

# JURISTRAS

## State of the Art Report

### Strasbourg Court Jurisprudence and Human Rights in Greece: An Overview of Litigation, Implementation and Domestic Reform

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## *I. Introduction*

Greece joined the Council of Europe on 9 August 1949. It signed the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) on 28 November 1950, and ratified it on 28 November 1974.<sup>1</sup> Governed by a dense and binding set of human rights guarantees, the Greek state was called to align its level of human rights protection with commonly acceptable European standards. Supervision by Strasbourg organs sought to improve respect for individual liberties by identifying shortcomings in the domestic system for human rights safeguards. The choice of the means and methods to correct failures was left to national institutions.

Whether the ECHR has served, or holds the potential, to transform domestic governance regarding human rights protection is the core research question of JURISTRAS. Can it be argued that the case-law of the European Court of Human Rights (ECtHR), created to enforce the obligations entered into by the Convention's contracting states, has exerted a strong influence on national policies and processes? Do domestic laws and practices allow for effective implementation of the Convention? In the case of Greece, what has been the state's response to ECtHR findings?

With a view to reaching a clear understanding of the impact of ECtHR judgments on the Greek legal order, this report sketches the broad contours of litigation patterns in Strasbourg, and offers a first glimpse of national authorities' attempts to implement ECtHR decisions. Analysis is structured as follows: Part II testifies to the fundamental importance attached by the Greek state to human rights protection, considering the place the ECHR occupies in the Greek legal system and the judicial mechanisms available at the national level to ensure respect for human rights. Focus then shifts in part III to litigation in Strasbourg, identifying the main actors involved in the process and the principal arguments advanced by petitioners to substantiate violation of the Convention's provisions. Next, emphasis is directed to execution of ECtHR judgments, clarifying the obligations of national institutions in this respect and the nature of measures adopted to comply with the Court's rulings. To gauge the real impact of the ECHR scrutiny regime and its effects on domestic policy change, a critical analysis of literature and research pertaining to Greece, human rights and implementation of ECtHR decisions follows in part IV. Part V offers some conclusions on the mediating role the Court has assumed between individual and state interests, and prepares the ground for a detailed examination, in the subsequent phases of JURISTRAS, of the way, and extent to which, the normative conclusions reached by the ECtHR affect Greek legislative, judicial and administrative practice.

## *II. Human Rights Protection in Greece*

The Greek legal order is firmly based on respect for human rights and fundamental freedoms. In addition to various human rights provisions contained in the Greek Constitution<sup>2</sup> and several human rights treaties signed and ratified by Greece,<sup>3</sup> the

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<sup>1</sup> Greece ratified the ECHR in 1953 with Law 2329/1953. The seizure of power by the Colonels' junta in 1967, condemned by the European Commission of Human Rights and the Committee of Ministers of the Council of Europe, led to the denunciation of the Convention in December 1969. When the country regained its democratic stability in 1974, it ratified the Convention again (Legislative Act 53/1974).

<sup>2</sup> See Part II of the Greek Constitution entitled 'Individual and Social Rights'.

<sup>3</sup> Greece is party to major international human rights treaties concluded under the auspices of the UN. Amongst the human rights instruments signed and ratified by Greece in the framework of the Council

ECHR, the cornerstone of human rights protection in Europe, forms an integral part of domestic legislation and has primacy over any contrary provision of law. Whereas all national authorities are bound to protect human rights in their action, a two-facet judicial regime, based on control of constitutionality and control of conformity to international obligations, ensures that state commitments to human rights are upheld.

#### A. Domestic Reception of the ECHR

Article 28(1) of the Greek Constitution proclaims that '[t]he generally recognised rules of international law, as well as international conventions as of the time they are ratified by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law'. Article 28(1) incorporates into the Greek legal system generally recognised rules of international law and international conventions signed and ratified by the Greek state. As regards international conventions, in particular, Article 28(1)'s scope of application covers conventions ratified both before and after the entry into force of the Constitution on 11 June 1975.<sup>4</sup> As a result, the ECHR forms an integral part of the Greek legal order, and prevails over any contrary legal provision. It has self-executing effect, and is directly applicable.<sup>5</sup>

The ECHR has precedence over any contrary legislative act, irrespective of whether relevant rules are enacted prior or following the Convention's ratification by the Greek state. Conversely, in accordance with domestic legal theory<sup>6</sup> and judicial practice,<sup>7</sup> the Convention does not have primacy over the Constitution. Granted, prospects for conflict are bleak, as the constitutional listing of human rights corresponds to a great extent to that of the ECHR.<sup>8</sup> To illustrate, Article 7(2) of the Constitution echoes the requirements prescribed by Article 3 ECHR on prohibition of torture,<sup>9</sup> and a right to personal liberty is enshrined in Articles 5(2-3) and 6 in line with Article 5 of the Convention.<sup>10</sup> Judicial protection and fair trial guarantees, determined by Articles 6 and 13 ECHR, can be found in Article 20(1) of the

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of Europe figure the European Social Charter, the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Convention on the exercise of Children's Rights and the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine.

<sup>4</sup> See F. Vegleris, *H Symbasi tw'n Dikaiwmatwn tou Antrwpou kai to Syntagma* (1977), at 86-87.

<sup>5</sup> E. Roukounas, *Diethnes dikaio* (1982), Vol. 1, at 135.

<sup>6</sup> See, in particular, A. G. Raikos, *Syntagmatiko dikaio* (1989), Vol. 1, at 148.

<sup>7</sup> See Council of State, Judgments 4590/1876 and 395/1978.

<sup>8</sup> Goldstein and Ban, 'The Rule of Law and the European Human Rights Regime', JSP/Center for the Study of Law and Society Jurisprudence and Social Policy Program (University of California, Berkeley), available at: <http://repositories.cdlib.org/cs/sl/fwp/13>, at 16.

<sup>9</sup> Article 7(2) reads: '[t]orture, any bodily maltreatment, impairment of health or the use of psychological violence, as well as any other offence against human dignity are prohibited and punished as provided by law.'

<sup>10</sup> According to Article 5(2), all persons living in Greece enjoy full protection of their liberty. Exceptions are permitted only in cases provided by international law. The extradition of aliens prosecuted for their action as freedom-fighters is prohibited. Paragraph 3 of the same article states: 'Personal liberty is inviolable. No one shall be prosecuted, arrested, imprisoned or otherwise confined except when and as the law provides.' Article 6 clarifies procedural guarantees as regards arrest and detention pending trial.

Constitution.<sup>11</sup> Respect for private and family life is safeguarded by Articles 9 and 9A,<sup>12</sup> and Article 19 recognises a right to correspondence.<sup>13</sup> Religious freedom, protected by the Convention under Article 9, is enshrined in Article 13 of the Constitution, which encompasses freedom of religious conscience and freedom of worship.<sup>14</sup> Freedom of expression, preserved by Article 10 ECHR, is protected by Article 14,<sup>15</sup> and Articles 11 and 12 secure freedom of assembly and freedom of association, as is the case of Article 11 ECHR.<sup>16</sup>

The Greek Constitution does not contain a provision analogous to that of Article 14 ECHR, which has effect solely in relation to the rights and freedoms safeguarded by other substantive provisions of the Convention and its Protocols. The principle of non-discrimination is generally enshrined in Article 4(1) of the Constitution, which states that '[a]ll Greeks are equal before the law'.<sup>17</sup> Article 4(1) guarantees equality only for Greek citizens, yet Article 5(1) determines that '[a]ll persons shall have the right to develop freely their personality and to participate in the social, economic and political life of the country, insofar as they do not infringe the rights of others or violate the Constitution and the good usages'. Paragraph 2 of the same article further defines that '[a]ll persons living within the Greek territory shall enjoy full protection of their life, honour and liberty irrespective of nationality, race or language and of religious or political beliefs'.

Despite the ECHR representing a complement to human rights' constitutional protection, differences in terms of protective density are discernible. To give an example, whereas Articles 11 and 12 of the Constitution recognise freedom of assembly and freedom of association only with respect to Greek citizens, relevant

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<sup>11</sup> According to Article 20(1), '[e]very person shall be entitled to receive legal protection by the courts and may plead before them his views concerning his rights or interests, as specified by law.' See also Articles 8, 87(1) and 93 of the Constitution.

<sup>12</sup> Pursuant to Article 9(1), 'Every person's home is a sanctuary. The private and family life of the individual is inviolable. No home search shall be made, except when and as specified by law and always in the presence of representatives of the judicial power.' Article 9(2) determines that violators shall be punished. They shall be liable for full damages to the sufferer, as specified by law. According to Article 9A, 'All persons have the right to be protected from the collection, processing and use, especially by electronic means, of their personal data, as specified by law. The protection of personal data is ensured by an independent authority, which is constituted and operates as specified by law.'

<sup>13</sup> According to Article 19(1), in particular, 'Secrecy of letters and all other forms of free correspondence or communication shall be absolutely inviolable. The guaranties under which the judicial authority shall not be bound by this secrecy for reasons of national security or for the purpose of investigating especially serious crimes, shall be specified by law.'

<sup>14</sup> See Article 13(1) and (2).

<sup>15</sup> Article 14(1) reads: '[e]very person may express and propagate his thoughts orally, in writing and through the press in compliance with the laws of the State.' Paragraphs 2-9 and 15 focus on freedom of the media. See also Article 16(1) on freedom of the art, science, research, teaching and academic freedom.

<sup>16</sup> Under Article 11, Greeks have the right to assemble peaceably and unarmed. The police may only be present at outdoor public assemblies, which can be prohibited if a serious threat to public security is imminent or a serious disturbance of social and economic life is threatened. Pursuant to Article 12, Greeks have the right (not subject to prior permission) to form non-profit associations and unions. An association may be dissolved for violation of the law or a substantial provision of its statutes solely by court judgment.

<sup>17</sup> Paragraphs 2 and 4-7 of Article 5 concern specific facets of the principle of equal treatment for Greek citizens (equality between men and women, equality of access to public service, fiscal equality, equal contribution to the defence of the Greek state, prohibition of nobility etc.).

ECHR provisions safeguard these freedoms for ‘everyone’.<sup>18</sup> Should the ECHR be construed as binding the national legislator to abstain from drawing a distinction between Greeks and foreigners, imposing, for instance, a general prohibition of assembly or association on aliens? The answer should be in the affirmative. The whole ECHR system would collapse, if parties to the Convention could draw upon the constitutional status of domestic human rights norms in order to evade their obligations stemming from the Convention. Despite broad consensus that constitutional norms prevail over the European Convention, domestic judicial authorities must take steps to interpret constitutional provisions in a way that matches the Convention’s requirements.<sup>19</sup> This can prevent, or ultimately resolve, conflicts between the two instruments, implausible as they may be.

### *B. Judicial Review of Human Rights in Greece*

As a party to the European Convention on Human Rights, the Greek state needs to observe and give effect to the human rights safeguards laid down in the Convention. In case of failure to comply with the engagements undertaken, the ECtHR is empowered to rule on inter-state cases and, most importantly, on individual petitions alleging breach of the Convention, provided that all domestic remedies are exhausted.<sup>20</sup> Given that access to the ECtHR enforcement machinery for individual petitioners is permitted once local remedies have been put to the test, it is instructive to present the judicial mechanisms available to secure review of respect for human rights at the national level. When and by what means can national judges (civil, penal or administrative) pronounce on alleged violations of human rights? The Greek Constitution allows for a two-pronged approach. On the one hand, respect for human rights is ensured via control of constitutionality exerted by the judiciary.<sup>21</sup> On the other, judicial authorities can verify compliance with international law and thus with the Convention’s protective standards.<sup>22</sup>

As regards control of constitutionality, it must be stressed from the outset that Greece lacks a specific Constitutional Court. Under Article 93(4) of the Constitution, *all* Greek courts are bound to refrain from applying legislation whose content is contrary to the Constitution, and hence to the human rights provisions contained therein.<sup>23</sup> The entire Greek judiciary is obliged *ex officio* to assure that domestic laws conform to human rights requirements. This shared, *diffused* control of

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<sup>18</sup> Note, however, that pursuant to Article 16 ECHR, ‘[n]othing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.’

<sup>19</sup> See, in this respect, Xrysogonos, ‘H Eurwpaiki Symbasi Dikaiwmatwn tou Anthrwpu miso aiwna meta’, *To Syntagma* (2001), No 5, available at: <http://tosyntagma.ant-sakkoulas.gr/theoria/item.php?id=404>, and Papadimitriou, ‘O Ellinas dikastis kai i ESDA’, *To Syntagma* (2002), No. 5, available at: <http://tosyntagma.ant-sakkoulas.gr/afieromata/item.php?id=724>.

<sup>20</sup> See Article 35(1) ECHR. Greece recognised the right to individual petition for all persons under its jurisdiction in 1985.

<sup>21</sup> See generally P. D. Dagtoglou, *Syntagmatiko dikaio: atomika dikaiwmata* (1991), Vol. 2, at 1226.

<sup>22</sup> See A. S. Giokaris, *H praktiki tw n dikaiodotikwn organwn stin efarmogi tou diethnous symbatikou dikaiou* (1986), at 338-341.

<sup>23</sup> Article 93(4) of the Greek Constitution states: ‘[t]he Courts shall be bound not to apply a statute whose content is contrary to the Constitution’. See also Article 87(2) which states that ‘[i]n the discharge of their duties, judges shall be subject only to the Constitution and the laws; in no case whatsoever shall they be obliged to comply with provisions enacted in violation of the Constitution’.

constitutionality is of an indirect, incidental, nature.<sup>24</sup> Greek judges have competence to examine compatibility of national legislation with constitutional human rights norms in the context of precise legal disputes that form the object of judicial proceedings. There is no special procedure for control of constitutionality alone. The Special Highest Court of Greece (Anwtato Eidiko Dikastirio) has jurisdiction to settle any controversy on whether the content of a statute enacted by the Parliament is contrary to the Constitution. However, it may do so only when conflicting judgments have been issued by the Supreme Administrative Court, the Supreme Civil and Criminal Court or the Court of Audit.<sup>25</sup>

Turning to control of conformity with international law, by means of Article 28(1) of the Constitution, Greek courts can verify whether national legislation is consistent with international law. It follows that judges can rule on the basis of the ECHR, and refuse to apply domestic statutes that contravene the Convention. Domestic courts can verify conformity either *ex officio* or on the basis of precise arguments advanced by the parties in this regard.<sup>26</sup> In practice, Greek judges do not tend to consider compatibility with the Convention on their own motion but only if the litigant expressly refers to it. Reference is usually made to the ECHR in conjunction with the human rights provisions of the Constitution.

### *III. Strasbourg Case-Law: Litigation and Implementation*

Greece is not amongst the so-called ‘high case-count’ states. According to ECtHR statistics, the annual inflow of complaints lodged against the Greek state has varied between 480 in 2003, 405 in 2004, 425 in 2005 and 430 in 2006, with 678 pending applications on 1 January 2007.<sup>27</sup> Whilst such figures indicate a rather satisfactory accommodation of ECHR standards in the domestic legal system, when compared to those of other states parties to the Convention,<sup>28</sup> from 55 judgments issued in 2006, 53 gave rise to a finding of a violation.<sup>29</sup>

An overview of case-law over the years reveals that infringements primarily concerned Articles 3 (prohibition of torture), 5 (right to liberty and security), 6 (right

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<sup>24</sup> See in detail Manitakis, ‘Fondement et légitimité du contrôle juridictionnel des lois en Grèce’, *Revue Internationale de Droit Comparé* (1988) 39, and Iliopoulos-Strangas and Leventis, ‘La protection des droits sociaux fondamentaux dans l’ordre juridique de la Grèce’, in J. Iliopoulos-Strangas, *La protection des droits sociaux fondamentaux dans les Etats membres de l’Union Européenne* (2000) 397, at 457.

<sup>25</sup> See Article 100(1)(e) of the Greek Constitution. When declared unconstitutional, the relevant statute will be invalid as of the date of the publication of the Special Highest Court’s judgment or as of the date specified in the ruling.

<sup>26</sup> *Supra* n. 22, at 122-132 and 338-339. Note, however, that according to the case-law of the ECtHR, even if Greek courts are able, or even obliged, to examine conformity with the Convention on their own motion, this does not dispense applicants from relying on the Convention in domestic courts or from advancing arguments to the same or like effect to draw attention to the issue they intend to submit subsequently to European supervision. See, in particular, ECtHR, *Ahmet Sadik v Greece* (18877/91), 15 November 1996, at paras 29-44, and European Commission of Human Rights, *Imam and others v Greece* (29764/96), 20 October 1997.

<sup>27</sup> See ECtHR, Survey of Activities 2006, and Survey of Activities 2005, available at: <http://www.echr.coe.int>, at 39 and 52, and 34 respectively.

<sup>28</sup> On the basis of country-specific information, the number of applications pending on 1 January 2007 was 19,300 for Russia, 10,850 for Romania, 9,000 for Turkey, 6,800 for Ukraine, 5,100 for Poland, 4,300 for France, 3,950 for Germany, 3,850 for the Czech Republic, 3,400 for Italy, 2,200 for the UK and 2,150 for Bulgaria.

<sup>29</sup> One case gave rise to no finding on the merits because it was struck out of the list. Another one was concerned with grant of just satisfaction.

to a fair trial), 8 (right to respect for private and family life), 9 (freedom of religion), 10 (freedom of expression), 11 (freedom of assembly and association), 13 (right to an effective remedy), 14 (prohibition of discrimination) ECHR and Article 1 of Protocol 1 to the Convention (protection of property). With the exception of cases dealing strictly with due process, land expropriation, family life and privacy, Strasbourg jurisprudence brought to the surface some of the main difficulties encountered by domestic authorities in preserving non-dominant values in society. Litigants belonging to various politically disempowered or socially marginalised groups resorted to the ECtHR, alleging breach of their civil and political rights. Whether the state has made proper arrangements to comply with the Court's rulings is open to discussion. Admittedly, at this stage of analysis, it is too early to conclude that ECtHR judgments have exerted a significant influence on national legislative, administrative and judicial practice. Nevertheless, it can be safely submitted that some consideration was given to remedying violations and preventing repetition of breaches.

### *A. Strasbourg Rights Litigation*

In reviewing Strasbourg case-law pertaining to Greece, a clearly identifiable string of judgments engages the theme of minority protection. Although the ECHR safeguards rights and freedoms for individuals, refraining from specifically granting protection to minorities, individuals considering themselves to belong to a minority group asserted breach of their civil and political rights on several occasions. Applications were frequently judged admissible, and led to judgments declaring infringement of Articles 3, 5, 6, 9, 10, 11, 13 and 14 ECHR.

Other Court decisions exposed shortcomings in affording individuals the possibility to express views that challenge state prerogatives and institutions. Such rulings, based on Article 10 ECHR, stemmed from applications submitted by Greek citizens who do not belong to a minority *stricto sensu*, yet share views or engage in actions that place them in a vulnerable societal position.

Judgments founded on claims by foreigners have also been issued. In most instances alleged human rights violations were not corroborated by arguments building on the concept of 'foreigner' as a non-privileged actor in society. The human rights violations exposed relate Articles 3, 5, 6, 8 ECHR, and Article 1 of Protocol 1 to the Convention.

A detailed presentation of the actors involved in litigation and their claims follows below. Analysis is based on ECtHR rulings proclaiming violation of the ECHR and admissibility decisions which either led to rejection of an application or mandated an examination on the merits (in whole or in part). Certainly, admissibility rulings are not appropriate for inquiring into the modes and methods of execution of ECtHR judgments. Nonetheless, they complement the picture of complaints brought to the attention of the Court. In the same vein, due weight is afforded to judgments where the ECtHR decided to strike a case out of the list on account of a friendly settlement reached between parties. Interestingly, such cases are also instructive in examining 'early' execution of judgments, before the stage of formal state conviction.

#### *1. Litigation on Behalf of Minority Groups*

A broad distinction can be drawn between applications lodged by individuals asserting membership to a religious minority and applications by individuals claiming belonging to an ethnic minority. On both occasions, litigants differentiate themselves

from leading, traditional perceptions about Greek identity in terms of religious affiliation or ethnicity.

(a) Litigation on behalf of religious minority groups

Various religious groups contrasting with an overwhelming majority of citizens of Eastern Orthodox faith can be identified on Greek territory: Muslims, Jews, Catholics, Protestants, Old Calendarists (or Paleoimerologites) and Jehovah's Witnesses (JW). So far, Strasbourg case-law based on religion-related claims has mainly derived from petitions by individuals belonging to the JW faith or forming part of the Muslim minority.<sup>30</sup> Few rulings also related to the Catholic Church,<sup>31</sup> Old Calendarists<sup>32</sup> and Protestants.<sup>33</sup> Faced with administrative obstacles and legal restrictions on religious conduct, litigants criticised domestic regulation of the practice of religion,<sup>34</sup> challenging national legislation regarding the establishment of non-Orthodox churches and places of worship, the prohibition of proselytism, religious representation and (non-)recognition of legal personality. Other complaints alleged discrimination in the field of employment or contested state attitudes when exceptional treatment is sought on grounds of religious beliefs. Grievances built on Articles 3, 5, 6, 7, 8, 9, 10, 11, 13, 14 ECHR, and Articles 1 and 2 of Protocol 1 to the Convention. Breaches were detected in relation to Articles 5, 6, 9, 13 and 14 ECHR.

In more detail, one of the most recurrent questions debated before the Court concerned the operation of non-Orthodox religious venues. Under Law 1363/1938, as amended by Law 1672/1939, the establishment of non-Orthodox churches and places of worship is subject to a governmental permit issued by the Ministry of National Education and Religious Affairs, following an opinion provided by the Orthodox Church of Greece.<sup>35</sup> Church involvement in the authorisation process risks creating serious impediments to the exercise of religious freedom by individuals of a heterodox faith. Notably, the Supreme Administrative Court has taken the position that the opinion of the local Orthodox Metropolitan is not binding; the decisive competence lies with the Minister which has to assess whether all legal requirements are met.<sup>36</sup>

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<sup>30</sup> See ECtHR, *Kokkinakis v Greece* (14307/88), 25 May 1993; *Manoussakis and Others v Greece* (18748/91), 26 September 1996; *Valsamis v Greece* (21787/93), 18 December 1996; *Efstratiou v Greece* (24095/94), 18 December 1996; *Tsirlis and Kouloumpas v Greece* (19233/91; 19234/91), 29 May 1997; *Georgiadis v Greece* (21522/93), 29 May 1997; *Serif v Greece* (38178/97), 14 December 1999; *Thlimmenos v Greece* (34369/97), 6 April 2000; *Agga v Greece (No. 2)* (50776/99; 52912/99), 17 October 2002; *Sadik Amet and Others v Greece*, (64756/01), 3 February 2005; *Agga v Greece (No. 3)* (32186/02), 13 July 2006; and *Agga v Greece (No. 4)* (33331/02), 13 July 2006.

<sup>31</sup> ECtHR, *Canea Catholic Church v Greece* (25528/94), 16 December 1997.

<sup>32</sup> ECtHR, *Vergos v Greece* (65501/01), 24 June 2004.

<sup>33</sup> ECtHR, *Larissis and Others v Greece* (23372/94; 26377/94; 26378/94), 24 February 1998.

<sup>34</sup> See generally Ktistaki, 'Thriskeutikes meionotites: H plimmelis symmorfwsi stis apofaseis tou Strasbourgou', *To Syntagma* (2003), No. 2, available at: <http://tosyntagma.ant-sakkoulas.gr/fakeloi/item.php?id=845>.

<sup>35</sup> The Royal Decree of May 20/2 June 1939 imposed additional requirements: an application by at least 50 families has to be made 'from more or less the same neighbourhood and living in an area at a great distance from a temple of the same denomination, it being assumed that the distance makes it difficult for them to observe their religious duties'. The establishment of Greek Orthodox churches is authorised by the Autocephalous Orthodox Church of Greece.

<sup>36</sup> See Council of State, Decisions 721/1969 and 1444/1991. The Minister evaluates whether the religion concerned is a 'known' one; its worship is not against public order or morals; there is no exercise of proselytism; and there is a real need for the establishment of a church

Despite such clarifications, allegations about breach of the ECHR in the implementation of the authorisation scheme were made before the Court. *Manoussakis* and *Pentidis* dealt with the conviction of JWs for having operated a place of worship without first obtaining the Minister's permission.<sup>37</sup> *Vergos* considered Greek administration's refusal to amend its urban planning policy, so as to allow a follower of Old Calendarists to construct a place of prayer on his property for public use.<sup>38</sup> Whilst *Pentidis* led to a friendly settlement between parties and *Vergos* acknowledged the state's margin of discretion in balancing urban planning policy objectives with religious needs,<sup>39</sup> in *Manoussakis* the ECtHR found a violation of Article 9 ECHR. For the Court, domestic legislation allowed far-reaching interference by the administrative and ecclesiastical authorities with the exercise of religious freedom.<sup>40</sup>

National legislation making proselytism a criminal offence was also placed under the ECtHR spotlight.<sup>41</sup> The ECtHR had the occasion to rule on the matter for the first time in *Kokkinakis*.<sup>42</sup> A JW disputed the outcome of domestic proceedings proclaiming his guilt for proselytising the wife of the cantor of the local Orthodox church in Sitia (Crete), and argued that national legislation was applied selectively by Greek administrative and judicial authorities. Noting that Article 9 ECHR does not protect every act motivated or inspired by religion or belief, the Court clarified that 'improper' proselytism, that is, proselytism exercised through the offering of material and social advantages, the application of pressure on people in distress, and the use of violence or brainwashing, does not fall within the protective scope of Article 9 ECHR. Taking into account that none of the Greek courts, when establishing the applicant's liability, had sought to specify the way in which the accused had attempted to employ 'improper means', the Court held that the applicant's conviction was neither justified, nor proportionate to a legitimate aim pursued.

Issues regarding religious representation also worked their way onto the ECtHR agenda through a series of applications by individuals belonging to the Muslim minority. In *Serif*, for instance, the ECtHR dealt with domestic proceedings convicting the mufti of Rodopi, appointed by those attending Friday prayers at the mosque (and not by presidential decree as domestic law determines<sup>43</sup>), for issuing

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<sup>37</sup> See ECtHR, *Manoussakis and Others v Greece*, *supra* n. 30, and *Pentidis and Others v Greece* (23238/94), 9 June 1997. See also, in this respect, ECtHR, *Tsavachidis v Greece* (28802/95), 21 January 1999, which focused on secret surveillance of a JW for having operated a religious venue without permission. The Court struck the case out of the list following a friendly agreement reached between the parties.

<sup>38</sup> See ECtHR, *Vergos v Greece*, *supra* n. 32.

<sup>39</sup> Greece was found in breach of Article 6 ECHR given the excessive length of domestic proceedings before the Council of State regarding the annulment of the contested administrative decisions.

<sup>40</sup> See ECtHR, *Manoussakis and Others v Greece*, *supra* n. 30, at para. 45.

<sup>41</sup> Law 1363/1938, as amended by Law 1672/1939, criminalised proselytism, and subjected its practice to severe penalties, including police surveillance, fines and imprisonment.

<sup>42</sup> See ECtHR, *Kokkinakis v Greece*, *supra* n. 30. Similar issues were contemplated by the Court later in *Larissis and Others v Greece* (*supra* n. 33).

<sup>43</sup> Law 2345/1920 provided that muftis, the Muslim religious leaders, should be directly elected by Muslims having the right to vote in national elections and residing in the district in which the religious representative would serve. Endorsing the view that the Greek state should exercise a right of supervision over appointment, as *muftis* do not solely perform religious duties but also discharge civil law judicial functions (i.e. celebration of weddings and adjudication on family and inheritance disputes between Muslims), the Greek legislator made provision by means of Law 1920/1991 for a nomination method. Muftis are appointed by presidential decree on the basis of a proposal by the Minister of Education and Religious Affairs and following consultation with a committee composed of the local prefect and Muslim dignitaries chosen by the State.

religious messages and appearing in public in the dress of a religious leader.<sup>44</sup> The Court ascertained that in the absence of any indication that the applicant had attempted to exercise the judicial functions entrusted to official muftis, conviction was not justified by the pressing social need of protecting the authority of the lawful mufti, and, more generally, of maintaining order in a particular religious community and in society at large. It concluded that breach of Article 9 ECHR had occurred.<sup>45</sup>

A violation of Article 6 ECHR was proclaimed in *Canea Catholic Church*, regarding the inability of the Roman Catholic Church in Canea (Crete) to take legal proceedings to protect its property given domestic courts' refusal to acknowledge its legal personality.<sup>46</sup> The ECtHR ruled that non-recognition undermined legal certainty, and constituted impairment to the very substance of the 'right to a court'. Moreover, the Catholic Church was subjected to discriminatory treatment, unacceptable under Article 14 ECHR, read together with Article 6 ECHR. The Orthodox Church and Jewish communities could institute legal proceedings without specific formalities.

In contemplating religion-related claims, the Court equally reproached state authorities' reticence to provide exceptional treatment when domestic legislation so requires on account of religious considerations. *Tsirlis and Kouloumpas* concerned two JW ministers who refused to do military service.<sup>47</sup> In violation of section 6 of Law 1763/1988, which states that all clergy of 'known' religions can be exempted from military obligations, Tsirlis and Kouloumpas were detained for not performing military service. The Court ruled that military authorities, by blatantly ignoring domestic case-law providing that JW is a 'known' religion,<sup>48</sup> infringed Article 5 ECHR. Non-recognition of the applicants' entitlement to compensation for unlawful detention was also found in breach of Article 5 ECHR.

Interestingly, even generally applicable laws, neutral from a religious standpoint, gave vent to claims of interference with a person's right to manifest his/her religion. The *Valsamis and Efstratiou* judgments are illuminating.<sup>49</sup> They both arose out of the enforcement of a rule enabling school authorities to require pupils, under threat of a disciplinary penalty, to participate in national celebrations. Two JW pupils were punished (one with one day's, and the other with two days' expulsion from school) for refusing to attend the 28 October parade which commemorates the outbreak of war between Greece and Italy in 1940. The applicants invoked Article 9 of the Convention, and argued that their religious, pacifist beliefs precluded them from participating in the event. Rejecting such argument, the Court observed that there was nothing, either in the purpose of the parade or the arrangements for it,

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<sup>44</sup> See ECtHR, *Serif v Greece*, *supra* n. 30.

<sup>45</sup> Similar conclusions were reached in *Agga v Greece (No. 2, 3 and 4)* relating to the appointment of the mufti of Xanthi (*supra* n. 30). Conversely, in *Sadik Amet and Others v Greece (supra* n. 30), the Court found breach of Article 6 ECHR for excessive duration of proceedings before the Council of State regarding the annulment of the decision of the Minister of Education and Religious Affairs appointing the mufti of Komotini.

<sup>46</sup> *Supra* n. 31.

<sup>47</sup> See ECtHR, *Tsirlis and Kouloumpas v Greece*, *supra* n. 30. See also ECtHR, *Georgiadis v Greece*, *supra* n. 30, where breach of Article 6 ECHR was found for refusing a JW minister, unlawfully detained pending trial for insubordination to provide military service, the recognition of a right to fair compensation.

<sup>48</sup> See, in particular, Council of State, Decisions 2105 and 2106/1975, 4635/1977, 2484/1980, 4620/1985, 790 and 3533/1986 and 3601/1990.

<sup>49</sup> ECtHR, *Valsamis v Greece* and *Efstratiou v Greece*, *supra* n. 30.

which could offend the applicants' pacifist convictions.<sup>50</sup> Yet it found breach of Article 13 ECHR, taken together with Article 2 of Protocol No. 1 and Article 9 ECHR, for lack of effective remedies to challenge the disciplinary penalty. According to settled case-law of the Greek Supreme Administrative Court, decisions of school authorities imposing penalties on pupils were internal measures, intended to maintain discipline and contribute to the smooth running of schools, which could not be enforced through courts.

Concerns about the social integration of individuals belonging to minority religious denominations were also flagged in Strasbourg. Although *Galanis*, concerning state authorities' refusal to employ a JW as a public school teacher, received short shrift for non-exhaustion of domestic remedies,<sup>51</sup> in *Thlimmenos* the Court scrutinised domestic legislation governing access to employment.<sup>52</sup> The applicant, a JW, was declined the post of chartered accountant due to his criminal conviction for insubordination to perform military service. Resorting to the ECtHR, he complained that by being treated like any other person convicted for a serious crime, he was discriminated against in the exercise of his religious freedom. For the Court, unlike other convictions for serious criminal offences, a conviction for refusing to wear the military uniform on religious or philosophical grounds did not imply any dishonesty or moral turpitude likely to undermine the applicant's ability to exercise his professional duties. The Greek state, by enacting relevant legislation without introducing appropriate exceptions, had violated Article 14 of the Convention, combined with Article 9 ECHR.

#### (b) Litigation on behalf of ethnic minority groups

There is no rich ECtHR jurisprudence where a violation of the Convention was established on the basis of ethnicity-related claims. Despite various applications lodged with the Court that could be viewed from an ethnic diversity perspective, in most instances, allegations were declared inadmissible either as ill-founded or for non-exhaustion of domestic remedies. Complaints were made under Articles 3, 5, 6, 8, 9, 10, 11, 13, 14 ECHR, Articles 1, 2 and 3 of Protocol No. 1, and Article 3 of Protocol No. 4 to the Convention, bringing issues of maltreatment, political representation, access to employment, minority education and language use centre stage. Violations were caught in connection to Articles 3, 6, 11 and 14 ECHR.

Notwithstanding a great variety of ethnic populations residing within Greek borders, such as Slavic-speaking communities (with a wide range of self-identifications), Arvanites, Vlachs, Armenians, Turkophones, Pomaks and Roma, applications were mainly lodged by individuals considering themselves to form part of a Turkish or Macedonian minority. From the cases where an ECHR violation was uncovered, only one is connected to Roma, and deals with ill-treatment: *Bekos and Koutropoulos*.<sup>53</sup> The applicants complained about acts of police brutality when arrested and detained for attempted burglary of a kiosk. The Court declared breach of Article 3 ECHR. Additionally, and though rebuffing the argument that the impugned treatment was racially motivated, the Court recognised that domestic authorities had

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<sup>50</sup> According to the ECtHR, commemorations of national events served both pacifist objectives and the public interest. The presence of military representatives did not in itself alter the nature of parades. *Ibid*, at paras 31 and 32 respectively.

<sup>51</sup> ECtHR, *Galanis v Greece* (69333/01), 6 February 2003.

<sup>52</sup> ECtHR, *Thlimmenos v Greece*, *supra* n. 30.

<sup>53</sup> ECtHR, *Bekos and Koutropoulos v Greece* (15250/02), 13 December 2005.

failed in their duty under Article 14 ECHR, read together with Article 3 ECHR, to investigate whether racial considerations had played a role in the incident.

On a rather different note, *Sidiropoulos* and *Ouranio Toxo* dealt with the difficulties encountered by individuals who assert a non-Greek ethnic origin when seeking to get actively involved in domestic political life.<sup>54</sup> *Sidiropoulos* related to the refusal of Greek courts to register, in accordance with domestic legislation, a non-profit-making association called 'Home of Macedonian Civilisation' on grounds that its intention was to undermine the territorial integrity of Greece. *Ouranio Toxo* originated in an application submitted by a lawfully constituted political party established with the aim to defend the Macedonian minority living in Greece, and two Greek nationals, members of the party's political secretariat. Having established its headquarters in the town of Florina, the party affixed a sign with its name in both Greek and Macedonian to its balcony. Deemed to contain anti-Hellenic inscriptions,<sup>55</sup> the display triggered a wave of violent protests by the town's inhabitants, including the clergy and municipal authorities, the local police failing to intervene appropriately. In both cases, the Court held that Greece breached Article 11 ECHR.

In *Agga*, the Court found violation of Article 6 ECHR for excessive length of domestic proceedings.<sup>56</sup> The case derived from an application lodged by a Greek citizen of Turkish origin, candidate in the Parliamentary elections of 18 June 1989, who was prosecuted for attempting to bribe a voter. Bearing in mind that no ethnicity-related arguments were advanced, one could argue that this judgment forms part of a broader category of case-law dealing with due process. By contrast, *Ahmet Sadik* is closely connected to political pluralism.<sup>57</sup> The applicant, a candidate of the political party *Güven* for the parliamentary elections of November 1989, published various communiqués addressed to the Muslim electorate and referring to a self-proclaimed 'Turkish' minority of Western Thrace. Accused of electoral deception and disruption of citizens' peace, he stood trial and was sentenced to 18 months' imprisonment. Resorting to Strasbourg, he alleged infringement of freedom of expression, but the Court did not rule on the merits for non-exhaustion of domestic remedies.

Publications denoting assertions of ethnic origin were also the bone of contention in *Raif Oglu*.<sup>58</sup> The applicant, a teacher in the minority primary school of Xanthi, was suspended for a year from his duties and finally dismissed by the Prefect of Xanthi because in his capacity as a member of the Committee of the Union of Muslim Teachers of Western Thrace he had printed and distributed a document in which the term 'Turkish teachers' and Turkish names of Greek villages appeared. Although both decisions were quashed by the Administrative Court of Appeal, the applicant complained about Greek authorities' refusal to comply with the appeal judgment. He invoked Article 6 ECHR, and further claimed that he had suffered discrimination on grounds of ethnic origin. Following re-appointment and grant of compensation, the Court considered the matter resolved, and struck the application out of the list.

Domestic authorities' attitude regarding individuals who engage in activities raising awareness of the needs of ethnic minorities living in Greece was disputed in

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<sup>54</sup> ECtHR, *Sidiropoulos and Others v Greece* (26695/95), 10 July 1998, and *Ouranio Toxo and Others v Greece* (74989/01), 20 October 2005.

<sup>55</sup> The sign included the word 'vino-zito' which means 'rainbow' in Macedonian, but was also the rallying cry of forces that attacked the town of Florina during the civil war in Macedonia.

<sup>56</sup> ECtHR, *Agga v Greece* (37439/97), 25 January 2000.

<sup>57</sup> ECtHR, *Ahmet Sadik v Greece*, *supra* n. 26.

<sup>58</sup> ECtHR, *Raif Oglu v Greece* (33738/96), 27 June 2000.

*Tsarknias*.<sup>59</sup> The case concerned a Greek national of Macedonian ethnic origin, who, ordained a priest in the Greek Orthodox Church, became involved in advocating strengthened protection of Macedonian Greeks' cultural rights. Convicted for disturbing citizens' peace, abusing his position as a priest and disrupting a religious congregation, he asserted violation of Articles 6, 9 and 14 ECHR. His application was declared inadmissible by the Court.

Similar issues were raised in several applications lodged by school teachers of Turkish ethnic origin residing in Western Thrace.<sup>60</sup> On the occasion of the preparation of new books for the teaching of the Turkish language, the applicants participated in a local strike to express discontent, since in accordance with a statement issued by the Coordination Committee of the Muslim Turkish Minority of Western Thrace, the content of the books 'was in breach of the autonomy of the Muslim Turkish minority of Western Thrace'. Punished with dismissal, they resorted to the Council of State, which ruled that their behaviour, creating social unrest among the Muslim minority, was likely to jeopardise the harmonious co-existence of Muslim and Christian citizens, at the same time undermining friendly relations between Greece and Turkey. The applicants argued that punishment was due to membership to the Turkish Muslim minority, in breach of freedom of religion and the principle of non-discrimination.<sup>61</sup> Non-exhaustion of domestic remedies precluded discussion on the merits.

Contrariwise, in *Tsingour*, the Court found Greece in breach of Article 6 ECHR.<sup>62</sup> The case concerned the refusal of the Pharmaceutical Association of Xanthi to receive a Greek citizen of Turkish ethnic origin as member. Excessive length of domestic proceedings led the Court to accept violation of due process. Yet the facts of the case could also be read as suggesting discriminatory behaviour on the part of Greek authorities. To gain membership, the applicant was required to produce a certificate attesting knowledge of the Greek language, a condition not generally imposed on Greek citizens for acceptance.

Claims about deprivation of citizenship on account of ethnic considerations were raised in *Zeibek*, which maps out the contours of debate over Article 19 of the Greek Citizenship Code, now abolished.<sup>63</sup> The provision allowed the administration considerable discretion to revoke citizenship of 'non-ethnic' (allogeneis) citizens, should they settle abroad with no intention to return. Housein Zeibek and his family lost their Greek citizenship as a result of a trip to Istanbul. In Strasbourg, they argued that the Citizenship Code was systematically interpreted to reduce the number of 'non-ethnic' Greeks among Greek nationals. The European Commission of Human Rights recalled that differential treatment of a group of persons on the basis of race might constitute degrading treatment prohibited under Article 3 ECHR, but declared the application inadmissible. Exhaustion of domestic remedies was not secured, and

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<sup>59</sup> ECtHR, *Tsarknias v Greece* (45629/99), 30 March 1999.

<sup>60</sup> ECtHR, *Molla Housein v Greece* (63821/00), 12 December 2002; *Toutziar v Greece* (63949/00), 6 February 2003; *Karabouyiouclou v Greece* (63824/00), 6 February 2003; *Imam v Greece* (63719/00), 6 February 2003; *Ouzoun v Greece* (63796), 6 February 2003; *Deli Hatzoglou v Greece* (67754/01), 3 April 2003; *Kehagia v Greece* (67115/01), 3 April 2003; and European Commission of Human Rights, *Imam and Others v Greece*, *supra* n. 26. See also in this respect European Commission of Human Rights, *Agko v Greece* (31117/96), 20 October 1997.

<sup>61</sup> On the basis of Articles 6, 13 ECHR and Article 1 of Protocol No. 1 to the Convention, the applicants also criticised unfairness and length of domestic proceedings, as well as lack of compensation for dismissal.

<sup>62</sup> ECtHR, *Tsingour v Greece* (40437/98), 6 July 2000.

<sup>63</sup> European Commission of Human Rights, *Zeibek v Greece* (34372/97), 21 May 1997.

proceedings concerning a person's nationality could not fall within the scope of Article 6 ECHR.

## 2. *Litigation by Greek Citizens Expressing Views that Challenge State Institutions*

There is a limited number of judgments issued against Greece which though not drawing upon claims on behalf of minority groups *stricto sensu* raise important issues pertaining to political participation in Greek democratic society. *Rizos and Daskas* and *Grigoriades* dealt with the possibilities afforded to individuals to hold opinions that might offend or disturb state prerogatives and institutions.<sup>64</sup> In the former, the publisher and editor of the daily newspaper *Adesmeftos Typos* were found guilty of criminal libel by domestic authorities, following publication of an article that gave details of alleged unlawful conduct by a public prosecutor in the town of Preveza.<sup>65</sup> Relying on Article 6 of the Convention, the applicants complained for being refused the benefit of due process. The ECtHR could find nothing to suggest that proceedings had been conducted in an arbitrary manner. However, it accepted violation of freedom of expression. The undoubted interest of protecting one's reputation could not outweigh the vital public interest of receiving information about the functioning of the Greek judicial system. In *Grigoriades*, in turn, concerning an officer's conviction for insulting the Greek army, the Court acknowledged that effective military defence presupposes a State to impose restrictions when there is a real threat to military order. Taking the position that criticism of army life and the army as an institution did not have a significant impact on military discipline, it concluded that Greece had infringed Article 10 ECHR.

## 3. *Litigation on Behalf of Foreigners*

The majority of cases discussed by the Court mainly stemmed from applications by non-EU nationals. Discussion concentrated on Articles 3, 5, 6, 8, 9, 10, 13, 14 ECHR, Articles 1 and 2 of Protocol No. 1, and Article 3 of Protocol No. 7 to the Convention. Breaches were found with respect to Articles 3, 5, 6, 8 ECHR, and Article 1 of Protocol No. 1 to the Convention.

The vexed question of conditions of detention was raised in various applications by foreigners who claimed that while detained, they had been subjected to degrading treatment contrary to Article 3 ECHR. Many of them were judged inadmissible either as ill-founded or for non exhaustion of domestic remedies.<sup>66</sup> Nevertheless, in *Dougoz*, relating to a Syrian national placed in police detention pending his expulsion, the Court, taking note of serious overcrowding and the absence of sleeping facilities, ruled that breach of Article 3 ECHR had occurred.<sup>67</sup> Similarly, in *Peers*, regarding a British heroin addict, the ECtHR held that the prison conditions complained of diminished the applicant's human dignity, humiliated and debased

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<sup>64</sup> ECtHR, *Rizos and Daskas v Greece* (65545/01), 27 May 2004, and *Grigoriades v Greece* (24348/94), 25 November 1997.

<sup>65</sup> The article reported that an investigation had been opened in respect of three public prosecutors, but noted that all were safe from prosecution given their political ties.

<sup>66</sup> See, in particular, European Commission of Human Rights, *Mehiar v Greece* (21300/93), 10 April 1996, ECtHR, *Eziobou and Ebigwei v Greece* (53649/00), 13 January 2000, and *Georgiou v Greece* (45138/98), 13 January 2000.

<sup>67</sup> ECtHR, *Dougoz v Greece* (40907/98), 6 March 2001.

him.<sup>68</sup> Failure of domestic authorities to improve them denoted lack of respect for the applicant, in violation of Article 3 ECHR.<sup>69</sup>

Racial motivation of acts falling within the scope of Article 3 ECHR was also criticised in Strasbourg. In *Alsayed Allaham*, a Syrian national, legally settled in Greece, complained about being subjected to acts of police brutality, and stressed that his nationality was a critical factor in the attitude of the Athens Court of Appeal which ignored all relevant medical reports, and acquitted the accused police officer.<sup>70</sup> The Court, assessing the admissibility of the application, rejected allegations about racist behaviour on the part of Greek authorities as manifestly ill-founded. Judging on the merits, it declared that the physical harm suffered by the applicant amounted to inhuman and degrading treatment within the meaning of Article 3 ECHR.<sup>71</sup>

Several applications challenged lawfulness of detention under Article 5 ECHR. *Mohd*, for instance, concerned a Bangladeshi, arrested for selling counterfeit CDs and sentenced to four months' imprisonment, against whom an order for deportation was issued.<sup>72</sup> Relying on Article 5(1) ECHR and stressing that he was never said to represent a threat to public order, the applicant alleged that he had been unlawfully deprived of his liberty prior and following the Supreme Administrative Court's decision to stay the deportation order.<sup>73</sup> Similar concerns were raised in *Kosar*, *Dougoz*, *Demir*, *R.G.* and *Georgiou*.<sup>74</sup>

Applications founded on complaints against deficiencies of the Greek judicial system were considered as well. Whereas in *Biba* and *Twalib*, the Court found Greece in breach of the right to fair trial in view of the non-availability of legal aid before the Court of Cassation,<sup>75</sup> in *Portington*, the Court dealt with the long-debated issue of excessive length of domestic proceedings.<sup>76</sup> In *Sajtos* and *Alija*, a violation of Article 6 ECHR was proclaimed, as the applicants, a Hungarian national detained on remand for fraud and an Albanian prosecuted for armed robbery, had not received a fair hearing in connection to their request to be compensated for unlawful pre-trial detention.<sup>77</sup>

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<sup>68</sup> ECtHR, *Peers v Greece* (28524/95), 19 April 2001.

<sup>69</sup> In addition, the Court found a violation of Article 8 ECHR, as the prison administration had opened letters sent to the applicant by the Secretariat of the European Commission of Human Rights.

<sup>70</sup> ECtHR, *Alsayed Allaham v Greece* (25771/03), 20 October 2005.

<sup>71</sup> ECtHR, *Alsayed Allaham v Greece* (25771/03), 18 January 2007.

<sup>72</sup> ECtHR, *Mohd v Greece* (11919/03), 27 April 2006.

<sup>73</sup> The Court noted that Law 1975/91 empowered the Minister of Public Order, in the public interest and if the person to be expelled was dangerous or liable to abscond, to order continuing detention until deportation, but found that no decision had been issued stating on what basis the applicant should be detained. Moreover, in the absence of any domestic provisions clarifying the conditions under which a person can be detained once a deportation order against him/her is stayed, the Court held that Greek legislation did not satisfy the requirements of Article 5(1) ECHR.

<sup>74</sup> See European Commission of Human Rights, *Kosar v Greece* (23516/94), 22 February 1995, ECtHR, *Dougoz v Greece*, supra n. 67, *Demir v Greece* (42154/98), 6 July 1999, *R.G. v Greece* (50315/99), 22 May 2001, and *Georgiou v Greece*, supra n. 66. *Georgiou* and *R.G.* were declared inadmissible.

<sup>75</sup> ECtHR, *Biba v Greece* (33170/96), 26 September 2000, and *Twalib v Greece* (24294/94), 9 June 1998. See also European Commission of Human Rights, *Guleç v Greece* (16983/90), 10 October 1994.

<sup>76</sup> ECtHR, *Portington v Greece* (28523/95), 23 September 1998. See also European Commission of Human Rights, *Tarighi Wageh Dashti v Greece* (24453/94), 9 December 1994.

<sup>77</sup> ECtHR, *Sajtos v Greece* (53478/99), 21 March 2002, and *Alija v Greece* (73717/01), 7 April 2005. See also European Commission of Human Rights, *Sinnesael v Greece* (32397/96), 3 December 1997, ECtHR, *Georgiou v Greece*, supra n. 66, and *Demir v Greece*, *Kosar v Greece* and *R.G. v Greece*, supra n. 74.

The Court has also been favourably disposed to applications alleging restrictions on access to employment and enjoyment of property by aliens. Two cases are salient. The first concerned the rejection of repeated requests made by two British nationals to open a private school for the teaching of English in Rhodes on the sole basis of nationality. The Court held in *Hornsby* that Greek authorities, by not implementing for more than five years a final judgment of the Supreme Administrative Court setting aside the refusal of authorisation, had deprived Article 6 ECHR of all useful effect.<sup>78</sup> As to *Yagtzilar and Others*,<sup>79</sup> the applicants were the heirs of the owners of an olive grove in Chalkidiki, which the State occupied in 1925 in order to create a settlement for refugees from Asia Minor. The land in question was expropriated but no compensation was provided, as the Court of Appeal, following several years of judicial battle, held that such a right was statute-barred. Asked to pronounce on breach of Article 6 ECHR and Article 1 of Protocol No. 1 to the Convention, the Court ruled that the applicants had suffered a disproportionate restriction on their right of access to court and protection of property.

#### 4. Other Actors Involved in Litigation

Having presented the main categories of applicants and claims that come within the research scope of JURISTRAS, it is apposite to examine whether any other actors are implicated in litigation by lending assistance to individual petitioners. Such actors can be directly involved in proceedings before the ECtHR or support litigation by promoting a stronger human rights discourse at national level.

As regards those directly involved in litigation, only two cases from those surveyed are instructive. Petitioners usually receive legal counselling from lawyers and law professors based in Greece or abroad, but in *Bekos and Koutropoulos*,<sup>80</sup> the applicants were represented by the European Roma Rights Centre, an international law organisation which monitors the human rights situation of Roma across Europe, and the Greek Helsinki Monitor, a member of the International Helsinki Federation, which promotes compliance with human rights norms in the OSCE countries. Interestingly, in appraising the facts of the case, the Court took note of country reports covering Greece, prepared by the European Commission against Racism and Intolerance of the Council of Europe and the EU Network of Independent Experts on Fundamental Rights. Both expressed concern about racially motivated police violence, in particular, against Roma populations. In *Peers*,<sup>81</sup> the Court gave consideration to a report of the European Committee for the Prevention of Torture and Inhuman Treatment or Punishment, which inspected the Koridallos prison in Athens. Comparing it with the findings of the European Commission of Human Rights, the Court took the position that, despite differences, the conditions of detention described denoted degrading treatment, in breach of Article 3 ECHR.

A more general appeal to advance human rights protection in Greece comes from organisations such as Human Rights Watch, the International Helsinki Federation and the European Monitoring Centre on Racism and Xenophobia. At the national level, the Marangopoulos Foundation, the Research Centre for Minority

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<sup>78</sup> ECtHR, *Hornsby v Greece* (18357/91), 19 March 1997. See also ECtHR, *Hornsby v Greece* (art. 50) (18357/91), 1 April 1998.

<sup>79</sup> ECtHR, *Yagtzilar and Others v Greece* (41727/98), 6 December 2001. See also ECtHR, *Yagtzilar and Others v Greece* (41727/98) (just satisfaction), 15 January 2004.

<sup>80</sup> *Supra* n. 67.

<sup>81</sup> *Supra* n. 68.

Groups, the Greek National Centre for Social Research, the EUMC National Focal Point – Antigone, the Greek Minority Rights Group and the Greek Council for Refugees promote greater understanding of human rights as a paradigm to embed in law and domestic judicial and administrative practice. Of course, one should not lose sight of various activists and interest groups advocating increased protection of human rights though, it should be noted, on the basis of specific political agendas. Indeed, there are several organisations fighting for the recognition of ethnic minorities: the Macedonian Human Rights Movement of Greece, the Macedonian Movement for Balkan Prosperity, the European Free Alliance-Rainbow political party, the Muslim Federation Filotita and the Federation of Western Thrace Turks in Europe.

### *5. Applicants and Claims: An Appraisal of Strategic Litigation*

In the light of the discussion so far, is it possible to identify streams of applications clustering around specific sets of issues with a view to pressuring state authorities to take remedial action? In other terms, can one speak of ‘strategic’ litigation before the ECtHR based on structured efforts to counteract State resistance in satisfying specific human rights needs?

Applications lodged with the Court by Greek citizens who do not claim to form part of an officially recognised or self-proclaimed minority do not seem to follow strategic litigation patterns. Legal action primarily sprang from isolated individual petitions based, more or less, on incidental facts. Few would also argue that the assortment of applications implicating aliens is based on strategic claims. The cases reviewed do not seem to form part of a wider strategy designed to pursue specific political goals. All judgments issued so far dealt with core civil and political rights, respect for which is not opposed by governmental or societal quarters.

Conversely, the abundance of cases stemming from individuals considering themselves to belong to a religious or ethnic minority betrays a strong anxiety to have certain claims recognised by the Greek state. Domestic regulation of religious conduct, religious and ethnic representation, language use and unimpeded participation in political life are some of the themes that have been brought to the attention of the Court without reflecting the initiative of sole individuals. The volume of applications regarding permits for places of worship or state reprisal for assertions of ethnic origin signals a resolve to place domestic practice under the Court’s scrutiny for the pursuit of broader political objectives. Crucially, in such instances, taking recourse to Strasbourg is not simply intended to gain legal correction of an alleged violation of the Convention. Litigation represents a means to express diffused unrest about the limited level of protection afforded to minority identities in Greece, the ultimate being to strengthen domestic minority rights protection.

### *B. Domestic Execution of ECtHR Judgments: Actors and Processes*

In order to maintain the effectiveness of the ECHR machinery, it is essential for states parties to the European Convention to comply with their formal undertaking under Article 46(1) ECHR to abide by the Court’s final judgments. In view of the declaratory nature of the Court’s decisions, Greece, as all states parties to the Convention, remains free to choose the means by which it will discharge such obligation. Amongst the actors involved in the process figures prominently the Permanent Representation of Greece in Strasbourg. It is the institution which provides

the main guidelines as to the measures domestic authorities need to take in order to fulfil the Convention's requirements. Following their adoption, it is responsible for their presentation to the Committee of Ministers, which is entrusted with monitoring tasks.

Central is also the role played by the State Legal Council which represents the Greek government before the ECtHR. Given its direct implication in ECtHR judicial proceedings, it is in charge of the dissemination of ECtHR judgments. Translated in the Greek language by the Translation Office of the Ministry of Foreign Affairs, ECtHR decisions are distributed to the competent Greek ministries. Information on the measures subsequently adopted is collected by the State Legal Council, which forwards it to the Greek Permanent Representation in Strasbourg.

The Court explained in *Papamichalopoulos and Others* that 'a judgment in which the Court finds a breach imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach' (*restitutio in integrum*).<sup>82</sup> A few years later, in *Scozzari and Giunta*, the Court further clarified that judgments where a ECHR violation is uncovered bound the state concerned to pay the sums awarded by way of just satisfaction (if any) and 'choose ... the general and/or, if appropriate, individual measures' to rectify the impugned practice.<sup>83</sup>

Supervision of execution by the Committee of Ministers has revealed that Greece makes use of both individual and general measures to remedy the effects of infringement and avert similar human rights violations. Individual measures largely depend on the facts of each case. Whilst in *Tsirlis and Kouloumpas*, execution was confined to granting compensation to the applicants covering both pecuniary and non-pecuniary damage for unlawful detention,<sup>84</sup> to implement *Manoussakis*, Greek authorities issued a permit to establish a JW place of worship.<sup>85</sup> Moreover, on the basis of Law 2865/2000, enacted to enable re-opening of criminal proceedings in case of violation of due process or another substantive legal provision, the litigants had their conviction erased from their criminal record by decision 297/2002 of the Crete Court of Appeal.<sup>86</sup>

The adoption of general measures is more complex. ECHR violations often stem from lack of adequate domestic legislation. Either domestic laws contravene the Convention or there is a regulatory gap. In such cases, the Greek state needs to amend existing laws or introduce new ones to execute ECtHR judgments. Following *Biba*, for instance, regarding breach of Article 6 ECHR for non-availability of free legal counselling for appeals on point of law, Act No. 2721/3 June 1999 modified the Code of Criminal Procedure making provision for compulsory appointment when the accused does not possess the means to obtain legal advice.<sup>87</sup> To execute *Canea*,

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<sup>82</sup> ECtHR, *Papamichalopoulos and Others v Greece* (14556/89), 31 October 1995, at para. 34.

<sup>83</sup> ECtHR, *Scozzari and Giunta v Italy* (39221/98 and 41963/98), 13 July 2000, at para. 249.

<sup>84</sup> Committee of Ministers, Resolution ResDH(2004)82 concerning the judgments of the European Court of Human Rights in cases concerning unlawful detention of ministers of Jehovah's Witnesses and unfair compensation proceedings (*Tsirlis and Kouloumpas v. Greece*, *Georgiadis v. Greece*, judgments of 29 May 1997), 22 December 2004.

<sup>85</sup> Committee of Ministers, Resolution ResDH(2005)87 concerning the conviction of Jehovah's Witnesses for establishing a place of worship without prior administrative authorisation (*Manoussakis and Others against Greece*, judgment of 26 September 1996), 26 October 2005.

<sup>86</sup> *Ibid.*

<sup>87</sup> Committee of Ministers, Resolution ResDH(2003)5 concerning the judgment of the European Court of Human Rights of 26 September 2000 (final on 26 December 2000) in the case of *Biba against Greece*, 24 February 2003.

concerning the non-recognition of legal personality of the Catholic Church, the government obtained the positive vote of the Parliament on a new law containing an interpretative provision of the Introductory Law to the Civil Code, according to which all establishments of the Catholic Church, founded or operating in Greece before 23 February 1946, constitute legal persons.<sup>88</sup>

Certainly, on most occasions, ECHR violations do not derive from conflicts between the Convention and domestic legislation but from inadequate judicial and administrative practice. Implementation thus requires the judiciary and the administration to reshape their stance. Dissemination of ECtHR judgments is the first 'port of call' in executing relevant case-law. Following *Sidiropoulos*, for example, the President of the Court of Cassation sent a circular letter to the judicial authorities of the Department of Florina enclosing a Greek translation of the Court's decision.<sup>89</sup> Likewise, alerted by the Court's jurisprudence in *Manoussakis*, the government assured the Committee of Ministers that its practice regarding authorisation of non-Orthodox places of worship was brought into conformity with ECtHR case-law, concentrating on the evaluation of formal conditions laid down by national legislation for the grant of a permit.<sup>90</sup>

Whether the measures adopted counteract adverse consequences of human rights infringements and prevent similar scenarios eventuating is disputed. Although there are cases where significant steps were taken to execute the Court's rulings, there are also cases where national authorities refrained from embarking on profound reforms, reassessing their policy approach.<sup>91</sup> One could also point to instances where despite the efforts deployed, implementation was not secured.<sup>92</sup> Here, arguably, lies the importance of various independent institutions exerting pressure on domestic authorities to grasp the full implications of an ECtHR judgment where a violation is found. The Greek Ombudsman, a constitutionally sanctioned independent authority, whose purpose, since 1998, is to mediate between public administration and private individuals, has been very active in propagating proper implementation of ECtHR judgments. The same could be fairly said of the National Commission for Human Rights, a statutory national human rights institution, which has a consultative status with the Greek state on human rights aspects from 1998 onwards. Both bodies scrutinise developments regarding human rights protection, inform public opinion and make recommendations to improve Greek human rights policy and practice.

#### *IV. Literature Review*

Much has been said and written recently about the human rights record of Greece. The study of the European Convention on Human Rights has been a privileged domain of

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<sup>88</sup> Committee of Ministers, Resolution DH (2000)44 concerning the judgment of the European Court of Human Rights of 16 December 1997 in the case of *Canea Catholic Church against Greece*, 10 April 2000.

<sup>89</sup> The judgment was also published with extensive commentaries in widely-read Greek law journals. See Committee of Ministers, Resolution DH (2000)99 concerning the judgment of the European Court of Human Rights of 10 July 1998 in the case of *Sidiropoulos and Others against Greece*, 24 July 2000.

<sup>90</sup> *Supra* n. 85.

<sup>91</sup> Although the ECtHR hinted at the restrictive effect of domestic legislation regarding the establishment of non-Orthodox places of worship on the exercise of religious freedom, national authorities neither repealed, nor modified relevant provisions.

<sup>92</sup> Despite the finding of a breach of Article 11 ECHR in *Sidiropoulos*, the association 'Home of Macedonian Civilisation' did not manage to have its statute registered by domestic courts because it did not succeed in finding a lawyer willing to take care of legal formalities.

Greek legal and social scientists which have produced a considerable body of knowledge regarding the workings of the system. Analysis has presented the main characteristics of the European supervision machinery, focusing on procedures and the level of protection afforded to the rights and freedoms enshrined in the Convention.<sup>93</sup> More importantly, however, for the purposes of this study, considerable attention has been given to the concrete instances where Greece was found in violation of the Convention. Relevant case-law has been explored and the corrective measures adopted by domestic authorities examined.

#### *A. Literature Review on ECtHR Case-law and Human Rights*

In reviewing the experience of European supervision over the human rights situation in Greece, several categories of breaches have been commented: those concerning due process, those building on the principle of separation of powers, those relating to foreigners and those regarding the sensitive issue of religious, ethnic/linguistic minorities.<sup>94</sup> Condemnations for excessive length of judicial proceedings, seminal judgments dealing with domestic courts' free will and foreigners' rights protection have generally formed the object of limited analysis.<sup>95</sup> Emphasis has been placed, instead, on ECtHR rulings revealing domestic weaknesses regarding the protection of minorities.

Whilst efforts to define minorities and concretise their constitutive elements were intensified,<sup>96</sup> a detailed presentation of the principal arguments advanced by petitioners on behalf of minority groups, and their reception by the ECtHR has been offered.<sup>97</sup> Specific studies sought to present the main obstacles faced by members of ethnic and religious minorities in the exercise of their civil and political rights.<sup>98</sup> Others focused on precise issues of relevance for human rights that warrant analysis from a minority protection perspective.<sup>99</sup>

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<sup>93</sup> See, amongst others, E. Roukounas, *Diethnis prostasia tw n anthrwpinwn dikaiwmatwn* (1995), S. Perrakis, *Diastaseis tis diethnous prostasias tw n dikaiwmatwn tou anthrwpou* (1991), and S. Matthias *et al.*, *H prostasia tw n dikaiwmatwn tou anthrwpou stin Eurwpi* (2006)

<sup>94</sup> See Stavros, 'Human Rights in Greece: Twelve Years of Supervision from Strasbourg', 17 *Journal of Modern Greek Studies* (1999) 3, and Giakoumopoulos, 'To meionotiko fainomeno stin Ellada kai i Eurwpaiki Symbasi tou Antrwpou', in K. Tsitselikis and D. Christopoulos (eds), *To meionotiko fainomeno stin Ellada* (1997) 21.

<sup>95</sup> See mainly Stavros, cited above, and Sitaropoulos, 'H prostasia apo tin Ellada themeliwdwn dikaiwmatwn tw n allodapwn mesa apo to prisma tis nomologias tou Eurwpaikou Dikastiriou Dikaiwmatwn tou Athrwpou', *To Syntagma* (2003), No. 2, available at: <http://tosyntagma.antsakkoulas.gr/afieromata/item.php?id=844>.

<sup>96</sup> See Tsitselikis and Christopoulos, 'O entopismos tou meionotikou fainomenou stin Ellada apo tin epistimi kai to dikαιο', in K. Tsitselikis and D. Christopoulos, *supra* n. 94, 415.

<sup>97</sup> See, in particular, Ktistaki, 'H Eurwpaiki prostasia tis thriskeutikis eterotitas', in D. Christopoulos (ed.), *Nomika zitimata thriskeutikis eterotitas stin Ellada* (1999) 223, Stavros, 'Freedom of Religion and Claims for Exemption from Generally Applicable, Neutral Laws: Lessons from Across the Pond', 6 *European Human Rights Law Review* (1997) 607, and Giakoumopoulos, *supra* n. 94.

<sup>98</sup> See, in particular, Minaidis, 'H thriskeutiki eleutheria opws ti biwnoun oi Mousoulmano i stin Ellada', Papagrigoriou, 'I thriskeutiki eleutheria opws ti biwnei i Israilitiki koinotita stin Ellada', Reppas, 'I thriskeutiki eleutheria opws ti biwnoun oi Martyres tou Iexwba stin Ellada', and Freris, 'I thriskeutiki eleutheria opws ti biwnoun oi Katholikoi stin Ellada', in K. Mpeis (ed.), *I thriskeutiki eleutheria* (1997) 135, 255, 307 and 399 respectively.

<sup>99</sup> See Argiropoulos, 'H eleutheria tis thriskeutikis syneidisis kai i ipoxrewsi dilwsws tou thriskeumatos se dimosia eggrafa', Kaniouras, 'Syntagma kai enallaktiki (koinwniki – politiki) anti tis stratiwtikis, thiteia', Printzipas, 'H sintagmatiki diastasi tis ypoxrewsis orkodosias', and Sarmas, 'I eleutheria idrsws nawn kai euktiriwn oikwn', in K. Mpeis, cited above, 21, 63, 291 and 339 respectively. See also

Literature and research on ethnic minorities tended to document denial of ethnic identity, manifested through infringement of the civil and political rights enjoyed by individuals asserting a Turkish or Macedonian origin.<sup>100</sup> A great number of studies pertaining to religious minorities dealt with domestic constitutional and legislative provisions relating to religious freedom.<sup>101</sup> Article 13 of the Constitution, a novelty in the country's constitutional history, which guarantees freedom of religious consciousness for all, has been extensively discussed. Meant to reprove practices against religious minorities followed by the junta, the provision was hailed by constitutional scholars as a significant step towards religious equality.<sup>102</sup> At the same time, however, criticism has been levelled, for its drafting attests to deep-rooted preconceptions, founded on, and perpetuating, a low degree of religious tolerance.

In more detail, paragraph 2 of Article 13 proclaims that 'all known religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law'. Evidently, freedom of worship is not protected for all religions but only for those which are considered as 'known'. The Supreme Administrative Court has clarified that a 'known' religion denotes 'a religion or a dogma, whose doctrine is open and not secret, is taught publicly and its rites of worship are also open to the public, irrespective of whether its adherents have religious authorities'.<sup>103</sup> JW, the Catholic and the Protestant faiths fall within this category. Notwithstanding, impediments in the exercise of freedom of worship have been observed, attesting to the discrepancy in the treatment of Orthodox believers to those of other religions.

Another major critique concerned the prohibition of proselytism contained in Article 13. With the aim of restoring balance between dogmas, the 1975 Constitution extended a ban on proselytism against the Orthodox Church by its forerunners to all religions. For many, a general prohibition is unacceptable; in a free society, based on respect for human rights, individuals should be entitled to display their convictions freely.<sup>104</sup> Unsurprisingly, domestic legislation criminalising proselytism only against the Orthodox Church has awakened powerful reaction. Laws 1363/38 and 1672/39, which were adopted during the pre-second-world-war Metaxas dictatorship regime (1936-1940), do not reflect current needs in terms of human rights guarantees. Legal scholars have stressed their unconstitutionality,<sup>105</sup> and argued that the very definition

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Tsitselikis, 'I thesi tou moufti stin elliniki ennomi taksi', in D. Christopoulos, *supra* n. 97, 271, and K. Tsitselikis and L. Mpaltsiotis, *H meionotiki ekpaideusi tis Thrakis* (2001).

<sup>100</sup> See, for example, Karakasidou, 'Politicizing Culture: Negating Ethnic Identity in Greek Macedonia', 11 *Journal of Modern Greek Studies* (1993) 1, Kourtovik, 'Dikaiosini kai meionotites', in K. Tsitselikis and D. Christopoulos, *supra* n. 97, 245, and Human Rights Watch, 'The Turks of Western Thrace' (2001) and 'Denying Ethnic Identity: The Macedonians of Greece' (1994), available at: <http://www.hrw.org/reports/pdfs/g/greece/greece991.pdf> and [greece945.pdf](http://www.hrw.org/reports/pdfs/g/greece/greece945.pdf) respectively.

<sup>101</sup> See, in particular, Karakostas, 'Ta sintagmatika themelia tis thriskeutikis eleutherias kai i dynatotita anathewrasis tw n sxetikwn diataksewn', and Mihailidou, 'Oi thriskeutikes meionotites stin Ellada, idiws kata tin ekthesi tou Eidikou Eisigiti tis Epitropis Anthrwpinwn Dikaiwmatwn tou OHE, in K. Mpeis, *supra* n. 98, 75 and 157 respectively.

<sup>102</sup> Alivizatos, 'Issues of Religious Freedom in Greece', in M. Vassiliou and H.J. Psomiades (eds), *Human Rights in the 21st Century* (2001) 226.

<sup>103</sup> See Council of State, judgment 2105/75. Note, however, that for the Ministry of Justice, a 'known religion' must be sufficiently transparent, so that it is possible to guard against threats to public order, morals and the rule of law. See, in this respect, Greek Helsinki Monitor (GHM), Minority Rights Group-Greece (MRG-G), 'Religious Freedom in Greece', September 2002, available at: [http://www.greekhelsinki.gr/bhr/english/organizations/ghm\\_mrgg\\_religious\\_freedom\\_2002.rtf](http://www.greekhelsinki.gr/bhr/english/organizations/ghm_mrgg_religious_freedom_2002.rtf), at 39.

<sup>104</sup> See Loverdos, 'Peri prosilitismou', in K. Mpeis, *supra* n. 98, 127, at 129, and Stathopoulos, 'H syntagmatiki katoxyrwnsi tis thriskeutikis eleutherias kai oi sxeseis politeias-ekklisias', in D. Christopoulos, *supra* n. 97, 201, at 216.

<sup>105</sup> *Ibid.*

of proselytism is problematic.<sup>106</sup> For the Council of Europe's Commissioner of Human Rights, relevant provisions put 'needless pressure on religious or spiritual groups wishing to share their convictions in a law-abiding manner without recourse to subversive, coercive, deceptive or improper methods'.<sup>107</sup>

In broad terms, the main argument advanced in the literature is that domestic regulation of the practice of religion often works to the detriment of religious communities other than the Orthodox Church. Plainly, Greece belongs to the category of countries that have left unresolved issues regarding religious minorities within its borders. The only officially recognised minorities are Muslims and Jews.<sup>108</sup> The legal status of Jews was formally confirmed by Law 2456/2930. Acknowledgment of the Muslim minority, in turn, has, in principle, taken place by means of the 1923 Treaty of Lausanne. The Treaty, signed following the defeat of Greek forces in Asia Minor, provided for the reciprocal protection of Greeks in Istanbul and of the Muslim population in Greece, consisting of three distinct ethnic groups: those of Turkish origin, Pomaks who speak a Slavic dialect and Roma.<sup>109</sup>

With the exception of Jews and Muslims, no other religious or ethnic minority is recognised by the Greek state.<sup>110</sup> The vigorous refusal of domestic authorities to grant minority status to distinct populations present on Greek territory has formed the object of extensive analysis, and has been primarily attributed to the very notion of Greek identity. Greece, it is widely accepted, represents an essentially unitary state. One of the most homogeneous societies in Europe, seen in terms of its ethnic composition and religious faith,<sup>111</sup> the country has systematically privileged state unity through the promotion of a strong, pervasive national self-consciousness. Official Greek ideology, 'built almost exclusively around the concept of a single nation, with a common creed and language',<sup>112</sup> has discouraged domestic discussion on ethnic and religious differentiation.

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<sup>106</sup> According to Law 1672/1939, proselytism consists '*inter alia*' of 'any direct or indirect attempt to intrude on the religious beliefs of a person of a different religious persuasion (eterodoxos), with the aim of undermining those beliefs, either by any kind of inducement or promise of an inducement or moral support or material assistance, or by fraudulent means or by taking advantage of his inexperience, trust, needs, low intellect or naiveté'. The definition is not exhaustive, and affords extensive discretion to domestic authorities as to its interpretation. For detailed analysis see *supra* n. 102, at 231-234.

<sup>107</sup> See Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on his visit to the Hellenic Republic, 2-5 June 2002, CommDH(2002)5, Strasbourg, 17 July 2002, at 5.

<sup>108</sup> The Muslim and Jewish communities, together with the Orthodox Church, constitute legal entities under public law. Other religious organisations can be established pursuant to the Civil Code, either as associations, foundations or charitable fund-raising institutions.

<sup>109</sup> The Muslim minority is composed by 50% of Turkish speakers, 35% of Pomaks and 15% of Roma. See *supra* n. 107, at 7. According to the Treaty of Lausanne, the Greek state is obliged to safeguard a series of freedoms and rights for the protection of the Muslim minority: equality before the law; freedom of religion; the right to establish and control philanthropic, religious or educational institutions and the right to use the minority's own language(s) and religion therein; the right to enjoy civil and political rights; free use of own language in commerce, private sphere, religion, press, printed materials in public meetings and in courts. In locations where a large Muslim community lives, instruction in elementary schools must be done in Turkish. Greece reserves the right to make the teaching of the Greek language mandatory.

<sup>110</sup> It is highly pertinent in this respect that the Greek state has not yet ratified the Council of Europe Framework Convention for the Protection of National Minorities.

<sup>111</sup> Featherstone, 'Introduction', in K. Featherstone and K. Ifantis (eds), *Greece in a Changing Europe* (1996) 3, at 13.

<sup>112</sup> Stavros, 'Citizenship and the Protection of Minorities', in *ibid.*, 117, at 117.

As regards ethnic origin, in particular, more than 95% of Greek citizens consider themselves ethnically Greek (Hellenes).<sup>113</sup> This uniformity is not only the result of historic developments which permitted the concentration of a great number of ethnic Greeks into the territory of the modern state but also the fruit of policies designed to promote alien integration.<sup>114</sup> Clearly, the Greek Constitution does not allow for distinctions to be drawn on the basis of ethnic considerations. However, reference in Article 1(3) to both the ‘nation’ (ethnos) and ‘people’ (laos) prompted scholars to argue that the two concepts are not identical.<sup>115</sup> The notion of ‘nation’, associated with the concept of ‘genos’ (race),<sup>116</sup> appears to be wider and, at the same time, narrower than the notion of ‘people’.

The position of the judiciary is enlightening in this respect. In interpreting certain rules of the Code of Citizenship - abolished in 1998<sup>117</sup> - which facilitated the acquisition of citizenship by those deemed to belong to the nation (omogeneis) and its loss by those who were not (allogeneis), the Council of State advanced an interesting account of the criteria determining participation in the Greek nation. In decision 57/1981, the court stated that ‘allogeneis’ are those whose ‘origin, whether distant or not, is from persons coming from a different nation and who, by their actions and general behaviour have expressed sentiments testifying the lack of Greek national consciousness, in a way that they cannot be considered as having been assimilated into the Greek nation’, composed by persons tied together by ‘common historic traditions, desires and ideals’.

Although subjective terms like ‘Greek national consciousness’ or ‘common historic traditions, desires and ideals’ make little sense in the context of a judicial decision, the court’s reasoning discloses that participation in the Greek nation is closely linked to ethnicity. Non-ethnic Greeks can form part of the nation provided they *assimilate*. Ethnic differentiation is perceived as an irregularity that needs to be corrected.<sup>118</sup>

The background reality is that ethnic differentiation is often correlated or identified with territorial claims coming from neighbouring countries with whom Greece maintains tense political relations.<sup>119</sup> Whereas the story of turbulent Greek-Turkish relations has been told several times and therefore will not be repeated here, the demand of recognition by FYROM in 1992-1993 is also a case in point. Requests to make use of the term ‘Macedonia’, which, for Greeks, denotes an exclusive, integral part of national history and civilisation, faced fierce resistance by the Greek state.

Domestic authorities’ unwillingness to accept ethnic ‘otherness’ has led to several instances of controversial treatment regarding groups which assert a non-

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<sup>113</sup> The 2001 census reported a population of 10,964,020 people. Of these, only 2% are from indigenous ethnic minority groups.

<sup>114</sup> Rozakis, ‘The International Protection of Minorities in Greece’, in K. Featherstone and K. Ifantis, *supra* n. 111, 95, at 97.

<sup>115</sup> See Stavros, *supra* n. 112, at 118, and Christopoulos and Tsitselikis, ‘Treatment of Minorities and Homogeneis in Greece: Relics and Challenges’, available at: <http://www.kemo.gr/gr/06a2.asp>.

<sup>116</sup> Tsitselikis, ‘Citizenship in Greece: Present Challenges for Future Changes’, available at: <http://www.kemo.gr/archive/papers/Tsitselik.htm>.

<sup>117</sup> For an overview of the process that led to the abrogation of the contested provisions, see Anagnostou, ‘Deepening Democracy or Defending the Nation? The Europeanisation of Minority Rights and Greek Citizenship’, 28 *West European Politics* (2005) 335.

<sup>118</sup> Dimoulis, ‘I nomiki prostasia tw n ethnikwn meionotitwn’, in K. Tsitselikis and D. Christopoulos, *supra* n. 94, 117, at 125.

<sup>119</sup> *Supra* n. 114, at 98.

Greek ethnic identity, with severe restrictions imposed on the enjoyment of civil and political rights, occasionally exposed by the ECtHR. The exercise of the right to association, for example, has been harshly obstructed, a classic example being the disbandment of the *Union of Turkish Teachers of Western Thrace* and the *Union of Turkish Youth of Komotini* by the Court of Appeal of Thrace, confirmed by the High Civil and Criminal Court.<sup>120</sup> According to the Greek judiciary, the word ‘Turkish’, by referring to citizens of Turkey, cannot denote Greek citizens. Its use, regularly interpreted as intended to create feelings of hatred and hostility between Muslims and Christians, is considered to be incompatible with the Treaty of Lausanne which mentions, and recognises only a religious (Muslim) and not an ethnic (Turkish) minority.

The approach followed by Greek judges is not immune to criticism. Whilst it is beyond dispute that the Treaty of Lausanne specifically refers to the protection of the Muslim minority, this does not exclude the possibility of using another term to denominate this minority, in particular since the Muslim community is not homogeneous but consists of peoples of different ethnic background.<sup>121</sup> Very well, one might consider that a smaller Turkish ethnic minority exists within a larger religious grouping. Moreover, it has been argued that reference to the religious features of the minorities protected by the Treaty of Lausanne was not intended to limit their nature to their religious constitutive aspect. Given their special characteristics, ‘namely the heavy reliance of Greeks and Turks upon their religion and the all-embracing, cultural and social significance of the latter upon these ethnic groups, the religious element was used to denote a distinct group of population with complex differences from the majority living respectively in Greece or Turkey’.<sup>122</sup>

Undoubtedly, religious adherence can constitute a significant component of one’s self-consciousness. Given its historical centrality to the defence of Greek national culture and language during nearly four centuries of foreign occupation, Eastern Orthodoxy is considered to be an essential element of national identity.<sup>123</sup> This bond between Orthodoxy and national identity does not only manifest in membership to the Orthodox Church by the overwhelming majority of Greek population; it is equally reflected in the Greek Constitution which accords the Orthodox Church the status of dominant religion. Under Article 3(1) which comes under section II of the Constitution’s ‘Basic Provisions’, ‘[t]he prevailing religion in Greece is that of the Eastern Orthodox Church of Christ’.<sup>124</sup>

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<sup>120</sup> See in detail Kourtovik, *supra* n. 100, at 253-254.

<sup>121</sup> See Stavros, ‘The Legal Status of Minorities in Greece Today: The Adequacy of Their Protection in the Light of Current Human Rights Perceptions’, 13 *Journal of Modern Greek Studies* (1995) 1, at 13-14.

<sup>122</sup> See *supra* n. 114, at 103.

<sup>123</sup> See Pollis, ‘The State, the Law, and Human Rights in Modern Greece’, 9 *Human Rights Quarterly* (1987) 587, and by the same author, ‘Greek National Identity: Religious Minorities, Rights and European Norms’, 10 *Journal of Modern Greek Studies* (1992) 171.

<sup>124</sup> Various constitutional provisions expressly refer to Orthodoxy. The preamble begins ‘[i]n the name of the Holy and Consubstantial and Indivisibility Trinity’, and the same phrase is included in the oath the President of the Republic and members of the Parliament need to take before assuming the exercise of their duties (see Articles 33(2) and 59(1)). Under Article 3(3), the Holy Scriptures must remain unaltered, and cannot be translated into another linguistic form without prior consent of the Autocephalous Church of Greece and the Great Church of Christ in Constantinople. According to Article 16(2), education, a basic mission of the state, must aim at the development of national and religious consciousness. In addition, Article 18(8) guarantees that the properties of the patriarchates are not subject to expropriation. Article 14(3)(a) allows for confiscation of printed materials, offensive to Christianity (or any other known religion), subject to an order of the public prosecutor.

The recognition of the Orthodox faith as the official religion of Greece is not in itself incompatible with the ECHR.<sup>125</sup> As explicitly stated during the period of debate leading to the adoption of the 1975 Constitution, such proclamation is of an essentially declaratory nature.<sup>126</sup> It reflects that Orthodoxy is the religion of the bulk of Greek population, and is not intended to permit differential treatment on grounds of religious affiliation. Of course, it is incumbent upon the State as a guarantor of peaceful co-existence amongst different religious groups to strike the right balance and abstain from measures likely to jeopardise religious pluralism.

Questions as to the observance of religious freedom can be seen to abound in light of the complexity of relations between the Greek state and the Orthodox Church.<sup>127</sup> The way in which they have developed tells a fascinating story of the implication of Orthodoxy in the management of religious diversity, in particular when religious differentiation appears to threaten the Church's central place in the formation and preservation of Greek national identity.<sup>128</sup> Predominant and constitutionally protected, the Orthodox Church is autocephalous, self-governed and inseparably linked in spirit with the Ecumenical Patriarchate along with other churches of the same dogma.<sup>129</sup> At the same time, it is a legal person of public law, benefits from state financial support,<sup>130</sup> and its charter, enacted by the Parliament, forms part of Greek legislation.<sup>131</sup>

The relationship between the Church and the state has been characterised as *sui generis* since there is no complete separation.<sup>132</sup> The close interconnection between the two institutions has led both to transcend the boundaries of their competence, intervening into each other's affairs. The state mingles in the domains governed by the Church, and the Church accepts interference as this allows it to exert stronger influence on the development of policies touching religious freedom.<sup>133</sup>

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<sup>125</sup> See *supra* n. 107, at 4.

<sup>126</sup> See Konidaris, 'Oi sxeseis ekklisias-kratous stin Ellada apo to 1974 ews simera', in K. Mpeis, *supra* n. 98, 115, at 117.

<sup>127</sup> *Ibid.* See also Swtirelis, 'O xwrismos kratous-ekklisias: H anathewrisi pou den egine', in *supra* n. 97, at 19.

<sup>128</sup> See in general Prodromou, 'The Ambivalent Orthodox', 15 *Journal of Democracy* (2004) 62.

<sup>129</sup> See Article 3(1) of the Greek Constitution.

<sup>130</sup> The Greek state covers the following expenses: employment benefits and medical and pharmaceutical coverage of the clergy who are treated as public employees; salaries and retirement benefits to the bishops; salaries to the support staff of the Archbishop of Athens and the Metropolitans; ecclesiastical education; expenses related to the operation of a hospital for the clergy; retirement benefits of the monks; and salaries of the preachers.

<sup>131</sup> See Article 72(1) of the Greek Constitution, read in conjunction with Article 3(1).

<sup>132</sup> Commission on Security and Cooperation in Europe, *Religious Liberty: The Legal Framework in Selected OSCE Countries*, May 2000, available at: <http://italy.usembassy.gov/pdf/other/rellib1.pdf>, at 56. Efforts deployed in the early 1980s by the socialist PASOK government to separate Church and state were thwarted by strong opposition by the Church. However, amendments in the field of family law were made. For detailed analysis, see *ibid.*, at 66-67.

<sup>133</sup> The most recent manifestation of the Orthodox Church's determination to maintain its privileged position in Greek society has been its opposition to abolishing the mandatory listing of religion on identity cards, laid down by Law 1988/1991. In response to international pressure and criticism by various religious minorities, an amendment to remove information on religious affiliation was proposed in 1993. Due to strong pressure from the clergy and some Parliamentarians, who claimed that Orthodoxy is part of Greek national identity, modifications were not made. In May 2000, the Authority on the Protection of Personal Data decided that the new identity cards should no longer carry information on religion. The Archbishop, who was of the view that mention of religion should be optional, asked for a referendum to be conducted, so that Greeks could decide on the issue themselves. The government found this unnecessary. By joint decision of 17 July 2000 the Ministers of Economic Affairs and Public Order established a new type of identity cards where no reference to religion is

Action in the field of education, for instance, is clearly hedged with religious qualifications in favour of Orthodoxy.<sup>134</sup> The very existence of a Ministry of Education and Religion ‘testifies both to the intermeshing of the state and the Church and to religion as a crucially important ingredient of education’.<sup>135</sup>

The preceding analysis explains to some extent the limited attention afforded by domestic authorities to demands of self-determination by minority groups. Actions and beliefs likely to cause friction in society and throw into question basic ingredients of Greek identity are viewed as undermining state unity. Recourse to the ECtHR is then endorsed as the best route forward to counteract state resistance and deliver improvements on the legal status of minority groups.

### *B. Literature Review on the Implementation of ECtHR Rulings*

The issue of execution of ECtHR rulings has somehow remained a reserved domain of legal scholars. The studies identified for the purposes of this study set accurately the stage, and provide a vivid description of the way in which the implementation process is evolving.

A first point in analysis is that proper execution of ECtHR judgments is a precondition for the effective functioning of the ECHR control system.<sup>136</sup> In view of the exponential increase in the number of individual applications lodged with the Court since the late 1980’s, which seriously threatens its mission to supervise respect for the Convention’s rights and freedoms, adequate execution of ECtHR rulings is crucial. Far from simply bolstering the Court’s credibility or reinforcing the authority of its decisions, taking measures at the national level to correct human rights infringements has the effect of limiting the number of applications submitted to the ECtHR for identical or similar breaches.

For many authors, observance of the engagements undertaken under the Convention is not limited to abiding by the final judgment of the Court in which a contracting state is a party, as Article 46(1) ECHR purports.<sup>137</sup> Ascertaining that the role of the ECtHR does not solely consist in verifying conformity with the Convention but also in laying down common principles and standards that share the legally binding force of the Convention *erga omnes*, it is argued that parties to the Convention must pay due attention to ECtHR case-law, even when judgments do not implicate them directly.<sup>138</sup> ECtHR decisions serve to examine compliance with the

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required. Interestingly, an application lodged before the ECtHR by individuals of Greek origin, arguing that recording of religion, even on a voluntary basis, safeguards their right to declare their beliefs publicly, was found inadmissible as ill-founded. See ECtHR, *Sofianopoulos, Spaidiotis, Metallinos and Kontogiannis v Greece* (1988/02; 1997/02; 1977/02), 12 December 2002.

<sup>134</sup> Swtirelis, ‘H syntagmatiki epitagi gia eleutheri “anaptyksi tis thriseutikis syneidisis’, in K. Mpeis, *supra* n. 98, 359.

<sup>135</sup> See *supra* n. 113, ‘Greek National Identity’, at 180.

<sup>136</sup> See Xrysogonos, *supra* n. 19. See also in this respect Report of the Group of Wise Persons to the Committee of Ministers, CM(2006), 15 November 2006, at 5.

<sup>137</sup> Ibid. See also Kaminis, ‘Genika Symperasmata’, *To Syntagma* (2003), No. 2, available at: <http://tosyntagma.ant-sakkoulas.gr/afieromata/item.php?id=846>. On the position of Greek legal scholars on the issue, see Mitsopoulos, ‘Dedikasmon kai ektelestotis apofasewn tou Eurwpaikou Dikastiriou Dikaiwmatwn tou Antrwpou epidikazousis xrimatikin apaitisin, DIKH (1995) 852, and J. Hliopoulou-Stragga, *H ektelesi tw n apofasewn tou Eurwpaikou Dikastiriou Antrwpinwn Dikaiwmatwn* (1996), at 36-38.

<sup>138</sup> Greek legal theory is divided as to whether a substantive legal obligation exists for Greek judges to follow ECtHR rulings, when the state is not a party to the dispute. With the argument that case-law is not a source of law in the Greek legal order and that Article 87(2) of the Constitution subjects judges,

ECHR, but, in parallel, elucidate, safeguard and develop the rules instituted by the Convention. From this it follows that parties need to heed the possible implications which judgments issued for other states may have for their legal order.

This is imperative when one bears in mind that the ECtHR's role in protecting human rights is strictly subsidiary to that of domestic authorities.<sup>139</sup> States parties to the Convention remain the principal guardians of human rights on their territory. They are bound to comply with a Court's ruling condemning them for breach of the Convention, but, most importantly, they are required to ensure compatibility of domestic judicial, administrative and legislative action with the Convention in standard, everyday practice. Only in that way can they meet effectively their primary responsibility under Article 1 ECHR to secure the rights and freedoms of the Convention. The reasoning endorsed in the Court's judgments can guide states to correct dysfunctions affecting the protection of the Convention's rights and freedoms when shaping their legal systems.

In examining implementation of ECtHR rulings by Greek authorities, studies have been restricted to the execution of judgments where Greece is a respondent state. In this connection, they have pointed to the limited instruments the Committee of Ministers has at its disposal to supervise execution.<sup>140</sup> In the absence of any provision in the Convention for sanctions to be taken if judgments are not implemented (save the extreme possibility provided by Article 8 of the Statute of the Council of Europe to suspend a state party from its rights of representation and request its withdrawal from the organisation in case of serious violation of its obligations), the Committee of Ministers is deemed to perform a rather soft control. By means of resolutions that certify implementation and interim resolutions attesting to the need to further consider execution measures, the Committee of Ministers can only exert pressure on governments to comply with the Court's rulings.

Whether Greece has so far discharged its obligation to abide by the Court's decisions has yielded divergent opinions. Whilst there are authors who claim that the compliance record of Greece is in general satisfactory,<sup>141</sup> since 'the obligation of result' entailed by ECtHR case-law has materialised in the adoption of both individual and general measures,<sup>142</sup> literature on the implementation of specific categories of judgments has disclosed shortcomings in the provision of effective remedies.<sup>143</sup> Plainly, modification of legislation has taken place in several instances, and diffusion of ECtHR rulings has raised awareness of the need to consider developments in case-

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when discharging their duties, 'only to the Constitution and the laws', it is submitted that the Greek judiciary is not bound by the Court's interpretations in cases where a violation by other states parties to the Convention is found. Nevertheless, in the light of Articles 1 and 32(1) ECHR, and bearing in mind that every court judgment must be specified and thoroughly reasoned (Article 93(3) of the Constitution), it is accepted that domestic judicial authorities need to entertain consideration to ECtHR case-law and possibly refer to it when pronouncing on domestic disputes. See in detail Xrysogonos, 'H (mi) efarmogi tis ESDA apo ta ellinika dikastiria', *To Syntagma* (2002), No. 5, available at: <http://tosyntagma.ant-sakkoulas.gr/afieromata/item.php?id=726>.

<sup>139</sup> See Kaminis, *supra* n. 137.

<sup>140</sup> See Xrysogonos, *supra* n. 19.

<sup>141</sup> See, in particular, Kastanas, 'H symmorfwsis tis Elladas stis apofaseis tou Eurwpaikou Dikastiriou Dikaiwmatwn tou Antrwpou: geniki apotimisi', *To Syntagma* (2003), No. 2, available at: <http://tosyntagma.ant-sakkoulas.gr/afieromata/item.php?id=842>.

<sup>142</sup> Gewrgakopoulos, 'Oi Ellinikes empeiries', *To Syntagma* (2002), No. 4, available at: <http://tosyntagma.ant-sakkoulas.gr/afieromata/item.php?id=670>.

<sup>143</sup> See *supra* n. 34, and Sitaropoulos, *supra* n. 95.

law, even when relevant decisions concern other countries.<sup>144</sup> Nevertheless, there are cases where Greek authorities sought to contain implementation or proceeded with partial measures refraining from undertaking broader reforms.<sup>145</sup>

The state's endeavours to implement ECtHR rulings reflect a tendency to resort to law-based solutions when mere procedural matters are at stake. Indeed, to implement *Canea*, new legislation was enacted, clarifying that the Catholic Church possesses legal personality and therefore can benefit from access to justice.<sup>146</sup> Likewise, to execute *Biba* and *Twalib*, legislative measures were adopted allowing for the provision of free-legal counselling in proceedings before the Court of Cassation.<sup>147</sup> More conspicuously, to preclude repeated ECHR infringements given the judiciary's usual stance to refuse a right to fair compensation for unlawful detention, Greece carried out both constitutional and statutory amendments. Articles 535(1) and 536(1) and (2) of the Code of Criminal Procedure excluded the grant of compensation to individuals, intentionally or by gross negligence, responsible for their detention, and allowed Greek courts to rule *proprio motu* on the matter without a hearing and adequate reasoning. In the wake of *Tsirlis and Kouloumpas*, Article 93(3) of the Constitution was modified to explicitly require detailed reasoning of judicial decisions.<sup>148</sup> Legislative authorities were invited to elaborate sanctions for inadequate motivation, and Law 2915/2001 amended Articles 535 and 536, so that no longer is the possibility of compensation ruled out on account of the detainee's gross negligence. Criminal courts must give reasons for their judgments and hear the persons concerned.

The fact that even constitutional amendments were made to comply with ECtHR rulings reveals strong political will to raise domestic procedural standards. Conversely, implementation of ECtHR judgments necessitating adoption of substantive rules faces much resistance. Despite prompting repetitive human rights violations, national legislation on proselytism and the establishment of non-Orthodox religious venues was not modified to prevent judicial interpretations and administrative practices that breach the Convention. Execution was confined to informing national authorities about the effects of ECtHR case-law, hoping that this would suffice to align treatment of non-Orthodox demands with the Convention's requirements.<sup>149</sup>

It is argued that effective execution of ECtHR case-law depends on the good will of domestic authorities, and largely builds on the factual, social and political circumstances surrounding each case. Inadequate implementation is often attributed to structural inabilities to proceed swiftly with reform, the absence of political cost in case of execution inertia and a willingness to abstain from offending public

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<sup>144</sup> See *supra* n. 144, and Kaminis, *supra* n. 137. Note, however, that legal theory calls for more systematic application of the ECHR by national judges. See Katrougkalos, 'H epidrasi tis ESDA stin eswteriki ennomi taksi', *To Syntagma* (2002), No. 5, available at: <http://tosyntagma.ant-sakkoulas.gr/afieromata/item.php?id=725>, Xrysogonos, *supra* n. 138, and Papadimitriou, *supra* n. 19.

<sup>145</sup> *Supra* n. 34, and Sitaropoulos, *supra* n. 95.

<sup>146</sup> See *supra* n. 88.

<sup>147</sup> See *supra* n. 87, and Committee of Ministers, Resolution ResDH(2002)102 concerning the judgment of the European Court of Human Rights of 9 June 1998 in the case of *Twalib against Greece*, 21 October 2002.

<sup>148</sup> See *supra* n. 84.

<sup>149</sup> See *supra* n. 85, Resolution (97) 576 concerning the judgment of the European Court of Human Rights of 25 May 1991 in the case of *Kokkinakis against Greece*, 15 December 1997, and Resolution ResDH(2004)80 concerning the judgment of the European Court of Human Rights of 24 February 1998 in the case of *Larissis and Others against Greece*, 22 December 2004.

opinion.<sup>150</sup> To illustrate, improper execution of cases regarding foreigners' conditions of detention is both attributed to the scale of reforms needed (with substantial budgetary constraints) and the limited political repercussions of non-compliance given the marginalised position of such individuals in society. Contrariwise, improper implementation of cases regarding religious or ethnic minorities is primarily due to state reticence to adopt unpopular measures. Executing such cases is more than an issue of legislation; it is a cultural problem, a question of changing widespread attitudes and ideas. Reception of relevant case-law by litigants as a victory of minority claims further undermines state responsiveness. Given firmly embedded notions of national identity in policy development and implementation, litigants' understanding of ECtHR judgments as an acknowledgment of their distinct minority status causes a major and ongoing rift with Greek authorities in the fulfilment of their implementation mission.

## V. Conclusion

Set up to ensure observance of the engagements undertaken by states parties to the European Convention, the ECtHR is the only international court to which individuals have access for the purpose of human rights enforcement. In verifying compliance with ECHR requirements, it seems that the Court has become a precious platform of support for less-privileged individuals and communities.<sup>151</sup> The examination of cases where Greece is the responding state discloses that litigants belonging to various socially- or politically-disadvantaged groups resort to Strasbourg in search of remedies that domestic authorities prove unable or unwilling to provide. ECtHR case-law is deemed to be a proper means to embed multi-cultural and pluralist standards in domestic legislative choices, administrative practices and judicial outcomes.

Whether ECtHR case-law succeeds in prompting policy modification and reform, strengthening political and social participation in Greek democratic society, largely depends on the measures adopted by national institutions to execute relevant judgments. Given the declaratory nature of ECtHR rulings, the ECHR supervision machinery affords considerable leeway to domestic authorities as to the means and methods chosen to correct failures in upholding their human rights obligations. Whilst there are grounds to believe that the average implementation record of Greece is satisfactory, there are also cases where poor or partial efforts were deployed to alleviate the grievances expressed and preclude similar human rights infringements in the future.

Various factors can obstruct smooth execution of ECtHR judgments: the scale of reforms required, structural impediments, budgetary constraints, even reluctance to upset values and ideas widely espoused by the public. Politically and socially sensitive cases, as those discussed in this study, are particularly prone to inadequate implementation. Contrasting with entrenched policy habits and long-standing notions of national identity, their execution demands robust commitment from all domestic institutions, a feeling of shared responsibility and encouragement of participatory models of governance.

In order to examine the degree of receptiveness of ECHR standards by the Greek state and investigate whether alignment of policies with ECtHR interpretations has followed, it is suggested to proceed with selection of a series of rulings as case-

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<sup>150</sup> See Kaminiis, *supra* n. 137.

<sup>151</sup> Stavros, 'I thriskeutiki eleutheria kai i eleutheria tis ekfrasis', *To Syntagma* (2002), No. 6, available at: <http://tosyntagma.ant-sakkoulas.gr/afieromata/item.php?id=777>.

studies for implementation. Analysis should attend particularly to the political and social dynamics instilled in the implementation process, since decisions that provoke strong societal or elite opposition are likely to have a weaker impact on national policy structures. To inspect execution, a distinction should be made between individual and general measures, building upon a broad range of empirical material. Besides looking at secondary literature (much of which has already been reviewed), insights could be drawn from:

- resolutions issued by the Committee of Ministers (far from simply verifying whether a resolution was issued for each judgment, it is important to scrutinise the Committee of Ministers' approach regarding the extent and depth of measures adopted to comply with ECtHR judgments. Special attention must be given to general measures which can be harder to identify and agree on)
- Parliamentary Assembly's documents on the execution of ECtHR judgments
- parliamentary proceedings from discussions on bills and laws that are directly or indirectly related to Strasbourg judgments (i.e. bills that touch upon relations between state and religion, such as the recent law that was passed regarding the construction of a central mosque in Athens)
- press material on specific cases or related legislative initiatives
- related cases decided by Greek courts following ECtHR judgments
- interviews with national actors involved in the implementation of ECtHR case-law: 1. legal experts, 2. NGOs and other state and non-state organisations promoting human rights, 3. officials from the Legal Council of the State and national ministries (Ministry of Justice, Ministry of Foreign Affairs, Ministry of Internal Affairs, etc), 4. minority organisations
- interviews with European actors involved in the implementation of ECtHR case-law: 1) members of the Greek delegation in the Committee of Ministers, 2) experts in the Committee of Ministers working on specific cases, 3) experts in the Committee of Legal Affairs and Human Rights of the Parliamentary Assembly.

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*Hornsby v Greece* (art. 50) (18357/91), 1 April 1998  
*Twalib v Greece* (24294/94), 9 June 1998  
*Sidiropoulos and Others v Greece* (26695/95), 10 July 1998  
*Portington v Greece* (28523/95), 23 September 1998  
*Tsavachidis v Greece* (28802/95), 21 January 1999  
*Tsarknias v Greece* (45629/99), 30 March 1999  
*Demir v Greece* (42154/98), 6 July 1999  
*Serif v Greece* (38178/97), 14 December 1999  
*Agga v Greece* (37439/97), 25 January 2000  
*Eziobou and Ebigwei v Greece* (53649/00), 13 January 2000  
*Georgiou v Greece* (45138/98), 13 January 2000  
*Thlimmenos v Greece* (34369/97), 6 April 2000  
*Raif Oglu v Greece* (33738/96), 27 June 2000  
*Tsingour v Greece* (40437/98), 6 July 2000  
*Scozzari and Giunta v Italy* (39221/98 and 41963/98), 13 July 2000  
*Biba v Greece* (33170/96), 26 September 2000  
*Dougoz v Greece* (40907/98), 6 March 2001  
*Peers v Greece* (28524/95), 19 April 2001  
*R..G. v Greece* (50315/99), 22 May 2001  
*Yagtzilar and Others v Greece* (41727/98), 6 December 2001  
*Sajtos v Greece* (53478/99), 21 March 2002  
*Agga v Greece* (No. 2) (50776/99; 52912/99), 17 October 2002  
*Molla Housein v Greece* (63821/00), 12 December 2002  
*Sofianopoulos, Spaidiotis, Metallinos and Kontogiannis v Greece* (1988/02; 1997/02; 1977/02), 12 December 2002  
*Galanis v Greece* (69333/01), 6 February 2003  
*Imam v Greece* (63719/00), 6 February 2003  
*Karabouyiouclou v Greece* (63824/00), 6 February 2003

*Ouzoun v Greece* (63796), 6 February 2003  
*Toutziar v Greece* (63949/00), 6 February 2003  
*Deli Hatzoglou v Greece* (67754/01), 3 April 2003  
*Kehagia v Greece* (67115/01), 3 April 2003  
*Yagtzilar and Others v Greece* (41727/98) (just satisfaction), 15 January 2004  
*Rizos and Daskas v Greece* (65545/01), 27 May 2004  
*Vergos v Greece* (65501/01), 24 June 2004  
*Sadik Amet and Others v Greece*, (64756/01), 3 February 2005  
*Alija v Greece* (73717/01), 7 April 2005  
*Ouranio Toxo and Others v Greece* (74989/01), 20 October 2005  
*Bekos and Koutropoulos v Greece* (15250/02), 13 December 2005  
*Mohd v Greece* (11919/03), 27 April 2006  
*Agga v Greece (No. 3)* (32186/02), 13 July 2006  
*Agga v Greece (No. 4)* (33331/02), 13 July 2006  
*Alsayed Allaham v Greece* (25771/03), 18 January 2007

## **Resolutions**

Committee of Ministers, Resolution (97) 576 concerning the judgment of the European Court of Human Rights of 25 May 1991 in the case of *Kokkinakis against Greece*, 15 December 1997  
Committee of Ministers, Resolution DH (2000)44 concerning the judgment of the European Court of Human Rights of 16 December 1997 in the case of *Canea Catholic Church against Greece*, 10 April 2000  
Committee of Ministers, Resolution DH (2000)99 concerning the judgment of the European Court of Human Rights of 10 July 1998 in the case of *Sidiropoulos and Others against Greece*, 24 July 2000  
Committee of Ministers, Resolution ResDH(2002)102 concerning the judgment of the European Court of Human Rights of 9 June 1998 in the case of *Twalib against Greece*, 21 October 2002  
Committee of Ministers, Resolution ResDH(2003)5 concerning the judgment of the European Court of Human Rights of 26 September 2000 (final on 26 December 2000) in the case of *Biba against Greece*, 24 February 2003  
Committee of Ministers, Resolution ResDH(2004)82 concerning the judgments of the European Court of Human Rights in cases concerning unlawful detention of ministers of Jehovah's Witnesses and unfair compensation proceedings (*Tsirlis and Kouloumpas v. Greece*, *Georgiadis v. Greece*, judgments of 29 May 1997), 22 December 2004  
Committee of Ministers, Resolution ResDH(2004)80 concerning the judgment of the European Court of Human Rights of 24 February 1998 in the case of *Larissis and Others against Greece*, 22 December 2004  
Committee of Ministers, Resolution ResDH(2005)87 concerning the conviction of Jehovah's Witnesses for establishing a place of worship without prior administrative authorisation (*Manoussakis and Others against Greece*, judgment of 26 September 1996), 26 October 2005

# ANNEX I: SHORT VERSION OF THE STATE OF THE ART REPORT INTENDED FOR POLICY USERS

## *I. Introduction*

Greece joined the Council of Europe on 9 August 1949. It signed the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) on 28 November 1950, and ratified it on 28 November 1974. Governed by a dense and binding set of human rights guarantees, the Greek state was called to align its level of human rights protection with commonly acceptable European standards. Supervision by Strasbourg organs sought to improve respect for individual liberties by identifying shortcomings in the domestic system for human rights safeguards. The choice of the means and methods to correct failures was left to national institutions.

With a view to reaching a clear understanding of the impact of ECtHR judgments on the Greek legal order, this abridged version of the state of the art report sketches the broad contours of litigation patterns in Strasbourg, and offers a first glimpse of national authorities' attempts to implement ECtHR decisions. Analysis is structured as follows: Part II testifies to the fundamental importance attached by the Greek state to human rights protection, considering the place the ECHR occupies in the Greek legal system and the judicial mechanisms available at the national level to ensure respect for human rights. Focus then shifts in part III to litigation in Strasbourg, identifying the main actors involved in the process and the principal arguments advanced by petitioners to substantiate violation of the Convention's provisions. Next, emphasis is directed to execution of ECtHR judgments, clarifying the obligations of national institutions in this respect and the nature of measures adopted to comply with the Court's rulings. A critical analysis of literature and research pertaining to Greece, human rights and execution of ECtHR judgments follows in part IV. Part V highlights the mediating role the Court has assumed between individual and state interests, and offers some conclusions on the direction in which the process of implementation is evolving.

## *II. Human Rights Protection in Greece*

The Greek legal order is firmly based on respect for human rights and fundamental freedoms. In addition to various human rights provisions contained in the Greek Constitution and several human rights treaties signed and ratified by Greece, pursuant to Article 28(1) of the Constitution, the ECHR forms an integral part of domestic legislation and prevails over any contrary provision of law, except the Constitution. It has self-executing effect, and is directly applicable.

The Greek state needs to observe and give effect to the human rights safeguards laid down in the Convention. In case of failure to comply with the engagements undertaken, the ECtHR is empowered to rule on inter-state cases and, most importantly, on individual petitions alleging breach of the Convention. Individuals can resort to the ECtHR provided that all domestic remedies are exhausted. Judicial review of human right at the national level takes place by means of control of constitutionality and control of conformity to international obligations.

According to Article 93(4) of the Constitution, the entire Greek judiciary is obliged *ex officio* to assure that domestic laws conform to the Constitution and its human rights provisions. When domestic legislation is found to contravene constitutional requirements, national judges must refrain from applying it.

Additionally, in the light of Article 28(1) of the Constitution, Greek courts can verify compatibility of national legislation with international law and hence with the Convention's protective standards. Laws which are found to be incompatible with the Convention must not be applied.

### *III. Strasbourg Case-Law: Litigation and Implementation*

Greece is not amongst the so-called 'high case-count' states. According to ECtHR statistics, the annual inflow of complaints lodged against the Greek state has varied between 480 in 2003, 405 in 2004, 425 in 2005 and 430 in 2006, with 678 pending applications on 1 January 2007. Such figures, when compared to those of other countries parties to the ECHR, indicate a rather satisfactory accommodation of ECHR standards in the domestic legal system.

An overview of case-law over the years reveals that infringements primarily concerned Articles 3 (prohibition of torture), 5 (right to liberty and security), 6 (right to a fair trial), 8 (right to respect for private and family life), 9 (freedom of religion), 10 (freedom of expression), 11 (freedom of assembly and association), 13 (right to an effective remedy), 14 (prohibition of discrimination) ECHR and Article 1 of Protocol 1 to the Convention (protection of property). With the exception of cases dealing strictly with due process, land expropriation, family life and privacy, Strasbourg jurisprudence has brought to the surface some of the main difficulties encountered by domestic authorities in preserving non-dominant values in society. Litigants belonging to various politically disempowered or socially marginalised groups resorted to the ECtHR, alleging breach of their civil and political rights. Whether the state has taken the necessary steps to comply with the Court's rulings is open to discussion.

#### *A. Strasbourg Rights Litigation*

In reviewing Strasbourg case-law pertaining to Greece, a clearly identifiable string of judgments engages the theme of minority protection. Applications lodged by individuals considering themselves to belong to a minority group were frequently judged admissible, and led to judgments declaring infringement of Articles 3, 5, 6, 9, 10, 11, 13 and 14 ECHR. Other Court decisions exposed shortcomings in affording individuals the possibility to express views that challenge state prerogatives and institutions. Such rulings, based on Article 10 ECHR, stemmed from applications submitted by Greek citizens who do not belong to a minority *stricto sensu*, yet share views or engage in actions that place them in a vulnerable societal position. Judgments founded on claims by foreigners have also been issued. Violations were found in relation to Articles 3, 5, 6, 8 ECHR, and Article 1 of Protocol 1 to the Convention.

##### *1. Litigation on Behalf of Minority Groups*

###### *(a) Litigation on behalf of religious minority groups*

Strasbourg case-law based on religion-related claims has mainly derived from petitions by individuals belonging to the JW faith or forming part of the Muslim minority. Few rulings also related to the Catholic Church, Old Calendarists and Protestants. Faced with administrative obstacles and legal restrictions on religious

conduct, litigants criticised domestic regulation of the practice of religion, challenging national legislation regarding the establishment of non-Orthodox churches and places of worship, the prohibition of proselytism, religious representation and (non-) recognition of legal personality. Other complaints alleged discrimination in the field of employment or question state attitudes when exceptional treatment is sought on grounds of religious beliefs. Grievances built on Articles 3, 5, 6, 7, 8, 9, 10, 11, 13, 14 ECHR, and Articles 1 and 2 of Protocol 1 to the Convention, and breaches were declared in relation to Articles 5, 6, 9, 13 and 14 ECHR.

#### (b) Litigation on behalf of ethnic minority groups

Despite various applications that could be viewed from an ethnic diversity perspective, in most instances, allegations were declared inadmissible either as ill-founded or for non-exhaustion of domestic remedies. Complaints were made under Articles 3, 5, 6, 8, 9, 10, 11, 13, 14 ECHR, Articles 1, 2 and 3 of Protocol No. 1, and Article 3 of Protocol No. 4 to the Convention, bringing issues of maltreatment, political representation, access to employment, minority education and language use centre stage. Violations were caught in connection to Articles 3, 6, 11 and 14 ECHR. Applications were mainly lodged by individuals considering themselves to form part of a Turkish or Macedonian minority. From the cases where an ECHR violation was uncovered, only one is connected to Roma, and deals with ill-treatment.

#### *2. Litigation by Greek Citizens Expressing Views that Challenge State Institutions*

There is a limited number of judgments issued against Greece which though not drawing upon claims on behalf of minority groups *stricto sensu* raise important issues regarding political participation in Greek democratic society. *Rizos and Daskas* and *Grigoriades* dealt with the possibilities afforded to individuals to hold opinions that might offend or disturb state prerogatives and institutions. In the former, the publisher and editor of the daily newspaper *Adesmeftos Typos* were found guilty of criminal libel by Greek authorities, following publication of an article that gave details of alleged unlawful conduct by a public prosecutor in the town of Preveza. *Grigoriades*, in turn, concerned conviction of an officer for insulting the Greek army. In both cases, the Court concluded that freedom of expression was infringed.

#### *3. Litigation on Behalf of Foreigners*

The majority of ECtHR judgments implicating foreigners mainly stemmed from applications by non-EU nationals. Discussion concentrated on Articles 3, 5, 6, 8, 9, 10, 13, 14 ECHR, Articles 1 and 2 of Protocol No. 1, and Article 3 of Protocol No. 7 to the Convention. Breaches were found with respect to Articles 3, 5, 6, 8 ECHR, and Article 1 of Protocol No. 1 to the Convention. The issues brought to the attention of the Court primarily concerned unlawfulness of detention for violation of procedural requirements, degrading conditions of detention and deficiencies of the Greek judicial system, namely non-availability of legal aid before the Court of Cassation, excessive length of domestic proceedings and lack of fair hearing with respect to requests for compensation on account of unlawful detention. Applications alleging restrictions on access to employment and enjoyment of property by aliens were also lodged with the Court.

#### *4. Other Actors Involved in Litigation*

Petitioners usually receive legal counselling from lawyers and law professors based in Greece or abroad. Occasionally, legal advice is provided by international law organisations. In appraising the facts of the case, the Court often entertains consideration to reports prepared by organs of international organisations active in the field of human rights protection, such as the European Commission against Racism and Intolerance and the European Committee for the Prevention of Torture and Inhuman Treatment or Punishment of the Council of Europe or the EU Network of Independent Experts on Fundamental Rights.

A more general appeal to advance human rights protection in Greece comes from Human Rights Watch, the International Helsinki Federation, the European Monitoring Centre on Racism and Xenophobia and the European Roma Rights Centre. At the national level, the Marangopoulos Foundation, the Research Centre for Minority Groups, the Greek National Centre for Social Research, the EUMC National Focal Point – Antigone, the Greek Minority Rights Group and the Greek Council for Refugees promote greater understanding of human rights as a paradigm to embed in law and domestic judicial and administrative practice. Various activists and interest groups also advocate increased protection of human rights. To illustrate, there are several organisations fighting for the recognition of ethnic minorities in Greece: the Macedonian Human Rights Movement of Greece, the Macedonian Movement for Balkan Prosperity, the European Free Alliance-Rainbow political party, the Muslim Federation Filotita and the Federation of Western Thrace Turks in Europe.

#### *5. Applicants and Claims: An Appraisal of Strategic Litigation*

Applications lodged with the Court by Greek citizens who do not claim to form part of an officially recognised or self-proclaimed minority do not seem to follow strategic litigation patterns. Legal action primarily sprang from isolated individual petitions based, more or less, on incidental facts. Similarly, the cases reviewed implicating aliens do not seem to form part of a wider strategy designed to pursue specific political goals. All judgments issued so far dealt with core civil and political rights, respect for which is not opposed by governmental or societal quarters. Conversely, the abundance of cases stemming from individuals considering themselves to belong to a religious or ethnic minority group does not reflect the initiative of sole individuals. It rather depicts litigation as an explicit political strategy, the ultimate aim being to strengthen minority rights protection at the national level.

#### *B. Domestic Execution of ECtHR Judgments: Actors and Processes*

In order to maintain the effectiveness of the ECHR machinery, it is essential for states parties to the European Convention to comply with their formal undertaking under Article 46(1) ECHR to abide by the Court's final judgments. In view of the essentially declaratory nature of the Court's decisions, Greece, as all contracting states to the Convention, remains free to choose the means by which it will discharge such obligation. Amongst the actors involved in the process figures prominently the Permanent Representation of Greece in Strasbourg. It is the institution which provides the main guidelines as to the measures legislative, administrative and judicial authorities need to take in order to fulfil the Convention's requirements. Following

their adoption, it is responsible for their presentation to the Committee of Ministers, which is entrusted with monitoring tasks.

Central is also the role played by the State Legal Council which represents the Greek government before the ECtHR. Given its direct implication in ECtHR judicial proceedings, it is in charge of the dissemination of ECtHR judgments. Translated in the Greek language by the Translation Office of the Ministry of Foreign Affairs, ECtHR decisions are distributed to the competent Greek ministries. Information on the measures subsequently adopted is collected by the State Legal Council, which forwards it to the Greek Permanent Representation in Strasbourg.

Supervision of execution by the Committee of Ministers has revealed that Greece makes use of both individual and general measures to remedy the effects of infringement and avert similar human rights violations. Individual measures largely depend on the facts of each case. They can take various forms: compensation awards, grant of administrative permits, re-opening of domestic proceedings, etc. General measures are more complex, and require the adoption of new legislation or modification of judicial and administrative practice. Whilst there are cases where the Greek state took significant steps to execute ECtHR judgments, there are also cases where partial efforts were deployed for implementation. One could also point to instances where despite arrangements for implementation, correcting an infringement proved impossible.

Arguably, here lies the importance of various independent institutions exerting pressure on domestic authorities to grasp the full implications of an ECtHR judgment where a violation is found. The Greek Ombudsman, a constitutionally sanctioned independent authority, whose purpose, since 1998, is to mediate between public administration and private individuals, has been very active in propagating adequate implementation of ECtHR judgments. The same could be fairly said of the National Commission for Human Rights, a statutory national human rights institution, which has a consultative status with the Greek state on human rights aspects from 1998 onwards.

#### *IV. Literature Review*

Much has been said and written recently about the human rights record of Greece. The study of the European Convention on Human Rights has been a privileged domain of Greek legal and social scientists which have produced a considerable body of knowledge regarding the workings of the system. Analysis has presented the main characteristics of the European supervision machinery, focusing on procedures and the level of protection afforded to the rights and freedoms enshrined in the Convention (Roukounas, 1995; Perrakis, 1991). More importantly, however, for the purposes of this study, considerable attention has been given to the concrete instances where Greece was found in violation of the Convention. Relevant case-law has been explored and the corrective measures adopted by domestic authorities examined.

##### *A. Literature Review on ECtHR Case-law and Human Rights*

In reviewing the experience of European supervision over the human rights situation in Greece, several categories of breaches have been commented: those concerning due process, those building on the principle of separation of powers, those relating to foreigners and those regarding the sensitive issue of religious, ethnic/linguistic minorities (Stavros, 1999; Giakoumopoulos, 1997). Condemnations for excessive

length of judicial proceedings, seminal judgments dealing with domestic courts' free will and foreigners' rights protection generally formed the object of limited analysis (Stavros, 1999; Sitaropoulos, 2003). Emphasis was placed, instead, on ECtHR rulings revealing domestic weaknesses regarding the protection of minorities (Ktistaki, 1999; Giakoumopoulos, 1997). Whereas literature and research on ethnic minorities tended to document denial of ethnic identity, manifested through infringements of the civil and political rights enjoyed by individuals asserting a Turkish or Macedonian origin (Karakasidou, 1993; Kourtovik, 1999), numerous studies pertaining to religious minorities dealt with domestic constitutional and legislative provisions relating to religious freedom (Karakwstas, 1997; Mihailidou, 1997; Alivizatos, 2001). The main argument advanced in the literature is that domestic regulation of the practice of religion often works to the detriment of religious communities other than the Orthodox Church.

In broad terms, Greece appears to belong to the category of countries that have left unresolved issues regarding minorities within their borders. With the exception of Jews and Muslims, which are officially recognised as religious minorities, no other religious or ethnic minority is acknowledged by the Greek state. Domestic authorities' refusal to grant minority status to distinct populations present on Greek territory has formed the object of extensive analysis, and has been primarily attributed to the very notion of Greek identity. Greece, it is broadly accepted, represents an essentially unitary state. One of the most homogeneous societies in Europe, seen in terms of its ethnic composition and religious faith (Featherstone, 1996), the country has systematically privileged state unity through the promotion of a strong, pervasive national self-consciousness.

As regards ethnic origin, in particular, more than 95% of Greek citizens consider themselves ethnically Greek (Hellenes). This uniformity is not only the result of historic developments which permitted the concentration of a great number of ethnic Greeks into the territory of the modern state but also the fruit of policies designed to promote alien integration and assimilation (Rozakis, 1997; Tsitselikis, available at [www.kemo.gr](http://www.kemo.gr); Christopoulos and Tsitselikis, available at [www.kemo.gr](http://www.kemo.gr)). Religious adherence to Eastern Orthodoxy is also considered as an essential element of national identity (Pollis, 1987; Pollis 1992), given the historical centrality of the Church to the defence of national culture and language during foreign occupation.

Interestingly, the Greek Constitution accords the Orthodox Church the status of prevailing religion. Although such recognition is not in itself incompatible with the ECHR (Alvaro Gil-Robles, 2002), the *sui generis* relationship between the state and the Church (Commission on Security and Cooperation in Europe, 2000) has led both institutions to transcend the boundaries of their competence, intervening into each other's affairs (Prodromou, 2004). The state mingles in the domains governed by the Church, and the Church accepts interference as this allows it to exert stronger influence on the development of policies touching religious freedom.

### *B. Literature Review on the Implementation of ECtHR Rulings*

The issue of execution of ECtHR rulings has remained a reserved domain of legal scholars. A first point in analysis is that proper execution of ECtHR judgments is a precondition for the effective functioning of the Convention's control system (Xrysogonos, 2001). In view of the exponential increase in the number of individual petitions lodged with the Court since the late 1980's, adequate execution of ECtHR rulings, far from simply bolstering the Court's credibility, has the effect of limiting

the number of applications for identical or similar breaches. It thus safeguards the Court's mission to supervise respect for the Convention's rights and freedoms in an efficient manner.

For some authors, observance of the engagements undertaken under the Convention is not limited to abiding by the final judgment of the Court in which a contracting state is a party (Kaminis, 2003). Ascertaining that the role of the ECtHR does not solely consist in verifying conformity with the Convention but also in laying down common principles and standards, it is argued that parties to the Convention must give due weight to ECtHR case-law, even when judgments do not implicate them directly. This is imperative when one bears in mind that the ECtHR's role in protecting human rights is strictly subsidiary to that of domestic authorities. The interpretations provided by the Court can guide states to correct dysfunctions affecting the protection of the Convention's rights and freedoms when shaping their legal systems.

In examining implementation of ECtHR rulings by Greek authorities, studies have been restricted to the execution of judgments where Greece is a respondent state. In this connection, they have pointed to the limited instruments the Committee of Ministers has at its disposal to supervise execution (Xrysogonos, 2001). Confined to issuing resolutions and/or interim resolutions, the Committee of Ministers is deemed to perform a rather soft control.

Whether Greece has so far discharged its obligation to abide by the Court's decisions has yielded divergent opinions. Whilst there are authors who claim that the compliance record of Greece is in general satisfactory (Kastanas, 2003; Gewrgakopoulos, 2002), literature on the implementation of specific categories of judgments has disclosed shortcomings in the provision of effective remedies (Ktistaki, 2003, Sitaropoulos, 2003). Notably, it is submitted that effective execution of ECtHR case-law depends on the good will of domestic authorities, and largely builds on the factual, social and political circumstances surrounding each case. Inadequate implementation is often attributed to structural inabilities to proceed swiftly with reform, the absence of political cost in case of execution inertia and a willingness to abstain from offending public opinion (Kaminis, 2003).

## *V. Conclusion*

Set up to ensure observance of the engagements undertaken by states parties to the European Convention, the ECtHR is the only international court to which individuals have access for the purpose of human rights enforcement. In verifying compliance with ECHR requirements, it seems that the Court has become a platform of support for less-privileged individuals and communities. The examination of cases implicating Greece discloses that litigants belonging to various religious, ethnic and socially- or politically-disadvantaged groups resort to Strasbourg in search of remedies that domestic authorities prove unable or unwilling to provide.

Whether ECtHR case-law succeeds in prompting policy modification and reform, strengthening political and social participation in Greek democratic society, largely depends on the measures adopted to execute relevant judgments. Various factors can obstruct smooth execution of ECtHR decisions: the scale of reforms required, structural impediments, budgetary constraints, even reluctance to upset values and ideas widely espoused by the public. Politically and socially sensitive cases, as those discussed in this study, are particularly prone to inadequate implementation. Contrasting with entrenched policy habits and long-standing notions

of national identity, their execution demands robust commitment from all domestic institutions, a feeling of shared responsibility and encouragement of participatory models of governance.

## ANNEX II: MAPPING OF RESEARCH COMPETENCES REPORT

### **Research Institution 1: Marangopoulos Foundation for Human Rights (MFHR)**

The MFHR is a non-profit legal entity under Greek law. Its basic aims are the research, study, defence, protection and promotion of fundamental human rights and freedoms. Within this framework, the Foundation takes a special interest in the advancement of human rights education and training and the raising of public awareness in all matters affecting human rights, peace and the development of democratic institutions. In order to accomplish its objectives, MFHR organises courses, lectures, seminars, symposia and conferences, grants scholarships and financial support for specialised studies in human rights, conducts and/or finances research of both a theoretical and practical nature, submits to public authorities and organisations reports on the protection of human rights, offers free legal aid to persons whose fundamental rights have been violated, compiles and disseminates information on human rights instruments. It maintains a specialised library.

Address: Lykavittou 1, 10672 Athens  
Tel/Fax: 0030-210-3637455, 0030-210-3622454  
Website: [www.mfhr.gr](http://www.mfhr.gr)  
Email: [info@mfhr.gr](mailto:info@mfhr.gr)

**Leading experts:** Alice Yotopoulos-Marangopoulos, Professor Emerita and former Rector, Panteion University, Athens, Sotiris Moussouris, former Assistant Secretary-General of the UN, James Farsedakis, Professor and Head of the Sociology Department, Panteion University, Athens, George Stavropoulos, Vice-President, Supreme Administrative Court, Linos Alexandros Sicilianos, Associate Professor, Faculty of Law, University of Athens

### **Research Institution 2: Research Centre for Minority Groups (KEMO)**

KEMO is a non-profit making association. It aims at the multidimensional study of minority groups, minority languages and every form of cultural diversity at a general theoretical level as well as with regard to specific minority groups in Greece and elsewhere in the world. The centre employs a multidisciplinary approach approaching the subject of minorities through the lens of sociology, social anthropology, political sciences, history, linguistics and law. To pursue its objectives, it organises conferences and debates, conducts field research, publishes research monographs and cooperates with other domestic or international organisations active in the same field.

Website: [www.kemo.gr](http://www.kemo.gr)  
Email: [info@kemo.gr](mailto:info@kemo.gr)

**Leading experts:** Konstantinos Tsitselikis (jurist), Dimitris Christopoulos (jurist), Christos Rozakis (jurist), Yannis Ktistakis (jurist) Christos Giakoumopoulos (jurist), Dimitris Dimoulis (jurist), Ioanna Kourtovik (jurist)

### **Research Institution 3: University of Athens, Faculty of Law**

Address: Akadimias 45, 10672 Athens

Tel/Fax: 0030-210-3688641-6, 0030-210-3688640  
Website: [www.law.uoa.gr](http://www.law.uoa.gr)  
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**Leading experts:** Julia Iliopoulos-Strangas, Professor, Department of Public Law, Linos Alexandros Sicilianos, Associate Professor, Department of International Studies, Achilleas Skordas, Assistant Professor, Department of International Studies, Maria Gavouneli, Lecturer, Department of International Studies

**Research Institution 4: Centre of International and European Economic Law (CIEEL)**

CIEEL is registered and operates as a private legal entity. Its objectives are to promote and disseminate knowledge originating from basic and applied research in the areas of International and European Economic Law, as well as to provide consultative support and legal information to the Greek state, public legal entities, professional organisations etc. Its fields of expertise include Human Rights Law. The Centre maintains a library with extensive material on human rights.

Address: P.O. Box 14, 551 02, Thessaloniki  
Tel/Fax: 0030-2310-486900, 0030-2310-476 366  
Website: [www.cieel.gr](http://www.cieel.gr)  
Email: [kdeod@cieel.gr](mailto:kdeod@cieel.gr)

**Leading experts:** Athanassios Kaissis, Professor, Faculty of Law, Aristotle University of Thessaloniki, Paroula Naskou-Perraki, Professor, Department of International and European Studies, University of Macedonia

## ANNEX III: TABLES OF CASES

### A. Religion-related cases

#### 1. Cases where a violation was found

Number	Case	Date	Art 3	Art 5	Art 6	Art 7	Art 9	Art 10	Art 13	Art 14	Art 2 Prot 1	Applicant/Gender (M/F)	Association	Violation
14307/88	Kokkinakis	25/5/1993				X	X	X		X		M. Kokkinakis (M)		Art 9 Y
18748/91	Manoussakis and Others	26/9/1996					X					T. Manoussakis (M) C. Makridakis (M) K. Baxevanis (M) V. Hadjakis (M)		Y
21787/93	Valsamis	18/12/1996	X				X		X		X	Elias Valsamis (M) Maria Valsamis (F) Victoria Valsamis (F)		Art 13 Y taken together with Article 2 of Protocol 1 and Article 9 of the Convention
24095/94	Efstratiou	18/12/1996	X				X		X		X	Petros Efstratiou (M) Anastassia Efstratiou (F) Sophia Efstratiou (F)		Art 13 Y taken together with Article 2 of Protocol 1 and Article 9 of the Convention
19233/91 and 19234/91	Tsirlis and Kouloumpas	29/5/1997	X	X	X		X		X	X		D. Tsirlis (M) T. Kouloumpas (M)		Art 5 Y
21522/93	Georgiadis	29/5/1997			X				X			A. Georgiadis (M)		Art 6 Y
143/1996/762/963	Canea Catholic Church	16/12/1997			X		X			X		Right Reverend F. Papamanolis Roman Catholic Bishop (M)	Canea Catholic Church	Art 6 Y Art 14/Art 6 Y

140/1996/ 759/958- 960	Larissis and Others	24/2/1998				X	X	X		X		D. Larissis (M) S. Mandalarides (M) I. Sarandis (M)		Art 9 Y (for proselytising civilians)
38178/97	Serif	14/12/1999					X	X				I. Serif (M)		Art 9 Y
34369/97	Thlimmenos	6/4/2000			X		X			X		I. Thlimmenos (M)		Art 6 Y Art 14/Art 9 Y
50776/99- 52912/99	Agga (No.2)	17/10/2002					X	X				M. Agga (M)		Art 9 Y
32186/02 33331/02	Agga (No. 3) Agga (No.4)	13/6/2006 13/6/2006												
65501/01	Vergos	24/6/2004			X		X					N. Vergos (M)		Art 6 Y
64756/01	Sadik Amet and Others	3/2/2005			X							I. Sadik Amet (F), F. Sadik Amet (F) and L. Sadik Amet (M)		Y

Number	Case	Nationality	Representative of Applicant	Representative of Government	Facts/Claims
18748/91	Kokkinakis	Greek	P. Vegleris (Lawyer and Emeritus Professor at the University of Athens) P. Bitsaxis (Lawyer)	P. Georgakopoulos (Senior Adviser at the State Legal Council) A. Marinos (Judge of the Supreme Administrative Court)	The applicant, a JW, was prosecuted and convicted for proselytising the wife of the cantor of the local Orthodox Church in Sitia (Crete). He complained about his conviction, claiming that Law 1363/1938, which criminalises proselytism, is incompatible with the Convention. He argued that his conviction struck at the dissemination of his religious and socio-philosophical opinions, and alleged that domestic legislation is not sufficiently clear and precise to conform to Article 7 ECHR.

14307/88	Manoussakis and Others	Greek	A. Garay (Lawyer) P. Vegleris (Honorary Member of the Bar and Emeritus Professor at Athens) P. Bitsaxis (Lawyer)	L. Papidas (President of the State Legal Council) A. Marinos (Vice-President of the Supreme Administrative Court) P. Kamarineas (Senior Adviser at the State Legal Council) Kondolaimos (Adviser at the State Legal Council)	On 28 June 1983, the applicants (JW) lodged an application with the Minister of Education and Religious Affairs for an authorisation to establish a place of worship in Ghazi (Heraklion). On 30 July 1983 the Ghazi Orthodox Parish Church notified the police authorities that the applicants had established a place of worship without receiving an authorisation from the Minister and the ecclesiastical authorities. In criminal proceedings instituted against them, they were convicted to three months' imprisonment. An appeal on points of law was dismissed. The applicants alleged that their conviction infringed their freedom of religion.
21787/93	Valsamis	Greek	P. E. Bitsaxis (Lawyer) N. Alivizatos (Professor of Constitutional Law, University of Athens)	P. Georgakopoulos (Senior Adviser at the State Legal Council) K. Grigoriou (Legal Assistant at the State Legal Council)	The three applicants are JW. Elias and Maria Valsamis are the parents of Victoria, who is a pupil. Asked to take part in the celebration of the National Day on 28 October, when the outbreak of war between Greece and Italy on 28 October 1940 is commemorated with school and military parades, Victoria informed the school's headmaster that her religious beliefs forbade her joining in the event. She was punished with one day's suspension from school. Her parents alleged breach of their right to ensure that education and teaching of their children is in conformity with their own religious and philosophical convictions. Victoria claimed that Article 9 ECHR guaranteed her right to the negative freedom not to manifest any convictions or opinions contrary to her own convictions. She further alleged that suspension was in breach of Article 3 ECHR and that no effective remedy existed to have the penalty set aside.
24095/94	Efstratiou	Greek	P. E. Bitsaxis (Lawyer) N. Alivizatos (Professor of Constitutional Law, University of Athens)	P. Georgakopoulos (Senior Adviser at the State Legal Council) K. Grigoriou (Legal Assistant at the State Legal Council)	Same to Valsamis (The disciplinary measure imposed on the pupil was two days suspension)

19233/91 and 19234/91	Tsirlis and Kouloumpas	Greek	P. Bitsaxis (Lawyer)	P. Georgakopoulos (Senior Adviser at the State Legal Council) K. Grigoriou (Legal Assistant at the State Legal Council)	The applicants were appointed religious ministers by the Central Congregation of the Christian JW of Greece. They both lodged applications with the Recruitment Office to be exempted from military service in accordance with section 6 of Law 1763/1988 which grants such a right to all ministers of 'known religions'. Their application was refused on the ground that JW is not a 'known religion'. Arrested, they were charged with insubordination, and they were detained pending trial. The Military Appeal Court acquitted them but granted no compensation, taking the position that detention was due to the applicants' 'own gross negligence'. The applicants claimed that their detention was unlawful, and amounted to discrimination on account of their religious beliefs. They complained for being subjected to inhuman and degrading treatment, and alleged that they did not have a fair hearing as regards the issue of compensation.
21522/93	Georgiadis	Greek	P. Bitsaxis (Lawyer)	P. Georgakopoulos (Senior Adviser at the State Legal Council) K. Grigoriou (Legal Assistant at the State Legal Council)	The applicant was appointed minister of religion for the prefectures of Karditsa and Larissa by the Central Congregation of the Christian JW of Greece. He asked to be exempted from military service in accordance with domestic legislation which grants such a right to all ministers of 'known religions'. His application was refused. He was detained pending trial for insubordination but was acquitted by the Athens Permanent Army Tribunal and subsequently by the Salonika Permanent Army Tribunal. Ruling <i>proprio motu</i> , military courts did not grant the applicant compensation, affirming that his detention pending trial was 'due to his own gross negligence'. The applicant claimed that he did not have a fair hearing on the matter of compensation. He complained that no effective remedy existed in Greece to challenge the courts' decision.
143/1996/ 762/963	Canea Catholic Church	Greek	P. Vegleris (Lawyer) N. Frangakis (Lawyer) N. Alivizatos (Lawyer and Professor of Law at the University of Athens)	P. Georgakopoulos (Senior Adviser at the State Legal Council) K. Grigoriou (Legal Assistant at the State Legal Council)	In June 1987, two people living next to the Roman Catholic Church of the Virgin Mary demolished one of its surrounding walls. The church, represented by its abbot, applied to the Canea District Court seeking a declaration that it was the owner of the wall in question and that the defendants ought to cease the nuisance and restore the previously existing situation. Its submissions were accepted. The Canea Court of First Instance, sitting as an appellate court, quashed the judgment, as the church was deemed to have no legal personality. An appeal on points of law was rejected for the same reason. The applicant church claimed that domestic courts' refusal to recognise its legal personality breached Articles 6 and 9 ECHR and Article 1 of Protocol 1 to the Convention (taken alone or in conjunction with Article 14 ECHR).

140/1996/ 759/958- 960	Larissis and Others	Greek	J. W. Montgomery (Barrister at Law) and A. Dos Santos (Lawyer)	P. Georgakopoulos (Legal Adviser at the State Legal Council) K. Grigoriou (Legal Assistant at the State Legal Council)	The applicants, officers in the Greek air forces and followers of the Pentecostal Church, allegedly approached various Orthodox airmen serving under them with a view to proselytising them. Two of them attempted to convert civilians as well. They were all convicted by the Permanent Air Force Court of Athens. The applicants appealed, but the Martial Appeal Court upheld the first instance judgment. An appeal on points of law was dismissed. The applicants claimed that domestic legislation against proselytism violates the principle <i>nullum crimen, nulla poena sine lege</i> . They argued that their religious freedom and freedom of expression was infringed. They further complained for being subjected to discriminatory treatment.
38178/97	Serif	Greek	T. Akillioglu (Lawyer) S. Emin (Lawyer)	G. Kanellopoulos (Senior Adviser at the State Legal Council) N. Telalian (Deputy Legal Adviser at the Ministry of Foreign Affairs) V. Kyriazopoulos (Legal Assistant at the State Legal Council)	On 6 April 1990, the President of the Republic appointed M. T. in the post of mufti of Rodopi. In December 1990, two independent Muslim members of the Parliament for Xanthi and Rodopi requested the state to organise elections for the post of mufti of Rodopi, as the law in force provided. Having received no reply, they decided to organise elections at the mosque. On 28 December 1990, the applicant was elected mufti of Rodopi by those attending Friday prayers. On 24 December 1990, the President of the Republic adopted a legislative decree by which the manner of selection of muftis was changed. Law 1920/1991 retroactively validated the 1990 legislative decree. The applicant was prosecuted and found guilty for usurping the functions of a minister of a 'known religion'. He complained that his conviction amounted to a violation of his freedom of religion and freedom of opinion.
34369/97	Thlimmenos	Greek	N. Alivizatos (Lawyer)	P. Georgakopoulos (Legal Adviser at the State Legal Council) K. Georgiadis (Legal Assistant at the State Legal Council)	The applicant (JW) sat a public examination for the appointment of 12 chartered accountants, a liberal profession in Greece. Despite coming second among 60 candidates, the Executive Board of the Greek Institute of Chartered Accountants refused to appoint him on the ground that he had been convicted in the past for insubordination to wear the military uniform. Having unsuccessfully challenged non-appointment, the applicant complained that legislation excluding from the post persons convicted of a serious crime did not distinguish between persons convicted as a result of their religious beliefs and persons convicted on other grounds. He alleged that his conviction for insubordination and the authorities' refusal to appoint him constituted interference with his right to manifest his religious beliefs. He further complained about excessive length of proceedings.
50776/99-	Agga (No.2)	Greek	H. Aga (Lawyer)	K. Georgiadis (Legal	In August 1990, two independent Muslim members of the Parliament for

52912/99			S. Emin (Lawyer) for Agga No. 2	Adviser at the State Legal Council) V. Kyriazopoulos (Legal Assistant at the State Legal Council) for Agga No. 2	Xanthi and Rodopi requested the State to organise elections for the post of mufti of Xanthi. Having received no reply, they organised elections at the mosque. On 17 August 1990, the applicant was elected mufti of Xanthi by those attending Friday prayers. On 24 December 1990, the President of the Republic adopted a legislative decree by which the manner of selection of muftis was changed. In 1991, the Parliament enacted Law 1920, which retroactively validated the 1990 legislative decree. The applicant was convicted for having usurped the functions of a minister of a 'known religion'. He claimed that his conviction amounted to a violation of his religious freedom and freedom of opinion.
32186/02 33331/02	Agga (No. 3) Agga (No.4)		S. Emin (Lawyer) for Agga No. 3 and No. 4	V. Kyriazopoulos (Adviser at the State Legal Council) M. Papida (Legal Assistant at the State Legal Council) for Agga No. 3 and 4	
65501/01	Vergos	Greek	S. Theodoropoulos (Lawyer)	V. Kyriazopoulos (Adviser at the State Legal Council) D. Kalogiros (Legal Assistant at the State Legal Council)	The applicant, a follower of 'Paleoimerologites', applied to the urban planning service of the city of Florina for permission to construct a place of prayer on his property in Petres, open to the public. Having been informed that delimiting the area was necessary, he applied to the mayor for such delimitation to take place. His application was rejected on grounds that he was the only member of 'paleoimerologites' in the area, and that his property was not adequate for construction. Seeking annulment of the mayor's decision, the applicant lodged an application with the Supreme Administrative Court on 19 July 1995. Due to several adjournments, his application was discussed on 5 July 2000, and was rejected. For the Court, the permit requested concerned a building of public use. Such buildings could only be constructed in certain specified areas. Moreover, no real community of Paleoimerologites existed in Petres, justifying modification of the urban plans. The applicant claimed that the local authorities' refusal to amend their urban policy constituted a violation of his religious freedom. He further complained about excessive length of proceedings before the Supreme Administrative Court.
64756/01	Sadik Amet and Others	Greek	S. Emin (Lawyer)	S. Spyropoulos (Adviser at the State Legal Council) M. I. Bakopoulos (Legal Assistant at the State	The three applicants (together with M. Sadik Amet Sadik, husband of the first applicant and father of the second and third applicants) requested the annulment of a decision taken by the Minister of Education and Religious Affairs regarding the appointment of the Muslim mufti in Komotini, arguing that such appointment should have been decided by Muslim citizens registered in local

				Legal Council)	electoral lists. Due to various adjournments, the case, to be discussed on 5 March 1991, was discussed on 10 July 2000. The Supreme Administrative Court declared the procedure abrogated, as M. Sadik Amet Sadik, who had a direct and individual interest in the annulment of the Minister's decision, had died. The applicants complained for excessive length of domestic proceedings.
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## 2. Cases struck out of the list

Number	Case	Date	Art 3	Art 5	Art 6	Art 7	Art 8	Art 9	Art 10	Art 11	Art 13	Art 14	Art 1 Prot 1	Applicant/ Gender (M/F)	Nationality
23238/94	Pentidis and Others	9/6/1997	X		X	X	X	X	X	X	X	X	X	Z. Pentidis (M) D. Katharios (M) A. Stagopoulos (M)	Greek
28802/95	Tsavachidis	21/1/1999		X			X	X		X		X		G. Tsavachidis (M)	Greek

Number	Case	Representative of Applicant	Representative of Government	Facts/Claims/Friendly Settlement
23238/94	Pentidis and Others	P. Bitsaxis (Lawyer)	V. Kondolaimos (Senior Adviser at the State Legal Council) V. Kyriazopoulos (Adviser at the State Legal Council)	The applicants (JW) rented a room in Alexandroupolis for JW meetings. On 8 October 1990, 43 residents of the town requested the public prosecutor's office to take measures with a view to removing JW from the district. Criminal proceedings were instituted against the applicants. They were all acquitted by the Criminal Court at first instance. The public prosecutor's office appealed and the Court of Appeal sentenced each of the accused to 30 days' imprisonment and a pecuniary penalty. An appeal on points on law was dismissed. On 23 April 1997, the Minister of Education and Religious Affairs granted an authorisation to open a JW place of worship in Alexandroupolis. As a result, the Court struck the case out of the list.
28802/95	Tsavachidis	P. Bitsaxis (Lawyer)	M. Apetsos (Senior Adviser at the State Legal Council) V. Kyriazopoulos (Legal Assistant at the State Legal Council)	The applicant (JW) rented in 1981 a hall at Kilkis for JW meetings. In 1993, a lawyer lodged a complaint with the public prosecutor's office alleging that a JW church was operating without permission from local church authorities and the Minister of Education and Religious Affairs. The public prosecutor received an anonymous report according to which permission had not been requested. The Kilkis Criminal Court acquitted the applicant for lack of evidence. On 4 August 1993 a large-circulation daily, Eleftherotypia, revealed the existence of a confidential report, drawn up by the National Intelligence Service, containing allegations

				<p>prejudicial to Greek citizens, not members of the Greek Orthodox Church. A few days later, the newspaper published another confidential report, prepared by the National Intelligence Service, describing JW activities. The applicant, relying on Articles 5, 8, 9, 11 and 14 ECHR, complained that the National Intelligence Service had kept him under surveillance on account of his membership to the JW Church.</p> <p>The Greek Government informed the Court that it wished to conclude a friendly settlement with the applicant, consisting of a payment of GRD 1,500,500 for the costs incurred in proceedings before the European Commission of Human Rights and issuing a statement to the effect that JW are not, and will not in the future, be subject to any surveillance on account of their religious beliefs. The Court took formal note of the agreement and struck the case out of the list.</p>
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### 3. Cases declared inadmissible

Number	Case	Date	Art 3	Art 5	Art 6	Art 7	Art 8	Art 9	Art 10	Art 11	Art 13	Art 14	Art 1 Prot 1	Art 2 Prot 1	Applicant/Gender (M/F)	Nationality
16319/90	H.	8/4/1991						X							H. (M)	Greek
69333/01	Galanis	6/2/2003						X				X			G. Galanis (M)	Greek

Number	Case	Representative of applicant	Representative of Government	Facts/Claims
16319/90	H.	not mentioned	not mentioned	In 1988, the applicant (JW) requested the municipal authorities of the city of Thessaloniki to register himself and his family. Registration was refused on alleged grounds of religious affiliation. Having informed the Prefecture of Thessaloniki, the Minister of Macedonia and Thrace, the Minister of Justice and the Prime Minister of his case, the applicant was informed that registration would take place. He asked for a certificate indicating his religion: 'Christian Jehovah's Witness'. Domestic authorities provided him with a certificate mentioning 'Jehovah's Witness'. H. complained that municipal authorities' practice breached his freedom of religion.
69333/01	Galanis	S. Tsakyrakis (Lawyer)	V. Kyriazopoulos (Senior Adviser at the State Legal Council) M. Papida (Legal	The applicant (JW), a graduate of the Pedagogical Academy of Larissa, applied to the Ministry of National Education on 14 August 1984 for appointment to a Greek public school. Appointment would be made according to a seniority list. His application was rejected on grounds of his religious beliefs. Following enactment of Law 1771/1988, which explicitly provided that persons believing in religions or dogmas other than Greek Orthodoxy were eligible for appointment as teachers, the applicant made a new

			Assistant at the State Legal Council)	application, asking to be registered in the 1984 list. He was registered in the list of 1988. Due to appointment age constraints, the applicant requested to be considered as registered in 1984. His application was rejected. Appeals lodged with the Athens Administrative Court and the Supreme Administrative Court were also rejected. The applicant complained that non-appointment was due to his religious beliefs. He also claimed that had he been a Christian Orthodox, he would have been registered in the list of 1984.
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## B. Ethnic-related cases

### 1. Cases where a violation was found

Number	Case	Date	Art 3	Art 6	Art 9	Art 10	Art 11	Art 13	Art 14	Applicant/Gender (M/F)	Association	Violation
57/1997/841/1047	Sidiropoulos and Others	10/7/19998		X	X	X	X		X	C. Sidiropoulos (M) P. Dimtsis (M) S. Anastassiadis (M) C. Gotsis (M) A. Boules (M) D. Seltsas (M) S. Sovislis (M)		Art 11 Y
40437/98	Tsingour	6/7/2000		X						M. D. Tsingour (M)		Y
37439/97	Agga (No.1)	25/4/2000		X						M. Agga (M)		Y
74989/01	Ouranio Toxo and Others	20/10/2005					X			P. Voskopoulos (M) P. Vassiliadis (M)	Ouranio Toxo (political party)	Y
15250/02	Bekos and Koutropoulos	13/12/2006	X					X	X	L. Bekos (M) E. Koutropoulos (M)		Article 13 Y Article 14 Y

Number	Case	Nationality	Representative of applicant	Representative of Government	Facts/Claims
57/1997/841/1047	Sidiropoulos and Others	Greek	I. Kourtovik (Lawyer) L. Baltziotis (Lawyer)	V. Kondolaimos (Adviser at the State Legal Council) V. Kyriazopoulos (Legal Assistant at the State Legal Council)	The applicants, who claim to be of Macedonian ethnic origin, formed a non-profit-making association called 'Home of Macedonian Civilisation' and lodged an application with domestic judicial authorities for its registration. The Greek judiciary refused to register the association on grounds of territorial integrity, national security and public order. The applicants complained that domestic authorities' refusal interfered with their freedom of association. They alleged

					that Greek courts lacked objectivity and impartiality, and argued that the underlying reason for the prohibition of their association was their origin and their views about forming part of an ethnic minority.
40437/98	Tsingour	Greek	I. A. Kehaya (Lawyer) T. Akillioglou (Lawyer)	M. P. Georgakopoulos (Adviser at the State Legal Council) M. C. Georgiadis (Legal Assistant at the State Legal Council)	The applicant, a Greek national of Turkish ethnic origin, is a pharmacist and resides in Xanthi where he runs a pharmacy. On 3 September 1993 he was authorised to open another pharmacy in Xanthi. On 8 February 1994 he applied to the Pharmacists' Association of Xanthi for membership. He was invited to provide several documents amongst which a certificate testifying knowledge of the Greek language. The applicant did not submit the certificate, arguing that it was not necessary for applications submitted by Greek citizens. On 22 May 1994 the Association informed him that his application would not be examined unless he provided the certificate. On 30 June 1994 the applicant resorted to the Council of State requesting annulment of the association's decision. With a judgment delivered on 12 January 1999, the contested decision was set aside. The applicant complained about excessive length of domestic proceedings.
37439/97	Agga (No.1)	Greek	S. Emin (Lawyer) T. Akillioglou (Lawyer)	V. Kyriazopoulos (Adviser at the State Legal Council)	The applicant was a candidate in the parliamentary elections of 18 June 1989. On 13 June 1989 the public prosecutor of Xanthi instituted criminal proceedings against him for attempting to bribe a voter. A few days later he summoned him to appear before the first instance criminal court on 12 September 1989. Due to various adjournments, the trial took place on 5 March 1991. The applicant received a suspended sentence of four months' imprisonment. An appeal by both the applicant and the public prosecutor was lodged, and a hearing was fixed for 9 January 1995. Following various adjournments, the case was heard on 4 March 1996. The court upheld the applicant's conviction and sentence. An appeal on points of law, lodged on 4 November 1996, was rejected on 18 February 1997. The applicant complained about excessive length of criminal proceedings.
74989/01	Ouranio Toxo and Others	Greek	I. Kourtovik (Lawyer)	M. Apeessos (Senior Adviser at the State Legal Council) V. Kyriazopoulos (Adviser at the State Legal Council) S. Trekli (Legal Assistant at the State Legal Council)	The political party Ouranio Toxo, founded in 1994 to defend the interests of the Macedonian minority living in Thrace, established its headquarters in Florina. A sign, affixed to the balcony of its premises and indicating the party's name in both Greek and Macedonian, triggered a wave of violent protests by the town's inhabitants. On account of the acts of violence directed against them and the inability of local police to take action to ensure public peace, the applicants complained of interference with their freedom of association.

15250/02	Bekos and Koutropoulos	Greek	European Roma Rights Centre Greek Helsinki Monitor	V. Kyriazopoulos (Adviser at the State Legal Council) V. Pelekou (Legal Assistant at the State Legal Council)	The applicants, who are Greek nationals of Roma origin, were arrested for breaking into a kiosk. They complained that during their arrest and subsequent detention they were subjected to acts of police brutality. They further argued that Greek authorities failed to carry out an adequate investigation into the incident. The impugned events were said to be motivated by racial prejudice.
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## 2. Cases struck out of the list

Number	Case	Date	Art 6	Art 14	Applicant/Gender (M/F)	Nationality	Representative of the Applicant	Representative of the Government
33738/96	Raif Oglu	27/6/2000	X	X	A. Raif Oglu (M)	Greek	O. Hacıbram (Lawyer) T. Akillioglu (Lawyer)	A. Komissopoulos (President of the State Legal Council)
<b>Facts/Claims/Friendly Settlement</b>								
<p>The applicant used to work as a teacher in the minority primary school of Xanthi. On 26 February 1987, the Regional Primary Education Board of the Prefecture of Xanthi imposed on him a disciplinary penalty of one's year suspension because in his capacity as a member of the committee of the Union of Muslim Teachers of Western Thrace, he had printed and distributed a document in which the term 'Turkish teachers' and old Turkish names of villages were used. The applicant was suspended from his duties between 4 February 1993 and 3 February 1994. On 2 February 1994 the Minority Schools Office informed him that he could not resume his duties because no posts were available in his school. This decision was quashed by the Administrative Court of Appeal, sitting at first instance.</p> <p>The Minority Schools Office ordered the applicant's school not to accept him, and the applicant was dismissed by the Prefect of Xanthi. The applicant lodged a criminal complaint for breach of duty against the Supervisor of the Minority Schools on 10 October 1996 and an application for judicial review of the Prefect's decision on 10 December 1996. In November 1997, the Administrative Court of Appeal quashed the Prefect's decision on the ground that the reasons for dismissing the applicant were inadequate. The applicant complained that the authorities' failure to comply with the judgment issued in his favour constituted a violation of Article 6 ECHR. He also claimed that he was subjected to discriminatory treatment.</p> <p>On 17 February 1998, the Prefect of Xanthi rehired the applicant and the Government deposited in favour of him the sum of GRD 7,108,572 for salaries and social security contributions due for the period 4 February 1994/22 February 1998. The Court considered the matter resolved and struck the case out of the list.</p>								

### 3. Cases declared admissible

Number	Case	Date	Art 3	Art 6	Art 13	Art 14	Applicant/Gender (M/F)	Nationality	Representative of the Applicant	Representative of the Government
18545/91	Nurioglu	17/5/1995	X	X	X	X	Y. Nurioglu (M)	Greek	T. Akillioglu (Lawyer and Professor)	not mentioned
21782/93	Adnan Raif	26/6/1995		X		X	A. Raif (M)	Greek	not mentioned	not mentioned

Number	Case	Facts/Claims
18545/91	Nurioglu	The applicant obtained a degree of pharmaceutics from a Turkish university and a licence to work as a pharmacist in Greece from the Greek Ministry of Health. He applied to obtain a licence to establish a pharmacy in Xanthi on 20 October 1982, 2 December 1985 and 23 June 1987. On all occasions, the Health Directorate of the Prefecture of Xanthi refused to register his application, claiming that the documents submitted had been lost. The applicant lodged a fourth application on 18 January 1988. Having received no reply, he resorted to the Council of State which requested the applicant's file from the Prefecture. The administration sent the wrong file. The applicant informed the court that he did not intend to pursue his action. He applied to the Prefecture of Rodopi for a licence to establish a pharmacy in Komotini on 25 May 1990. He did not receive a reply and resorted again to the Council of State which asked for the applicant's file. The court had to adjourn the hearing several times because of delays in the submission of evidence. It eventually ordered the Ministry of Health to send the evidence required. On 18 February 1993 the Prefecture of Rodopi sent the file. The Council of State decided in favour of the applicant. Its decision was issued on 1 September 1993. The applicant complained that he had been subjected to degrading treatment in view of his Turkish ethnic origin. He alleged violation of due process, and complained of being deprived of his livelihood. The European Commission of Human Rights declared admissible the claim regarding breach of Article 6 ECHR.
21782/93	Adnan Raif	The applicant, a Greek citizen of Turkish ethnic origin, used to work as a teacher in a minority primary school in Xanthi. On 26 February 1987 the Regional Primary Education Board of the Prefecture of Xanthi imposed on him a disciplinary penalty of one's year suspension because in his capacity as a member of the committee of the Union of Muslim Teachers of Western Thrace, he had printed and distributed a document in which the term 'Turkish teachers' and old Turkish names of villages were used. The applicant challenged this decision before the Council of State on 19 August 1987. His application was declared inadmissible on 5 March 1992 for failure to comply with procedural requirements. The applicant complained of the unfairness of the disciplinary proceedings against him, and the unfairness and length of proceedings before the Council of State. He argued that he had been discriminated against on the basis of language, national origin and association with a national minority. The European Commission of Human Rights declared admissible the complaint regarding excessive length of proceedings.

#### 4. Cases declared inadmissible

Number	Case	Date	Art 3	Art 5	Art 6	Art 8	Art 9	Art 10	Art 11	Art 12	Art 13	Art 14	Art 1 Prot 1	Art 2 Prot 1	Art 3 Prot 1	Art 3 Prot 4	Applicant/ Gender (M/F)
18877/91	Ahmet Sadik	15/11/1996		X	X		X	X	X			X			X		S. A. Sadik (M) (I. Ahmet (F), L. Ahmet (M) and F. Ahmet (F) continued proceedings following S. A. Sadik's death)
34372/97	Zeibek	21/5/1997			X					X		X				X	Housein Zeibek (M) Bedrie Zeibek (F) Oznour Zeibek (M) Fatme Zeibek (F) Aisel Zeibek (F) Ilkai Zeibek (M)
31117/96	Agko	20/10/1997			X		X	X	X					X			M. Agko (M)
29764/96	Imam and Others	20/10/1997			X		X		X			X		X			A. Imam (M) (no information provided on other applicants)
45629/99	Tsarknias	30/3/1999			X		X					X					N. Tsarknias
1) 67754/01 2) 67115/01 3) 63976/00 4) 63821/00	Deli Hatzoglou Kehagia Ouzoun Molla	3/4/2003 3/4/2003 6/2/2003 12/12/2002			X		X				X	X	X				1) M. Deli Hatzoglou (M) 2) S. Kehagia (M) 3) R. Ozoun (M) 4) B. Molla



					of non-ethnic Greeks among Greek nationals in breach of Article 14 ECHR.
31117/96	Agko	Greek	O. Hacıibram (Lawyer)	not mentioned	The applicant used to work as a teacher in one of the minority schools in the Prefecture of Xanthi. On 6 March 1994 the Union of Turkish Teachers of Western Thrace issued a statement to express its disagreement with a ministerial decision concerning the procedure of appointment of Muslim teachers on a temporary basis with private-law contracts. On 21 March 1994 the Executive Committee of the Union called on teachers and pupils to participate in a strike. The applicant did not perform his duties from 28 March 1994 to 2 April 1994. Disciplinary proceedings were instituted against him, leading to dismissal. An appeal before the Council of State was rejected. The applicant complained about the unfairness of the decisions ordering and upholding his dismissal. He alleged breach of Articles 9, 10 and 11 of the Convention for having participated in a peaceful collective mobilisation. He also suggested breach of Article 2 of Protocol 1 to the Convention, arguing that the aim of the protest was to safeguard the right of minority parents to educate their children in conformity with their own religious and philosophical convictions.
29764/96	Imam and Others	Greek	O. Hacıibram (Lawyer) I. A. Kehagia (Lawyer) H. Kasiktsoglou (Lawyer) T. Akillioglu (Lawyer and Professor)	not mentioned	The minority Schools Office of the Prefecture of Rodopi called all Muslim teachers of the minority schools of Rodopi to attend an educational meeting on 1 February 1993, whose aim was to present new books for the teaching of the Turkish language. A similar order was issued on 19 January 1993 by the Minority Schools Office of the Prefecture of Xanthi. On 26 January 1993, the Coordination Committee of the Highest Council of the Muslim Turkish Minority of Western Thrace issued a statement to the effect that the content of these books was in breach of the autonomy of the Muslim Turkish minority, and failed to respect certain international agreements. Eleven minority school teachers participated in a strike and were punished with dismissal. They complained about the unfairness of domestic decisions, and alleged violation of Articles 9, 14 ECHR and Article 2 of Protocol 1 to the Convention.
45629/99	Tsarknias	Greek	I. Kourtovik	not mentioned	The applicant considers himself to be part of the Macedonian ethnic minority. In 1973, he was ordained a priest in the Greek Orthodox Church. During the 1970s and 1980s, he became increasingly involved in the advocacy of cultural rights for Macedonian Greeks. In April 1992, the bishop of the city of Florina came to his church to attend a mass celebrated by him. He was then confronted with 30-40 persons shouting insults at him and calling for the Church to support Macedonian cultural rights. The applicant was accused of disrupting a religious congregation, abusing his position as a priest, and disrupting citizens' peace. Found guilty <i>in absentia</i> , he was sentenced to imprisonment. The applicant appealed but the domestic court confirmed the first instance judgment. An

					appeal on points of law was rejected. The applicant complained that Greek courts lacked impartiality. He argued that he had been subjected to discriminatory treatment on grounds of ethnic origin, and that his conviction infringed his right to manifest his religion in worship and practice.
1) 67754/01 2) 67115/01 3) 63976/00 4) 63821/00 5) 63824/00 6) 63719/00 7) 63949/00	Deli Hatzoglou Kehagia Ouzoun Molla Karabou- yiuklou Imam Toutziar	Greek	not mentioned	not mentioned	The minority Schools Office of Rodopi called all Muslim teachers of the minority schools of Rodopi to attend an educational meeting on 1 February 1993, whose aim was to present new books for the teaching of the Turkish language. A similar order was issued on 19 January 1993 by the Minority Schools Office of the Prefecture of Xanthi. On 26 January 1993, the Coordination Committee of the Highest Council of the Muslim Turkish Minority of Western Thrace issued a statement to the effect that the content of these books was in breach of the autonomy of the Muslim Turkish minority, and failed to respect certain international agreements. On 1 February 1993, eleven teachers of the minority schools of Xanthi signed a statement that they would not attend the educational meeting. They participated in a strike. Disciplinary proceedings were instituted against them leading to dismissal from their duties. They complained about the unfairness and length of domestic proceedings. They argued that dismissal was due to their ethnic origin, and complained for not having received adequate compensation.

### C. Cases regarding views and opinions that challenge state institutions

Number	Case	Date	Art 6	Art 7	Art 10	Applicant/Gender (M/F)	Nationality	Representative of the Applicant	Representative of the Government	Violation
121/1996/740/939	Grigoriades	25/11/1997		X	X	P. Grigoriades (M)	Greek	I. Mylonas (Lawyer)	P. Georgakopoulos (Senior Adviser at the State Legal Council) V. Kyriazopoulos (Legal Assistant at the State Legal Council)	Art 10 Y
65545/01	Rizos and Daskas	27/5/2004	X		X	D. Rizos (M) I. Daskas (M)	Greek	E. S. Vardaka (Lawyer) C. Tsagli (Lawyer)	V. Kyriazopoulos (Adviser at the State Legal Council) M. Papida (Legal Assistant at the State Legal Council)	Art 10 Y

Number	Case	Facts/Claims
121/1996/740/939	Grigoriades	The applicant in the course of his military service claimed to have discovered a number of abuses committed against conscripts. A disciplinary penalty was imposed on him, as a result of which he had to serve additional time in the army. Failing to return to his unit after a twenty-four hours' leave, he was declared a deserter. The applicant sent a letter to his unit's commanding officer criticising the army. The commanding officer instituted criminal proceedings against Grigoriades for insult of the armed forces. The applicant was found guilty. He complained that his conviction constituted a violation of his freedom of opinion. He further argued that the provisions of the Military Criminal Code did not comply with Article 7 ECHR.
65545/01	Rizos and Daskas	Rizos is the publisher and publications manager of the daily newspaper Adesmeftos Typos. Daskas is its editor. The applicants were found guilty of criminal libel following the publication in September 1995 of an article, entitled: 'There are certain public prosecutors in Epirus...', which gave details of alleged unlawful conduct by a public prosecutor in the town of Preveza. The applicants complained that the criminal proceedings against them constituted a violation of their freedom of expression, and breached fair trial requirements.

## D. Cases stemming from applications made by foreigners

### 1. Cases where a violation was found

Number	Case	Date	Art 3	Art 5	Art 6	Art 8	Art 13	Art 1 Prot 1	Applicant/Gen der (M/F)	Nationality	Representative of Applicant	Representative of Government	Violation
18357/91	Hornsby	19/3/1997			X				D. Hornsby (M) A. A Hornsby (F)	British	The applicants did not take part in proceedings.	V. Kondolaimos (Adviser at the State Legal Council) V. Kyriazopoulos (Legal Assistant at the State Legal Council)	Y
42/1997/826/1032	Twalib	9/6/1998			X				M. Twalib (M)	Tanzanian	S. Tsakyrakis (Advocate) E. Kioussopoulou (Lawyer)	G. Kanellopoulos (Adviser at the State Legal Council) C. Georgiadis (Legal Assistant at the State Legal Council)	Y
109/1997/893/1105	Portington	23/9/1998			X				P. Portington (M)	British	K. Starmer (Barrister at Law) A. McCooey (Solicitor) J. McCooey (Solicitor)	A. Apeossos (Adviser at the State Legal Council) V. Pelekou (Legal Assistant at the State Legal Council)	Y
33170/96	Biba	26/9/2000			X				S. Biba (M)	Albanian	I. Yannacou (Lawyer)	V. Pelekou (Adviser at the State Legal Council)	Y

40907/98	Dougoz	6/3/2001	X	X					M. Dougoz (M)	Syrian	I. Kourtovik (Lawyer)	M. Apessos (Senior Adviser at the State Legal Council) K. Grigoriou (Adviser at the State Legal Council)	Y
28524/95	Peers	19/4/2001	X		X	X			D. Peers (M)	British	R. Spartali-Aretaki (Lawyer) A. Aretakis (Lawyer)	M. Apessos (Senior Adviser at the State Legal Council) I. Bakopoulos (Adviser at the State Legal Council)	Y
41727/98	Yagtzilar and Others	6/12/2001			X			X	F. A. Yagtzilar (F) M. A. Yagtzilar (M) Y. Yagtzilar (M) N. Baykal (F) B. Atik (M) F. N. Atik (F) A. Hosman (M) M. Saraçoğlu (F) R. Karaoğlu (M) K. Haciosmanoğlu (M)	Turkish	P. Yatagantzidis (Lawyer) E. Metaxaki (Lawyer)	P. Georgakopoulos (Senior Adviser at the State Legal Council) V. Kyriazopoulos (Adviser at the State Legal Council) I. Bakopoulos (Legal Assistant at the State Legal Council)	Y
53478/99	Sajtos	21/3/2002			X				A. Sajtos (F)	Hungarian	M. Csaba (Lawyer)	V. Kyriazopoulos (Adviser at the State Legal Council)	Y

											M. Papida (Legal Assistant at the State Legal Council)		
73717/01	Alija	7/4/2005			X				A. Alija (M)	Albanian	Y. Yannacou (Lawyer)	M. Apeessos (Adviser at the State Legal Council) V. Pelekou (Legal Assistant at the State Legal Council)	Y
11919/03	Mohd	27/4/2006		X					R.A. Mohd (M)	Begladeshi	V. Papadopoulos (Lawyer)	S. Spyropoulos (Adviser at the State Legal Council)	Y
25771/03	Alsayed Allaham	18/1/2007	X				X		M. G. Alsayed Allaham (M)	Syrian	E. Papadakis (Lawyer)	V. Kyriazopoulos (Adviser at the State Legal Council) S. Trekli (Legal Assistant at the State Legal Council)	Art 3 Y

Number	Case	Facts/Claims
18357/91	Hornsby	The applicants applied to the Ministry of Education and the Dodecanese Secondary Education Authority (DSEA) for authorisation to establish in Rhodes a private school for the teaching of English. Their applications were refused on the ground that only Greek nationals could be granted such an authorisation. In proceedings brought before the Supreme Administrative Court, the Court set aside the decisions of the DSEA, taking due note of a judgment issued by the European Court of Justice according to which Greece had violated the Community's free movement principles. The applicants complained about domestic authorities' refusal to comply with the decision of the administrative court.
42/1997/ 826/1032	Twalib	Criminal proceedings were instituted against the applicant for forgery and various drug-related offences. Before the three-judge Chamber of the Athens Court of Appeal (sitting at first instance) the applicant was represented by a lawyer of one of his co-accused given the absence of his lawyer. A short interval was ordered for the lawyer to study the applicant's case. Found guilty, the applicant appealed. Before the five-judge Chamber of the

		Athens Court of Appeal, he was represented by a lawyer provided by a humanitarian organisation. Following confirmation of his conviction, the applicant lodged an appeal on points of law and addressed a petition to the public prosecutor for legal aid. On the grounds that there is no legal obligation to appoint legal-aid counsel for accused persons at proceedings before the Court of Cassation, the applicant's application was rejected. His appeal was declared inadmissible. The applicant claimed that his lawyer at first instance proceedings did not have adequate time to prepare his defence. He further complained about the impossibility to obtain free legal assistance for his appeal on points of law.
109/1997/ 893/1105	Portington	The applicant was arrested while crossing the Greek frontier. He was charged and convicted for murder, robbery and carrying and use of drugs. On 18 February 1988, he appealed against the verdict. Because of various adjournments, his appeal was finally heard on 12 February 1996, and his conviction was upheld. Before the ECtHR, he complained that criminal appeal proceedings were not concluded within a reasonable time.
33170/96	Biba	The applicant, illegally resident in Greece, was arrested and sentenced to life imprisonment for murder. In first instance judicial proceedings he was represented by a legal-aid counsel. In second instance proceedings, where his conviction was confirmed, he was represented by a lawyer, hired and paid by a British national, Ms McIntyre, an Anglican theologian, who met the applicant in prison and supported him financially. The applicant did not appeal on points of law, because neither him, nor Ms McIntyre could afford relevant costs. The applicant complained about the impossibility to obtain free legal assistance for appeals on point of law.
40907/98	Dougoz	The applicant was accused of national security offences and sentenced to death <i>in absentia</i> in Syria. He fled to Greece, where he was arrested and sentenced to imprisonment for drug-related offences. He was granted refugee status by the UNHCR. While serving his prison sentence, he asked for his release on licence, claiming that he could return to Syria where he was granted a reprieve. The Indictments Division of the Piraeus Criminal Court of First Instance decided that the applicant should be released on licence and expelled from Greece. Following an opinion given by the deputy public prosecutor at the Court of Cassation, according to which Decision 4803/13/7A of 18-26 June 1992 relating to aliens' expulsion by administrative order should apply by analogy in cases of expulsion ordered by court, the applicant was placed in police detention, pending his expulsion. In 1998, he applied for his expulsion to be lifted. Following the refusal of the Indictments Division of the Piraeus Criminal Court, the same request was made before the Ministers of Justice and Public Order with no positive follow-up. On 3 December 1998, the applicant was expelled to Syria. He questioned the lawfulness of his detention and complained about the conditions of his detention.
28524/95	Peers	The applicant, a drug user, was arrested for drug offences and was detained. He complained about the conditions of his detention at the prison of Koridallos. He also argued that, despite being a remand prisoner, he was subjected to the same regime as convicts. He claimed that prison authorities' failure to provide for a special regime in his case amounted to a violation of the presumption of innocence. He also complained that letters sent to him by the Secretariat of the European Commission of Human Rights were opened by prison administration.
41727/98	Yagtzilar and Others	In 1925, the Greek State occupied an area of 3,877,000 sm in Chalkidiki and assigned it to the Refugees' Relief Committee. No compensation was paid to the owners of the area, of whom the applicants are the heirs. The land was expropriated in 1933. The same year proceedings for compensation were instituted. In 1995, the Salonica Court of Appeal ruled that the claim of compensation was statute-barred, as the right to compensation had lapsed. An appeal lodged with the Court of Cassation on points of law was dismissed as ill-founded. The applicants alleged that they had not been given a fair hearing. They also complained about excessive length of proceedings, and argued that the absence of any compensation amounted to infringement of their right to peaceful enjoyment of their possessions.
53478/99	Sajtos	Criminal proceedings were instituted against the applicant for fraud. The investigating judge issued an arrest warrant and proposed to commit the applicant to trial. The applicant was subsequently arrested and detained. In first instance proceedings, she was found guilty. In appeal, the Indictments Chamber of the Appeal Court of Piraeus discontinued proceedings and ordered the applicant's release. It held that no compensation

		should be granted for her detention pending trial. Taking note of the fact that the applicant had refused to appear before the investigating judge to rebut charges and produce various documents, later submitted before the Indictments Chamber, the court ruled that detention was due to her 'own gross negligence'. The applicant alleged that she did not have a fair hearing on the matter of compensation for her unlawful detention. She also claimed that she had no opportunity to submit her arguments, as the Indictments Chamber ruled <i>proprio motu</i> on the issue of compensation.
73717/01	Alija	The applicant, an economic refugee, was prosecuted for armed robbery and spent 13 months in pre-trial detention before being acquitted on 11 February 1998. He brought an unsuccessful claim seeking compensation for the time spent in prison. The Thessalonica Court of Appeal dismissed his claim on the ground that serious evidence existed against him. The applicant asked the public prosecutor at the Court of Cassation to lodge an appeal against the judgment but the public prosecutor considered that 'there were no grounds for lodging an appeal on points of law'. The applicant complained about lack of motivation of relevant decisions.
11919/03	Mohd	The applicant, resident in Athens, was arrested for selling counterfeited CDs and was sentenced to four months' imprisonment. He appealed. Despite the suspending effect of his application, he was not released but detained by the police, pending expulsion. The expulsion order was issued on 11 December 2000. In 2001, the Athens Court of Appeal acquitted the applicant. The expulsion order was set aside by the Supreme Administrative Court in 2003. The applicant complained about unlawfulness of his detention.
25771/03	Alsayed Allaham	The applicant is legally settled in Greece. On 8 September 1998 he accompanied a friend to the police station of Ano Patissia in order to report a robbery. Having waited for a long time, he started complaining. He was then brutally beaten and locked in an empty office by a police officer for three hours. The applicant reported the incident to the Minister of Public Order. A disciplinary penalty of approximately 293 euro was imposed on the police officer. The applicant also filed a criminal complaint against the officer and joined proceedings as a civil party claiming a specific amount by way of damages. The officer was found guilty but was acquitted in appeal. The applicant, who did not have the right to appeal in cassation, asked the public prosecutor to bring the case before the Court of Cassation. His request was dismissed. A civil action against the police officer for damages was also rejected. The applicant alleged that he had been subjected to acts of police brutality. He further complained about the police officer's acquittal. He asserted that the fact that a foreigner was accusing a police officer was a decisive factor in the attitude of the Court of Appeal, which, in reaching its decision, ignored all medical reports.

## 2. Cases declared admissible

Number	Case	Date	Art 6	Applicant/Gender (M/F)	Nationality	Representative of the Applicant	Representative of the Government
24453/94	Tarighi Wageh Dashti	9/12/1994	X	A. Tarighi Wageh Dashti (M)	Iranian	S. Katsios (Lawyer)	not mentioned
32397/96	Sinnesael	3/12/1997	X	A. Sinnesael (M)	Belgian	P. Verbist (Lawyer)	not mentioned

Number	Case	Facts/Claims
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24453/94	Tarighi Wageh Dashti	The applicant was arrested together with L.A. in H.'s flat in Athens where drugs, foreign currency and a number of forged passports were discovered. On 12 November 1989 the public prosecutor instituted criminal proceedings against the applicant and his co-accused. They were both placed in detention on remand. The trial took place on 8 March 1991. The applicant was found guilty of possession of drugs and was sentenced to 10 years' imprisonment. He appealed. In a decision issued on 13 June 1994, the Court of Appeal confirmed the first instance judgment and ordered the applicant's expulsion and permanent exclusion from Greece. The applicant complained about the length of criminal proceedings against him.
32397/96	Sinnesael	The applicant was arrested together with J.C.D. and R.R.V for drug-related offences and was placed in detention on remand on 30 May 1993. On 31 October 1994 the Court found the applicant guilty and sentenced him to 20 years' imprisonment. He appealed. On 25 January 1996, the applicant was declared innocent. No compensation was granted. The applicant claimed that he did not have a fair hearing on the matter of compensation, and complained that no effective remedy existed to challenge the court's decision.

### 3. Cases declared inadmissible

Number	Case	Date	Art 3	Art 5	Art 6	Art 8	Art 9	Art 10	Art 1 Prot 1	Art 2 Prot 1	Art 3 Prot 7	Applicant/Gender (M/F)	Nationality
16595/90	Mangov	18/2/1993	X		X	X	X	X	X	X		K. Mangov (M)	Macedonian
16983/90	Guleç	10/10/1994	X		X							M. Guleç (M)	Turkish and Dutch
23516/94	Kosar	22/2/1995		X	X							H. Kosar (M)	Turkish
21300/93	Mehiar	10/4/1996	X		X							A. Mehiar (M)	Lebanese
53649/00	Eziobou and Ebigwei	13/1/2000	X	X								J.A. Eziobou (M) M.F. Ebigwei (M)	Nigerian
45138/98	Georgiou	13/1/2000	X	X	X	X		X		X	X	M. Georgiou (M)	Cypriot
42154/98	Demir	6/7/1999		X	X							T. Demir (M)	Turkish
50315/99	R.G.	22/5/2001		X								R.G (M)	Sri Lanka

Number	Case	Representative of Applicant	Representative of Government	Facts/Claims
16595/90	Mangov	not mentioned	not mentioned	In 1982 the Ministers of the Interior and Public Order issued a joint decree concerning return to Greece and acquisition of Greek nationality by political refugees who fled the country during the civil war. Legislation enacted by the Parliament provided for the restitution of real property to political refugees wishing to resettle in Greece. In April 1985, the Greek government allowed persons coming from the former Yugoslavia to enter Greece without border formalities. The applicant, a judge, born in Greece and residing

				in Skopje, came to Greece, met his brother (a Greek citizen living in Vevi) and consulted the land registry of his native place. Upon his return to Skopje, he instructed his brother to institute inheritance proceedings on his behalf. No lawyer accepted the case. In December 1989, the applicant requested the Greek Consulate General in Skopje to provide him with an entry visa for Greece. He was asked to fill in an application form, written in Greek. According to the applicant, the form contained questions formulated to single out those claiming to belong to a Macedonian community. He did not apply for a visa. He complained that Greece pursues a discriminatory policy as regards persons asserting a 'Macedonian national belonging'. He further argued that he is not allowed to enter Greece, visit his native place, institute proceedings for the recovery of his land, and express his ethnic origin.
16983/90	Guleç	M. D. Van Aller (Lawyer)	not mentioned	On 3 January 1988 the applicant was arrested at the customs station of Nea Gefira Evrou on the Greek-Turkish frontier for carrying drugs. He was found guilty for drug-related offences, and sentenced to 20 years' imprisonment and a fine. An appeal against his conviction was rejected. In first and second instance proceedings the applicant was represented by a lawyer whom he engaged and paid for himself. An appeal on points of law was submitted by his lawyer but a counsel entitled to appear before the Court of Cassation was needed to formulate 'additional grounds'. Not having the necessary financial means for appointment, the applicant lodged an application with the prison authorities for legal aid. His application was not accepted. His appeal was rejected for absence of legal representation. The applicant complained about the unfairness of criminal proceedings against him (inadequate interpretation and legal services, brevity of court hearings, non-notification of reports by customs officers and incapacity to hire a lawyer entitled to plead before the Court of Cassation). He also relied on Article 3 ECHR complaining about the conditions of his detention.
23516/94	Kosar	Kourtovik (Lawyer)	not mentioned	The applicant, a political refugee, was arrested by the police while visiting a friend's house. He was charged with forgery and terrorist acts. The investigating judge ordered his detention on remand. The applicant applied for provisional release with no successful follow-up. He was acquitted by the Criminal Court of Athens. He was awarded no compensation for the time spent in prison. He argued that his detention on remand was unlawful, and complained that all legal documents concerning his arrest, detention on remand and committal for trial were notified to him in Greek, a language which he could not understand. He also complained about the duration of his detention and the lack of compensation grant.
21300/93	Mehiar	K. Terpos (Lawyer)	not mentioned	The applicant was arrested in Piraeus for importation, transportation and possession of drugs. He was placed in detention on remand in the prison of Koridallos on 17 December 1990. He tried to escape together with 30 other prisoners but was arrested and detained in a 'special cell' for five days by way of disciplinary punishment. Released from isolation, he asked for specific medical treatment. On 30 September 1991, the applicant was tried for attempting to escape prison. He was not represented by a counsel and was convicted to 2 years and 10 months' imprisonment. On 17 October 1991, he was convicted for drug-related offences and sentenced to life imprisonment. He was then transferred to the

				prison of Patras where he asked to be examined by a doctor. 7 months later he was transferred to the prison of Larissa. In October 1993, he was admitted to the hospital. His conviction for importation, transportation and possession of drugs was upheld in appeal. His sentence was reduced to 18 years' imprisonment. An appeal in cassation was rejected. The applicant complained of repeated ill-treatment in prison, non provision of medical assistance, lack of legal representation during the criminal proceedings against him for attempting to escape prison and wrongfulness of conviction for drug-trafficking.
53649/00	Eziobou and Ebigwei	I. Ktistakis (Lawyer)	not mentioned	The applicants were arrested in Thebes for detention of drugs and sale of forged CDs. They were tried by the First Instance Court of Thebes and sentenced to imprisonment. The Court ordered their immediate expulsion. The applicants were detained in the police station in Thebes and then transferred to the police headquarters in Athens pending deportation. They argued that their imminent repatriation would expose them to persecution, and complained about the conditions and length of their detention. They also argued that their lawyer had not been able to gain access to their file, kept by the First Instance Court, due to Christmas holidays.
45138/98	Georgiou	A. Demitriadis (Lawyer) E. Georgiou -Taliotou (Lawyer) V. Loizides (Lawyer)	not mentioned	In the night of 17-18 February 1996, the applicant, a law faculty student, celebrated carnival with some friends in a club. He had had a number of drinks and was intoxicated. At a flat, a few meters away from the club, a robbery and attempted murder of an old lady took place. The applicant was arrested by the police at 5.30 am at the home of the victim in a state of unconsciousness. He was detained pre-trial at the police station, the Transfer Center of Piraeus and the prisons of Ioannina and Korydallos. On 17 March 1997, the Assize Court of Athens found him guilty of intentional homicide and sentenced him to 15 years' imprisonment. The applicant appealed before the Assize Court of Appeal which quashed the judgment for lack of evidence. No compensation was granted. The applicant alleged violation of Article 5(1) ECHR for his unlawful pre-trial and post-trial detention. He pleaded breach of Article 5(5) ECHR and Article 3 of Protocol 7 to the Convention for receiving no compensation. He argued that the trial before the Assize Court was unfair and partial, and that his presumed right of innocence was violated. He noted that he was a victim of discrimination. Based on the conditions of his arrest, detention, and treatment received, he claimed breach of Article 3 ECHR. He also complained, under Article 8 ECHR, for not being able to attend his grandfather's funeral and visit his ill mother. Failure to take the final exam for his law diploma and receive and impart information relating to his studies were further said to constitute a violation of the right to education and freedom of expression.
42154/98	Demir	B. Habegger (Lawyer)	not mentioned	The applicant arrived in Greece in 1985 where he remained in a camp of refugees until 1987. He was then transferred, with the aid of the UNHCR, to Switzerland, and was granted asylum. In 1997, he was arrested in Greece for larceny committed in 1993. He was detained on remand and acquitted by the Court of Appeal. The applicant argued that he was arrested despite lack of evidence against him. He alleged unfair proceedings and complained about rejection of his request to be compensated for unlawful arrest and detention.

50315/99	R.G.	A. Sykiotou-Androulaki (Lawyer working for the Greek Council of Refugees)	not mentioned	The applicant, a member of the Liberation Tigers of Tamil Eelam, was arrested in Greece on 12 December 1998 when trying to escape to Italy holding a false passport. On the same day his expulsion from Greece and his detention pending expulsion were ordered by administrative decision. Several applications lodged with the Minister of Public Order for asylum were rejected. Appeals before the competent administrative authority and the Council of State were also rejected. On 23 August 1999, the Council of State ordered temporary stay of expulsion. The applicant was released a few days later. He complained for being illegally detained without prior conviction by a competent court. He further complained for lack of remedies to challenge the lawfulness of his detention, and for obtaining no compensation.
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