

POLICE VIOLENCE IN GREECE

NOT JUST 'ISOLATED INCIDENTS'

AMNESTY
INTERNATIONAL



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Cover photo: A Greek riot police officer kicks a protester during clashes in Syntagma Square, Athens, 15 June 2011.
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GLOSSARY

Convention against Torture	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT	Committee against Torture
CERD	Committee on the Elimination of Racial Discrimination
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CPT	Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECRI	European Commission against Racism and Intolerance
ECtHR	European Court of Human Rights
GADA	Attika General Police Directorate
GCR	Greek Council for Refugees
GHM	Greek Helsinki Monitor
ICCPR	International Covenant on Civil and Political Rights
NCHR	National Commission for Human Rights
NGO	Non-governmental organization
GPC	Greek Penal Code
GPPC	Greek Penal Procedure Code
OPCAT	Optional Protocol to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
PD	Presidential Decree

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Not just 'isolated incidents'

UN

United Nations

UNHCR

United Nations High Commissioner for Refugees (UN
Refugee Agency)

1. INTRODUCTION

Manolis Kypreos, a journalist, suffered a total loss of his hearing after a police officer reportedly threw a stun grenade at him while he was covering a demonstration in Athens on 15 June 2011. Yiannis Kafkas sustained near-fatal head injuries when he was beaten by riot police during another demonstration, on 11 May 2011. He was among a large group of peaceful protesters against whom riot police reportedly used excessive force that day. Arivan Osman Aziz, a Kurdish migrant, died as a result of his injuries in July 2009 after he was allegedly beaten by a coastguard officer when he was picked up.

These are only some in the long line of individual cases involving human rights abuses by law enforcement officials in Greece. Amnesty International has longstanding concerns regarding human rights violations by law enforcement officials. They include torture and other ill-treatment during arrest or detention, misuse of firearms, excessive use of force and other violations in the policing of demonstrations.¹

While the Greek authorities acknowledge the existence of human rights abuses by law enforcement officials, they class them as "isolated incidents" and thus fail to acknowledge the extent and depth of this systemic problem. The number of allegations received by Amnesty International, along with those reported in the media, give a completely different picture to the one the Greek authorities refer to in reports to international bodies and various statements.²

Further, abuses by law enforcement officials continue, and impunity for these crimes persists.

Since the fatal shooting of 15 year-old Alexis Gregoropoulos by a special guard in December 2008, and the demonstrations that followed, there have been numerous allegations of human rights violations by police during demonstrations.³ These have increased particularly in the period covering the introduction of severe "austerity measures" by the government in the wake of the deepening financial crisis (2010-2012). Many of these allegations have been supported by an unprecedented amount of video footage.

Other frequent allegations refer to ill-treatment during arrest and/or detention. Members of vulnerable groups such as individuals detained for immigration purposes by coastguards, police or border guard officers, are particularly at risk.

In the past 10 years, the European Court of Human Rights (ECtHR) has found Greece in violation of Articles 2 (right to life) or 3 (prohibition of torture or other ill-treatment) in 11 cases concerning human rights violations by law enforcement officials. In two cases concerning ill-treatment, the United Nations (UN) Human Rights Committee found Greece in violation of several provisions of the International Covenant of Civil and Political Rights (ICCPR).⁴

Amnesty International recognizes that most police carry out their frequently dangerous and difficult duties without committing human rights abuses. However, if there are allegations or

other credible information that human rights violations may have been committed by police officers, the authorities are obliged to carry out prompt, thorough and impartial investigations. Disciplinary measures should be taken as appropriate, and officers responsible for criminal conduct must be brought to justice in full and fair proceedings. Moreover, victims have the right to an effective remedy and reparation.

Systemic problems persist in the investigation, prosecution and punishment of human right abuses. There are protracted delays in criminal proceedings, which can also lead to impunity if the offence eventually expires under the statute of limitation. Police, prosecutors and courts all frequently fail to thoroughly investigate, prosecute and/or punish human rights abuses involving law enforcement officials. Moreover, even if victims of ill-treatment or misuse of firearms find vindication before international bodies such as the ECtHR, this is not reflected at the domestic level as a result of delays to provide the applicants with compensation or the failure to reopen the investigations into the cases.

The failure of the Greek authorities to effectively address violations of human rights by police has made victims of such violations reluctant to report them.

In addition, current policy requiring riot police to exhibit personal identification numbers on their helmets does not have the intended effect of making them visible, since these numbers are exhibited on the back of helmets and in circumstances of excessive use of force generally cannot be identified by victims. In any case, riot police often fail to wear such numbers, a failure which additionally contributes to a lack of police accountability.

These and other failures in police accountability have led to persistent impunity - one of the main factors contributing to the repetition of human rights violations by law enforcement officials.

A series of recommendations to the Greek authorities which would have addressed accountability failures and impunity have not been adopted or endorsed fully. For example, despite repeated calls for the establishment of an independent police complaints mechanism by Amnesty International, the Council of Europe Commissioner for Human Rights, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Greek authorities have responded with a very weak measure – the establishment in 2011 of an Office for Incidents of Arbitrary Conduct by Law Enforcement Officials. Amnesty International is concerned about the independence of the Office and the effectiveness of its current mandate.

Drawing on a wide range of material, Amnesty International makes urgent recommendations to the Greek authorities to improve its law and practice. These include ensuring police exercise restraint and identify themselves clearly during demonstrations, improving safeguards for those in custody and creating a truly independent and effective police complaints mechanism.

1.1 ABOUT THIS REPORT

This report covers Amnesty International's concerns about policing in Greece until April 2012.

The main bulk of Amnesty International's research in this report covers the period between 2008 and 2012, although in Chapter 5 some research on impunity goes back to incidents from 2001.

Amnesty International interviewed and/or communicated with 88 victims and/or their lawyers and family members of the victims. Several of the interviewees were involved in the same incident of excessive use of force at a demonstration, others were ill-treated while in detention, and some suffered arbitrary arrest.

In addition, in two cases concerning excessive use of force by police against a group of protesters, the organization interviewed the lawyers of some of the victims. In 17 more cases concerning the ill-treatment of one or several individuals, Amnesty International interviewed non-governmental organizations (NGOs) which represented victims in legal proceedings before domestic and international courts or reported violations.

The organization also monitored many other cases of human rights violations by law enforcement officials reported in the national and international media, and viewed extensive audiovisual material relating to excessive use of force, including the use of chemical irritants, in the policing of demonstrations.

Amnesty International researchers interviewed the then-Chief Prosecutor of the Athens First Instance Courts in June 2009 and the current Chief in January 2012, along with Public Prosecutors investigating cases of ill-treatment. On separate visits in the country in June 2009 and May 2011, the delegates interviewed various representatives of the Greek Police, including senior officials and managing staff in various police stations in Athens. Interviews were also conducted with representatives of the Pan-Hellenic Federation of Police Personnel and with representatives of the Unions of Greek photoreporters and journalists.

Amnesty International interviewed representatives of the National Commission for Human Rights (NCHR) in May 2011, and representatives of the Ombudsperson's office in June 2009 and May 2011. Interviews were also conducted with representatives of various NGOs, including the Greek Helsinki Monitor (GHM), the I-Red, the Greek Council for Refugees, the Group of Lawyers for the Rights of Refugees and Migrants, the Ecumenical Refugee Programme, the Hellenic League for Human Rights and ARSIS. Amnesty International researchers also interviewed representatives of the Somali community and the Afghan refugee community in May 2011, and representatives of the Pakistani community in June 2009.

2. ALLEGATIONS OF ILL-TREATMENT

2.1 POLICING OF DEMONSTRATIONS

Greece's economy has been in crisis for several years, with high unemployment rates and job losses exacerbated by a series of austerity measures introduced by successive governments. Public opposition has risen since the introduction of these measures.

Many of the anti-austerity demonstrations that have taken place in recent years were peaceful, such as the sit-ins staged by the "Indignant movement" in the main squares of the capital Athens and the city of Thessaloniki between May and August 2011. On other occasions, including several times in June 2011, the otherwise peaceful demonstrations became violent when a minority of rioters clashed with police. A few of the demonstrations had more serious consequences. On 5 May 2010, three bank workers died during a demonstration in Athens against the austerity measures after some rioters threw a petrol bomb at the bank. On 10 February 2012, the largely peaceful demonstration taking place while Parliament voted a second bail-out agreement turned into a riot, which resulted in extensive fire damage to many buildings including banks and shops. Police also reported a large number of injuries to their officers in some of these demonstrations or protests.

2.1.1 EXCESSIVE USE OF FORCE AND OTHER HUMAN RIGHTS VIOLATIONS DURING DEMONSTRATIONS

Following the fatal shooting of Alexandros Gregoropoulos in Athens on 6 December 2008, there were many allegations of unnecessary or excessive use of force and other ill-treatment by police of peaceful demonstrators during the protests which erupted in the aftermath of the shooting. These were attested to by video footage broadcast by international and national media. Reports were also received from Athens and other parts of Greece of arbitrary arrests, ill-treatment of those detained, and the denial of prompt access to legal assistance.

Between 2009 and the first months of 2012, numerous allegations have been received regarding excessive use of force, including the use of chemical irritants against peaceful or largely peaceful demonstrators, and the use of stun grenades in a manner that violates international standards. For example, video footage, photographs, press reports and witness testimonies point to the repeated use of excessive force by police in the demonstrations organized against the austerity measures on 15, 28 and 29 June 2011, including the excessive use of chemical irritants against largely peaceful demonstrators.⁵

Photographers and journalists, while covering the demonstrations, were not spared police violence. The number of reported incidents increased from June 2011, when major anti-austerity protests took place.⁶

Amnesty International has also received allegations that police obstructed the access of injured demonstrators to medical assistance. The organization has continued to receive reports that some protesters and other individuals have been arbitrarily arrested by police during demonstrations, and falsely charged for attacking police or planning to do so. Such cases have also been publicized widely in Greece. Concerns also exist over the practice of police transferring protesters to police stations without any evidence that they have committed any offence and releasing them some hours later without any charges.⁷

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials explicitly state that police should as far as possible, apply non-violent means before resorting to the use of force, which they may use to the minimum extent necessary and only if other means remain ineffective or without any promise of achieving the intended result. If the lawful use of force is unavoidable, police must exercise restraint in its use and act in proportion to the legitimate objective to be achieved, minimize damage and injury, and ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment. The Principles also stipulate that governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under national law.

The following cases illustrate the concerns mentioned above:

ANGELIKI KOUTSOUBOU 2009

On 6 December 2009, Angeliki Koutsoubou, a mathematics teacher and political activist, then aged 61, was participating in the Athens demonstration on the first anniversary of the death of Alexandros Gregoropoulos together with her husband and other members of the Workers' Revolutionary Party. She suffered serious head injuries, hearing loss in the left ear, fractured her left collarbone and four of her ribs, after being hit by a police officer belonging to the DELTA force driving a motorcycle. She remained in a serious condition at the hospital for several days. According to testimonies received by Amnesty International, the driver of the police motorcycle that injured Angeliki Koutsoubou, along with some other police motorcyclists, drove intentionally at the group of peaceful demonstrators with whom she was protesting.

Dimitris Georgiou, a demonstrator and a doctor who was with Angeliki Koutsoubou, told Amnesty International in March 2012: "I tried to help Angeliki and lift her up but the officers on the motorcycle, along with other officers, beat me, despite my saying that I was a doctor. I was beaten with batons on the head and when I lifted my right hand to protect myself, I was hit on my wrist".⁸ Another police officer, who was a passenger on the motorcycle, also allegedly beat Angeliki Koutsoubou while she was lying unconscious on the ground and bleeding from her ear. Angeliki Koutsoubou lay there for half an hour and another doctor from her group reported that when he requested the police officers to call an ambulance, they verbally abused him and said: "Why should we call an ambulance, you're going to burn it?".

In March 2012, the prosecutor assigned to the case decided to reject Angeliki Koutsoubou's complaint against the police. In a brief reasoning and with no detailed justification, the prosecutor assigned with the case rejected the claim that the officer fell intentionally on Angeliki Koutsoubou and injured her. The legal representatives of Angeliki Koutsoubou expressed their concerns over the outcome and maintained that the prosecutorial authorities did not make a correct evaluation of the evidence including the numerous eyewitness testimonies regarding the incident. An appeal was filed against the prosecutor's decision.

YIANNIS KAFKAS 2011

Yiannis Kafkas, an unemployed psychologist and post-graduate photography student, sustained near fatal head injuries when he was beaten by riot police during an anti-austerity demonstration in Athens on 11 May 2011. He was among a large group of peaceful protesters who were reportedly subjected to excessive use of force by riot police.⁹ According to his lawyer and Yiannis himself, he was hit with one of the fire extinguishers

that some riot police carry with them. Yiannis Kafkas remained in hospital for 20 days, ten of them in intensive care, after having emergency surgery.

Yiannis Kafkas recounted: "At the time of the attack, we had just passed Voukourestiou street (near Syntagma square). I heard the explosions of stun grenades between 100 to 200m behind me. One second, I felt pressure behind me from other demonstrators who were pushing forward. The next, riot police surrounded us from everywhere, left, right... It was really scary... When they surround you, they beat you, they spray you with chemicals and throw stun grenades at you, it can be lethal. The protesters were stepping all over each other because they had panicked and had no way out. [The police] beat us with such brutality! They beat me on my body and my head with their batons but I also felt that two of the blows on my head came from something completely different, heavy and metal. I tried to remain standing and to stay alive... When I woke up in the hospital I did not have any control over my body. One or two days after I came out of my coma I wrote on a piece of paper in front of my mother and a nurse that I had been hit by a fire extinguisher."¹⁰

Several other protesters who were injured that day, along with eyewitnesses, described what happened in similar terms.¹¹ X., a protester who was in the same group as Yiannis Kafkas said: "I feel very lucky that I came out alive from there".¹²

MANOLIS KYPREOS 2011

On 15 June 2011, Manolis Kypreos, a journalist, was covering protests against the new austerity measures in Syntagma Square, Athens. A police officer reportedly threw a stun grenade at him, contrary to manufacturers' instructions and safety procedures. Manolis Kypreos suffered total loss of hearing in both ears. In August 2011, Manolis Kypreos underwent surgery to install a cochlear implant. He regained part of his hearing in one ear but with great limitations, and he still finds it difficult to walk due to the lack of balance. Because of his physical disability and psychological trauma, his career as a journalist is effectively over. Manolis Kypreos said:

"It was about 2.30pm and there was tension between the police and demonstrators. My experience told me there could soon be violence, so I decided to move for cover. A few metres on, there was a police squad that began to fall back towards Syntagma Square. The commander of the police unit asked me why I was taking photos. I showed them that I was a journalist and a member of the Union of Journalists. After swearing at me, the team leader ordered another officer to throw a stun grenade at me. I literally jumped and fell back. I thought I was dead. After a few minutes a group of civilians began to revive me, pouring water on my head. And then I realised that something was amiss, because I couldn't hear."

In November 2011, the Athens Administrative Court of First Instance awarded Manolis Kypreos an interim compensation payment in relation to the claim he filed against the Greek authorities in August. At the end of 2011, the Athens Prosecutor's Officer of the First Instance Courts filed charges against as yet unidentified police officers for intentionally causing the journalist serious bodily harm.¹³

2.1.2 OBSTACLES IN IDENTIFYING PERPETRATORS DURING DEMONSTRATIONS

Victims of excessive use of force during demonstrations and other forms of protests have spoken about the difficulties they face in the identification of members of the riot police who have attacked them. The manner of attacks, such as beating on the head with a baton or other instruments, or spraying with various chemical irritants, resulted in protesters losing consciousness or feeling confused, and increased their difficulties. The victims were unable to see the personal identification number of the riot police officer because it is currently worn in a position that was not visible to them – on the back of the officer's helmet. Others alleged that riot police officers were not wearing a personal identification number at all.

International standards such as the European Code of Police Ethics require that police personnel should, during intervention, normally be in the position to reveal their police status and identification.

The regulations regarding the type of uniform and insignia required for police personnel are included in the Ministerial Decision No. 7012/6/103 of July 2009. Lawyers expressed concerns over the regulations which exempted some police officers, such as riot police officers - "MAT" unit officers, from the requirement to wear their personal identification numbers on their uniforms. The regulations were subsequently amended by Ministerial Decision in January 2010.¹⁴ The amended regulations stipulate that uniformed police officers must wear their personal identification numbers on the lower part of the epaulettes of their uniforms, while police officers belonging to the Sub-Directorate of Restoring Order (riot police units) shall wear the number of their unit and individual number on their protective helmets. The stated purpose of these amendments was to ensure the clear identification of riot police.

In addition, the requirement to bear personal identification numbers applies to the uniforms of police officers with the ranks of police sergeant and police second sergeant. The organization is concerned that higher and medium ranking police officers' uniforms are required to have the insignia of the force, their unit and rank, but not personal identification numbers.

In addition, the organization is seriously concerned that the requirement of riot police wearing personal identification numbers on their helmets is not applied in practice. More specifically, following the demonstrations of June 2011 and the numerous videos, photographs and testimonies relating to the excessive use of force against demonstrators, national NGOS such as the Hellenic League for Human Rights expressed their concern that the requirement that police officers wear insignia was not implemented and that police officers continued to refuse to comply with their obligations. The Hellenic League for Human Rights also pointed out that the investigation of allegations of excessive use of force by police during demonstrators was ineffectual, since riot police officers had their faces covered by helmets and/or gasmasks and did not wear personal identification numbers.

Amnesty International has also been informed of cases where police officers involved in cases of ill-treatment did not identify themselves or refused to identify themselves to victims or other persons when asked. Nassos Iliopoulos and Leonidas Kapoutzidis, representatives of the youth branch of the Syriza party who were injured by police on 7 December 2010 in the courtyard of the Athens First Instance Courts, reported that following their injury, a Syriza

member of parliament arrived to the court area and asked the head of the riot police unit that was involved in the attack for his identity and he refused to tell her.

Zoi Konstandopoulou, a lawyer representing several victims of human rights violations by police, told Amnesty International about the difficulties faced in the identification of perpetrators even when lawyers provide the prosecutors with the number of the riot police unit present at the place and time at which the incident occurred. She said that when lawyers ask the judicial authorities to order the police to provide the recordings of communications between the operations centre and the riot police unit at the time of the incident in order to assist in the identification of perpetrators, the police authorities fail to provide such recordings.

Such attempts by police to continue to block the identification of perpetrators violate both national and international law.

2.2 ILL-TREATMENT OF INDIVIDUALS ARRESTED ON SUSPICION OF CRIMINAL OFFENCES

Amnesty International has received allegations of ill-treatment of people during arrest and/or detention. Individuals arrested and accused of membership of domestic armed groups and the commission of terrorist offences have written to the national media alleging ill-treatment during their arrest and interrogation by police or in prison while refusing to be subjected to internal body searches.

The following are illustrative examples:

PANAYIOTIS KOULOUVAKOS-ATHANATOS 2008

Panayotis Koulouvakos-Athanatos, a high-school student, then aged 17, was reportedly ill-treated by police officers in Patras on 10 March 2008 during his arrest and detention.

He told Amnesty International that he was out with four of his friends when at 5:30am three police officers from the unit known as "Z" approached them and attempted to arrest and handcuff him. He claimed that although he and his friends had not been involved in any unlawful behaviour he was beaten by one of the police officers when he resisted arrest. And, that even when he had ceased resisting, the police officers continued to beat him with a baton. A fourth police officer of the unit allegedly watched the incident and did not react.

Panayotis and two of his friends were subsequently driven to the police station. The student recounted: "At the police station the police officers swore at us and mocked us. One of the police officers who arrested us ... took me into the next room, while I was still wearing handcuffs, and beat me with his baton, and punched and kicked me ... At one point, he struck me with his baton on my head and neck. I felt dizzy and fell to the floor. Then he put me on a chair and continued to beat me with his baton and fists..."

Later that morning, Panayotis and his two friends were taken before the local judicial authorities. They were charged with various offences including threats and swearing at police officers, and attempting to cause bodily harm to police officers by throwing bottles at them when they approached them. Panayotis was subsequently transferred to the local hospital where he was offered medical treatment. He was also examined by a state medical examiner in Patras the following day. According to the examiner's report, he suffered,

amongst other injuries, bruises on the left and right ear, multiple lacerations on the neck and head area, swelling on the right cheek and lacerations on the left wrist. The report concluded that the majority of the injuries suffered by the student were a result of direct beatings. The independent medical examiner who saw him on 14 March 2008 concluded that the type of bruises that the student sustained indicated beatings with a police baton. The independent medical examiner also concluded that the injuries fell in the category of "serious bodily harm" due to the instrument used to beat him (a baton) and the areas where the majority of injuries were sustained (neck and head). According to the independent medical examiner, the above could have put the student's life at risk or caused him serious bodily harm.

Following complaints lodged by the student, a criminal investigation and a disciplinary investigation were initiated. In March 2012, Amnesty International learned that the police officer who allegedly beat Panayotis at the police station was referred to trial for the offence of "other violations of human dignity" proscribed under the torture provision. The same police officer and two others were indicted for dangerous bodily harm for the ill-treatment that took place during the student's arrest. The three police officers and a fourth officer were also indicted for verbal abuse and threats.¹⁵

Panayotis Koulouvakos-Athanatos, strongly contested the charges brought against him and his two friends, noting the reported police practice of bringing false counter-charges against victims of ill-treatment.

DEMOSTHENIS PAPADATOS-ANAGNOSTOPOULOS 2011

On 14 January 2011, Demosthenis Papadatos-Anagnostopoulos, a post-graduate student and journalist, reported that he had been arbitrarily arrested and beaten the previous day in Athens by officers belonging to the Anti-Terrorist Police Unit and requested an investigation into the incident.¹⁶ Demosthenis Papadatos-Anagnostopoulos said that on the evening of 13 January 2011, while he was walking home, between 10 and 15 police officers dressed in civilian clothes and without any insignia, appeared, swore at him repeatedly, handcuffed and beat him. He also alleged that the police officers also beat him before he was transferred to the Attika General Police Directorate ("GADA") and that whilst at the GADA for a period of a few hours, he was sworn at, threatened and ordered to undress.

Demosthenis Papadatos-Anagnostopoulos recounted that he had to stay naked in a dark room at GADA in front of several hooded police officers for nearly 20 minutes. He spent three hours at the police station before the police authorities declared that he had been mistaken for another person wanted for terrorist offences and released him. They later denied that any ill-treatment had taken place during his apprehension and custody. In February 2011, Demosthenis Papadatos-Anagnostopoulos filed a criminal complaint about his treatment. According to Demosthenis' lawyer, 14 months after the complaint was filed the case had still not been assigned to a prosecutor for investigation.

2.3 ILL-TREATMENT OF VULNERABLE GROUPS

"They came into the office, beat me, stopped, and then beat me again...."

Pedro N., Chilean national ill-treated at the Akropolis police station on New Year's Eve 2009

Amnesty International frequently receives allegations of torture and other forms of ill-treatment against members of vulnerable groups by law enforcement officials in Greece such as Roma, migrants and asylum-seekers.

CHRISTOS CHRONOPOULOS 2007

In 2008, the family of Christos Chronopoulos, who was suffering from mental health problems, reported that he had sustained serious injuries as a result of police ill-treatment while in detention. Christos was arrested by two police officers for causing a disturbance at a café and taken to Kallithea police station in Athens after 11pm on 22 May 2007, where he was detained. At about 1.45am on 23 May 2007, he was taken to hospital by ambulance. According to a statement issued by the General Police Directorate of Attica on 10 June 2007, this was because he was "unwell".

Doctors at the hospital found that Christos had sustained a grave head injury, subdural haematoma, swelling of the brain and multiple bruises on his sternum and one wrist. Forensic medical documents viewed by Amnesty International also documented the head injury and multiple bruises and cuts all over his body. Christos was operated in the early morning of 23 May 2007 and spent two months in intensive care, several weeks in a coma, three months in a neuro-surgical wing, and another six months at a rehabilitation centre. As a result of his head injury, Christos suffers from incontinence, post-traumatic amnesia, epilepsy, visual disturbance and significant difficulty walking. He is no longer able to care for himself and is looked after by his relatives.

After an investigation the prosecutor recommended that four police officers be referred to trial for jointly causing Christos serious bodily harm during the exercise of their duties. However, on 26 January 2011, the Athens Judicial Council of Misdemeanors decided not to charge the four officers on the grounds that there was insufficient evidence of guilt. The Council concluded that Christos' head injuries were self-inflicted during the time of his arrest and were caused by his banging his head on the bar at the café. An appeal against the Council's findings was lodged by the prosecutor of the Appellate Court. The prosecutor noted that there was sufficient evidence supporting the charges against the four police officers and that one could reach a reasonable conclusion that Christos was ill-treated while detained at the police station.

The prosecutor noted that it could not be explained why police officer C., who searched Christos upon his transfer to the station, registered his detention four hours later and not immediately. The appeal also noted that the decision of the Judicial Council made incomplete reference to the state medical examiner's findings when reaching its conclusions. In particular, the Council's decision did not refer to the multiple cuts and bruises on the rest of Christos' body, or to the state medical examiner's testimony that the head injury could also have been caused by physical force. The Council's decision also focused on a section of the independent medical examiner's report which explained that the surface on which Christos banged his head could have been the surface of a table, but failed to take into account the remainder of the report which concluded that a person's closed fist could have caused the head injury and that the type of injuries indicated that they were caused by more than one person.

The appeal was rejected by the Appellate Judicial Council on procedural grounds. Subsequently, an appeal was lodged to the Supreme Court, which decided to forward the case to the Appellate Judicial Council for a new review. In April 2012, the latter referred the four officers to be tried by a Mixed Jury Court for an aggravated form of "other violations against human dignity" under the torture provision - Articles 137 A (1) (3) and 137 B of the Greek Penal Code

2.3.1 ILL-TREATMENT OF MIGRANTS AND ASYLUM-SEEKERS

Greece, like other countries at the southern border of Europe, is faced with large and mixed flows of irregular migrants and asylum-seekers. In recent years, it has become the main point of entry for irregular migrants and asylum-seekers into the European Union (EU). The large numbers of arrivals and the concomitant failure of the Greek authorities to enact recommendations made by international human rights bodies over many years have resulted in asylum-determination procedures and reception and detention conditions in the country that violate international human rights and refugee law.¹⁷

One and a half years after the landmark ruling in the case of *MSS v. Belgium and Greece*, where the ECtHR concluded that Greece did not have an effective asylum system in place, and despite some progress in terms of legislative reforms and improvements at the appeal level of asylum determination procedures, migrants and asylum-seekers continue to face a series of challenges. These include severe impediments in their access to asylum, cases of *refoulement* and detention conditions which in many cases amount to inhuman and/or degrading treatment.¹⁸

Many of the allegations received in recent years concerned torture and other forms of ill-treatment of migrants and asylum-seekers, and in particular those held for immigration purposes. Many of the migrants and asylum-seekers reported that their ill-treatment took place after they requested access to a doctor or access to a phone or protested about their length of detention and/or detention conditions. Allegations have also been received concerning cases of ill-treatment by coastguards against migrants and asylum-seekers apprehended and transported on coastguard boats, or migrants and asylum-seekers attempting to board irregularly a boat from Greece to Italy in the ports of Patras and Igoumenitsa.¹⁹

Amnesty International has also documented some cases of individuals witnessing and coming to the aid of migrants ill-treated by law enforcement officials, who were then allegedly verbally abused and ill-treated and/or charged with swearing at police officers. In one case, the representative of a human rights NGO reported that she was intimidated by the senior police officer of a police station when she raised her concerns about the ill-treatment of an asylum-seeker who was allegedly beaten by some of his guards while the legal representative of the same NGO was in the next room.

The following are illustrative examples of the organizations' concerns:

ARIVAN OSMAN AZIZ 2009

On 3 April 2009, Arivan Osman Aziz, a Kurdish Iraqi migrant was reportedly severely beaten by a coastguard officer in the port of Igoumenitsa. Arivan died as result of his injuries on 27 July 2009. A state medical

examiner's report ordered in the framework of the criminal investigation concluded that Arivan Aziz suffered serious head injuries caused by force either because he fell face down on the ground or because his head was banged against a blunt surface. The post-mortem showed that Arivan's death was caused by a serious head injury and the deterioration of his health during his four-month stay in intensive care.

Amnesty International received from his lawyer the following eyewitness account: Arivan, the eyewitness, and two other migrants were hiding in a truck which was about to board a ferry to Italy. When four members of the coastguard searched the truck they apprehended the four men, beat them and then handcuffed them. However, the handcuffs on Arivan and a second man, of Afghani origin, were not properly secured and they tried to escape. Two officers of the coastguard pursued them while the two other officers held the eyewitness and the fourth man. One of the officers apprehended Arivan and began to beat him; during this assault Arivan fell to the ground. The officer banged Arivan's head on the ground and also hit him on the head with a baton several times. Arivan reportedly started bleeding from the nose and lost consciousness.

The lawyer of the family contested the coastguards' version that Arivan was suffering from epilepsy and that during the incident he suffered an epileptic fit and had knocked his head hard against the pavement, and also their claims that they had found pills for epilepsy in his pocket. The lawyer reported that Arivan's father, who had gone to Greece to see his son in intensive care, had testified that his son was absolutely healthy and had never suffered from epilepsy. Amnesty International has been informed that the criminal investigation into the case is still ongoing and the sworn administrative inquiry has been postponed pending the results of the criminal investigation.²⁰

ALLEGATIONS RECEIVED DURING VISITS TO IMMIGRATION DETENTION FACILITIES AND POLICE STATIONS

While visiting the detention facility for migration purposes for male unaccompanied children in Amygdaleza (Athens) in June 2010 and in the course of subsequent interviews with some of those detained there, Amnesty International received information concerning the alleged ill-treatment of four detainees by the facility's guards few days prior to the visit. According to these accounts, the detainees were paired up, and each pair was handcuffed to each other. They were wearing only their underwear. Each pair was then forced to stand either side of the two open doors of the facility's administration office. The chain of the handcuffs was placed over the top of the door, forcibly raising the detainees' handcuffed arms. They were held like this for approximately three and a half hours. Cold water was thrown at them and the flames of cigarette lighters were held close to their bodies. Amnesty International subsequently raised these allegations with the central police authorities, and was told that an inquiry would be conducted. Later on the organization was informed by a senior officer at the Attika Aliens Police Directorate that the initial disciplinary inquiry conducted into the case did not find any police officer responsible. The organization was told that the case would be transferred to Police Headquarters for further investigation due to the seriousness of the allegations. Amnesty International is still waiting to receive further updates.

In May 2011, Amnesty International delegates visited the detention facility of Fylakio and the border guard stations of Ferres, Soufli and Tyhero in the Evros region (the land border between Greece and Turkey) where asylum-seekers and irregular migrants, including unaccompanied children, were held for prolonged periods in conditions that amounted to inhuman or degrading treatment. Amnesty International also visited Omonoia, Aghios Panteleimon and Exarheia police stations in Athens where irregular migrants and asylum-seekers were

held for immigration purposes, along with individuals suspected of criminal offences. Conditions in those cells were very poor. Several detainees, including one unaccompanied minor, alleged that they were beaten and/or verbally abused by police or border guards during their detention. Those interviewed did not want the incidents reported to the directors of the facilities or police stations because they were afraid of reprisals.

X., an asylum-seeker detained at the Exarheia police station in Athens which was visited by Amnesty International in May 2011, stated:

“Three months ago, three police officers dressed in black uniforms came around 2am, collected me from my cell and took me to the fourth floor of the station. ... They kicked and punched me and broke my nose and my teeth. After that, they took me to hospital, then brought me back to the police station, and then I tried to commit suicide. Ten days later, I was beaten again. Then I tried to kill myself again. I tried to kill myself three times because I was in great pain because of the beating...”

Three male detainees in the police station in Omonoia told Amnesty International that they had been beaten in separate incidents by police while in detention. One of the detainees had bruises on his back, a swollen eye and scratches on his knees. The second detainee had a large bruise in the area of his ribs and alleged that the police officers had also used an electric shock device on him. Two of the three told Amnesty International that they were under the age of 18.

2.3.2 ILL-TREATMENT OF ROMA

Greece is home to a sizeable Roma minority, estimated at between 250,000 and 350,000. Roma in Greece face a range of human rights violations such as ill-treatment by police, discrimination, appalling living conditions in various Roma settlements and forced evictions.²¹

Members of the Romani community were victims in several of the cases involving ill-treatment or misuse of firearms in which Greece was found in violation of the ECHR or the ICCPR. For example, in the case of *Bekos and Koutropoulos*, concerning the ill-treatment of two young Romani men in the town of Messolongi, the ECtHR found a violation of Article 3 related to the applicants' ill-treatment and the lack of effective investigation. The Court also concluded that the authorities had failed in their duty to take all steps to investigate whether or not discrimination might have played a role in the ill-treatment and found a violation of Article 14 taken together with Article 3.²²

MISUSE OF FIREARMS AGAINST TWO ROMA MEN, GERAKAS, 2012

Amnesty International received allegations of misuse of firearms and ill-treatment by police during a check following a drugs search by police in the early hours of 3 April 2012 in the Gerakas area near Athens. Two police officers from the Gerakas police station stopped a car in which three unarmed Roma men were driving. Two of the men were injured after one of the officers fired what the authorities have since claimed to be warning shots. According to their lawyer, the two men sustained several injuries to their legs and one of them was also injured in his abdomen and had to be hospitalized.

The two men alleged that the police ordered them with a loud hailer to get out of their car and when they did so they found guns pointing at them. They alleged that they did not put their hands up as ordered, because they were not sure that the two armed people were actually police officers (they were in casual clothing and driving a conventional car), so they requested the officer who was conducting the check to show them his ID.

However, the police officer allegedly fired once with a submachine gun directly at their legs while shouting "I am crazy".

The two men also alleged that the police officer who fired the gun continued to point his gun at them even after they were lying injured on the ground, beat them and threatened to kill them if they did not comply with his orders. Then other police officers arrived and continued to assault them.

According to a statement issued on 3 April 2012 by the authorities, the three passengers in the car did not obey the police's to stay in their car while a check was carried out, but instead got out and moved against the two officers who had also got out of their car. It is claimed that the three men tried to grab the guns from the two officers and one of the officers fired warning shots to stop them.

However, the victims' lawyer reported several inconsistencies between the official announcement and that of the police officer's testimony; the latter reportedly confirmed the two men's version that he had ordered the two men to get out of their car. A criminal investigation was started by the police into the incident while the victims also filed a separate criminal complaint. Amnesty International understands that so far no announcement has been made as to whether a disciplinary investigation will be instituted, as required by law in cases involving the alleged misuse of firearms.

2.4 THE FAILURE OF POLICE TO PREVENT OR INVESTIGATE RACIALLY MOTIVATED CRIMES

Since 2010, third-country nationals including asylum-seekers, refugees and irregular migrants find themselves increasingly the target of racially-motivated attacks perpetrated by members of extreme right-wing groups, law enforcement officials and ordinary citizens. Such attacks have acquired disturbing dimensions since May 2011.²³ Not only members of migrant and refugee communities have been targeted, but also unofficial mosques, shops and community centres belonging to members of migrant communities.²⁴

NGOs providing support and medical assistance to migrants and asylum-seekers report that many victims of racially-motivated attacks seeking assistance for their injuries choose not to report the incident to the authorities out of fear of arrested because of their irregular status.²⁵ Representatives of the Afghan community in Greece confirmed this trend when speaking to Amnesty International in May 2011.

The general climate of impunity for perpetrators of racially-motivated attacks also discourages victims from reporting them. In June 2011, the UN Refugee Agency (UNHCR) observed:

"....incidents of racist violence are rarely investigated in a fair and efficient manner. Victims usually do not report them because they are either afraid of being arrested (in case they do not have any legal documents) or see no point in doing so given the general climate of impunity that seems to prevail. Those guilty of violent attacks against aliens remain undetected in their vast majority (although many criminal acts are automatically prosecuted) and even if brought before justice, the usual practice is that they are very soon set free. Until now nobody has ever been condemned for crimes with racist motives. Impunity intensifies and perpetuates violence, while this phenomenon is taking alarming dimensions..."²⁶

Asylum-seekers, migrants and refugees also report law enforcement officials as perpetrators

of racially-motivated offences against them. In March 2012, the Network Recording Incidents of Racist Violence presented its initial conclusions based on a three-month pilot period recording racially-motivated acts. The Network was set up at the initiative of the NCHR and the UNHCR, with the participation of 18 NGOs and agencies for the purpose of registering racially motivated crimes and making a series of proposals for their prevention, in view of the absence of an official mechanism for recording such attacks.²⁷

It concluded that the results of its pilot research were alarming, noting that the incidents recorded were not even the tip of the iceberg.²⁸

According to the Network, out of the 63 recorded incidents in a three-month period against third-country nationals including migrants, asylum-seekers and refugees, 18 were linked with police violence. Ten of the recorded incidents in which police violence was linked with racist motives occurred in Athens and eight in Patras. The recorded incidents included the use of force and other unlawful acts during routine identity checks, cases in which the victims were taken to police stations, detained for few hours and ill-treated there, and cases in which documents such as residence permits of third-country nationals were destroyed.²⁹

Victims, Greek NGOs, representatives of migrant communities, as well as numerous news sources, have all reported cases where police officers have failed to take measures to protect third-country nationals from racially-motivated attacks. In such cases, for example, officers have taken a long time to reach the scene of the attack, despite repeated calls from the victims; or they have been present at attacks but not taken any measures to protect the victims; or have not proceeded with the arrest of perpetrators.³⁰ In some cases police reportedly transferred the injured victim to a police station to check his/her irregular status instead of to a hospital, or discouraged the victim from lodging a complaint, or failed to treat the complaint as a racially-motivated attack.

SOMALI COMMUNITY, ATHENS 2011

Representatives of the Somali community told Amnesty International that on 9 April 2011, the community centre for Somalis in Greece was attacked by a 200-300 strong extreme right-wing group that was staging an anti-immigration demonstration in the neighbourhood. This was the third time that the offices had been attacked. The attackers allegedly used tear gas and iron rods to assault about 20 people in the building. They also smashed windows, destroyed furniture and electric appliances. During the attack the assailants shouted racist slogans and painted racist symbols on the walls of the building. Representatives of the community allege that they had called the police the previous day requesting protection because they had been warned of a possible attack during the demonstration. At the time of the attack over 100 police officers were present in the area and in front of the community's building but allegedly did not intervene. When a representative and other migrants called on them to intervene they were simply told to leave the vicinity as there was danger for their physical safety. During the attack 10 Somalis were reportedly injured, three of whom sought medical assistance and were hospitalized. According to testimonies received from the representatives of the community, the police transferred some of the injured to a nearby police station and questioned them before releasing them.

During visits to four police stations in Athens (Omonoia, Aghios Panteleimon, Akropolis and Exarheia) in May 2011, Amnesty International was informed by police officers that no specific form was available to register complaints of racially-motivated attacks. In the police

station of Aghios Panteleimon, an area where many racially- motivated attacks have been reported in recent years, some of the police officers appeared not to acknowledge that attacks against migrants and asylum-seekers in the area had a racial motive behind them and instead perceived them as a reaction by the neighbourhood's residents to increased crime levels.

ATTACK AGAINST MIGRANTS AND ASYLUM-SEEKERS IN CORINTH 2012

Two journalists documenting the life of migrants and asylum-seekers in Greece described an attack they and other journalists witnessed on several migrants and asylum-seekers in a disused train station in Corinth in February 2012. The attack reportedly resulted in four migrants suffering injuries and one of them being hospitalized.

One of the journalists, Alessandro Penso recounted: "... We ran back to see what was happening and found people beating up some of the migrants we had met. We were shocked, we didn't understand what was happening or why. In a moment, the situation degenerated. A car drove violently towards us. I managed to get out of the way and jump up onto a wall and take a photo but unfortunately the car hit M.M., a Moroccan national... they [migrants] had told us that some days before, someone had shot at them with rubber pellets."

The journalists said that when they reported the incident to the police, the police officer who spoke to them dismissed the incident as a retaliatory response by Greek nationals to a robbery at the market that had taken place earlier, before investigating the attack. According to reports by a local and a national anti-racist group, the driver of the car that injured the migrants was subsequently charged with causing serious bodily harm to M.M. No racist motive was reportedly attached to the charges against the driver³¹

Andres Mourenza, the second journalist, told Amnesty International: "The other members of the group that attacked the migrants were not prosecuted as they were not in the car that hit M.M.; they only participated in the attack. To be prosecuted they must be sued by the victims. When we raised this matter with the police officer - we reported the attack as witnesses - he told us that if any migrants had come to the police station he would have arrested them as they are living without documents and illegally so it was his 'duty' to arrest them".

As a party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Greece is obliged to "prohibit and bring to an end, by all appropriate means, including legislation... racial discrimination by any persons, group or organization." Under the European Convention on Human Rights, to which Greece is a party, the Greek authorities have an obligation to respect and protect a range of rights without discrimination, including the right to life and the right to be free from torture and other ill-treatment, of people within their jurisdiction.³² The authorities are also required to ensure that prompt, independent, impartial and adequate investigations are carried out into cases of alleged violations of the right to life and the right to be free from torture or other ill-treatment, whether the alleged perpetrators are state or non-state actors.

When it comes to hate crimes, the Greek authorities have a duty under the ECHR to prohibit and diligently investigate possible incidents of racially motivated violence and to bring to justice those responsible.³³ Moreover, the ECtHR has stated "that when investigating violent incidents, State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played

a role in the events..."³⁴

2.5 THE POSITION OF THE AUTHORITIES AND POLICE REPRESENTATIVES

2.5.1 THE POSITION OF THE GREEK AUTHORITIES

While the Greek authorities acknowledge the existence of human rights abuses by law enforcement officials, they class them as "isolated incidents" and thus fail to acknowledge the extent and depth of this systemic problem. For example, the authorities' position in relation to the many allegations concerning excessive use of force and of chemicals at last year's demonstrations has been to condemn these abuses while continuing to ignore their extent, characterizing them as "isolated incidents".³⁵

Moreover, some representatives of the Greek authorities appear to condone incidents of excessive use of force. When asked about police violence against reporters, A. Kokalakis, spokesperson for the Greek police, stated in an interview with the NGO Reporters without Borders: "There is no way that the Minister (of Citizens' Protection) can guarantee that thousands of mobilized officers who have all received the same orders..., will all react in the same way under increasing stress... Response to an excess may be itself be excessive..... There will be misunderstandings. We make mistakes! ... When an officer sees a reporter in front of him, not specifically the one that is there, but the mere presence of a journalist can remind him of emotional situations in which he, as an officer, received what he perceived as unfair treatment by the media."³⁶

The authorities claim that the use of chemical irritants during anti-austerity demonstrations was justified. In March 2012, a few days after leaving his post as Minister of Citizens' Protection, Christos Papoutsis defended the use of such chemicals to control the situation during anti-austerity demonstrations, stating: "Chemicals are the mildest means of response, throughout Europe. They are not plastic bullets or water. I have been criticized because I did not allow what they accused me of - a police state. If we had a police state, people would have died in Athens." Amnesty International notes that although "less lethal" than firearms, common types of tear gas can also result in deaths and serious injuries if used improperly and therefore, to safeguard human rights, should only be used in accordance with international standards. In any case, chemical irritants should not be used on non-violent protestors unless their actions pose the risk of serious injury or death. These safeguards should have been mentioned by the Minister.

INFORMATION ON CHEMICALS AND STUN GRENADES

According to evidence gathered by Amnesty International during the June 2011 protests, the stun grenades and tear gas canisters recovered in Syntagma Square the day after the 29 June demonstration were made in Brazil, Germany, the UK and the USA.³⁷

These included: the GL-311 tear gas grenade, made by Condor Tecnologias Não Letais in Brazil; the 2-bang "sound and flash" device by German company Nico Pyrotechnik in October 2001; the N591 Stun Grenade, made by the UK-based company, Chemring; the Tear Ball Multi Effect Grenade and the 8230 Tactical Grenade – both made by US manufacturer, Combined Tactical Systems; and the 555 CS grenade made by US company, Federal Laboratories.

It is not known when the grenades used by police in June 2011 were transferred to Greece. The Brazilian GL-

311 grenade had a manufacturing date of September 2010 but Brazil does not publish an annual report on its arms exports.

According to EU annual reports on arms exports, Germany has licensed ammunition exports to Greece annually since 2003 and US\$1,121,330 worth of toxic agents, including riot control agents such as tear gas between 2003 and 2005. In 2010, according to government data, the UK authorized an open export licence, which can last between two and five years, allowing multiple shipments for a range of policing equipment to Greece. This included CS hand grenades, stun grenades, tear gas and other riot control agents. The UK also licensed stun grenades to Greece in 2003, 2005, 2007 and 2008. Since 2000, the UK authorities periodically authorized open licences for a company selling a variety of stun, smoke and tear gas ammunition.

The export of riot control agents (including tear gas) from the USA to Greece increased significantly between 2000 and 2010.

2.5.2 THE POSITION OF THE PAN-HELLENIC FEDERATION OF POLICE PERSONNEL

In an interview conducted with Amnesty International in May 2011, representatives of the Pan-Hellenic Federation of Police Personnel (POASY) condemned any form of violence from any side including incidents of violence in their force.³⁸ While they underlined that such incidents should not go unpunished, they failed to acknowledge their extent by referring to a "very small number".

The representatives also expressed their concerns about the number of police officers injured during demonstrations and the difficult conditions that they are called to work under, including very long hours during demonstrations. Moreover, they drew attention to the authorities' obligation to train riot police units on issues concerning crowd control and to provide them with the means to protect people's life and property as well as their own lives and to deter the criminal activities of those that undermine peaceful demonstrations. Among their recommendations for avoiding incidents of human rights violations by police, the Union's representatives proposed that trainee police officers should study human rights modules along with university students and not at the police academy and supported the creation of the Office for Incidents of Arbitrary Conduct by Law Enforcement Officials. They also recommended that riot police should not be staffed with newly graduated officers but with more experienced staff, and that police officers should not serve in riot police units for more than seven years.

In addition, the representatives expressed their concerns that police was not used primarily for the purpose of dealing with crime but also for clamping down on situations of social tension that the authorities failed to resolve at an earlier stage such as the continuous protests of residents in the town of Keratea against the creation of a landfill site that lasted between December 2010 and April 2011.³⁹

2.5.3 HUMAN RIGHTS TRAINING

The Greek authorities have appeared reluctant to improve the current human rights training in police academies. According to representatives of the NCHR, the government did not respond to a series of recommendations made by the Commission on adopting an interactive human rights training programme for small groups of police officers. In particular, in 2009 the NCHR had proposed to the Greek authorities, the drafting and implementation of a training programme on human rights for police officers.⁴⁰ According to the NCHR, the

proposal was initially accepted and a Working Group was set up. However, only two meetings took place. In addition, the NCHR reported that despite its request to the Deputy Minister of Citizens' Protection in 2010, it was not included in a Working Group that was set up for the training of police officers.⁴¹

The human rights training of police officers is currently limited to lectures provided at police academies by specialist staff such as senior police officers, NGO representatives and judges, as well as courses on Constitutional Law and Human Rights taught by university lecturers at postgraduate level.

In January 2012, the Ministry of Citizens' Protection announced the development of a training programme for police officers on the use of force that would ensure respect of international standards. Amnesty International hopes that its continuous recommendations on human rights training and use of force (see page 54 below) and the recommendations of the NCHR will be incorporated in this and other training programmes, and without further delay.

3. CRIMINALIZATION OF TORTURE

3.1 DEFINITION OF TORTURE IN THE GREEK PENAL CODE

Torture is prohibited in a number of international and regional human rights treaties, including Article 7 of ICCPR and Article 3 of the ECHR, the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment.⁴²

Greece is party to all the above treaties and the Greek Constitution specifically prohibits the use of torture and other ill-treatment in Article 7 (2). Since 1984, torture and ill-treatment have also been explicitly proscribed in the Greek Penal Code (GPC) with the addition of Article 137A-137D dealing with "Torture and other offences against human dignity" under Law 1500/1984.

Amnesty International is concerned that the definition of torture in Article 137 A (1) and (2) GPC is considerably narrower than the one provided in Article 1(1) of the Convention against Torture. In particular:

- It does not cover cases where torture is inflicted at the instigation or with the consent or acquiescence of a public official or other person acting in an official capacity;
- It does not cover acts committed "for any reason based on discrimination of any kind", which may, in particular, exclude from the law's scope acts solely based on gender, sexual orientation, national, ethnic or religious origin;
- It contains the term "systematic", which may entail the exclusion of single or more sporadic acts of torture.

Article 137A (3) GPC covers the infliction of less serious harm. It states: "Cases involving physical injury, harm to health, use of illegal physical or psychological force and any other serious offence against human dignity, which is committed by persons under the conditions and for the purposes defined in paragraph 1 (of Article 137 A), are punishable with a sentence of at least three years' imprisonment... Offences against human dignity include in particular: (a) The use of a lie detector; (b) Prolonged isolation; (c) Serious attack on the sexual dignity of the person."

Moreover, Article 137 A does not explicitly include rape and other forms of sexual violence as a form of torture. Instead, Article 137 A (3) refers to "serious attacks on the sexual dignity of the person".⁴³

Legal scholars analysing the jurisprudence of the Greek courts have pointed to the reluctance of prosecutorial and judicial authorities to invoke the torture provision and the tendency to use other provisions of the GPC such as Article 239, dealing with "Abuse of office".⁴⁴ As consequences of a failure on the part of the prosecutorial or judicial authorities to recognize an offence as torture falling under Article 137, offenders not only avoid stricter terms of

imprisonment, they also are not automatically deprived of their political rights⁴⁵ and any public positions they hold.⁴⁶

Professor of Penal Law E. Symeonidou-Kastanidou, also observes that the use of the term “systematic” “is responsible to a great extent for the non-use of Article 137 A (1); she is also critical of the theory and case-law that interprets “systematic” as the infliction of physical pain that is repeated and has duration, thus excluding from the definition of torture acts that cause instant pain even if it is intense.⁴⁷

3.2 CONVICTIONS FOR TORTURE

Amnesty International knows of only a very small number of cases where law enforcement officials have been charged and referred to trial for torture and other violations against human dignity since the introduction of Article 137 A in 1984. Between 1998 and 2012, the organization has documented 12 cases where law enforcement officials have been indicted and referred to trial under Articles 137 A (1) (2) or (3).

For example, in April 2011 a court in Athens found a female police officer guilty of intentionally causing bodily harm to a person under her authority for the purpose of obtaining a confession under Article 137 A (3) and handed down a two year suspended prison sentence in relation to the ill-treatment of a Cristina M., Moldovan national, by police at the Attika General Police Directorate in 2007.

Only one of these cases resulted in a law enforcement official being found guilty of use of torture as proscribed in Article 137 A (1) and (2): on 13 December 2011, the Athens Mixed Jury Court unanimously convicted police officer Christos Efthymiou of aggravated torture by electric shock against two young men, Ioannis Papakostas and George Sidiropoulos at the Aspropyrgos police station in 2002.⁴⁸ The Court imposed a sentence of six years' imprisonment suspended pending appeal followed by 10 years' deprivation of political rights. An appeal against the sentence was lodged immediately and was still pending in May 2012 (for concerns on the investigation of the case see pp. 38 and 44 below).

Amnesty International has concerns in two cases in particular over the characterization of the offence as “other violations of human dignity” and not as torture by the courts.

NECATI ZONTUL, CRETE, 2001

In case of *Necati Zontul v. Greece*, brought before the ECtHR, the applicant, a Turkish national, claimed that he was subjected to torture by being sexually abused by a coastguard in Crete in May 2001; that the Greek courts had imposed an inadequate penalty on the officers involved in his abuse, as his rape with a truncheon was characterized not as torture but as the lesser offence of “other violations against human dignity”; and that the authorities had not conducted a thorough, fair and impartial investigation into his case.⁴⁹

Necati Zontul was in a boat along with 163 other asylum-seekers and migrants that was intercepted by the Greek coastguard on 30 May 2001 and towed to the island of Crete. The migrants were placed in a disused military barracks. Many of the migrants were ill-treated and Necati Zontul was sexually abused by one of the coastguards.⁵⁰ Both the first instance and appeal courts concluded that the acts perpetrated by the coastguard officer against the applicant fell within the acts prohibited by Article 137 (A) (3) (offences against human dignity) instead of torture (Article 137 (A) (2)). The judicial reasoning regarding the characterization of

the offence appeared to be based on the “systematic” requirement of the definition of torture in Article 137 (A) (2).⁵¹ In particular, the first instance court concluded that the acts concerned “were not frequent enough and did not last as long as required”.

In a ruling issued in January 2012, the ECtHR unanimously found a violation of Articles 3 both on its procedural and substantive aspect on account of the applicant’s treatment by the authorities and their refusal to allow him to be involved in the criminal proceedings as a civil claimant. The Court, recalling previous case law, stated “that the rape of a detainee by an official of the State was to be considered as an especially grave and abhorrent form of ill-treatment” and concluded that the treatment that Necati Zontul was subjected amounted to torture (for concerns on the investigation and outcome of the case see pp. 43 and 44 below).⁵²

AFGHAN NATIONALS IN AGHIOS PANTELEIMON, 2004

Police officers reportedly ill-treated a group of Afghan nationals, including many minors, at a guesthouse in Aghios Panteleimon on 14 and 15 December 2004, while carrying out an unofficial police search for an Afghan national who had escaped from custody. Moreover, two Afghan refugees were reportedly subjected to torture, including falanga (beating on the soles of the feet), at the Aghios Panteleimon police station. The victims reported the incident to NGOs including Amnesty International and the case received wide publicity. Of the several police officers who were involved in this incident (according to the testimonies of the victims), only two were eventually identified and referred to trial - a special guard (since retired) and a police officer. Many of the victims did not file an official complaint, fearing deportation due to their irregular status.

The two officers were charged with torturing the two Afghan refugees during interrogation at the police station. One of the officers was also charged with using falanga against one of the refugees. Both officers were charged with causing aggravated unprovoked bodily harm to 11 other Afghan nationals at the guesthouse.

In December 2011, the Athens Mixed Jury Court found the two officers guilty of causing bodily injuries and harm, constituting “violations against human dignity” under Article 137 (A) (3), to the two Afghan refugees and of causing unprovoked bodily harm to five of other Afghan nationals. The Court handed down a five-year prison sentence to one officer and a five-year five-month prison sentence to the second. It also deprived the officers of the right to exercise their political rights for five years and to hold a public post for 10 years. The sentences were converted to fines and were suspended pending appeal.

The victims’ lawyers and several human rights NGOs raised serious concerns that the Athens Mixed Jury Court had accepted the proposal of the Public Prosecutor to convert the charge of torture (in relation to the ill-treatment that occurred at the police station) to the lesser offence of “other violations against human dignity.”

The judgement did not contest that the ill-treatment of the two Afghan refugees at the police station had taken place. It took note of the medical certificates certifying the injuries sustained by the two men, and accepted that both victims had recognized, on separate occasions, the two accused police officers.⁵³ However, a restrictive interpretation of the term “systematic” led the Mixed Jury Court to classify the offence not as torture but as “other violations against human dignity”. The Court concluded that the requirement of “systematic” provided for in Article 137 A (1) and (2) was not met since the two accused police officers used random methods such punches, kicks, a wooden stick and a plastic hose to ill-treat the two men.

The concerns of the victims' lawyers and of NGOs increased when on 22 March 2012, a Mixed Jury Appeal Court in Athens acquitted the two officers of causing bodily harm under Article 137 A (3) to the two Afghan refugees, on the grounds of reasonable doubt. The Public Prosecutor had proposed their conviction. The Appeals Court confirmed the judgement of the First Instance Court in relation to causing unprovoked bodily harm to five other Afghan nationals at the guesthouse. One officer was given a 20-month prison sentence and the second, 25 months. Both sentences were suspended and the officers were freed.

The victims' lawyers pointed out that the defence lawyers did not contest that the two Afghan refugees had been ill-treated and that they had sustained the most serious injuries among all the victims. But the defence lawyers claimed that their injuries took place at the guesthouse and not at the Aghios Panteleimon police station and did not accept the culpability of their clients (for further concerns on the case see page 38 below).

4. SAFEGUARDS IN PREVENTING TORTURE

Several victims of torture and other ill-treatment alleged that the Greek authorities ignored their requests to be granted access to their families or lawyers while in detention and/or impeded their communication with the outside world. Some victims also alleged that they were denied access to prompt medical assistance following their ill-treatment, despite their injuries. Amnesty International has also received information that people arrested during demonstrations were not allowed access to medical assistance despite their injuries and/or access to their lawyers until several hours later.

In addition, during their visits to various immigration detention areas and police stations in Greece between 2009 and 2012, Amnesty International has identified a series of violations that prevent victims of torture and other ill-treatment from reporting their abuse while in detention. These included impediments to detainees' access to legal counsel and to contact with the outside world, as well as limited, or no access to interpreters and medical assistance.

In May 2011, Amnesty International was told by representatives of the Ministry of Citizens' Protection that the organization's recommendation regarding the introduction of a complaint form, where individuals in detention could report their ill-treatment or poor detention conditions, had been implemented.⁵⁴ The form is appended to an information leaflet on the rights of detainees published in 16 languages. However, asylum-seekers and irregular migrants with whom the organization spoke appeared not to have seen this form. The documents that they had been given were usually deportation orders or decisions rejecting their asylum claim, and were in Greek. The leaflets setting out the rights of detainees, and appended complaint forms, were exhibited in various languages on notice boards at police stations, but were not accessible to detainees, as none of the notice boards were in the cell areas

SOULFI 2010

In September 2010, Amnesty International received a report by human rights lawyers that several irregular migrants and asylum-seekers detained at the border guard station of Soufli had been severely beaten on 16 August 2010 following a protest over their detention conditions. The following day, the detainees started a hunger strike in protest. On 18 August 2010, three of them were severely beaten. According to reports, one of the three, E., an Iraqi national lost consciousness as a result of this ill-treatment, but the guards transferred him to the local health centre only three to four hours later and only after repeated pleas from his co-detainees. In addition, the guards did not transfer to the hospital A., the second detainee that was severely beaten. The following day, E. asked to be taken again to the hospital because of intense pain. Instead, police took E. and A., put them in a police vehicle and after a short drive returned them to the station and held them to a separate 'disciplinary' cell. It appears that the two injured men were transferred to the police station's disciplinary cell a few minutes before a visit by a UNHCR representative. This person's repeated queries as to their whereabouts reportedly did not receive an answer from the police. A. and E. had no access to the outside world until human rights lawyers visited the station and met with them on 24 August 2010.⁵⁵

Persons deprived of their liberty, including third country nationals held in administrative detention, must enjoy a series of safeguards that can ensure their protection from ill-treatment.

Under international and human rights law, every person arrested or detained has the right to be promptly informed of the charges against them⁵⁶ and international standards provide that every person arrested or detained has the right to the assistance of legal counsel.⁵⁷ In addition, a detainee should have the right to access to the outside world including the right to communicate and receive visits, subject only to reasonable conditions and restrictions, the right to inform family of the arrest and detention and place of detention, and the right of access to doctors.⁵⁸ International standards also require that police officers duly record the reasons for arrest, the identity of the arrestee, the date and time of arrest, the identity of the law enforcement officials concerned in the arrest and precise information concerning the place of custody.⁵⁹

4.1 NEED TO ESTABLISH A NATIONAL PREVENTATIVE MECHANISM

For many years Amnesty International has called on the Greek authorities to sign and ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The organization has also urged the authorities to establish or designate a National Preventative Mechanism, in accordance with the Protocol's provisions, which would visit places of detention regularly in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. Amnesty International considers that the establishment of such a Mechanism is of paramount importance in view of continuing allegations regarding the ill-treatment of detainees, including irregular migrants and asylum-seekers in various immigration detention areas and police stations.

In March 2011, Greece signed the OPCAT and in March 2012 presented a draft law for public consultation that proposes the ratification of the Protocol and designates the Greek Ombudsperson as a National Preventative Mechanism for the prevention of torture and other forms of inhuman or degrading treatment or punishment, in accordance with Articles 3 and 17 of OPCAT.

THE GREEK OMBUDSPERSON

The Greek Ombudsperson is a constitutionally sanctioned independent authority which began work in October 1998. One of its four sections deals with human rights issues. Its current mandate includes the investigation of individual complaints against state bodies, provided that the complaints are not pending for criminal investigation and are submitted within a six-month period of the alleged violation. Such complaints include allegations about the conduct of law enforcement officials, including allegations of torture and other forms of ill-treatment. Subsequently, the Ombudsperson makes recommendations to the competent authorities for the resolution of the complaint if it finds it justified.

The Ombudsperson also publishes an annual report and other reports on matters within its mandate. These include reports on detention conditions in prisons, immigration facilities and police stations on the basis of its existing mandate to visit such places. However these visits require the authorities of such facilities to receive prior notification. Specifically, under the Greek Penitentiary Code, as amended by Law 3772/2009, the Greek Ombudsperson and the Parliamentary Inter-Party Committee are allowed to visit after informing the director of

the facility.

Amnesty International understands that the Ombudsperson's visits currently do not have a regular character, due to its wide mandate and lack of corresponding resources. Since its establishment, the Ombudsperson has conducted a series of visits to various immigration detention facilities and prisons and has produced a series of reports with recommendations to the authorities regarding the improvement of legislation and detention conditions.⁶⁰

The Ombudsperson can also order a visit to a facility by an external expert if it is considered absolutely necessary due to the nature of the case, or if the authorities have not conducted an investigation and there is no capacity for the investigation within the Ombudsperson's specialized staff.⁶¹

Amnesty International considers that the plans for the ratification of the OPCAT and the designation of the Greek Ombudsperson as a National Preventative Mechanism in a draft law presented for public consultation in March 2012 is a positive step towards ensuring safeguards for prevention of torture.

However, the organization is concerned that the mandate of the designated Mechanism, as provided in the draft law, does not reflect explicitly all the powers envisaged in the corresponding provisions of OPCAT.

Article 4 (1) of the draft law provides that the Ombudsperson can, in the exercise of his/her duties, conduct visits to all places of deprivation of liberty, with or without previously informing the competent directors of such facilities. However, the draft law places certain limitations on such visits since it provides that directors can object to them if there are urgent and pressing grounds such as national security and public order concerns, natural disasters or serious unrest in the facility that deter temporarily such visit.

Amnesty International is concerned about the above limitations placed on the Ombudsperson's visits since there is no corresponding provision in the Optional Protocol that limits a National Preventative Mechanism's mandate. Analogous limitations to those of the draft law exist only in Article 14 (2) of OPCAT in relation to visits conducted by the Sub-Committee for the Prevention of Torture. Amnesty International believes that the absence of a provision in the Optional Protocol that similarly restricts a National Preventative Mechanism's mandate provides valid grounds against extending the limitations of Article 14 (2) to a National Preventative Mechanism. The absence of limitations finds also support in the Sub-Committee's Guidelines for the Prevention of Torture, when it speaks about the "the right to carry out unannounced visits at all times to all places of deprivation of liberty, in accordance with the provisions of the Optional Protocol.

Amnesty International believes that the word "regular" should be added to the phrase "visits to all areas of deprivation of liberty" in order to be more in line with Article 19 (a) of OPCAT. The words "actual or possible" could also be added in the phrase "all areas of deprivation of liberty" as this would better reflect the nuance contained in Article 4 (1) of OPCAT.

Furthermore, while the Background Report of the draft law refers to the establishment of a Mechanism with the power to make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of persons deprived of their liberty and also to

prepare reports and submit proposals and observations concerning existing or draft legislation, such powers are not explicitly provided in the relevant provision of the draft law. In particular, Article 5 of the proposed legislation provides that the Ombudsperson in his/her capacity as a National Preventative Mechanism conducts research and publishes reports in accordance with the Optional Protocol's relevant provisions. Amnesty International believes that the powers as they are described in the Background Report should also be explicitly spelled out in the relevant provisions.

5. TACKLING IMPUNITY

"I am speaking out because some people (police officers) know that they can do whatever they want without any punishment. The fact that the investigation was assigned to the police force whose representatives tried to kill me, is unacceptable."

Yiannis Kafkas, protester injured in May 2011

"I would like to see the police officers responsible for the attack punished even though I do not believe that justice will be done."

Angeliki Koutsoubou, protester injured by a DELTA force officer in December 2009

Amnesty International has identified a series of systemic problems resulting in the persistence of impunity for abuses by law enforcement officials. These include: the reluctance of victims to file a complaint with the relevant authority due to lack of confidence in the justice system or because they fear reprisals (section 5.1); failures to conduct prompt, thorough, impartial and effective criminal and disciplinary investigations; protracted delays in criminal investigations which can lead to impunity if the offence eventually expires under of the statute of limitation (section 5.2); and the lack of an independent and effective police complaints mechanism (section 5.4).

International human rights standards provide that all persons are equal before the law.⁶² Law enforcement officials are not above the law – they are subject to it. This means that the police must be accountable to the law, to the state and to the public. The police as an institution should be publicly accountable, being overseen by independent agencies established by law and open to scrutiny, including by parliamentary or other elected or representative bodies. Training, oversight and disciplinary procedures should be made available to all police to ensure that officers and operations comply with the law, with relevant policies and codes, and with the obligation to respect and protect human rights.

In the face of allegations or other reasonable grounds for believing that torture or other ill-treatment has occurred, or that a state has violated its obligations to respect and protect the right to life, international human rights law requires the authorities to initiate a prompt, independent, impartial and thorough investigation. Disciplinary measures should be taken where appropriate, and officers responsible for criminal conduct must be brought to justice in full and fair proceedings. Furthermore, the authorities must ensure that victims of human rights violations have access to an effective remedy and receive adequate reparation, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.

5.1 REASONS FOR NOT FILING A COMPLAINT

"The Special Rapporteur also witnessed a high degree of fear of reprisals expressed by detainees in the hands of the police, sometimes directly, or implied in their behaviour, which, combined with the dysfunctional judicial system, may perpetuate a system of impunity for police violence".

Findings of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment following his visit to Greece in October 2010⁶³

Amnesty International considers that as a result of the systemic failure of the Greek authorities to effectively address incidents of human rights violations by law enforcement officials, victims are often unwilling to report such violations. This lack confidence in the criminal justice system in turn contributes to the limited accountability and at times to the impunity enjoyed by police officers.

Among the victims of ill-treatment that reported this perception was Kazakhstan-born A., one of two youths who featured in a video clip which appeared on YouTube in June 2007. The clip showed an incident that had taken place on 24 June 2006. In it, a number of police officers in the Omonoia police station in Athens watch one officer repeatedly slap, kick and beat A. and the other youth with a stick, and force the two to slap each other repeatedly.⁶⁴ A week after the video was published, two more videos of different incidents appeared on YouTube. The first showed the same police officer and one other officer ill-treating an Asian male at the Omonoia police station.⁶⁵ The second video showed the sexual abuse of two women arrested for prostitution at the Neos Kosmos police station in December 2006.

According to A.'s description of his treatment, this went on for around 15 minutes. If the two youths did not slap each other hard enough, the officer would slap them himself. A. told Amnesty International that several police officers ill-treated them during their arrest and in the corridor of the Omonoia policed station. The two youths were detained at the police station until 26 June 2006, when they were brought before a judge. A. told Amnesty International that he chose not to mention the ill-treatment in court because he had no evidence and no one would believe him.⁶⁶

Amnesty International spoke to a large number of irregular migrants and asylum-seekers who recounted ill-treatment by law enforcement officials. The vast majority who were held in detention did not wish to file a complaint while in detention or for Amnesty International to raise its concerns to directors of the police stations or immigration centres concerned.

Fear of retribution such as further ill-treatment, was the consistent explanation they gave as to why they did not file a complaint. Another factor that deters irregular migrants and asylum-seekers who have not been able to lodge an asylum application from reporting human rights violations against them is their irregular status and the fear that after reporting the issue they might be detained and deported. Lack or limited access to legal assistance while in detention along with lack of financial means to hire a lawyer, were further deterrents for those who wished to file a complaint.

Several of the individuals subjected to alleged abuses during the policing of demonstrations who were interviewed by Amnesty International decided not to file a criminal complaint. This

was in part because they felt intimidated that if they pursued a complaint against the police they would be targeted, in part that they did not believe that the perpetrators would be punished because of the rareness of convictions of police officers in cases relating to the demonstrations. Even individuals who did file a complaint and managed to identify the alleged perpetrator were concerned that justice would not be done.

Police solidarity is another reason complaints are not filed. Some of the victims of torture and/or ill-treatment spoke about law enforcement officials who saw or were aware of what happened to them but did not report the incident.

5.2 FAILURE TO CONDUCT PROMPT, THOROUGH, IMPARTIAL AND EFFECTIVE INVESTIGATIONS

Since 2001, the ECtHR has ruled against Greece in seven cases of ill-treatment by police officers and in four cases concerning misuse of firearms by police officers.⁶⁷ Greece has also been found in violation of the International Covenant on Civil and Political Rights (ICCPR) in two cases relating to ill-treatment by police officers⁶⁸. In most of these cases, the criminal or disciplinary investigations were considered inadequate.⁶⁹

The flaws in the current system of investigations into allegations of ill-treatment by law enforcement officials have been highlighted by the CPT in various reports following visits to Greece.⁷⁰ The CPT mentioned the lack of promptness and expeditiousness in carrying out investigations, the poor quality of the forensic medical examinations, the passive role of prosecutorial or judicial authorities in instigating an investigation into allegations of ill-treatment and the lack of independence of the investigative authorities. Following a visit to Greece in September 2009, the CPT also repeated its previous findings about "a climate of impunity within law enforcement agencies" and noted that the information gathered during the 2009 visit suggested that the situation had not improved.⁷¹

CRIMINAL PROCEDURE

Under national legislation, a prosecutor who receives a report, criminal complaint or any other information that a punishable act has been committed is required to institute criminal proceedings by referring the case for investigation. Until recently, if the complaint or report concerned a felony or misdemeanour punished by at least three months imprisonment, a prosecutor was obliged to order first a preliminary inquiry in order to establish whether there was sufficient evidence for the prosecution to be effected.

A recent amendment introduced in March 2012 limits the type of offences where a preliminary inquiry is obligatory to felonies and serious types of misdemeanors. Therefore a prosecutor institutes proceedings in this type of offences only after a preliminary inquiry is carried out, and only if sufficient evidence has been found. The prosecutor can close the case only if he or she concludes that the complaint is not founded in law or that it is obviously false; the complainant is entitled to appeal against such decision.

If the prosecutor finds that there is sufficient evidence, he/she can effect prosecution by ordering a "summary investigation" conducted under his/her supervision by a magistrate or a police officer.⁷² A "summary investigation" can also be conducted by police personnel on their own initiative if delays in the conduct of the investigation of an offence cause immediate danger of the loss of evidence or if the offender has been caught in the act. Alternatively, the prosecutor can order an ordinary investigation. In cases where facts are clearly proven or the offender is apprehended in the act, he/she can directly refer the suspect to trial.

Since 1999, preliminary inquiries and summary investigations of allegations of torture or other ill-treatment by police can also be assigned to the Directorate of the Internal Affairs of the Greek Police. The Directorate is mandated to detect and carry out the initial investigations of criminal offences involving corruption and abuse of authority by police officers. Its investigations are supervised by the Appeals' Prosecutor of Athens or Thessaloniki. Murder and manslaughter do not fall within the Directorate's mandate.

An "ordinary investigation" is ordered by the prosecutor and conducted only by an investigative judge. The prosecutor's order must specify the charges against the accused and the respective provisions of the Greek Penal Code. Following the order, the investigative judge assigned to the case is obliged to conduct all the investigative acts that he/she considers necessary in order to identify the crime and those responsible. Following the completion of all the necessary investigative acts of the ordinary investigation of cases concerning felonies or serious misdemeanors, the prosecutor receives the case file, studies the evidence collected during the investigation and is obliged to submit his/her recommendation as to whether the accused should be referred to trial or to a Judicial Council.

A Judicial Council, composed of three judges, forms a pre-trial panel that deliberates in camera and rules whether to refer the defendant to trial, dismiss charges, or request a supplementary investigation.

5.2.1 LACK IN PROMPTNESS

In many cases of alleged torture or ill-treatment by law enforcement officials, criminal investigations have been slow to advance. Protracted criminal investigations may in some cases entail the risk of expiry of the applicable statute of limitations. Severe delays and repeated postponements of the trials of police officers charged with ill-treatment may also entail such risk.

Under Greek law, the statute of limitations for cases of misdemeanors is eight years if summons to trial are served within five years - otherwise five years. For felony crimes, the statute of limitations is twenty years if summons to trial are served within fifteen years - otherwise fifteen years.

When asked about the delays, Eleni Raikou, Director of the Athens First Instance Courts' Public Prosecutors Office and George Kaloudis, a Deputy Public Prosecutor assigned to investigate many cases of police ill-treatment, told the organization that lack of resources and the complexities of the criminal justice system contributed to such prolonged investigations. Amnesty International was told that the Public Prosecutor's office in Athens receives approximately 320,000 criminal complaints every year and there are a hundred prosecutors and investigating judges to deal with these complaints.⁷³ It is to be noted that since 1997, Greece has been found in violation of the ECHR in 360 cases concerning lengthy criminal, civil or administrative proceedings.⁷⁴ As a result, in March 2012 the Greek Parliament adopted a law amending various provisions in the penal, civil and administrative codes and procedures with the aim of speeding up such proceedings.

Aris Messinis, a press photographer allegedly assaulted by a police officer from the DELTA force on 17 November 2010 while covering a demonstration, told Amnesty International that the day after the assault, he went to the police station with all the evidence he had and filed a criminal complaint.⁷⁵ He was expecting that since he went within 24 hours to the police station and he had the description of the officer who attacked him, the number plate of the motorcycle that the officer drove and pictures of the incident, the perpetrator would be

arrested and brought before of a court under the "in flagrante delicto" procedure. This procedure requires the immediate referral, before a prosecutor and subsequently before a court, of a person caught while committing an offence or arrested within a short period afterwards. However, to the journalist's surprise no action was taken. He said that after he lodged his complaint, a year passed before he was called to testify to the Internal Affairs Directorate of the Police. He was also called two months after the incident to testify as part of a disciplinary inquiry. Since then he has not been notified of any development in his case.

STUDENT DEMONSTRATION 2007

There have been serious delays in the progress of the criminal investigation in a case concerning the excessive use of force against a large number of students by riot police on 8 March 2007 in Athens which resulted in many of them being injured. The allegations of the protesters' ill-treatment with other relevant material were forwarded to the competent prosecutor for their criminal investigation by an Athens court that had tried and acquitted unanimously 49 protesters who were in the group that was reportedly attacked by the riot police. The protesters had been charged with, among other things, attacking riot police by throwing stones and marble against them.

Antonia Legaki, a lawyer representing some of the protesters, told Amnesty International that in 2008 some of them were called to testify about the case to an Athens prosecutor in the framework of a preliminary inquiry. However, since 2008 the students had not been notified about the progress of the case or whether any charges had been brought against any police officers. If charges were brought within five years, the statute of limitations could extend to three more years, but according to the lawyer no progress appears to have been made. Haris Ladis, another lawyer representing some of the protesters, said to Amnesty International that in March 2012 the offences became time barred and thus the perpetrators will remain unidentified and unpunished.

Lengthy delays can also affect the presence of crucial witnesses, including the victims themselves, and the quality of the evidence given.

For example, in the 2004 Aghios Panteleimon case concerning the torture and ill-treatment of Afghan men and boys (see page 28 above), the first instance trial of one former police officer and a special guard eventually took place in November and December 2011 following several postponements. The Judicial Council decision referring the two officers to trial had been issued in 2007. NGOs and lawyers representing the victims in court also pointed out as that as a result of repeated delays only five of the 13 Afghan victims who filed a complaint testified at the trial. The others had moved to other European countries where they had sought international protection.⁷⁶

In addition, concerns about delays in criminal investigations and protracted judicial proceedings have been expressed to Amnesty International by the Greek Helsinki Monitor in the case of two men tortured by a police officer in August 2002 at the Aspropyrgos police station (see page 27 above). The recommendation of the public prosecutor that the police officer be charged with torture and referred to trial in 2004 was confirmed by the decisions of three Judicial Councils and the final decision was issued in 2007. The trial was scheduled for January 2008 before the Athens Mixed Jury Court but postponed twice because of the absence of the defendant's lawyers. Three full court hearings took place in November 2009 and December 2009 and February 2010. In May 2010, the trial was postponed again until

February 2011 and once again until November 2011. The trial was concluded in December 2011, nine and a half years after the incident. The victims lodged an application before the ECtHR claiming a breach of the ECHR on account of the protracted proceedings.

Moreover, Amnesty International is concerned that the adoption of Article 19 of Law 4058/2012, enacted by parliament in March, will further disadvantage victims of police violence if they are charged with attacking a police officer and will contribute to failures in police accountability.

Article 19 provides that the provisions of the Penal Procedure Code regarding the immediate arrest and referral before the judicial authorities of a person caught while committing a crime or shortly after its commission, do not apply for offences that are prosecuted following a complaint lodged by the victim and are committed by law enforcement officials during the exercise of their duties and because of them.

Under the new provisions, a riot police officer who, for example, slaps or verbally abuses a protester will be exempted from being referred for a speedy trial even if the victim files a complaint immediately and the officer is arrested soon after the alleged commission of the crime. On the other hand, if the same officer files charges against the same protester for resistance or causing him bodily harm during the same incident, the victim is likely to face a speedy trial at which the riot police officer will be a witness or perhaps a civil claimant. Prior to the amendments introduced, both the protester and the riot police officer could have been both defendants and witnesses against each other in a joint speedy trial hearing.

In addition, in view of the protracted criminal proceedings in Greece, delays in the prosecution and/or trial of law enforcement officials exempted from a speedy trial is liable to lead to a lack of eye witness testimony or other more detailed testimonies, and therefore possible impunity.

5.2.2 LACK OF IMPARTIALITY

In some of the cases in this report, concerns have been raised by lawyers and/or the victims not only about the promptness of the criminal investigations but also about their independence. Many of the victims interviewed, or their lawyers, have expressed concerns that the first stages of the criminal investigation (preliminary inquiry and summary investigation) were conducted by police when it was police officers who were responsible for the violations against them. In some cases, concerns arose because the first stages of the investigation were conducted by officers in the local police directorate with links to an immigration detention facility where the alleged abuses had taken place.

NIKOS GALLEGOS 2005

Concerns have been raised and expressed to the Greek authorities about the promptness, thoroughness and impartiality of the investigation into the death of 24-year-old Nikos Gallegos following reports received by his family. According to these reports, Nikos Gallegos died on 10 April 2005 from a severe head injury after a police chase of the motorcycles used by Nikos Gallegos and his friends, based on false assumptions that the group was engaged in an anarchist gathering. The female passenger on the motorcycle also sustained head injuries. She testified that during the chase a police motorcyclist came close to their motorcycle and tried to kick them to make them fall. Subsequently, a civilian car and a police car were in front of them, and when

Nikos Gallegos tried to slow down, a pursuing police car ran into them and hit them. Nikos Gallegos and the female passenger were thrown off the motorcycles and sustained serious head injuries as a result. The police, however, presented the incident as an accident resulting from Nikos Gallegos having lost control of his motorcycle. The police officers that drove the car behind Nikos Gallegos stated that they had lost sight of the motorcycle when the accident happened and had arrived at the scene of the incident some minutes afterwards.

Nikos Gallegos's family and his lawyers alleged that the police tampered with evidence at the scene of the accident following the crash and that there was considerable delay in calling for an ambulance.

In May 2005, Nikos Gallegos' mother filed a complaint against any police officer who was involved in the death of her son. In her complaint, she expressed concerns that the case was characterized as a traffic accident, and that there was tampering of evidence; she requested that a public prosecutor remove the investigation from the traffic police who were at that point conducting the investigation and assign it to an investigating judge. By the end of 2006, she had made several applications to the prosecutorial authorities to speed up the procedure, to remove the evidence of the case from the police and to assign the case to an investigating judge. During that time, the family's lawyer told Amnesty International that they had not received any response to their requests from the judicial authorities. In December 2006, an Athens prosecutor rejected the family's complaint on the grounds that the investigation did not show sufficient evidence that Nikos Gallegos was killed by police and that the authorities had covered up the case. No explanation was included in the decision as to why the case was not removed from the Kaisariani traffic police.

In January 2007, the family appealed to the Athens Appeals Public Prosecutor's Office against the first instance prosecutor's decision. One of the grounds on which the family challenged the decision was that it had not given enough weight to the testimonies of eyewitnesses but instead accepted without question the account of a taxi driver who came forward 13 days after the incident and the testimony of the police officers who were in the car behind Nikos Gallegos. The taxi driver testified that the death of Nikos Gallegos was an accident, that Nikos Gallegos lost control of his motorcycle and that there was no car present when it happened. The family pointed out that the police did not seek or interview eyewitnesses who were present at the time.

The Appeals' Prosecutor then ordered the conduct of a preliminary inquiry at which more testimonies would be heard. However, the preliminary inquiry was assigned to the same prosecutor who had examined and rejected the family's initial complaint. In December 2008, the family appealed and requested that the case be assigned to a different prosecutor and that the investigation be accelerated, but their application was rejected. In January 2009, the Appeals' Prosecutor also rejected the criminal complaint of the family on the grounds that the supplementary investigation did not find sufficient evidence proving the guilt of the police officers involved. As a result the case file was archived.

Alexis Anagnostakis, the family's lawyer told Amnesty International: "The family maintains, amongst others, justified fears that their right to an effective criminal investigation into the circumstances of the death of Nikos Gallegos was breached by the criminal justice system".

ILL-TREATMENT OF MIGRANTS, PAGANI 2009

In late October 2009, Amnesty International received allegations about the beating of several migrants including H., aged 17, by some of the guards in the now closed Pagani immigration detention centre on the

island of Lesbos on 22 October 2009. H. was reportedly transferred to the hospital as a result of his injuries after he lost consciousness. Three other migrants were also transferred to the hospital the next day with injuries and one of them had his hand put in plaster. While the sworn administrative inquiry was conducted by the Police Directorate of the nearby island of Chios, the preliminary stages of the criminal investigation were conducted by police officers of the Police Directorate of the island of Lesbos following an order by the local Prosecutor. This Directorate was also responsible for supervising the Pagani centre.

In addition, the organization received reports that during the criminal investigation the detainees who were called to testify were intimidated. In particular, four detainees alleged that during their interviews by the Police Directorate of Lesbos on 24 October 2009, they were urged by the interpreter hired by the police not to tell the truth about their ill-treatment and that of H. and warned that if they did so they would be detained longer in Pagani and deported back to their countries. These allegations are contained in a copy of a written statement by the four detainees which the organisation has seen.

According to the Greek authorities the disciplinary inquiry concluded that the allegations were not confirmed.⁷⁷ The criminal file of the case was archived because none of the perpetrators was recognized.⁷⁸

In view of the information received by Amnesty International (copies of written testimonies by detainees about the ill-treatment, accounts by some of them reported in the media describing the incident and the copy of a letter reporting the intimidation of witnesses), serious concerns remain about the independence and thoroughness of the investigation.

5.2.3 LACK OF THOROUGHNESS

In some of the cases reported to the organization, victims and/or their lawyers expressed their concerns that the prosecutorial authorities did not identify the perpetrators or identified only some of them and/or that investigations were not thorough.

ILL-TREATMENT OF PROTESTERS, PARNITHA 2007

Marina Daliani, a lawyer acting for several protesters that were reportedly beaten by police on the Parnitha mountain near Athens in 2007, spoke about her concerns over the lack of thoroughness in the criminal investigation. Four of the protesters reportedly suffered injuries including one female protester who suffered a broken pelvis because of the beatings. Initially, a complaint was filed against unknown police officers. However during the trial of the protesters who were charged with various offences, four police officers who were called to testify as witnesses against them were identified as some of the perpetrators. All the protesters were unanimously acquitted of the charges against them.

The four police officers were referred to trial for causing simple bodily harm, threats and verbal abuse. Marina Daliani told Amnesty International that despite giving the number of the riot police unit concerned to the prosecutorial authorities and asking them to summon the members of the unit so that the protesters might see them and identify more of the individuals that beat them, the judicial authorities did not take any steps. The lawyer also expressed her concerns that despite one of the protesters having suffered a serious injury, the identified officers were charged with simple bodily harm, not serious bodily harm or torture as the lawyers had requested in their lawsuit.

In some cases, lawyers of victims reported that investigative judges assigned to question victims on criminal charges brought against them following their arrest did not follow up allegations of ill-treatment or ignored the victim's request to order the appointment of a state

forensic medical expert to examine the victim when the issue of ill-treatment was brought to their attention.⁷⁹ Following a visit to Greece in January 2011, the CPT observed: "... lawyers interviewed by the delegation claimed that prosecutors who are made aware of allegations of police ill-treatment rarely undertake any follow-up action. It was also said that judges tended to dismiss any allegations of ill-treatment without examining the substance of the claim".⁸⁰

5.2.4 LACK OF THOROUGHNESS AND INDEPENDENCE OF DISCIPLINARY INQUIRIES

DISCIPLINARY PROCEDURE

Police officers alleged to be responsible for torture or ill-treatment, or charged in connection with other grave offences (such as unlawful killings), may be subject to a form of internal police inquiry, as well as criminal investigation. Although the two procedures are separate, facts established by a final court decision bind the disciplinary authority while the conclusions of the disciplinary inquiry do not bind the criminal investigation. A criminal investigation can take place in parallel with the disciplinary inquiry.⁸¹

There are currently two types of disciplinary inquiries conducted into allegations of offences committed by police officers. The first is the so-called "preliminary administrative inquiry".⁸² Article 24 of the 2008 Disciplinary Code provides that a preliminary administrative inquiry be ordered by the superior officer of the police officer concerned when there is a possibility that the alleged offence has taken place. The preliminary administrative inquiry is either conducted by the superior officer or assigned to another officer. A preliminary administrative inquiry does not amount to the disciplinary indictment of the officer investigated.

A disciplinary indictment is launched with a second type of disciplinary inquiry, entitled "sworn administrative inquiry". The Code provides that a disciplinary indictment in the form of a sworn administrative inquiry is ordered when the existing evidence clearly indicates that a disciplinary offence has been committed. The offences for which a sworn administrative inquiry may be ordered are those that incur the heaviest disciplinary sanctions,⁸³ including torture and other violations of human dignity within the meaning of the pertinent provisions of the Greek Penal Code.

In the case of a sworn administrative inquiry into allegations of torture and other violations of human dignity, the Disciplinary Code provides for the mandatory assignment of the interrogation to an officer of a Directorate that does not have administrative jurisdiction over the suspected police officer. However, such assignment is discretionary for other disciplinary offences, such as "violent behaviour against citizens", that do not fall within the definition of Article 137 A of the Penal Code, or "unlawful violence" within the meaning of Article 330.⁸⁴ Thus, the sworn administrative inquiry for such offences can also be conducted by officers of the Directorate that has jurisdiction over the suspected police officer.⁸⁵

The current Disciplinary Code does not address Amnesty International's earlier recommendation that police officers under investigation for torture or unlawful killing should be suspended from active duty pending the outcome of disciplinary or judicial proceedings against them. It provides for mandatory suspension of police officers from service only for those serving prison sentences, those who have been remanded in pre-trial custody, or those released subject to restrictive conditions.⁸⁶

Additionally, the Code still contains safeguards only for the officer under investigation and not for the complainant. The complainant does not have right of access to the disciplinary hearings, and cannot appeal against the inquiry's findings.⁸⁷ A complainant only has the right to be informed about the outcome of his complaint if he/she applies for it.

Lawyers or NGOs representing victims have reported flaws in the evaluation of evidence during disciplinary inquiries which concluded that the police officer/s concerned should not be referred to disciplinary trials and in the decisions of disciplinary tribunals acquitting police officers. In some cases, lawyers and/or victims have also reported delays in the progress of disciplinary inquiries conducted into the allegations of ill-treatment submitted by their clients.

For example, Manolis Kypreos (see page 12 above) told Amnesty International that ten months after the incident in which he was gravely injured, he had still received no information about the outcome of the disciplinary investigation into his case. He also stated that the perpetrators had not yet been identified despite his having provided sufficient evidence, including photographs of the police unit and the head of the unit who ordered the attack against him, and the testimonies of eye-witnesses.

In two reports published in 2004 and 2005 on disciplinary investigations, the Greek Ombudsperson identified a series of shortcomings in the conduct of these inquiries. The Ombudsperson concluded that the authorities failed to initiate a sworn administrative inquiry in cases where there was sufficient evidence from the start to justify these disciplinary proceedings.⁸⁸ The Ombudsperson also observed serious and fundamental violations of the rules of evidence, such as the failure by the police investigator to refer and evaluate evidence proving the case. He noted that sanctions were imposed only for particularly serious offences, probably due to the publicity that the reported incidents received.

In the judgement of *Zontul v. Greece* (see page 27 above), the ECtHR criticized the thoroughness and effectiveness of the initial disciplinary investigation conducted into the case. In particular, the Court noted that the applicant's request to be examined by a doctor after the rape incident was refused. The Court considered that the inquiry's conclusion, that the coastguard officers' version of events was credible on the grounds that the applicant's case was not mentioned in the infirmary records, was not satisfactory. The Court also observed that the evidence given by the applicant during the inquiry had been falsified as the rape he complained of was recorded as a "slap" and "use of psychological violence"; that the events were summarized inaccurately; and the applicant was reported as not wishing the officers to be punished.⁸⁹

The judgement also drew attention to a letter sent to the Ministry of Mercantile Marine in 2007 by the Greek Ombudsperson expressing its serious concerns over the initial disciplinary inquiry as it had not taken into account the applicant's rape, and asking for a new disciplinary inquiry to be ordered.⁹⁰ Necati Zontul had filed a complaint with the Ombudsperson in 2003. In June 2009, the then Deputy Ombudsperson, A. Takis, reiterated to Amnesty International the serious concerns of the Authority about the case.

TORTURE AT ASPROPYRGOS POLICE STATION, 2002

Serious concerns about the independence and thoroughness of a sworn administrative inquiry were voiced by the NGO Greek Helsinki Monitor (GHM), representing two young men tortured with an electric shock device by a police officer at the Aspropyrgos police station in August 2002. In December 2011, a court found the police officer concerned guilty of aggravated torture (see page 27 above)

The 2003 sworn administrative inquiry concluded that the two men's allegations were unfounded and accepted the officer's claims that the device in question was a wireless that he had bought without authorization for the purpose of carrying out his duties.⁹¹ The inquiry recommended the officer be sanctioned with a reprimand for carrying a wireless walkie/talkie without authorization.

The GHM spokesperson pointed out that the sworn administrative inquiry included witness statements taken during the criminal investigation by police officers at the same police station where the torture had taken place. In addition, the sworn administrative inquiry was conducted by the Attika General Police Directorate (GADA) administrative investigation unit. However, the Aspropyrgos Police Station is under GADA's administration. Moreover, when the first sworn administrative inquiry was declared inadequate, the supplementary inquiry was assigned to the same officer who conducted the first one.

In addition the accused police officer handed over the wireless he referred to in his statement to his superiors for examination on 17 August 2002. According to the sworn administrative inquiry documents, the wireless was returned by the laboratory on 21 November 2002. As a result the wireless was not available as evidence in either the sworn administrative inquiry at its completion or in the court file in order to test, for example, whether its antenna could cause marks.

GHM also noted that the police officer assigned to the inquiry challenged the credibility of the statements of the two young men at considerable length in his report, but did not challenge the statements of the police officers at the station or that of other eyewitnesses who corroborated the view that the two young men were not credible. The officer also concluded that the allegations were deliberate fabrications constructed together by the two young men who had known each other in the past. GHM pointed out that the two victims had not known each other before recognizing the same officer as the person who tortured them. The lack of any prior acquaintance with each other by the two victims was also confirmed by the Supreme Court that referred the police officer to trial and the Mixed Jury Court that convicted him in December 2011.⁹²

In addition, the police officer assigned to the inquiry conducted an on-site investigation of the scene of the crime but did not summon the victims or the officers involved to be present. GHM further noted that the investigator's conclusions had ignored the effects that "Taser guns" produce. In particular, the inquiry concluded that it was not possible for the two men's wounds, documented by hospital doctors and by a state medical examiner, to have been caused by electric shocks because the victims' clothes were not damaged.

5.3 FAILURE TO ENSURE THE RIGHT TO EFFECTIVE REMEDY

In communications with the Greek authorities, Amnesty International has urged that they take all possible measures to reverse past practices and ensure that the right to effective remedy is fully guaranteed to all victims, as required under the ICCPR, the ECHR and the UN Convention against Torture. However, serious concerns remain as to whether victims of human rights violations by law enforcement officials are guaranteed an effective remedy.

In *Zontul v. Greece* (see pp. 27 and 43 above) the applicant complained to the ECtHR that the Appeals Tribunal in Crete had imposed inadequate penalties on the coastguards involved in his torture. In October 2004, the Naval Court in Chania (Crete) sentenced coastguard officer D., found guilty of raping the applicant, to 30 months' imprisonment suspended for five years. The second officer, V., who was found guilty of aiding and abetting D. received a suspended prison sentence of 16 months. Three other officers were sentenced to a suspended 18-months imprisonment each for abuse of authority in relation to the ill-

treatment of many other migrants that were held with the applicant. In June 2006, the Appeal Court reduced D.'s sentence to a suspended term of six months imprisonment that was commuted to a fine and V.'s sentence to four month's imprisonment that was also suspended and commuted to a fine. The three other officers were acquitted.

In its January 2012 judgement, the ECtHR found that the penalty imposed on coastguard officer D. "...was insufficient in view of the fundamental right that was breached and that such a penalty could not be said to have a deterrent effect nor could it be perceived to be fair by the victim". The ECtHR went on to state that "there had been a clear lack of proportion, given the seriousness of the treatment to which the applicant was subjected". It took the view that the Greek criminal justice system, as applied in the applicant's case ".....had not had a deterrent effect such as to prevent the torture of which the applicant had been victim, nor had it provided him with adequate redress".⁹³

AVGOUSTINOS DIMITRIOU 2006

On 17 November 2006, the anniversary of the 1973 student uprising against military rule, Avgoustinos Dimitriou, a Cypriot student, only recently arrived in Thessaloniki, was apprehended, severely beaten and seriously injured by several police officers.⁹⁴ Following his beating he was detained for a night in a police station and transferred to hospital the next day where he remained for several days. According to his lawyer and family, Avgoustinos Dimitriou sustained serious psychological trauma as a result of his beating which has rendered him unable to continue his studies and work.

A video widely broadcasted by major TV channels in Greece on 18 and 19 November 2006 captured part of incident and disproved the authorities' official version that the student was injured by falling into a flowerbed. Part of the beating was also witnessed by eight university professors who reported that when they requested the police officers to stop beating the student and call an ambulance, they were verbally abused and told to go away. Eight police officers were referred to trial and seven of them were referred to a hearing before a Disciplinary Council.

In December 2008, the Thessaloniki Appeals Court found four police officers guilty of causing the student grievous bodily harm and sentenced them to three years' imprisonment.⁹⁵ Furthermore, the Court convicted three more police officers for supporting their four colleagues in the beating, as well as the then director of the Thessaloniki Security Police for not acting to prevent the ill-treatment. The Appeal Court handed each of them a 15-month prison sentence. All sentences were suspended pending appeal, which is scheduled to be heard in September 2012. If the sentences are upheld they may still be commuted into fines.

In October 2008, the police Appeals Disciplinary Council reduced the initial sentences imposed by the First Instance Disciplinary Council. In particular, it suspended from duty for six and four months respectively two of the police officers shown in the video beating Avgoustinos Dimitriou and fined a third police officer also depicted beating the student 1000 Euros. Four other police officers also involved in the beating were acquitted from any disciplinary offence. In addition, after the incident came to light, the then director of the Thessaloniki Security Police who watched the beating and did not intervene was suspended from duty for fifteen days but received no further penalties. According to reports, he was subsequently promoted to a police director in another city and retired in 2008.

Amnesty International understands that one of the police officers shown beating the student and a second police officer who was an accomplice, were also involved in the beatings of D. Zelilof and P. Galotskin in

Thessaloniki in 2001. In their cases, the ECtHR had found Greece in breach of Article 3 of ECHR both in relation to the ill-treatment of the two men and the lack of effective investigation into their complaints by the Greek authorities.⁹⁶

M. Manolis, Avgoustinos Dimitriou's lawyer, characterized the penalties imposed by the Disciplinary Tribunal as very low in view of the serious injuries that Avgoustinos Dimitriou sustained. The lawyer pointed that as a result of the very low sentences, the officers involved in the incident continued to be working at their posts.

He also considered that the prison sentences imposed by the First Instance Court were lenient when compared with the offences committed. He was concerned that the Court had given suspended sentences, particularly for the three officers who were clearly shown in video footage beating Avgoustinos Dimitriou. The suspension of sentences allowed them to walk free and continue working as police officers until the appeal hearing.⁹⁷

Amnesty International believes that officers who have abused their position and committed acts of torture or other ill-treatment should not be permitted to remain in office as a general rule. The organization also believes that if unlawful acts of police violence against detainees are to be deterred, the seriousness of such acts must be reflected in both the criminal and disciplinary measures taken against the offending police officers.

5.4 THE NEED FOR AN INDEPENDENT POLICE COMPLAINTS MECHANISM

Over the past few years (in public reports and letters to the Greek authorities), Amnesty International has called repeatedly for the establishment of an independent and effective complaints mechanism to investigate allegations of unlawful police conduct.⁹⁸

In March 2011, Law 3938/2011 was introduced providing among other things for the establishment of an Office for Incidents of Arbitrary Conduct by Law Enforcement Officials to be established in the Ministry of Citizens' Protection. A Presidential Decree providing details regarding the Office's operation entered into force in September 2011 (PD 78/2011). At the beginning of March 2012, the Office had not yet started operation.

The Law provides for the establishment of a three-member Committee within the Office, comprising a retired judge of the Supreme Court as its president, a retired prosecutor or deputy prosecutor of the Supreme Court or Appeal's Court, and the Legal Adviser to the Ministry of Citizens' Protection. The three-member Committee is tasked with evaluating whether each complaint or reported incident falls under the Office's competence and subsequently to issue a decision either to submit the case to the competent disciplinary authorities for investigation or to submit a proposal to the competent Minister to conduct the disciplinary investigation itself in cases of serious complaints or incidents or to reject them if they have no basis or are deemed unacceptable for evaluation.⁹⁹

In addition, Law 3938/2011 also aims to fulfil one of the individual measures required to implement the ECtHR rulings where Greece has been found in violation of the ECHR in relation to actions of police officers.¹⁰⁰ The three-member Committee is also tasked with dealing with such cases where the pertinent ECtHR judgement found deficiencies in the disciplinary proceedings or new evidence that was not evaluated during the disciplinary inquiry or determination of the case. In particular, the Committee re-examines such cases by taking into account the findings of the ECtHR and can decide whether or not such cases should be re-investigated. The decision to re-investigate will bind the head of the law

enforcement agency concerned.

Amnesty International wishes to reiterate its concerns over the institutional independence of the Office.¹⁰¹ It will operate in the Ministry of Citizens' Protection which is the Ministry responsible for law enforcement agencies including the Greek police. Moreover, the Law provides that it will be staffed with seconded personnel of the Greek Police, the Greek Coast Guard and the Fire Department and not with its own specialized personnel.¹⁰²

Amnesty International notes that for a police complaints mechanism to be independent, it should have no structural or organizational connection with the police. It could be in the form of an independent non-departmental public body, for example a specialized Police Ombudsperson or Independent Police Complaints Body. Such a body should be adequately staffed and headed by professionals of acknowledged competency, impartiality, expertise, independence and integrity, who are not members of the law enforcement agencies.

The organization is concerned about the type of acts which fall under the Office's mandate. For example, Article 1 (1) of Law 3938/2011 does not explicitly refer to discrimination on racial, ethnic or similar prohibited grounds, and misconduct motivated by such discrimination, as among the alleged acts of law enforcement officials to be examined by the Office.¹⁰³

There are questions over the effectiveness of the Office. The Committee's main function is to evaluate the admissibility of complaints. If it finds them admissible, it forwards them to the competent disciplinary bodies for investigation. In addition, its own powers to carry out investigations are very limited, since a member of the Committee will be able to conduct investigations only in those cases which the Law categorizes as "serious complaints or incidents", subject to the discretion of the Minister of Citizens' Protection, and only in relation to the disciplinary aspects of such cases.

Concerns also arise over the outcome of the Committee's decisions regarding the admissibility of complaints because the Committee does not have investigative powers save in cases where these are being granted them by the Minister of Citizens' Protection. The only power in relation to the collection of evidence that the Committee has (when not acting as a disciplinary inquiry body) is that of requesting documentation from public sector authorities in relation to the complaint concerned.

In addition, the Committee does not have any powers to refer cases for prosecution if appropriate in relation to a complaint or incident submitted to the Office. The only involvement that the Committee has in a criminal investigation is to inform in writing a prosecutor of any allegations of human rights allegations it has received that can be prosecuted ex officio.

Moreover, while welcoming that the Committee's mandate includes dealing with cases where Greece has been found to have violated the ECHR, Amnesty International would recommend that the mandate is broadened to include cases where Greece has been found by the Human Rights Committee and the Committee against Torture in violation of the ICCPR and CAT. Furthermore, concerns remain regarding the Committee's mandate with respect to the review of cases where the ECtHR has found flaws in the disciplinary investigations conducted. In

particular, the Committee's mandate is limited to the review of such cases and to the issuing of a decision about the re-opening of a new disciplinary investigation by the competent police authorities, but does not include conducting the new disciplinary investigation itself.

5.5 EXECUTING JUDGEMENTS OF INTERNATIONAL COURTS

Even if victims of ill-treatment or misuse of firearms find vindication before the European Court of Human Rights or the Human Rights Committee it does not mean that such vindication will be reflected at the domestic level. In May 2011, Greek Helsinki Monitor, which has represented victims in cases where Greece has been found in violation of the ECHR for ill-treatment or misuse of firearms, expressed its concerns that Greece has failed to execute the international bodies' judgements on several occasions.¹⁰⁴

YANNOULA PETROPOULOU-TSAKIRIS 2002

Amnesty International and International Helsinki Federation expressed their concerns in 2002 over allegations of ill-treatment of Roma residents by police, including the assault against Yannoula Petropoulou-Tsakiris in the Romani settlement of Nea Zoi in Aspropyrgos on 8 January 2002. A few days later, Yannoula Petropoulou-Tsakiris suffered a miscarriage.¹⁰⁵ In 2007, the ECtHR found a violation of Article 3 of the ECHR in its procedural aspect regarding the lack of effective investigation into Yanoula Petropoulou Tsakiris' allegations concerning shortcomings in both the criminal and disciplinary investigations conducted into her case.¹⁰⁶ The Court also found that the Greek authorities' failure to investigate possible racist motives behind the applicant's alleged ill-treatment, combined with the generally partial attitude throughout the investigation, was in violation of Article 14 in conjunction with Article 3 of the ECHR. The Court found no violation of Article 3 on account of the treatment that the applicant suffered at the hands of the police on the grounds that the evidence before it did not enable it to find beyond reasonable doubt that the miscarriage suffered by the applicant was the result of the alleged ill-treatment.

In the information provided by the Greek authorities on the execution of the judgement to the Committee of Ministers, it was stated that the Prosecutor of the Supreme Court had forwarded the case to the competent prosecutor who confirmed that a new investigation would be carried out following the European Court's judgement.¹⁰⁷

According to information provided by the GHM who represented the applicant in domestic and international proceedings, on 15 September 2009 the Athens First Instance Prosecutor who was assigned the case introduced a motion to the Athens Misdemeanors Council to have charges dropped against the unknown perpetrators in the case because the alleged crimes were time-barred. In February 2010, the Athens Misdemeanors Council dismissed the motion and reportedly suggested that "...if the facts of the case were as alleged by the victim in her memo and as supported by the submission of the Coordinated Organizations and Communities for Roma Human Rights in Greece to the Ombudsman, ..., then the felony crime of "exposure to harm" was committed, that is not time-barred, and thus a re-opening of the judicial investigation by the prosecutor was necessary".¹⁰⁸ The decision was reportedly never passed to the applicant. Furthermore, in September 2010 the competent Prosecutor archived the case reportedly without notifying the applicant or calling her to testify. GHM also reported that the archiving of the case was done on the basis of the evaluation of facts in 2004 by the then prosecutor even though the ECtHR had expressly considered the 2004 evaluation flawed and biased. In May 2011, the applicant applied to the ECtHR through GHM alleging a violation of Articles 3 (ill-treatment) alone and in conjunction with Article 14 (the right to non-discrimination) and Article 46 (failure to execute a judgement) of the ECHR.¹⁰⁹

6. CONCLUSION AND RECOMMENDATIONS

Since this report was concluded in April 2012, Amnesty International has received further allegations of human rights violations by law enforcement officials. These human rights violations are not just "isolated incidents" and should not continue to be treated as such, but should be rather seen as a pattern of abuses.

Amnesty International considers that it is high time for the Greek authorities to acknowledge the extent of violations by their law enforcement officials and take measures to address the systemic problems which contribute to such abuses. Until these problems are tackled – and they include protracted criminal investigations and trials, disciplinary inquiries and criminal investigations which are lacking in independence and thoroughness, and the lack of a truly effective and independent police complaints mechanism - impunity will continue to prevail and the vicious circle of such abuses will not be broken.

RECOMMENDATIONS

ON THE CONDUCT OF POLICE PRIOR TO AND DURING DEMONSTRATIONS

Amnesty International calls the Ministry for Public Order and Citizens' Protection and the Greek Police to implement the following measures:

- Police should proactively engage with those planning or organizing assemblies in order to identify and mitigate potential risks of conflict or escalation prior to the events;
- Police responses should include a broad range of options that include the possibility of non-intervention if intervention may increase the risk of conflict. The use of force in the dispersal of violent assemblies should be restricted, and used only if other means remain ineffective or without any promise of achieving the intended result;
- Police should employ mediation and negotiation to de-escalate conflicts before resorting to the use of force;
- If force is unavoidable, for example to secure the safety of others, to restrict such force to the minimum amount necessary, in compliance with UN standards for the conduct of law enforcement officials;
- Only those law enforcement officials who are trained in the use of equipment that involves use of force such as tear gas or stun grenades should be authorized to handle such equipment. Each instance of the use of such equipment should be carefully monitored by the authorities complies with international requirements of necessity and proportionality in the use of force;
- Injured demonstrators must have immediate access to medical assistance;

- Ensure that chemical irritants and stun grenades are used in line with international standards. Chemical irritants should not be used for crowd control in enclosed areas, poorly ventilated areas, or areas with few exit routes (e.g. stadiums), unless in extreme life threatening situations. In such cases every effort should be made to ensure effective evacuation of the target population¹¹⁰;
- Stun grenades should not to be thrown directly at individuals, only to be used where no danger of impacting a person and in response to an imminent threat of life or serious injury.

ON IDENTIFICATION OF POLICE OFFICERS

Amnesty International calls the Ministry for Public Order and Citizens' Protection and the Greek Police to implement the following measures:

- Ensure that police officers of all ranks are individually identifiable at all times when they are carrying out law enforcement functions, by means of individual identity badges worn visibly on their uniform, including when they wear special gear, such as helmets or other protective gear. In particular, riot police officers should wear individual badges, not only on their helmets but also on other parts of their gear and which are clearly visible;
- Ensure that the failure to carry an identity badge should be subject to disciplinary penalties.

ON SAFEGUARDS IN CUSTODY AND IMMIGRATION DETENTION

Amnesty International calls the Ministry for Public Order and Citizens' Protection and the Greek Law Enforcement Agencies to implement the following measures:

- Ensure that custody areas and immigration detention areas are staffed by officers who have received specialist training for such duties including human rights training in connection with their duty to protect the rights of people in their custody;
- Custody staff must be required to maintain a custody record in respect of each detainee, to record all matters relating to custody and relevant actions taken, including with regard to the individuals' safety and well-being, and including the timing of visits to monitor them in the cells and by which officer;
- Custody staff and immigration detention officers must report any incident of ill-treatment that comes to their attention;
- Ensure that all persons taken into custody have prompt access to a lawyer;
- No person in police custody or immigration detention is denied access to medical treatment. The authorities should ensure that all law enforcement personnel are made aware of their duties to ensure that assistance and medical attention are rendered to any injured or affected person in detention or custody whenever necessary;
- Ensure the existence of confidential mechanisms allowing detainees to make a request or complaint regarding their treatment, in particular in case of physical and psychological abuse, to the authorities responsible for the administration of the place of detention and to

higher authorities and, when necessary, to judicial authorities;

- Ensure that the leaflet on the rights of detainees in various languages along with the complaint form about ill-treatment and poor detention conditions is distributed to all individuals held in detention in a language that they understand and it is exhibited in areas accessible to the detainees including their cells.

ON THE INVESTIGATION OF COMPLAINTS AGAINST LAW ENFORCEMENT OFFICIALS

- Amnesty International calls the Greek Law Enforcement Agencies and judicial authorities to ensure that all allegations human rights violations by law enforcement officials including excessive use of force, torture and other cruel, inhuman or degrading treatment or punishment and the unlawful use of firearms should be subject to prompt, thorough, independent and impartial investigations;
- Any judicial authority including investigating judges, court and law enforcement authorities receiving an allegation of human rights violations by a law enforcement official should immediately forward such complaint to the competent prosecutor;
- In order to ensure the independence and impartiality of criminal investigations of human rights violations by law enforcement officials, preference should be given to a magistrate or the public prosecutor conducting the investigation. In no circumstances should an investigation be carried out by officers of the same unit as, or who have an institutional or hierarchical relationship with, those under investigation;
- Amnesty International calls the Ministry for Public Order and Citizens' Protection to introduce appropriate amendments to the 2008 Disciplinary Code for Police Personnel in order to ensure that:
 - Victims and/or their families have access to disciplinary hearings of law enforcement officials accused for human rights violations. The outcome of disciplinary proceedings should be made known to them promptly and without them having to apply for the provision of such information;
 - When the disciplinary investigation of a case of alleged human rights violations is assigned to the police, it should always be assigned to an officer from a different directorate to that of the alleged offender;
 - Officials under investigation for serious human rights violations should be removed from their positions of responsibility pending the outcome of disciplinary and/or other judicial proceedings against them.

ON THE CREATION OF A POLICE COMPLAINTS MECHANISM

The Greek authorities should establish a truly independent and effective police complaints mechanism. In particular, this mechanism should:

- Have 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 Body. Such a body should be adequately staffed and headed

by professionals of acknowledged competency, impartiality, expertise, independence and integrity, who are not members of the law enforcement agencies. It should have at its disposal its own corps of independent expert investigators to investigate complaints;

- 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;
- Have its own powers to investigate, and not simply to collect, record and evaluate complaints that are then forwarded to the competent investigating bodies; such powers should not be limited to the disciplinary aspects of a complaint and should not be dependent on the discretion of the Minister of Citizens' Protection;
- Have investigation powers which 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;
- Have the power to refer a case directly to the prosecuting authorities for criminal prosecution where appropriate and the power to appeal any decision made by the prosecution authorities to a court;
- Have the power to make binding decisions that apologies should be granted and the power to recommend adequate compensation be paid to victims.

ON THE CREATION OF A NATIONAL PREVENTATIVE MECHANISM

Amnesty International calls the Greek authorities to:

- Ratify as promptly as possible the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish or designate a National Preventive Mechanism mandated to visit places of actual or possible detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment and regularly examine the treatment and condition of persons deprived of their liberty;
- Allow the Ombudsperson in its capacity as a National Preventive Mechanism to visit all and any suspected places of deprivation of liberty that are within Greece's effective control and ensure that it is able to carry out visits in a manner and frequency that itself decides including the right to carry out unannounced visits at all times to all places of deprivation of liberty;
- Ensure that sufficient resources are invested in the Ombudsperson's office that will allow it to fulfill its function as a National Preventive Mechanism effectively without detriment to other areas of its mandate;
- Mandate the National Preventive Mechanism explicitly to make recommendations to the Greek authorities for the purpose of improving the treatment and conditions of detention of individuals deprived of their liberty and for the prevention of torture and other ill-treatment. Greek authorities must examine its recommendations and enter into a dialogue with the Mechanism regarding their implementation;

- Inform the National Preventative Mechanism of any draft legislation under consideration relevant to its mandate and allow the Mechanism to make proposals on any such existing draft policy or legislation.

ON TRAINING AND HUMAN RIGHTS EDUCATION

Amnesty International calls the Ministry for Public Order and Citizens' Protection to ensure that:

- Senior officers send a clear message to subordinates that torture and other ill-treatment, excessive use of force and racism or other discrimination will not be tolerated and will be met with severe disciplinary sanctions. In cases where a criminal offence has been committed, they are met with criminal sanctions. This should be reflected in induction and continuing police training;
- All police officers receive regular training in the legal, safe and proportionate use of force, including the use of firearms, chemicals and restraint techniques;
- Police should in particular be given regular training in techniques for restraining people who may be agitated or suffering from mental illness, and the need for continual and regular monitoring of detainees who are intoxicated, agitated or in other respects may be at risk. Operational training in all areas of law should include relevant human rights standards, including their practical application. With regard to the lawful use of force training should be provided on the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms;
- Human Rights education should be an integral and compulsory part of the basic and regular training of police; the legal training of police should familiarize themselves with Greece's human rights obligations and other human rights standards;
- All police officers must receive training on the nature of hate crimes and the role of the police in combating them and training to ensure that the needs of victims of hate crimes are met.

ON THE CRIMINALIZATION OF TORTURE IN NATIONAL LAW

Amnesty International calls the Greek authorities and in particular, the Ministry of Justice, Transparency and Human Rights to bring the definition of torture as this is provided in Article 137 (A) (2) to be in line with international law. In particular, the law should include:

- Acts of torture inflicted at the instigation or with the consent or acquiescence of a public official or other person acting in an official capacity;
- Acts committed "for any reason based on discrimination of any kind", including acts based on gender, sexual orientations, national, ethnic or religious origins;
- Isolated or sporadic acts which may be excluded under the current law as failing to meet the requirement that acts be "systematic";
- To explicitly include rape and other forms of sexual violence as forms of torture.

ON THE EXECUTION OF THE JUDGEMENTS OF INTERNATIONAL BODIES

Amnesty International calls on the Greek authorities to take the following measures:

- Ensure that the judgements of the ECtHR and the views of the Human Rights Committee are fully executed;
- Ensure that the Office for Incidents of Arbitrary Conduct by Law Enforcement Officials is assigned to conduct the disciplinary investigation of cases for which Greece has been found in violation of the ECHR;
- Broaden the Committee's mandate to include the examination of cases concerning human rights abuses by law enforcement officials for which Greece has been found in violation by other international human rights bodies such as the UN Human Rights Committee or the Committee against Torture.

ON THE INVESTIGATION OF RACIALLY MOTIVATED ATTACKS

Amnesty International calls the Greek authorities to take the following measures:

- Ratify and implement Protocol No. 12 to the ECHR, which sets out a general prohibition of discrimination;
- Ensure that all racially motivated violence and other discriminatory or hate crimes are fully and effectively investigated. Those reasonably suspected of responsibility should be prosecuted under laws providing for sanctions which reflect the gravity of the human rights abuses;
- To establish and operate a unified special system across the country for recording and monitoring racist incidents and hate crime that will be administered by the Ministry of Justice and will link information by NGOs, hospitals and other appropriate bodies. The monitoring should cover all stages of proceedings, including complaints lodged, charges brought and convictions recorded.
- Data should be collected on hate crimes in a manner that ensures respect for human rights, including the prohibition of discrimination, so that it can be used to identify trends
- The police should co-operate with the Racial Violence Monitoring Network, other NGOs and migrant communities which receive the victims' complaints in order to find an appropriate solution and designing appropriate measures to combat racially motivated violence.

ENDNOTES

1 For example, *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, September, 2002 (AI/IHF 2002 report); *Greece: Alleged Abuses in the Policing of Demonstrations*, March 2009 (Index: EUR 25/001/2009); *Greece: Migrants, refugees and asylum-seekers; conscientious objectors and excessive use of force by law enforcement officials* – Amnesty International Submission to the UN Universal Periodic Review, May 2011 (Index: EUR 25/008/2010).

2 In their submission to the United Nations Committee Against Torture in 2010, the Greek authorities noted: “During the period 2005–2009, a total of 281 complaints against police officers for ill-treatment – abuse of citizens (detained or not) were investigated (by Sworn Administrative Inquiries, Oral Administrative Inquiries and Preliminary Inquiries). ... Complaints about abuse and ill-treatment investigated in 2005–2009, although they appear to correspond to a large number, constitute isolated events, which the Department investigated in depth, the protection of personal rights being a matter of utmost importance. Where complaints were confirmed, it took all disciplinary measures provided for by Disciplinary Law for Police Staff” (see Combined 5th and 6th periodic reports of State parties due in 2009 submitted in response to the list of issues (CAT/C/GRC/Q/5) transmitted to the State party pursuant to the optional reporting procedure, Greece 30 June 2010, CAT/C/GRC/5-6 paras. 176-182).

3 For further information see *Greece: Alleged Abuses in the Policing of Demonstrations*, above. Special guards are special recruits to the police force and have limited policing duties. Other police units include units for the restoration of order used during demonstrations (the so-called MAT and YAT). DELTA is one of the motorcycle police units and officers from that unit are also used during demonstrations. Border guards are used in areas where there are mixed migration flows such as the borders with Turkey and for guarding irregular migrants and asylum-seekers in immigration detention facilities.

4 Several of those cases were documented by AI/IHF 2002 report.

5 A few days after the June 2011 demonstrations, a decision was announced by the Chief Prosecutor of the Athens First Instance Courts to undertake amongst others, criminal investigations into allegations of excessive use of force by riot police and excessive use of chemicals during the June 2011 demonstrations. Amnesty International has expressed its concerns in a series of public statements, reports and letters. See, amongst others, Amnesty International press releases: “Tear gas fired as police clashes with Athens protesters”, 15 June 2011; and “Greece urged not to use excessive force during protests, 29 June 2011”.

6 Amnesty International has monitored the cases of several journalists and photographers who were ill-treated by police while trying to cover anti-austerity and other demonstrations in Greece. The attacked journalists and photographers were clearly identifiable as media staff. Some of the journalists and photographer, including Marios Lolos, the President of the Greek Photoreporters Union, said that they had been subjected to ill-treatment and/or abusive language by police more than once. See “Attacks against journalists during protests have a detrimental effect on freedom of expression”, 1 May 2012 (Index: 25/003/2012).

7 National human rights NGOs, such as the Hellenic League for Human Rights, have expressed serious concerns about the arbitrariness of these transfers and that they contravene Greek legislation. Article 74 of Presidential Decree 141/1991 stipulates that the police can transfer to police stations for the purposes of interrogation persons who do not possess evidence proving their identity or raise suspicions that they will commit a crime due to their conduct at a specific time, place and circumstances. Furthermore, Article 6 of the Greek Constitution provides that a person shall not be arrested or detained without a fully detailed arrest warrant which has to be given to the person arrested during the arrest or pre-trial detention.

8 Dimitris Georgiou reportedly sustained a head injury, requiring stitches, and a serious fracture to his wrist. He sought hospital treatment, together with

several other protesters from the group who were reportedly injured by police during the incident. Dimitris Georgiou also filed a criminal complaint and is still awaiting the outcome of the investigation.

9 "Greece: Alleged abuses in the policing of the 11 May demonstration" (Index: EUR 25/008/2011).

10 In February 2012, nine months after the start of the criminal investigation into the beating of Yiannis Kafkas, the police had completed the preliminary inquiry and submitted its findings to the prosecutor. However, the latter had reportedly not yet decided whether charges were to be brought against a police officer.

11 Over thirty demonstrators were reportedly transferred to accident and emergency units of hospitals, the majority with head injuries.

12 Some of the other demonstrators interviewed by Amnesty International a few days after the incident alleged that riot police aimed at their heads with their batons. There were also reports that riot police used the handle of their batons to strike demonstrators. The use of batons in that manner was corroborated by pictures published in various media sources the following day, which also showed protesters with visible head injuries. Pictures of the incident also support testimonies that police used other weapons such as fire extinguishers to attack the demonstrators.

13 Amnesty International has documented two other cases in which a teacher and an architect reportedly suffered damage to their hearing as a result of stun grenades thrown at them by riot police. Both incidents took place on the 6 May 2010 during an anti-austerity demonstration.

14 Press release of 8 January 2010, "Insignia for all police officers" at http://www.astynomia.gr/index.php?option=ozo_content&lang=%27.%27&perform=view&id=2728&Itemid=492&lang=. See also for the decision in more detail, <http://www.policenet.gr/portal/stoli-9.html>; <http://www.policenet.gr/portal/stoli-8b.html>.

15 Concerns were expressed by the student's lawyers over the outcome of the disciplinary inquiry and the evaluation of the evidence received. The inquiry attributed the student's injuries to his resistance to arrest and characterized them as lawful. It concluded that none of the officers involved should be referred to disciplinary trial – see Greece: Briefing to the Committee Against Torture, October 2012 (Index: EUR 25/011/2011), at p. 9.

16 For a collection of press releases, public statements and interviews on the case of Demosthenis Papadatos-Anagnostopoulos, see <http://www.rednotebook.gr/details.php?id=1457>.

17 See, for example, *The Dublin II Trap – Transfers of Asylum-Seekers to Greece* (Index: EUR 25/001/2010), documenting the plight of Dublin II returnees and other asylum-seekers in Greece.

18 For a more extensive analysis see, amongst others, "One year after MSS..." (Index: EUR 25/001/2012).

19 In July 2011, Doctors of the World reported that migrants were frequently ill-treated by law enforcement officials at the port of Patras where many of them concentrate in an attempt to cross by boat to Italy. The organization registered amongst others injuries caused by batons and serious head injuries.

20 Amnesty International expressed its concerns about the case in letter sent to the Greek authorities in May 2009.

21 Moreover, Roma children in various communities around Greece reportedly continue to face segregation or exclusion from education. For Amnesty International reports documenting extensively the situation of Roma see AI/HF2002 report, especially, pp. 28 – 35; *Greece: Out of the spotlight - The rights of foreigners and minorities are still a grey area* (Index: EUR 25/016/2005), 4 October 2005; more recent information on forced evictions in "Europe must break the cycle of discrimination against Roma", 8 April 2010 (Index: EUR 01/005/2010). For other reports see, NCHR, *Report and Recommendations for issues regarding the status and the rights of Roma in Greece*, 2009; Hellenic League for Human Rights-KEMO / i-RED Housing conditions of Roma and Travellers in Greece, October 2009; GHM, in partnership with the Centre on Housing Rights and Evictions (COHRE), Minority Rights Group – Greece (MRG-G), the Panhellenic Confederation of Greek Roma (PACONGR) and the Greek Gypsy Union (GGU) (2006), *Greece:*

Continuing Widespread Violation of Roma Housing Rights, at

http://www.cohre.org/store/attachments/greece_roma_report_october_2006%20GHM%20%2B%20COHRE.doc; Parallel report of the European Roma Rights Centre to the UN Committee on the Rights of the Child on Greece, at <http://www.errc.org/cikk.php?cikk=3916>; Parallel Report of the GHM and others to the UN Committee on the Rights of the Child, March 2011.

22 See *Bekos and Koutropoulos v. Greece*, Judgement of 13 December 2005 (Application No. 15250/2002); also *Petropoulou-Tsakiris v. Greece*, Judgement of 6 December 2007 (Application No. 44803/2004).

23 Following their release from detention, many migrants and asylum-seekers make their way to Athens or go to port towns such as Patras or Igoumenitsa in the hope of boarding boats for Italy. The absence of an effective asylum system in Greece and the limited number of reception facilities has resulted in many asylum-seekers and unaccompanied asylum-seeking and migrant minors sleeping rough or in squalid accommodation in various parts of Athens, Patras and Igoumenitsa. Their ghettoization and a reported increase in crime rates in certain areas of Athens where large numbers of migrants and asylum-seekers concentrate, have played into the hands of extreme right-wing groups and encouraged toleration of racially motivated attacks by some of the residents of those areas.

24 There was an escalation of racially motivated attacks against third-country nationals, in particular migrants, refugees and asylum-seekers, in May and June 2011. Migrants, refugees and asylum-seekers were reportedly attacked nearly every day by far-right groups in certain areas of Athens, after migrants were suspected of killing Manolis Kandaris, a father of two, as he prepared to take his wife to maternity hospital. The only trial for racially motivated violence known currently to Amnesty International is that of three men accused of attacking three Afghan asylum-seekers in September 2011. One of the asylum-seekers was stabbed and seriously injured. The trial was scheduled for December 2011 but has been postponed several times.

25 Many of the asylum-seekers in Greece attempt to file their claim at the Aliens' Police Directorate in Athens. However, they continue to face severe impediments in their access to asylum since the police receive only a very limited number of asylum applications, as the relevant office is open only on Saturday mornings. As a result many risk arrest, detention and possible deportation to a country where they are at risk of persecution. See amongst others the Joint press release of Group of Lawyers for the Rights of Refugees and Migrants with Amnesty International Greece, AITIMA, Greek Council of Refugees and Ecumenical Refugee Programme, "One month in Petrou Ralli: The unacceptable situation in the registration of asylum claims continues", in Greek, 15 March 2012.

26 UNHCR, *The situation of refugees in Greece*, June 2011; in May 2011, the NCHR made a series of recommendations to ensure that the phenomenon of racist violence is dealt with effectively by judicial and law enforcement authorities - at <http://www.nchr.gr>.

27. Its members include Amnesty International, the Hellenic League for Human Rights, the Greek Council of Refugees and other national refugee and human rights NGOs and refugee communities. Its creation was prompted by the absence of an official recording mechanism of such acts.

28 Due to the geographical limitations of the research (centre of Athens and town of Patras and the methods of registration (the incident is recorded only following the victim's testimony), the results reflect only a very small part of the actual situation.

29 Network for Recording Incidents of Racist Violence, Presentation of results of pilot period, 1/10/2011-31/12/2011, at <http://www.unhcr.gr/nea/artikel/aa6559226a5ce001775aa74c54a30b7a/anisychitika-ta-apot.html>.

30 *Greece: Briefing to the Committee Against Torture*, October 2011, (Index: EUR 25/011/2011, pp. 7-8).

31 Movement "Evict Racism" article at <http://www.ksm.gr>, 24 February 2012.

32 In 2000, Greece signed Protocol No. 12 to the ECHR, which sets out a general prohibition of discrimination but has yet to ratify it.

33 In 2009, the Greek authorities reported a series of measures to combat racism in policing such as the issuance of a circular in 2006 which underlines the obligations of police authorities to investigate the possibility of a racist motive in criminal and administrative cases (Ministry of Interior Reply to report Greece: Alleged Abuses in the Policing of Demonstrations, 2 June 2009).

34 *Stoica v. Romania*, Judgement of 4 March 2008 (Application no. 42722/02).

35 For example, in a speech prompted by a demonstration on 11 May 2011 that in which many protesters suffered head injuries as a result of the excessive use of force, the Minister of Citizens' Protection observed that there was an apparent democratic deficit in the operation of law enforcement bodies, and spoke of the need to take measures to create a new spirit in the manner that law enforcement bodies operate. These included strengthening the training programmes of law enforcement bodies, in particular those who are in the first line of policing, and the exemplary punishment of law enforcement officials who exercise violence against civilians. Nonetheless, the Minister referred to such incidents as "isolated" (see <http://www.yptp.gr>).

36 See Reporters without Borders, *Could the crisis help media freedom in Greece?*, 14 September 2011; *State Violence in Greece, an Alternative Report to the United Nations Committee Against Torture*, 47th session, submitted by GHM, SOKADRE, Minority Rights Group Greece and OMCT, Athens and Geneva, 20 October 2011.

37 *No arms for atrocities or abuses: Commit to an Effective Arms Trade Treaty* (Index: ACT 30/001/2012), 23 January 2012.

38 See also "Meeting of the Presidency with Amnesty International representatives", press release of 19 May 2011, at <http://www.poasy.gr>.

39 In April 2011, police withdrew from the town of Keratea where clashes between police and residents protesting against the creation of a landfill site had been ongoing since December 2010. There were reports of excessive use of tear gas and other chemicals by the police, and allegations of ill-treatment of town residents. The authorities also reported a large number of injuries to police officers (AIR 2012); See also, <http://www.policenet.gr/portal/arhra-dimosieymata/2011/xr-foropoylos-opos-to-pane-se-ligo-tha-katebasoyme-rola-28-2-2011.html>.

40 In 2008, the Ministry of Interior was the Ministry responsible for the Greek police. Following the change of government at the end of 2009, oversight was transferred to the Ministry of Citizens' Protection (i.e. Ministry for Public Order). Following the June 2012 elections, the Ministry of Citizens' Protection was renamed as the Ministry for Public Order and Citizens' Protection.

41 NCHR, Observations over the draft law providing for the establishment of an Office dealing with incidents of arbitrary conduct by the police in the Ministry of Citizens Protection, p. 7.

42 Greece ratified the ECHR in 1974, the CAT in 1988 and the ICCPR in 1997.

43 See relevant recommendations of the UN Special Rapporteur on torture, Report, 21 April 2011, A/HRC/16/52/Add.4, para. 28.

44 See D. Spinellis, Professor of Penal Law, cited at, Amnesty International/IHF 2002 report, p. 18.

45 i.e. right to vote (Article 51 of the Greek Constitution) and right to stand for elections (Article 55 of the Greek Constitution)

46 See E. Symeonidou-Kastanidou, Professor of Penal Law, "The meaning of torture and other offences of human dignity in the Penal Code", *Poinika Hronika*, 1/2009, p. 2.

47 E. Symeonidou-Kastanidou, above, pp. 6-7.

48 This is an aggravated form of torture proscribed under Article 137 (A) (1) and (2) and 138 (B) (1) (a). See GHM, "First conviction of police officer for

the felony form of torture by electric shock", press release, 13 December 2011.

49 In the matter of Necati Zontul and Greece, Ref: 12294/2007 at <http://www.redress.org>.

50 See AI/IHF report 2002, pp. 41-43.

51 See extracts of the domestic courts' judgements In the matter of Necati Zontul and Greece, Ref: 12294/2007 at <http://www.redress.org>, p. 12.

52 *Zontul v. Greece*, Judgement of 12 January 2012, paras. 43-48.

53 The Court decided to drop the charges for "falanga" because the medical certificates issued by both the state pathologist and the Director of the Medical Foundation for the Care of Victims of Torture did not refer to evidence pointing towards its use on the sole of the victim's feet. However, the Foundation Director testified that evidence of "falanga" was found but that due to an omission on her part it was not included in her report.

54 See IHF/AI report 2002; also CAT/G/GRC/5-6, 5th and 6th Periodic Report of Greece to the Committee against Torture, 10 March 2011, para. 146.

55 For a detailed account of the incident see Proasyl, Greek Council for Refugees and Infomobile, Walls of Shame – Accounts from the Inside: The Detention Centres of Evros, April 2012, pp. 76-77. Amnesty International understands that a disciplinary investigation has commenced into the incident and that a report was filed with the Greek Ombudsman.

56 Article (9) and 14 (3) of the ICCPR; Article 5 (2) and 6 (3) (a) of the ECHR.

57 Principle 1 of the Basic Principles of the Role of Lawyers, Principle 17 of the UN Body of Principles for the Protection of All Persons under any Form of detention or Imprisonment.

58 UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, 15, 16, 19, 24, 25 and 26; Standard Minimum Rules for the Treatment of Prisoners, 22, 24, 37, 38, 91 and 92; UN Code of Conduct for Law Enforcement Officials, Article 6.

59 See Standard Minimum Rules for the Treatment of Prisoners, Rule 7; Principles on the Effective Investigation of Extra-Legal, Arbitrary and Summary Executions, Principle 6; CCPR General Comment No. 20, 10 March 1992, para. 11; International Convention for the Protection of All Persons from Enforced Disappearance Convention (which Greece has signed, not ratified) Articles 17 and 18.

60 See amongst others On-site investigation at the detention centres for foreigners at the prefectures of Evros and Rodopi, April 2011, at <http://www.synigoros.gr/?i=human-rights.el.danews.48050>.

61 Article 6 para.1 of PD 273/1999, Regulations for the Operation of the Greek Ombudsperson.

62 See Article 26 ICCPR.

63 Report, 21 April 2011, A/HRC/16/52/Add.4, para. 28.

64 See video at <http://www.youtube.com/watch?v=3-ljH8e16K1>.

65 See <http://www.youtube.com/watch?v=xJ8LurBh8-o&feature=related>.

66 At least four officers were suspended from duty following the publication of the video clip and a sworn administrative inquiry was opened into the

incident which was completed in 2009. Amnesty International has been informed that initially seven police officers were charged with the aggravated form of offences against human dignity as proscribed in Article 137 A (1) and (3) and Article 137(B) of the GPC. Following the completion of the criminal investigation, five of them were referred to trial by the Mixed Felony Court. Their trial is scheduled for the beginning of 2012.

67 See amongst others: *Makaratzis v. Greece*, Judgement of 20 January 2004 (Application 50385/1999) ; *Alsayed Allaham v. Greece*, Judgement of 18 January 2007 (Application 25771/2003); *Bekos and Koutropoulos v. Greece*, Judgement of 13 December 2005 (Application 15250/2002); *Celniku v. Greece*, Judgement of 5 July 2007 (Application no. 21449/2004).

68 *Kouidis v. Greece*, Views of 28 March 2006, CCPR/C/86/D/1070/2002; *Kalamiotis v. Greece*, Views of 5 August 2008.

69 E.g., *Makaratzis v. Greece*; *Celniku v. Greece*; and *Karagiannopoulos v. Greece*.

70 See for example CPT/ Inf (2006) 41, paras. 53 to 56; CPT/ Inf (2008) 3, para. 20; CPT/ Inf (2009) 20, paras. 13 and 14; CPT/ Inf (2009) 20, paragraph 14.

71 Report to the Government of Greece carried out by the CPT from 17 to 29 September 2009, 17 November 2010, CPT/INF(2010) 33, para. 78.

72 In 2010, a Circular was issued by the Public Prosecutor of the Supreme Court ordering that all complaints of ill-treatment by law enforcement officials be forwarded to a prosecutor in order to be investigated and that criminal investigations should not be carried out by an officer that serves in the same police station as the alleged perpetrator.

73 Interview, 4 January 2012.

74 For statistics see Background Report by the Ministry of Justice, Transparency and Human Rights on the draft law "For a fair a trial and its reasonable length" http://www.hellenicparliament.gr/Nomothetiko-Ergo/Psifisthenta-Nomoschedia?law_id=5453eb70-0c94-4928-9446-7d10fb5b4042.

75 Aris Messinis told Amnesty International that he was assaulted twice more by police during that demonstration.

76 Network for the support of migrants and refugees, Greek Council for Refugees, Hellenic League for Human Rights, Medical Centre for the Rehabilitation of Victims of Torture, Group of Lawyers for the Rights of Refugees and Migrants, Press release, 19 December 2011.

77 In a letter sent to the Greek authorities on 22 November 2009, Amnesty International expressed its concerns about the allegations of ill-treatment and intimidation of witnesses during the criminal investigation. A response was received from the Greek authorities on 10 February 2010. It stated that the officers conducting the sworn administrative inquiry in Chios concluded that the allegations about the ill-treatment were not confirmed and proposed that the case be archived. The reply also stated that the Chios Police Director decided to postpone a final decision on the outcome of the case until the preliminary inquiry conducted by the Prosecutors' Office in Lesvos was concluded.

78 Two other detainees also filed a complaint with the Greek Ombudsperson about their ill-treatment and intimidation. On 16 November 2009, the Greek Ombudsperson wrote to the police authorities conducting the sworn administrative inquiry calling them to take into account the medical certificates provided by the detainees showing their injuries, as well as the relevant case law of the ECtHR regarding the investigation of allegations of ill-treatment. In March 2010, the Ombudsperson's Office wrote a second letter requesting the Greek authorities to send all the documents of the sworn administrative inquiry and any other accompanying material so as to enable the Ombudsperson's Office to investigate further the complaint it had received and check the lawfulness of the disciplinary inquiry itself.

79 According to national legislation, if an official assigned to conduct a criminal investigation or a court is informed of an offence that can also be prosecuted on the prosecutor's own initiative, there is an obligation to report it without delay to the competent prosecutor (Articles 37 and 38 of GPPC).

80 Report to the Government of Greece on the visit to Greece carried out by the CPT from 19 to 27 January 2011, CPT/INF/(2012) 1, paras. 85-87.

81 Council of Europe Committee of Ministers, Cases concerning the action of police forces in Greece, at <http://www.cpt.coe.int/documents/grc/2010-33-inf-eng.htm>.

82 The preliminary administrative inquiries have replaced two previous forms of inquiries: the preliminary Inquiries and the oral administrative inquiries (Reply of the Greek Ministry of Interior to the Greek Section of Amnesty International, 2 June 2009).

83 Article 10 and 21 of PD 120/2008. Higher disciplinary offences are those who incur the sanctions of cashiering, suspension of service by dismissal and temporary suspension from service.

84 See Articles 10 (1) c, 11 (1) (ia) and 26 (1) and (4) of PD 120/2008.

85 In 2010 the CPT observed: "investigations into allegations of ill-treatment should satisfy the requirements for an effective investigation as reflected in the case law of the European Court of Human Rights. Reference should also be made to the 1999 United Nations Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('Istanbul Protocol'), which inter alia states that such a type of investigation should be carried out by investigators who shall be independent of the suspected perpetrators and the agency they serve in addition to being conducted promptly and effectively... By contrast according to the 2008 Decree on Police Discipline, investigations into allegations of physical ill-treatment and of other disciplinary offences are normally initiated and carried out by the local police force to which the accused police officer belongs – See CPT/Inf/(2010)33, para. 27, at <http://www.cpt.coe.int/documents/grc/2010-33-inf-eng.htm>.

86 Article 14(2) of Presidential Decree 22/1996; See also AI/IHF 2002 report.

87 Article 51 of PD 120/2008. See the very extensive analysis of GHM, OMCT and others, State Violence in Greece: An Alternative Report to the United Nations Committee Against Torture, 27 October 2004.

88 Greek Ombudsperson, Special Report on Disciplinary-administrative inquiry of allegations against police personnel, 2004; and Follow-up Report following the completion of the Special Report a year later, 26 July 2005; also Press release of 20 June 2007.

89 *Zontul v. Greece*, above, paras. 100-102.

90 See Ombudsperson's press release, 12 January 2012, at <http://www.synigoros.gr/?i=human-rights.el.askisi-vias-limeniko.62324>.

91 GHM, Press release of 16 December 2008 at <http://cm.greekhelsinki.gr/index.php?sec=194&cid=3382>.

92 Decision No. 492/2007 of the E Section of the Supreme Court (Arios Pagos),

93 *Zontul v. Greece*, Application No. 12294/07, Judgement of 17 January 2012, extracts from press release of the ECtHR.

94 See <http://www.athensnews.gr/portal/1/55343>.

95 Amnesty International expressed its concerns over the case in a letter sent to the Greek authorities in 2009 (Index: TG EUR 25/001/2009). For the video of the case see <http://www.youtube.com/watch?v=Gg5ZFqW7noo>.

96 See *Zelilof v. Greece*, Judgement 24 May 2007, Application 17060/2003; *Galotskin v. Greece*, Judgement of 14 January 2010, Application 2945/2007.

97 On 3 May 2012, an appeals court upheld a first instance judgement ruling for the state to award Avgoustinos Dimitriou, 300,000 Euros in damages for his ill-treatment by police – see <http://www.athensnews.gr/portal/1/55343>.

98 E.g. *Greece: Alleged Abuses in the Policing of Demonstrations* report.

99 See Article 1 (3) and (4) of the Law.

100 Cases concerning the action of police forces in Greece – individual measures, CM/Inf/DH (2009), 17 March 2009.

101 In March 2011, the UN Special Rapporteur on torture welcomed the Law establishing the Office but urged the Greek authorities “to establish independent mechanism for the investigation of allegations of torture and other forms of ill-treatment by police officers under a different authority than the Ministry of Citizen's Protection” - see Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1 March 2011, A/HRC/19/61/Add. 3.

102 Amnesty International has previously expressed its concerns over the independence and effectiveness of the Office as it was envisaged in draft legislation in 2009 and 2011: Public Statement, 21 December 2009, 25/011/2009; *Greece: Migrants, refugees and asylum-seekers; conscientious objectors and excessive use of force by law enforcement officials* – Amnesty International Submission to the UN Universal Periodic Review, May 2011, (Index: EUR 25/008/2010)

103 The acts which fall within the Office's mandate are: torture and other violations of human dignity according to the meaning given to it in article 137 A of the Greek Penal Code; illegal and intentional attacks against life, bodily integrity or health, or personal or sexual freedom; illegal use of firearms and; any other attack against the personality of citizens as well as related actions carried out by the same person at the same place and time (Article 1 (1) of Law 3938/2011).

104 *State Violence in Greece, an Alternative Report to the UN Committee Against Torture*, 47th session, submitted by GHM, SOKADRE, Minority Rights Group Greece and OMCT, Athens and Geneva, 20 October 2011, p. 20. Also Interview with Amnesty International, May 2011.

105 AI/IHF 2002 report, pp. 34-35.

106 *Petropoulou-Tsakiris v. Greece* (Application No. 44803/2004), Judgement of 6 December 2007.

107 Source: Council of Europe – Execution of European Court of Human Rights judgement s “Pending cases: current state of execution”, at <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=826734&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.

108 *Extracts from State Violence in Greece, an Alternative Report to the United Nations Committee Against Torture*, 47th session, submitted by GHM, SOKADRE, Minority Rights Group Greece and OMCT, Athens and Geneva, 20 October 2011, p. 20.

109 *Fani-Yannoula Petropoulou-Tsakiris v. Greece*, Application of 16 May 2011 (copy kindly provided by the Greek Helsinki Monitor).

110 NYPD Patrol Guide prohibits the use of pepper spray against subjects who passively resist (e.g., going limp, offering no active physical resistance). In the March 2011 judgement on *Ali Güneş v. Turkey*, the ECtHR found a violation of Article 3 ECHR on account of riot police spraying the applicant's face with tear gas and on account of the authorities' failure to conduct an investigation into his allegations. A case in the US “created the legal precedent that using pepper spray against peaceful protestors can constitute excessive force under the Fourth Amendment” – see United States District Court Northern District of California, San Francisco Division, Vernell Lundberg et al., Plaintiffs v. County of Humboldt et al., Defendants, Case No. C-97-3989-SI, Plaintiffs' Notice of Motion and Motion for Entitlement to Attorneys' Fees; Memorandum of Points and Authorities in Support Thereof (42 U.S.C. § 1988(b)) at http://www.nopepperspray.org/p_mo_entitlement_atty_fees_6.30.05.



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POLICE VIOLENCE IN GREECE NOT JUST 'ISOLATED INCIDENTS'

Amnesty International has received a large number of allegations of human rights violations committed by law enforcement officials in Greece. Excessive force is used against largely peaceful protesters and journalists covering demonstrations, and there are frequent reports of ill-treatment of individuals during arrest or detention, including those belonging to vulnerable sectors of society.

While the authorities accept that such violations occur, they have classed them as “isolated incidents” and fail to acknowledge the extent of this systemic problem. Moreover, police and judicial authorities frequently fail to conduct prompt and thorough investigations, and victims are unwilling to report abuses owing to a lack of confidence in the criminal justice system. As long as these deterrents remain absent, police are effectively free to repeat these crimes with impunity.

Drawing on a wide range of material, Amnesty International makes urgent recommendations to the Greek authorities for implementation in law and practice. These include ensuring police exercise restraint and identify themselves clearly during demonstrations, improving safeguards for those in custody and creating a truly independent and effective police complaints mechanism.

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