner).
- i. Finally, it should be noted, that the Committee's

recommendations in regard to the supply of hot water, cleaning, replacement of mattresses etc., have been implemented.

iv. Detention Places at the Police Station of Omonia Square.

- a. The said station has six (6) detention places located in two different floors of the Station with an overall capacity of approximately thirty (30) persons. Nevertheless, at certain times the number of arrests at the troubled and high-risk sector of Omonia Square exceeds for fairly short periods the prescribed capacity of the detention cells.
- b. The replacement of bedding articles and their cleaning is carried out on a regular basis, as well as the disinfection of the detention places.
- c. The food of the detainees is adequate and is prepared at the canteen of the nearby Acropolis Police Station. The detainees are supplied with the necessary sanitary articles and are given medical and pharmaceutical treatment. Serious cases are transferred to nearby hospitals.

v. Detention Places at Kolonos' Police Station.

- a. This Station has four (4) detention cells (three at the basement and one at the ground floor) which are used, at certain times, for the temporary detention of aliens under expulsion.
- b. Mattresses and blankets have been obtained for the needs of the detainees. The overall detention conditions have been improved.
- c. A hot water device has been installed as well as a shower device. Hygienic conditions have been ameliorated.
- d. Regular disinfecting of the places is being carried out and the food is provided at the designated hours.
- e. The relocation of the Traffic Police Station of Kolonos, housed at the above-mentioned Police Station, is

scheduled for the near future and thus space will be available for the creation of additional detention cells.

vi. Detention Places at the Athens Courts' Transfer Sub-Directorate.

- a. It has seven (7) detention cells with a total capacity of forty-two (42) persons. However, in some cases a larger number of detainees is imposed. The detainees are provided with beds and clean mattresses. Efforts are undertaken so that the detainees are provided with clean blankets.
- b. The detention places are provided with a ventilation system which is considered adequate for the above-mentioned number of detainees.
- c. The position of the detention cells and the entire construction of the building allow only artificial lighting of the cells.
- d. The places are disinfected on a regular basis and the cleaning of the building in general is carried out by competent cleaning personnel.
- e. There is hot water available for the detainees. The whole facility is under the constant supervision of a police officer, charged to maintain it functional.
- f. There are no available spaces for the physical exercise of the detainees; however this matter shall not be considered as of paramount importance, since the detainees are merely in transit and their stay minimal.

vii. Detention Places at the Piraeus Transfer Station.

- a. It is plainly evident that the building which houses the above-stated service cannot be considered as being adequate in terms of space available for the detainees, because it is too old. Therefore, the Ministry of Public Order has initiated the procedure for relocating the Piraeus Transfer Station to a new building.
- b. In spite of the existing situation, mattresses and blankets

have been replaced, the worn-out electrical and plumbing installations have been repaired while the building has been painted and a constant effort is being made to improve the conditions of detention. Also, regular disinfecting is being carried out.

viii. Detention Place at the Police Station of the Eastern Air Terminal of Athens.

- a. This place consists of three (3) cells, each housing 2 persons, where only criminal offenders are detained from all Departments of the Security Directorate of Attica.
- b. The above mentioned detention place has reached a satisfactory level of sanitary conditions. Wall painting and disinfecting are being carried out at regular intervals. Furthermore, the mattresses and blankets are frequently replaced.
- c. Natural ventilation and artificial lighting are at a satisfactory level. The natural lighting of the detention cells is judged adequate in so far as the windows measure 2, 00 X 0,50 m. and their metallic shutters can be opened from inside.

ix. Place for temporary detention at the Western Air Terminal of Athens.

This is a specially set up area leading to the western Air Terminal TRANSIT ROOM, where foreign nationals are held in police custody whilst under expulsion. They remain there for a short period of time, until their departure. This space is under the jurisdiction of the Civil Aviation Authority.

x. Place of detention for "undesirable foreigners", at the eastern Air Terminal of Athens.

- a. This is a specially arranged area at the "TRANSIT" Hall of the eastern Terminal, where the "undesirable foreigners" are under police supervision, until their refoulment to their country of origin or to any other country where their entry is acceptable.

- b. Foreigners who are refused entry into the Greek territory (most of them in application of the SCHENGEN Treaty provisions) and held in the above-mentioned place are declared *personae non-gratae*. They are not entitled to a detainee status.
- c. These facilities are under the jurisdiction of the Civil Aviation Authority, which is responsible for cleaning the places and offering meals. Police authorities are responsible just for the custody of the foreigners.
- d. The above stated foreigners are not allowed to stay in open space for their exercise, given the fact that the open airport areas are characterized as strictly controlled areas (airport ground, runways, etc.).
- e. The transfer of foreigners in a space lying outside the airport area is neither allowed by the Greek legislation, nor by the SCHENGEN Convention, in so far such act constitute entry into the SCHENGEN territory.
- f. Access to medical care, both at the western and the eastern Air Terminals, is possible on an around the clock basis. Furthermore, should the need arise; transfers to a hospital are possible under police custody.
- g. Foreign nationals, who are refused entry and declared *personae non-gratae*, are offered the opportunity to communicate with their family, with U.N. authorities, with the Embassy of their country, as well as with a counselor of their choice.
- h. Some of the *personae non-gratae* have remained in the Athens Air Terminals for more than a week; however, this extended stay cannot be ascribed to an act or an omission of the Greek authorities.
- i. The Air Terminal of Athens, having exceeded its capacity limits and being under transfer (March 2001), is not able to provide better conditions of stay for the "undesirable persons" (outdoor exercise, etc.). As far as the new Athens Air Terminal ("Eleftherios Venizelos") is concerned, we have recommended the construction of

detention cells designed for 18 persons to be housed in wards of 2 persons each as well as the construction of a lounge area for the stay of fifty (50) "undesirable persons". The need for a creation of a separate space for the temporary hospitality of asylum seekers has also been notified. All above recommendation were accepted.

xi. Detention places at the Police Station of Glifada.

- a. The above Police Station has recently been supplied with twenty (20) blankets, twelve (12) pillows and twelve (12) pillowcases for the needs of the detainees, in order to improve detention conditions.
- b. The detainees are regularly provided with food, are notified with the proper informative notes and are advised of their rights.
- c. By means of a special allocation, the detention cells have been remodeled (the plumbing installations and the floors of the W.C. were replaced, while abath/W.C. was constructed for the detainees).

xii. Places of detention at 23 ASKLIPIOY Street, Piraeus.

- a. These detention cells are housed at the ground floor of a two-floor building and consist of fourteen (14) cells of a total capacity of fifty-six (56) persons. They are used only for male foreign nationals, awaiting their expulsion.
- b. All deficiencies noted by the Committee have been remedied and the cells will be operational soon. While under repair the cells have not been used for the detention of foreign nationals for almost a year.
- c. Due to inherent difficulties, it was not possible to create a place for outdoor exercise. Two (2) pay-phones have been installed and all mattresses and blankets have been replaced. The meals offered are the same with these served to the police officers. There are five washrooms, shower facilities and hot water is available. The places are regularly

disinfected and inspected by sanitary authorities. Recommendations by the Committee in regard to the outdoor exercise of the detainees have not been followed, since there is no available space.

xiii. Detention places in Amigdaleza, Attica.

- a. These places are housed at the ground floor of the building located at the Police Officers' School in Amigdaleza, Attica.
- b. There are seven (7) cells with a total capacity of (107) persons which are designated for the detention of foreign women and minor foreign nationals under expulsion.
- c. The above-mentioned detention places have been operational since April 20th, 2000 and their equipment is in conformity with up-to-date standards. Detention conditions are satisfactory (photographs are attached herewith).
- d. Three (3) female police officers are available to inspect, on a 24-hour basis, the above-said detention places.

xiv. Detention Places in Hellinikon, Attica.

- a. The above detention places, with a capacity of seventy (70) persons, have been repaired-refilrbished. Cells have been repaired, access of natural light has been improved, toilets and baths have been constructed and the yard area has been equipped with a fencing perimeter so as to allow the outdoor stay of the detainees (photographs are herewith attached).

xv. Detention Places at the Police Station of FERES, EVROS.

- a. It is beyond any doubt that, the detention places of FERES Police Station do not meet all necessary requirements.
- b. The are separated in two (2) wings.
- c. Regular disinfecting of the area is provided on a weekly

basis (even more often when such a need arises).

- d. The foreign nationals are provided with medical-pharmaceutical treatment by the nearby Health Center of Feres and in more serious cases by the General Hospital of Alexandroupolis.
- e. In order to tackle the problem more effectively, it was decided to construct new detention cells at the said Police Station. An allocation of 90.500.000 drachmas has already been approved.

xvi. Detention Places at the Police Station at Alexandroupolis

The above facility consists of two (2) cells measuring six (6) and twelve (12) s.m. respectively. Sanitary conditions are satisfactory.

xvii. Existing detention cells - Creation of new detention places.

In order to deal with the existing problems of the short-term detention places in Greece, clear guidelines have been issued concerning maintenance and repairs so that adequate detention conditions may be preserved.

Thus, in this context:

- a. Proceedings are under way for the purchase of new buildings which will house the Aliens Transfer - Services of Athens and Salonica.
- b. Proceedings are under way so as to rent proper buildings for the relocation of the Aliens' Sub-directorate of Attica, the Aliens' Department of Athens, the Transfer Sub-directorate of the Athens Courts, the Transfer Section of Piraeus Courts and the Police Station of Omonia Square.
- c. The detention cells of the Police Station of Drapetsona are currently undergoing renovation.
- d. The repair - renovation of the detention cells in Hellinikon, with a capacity of seventy (70) persons, has been completed.

- e. The detention cells have been renovated at the Police Station of Glifada.
- f. Minor works are being carried out at the detention cells located at the 7th floor of the Athens Police Building (renovation of plumbing installations and sanitary items).
- g. In the area of Amigdaleza, detention places of an up-to-date standard have been constructed and put in operation, since 20 April, 2000. They have a capacity of (107) persons.
- h. Detention cells, with a capacity of (400) persons, are in the process of construction within the above mentioned area for the temporary detention of foreign nationals.
- i. Construction of detention cells for foreigners under expulsion are under way at the Police Station of Feres.
- j. Proceedings are under way to relocate the Police Traffic Section of Kolonos from the building which also houses the Police Section, in order to obtain available space and utilize it for the creation of additional detention cells.
- k. Modern detention cells will be provided at the buildings under construction, which will be used by the Police Directorates of Kilkis, Akarnania, Rodopi, Arta.
- l. Every effort has been made for regular repairs as well as for maintenance of all detention cells used by the Hellenic Police Services. Relevant budgetary requests are dealt with in priority. Appropriate detention places are provided in all new buildings.
- m. The overall situation of the detention cells, following the visit by the Committee and up to the present day, has been considerably improved. However, in some cases the poor building infrastructure does not allow substantial progress to be made.

It is estimated that the situation will further be improved when the detention places of Amigdaleza will be fully operative.

3. Medical and Pharmaceutical Care.

If detainees need medical care that cannot be provided on the spot, they are transferred to the nearest hospital, under the care and escort of the personnel of the competent Police-Station. The cost of medical exams and hospitalization is practically always at the expense of the Greek State.

4. Detention time for foreign nationals awaiting expulsion.

The detention time for foreign nationals awaiting expulsion can vary. In principle, it lasts no more than a few days. Nevertheless, in some cases it is extended for a much longer time. Prolongation of the detention time is usually caused by the aliens themselves, who, in order to avoid expulsion, employ passive resistance tactics, refuse to apply to their countries' consular authorities so as to be provided with travel documents, provide false information about their identity or nationality, and submit asylum applications which have nothing to do with the Geneva Convention provisions.

Moreover, some consular authorities, in order to prevent the expulsion of their own citizens, exercise delaying tactics, or refuse to issue travel documents under various pretexts. The expulsion process are also caused by poor air connections between Greece and some of the deportees countries of origin. Finally, the lack of effective diplomatic relations with some countries which do not maintain diplomatic missions in Greece causes additional delays. Co-ordination efforts are being made for the issuing of the necessary passports which shall be used for the expulsion and the Ministry of Foreign Affairs is requested to intervene with the Greek Embassies and Greek consular authorities abroad.

5. EXPULSION PROCEDURE.

Expulsions of foreign nationals are carried out following:

- a. Administrative decisions which shall be issued in accordance with the provisions of Article 27 of the 175 Act and of the Joint Ministerial Decision no. 4803/13/7a, dated 18/26-06-1992, and
- b. Court decisions issued according to the Articles 74 or 99 of the Penal Code. Pursuant to Article 74 of the Penal Code, the Court may order the expulsion of the foreign national who has been sentenced to an imprisonment term of up to or over 5 years. Expulsion shall be executed immediately after the imprisonment sentence is served. Under Article 99 of the Penal Code, the Court may order the indeterminate suspension of the execution of an imprisonment term

of up to 5 years which has been imposed on foreign nationals and order their immediate expulsion from the country.

- c. The procedure for the execution of the expulsion orders is the same for both cases (administrative and judicial).
- d. The Police Authority arresting a foreign national in an irregular situation, must immediately inform the Aliens' Department of the Hellenic Police Headquarters through a relevant report which shall include all available data on the arrested person (identity description, passport, if available, visa, date of entry, motive of the arrest, criminal record, etc.). On proposal of the police authority that proceeded with the arrest, an expulsion order may be issued against the person involved. His/her provisory detention on grounds of preventing potential risks for the public order and state security of the country may also be decided, or just in order to prevent a new term of illegal stay on Greek territory.
- e. The document of the expulsion order is to be communicated as soon as possible to the person concerned.
- f. Appeals to the Minister of Public Order against expulsion orders may be launched within 72 hours after the order's notification. Decision thereon by the Minister shall be taken within 20 days after the appeal was launched.
- g. In principal, appeals do have a suspensive effect upon the expulsion procedure until a relevant decision is reached thereon.
- h. Expulsion decisions (as well as decisions of the Minister of Public Order on them) may be appealed to the Council of State. In case a request for suspension is filed before the Council of State, the expulsion of the foreign national shall be suspended until the competent Suspension Board decides thereon. In principle, the suspension of the expulsion order entails the suspension of the provisory detention too.
- i. Following the amendment of the Penal Code Articles 74 and 99 by Article 12 of Law 2721/99, all foreign nationals facing an expulsion order issued by a Court, shall no longer be held at the detention places of the Police Authorities but shall wait for their expulsion detained separately.

Following remarks by the Committee, the personnel of the Expulsions

Office has been increased by 15 more officers (+150%).

5a. Asylum requests.

Recourse to the asylum procedure is possible in all cases. Illegal immigrants who have reached the country *en masse*, apply for asylum in order to prolong their stay in Greece and avert their impending expulsion.

Greece has been receiving asylum applications mainly by nationals of Iraq, Afghanistan, Iran, Sri Lanka, Congo, Somalia, Sierra Leone etc. Actually the applicants' safety is not guaranteed, in these countries. Therefore, nationals of these countries, even if subjected to the refoulement procedure, they shall not, as a rule, be deported. Instead, they are given a three (3) month period-limit for their voluntary departure. Those not wishing to leave are accorded a humanitarian provisional status of temporary (1 year) residence.

The Non Refoulement Principle (Article 33 of the 1951 Geneva Convention) is applicable to the cases where the situation in the country of origin / descent does not guarantee the safety of the returning applicant or creates presumptions of eventual ill-treatment.

According to Article 1 of the P.D. 61/99, ("Procedure for awarding to aliens the refugee status, revocation of this status, expulsion, approval of entry for members of his/her family and mode of cooperation with the Representative of the U.N. High Commissioner for the refugees in Greece"), any alien who states orally or in writing before any Greek Authority that he is seeking asylum in our country or that he/she does not wish to be expelled to a specific country where he/she runs the risk of persecution because of his/her race, religion, nationality, social class or political beliefs, shall be considered as an asylum applicant according to the 1951 Geneva Convention (amended by the New York protocol of 1967). Until the final decision on the asylum request, he/she can in no way be expelled or sent away from Greece.

Asylum applicants shall in principle not be detained. Yet, their detention is provided in case:

- a. They are committed to trial and convicted, after they

have been arrested for entering illegally to the country. As a rule, the execution of the sentence is suspended so that they may be expelled.

- b. They have been arrested for illegal entry, but the Prosecutor Attorney decides with the concurrent opinion of the Prosecutor to the Appeal's Court, not to sue them, and turns them over to the police authorities for their immediate refoulement towards their country of origin or descent (Article 4 par.4 L.1975/91).

The Police Authority is not entitled to ignore an order by the Prosecutor Attorney. Request by the foreign national for his/her recognition as a refugee, after an expulsion order has been issued against him/ her, does not automatically lift the measure of his/her provisional detention, although the expulsion process is suspended until a final decision has been reached with regard to the application.

6. TORTURE AND OTHERS FORMS OF ILL TREATMENT -PROTECTIVE MEASURES AGAINST ILL TREATMENT.

- I. The ban on torture and cruel, inhuman, or degrading treatment or punishment is ensured both through the fundamental provisions of the Constitution in force as well as by a series of laws through which the relevant international conventions have been ratified and incorporated in the domestic legal order. Torture and ill-treatment are severely punished in accordance with the Greek legal system.

Complaints about torture and ill-treatment are thoroughly examined through transparent judicial and administrative procedures.

Few, isolated cases of misconduct and of improper behavior by certain Police officers can in no way substantiate allegations about the issue of torture and ill-treatment by the Greek Police. **Arbitrary conclusions on this issue as well as resorting to preconceived and biased conceptions shall definitely be kept away from the CPT's approach.**

Whenever reprehensible actions committed by isolated police officers have been ascertained, the standing legislation was enforced unwaveringly and with severity. Allegations for "cover-up" have not been substantiated neither by judicial inquiry nor by investigations carried out by the Internal Affairs Unit of the Greek Police. Therefore, the Committee's remark during its recent visit about "credible" and "confirmed" complaints for ill-treatment of the detainees is not corroborated by facts. Conclusions on this issue are not being drawn either on the basis of allegations nor on the basis of presumptions.

After the Committee's visit, Orders nr 6634/1-652295/26-11-1999 and 4808/4/76-6oc, dated 01-12-1999, were accordingly drawing all police officer's attention to their duty to respect the detainees human right (par. 16, 17 of the C.P.T. report of 1997 and par. 15 of the 2000 report).

- II. On the matter of the supervision by public prosecutors of the preliminary investigations conducted by police officers in criminal cases (par. 18, pp 23-24, CPT Report and page 58, Appendix I thereto), we would like to point out that according to the provisions of the Code of Criminal Procedure, the preliminary investigation conducted by Greek Police officers is subjected to the authority of the Public Prosecutor, who is entitled to attend all investigating procedures, either in person or by one of the deputy public prosecutors under his command. He is also entitled to take knowledge at any time of all documents referring to the investigation (Articles 31 and 33). Therefore, the present statutory framework adequately answers to the Committee's grief.
- III. Recommendations were made by the Committee on matters related to the communication of detainees with their relatives, Consular Authorities, as well as with a lawyer of their choice, to the presence of a lawyer during the expulsion process of a foreign national, to the info leaflets on the rights of the detainees and of the aliens detained for expulsion, and to the measures taken by the Hellenic Police for safeguarding the exercise of the human rights of the above-mentioned persons. In regards

to these recommendations, we would like to point out the following:

- a. On the basis of circular No 4803/22/14-a dated 3 November, 1995, issued by the Chief of the Hellenic Police Force, the information forms detailing the rights of the persons in custody by the Police Authorities have been standardized, and their implementation has been ordered according to the instructions contained therein.
- b. These information forms are divided into two categories: information forms in general designed for all detainees (Sample D-33) and special information forms intended for foreign nationals detained pending their administrative expulsion (Sample KA 141). Both the D-33 and the KA-141 forms have been printed up to date in 14 languages, mostly used by foreign nationals illegally entering or staying in Greece.
- c. The Ministry of Public Order has not yet received notice of cases where the needs for information of foreign nationals in detention were not covered by the forms available. Yet, some cases have been reported of illiterate foreign nationals or of persons speaking none of the 14 available languages. Such cases have been dealt with particular sensitivity by the police officers who, according to the instructions of paragraph 12 of the above-mentioned circular, did their best to explain to the detainees their rights in the most practicable way (either through an interpreter, or a consular authority etc.). In all these cases a specific document drawn up by the police officers clearly indicates that the detainee was not fully informed on his/her rights (paragraph 12, sub-para (k) of the circular).
- d. Paragraph 12 (d) and (e) of the above mentioned circular sets out the additional obligation for police officers to clearly explain to the detainees their rights and hand them the relevant information form on

receipt.

- e. The above mentioned information forms are to be provided to any person arrested by the Hellenic Police for whatever reason, immediately after he/she is taken to the Police Station, according to par. 12a of the Hellenic Police Chiefs circular.
- f. It is hereby noted that foreign nationals who have been arrested for violations of the legislation on foreign nationals (Law No 1975/1991), such as their illegal entry into the Greek territory (article 4 par. 3, Law. No 1975/1991), are to be detained for having committed a criminal offence and shall be treated within the framework of the current criminal procedure. Such foreign nationals, as well as any other person who has been arrested for a criminal offence, is to be provided with information forms related to the detainees' rights (sample D-33), immediately after they are brought in the Police Stations. Information forms set out also in detail the procedural process to be followed.

The provisions of the legislation on foreign nationals (article 4 par. 4 Law No 1975/1991) provide that the Public Prosecutor to the Magistrates' Court may, upon the consent of the Public Prosecutor to the Court of Appeals, may abstain from instituting criminal proceedings against a foreign national charged with the offence of illegal entry into the Greek territory. In this case, the foreign national shall be immediately turned back to the country of his origin or descent. Until a relevant decision has been issued by the Prosecutor to the Magistrates' Court, the foreign detainee shall be treated according to the criminal procedural provisions.

- g. The Ministry of Public Order has shown particular concern on this matter. In particular, circular No 4803/22/14-1st' dated 31 March 1997 has been issued by the Secretary General of the Ministry providing clarifications to the Police Departments and pointing out the Police Officers' duty to provide

the necessary information to all foreign nationals detained for having violated the legislation on foreign nationals (Law No 1975/1991).

- h. By dint of the same circular, police officers are obliged to permit and facilitate the detained persons' communication with their families and lawyer as well as to inform detainees about the address of their place of detention (para. 12(e) of the circular instructions).
- i. Police Authorities are required, under par. 12 g of the circular instructions, to facilitate the detained persons' communication with the area's Bar association, thus permitting them to take advantage of the services of a counselor of their choice.
- j. Foreign nationals, in the course of the process of their administrative expulsion are also entitled to have access to a legal counselor. An information form advising them of the said right shall be handed to them on receipt, at the moment of their arrest and referral to the Police Station.
- k. In general, there are provisions for the adoption of all appropriate measures, allowing the detainees to exercise all their rights, within the framework of the standing laws and regulations.
- l. In regard to the observance of the implementation of the measures concerning information of the detainees of their rights, the following shall be noted:
 - (1) The Heads and Captains of Police Departments have been assigned by the same circular by the Chief of the Hellenic Police to supervise the application of the above mentioned measures by police officers. They are responsible for the training and instruction of police personnel so as to obtain the full adoption and strict implementation of the said measures (para. 18 b of the circular instructions).

- (2) Furthermore, according to para. 18 a of the same circular instructions, all the Officers who are hierarchically superiors to the Heads of Police Departments have been ordered to monitor the meticulous implementation of the measures set forth for the information of the detainees on their rights.
- (3) The respect of the fundamental rights of each person and more particularly of the persons who have been held under custody by the police authorities constitutes a key axis of the policy employed by the Ministry of Public Order. The full exercise of the right of the detainees constitutes a permanent and continuous concern of the Greek Police.

After the remarks by the Committee drawing the Ministry's attention to cases of detainees who were informed of their rights and did not fill out the relevant form, order no. 4808/4/76 sp, dated 1 June, 2000, was issued to all Greek Police units reminding the personnel of their obligations to duly inform detainees on their rights. Order nr 4808/4/76 sp is also explicit on the consequences for any Police Officer failing to comply.

C. CONCLUSIONS.

1. Through the present report, the Hellenic Ministry of Public Order provides the Committee with detailed information on the latter's proposals, suggestions and recommendations. Yet, we look forward to upgrading our cooperation into a substantial dialogue with the Committee on the causes as well as on possible immediate and medium-term remedies of the current situation. The problem of / lawful treatment of illegal immigrants and detainees by the police forces cannot be effectively considered out of context. The illegal-immigrants flux to Greece (mainly from neighboring countries) is dealt within framework of legislative and social measures taken by the Greek government to assist the immigrants in the exercise of their fundamental rights.
2. **This report clearly sets out that the Ministry of Public Order deals with the sensitive and complicated issue of short-term**

detainees and arrested illegal immigrants taking into full account the relevant provisions of international conventions and domestic laws.

3. As to remarks regarding physical ill-treatment, we would like once more to point out the following :
 - a. The existing legal framework, related to the protection of human rights and freedoms, bans every form of inhuman treatment or punishment and enshrines the Council of Europe's relevant Conventions.
 - b. The cases of police officers whose conduct has been judged as unbecoming, in accordance with the law and the regulations of the Police Corps, are scant and they do not indicate a more general trend of ill-treating detainees. These cases have been fully investigated upon, both from a judicial and a disciplinary point of view.
 - c. As regards detention, we would like to stress that the existing legislative framework fully ensures the detainees' rights.
 - d. Most of the shortcomings of the detention places which have been pin-pointed by the Committee should be attributed to the inadequate building infrastructure, overwhelmed by an explosion in the numbers of short-term detainees over the past five years. However, every effort is being made for the existing buildings to acquire the necessary functionality. The possibility to acquire or construct new buildings is also seriously envisaged.
4. Concluding, we would like to point out that the whole issue is of primary importance to the Ministry of Public Order. Our policy aims not just to eliminate deficiencies which have been underlined by the Committee, but seeks to radically improve the situation of short-term detainees and arrested illegal immigrants, both by addressing infrastructure shortcomings and by instilling the human-rights respect to the Police Corp's mentality.