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Greece: Amnesty International calls on the government to create a genuinely independent and effective police complaints mechanism

On 12 December 2009 the Minister of Citizen Protection announced the final version of a Draft Presidential Decree to establish a Bureau dealing with incidents of arbitrary behaviour by law enforcement officials. This followed an earlier draft which was announced on 23 November allowing eight days for public consultation.

Amnesty International wrote to the Minister on 1 December 2009, expressing amongst other issues, its concern that the proposed mandate of the Bureau does not fulfill the five principles for the effective investigation of complaints against law enforcement officials as outlined by the European Court of Human Rights: that is, independence, adequacy, promptness, public scrutiny and victim involvement. Moreover, the proposals do not meet the criteria set out in the Opinion of the Council of Europe Commissioner for Human Rights regarding the mandate of an Independent Police Complaints Body, or criteria which Amnesty International itself has identified for an effective and independent police complaints body.

Amnesty International's recommendations to the Greek authorities set out the following points:

In order for a police complaints mechanism to be independent:

it should be a body with no structural or organizational connection with the police, such as in the form of an independent non-departmental public body, for example a specialized Police Ombudsman or Independent Police Complaints Commission.

In order for the independent police complaints mechanism to be effective:

it should have its own powers to investigate, and not simply to receive, register and examine complaints that are then forwarded to the competent investigating bodies;

it should be mandated to investigate all allegations of serious human rights violations by law enforcement officials, including deaths in custody, fatal and non-fatal shootings, torture and other ill-treatment and racially-motivated or other discriminatory misconduct;

it should have the powers and capacity to investigate complaints filed directly by any individual, as well as other incidents on its own initiative absent any specific complaints.

its investigation powers should include the power and resources to immediately secure and examine the scene of the incident, and the power to summon witnesses and to order the production of evidence and documents;

it should also have the power to order disciplinary proceedings to be instigated against law enforcement officials and to refer cases for prosecution where appropriate.

Amnesty International notes with regret that the final Draft Presidential Decree on the establishment of the Bureau, announced on 12 December, does not incorporate most of these recommendations. On the other hand, Amnesty International notes with interest that in his message on 12 December 2009, the Minister of Citizen Protection has declared the intention of the Ministry to use proposals made during the public consultation, that have not been incorporated in the final Draft Presidential Decree, in the framework of legislative initiatives currently planned. Amnesty International underlines that an issue as important as establishing an effective complaints mechanism requires careful consideration and adequate public consultation, and accordingly hopes that there will be continued opportunities for the public to submit their considered comments before the proposals are finalized.

Amnesty International's recommendations were made in light of the organization's longstanding and continuing concerns regarding the failure of the authorities in Greece to ensure that the police respect and protect human rights. Amnesty International has identified these concerns in a series of letters to the Greek authorities and several public reports over recent years. Amongst other recommendations, the organization has called on the Greek authorities to take immediate steps to break the chain of impunity, in particular by instituting an independent police complaints mechanism for investigating allegations of unlawful police conduct.

The continuing allegations received by Amnesty International regarding incidents of torture or other inhuman or degrading treatment by law enforcement officials against individuals and in particular members of vulnerable groups such as migrants, asylum-seekers and Roma along with recent reports of excessive use of force by law enforcement officials against some peaceful demonstrators, of police motorbikes injuring some demonstrators – one of them seriously - during the protests commemorating the one-year anniversary of Alexis Gregoropoulos on 6 December 2009, illustrate further the need for the creation of a genuinely independent and effective police complaints mechanism.

The need for the creation of an independent police complaints body in Greece has been identified by the Council of Europe Committee for the Prevention of Torture (CPT) in its 2009 Report, following its ad-hoc visit to Greece in September 2008. The CPT stated that "...in order to eradicate ill-treatment by such officials, it is essential that more rigorous systems be put in place which guarantee that allegations of ill-treatment are thoroughly, promptly and effectively investigated by an independent authority and that perpetrators of ill-treatment are punished accordingly. Further, it is important that the system be transparent in order to gain the confidence of the public and to be seen as fair by law enforcement officials." Also, in its fourth Report on Greece adopted on 2 April 2009, the European Commission against Racism and Intolerance (ECRI) strongly recommended "...that the Greek authorities provide for a body, which is independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and racially-motivated misconduct by the police, as called for in Chapter II (10) of ECRI's General Policy Recommendation No. 11 on combating racism and racial discrimination in policing."

Amnesty International also wishes to draw attention to the fact that the European Court of Human Rights has found Greece in violation of the procedural aspect of Article 3 ECHR concerning the

authorities' failure to conduct an effective investigation into the applicants' credible allegations of police ill-treatment in three cases (*Zelilof v. Greece*, Application No. 17060/03, Judgment of 24 May 2007, *Bekos and Koutropoulos v. Greece*, Application No. 15250/2002, Judgment of 13 December 2005, *Petropoulou-Tsakiris v. Greece*, Application No. 44803/04, Judgment of 6 December 2007). The Court has also found Greece in violation of Article 14 in combination with Article 3 ECHR in relation to the authorities' failure to exercise their obligation to take all possible steps to investigate whether or not possible racist motives may have played a role behind the incidents (*Bekos-Koutropoulos v. Greece*, *Petropoulou-Tsakiris v. Greece*).

As a result, Amnesty International calls on the Greek authorities to give serious consideration to its recommendations for the establishment of an independent investigative mechanism as soon as possible.

Public Document

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Documents:

Greece: In the shadow of impunity. Ill-treatment and the misuse of firearms, Amnesty International and International Helsinki Federation for Human Rights, AI Index: EUR 25/022/2002, <http://www.amnesty.org/en/library/info/EUR25/022/2002/en>

Greece: Out of the spotlight: The rights of foreigners and minorities are still a grey area, AI Index: EUR 25/016/2005, <http://www.amnesty.org/en/library/info/EUR25/016/2005>

Greece: Alleged Abuses in the Policing of Demonstrations, AI Index: EUR 25/001/2009, <http://www.amnesty.org/en/library/info/EUR25/001/2009/en>

France: An effective mandate for the Defender of rights, AI Index: EUR 21/002/2009, <http://www.amnesty.org/en/library/info/EUR21/002/2009/en>

Austria: Victim or suspect – A question of colour: Racial Discrimination in the Austrian Justice system, AI Index: 13/002/2009, <http://www.amnesty.org/en/library/info/EUR13/002/2009/en>