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حقوق الطفل

تقرير المقرر الخاص المعني بمسألة بيع الأطفال وبغاء الأطفال واستغلال
الأطفال في المواد الإباحية، السيد خوان ميغيل بيتيت

إضافة **

البعثة التي قام بها إلى اليونان
(٨-١٥ تشرين الثاني/نوفمبر ٢٠٠٥)

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يعمم موجز تقرير هذه البعثة بجميع اللغات الرسمية. أما التقرير نفسه فيرد في مرفق هذا الموجز
ويعمم باللغة التي قُدِّم بها فقط.

**
تأخر تقديم هذا التقرير لكي يتضمن أحدث ما يمكن إدراجه من معلومات.

موجز

قام المقرر الخاص المعني بمسألة بيع الأطفال وبغاء الأطفال واستغلال الأطفال في المواد الإباحية بزيارة إلى اليونان في الفترة من ٨ إلى ١٥ تشرين الثاني/نوفمبر ٢٠٠٥.

وقد جاءت هذه الزيارة بعد البعثة التي قام بها إلى ألبانيا. وكان الغرض من زيارة هذين البلدين المتجاورين هو، بصفة رئيسية، تحسين مدى فهم الديناميات العابرة للحدود الوطنية الخاصة بظواهر مثل الاتجار بالأطفال وتدفقات هجرة الأطفال غير المصحوبين.

وعلى مدى السنوات الـ ١٥ الأخيرة، أصبحت اليونان قطباً يجتذب المهاجرين، نظراً لموقعها الجغرافي ونموها الاقتصادي السريع، فضلاً عن كونها معبراً رئيسياً ومقصداً للاتجار بالبشر. ولقد شهد انخفاض عدد أطفال الشوارع الذي كان قد بلغ معدلات غير مسبقة في التسعينات انخفاضاً كبيراً في خلال السنوات القليلة الماضية. غير أن بعض السبب في هذا قد يُعزى إلى ما تتسم به شبكة الجريمة التي تستخدم الأطفال من قدرة على التكيف، ويُخشى أن يكون الأطفال قد استوعبوا في أشكال خفية من الاستغلال. وعلى أية حال، لا يزال الاتجار بالأطفال عبر الحدود الوطنية يمثل مشكلة. ولقد أحرزت اليونان تقدماً كبيراً في مكافحة الاتجار بالأطفال واستغلالهم. فتم التصديق على صكوك دولية ذات صلة بالموضوع، في حين تجري عملية التصديق على صكوك أخرى منها؛ كما جرى اعتماد قوانين جديدة بشأن الاتجار بالبشر والهجرة؛ ووضع إطار مؤسسي لتنفيذ قانون مكافحة الاتجار، عن طريق إنشاء اللجنة الوزارية المتعلقة بالاتجار بالبشر، واعتمد برنامج عمل متكامل.

ومع ذلك، فلا تزال هناك تحديات أمام جعل نظام حماية الأطفال واقعاً عملياً، وينبغي مواصلة تعزيز القدرة المؤسسية على الاستجابة للاحتياجات. ويتطلب التصدي لهذه التحديات إرادة سياسية قوية من أجل رفع مستوى الأولوية الممنوحة لحماية الأطفال.

فلا يوجد بعد نظام سليم للكشف عن الضحايا القُصّر للاتجار والاستغلال، فتكون النتيجة المباشرة المترتبة على ذلك هي الاستمرار في إلقاء القبض على الضحايا الأطفال واحتجازهم وإبعادهم وهم في صحة الكبار، بسبب دخولهم البلدان بصورة غير مشروعة. ورغم التشريعات الجديدة، ينتشر الإبعاد السريع، وتكون تدابير الحماية هي الاستثناء. وتشكل ظروف احتجاز الأطفال انتظاراً لإبعادهم مسألة تثير قلقاً شديداً.

ولقد هيأت الزيارة الفرصة أمام المقرر الخاص للاستفسار عن اختفاء نحو ٥٠٠ طفل من مؤسسة اغيا فارفارا لرعاية الأطفال فيما بين عامي ١٩٩٨ و ٢٠٠٢، ولاستخلاص بعض الدروس حتى لا تتكرر هذه المسألة في المستقبل.

ويعرب المقرر الخاص عن أسفه لعدم وجود نظام ذي طابع مؤسسي لحماية الأطفال، وللافتقار إلى الهياكل الملائمة الخاصة بالقُصّر غير المصحوبين، وكذلك لفتور العلاقة بين الحكومة والمنظمات غير الحكومية، ويحث الحكومة على معالجة هذه المشاكل.

ويبرز هذا التقرير أيضاً بعض التجارب والمبادرات الإيجابية التي يمكن أن تُتخذ أمثلة جيدة. فمركز أنوجيا للقصّر غير المصحوبين، وهو الوحيد من نوعه في البلد، يعد نموذجاً فريداً. وفي تيسالونيكي، أسفر التعاون بين الشركاء الحكوميين من جانبي الحدود اليونانية الألبانية والمجتمع المدني في البلدين عن نتائج إيجابية جداً. ويوجّه الانتباه أيضاً إلى المبادئ التوجيهية لإدارة شؤون الأطفال المنفصلين عن ذويهم والمتمسكين للجوء إلى اليونان، وقد اشتركت في وضعها مفوضية الأمم المتحدة السامية لشؤون اللاجئين ونائب أمين المظالم اليوناني، فضلاً عن الاتفاق مع ألبانيا الذي سيُتخذ، وفقاً للمقرر الخاص، أساساً للعمل في المستقبل.

ويتطرق هذا التقرير إلى حالة الأطفال اليونانيين المنتمين إلى جماعات العرعر والمعرضين على نحو خاص لجميع أشكال الاستغلال.

ويتناول هذا التقرير العنف المتزلي وسوء معاملة الأطفال في المدارس، واستغلال الأطفال في المواد الإباحية، ومسألة الزواج المبكر في المجتمع المسلم في ترأس، فضلاً عن الأسلوب الذي تنتهجه وسائل الإعلام في الحديث عن الأطفال.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY, ON HIS MISSION TO GREECE (8-15 NOVEMBER 2005)

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Introduction

1. Following a request by the Special Rapporteur on the sale of children, child prostitution and child pornography in May 2005, the Government of Greece, which had extended a standing invitation to all special procedures of the Commission on Human Rights, invited the Special Rapporteur to carry out a fact-finding mission to the country within the framework of his mandate. The visit took place from 8 to 15 November 2005, following a mission to Albania. The purpose of visiting those two neighbouring countries was to better understand transnational dynamics of phenomena such as child trafficking and migration flows of unaccompanied children.

2. During the visit, the Special Rapporteur met the Minister of Justice, and high-level representatives of the Ministry for Foreign Affairs, the Ministry of Public Order, the Ministry of National Education and Religions, the Ministry of the Interior, the Ministry of Employment and Social Protection and the Ministry of Health and Social Welfare. Meetings were also held with the Deputy Ombudsman for Children's Rights, representatives of the Parliament and the National Commission for Human Rights, judges, prosecutors and the police.

3. The Special Rapporteur carried out visits to a detention centre for irregular migrants, including unaccompanied minors, who were awaiting deportation as well as the Roma settlement of Votanikos where he had the possibility to speak with children. The Special Rapporteur received information from non-governmental organizations (NGOs) working in areas relevant to his mandate and met with the staff of the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM).

4. The Special Rapporteur wishes to thank the Government of Greece for having invited him and for having extended its support during his mission through the Ministry for Foreign Affairs. The Special Rapporteur also thanks the Hellenic Committee for UNICEF and the Greek Helsinki Monitor for their support as well as IOM and UNHCR for their availability and cooperation. Special thanks to the NGO, the Smile of the Child, for opening its doors to let the Special Rapporteur appreciate the good work being done.

5. Combating and preventing trafficking being a shared responsibility between the countries of origin, transit and destination, the Special Rapporteur recommends that the present report be read in conjunction with his report to the Commission at its sixty-second session on his mission to Albania (E/CN.4/2006/67/Add.2). The underlying recommendation is to address these problems in a spirit of collaboration.

I. CONTEXT

6. After having been a country of origin of migration, Greece has increasingly become a country of transit and destination for migrants over the last 15 years. According to the Migration Policy Institute, between 1950 and 1975, a total of 678,000 emigrated from Greece to other countries while between 1975 and 2000, a total of 935,000 immigrated into the country.¹ If many factors may explain this conversion, the two main ones are certainly the geographic location of Greece, which positions the country as the eastern "gate" of the European Union (EU), with extensive coastlines and easily crossed borders, and the rapid economic changes that narrowed the economic and social distance from the Northern European countries following the integration of Greece into EU in 1981.

7. The rapid transformation of Greece from a traditional country of emigration to a pole of attraction for immigrants has brought undeniable benefits for the country but also challenges for which Greece was not prepared. Over the past five years, concerns were notably expressed by

several United Nations treaty bodies² that Greece had become a main transit route for trafficking in human beings, as well as a country of destination.

II. CHILD TRAFFICKING

A. Figures on the phenomenon and types of exploitation

8. The European Commission estimates that 120,000 women and children are trafficked into Western Europe each year, most victims coming from Eastern European countries and the former Soviet Union.³ There is a range of estimates of the number of trafficking victims in Greece, and as in every country, reliable figures are hard to come by.

9. During the 1990s, thousands of children were working or begging in all the major cities of Greece. According to a survey conducted by UNICEF in the greater Athens area, from 17 to 29 November 2000 only, 955 children aged 2 to 15 years old were recorded as begging in the streets. Approximately one quarter of them were Greek, of Romani origin, while approximately another quarter (28.1 per cent) were of Albanian origin. About 530 of the children were male, while about 100 of the children were aged 2-5 years old.⁴ The number of street children throughout Greece was estimated at 5,800.

10. The majority of minors trafficked to Greece used to be Albanians coming from the suburbs of the major cities of Albania and from extremely poor, illiterate and divided families. Child recruiters were often close to their families and sometimes acted with their explicit consent. Children pass through the hands of different people before arriving in Greece where they were exploited by small traffickers or by much larger and well-organized networks, sometimes with the alleged complicity of the Greek police.

11. Street children used to work more than 12 hours a day under constant fear and threat from their exploiters. To ensure full dependency, traffickers generally use physical and psychological violence. Some cases have also revealed the involvement of trafficked children in illegal activities such as organized theft and drug trafficking.

12. According to a Greek sociologist,⁵ in 1997, 1,600 minors were sexually exploited in Greece. Of the minors aged 15 to 18, 90 per cent were female. In 2002, concluding his research, he estimated that out of 200 children exploited in the "paedophile market", 75 per cent were Albanian. The Special Rapporteur was told that there might be a new trend of African women and girls trafficked for the purposes of sexual exploitation.

13. The majority of the interlocutors with whom the Special Rapporteur met during his visit agreed to say that the number of street children is less today than over the past several years. However, fears were expressed that the decrease in the number of street children could be due to a growing use of children in more subtle and less visible forms of exploitation. Networks exploiting children have proved to be adaptable, and some suggest that they may have decided to concentrate on more lucrative markets such as prostitution or drugs. Various sources, including the Parliamentary Commission on human rights confirmed the rise in prostitution, including child prostitution.

14. Even if cases are anecdotal, there are allegations of babies trafficked in Greece for the purpose of irregular intercountry adoption. While in Albania, the Special Rapporteur was told on two occasions about the case of Albanian women who were convinced to give birth in clinics in Ioanina and who returned to Albania without their babies, which were presumably trafficked for illegal adoption. Traffickers have been prosecuted and convicted in Albania while there has been no news on the whereabouts of the babies in Greece.

B. State response to the trafficking of children

1. Reinforcement of the legal framework

15. Greece ratified the main international human rights instruments with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. According to article 28 of the Constitution, international treaties prevail over every contrary legislative provision. In 2000, Greece signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, but both still remain to be ratified.

16. Over the past years, Greece has made great efforts to reinforce its legislation to combat trafficking in human beings. On 15 October 2002, a law on “combating trafficking in human beings, crimes against sexual freedom, child pornography and more generally on economic exploitation of sexual life and assistance to the victims thereof” was adopted. The law provides for a more severe penalization of all contemporary forms of trafficking in human beings, such as the sale of organs, compulsory and deceitful exploitation of labour and economic and sexual exploitation. The provisions of the law have been incorporated into the Criminal Code. Procuring, exploitation for prostitution, purchasing of sexual services from minors and trafficking in persons for the purpose of sexual exploitation, forced labour and removal of organs are criminalized under articles 323, 323A, 349, 351 and 351A, with penalties of up to 10 years’ imprisonment and fines. When a victim of trafficking is a minor, the sentence is a minimum of 10 years.

17. By virtue of the said law, a presidential decree was signed in August 2003 to implement the victim assistance mechanism. The decree contains specific provisions for child victims of trafficking. Under article 2, child victims of trafficking are to be sheltered in appropriate institutions. Article 7 provides that child victims of trafficking that have no social insurance are entitled to free medical treatment while according to article 6, child or adult victims of trafficking younger than 23 years old are entitled to attend vocational training programmes.

18. In January 2006, a law concerning “entry, residence and social integration of third country nationals in the Greek territory” entered into force. The most innovative elements of the law refer to: (a) the introduction of a reflection period that gives access to appropriate treatment (accommodation in shelters, emergency medical treatment, translation and interpretation services and legal aid); and (b) the annual duration of the residence permit that gives access to vocational training, education and health care. The law contains specific provisions for the establishment of the unaccompanied minors’ identity and nationality, the location of their families and their legal representation. For this purpose, the best interests of the child are taken into account. Article 47, paragraph 1 provides that unaccompanied minors as well as victims of trafficking can be granted a residence permit of limited duration in cases in which they cooperate to combat trafficking in human beings.

19. The Special Rapporteur welcomes the adoption of a comprehensive legislative framework to combat child trafficking and exploitation.

20. The Special Rapporteur remains concerned about the criminalization of begging (article 407 of the Criminal Code). Although the Government indicated that prosecution of children for begging does not take place, minors have nonetheless been arrested in pursuance of this article.

2. Programmes and other measures to combat child trafficking and protect victims

21. The Special Rapporteur notes with appreciation that an ad hoc committee operating at the level of the secretaries general of competent ministries was established in order to coordinate the work for the implementation of the provisions of the 2002 law. In May 2004, the Committee elaborated a comprehensive action plan which was adopted by the Government in August.

22. The National Action Plan provides for the creation of shelters, free access to legal counselling for victims of trafficking, the organization of public awareness campaigns, the amendment of the August 2003 presidential decree to facilitate victim identification, the granting of residence permits, the organization of training programmes and the creation of a national database. At the time of the mission, a centralized system for collating and storing data on minors had not yet been established, as recommended by the Committee on the Rights of the Child.⁶

23. In 2004, a national hotline for victims of trafficking (187), which is handled by the Ministry of Health and Social Welfare, was launched.

24. In 2004, two special anti-trafficking prosecutors operating in Athens were appointed and the authorities indicated that they were willing to establish more in the regions. Police were issued instructions to reinforce techniques of identification and assistance. A manual for police officers provides guidance on how to deal with children.

25. A large number of police operations was conducted resulting in the break-up of trafficking rings and the release of over 300 victims after the coming into force of the 2002 legislation. Positive cooperation between NGOs and the relevant departments of the Hellenic police was also highlighted.

26. In June 2004, the first two victims of trafficking were given residence permits and as of November 2004, 24 residence permits were issued to trafficking victims.

27. Awareness-raising activities were also organized. In 2004, the Ministry of Public Order published a multilingual “know-your-rights” pamphlet designed to inform persons identified as possible victims of trafficking.

3. Agreements with third countries

28. The Special Rapporteur was pleased to learn that the bilateral agreement with Albania for the protection and assistance of child victims of trafficking was signed on 27 February 2006. During the mission the Special Rapporteur had strongly advocated for the adoption and implementation of this agreement as it constitutes an important step in the indispensable collaboration between Greece and Albania in handling the transnational phenomenon of unaccompanied children.

29. On 16 December 2005, Greece signed an agreement with the Islamic Republic of Iran, Pakistan and Turkey in a move designed to boost cooperation on fighting organized crime and the illegal trafficking of immigrants and drugs.

C. Concerns regarding the treatment of unaccompanied children

30. Over the past years, several international human rights treaty bodies expressed concerns over the treatment of unaccompanied children in Greece. Only a few months before the visit of the Special Rapporteur, the Human Rights Committee said it remained concerned about the reported

lack of effective protection of the victims, many of whom were women and children, including witness protection mechanisms.⁷

31. During the mission, numerous interlocutors stated that insufficient care was provided to unaccompanied minors, whether they were victims of trafficking or not, and these interlocutors also voiced their concern regarding the procedures applied to them.

1. The deportation procedure for unaccompanied children

32. Competent authorities dealing with unaccompanied children provided information on the procedure they follow. Children are usually detected and received by the police and referred to the prosecutor's office for juveniles, which takes the decision on deportation and transfers the children to a shelter when one is available. When this option is not available, deportation is the alternative. All unaccompanied minors to be deported are temporarily detained at the detention centre of Petrou Ralli in Athens. The duration of temporary detention depends on the country of origin (e.g. if the country has a diplomatic service in Greece), whether the migrants have documents, whether the family can be located and the availability of NGOs to take up the case. The procedure of deportation (from the time the child is detected until the time he/she is deported to the border) can last three days on average up to a maximum of three months. The Ministry of the Interior indicated that so far, the authorities have tried to deport unaccompanied children as quickly as possible.

33. At the detention centre of Petrou Ralli, opened the very same week of the visit of the Special Rapporteur, he was informed that in case no shelter was found, the country of origin is contacted and the administrative procedure of deportation immediately engaged. The handling of the deportation is within the competence of the Ministry of Public Order. The child is accompanied to the border and delivered to the authorities of the neighbouring country with a certificate indicating his/her name, where and when he/she was found and the decision taken on his/her deportation.

34. The Special Rapporteur was informed that minors from the age of 14 are entitled to apply for a residence permit. However, the authorities recognized that few of them are actually aware of this procedure unless they are helped by NGOs. Similarly, the Special Rapporteur learned that alien minors should in principle be given 48 hours to submit objections to the deportation order but, according to the Deputy Ombudsman for Children's Rights, minors are not properly informed about this right. According to the authorities, since 2004, 130 children have been deported, mostly Albanians with family in Albania and no relatives in Greece.

35. The Special Rapporteur is concerned that in spite of the new legislation, deportation remains the rule when protective measures remain the exception. Indeed, the procedure as exposed above seems not to be always respected. While on mission to Albania, at the border with Greece the Special Rapporteur met a 14-year-old boy who had just been expeditiously brought back to Albania. The child had been in Greece for two weeks when the police discovered him. He was taken to the police station, and the following day was taken back to the Albanian border. The Special Rapporteur met him when he was left at the border with Albania.

36. The Greek authorities indicated that another set of measures are applied to minors recognized as victims of trafficking. In this case, a criminal procedure is opened and the children stay in shelters while their situation is being investigated. The prosecutor stops the deportation procedure, a residence permit is given and protection measures granted. The residence permit lasts one year and can be renewed for periods of one year each time until 10 years and then indefinitely.

37. However, due to the lack of effective screening and referral mechanisms, child and adult victims of trafficking can be arrested, detained and deported on grounds of illegal entry as noted by the Deputy Ombudsman for Children's Rights. According to him, in 2004, six Albanian children recognized as victims of trafficking were nevertheless detained for a few days in a police station and then taken to a hospital because no institution was available to assist them. The children ended up in a facility managed by Médecins du Monde before being repatriated. The Deputy Ombudsman also informed the Special Rapporteur about the case of a 13-year-old girl victim of trafficking who was detained in a centre for illegal migrants before being deported. Very often, traffickers await them and immediately take them back to their place of exploitation.

38. The Ministry of Public Order indicated to the Special Rapporteur that 2,500 people were awaiting deportation at the time of the visit, but the Ministry was unable to state the exact number of children among them. The Special Rapporteur considers that the absence of disaggregated data by sex and age gives credence to the idea that unaccompanied children continue to be treated as adult irregular migrants, as indicated by various sources.

39. In October 2005, due to the seriousness of the problems, the Deputy Ombudsman issued a special report on the administrative detention and deportation of alien minors.⁸ In this report, he indicated that there is a distinction made between minors who are considered as "children" and those who are not, the former being treated better than the latter. According to him, minors above the age of 12 are subject to the same treatment as adults. Administrative detention is justified when an alien is considered to be likely to flee or likely to be a danger to public order, and in fact all aliens are treated as likely to flee.

40. Upon their arrival, children should normally be identified, registered and referred by the local police to relevant welfare systems. However, it was reported that children arriving in the Greek islands are sent on a boat on their own to Athens with a paper referring them to a shelter. Once in Athens, children try to reach the port of Patras and then take a ferry to Italy.

41. Another major problem which was highlighted on several occasions was the absence of permanent translators at many locations, which has a direct impact on the initial pre-screening, identification and eventual referral of separated children. Indeed, there is no functioning mechanism for the children to be assigned a legal guardian. This means that legally nobody is responsible for the children, even those in an institution.

2. The conditions of detention of unaccompanied children

42. The Special Rapporteur visited the new detention centre of Petrou Ralli in Athens for irregular migrants awaiting deportation, including children and women. The Centre opened the very same week of the visit of the Special Rapporteur.

43. The capacity of the centre is of 385 persons; 148 women and 9 minors were detained there at the time of the visit. The Special Rapporteur is concerned about their conditions of detention.

44. At the time of the visit, 4 p.m., children and women were receiving their first meal through the bars. No table was available in the jail on which they could take their meal. While interpretation services were said to be available during working days, children as well as women were clearly unaware of what was happening to them. Adolescents and young men were in a situation of great distress. The Special Rapporteur could not get precise details on the availability of advisory and legal services. People had limited access to toilets (twice a day the Special Rapporteur was told by detainees) and no recreational spaces. Detaining people in these

severe conditions when the security concerns are not so acute can have negative consequences and generate and deepen tensions between inmate and security personnel.

45. The Special Rapporteur acknowledges the substantial investment of the Greek Government in establishing this new facility. Taking this into consideration, the Special Rapporteur would deem it even more worthy if the Government took the necessary measures to improve conditions of detention at the centre.

46. Detention in police stations is another issue of concern and is reported to happen quite often. The Special Rapporteur met a Romanian girl detained in the Petrou Ralli centre who indicated having been detained for 34 days in a police station. Similarly, the Deputy Ombudsman reported that at Petralona and Halandri Police Stations unaccompanied children were being held in congested areas together with adults, due to the lack of facilities. The detention areas were small, in poor condition, had inadequate lighting and yard space. There were problems with food and hygiene.⁹ He further stated that in most cases, detained children were not able to leave the holding cell and that medical care was not available on a daily basis.

47. Once released from detention, children are not said to be referred to any protective institution. The whereabouts of most are thereafter unknown. The risks of abuse and exploitation to which they are exposed, are a concern.

3. The absence of an institutionalized protection system

(a) The lack of shelters for unaccompanied children

48. The lack of adequate structures for unaccompanied children constitutes a major problem. According to UNHCR, among 325 unaccompanied/separated children registered as asylum-seekers in 2004, only a few effectively reside and are assisted at reception centres in the country.

49. The Anogeia Centre in Crete, operated by the National Youth Foundation and funded by the Ministry of Health and Social Welfare, is the only institution for unaccompanied children who are asylum-seekers and can only accommodate from 20 to 25 children. Other than that, there is no specialized institution, but only childcare institutions which are insufficiently staffed. Moreover, staff working in child institutions do not have the expertise to deal with unaccompanied children.

50. At the time of the visit, 300 to 400 unaccompanied children mainly from Afghanistan seeking asylum had been referred to the Anogeia Centre. UNHCR indicated that it was very likely that many more children could ask for asylum but they do not do so.

(b) The emblematic case of Aghia Varvara

51. During the visit, the Special Rapporteur followed up on a case he had previously addressed to the Greek authorities by letter of 1 December 2004¹⁰ concerning approximately 500 children who went missing from the Aghia Varvara children's institution between 1998 and 2002. The case was also examined by the Committee on Torture (CAT) and the Human Rights Committee, which both requested that Greece conduct a judicial investigation into the case and provide the Committees with information on the outcome.¹¹

52. From 1998 to 2002, the Aghia Varvara institution was tasked to carry out the government project entitled “Protection and Social Care of Street Children”, aimed at providing accommodation, care and rehabilitation to the growing number of children in inner-city areas of Greece.

53. Since the beginning, the programme was not meeting its objectives, in the sense that it was not in a position to offer the care and protection envisaged. Most of the children only came for a couple of days and sometimes even hours just to have a rest, and returned to the street to earn and send money to their families. Staff of the institution kept a record of children coming and leaving Aghia Varvara. The Special Rapporteur could see that most children stayed in the institution for a few days. Several passed through the institution a few times. Some registered themselves under different names. Aghia Varvara lost track of some 500 children who had visited the institution between 1998 and 2002. The judge investigating the case corrected this figure to some 250 children whose whereabouts are unknown. Most of these children were Albanian, many Roma. The judge recalled that the institution was an open facility and did not have any obligation to report on missing children.

54. When he visited Aghia Varvara, the Special Rapporteur was informed that 90 children had returned to their families and 22 had been deported. When the Special Rapporteur was in Albania, the Albanian Ombudsman informed him that only 4 of these children had been located in Albania.

55. The Special Rapporteur observes that the programme was established as an emergency measure to respond to an increasing number of street children that Greece was not prepared to handle. In this regard, he shares the conclusions drawn by the Deputy Ombudsman in a report he published in 2004 on the case.¹² The report underlines several gaps in the design of the educational and social methodology of the programme and the overall deficiencies of the institution in adequately responding to the challenging objective of giving protection and care to street children.

56. The Deputy Ombudsman notably noted that: (a) the institution was not set up to protect victims of trafficking and exploitation as it was a care home for girls; (b) there was no provision for additional funding or for special staffing required by the project; (c) the staff was inadequate, without specialized training on the rights and specific needs of this group of children; (d) there were no translation services available to facilitate communication between staff and those children who did not speak Greek. As a consequence of these deficiencies, many children escaped shortly after admission. Some children, whose families were in Albania, were repatriated. However, no procedures were followed or measures taken to guarantee their safe return to an appropriate family environment.

57. While understanding the inherent deficiencies of the programme, which prevented its proper functioning and explained its failure, the Special Rapporteur notes that no “alarm bell” rang and that the programme went on for four long years before being discontinued. Monitoring mechanisms were deficient as well.

58. This is an emblematic case showing that the design and implementation of social programmes require adequate resources and expertise. If not, they cannot but fail. Monitoring mechanisms to assess the functioning and impact of social programmes are equally fundamental. The Aghia Varvara case is to be taken as a lesson for the future to avoid the repetition of similar mistakes.

59. The Special Rapporteur suggests the establishment of a bilateral commission with representatives of relevant public authorities and NGOs from Greece and Albania to handle in a cooperative manner, issues related to unaccompanied children and child victims of trafficking. This commission could also join with various actors both in Greece and Albania to try to locate children who went missing after having entered Aghia Varvara between 1998 and 2002.

4. The cooperation with non-governmental partners

60. While the Special Rapporteur was informed that cooperation between the Greek authorities and non-governmental actors working in the field of child protection was gradually improving, much remains to be done to make this cooperation effective.

61. In pursuance of the 2003 decree,¹³ a permanent forum for the exchange of views and information between the ministries and NGOs was established. However, NGOs complain about their lack of status which has hampered their ability to provide assistance to victims of trafficking.

62. On 17 June 2004, 17 NGOs addressed a 25-point memorandum to the Inter-ministerial Committee on Human Trafficking calling for closer cooperation with NGOs in order to take advantage of their experience for the operation of the new State-run shelters. One detail which was pointed out on several occasions during the visit was the lack of cooperation between the police and NGOs immediately following the arrest of each victim of trafficking. NGOs also called for a unified system of shelters to include both the anticipated State shelters and those run by NGOs with State funding.

D. Good practices

1. The Smile of the Child

63. The Special Rapporteur commends the work of the NGO, the Smile of the Child, active in a wide range of activities on child protection.

64. The NGO runs seven children's homes for children in difficult situations. When visiting the children's homes, the Special Rapporteur could see the positive environment full of care and professional attention that children can enjoy in these homes.

65. The Smile of the Child set up a hotline (1056) to help children in difficult situations. The hotline receives around 2,000 to 2,500 calls per day.

66. Another area of activity is the provision of medical care for children in poor areas through an equipped van and specially equipped ambulances. The Special Rapporteur learned with concern that the emergency care services for children are poor in Greece. The services provided by the Smile of the Child try to fill a gap that should exist in a country with sufficient economic and social means.

2. The Anogeia Centre

67. The reception centre located in Anogeia is operated by the National Youth Foundation and funded by the Ministry of Health and Social Welfare. Located in a rather isolated town in Crete, it has been recognized as an excellent facility and model of its kind.¹⁴ It hosts only separated children who are referred to the centre, usually through the Greek Council for Refugees. As mentioned above, its capacity is limited to 25 children.

68. Residents in the centre enjoy complete freedom of movement and receive a monthly allowance for their personal expenses. Access to health and quality food is assured. Greek language lessons are provided four times a week by the centre and are attended by all the residents. Recreation facilities are available and excursions are organized for educational and recreational purposes.

3. A model of cross-border cooperation in Thessaloniki

69. At the initiative of the juvenile prosecutor of Thessaloniki, Greek and Albanian NGOs as well as the Filoxenia centre have been following good practices to repatriate children and assist their return to their original environment. The Filoxenia reception centre, which has been housing separated children and child victims of trafficking since 1998, operates under the auspices of the Ministry of Health and Social Welfare.

70. This is mainly due to the following factors: (a) children housed at the Filoxenia centre are well protected; (b) the staff, being from the same place of origin as the children, establish good relationships with them; (c) the NGO coalition in Albania knows very well the families at risk and therefore this allows for a rapid search; and (d) efficient coordination between the prosecutor of Thessaloniki and the Albanian Ministry of Public Order.

4. Guidelines for the management of separated children seeking asylum in Greece

71. In November 2005, the local branch of UNHCR, jointly with the Deputy Ombudsman, issued a series of guidelines for the management of separated children seeking asylum in Greece. According to the first guideline, children seeking protection should never be detained for immigration reasons, and if so, should be released and referred to the competent authorities responsible for their care and protection.

72. The document deals with a large number of issues from the identification of the child victims to their reintegration. The Special Rapporteur encourages the relevant ministries to adopt these guidelines.

5. The agreement with Albania

73. The bilateral agreement with Albania for the protection and assistance of child victims of trafficking and exploitation which was signed on 27 February 2006 sets out measures to be carried out at every stage of return, including when dealing with cases of trafficking.

74. After identification of a trafficked child, Greece is to free the child from exploitation and accommodate him or her in a safe and child-friendly environment. An independent and trained guardian is appointed to take care of the child's interests and needs. The child is to be excluded from criminal responsibility. While the decision on whether the child should return or remain in Greece is being taken by the Greek authorities, the best interests of the child should be respected throughout the decision, which means that the return should take place only when the child is willing. The party which serves the best interest of the child is directly responsible for his/her full (re)integration.

75. The Special Rapporteur considers that all the necessary measures should be taken to fully implement the agreement.

III. THE SITUATION OF ROMA CHILDREN

76. Children belonging to the Roma communities are exposed to the risk of exploitation, including trafficking. Non-governmental sources confirmed that many young Roma, aged about 16, are involved in prostitution to earn money.

77. Over the past years, several United Nations treaty bodies expressed concerns over the persistent discrimination against Roma people in the field of housing, health and education, the limited protection received by Roma children and the limited access of children to education (low enrolment rates, high dropout rates, and high estimated illiteracy rates among Roma children).¹⁵

78. The Ministry of Education reported that a special programme called “Education for Gypsy children” has been in existence since 1997 in an effort to prevent school dropout. Given the mobility of Roma, the programme provides children with a mobility card to facilitate access to school when moving. The programme also provides for a lump sum of EUR 300 to be given every year to help families sending children to school. There are also additional classes to help Roma children to catch up as well as specialized material to help teachers to teach Roma children. The Ministry further indicated that the programme reached 8,437 Roma children and had managed to decrease the dropout percentage from 75 to 24 per cent, the remaining percentage being basically girls who drop out because they get married.

79. In Greece, there are some 300,000 Roma, both in settlements and integrated. There are some 60 to 80 camps in the country. During the mission, the Special Rapporteur visited the Votanikos settlement which is basically built next to a garbage dump. It is overrun with rats. Families belonging to the Roma community live there in unacceptable conditions, lacking access to running water, sanitation and other basic services. Several children with whom the Special Rapporteur spoke reported they could not attend schools because they were not allowed entry. A 12-year-old boy said he had never been to school despite several attempts to enrol in several classes. Children were not aware of the existence of the mobility card.

80. Moreover, the Special Rapporteur was informed that following an external evaluation of the programme commissioned by the Ministry of Education, the programme was suspended and then discontinued. In April 2005, the evaluators allegedly pointed out that during the fieldwork in schools with a large number of registered Roma children, Roma children did not attend classes regularly. In August 2004, 2,333 Roma children were registered in the first grade, and only 664 in the sixth grade.

81. Various sources indicated that many schools still give bureaucratic reasons for the difficulties faced by Roma children in having access to school. Despite aid received from non-governmental organizations, Roma families have been turned away and discouraged to register their children.

82. Roma girls face multiple types of discrimination. The intersection of gender and ethnicity has resulted in Roma women and girls being a specifically marginalized group. They usually get married while still adolescents. The illiteracy rate among Roma women is also reported to be particularly high.

IV. OTHER ISSUES IN RELATION TO THE MANDATE

A. Domestic violence and child abuse in schools

83. Child abuse is a major threat to the health of children throughout the world and occurs primarily in the family setting. The longer it goes undetected the more serious are the consequences.

84. Although domestic violence is fairly recognized in Greece as a social problem, there is currently no specific legislation on this issue, and therefore no specialized system to deal with domestic violence. After the visit, the Special Rapporteur was informed that a draft law concerning domestic violence was presented by the Minister of Justice in November 2005, in order to be tabled before the Parliament.

85. With regard to child abuse in schools, in May 2005, while noting that a legislative amendment to ban corporal punishment in secondary schools had been tabled in Parliament, the Human Rights Committee expressed concerns at reports of a widespread practice of corporal punishment of children in the schools.¹⁶

86. According to the Ministry of Education, there is currently no school curriculum or programme alerting or informing on child abuse, or any kind of protocol or procedure to follow when a case is detected. There are 13 special centres in the country that provide psychological support to children and there is a plan to expand them. While taking note of the law adopted on 1 April 2005, which explicitly prohibits any form of corporal punishment of students in secondary schools, the Special Rapporteur recommends the establishment of a clear procedure to refer cases of sexual abuse.

B. Child pornography

87. Since the 2002 law on “combating trafficking in human beings, crimes against sexual freedom, child pornography and more generally on economic exploitation of sexual life and assistance to the victims thereof”, article 348A of the Criminal Code deals with child pornography. According to the law, those who manufacture, offer, procure, circulate, provide, possess or sell pornographic material are punished with imprisonment of one year minimum and a fine of between EUR 10,000 and EUR 100,000. If acts described by this article constitute pornographic material related with exploitation of need or mental incapacity, deafness, or inexperience of a minor, or by the use of violence against him or her, incarceration of up to 10 years is imposed together with a pecuniary fine of between EUR 50,000 and EUR 100,000. If the act resulted in bodily injuries of the victim, the incarceration is 10 years minimum and the fine between EUR 100,000 and EUR 500,000.

88. According to the Ministry of Public Order, since June 2004, there have been 31 cases of child pornography on the Internet, with 57 persons investigated, and 33 arrested and imprisoned. There is a cybercrime and child pornography unit within the police and close cooperation with Interpol, the European Police Office and the European Union’s Judicial Cooperation Unit has been established in order to try to identify the victims.

89. The Special Rapporteur was informed that a new law on child pornography was in the process of being adopted. The new bill would allow maximum prison sentences of more than 10 years and fines of up to EUR 500,000 for people convicted of producing or distributing child pornography. The stiffest penalties will be for cases where children suffered grievous bodily harm as a result of the sexual acts depicted. The minimum sentence will be one year in prison, but doubled when the pornographic material is distributed over the Internet.

C. The child protection system

90. The Special Rapporteur is concerned that there is no centralized child protection system in Greece. As mentioned by the Human Rights Committee,¹⁷ the absence of child welfare protection increases the danger of trafficking and exposes children to other risks.

91. The Special Rapporteur was informed of a case which well illustrates this lack of an institutional framework for the protection of children. A child who had nowhere to stay was referred by a local association to the child prosecutor, who should have registered the case and referred the child to the child protection system. However, it was reported that the prosecutor said he would refuse to register the case unless the association could itself find an institution in which to place the child. As the capacity of social institutions is extremely limited, prosecutors allegedly do not register the cases when the system is not in a position to offer any solution.

92. The Deputy Ombudsman regretted that so far, child protection had not been considered a priority by the Government and that there was still no central authority on child protection at the level of the Government. He expressed hope that an inter-ministerial committee with a coordination mandate could be set up soon, a position supported by the Special Rapporteur.

D. Early marriages under sharia law

93. The peace Treaty of Lausanne of 1923, between Greece and the other contracting Allied Powers on the one part, and Turkey on the other, provides for the settlement of questions related to the family law or the personal status of persons belonging to the Muslim minority in Thrace, in accordance with the latter's customs. At present, sharia law is applied to some 100,000 persons in Greece by two State-appointed muftis who are recognized as judges in family law matters.

94. In its report to the Human Rights Committee,¹⁸ Greece indicated that members of the Muslim community are free to address themselves either to the local muftis or the civil courts. In case they choose the former, sharia law is implemented to the extent that its rules are not in conflict with fundamental values of Greek society and the Greek legal and constitutional order. In accordance with Law 1920/1991, the courts shall not enforce decisions of the muftis which are contrary to the Constitution of Greece. Polygamy, marriage below legal age and marriage by proxy are therefore not permitted. However, the Special Rapporteur was informed of cases of both early marriages and marriages by proxy.

95. In particular, the Special Rapporteur was informed of marriages by proxy in which fathers who give their virgin daughters in marriage can earn some EUR 4,000. According to some non-governmental sources, many marriages involving one or both spouses aged less than 18 have taken place and were recognized, without court decisions.

E. Children in the media

96. The Special Rapporteur is concerned about the reports he received on the way the press and electronic media sometimes portray cases of child abuse without respecting the right to privacy of victims. On several occasions, the name of the minor, the place where he or she lived or the name of the alleged perpetrator were given by the media.

97. Stereotypical representation of young women and girls as sexual objects and commodities at disposal for use and purchase, especially in what was referred to as "pink publicity" by the National Commission on Human Rights (of the Parliament), may contribute to the "normalization" of sexual exploitation as a culturally acceptable phenomenon.

98. Conversely, media can play a very positive role in the protection and promotion of children's rights. The Special Rapporteur encourages media to be proactive in this area, by replicating good experiences already tested and by developing new ones in a creative way.

V. CONCLUSIONS AND RECOMMENDATIONS

99. **Over the last 15 years, Greece has become a pole of attraction for immigrants due to its geographical position and its rapid economic growth. While immigration has brought benefits for the country, it has also posed serious challenges, including the trafficking of human beings.**

100. In the 1990s, child exploitation reached unprecedented proportions. Thousands of child victims of trafficking who came mainly from Albania were working and/or begging in the streets of the major cities. Although everyone agrees that street children are less today than before, trafficking of children for economic or sexual exploitation remains a concern.

101. There have been several achievements in combating child trafficking and exploitation. Relevant international instruments have been ratified, while others are in the process of being ratified; new laws have been adopted on trafficking in human beings and on migration; an institutional framework to implement the law against trafficking has been established through the Inter-ministerial Task Force for Combating Human Trafficking; an integrated programme of action has been adopted and an Agreement with Albania for the protection and assistance of child victims of trafficking has recently been signed.

102. Nevertheless, some challenges remain to make a child protection system a functioning reality and the institutional capacity to respond to the needs should be further improved. Addressing these challenges requires political will to give a higher priority to child protection. The visit of the Special Rapporteur on the sale of children, child prostitution and child pornography and the present report are intended to be a contribution in this direction.

103. Although the Government of Greece is making efforts to improve the protection of unaccompanied children, in practice, children are too often treated as adult illegal migrants. This is particularly worrying for the more vulnerable categories of unaccompanied children, such as victims of trafficking and asylum-seekers, who may end up being deported without having had the possibility of accessing the protection measures to which they are entitled.

104. In this regard, the Special Rapporteur wishes to recall article 37 of the Convention on the Rights of the Child which specifies that the detention and imprisonment of a child should only be practised as a “last resort” and prohibits the arbitrary and unlawful detention of children. Article 37 states that “every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age”. In particular, every child deprived of liberty should be separated from adults.

105. The Special Rapporteur shares the Deputy Ombudsman’s views that the administrative detention of alien children is both unsuitable for the purpose intended and disproportionate. It is a measure that cannot be justified by the purpose of the law which is to protect public order and security. Arresting and detaining street children neither addresses the heart of the problem nor is conducive to the development of the child’s personality. The detention of unaccompanied minors has detrimental effects on the physical and psychological health of the children. Compulsory repatriation and deportation frequently lead to further exploitation of children.

106. Discovery of minors who have entered Greece illegally or have failed to legalize their stay in the country gives rise to obligations to identify and protect the minors, not to arrest and detain them. In this regard, the Special Rapporteur notes with concern that begging is still criminalized, even when committed by children.

107. There is still very limited capacity for sheltering child trafficking victims. Indeed, Greece lacks specialized educators and social workers, outreach programmes and community centres.

108. The cooperation of non-governmental organizations (NGOs) in the implementation of these programmes, which are to be framed in an overarching policy on children's rights and child protection, is an indispensable asset. The distance between NGOs/civil society and the Government is to be narrowed.

109. The situation of Roma and Roma children is a great concern. In Roma settlements, housing conditions and sanitation are just not acceptable. Access to health and education is limited or lacking and social programmes are not providing assistance to the community. In these conditions, Roma settlements constitute a reservoir of potential victims of all forms of exploitation.

110. The Special Rapporteur is concerned about the issue of early marriages taking place under sharia law. In this regard, he would like to recall that child marriage is a violation of human rights, compromising the development of girls and often resulting in early pregnancy and social isolation. Young married girls face onerous domestic burdens, constrained decision-making and reduced life choices.

111. In regard to international standards, legislation and agreements, the Special Rapporteur recommends that the Government:

(a) Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(b) Take all the necessary measures to fully implement the bilateral agreement with Albania for the protection and assistance of child victims of trafficking;

(c) Fill the gaps in the legislation on the identification of newly-arrived persons (accompanied or unaccompanied) below the age of 18, appoint a legal guardian and provide assistance for and search for durable solutions for separated children in accordance with the Committee on the Rights of the Child's general comment No. 6 (2005) on "the treatment of unaccompanied and separated children outside their country of origin" (CRC/GC/2005/6);

(d) Decriminalize begging;

(e) Adopt and implement the guidelines prepared by the Office of the United Nations High Commissioner for Refugees and the Deputy Ombudsman on the treatment of separated children seeking asylum, including a system that will ensure their early referral to competent service providers in Greece.

112. The Special Rapporteur recommends that clear rules and standards for identifying victims of child trafficking be established and urges the authorities to ensure systematic verification of identity and centralized recording of alien minors who are found unaccompanied in Greece. The prosecutor for minors should be rapidly informed to be in a position to give appropriate protection. Separated children should be provided with suitably trained interpreters, receive legal representation and be informed of their entitlements, the services available, the asylum process, family tracing and the situation in their country of origin.

113. The authorities should end the detention of alien minors for illegal entry into the country and refer the children to institutions of special care.

114. In relation to the detention centre for irregular migrants awaiting deportation of Petrou Ralli, the Special Rapporteur recommends taking appropriate measures to improve the conditions of detention of migrants and striking a better balance between security concerns and the dignity and protection needs of detained migrants.

115. Specialized staff with adequate expertise to work with foreign unaccompanied minors, street children, and victims of trafficking is needed to ensure the child's physical and psychological health, protection against exploitation and access to educational and vocational skills and opportunity. In this regard, the good cooperation between all concerned actors in Thessaloniki should serve as a model for the future.

116. With regard to the case of the Aghia Varvara children's home, the Special Rapporteur recommends that the Government consider the possibility of creating a bilateral commission composed of relevant Greek and Albanian authorities, the Ombudsmen of both countries and NGOs which have worked on the case, so as to coordinate the efforts to locate the children whose whereabouts remain unknown and identify institutional responsibilities. The authorities should also draw the lessons from the Aghia Varvara case in order to prevent its recurrence and set up a monitoring system for early warning if and when a programme is not working. More broadly, the Commission can be the institutional framework to handle in a cooperative manner issues related to unaccompanied children and child victims of trafficking.

117. It is crucial to establish a more efficient and cooperative relationship with NGOs to make children a recognized priority for the country beyond political, institutional and ideological disputes. An advisory board of civil society and public authorities to advise on the design of policies and on priority areas can be instrumental in giving an institutional framework to the participation of civil society.

118. Regarding the situation of Roma children, the authorities are called upon to take specific measures to improve the living conditions and the possibilities for development of Roma communities to give Roma children alternatives other than work on the streets or prostitution, as survival strategies for them and their families. The implementation of public policies which secure the access to basic rights, such as education, minimum living standards, housing and health, is needed.

119. The Government is urged to prohibit all forms of violence against children wherever it occurs, including corporal punishment in the schools, and undertake public information efforts with respect to appropriate protection of children from violence. The Government should ensure that all children and young people have access to domestic violence preventive education programmes. A referral procedure should be established.

120. The Special Rapporteur notes with concern the lack of an overarching institutional body for child protection. Institutional responsibilities are spread among different ministries without a coordinating entity. Such a coordinating body is very much needed to improve the institutional capacity to respond to problems affecting children.

121. In accordance with Law 1920/1991, the Greek courts should not enforce decisions of the muftis allowing child marriage. The Special Rapporteur urges the Government to accelerate its efforts aimed at improving Muslim women's education and employment opportunities and increasing the awareness of Muslim women of their rights and the availability of remedies, and ensuring that they benefit from the provisions of Greek civil law.

Notes

¹ Greece: Estimates of the net number of migrants by five-year intervals, 1950-2000, Migration Information Source, Migration Policy Institute; original information obtained from United Nations Population Division (2001) "World Population Prospects: The 2000 Revision" (POP/DB/WPP/Rev) 2000/1/F10 and also available at <http://www.un.org/esa/population/unpop.htm>.

² See notably CCPR/CO/83/GRC, Concluding observations of the Human Rights Committee, April 2005.

³ European Commission, Trafficking in women, the misery behind the fantasy: from poverty to sex slavery: a comprehensive European strategy, 8 March 2001.

⁴ The UNICEF Survey is available at: <http://www.unicef.gr/reports/alko/street.php>.

⁵ Mr. Lazos is sociologist and criminologist at Panteion University in Athens, author of a research paper on sexual exploitation in Greece.

⁶ CRC/C/15/Add.170, paras. 23 and 24.

⁷ Concluding observations of the Human Rights Committee: Greece, CCPR/CO/83/GRC, para. 10.

⁸ Special Report of the Deputy Ombudsman, Children's Rights Unit, "Administrative detention and deportation of alien minors", October 2005.

⁹ Ibid.

¹⁰ E/CN.4/2005/78/Add.3, paras. 86-92.

¹¹ CCPR/CO/83/GRC, para. 10 (b) and CAT/C/CR/33/2 para. 6 (m).

¹² "Implementation of the Protection and Social Care for Street Children programme, report by George Moschos, Olga Themeli, Stamatina Poulou and Samantha Stratithaki for the Rights of the Child Department, Ombudsman's Office, Greece, March 2004.

¹³ Ibid., para. 21.

¹⁴ T.D. Tsovili, E. Voutira, Asylum-seeking single women, women heads of families and separated children: Reception practices in Greece - October 2004.

¹⁵ See notably CRC/C/15/Add.170, para. 66 (f).

¹⁶ CCPR/CO/83/GRC, para. 16.

¹⁷ CCPR/CO/83/GRC, para. 10 (b).

¹⁸ CCPR/C/GRC/2004/1, para. 911.
