



PERMANENT REPRESENTATION OF GREECE  
TO THE COUNCIL OF EUROPE

*The Permanent Representative*

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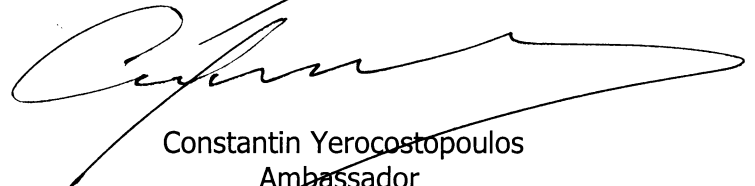
Strasbourg, February 27, 2006

*Dear Secretary General,*

Following to my letter dated February 17, 2006 please find enclosed the original letter of reply of the Minister of Foreign Affairs Mrs Bakoyannis, together with its accompanying note.

*Yours sincerely,*

Yours sincerely,



Constantin Yero-costopoulos  
Ambassador

H.E. The Secretary General  
of the Council of Europe  
Mr. Terry Davis  
Council of Europe  
Strasbourg



THE MINISTER FOR FOREIGN AFFAIRS

*Athens, 17 February 2006*  
*Ref.: 307*

Dear Secretary General,

I am pleased to respond to your letter, dated November 21, 2005, requesting information on the manner in which Greek legislation ensures the effective implementation of the European Convention on Human Rights, concerning the unacknowledged deprivation of liberty of any individual. Please, find appended herewith, a memorandum, which concerns the period from January 1, 2002, onwards. I expect that you will find it sufficiently covering the issues in question.

I take this opportunity to underline that the Greek Government does not tolerate any illegal practices concerning the deprivation of liberty of any individual, as provided for by our internal laws. Moreover, we fully comply with all our international legal obligations, including those deriving from the European Convention on Human Rights.

Our Mission to Strasbourg will be at your disposal for any further clarifications, if required.

Sincerely,

Dora Bakoyannis

*Mr. Terry Davis*  
*Secretary General*  
*of the Council of Europe*  
*Strasbourg*

**IMPLEMENTATION OF THE EUROPEAN CONVENTION  
OF HUMAN RIGHTS BY GREECE**

1. The European Convention for the Protection of Fundamental Rights and Freedoms was ratified by Legislative Decree no 53/1974 and, by virtue of article 28 of the Greek Constitution, it forms an integral part of domestic legal order and prevails over any contrary provision of law. Consequently, all rights deriving from the said Convention and the relevant case-law of the European Court of Human Rights are directly applicable and binding upon all State organs, their respect being ensured by the judicial authorities.

2. Greece has not ratified Protocol No 4 to the abovementioned Convention and, therefore, is not bound by it.

3. Pursuant to article 25 of the Constitution:

“1. The rights of the person as an individual and as a member of the society and the principle of welfare state under the rule of law are guaranteed by the State. All agents of the State shall be obliged to ensure the unhindered and effective exercise thereof. These rights also apply to relations between private individuals to which they pertain. Restrictions of any kind which, according to the Constitution, may be imposed upon these rights, should be provided either directly by the Constitution or by the law, in case a reservation exists in the latter’s favour, and should respect the principle of proportionality.

2. The recognition and protection of the fundamental and inalienable human rights by the State aims at the achievement of social progress in freedom and justice.

3. The abusive exercise of rights is not permitted.”

Furthermore, articles 5 and 6 of the Constitution provide the following:

Article 5

“2. All persons living within the Greek territory shall enjoy full protection of their life, honour and liberty irrespective of nationality, race or language and of religious or political beliefs.

Exceptions shall be permitted in cases provided by international law.

The extradition of aliens prosecuted for their action as freedom-fighters shall be prohibited.

3. Personal liberty is inviolable. No one shall be prosecuted, arrested, imprisoned or otherwise confined except when and as the law provides.

4. Individual administrative measures restrictive of the free movement or residence in the country, and of the free exit and entrance therein of every Greek shall be prohibited. Restrictive measures of such content may be imposed only as additional penalty following a criminal court ruling, in exceptional cases of emergency and only in order to prevent the commitment of criminal acts, as specified by law.

Interpretative clause (embodied in the constitutional text):

Paragraph 4 does not preclude the prohibition of exit from the country for persons being prosecuted on criminal charges by act of the public prosecutor, or the imposition of measures necessary for the protection of public health or the health of sick persons, as specified by law”.

## Article 6

“1. No person shall be arrested or imprisoned without a reasoned judicial warrant which must be served at the moment of arrest or detention pending trial, except when caught while committing a criminal act.

2. A person who is arrested in the act of committing a crime or on a warrant shall be brought before the competent examining magistrate within twenty-four hours of his arrest at the latest; should the arrest be made outside the seat of the examining magistrate, within the shortest time required to transfer him thereto. The examining magistrate must, within three days from the day the person was brought before him, either release the detainee or issue a warrant of imprisonment. Upon application of the person brought before him or in case of force majeure immediately confirmed by decision of the competent judicial council, this time-limit shall be extended by two days.

3. Should either of these time-limits elapse before action has been taken, any warden or other officer, civil or military servant, responsible for the detention of the arrested person must release him immediately. Violators shall be punished for illegal detention and shall be liable to restore any damage caused to the sufferer and to pay him a monetary compensation for moral damage, as specified by law.

4. The maximum duration of detention pending trial shall be specified by law; such detention may not exceed a period of one year in the case of felonies or six months in the case of misdemeanours. In entirely exceptional cases, the above maximum durations may be extended by six or three months respectively, by decision of the competent judicial council. The excess of the maximum duration of detention pending trial, by successively applying this measure for separate acts referring to the same case, is prohibited”.

4. The aforementioned time-limits as well as the systematic judicial review of pre-trial detention are provided for in detail in article 287 of the Code of Penal Procedure.

5. Consequently, it derives from the abovementioned clauses as well as the more specific provisions of the Code of Penal Procedure (inter alia articles 275, 276, 282, 283) that any arrest or deprivation of individual liberty in general is conducted under the terms, conditions and guarantees set forth both in the Constitution and the relevant legislation and is subject to direct judicial review.

6. Deprivation of liberty in violation of the abovementioned conditions and guarantees constitutes a criminal offence. The relevant applicable provisions of the Greek Penal Code are, inter alia, articles 322 (abduction), 325 (illegal detention) and 326 (detention in violation of the Constitution).

7. Moreover, if committed by a State agent, these acts also constitute a disciplinary offence.

8. Regarding compensation to victims, in addition to the aforementioned provisions of article 6 par. 3 of the Constitution, articles 105-106 of the Introductory Law to the Civil Code establish the right of the individuals to seek compensation from the State before the administrative Courts in

cases of material or moral damage or loss suffered by them due to illegal acts or omissions committed by State organs or officials in the exercise of their official duties.

9. If the offence is committed by an individual, article 914 of the Civil Code dealing with tort liability is applicable. According to this article whoever unlawfully and culpably causes damage to another is bound to compensate the injured party for any damage thus caused.

10. Removal of aliens having entered or residing illegally in Greece is carried out either in execution of judicial or administrative expulsion orders or in application of bilateral readmission agreements, in full respect of their rights set forth in the abovementioned instruments.

11. In light of the above, protection of personal freedom is fully ensured by the existing legal framework. The observance of the applicable legislation is guaranteed by the judicial authorities which, upon receiving information on relevant complaints, proceed to the investigation of the case and, if warranted, institute criminal proceedings in order to assess whether a violation has occurred and to impose the sanctions provided for by the law.

12. Greek police authorities exercise their competences and fulfill their duties in conformity with both national legislation and the relevant international conventions binding upon Greece. In order to secure the protection of human rights and the implementation of the above instruments, a number of measures have been taken among which the most important are the following:

#### 1. Code of police ethics

In December 2004, the “Code of police ethics” (Presidential Decree no 254/2004) was adopted. The said Code contains specific rules for the respect of human rights and the protection of persons belonging to vulnerable social groups. The drafters of the said Code took into consideration the European Code of Police Ethics, international declarations on police conduct as well as the relevant recommendations of the National Commission for Human Rights, the Greek Ombudsman and the Greek Office of the U.N. High Commissioner for Refugees. The Code consists of 7 articles, which define:

- The general obligations of police officers (article 1)

- Conduct in the course of the police action in general (article 2)
- Conduct in the course of the arrest and detention by the police (article 3)
- Conduct in the course of the preliminary investigation (article 4)
- The obligation of police officers to assist citizens (article 5)
- The duties of the police officer as a public servant (article 6)
- The assurances of the police officer to citizens (article 7).

## 2. Safeguards to prevent unacknowledged deprivation of liberty

The competent police authorities have adopted a series of circular orders, covering a variety of fields.

### *a. Information leaflets on the rights of persons detained by the police authorities*

By virtue of a 1995 circular order, information leaflets are delivered to persons detained by police authorities. Such leaflets concern the rights of all persons arrested by the police authorities, as well as detainees awaiting administrative expulsion. They are issued in 14 different languages and are displayed in all Police Services detention facilities (following a Circular Order dated 24.10.2000) and, since 1997, in the relevant facilities of Transfer Centers. The leaflets addressed to detainees awaiting administrative expulsion were updated in April 2002.

### *b. Treatment and rights of persons detained by police authorities*

A 2003 Circular Order has solved problems raised in connection to the implementation of the rights of detainees, such as the following:

-notification (orally and in written form) of the grounds for and the place of detention (display of information leaflets in detention facilities, service of such leaflets to detainees, in a language the latter understand, assistance of an interpreter, etc.);

-unimpeded communication with a lawyer (telephone communication as well as personal contact);

-communication of detainees with their relatives, as well as representatives of the diplomatic authorities of the country of origin of

alien detainees, including both telephone communication and personal contact;

-communication of detainees, in particular aliens, with official State and international bodies, as well as NGOs active in the field of human rights protection;

-medical care afforded to detainees, which includes medical examination by a medical doctor of their choice or admission to a medical institution;

- respect of the personality of every detainee during detention.

*c. Apprehension/transfer to a police station of individuals as a preventive and repressive measure in the discharge of police duties*

A 2005 Circular Order interprets and clarifies the existing legal framework, in order for the controls and apprehension/transfer of citizens to police stations for identification purposes to be conducted only where necessary, according to the law and in full respect of the rights of the persons concerned.

### 3. Awareness-raising and training

Measures adopted with a view to raising the awareness and to monitoring police personnel include the distribution to Police Officers of important publications, such as the “International Human Rights Standards for Law Enforcement: A Pocket Book on Human Rights for the Police”, issued by the UNHCR, the “European Code of Police Ethics” issued by the Council of Europe, ECRI Reports and General Policy Recommendations, a Manual on “Apprehension/Transfer to a police station, Treatment and Rights of Persons detained by Police Authorities”. Moreover, the judgment of the European Court of Human Rights in the Makaratzis v. Greece case, in which a violation of Article 2 of the ECHR was found, was widely disseminated to police services.

Furthermore, a circular order was issued in 2002 concerning the conduct of Greek police personnel towards the citizens.

Other measures include cooperation with national institutions for the protection of human rights, such as the Office of the Ombudsman and the National Commission for Human Rights, as well as with the

UNHCR and NGOs, in particular in the context of awareness-raising and training of police personnel. Furthermore, police officers participate in international conferences and meetings, as well as in conferences and seminars held by different institutions on matters pertaining, in particular, to the protection of human rights or police ethics. Training and refresher training programs are also organized within the framework of Police Academies with the participation of lecturers both from the competent services and the academic community.

#### 4. Disciplinary investigation of complaints against police officers for violations of human rights

The competent Internal Affairs Divisions are entrusted with the task of conducting the investigation of allegations of torture by police officers.

According to disciplinary law provisions (as amended by Presidential Decree no 3/2004), the administrative investigation of complaints against police officers for human rights violations, which, if proven, entail the dismissal of the officer found responsible, is ordered by a superior police service and is undertaken by an officer of a Police Division other than the one where the officer accused is posted.

13. The Public Prosecutor's Office at the Athens Court of First Instance ordered a preliminary investigation for abduction (articles 26 par. 1, 27, 45, 94 and 322(a) of the Greek Penal Code), following a complaint filed by the President of an association under the name "Pakistaniki Koinotita Ellados – I Enotita" (Pakistani Community of Greece – The Unity"). In order to fully clarify the alleged case as soon as possible, the Public Prosecutor at the Supreme Court of Justice ordered the urgent examination of the case. Prior to that, Greek police authorities had not received any information concerning illegal detention or transfer of aliens or any complaint about aliens' removal without prior judicial or administrative expulsion order.