



Special report

The phenomenon of racist violence in Greece and how it is combated

Ombudsman: Calliope Spanou

Deputy Ombudsman: Vassilis Karydis, George Moschos

Senior Investigators: John Boutselis, Chryssa Hatzi, Calliope Lykovardi, Olga Lysandropoulou, Dimitra Mytilineou, Stamatia Papadimitriou, Maria Voutsinou

Editing: Vassilis Karydis, John Boutselis, Chryssa Hatzi, Dimitra Mytilineou

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Summary

The present report includes the findings of the Ombudsman after the Independent Authority's thorough probe into complaints submitted to the Greek Ombudsman during a 16-month period (January 1, 2012 to April 30, 2013), a probe which was combined with a study on the phenomenon's characteristics as those ensue from the grouping of racist violence incidents recorded during that same time period by the Hellenic Police, the Press, and Non-Governmental Organizations (NGOs). The present report also takes into account the pertinent reports by international organizations and the proposals made by political bodies in response to a relevant invitation by the Greek Ombudsman. The report also evaluates the Police administration's approach in combating racism and xenophobia. In a special chapter, the report records the manifestation of the phenomenon in schools and the manner in which the school administration has responded to it.

The findings and the conclusions, together with the recommendations and proposals of the independent authority included in the present report aspire at providing the State with institutional safeguards so that it may effectively combat the deplorable phenomena of racist violence, phenomena which, regrettably, have been escalating both in number as well as in the intensity of the violence exercised, thus breaching social cohesion and peace and undermining the principle of equal human value and the foundations of the rule of law itself. More specifically:

1. Recording racist violence incidents

The 281 complaints listed in 16 months and cross-checked with the mass media, the NGOs, and the Greek Ombudsman's office, indicate that violence in the streets targeting those who are "different" on the basis of national or ethnic origin,

race, color, sexual orientation, and/or religion is a phenomenon that is palpable and ever intensifying.

The incidents recorded in the present report are but the tip of the iceberg. Due to a variety of reasons, the majority of racist attacks are never reported; are reported but not recorded; or are recorded but not as racist attacks. The inaction and reluctance exhibited by police officers, the officers' refusal to arrest perpetrators or record incidents and, the victims' very own fear that they may be arrested or stigmatized, together with their conviction that they will not be vindicated, resemble communicating vessels. In any case, it is the classic case of invisible crime rate, largely induced by the stand and conduct exhibited by police officers and other state officials. It is characteristic that in areas where, by evidence and by the present report's data, the phenomenon is particularly heightened –e.g., in a large part of downtown Athens- police stations record, at best, an exceptionally small number of incidents classified as perpetrated due to racist motives. The most striking example is that of the Omonia Square police station reporting that they have no evidence as to the existence of racist violence in their area!

The Greek Ombudsman assesses that, from May 2012 on, the dramatic increase in the number of complaints for racist attacks and the escalating intensity of the violence used also reflects, among other things, the sociopolitical developments which allowed for the Golden Dawn Party to be represented in Parliament. The party is well-known for its nationalistic/racist, xenophobic and bigoted political rhetoric, unprecedented in severity and aggressiveness. Another area of concern are the race-motivated violent incidents perpetrated by older or newly established organized groups whose method of operation in specific areas is reminiscent of informal racist militia. Of grave concern are also testimonies corroborating the passive stand taken by members of the police force when faced with such incidents and their discernible reluctance to intervene timely or to conduct an effective investigation to find the perpetrators after the incident. Of greater even concern are allegations that police officers proceed to race-motivated and abusive use of violence. The Independent Authority assesses that it is imperative an in-depth investigation into the issue to be carried out so that any manifestation of racial prejudice or violence perpetrated by officials or through institutions of the Hellenic Republic may be combated drastically and immediately. What is more, the attempts at substituting state authority should be averted, especially when those assume the character of a systematic agenda.

The Greek Ombudsman does not adopt the rhetoric which presumes that the presence of immigrants is linked with the alleged overall surge in the rate of serious crime. On the contrary, the Greek Ombudsman considers that public discourse of that kind fosters, and subsequently exploits, the observed “social panic” at the expense of members of vulnerable ethnic groups. Above all, it defames the country and the Greek citizens. According to the official data regarding crime, since 2012, the rate of serious crime has shown a decrease and the majority of perpetrators are not foreigners. With a view to combating xenophobia and reducing the fear of crime, the Greek Ombudsman considers that the contribution of local authorities is indispensable and crucial.

Another main finding is the noteworthy discrepancy between the formal and informal recording of incidents: Police records fewer than 1/3 of the incidents (84 possibly race-motivated incidents in 2012) that the Greek Ombudsman has recorded and cross-checked as having taken place (253 incidents entailing obvious race-motivated attacks in the same year as per the complaints and testimonies).

The Greek Ombudsman signals that acknowledging the racist phenomenon is the first and indispensable step towards effectively combating it. It assesses that the prerequisite in safeguarding the right to safety of all individuals residing in our country, be they nationals or foreigners, is for the Police to record immediately, even on its own initiative (ex officio) the relevant incidents and investigate effectively the complaints regarding the exercise of racist violence. **The Greek Ombudsman recommends** that: a systematic, comprehensive system of recording incidents of racist violence be established, covering the whole country; instructions be issued by Police headquarters as to the probability of a racist motive underlying ordinary crimes; personnel in all Police stations be trained in order to combat any stereotypical prejudices so that no cases of indifference upon reception of complaints or inaction during attacks take place; the Police cooperate with the Greek Ombudsman, the immigrant communities, and the NGOs active in issues of combating racism so that victims may be encouraged to approach the official authorities.

The Greek Ombudsman also recommends to every public agency such as the Police or private such as collectivities and networks to publicize all of the data recording racist attacks and, at the same time, for obvious reasons, conceal names or other data regarding identity. Thus, transparency is safeguarded, further racist phenomena are averted, and more victims are encouraged to break their silence.

2. The approach adopted by the Police administration

a. The disciplinary investigation into incidents during which racist behavior has been exhibited by police officers as reported by citizens, either directly or through the Greek Ombudsman

The examination of the actual response of the Police to complaints the Greek Ombudsman received in 2012 with regard to unbefitting conduct of police officers possibly driven by racist (mostly ethnic/racial) motive, corroborates the picture of the delay in carrying out internal investigations, something which creates a sense of impunity. The superficial examination of incidents eventually reported to the Police, together with the cessation of the investigation as early as its preliminary stage, constitute a blow to the trustworthiness of disciplinary proceedings, to such a degree that, indeed, any investigation ends up being considered something of a pretext by the victims as well as by a great deal of citizens and organizations.

Thus, the reluctance of victims to report racist behavior leveled against them is perpetuated since data confirm the victims' conviction that they will not be vindicated.

The Greek Ombudsman notes that the lack of trust the victims exhibit in the rule of law is directly related to the ineffectiveness of the mechanism protecting human rights **and recommends that:** the Police activate and process expeditiously and fully the disciplinary investigation of complaints lodged against police officers; the preliminary administrative investigation acquire its true character, that of collecting evidence; the investigation not remain pending for an excessively long period of time; the examination of all witnesses, the necessary impartiality, and providing full justification be the unswerving rule governing Police internal

procedures; the disciplinary investigation of complaints regarding alleged involvement of police officers in racist conduct and attacks be carried out without delay by the Internal Affairs Division so as not to give the impression of tolerance or cover up; the issue not only of the effective operation but also of the independence of the Offices for Addressing Incidents of Arbitrariness, units which are foreseen by Law 3938/2011 but are not in operation, be resolved. The same holds true for the Committee for the evaluation of relevant complaints which is foreseen by the same law and is crucial in re-examining cases once the relevant decisions by the European Court of Human Rights have been issued.

However, apart from the reports processed by the Greek Ombudsman, the outcome of the disciplinary investigation of complaints in general, according to Police data for 2012, concerning police officers alleged to exhibit racist conduct, is rather disappointing. In other words, the investigation of a total of 22 cases in 2012 was completed for only six of them, resulting to one case receiving a fine and the remaining five being shelved. Those are procedures which, so far, do not indicate that there is real will to combat essentially and effectively the phenomenon and attribute the relevant liability. It is imperative that this de facto picture of impunity that has been created be reverted drastically and rebutted convincingly so that the Police's reliability may be restored and citizens' trust in the Police's impartial judgment and fair treatment be reinforced.

b. The Police units for combating racist violence

The Greek Ombudsman notes that the establishment of specialized Police units is a positive development. The anti-racist Police units commenced operation in January 2013 with a view to the in-depth investigation of racist attacks. These units can also open an investigation ex officio, receive even informal (anonymous) complaints, and have the duty to immediately inform the Public Prosecutor upon starting a preliminary inquiry for racist criminal offences.

Nevertheless, the Greek Ombudsman notes that protecting a racist violence victims' stay in the country, protecting the victim from being arrested and from being deported is crucial. The relevant provision for victims of crime was not applied in practice until the outbreak of the events regarding the armed attack on foreign workers labouring at the Nea Manolada strawberry fields. Equally crucial are all matters of process that safeguard the right of the complainant (an of the witnesses) to be truly heard since his/her constitutional right to report to the authorities is a basic institutional guarantee of every fundamental right, second only to the protection by the courts (see legislative framework below). **Additionally, the Greek Ombudsman recommends that** the Police units for combating racist violence, apart from acquiring the appropriate staff, should have their mission broadened so that it may encompass other discrimination criteria as well, such as disability, sexual orientation, and gender identity. What is more, the Greek Ombudsman also recommends that mandatory interpretation be established and provided, together with a special investigation procedure such as individualized assessment of each complaint through personal evaluation which will ensure that the victims of racial discrimination enjoy the special care and handling that prevents them from being stigmatized further by their contact

with police officers, as foreseen by the Directive 2012/29/EU governing the protection of victims of crime.

c. The constitutional boundaries of Police operation “Xenios Zeus”

Police operation “Xenios Zeus” is problematic in view of two fundamental constitutional principles, the principle of proportionality and the prohibition of ethnic-racial discrimination. According to official police data, the operation presents a systematic striking disproportion (20:1) between the number of people transferred to police station to have their personal data verified and those who were ultimately arrested for violating the provisions for legal entry and residence in the country.

The Greek Ombudsman has repeatedly highlighted the **abusive character of transfers for verification of identity**, when there is no individualized suspicion that an offence has been committed. During the “Xenios Zeus” operation even foreigners who are holders of an uncontested title of residence in the country are reported to have been transferred for verification purposes. If there is no suspicion of offence on the basis of conduct while a document proving identity exists, those mass transfers constitute a disproportionate restriction of personal liberty which does not agree either with the Constitution or with the legislative framework which governs the action carried out by police officers. Objectively speaking, the State, by means of the mass transfers of immigrants, transfers which the state calls systematic “sweeping” operations, encourages ethnic and racial discrimination when there is no reason to suspect individual offence. The State, by establishing special units to combat racist violence and, at the same time, creating stereotypical targets out of the “others”, those whose ethnicity or race is “different”, is sending contradictory messages.

Consequently, the Greek Ombudsman recommends: reviewing Police operation “Xenios Zeus” overall from the point of view of proportionality; stopping abusive transfers of immigrants who are holders of a strong title of residence when there is no individual suspicion of offence on the basis of specific conduct; including in the inspection level police officers from the Aliens Directorates; putting to good use modern electronic technology so that inspection patrols may be in a position to carry out on the spot an immediate electronic cross-check of any dubious data; and provide anti-racist training to all police officers so that no racial profiling of suspects is effected, according to the relevant recommendations issued by the Council of Europe.

3. The legislative framework

Despite the positive developments in recent years, a significant gap between the provisions of the Constitutional and legislative framework and their application still exists.

Amending the legislative framework is an obligation assumed by the country so it may be in compliance with the provisions of Framework Decision 2008/913/JHA of the European Council on effectively combating certain forms and expressions of

racism and xenophobia by means of criminal law as well as combating crimes committed under such motives.

The Greek Ombudsman notes that among the proposals of those political parties requesting legislative changes is the request to introduce a special crime, to change the European policy on asylum, and to validate the Optional Protocol to the U.N. Convention against Torture (OPCAT) so that incidents of racist violence involving the Police or other law enforcement officers may be averted. Another issue posed was that of lack of political will, reluctance exhibited by the prosecuting authorities, and insufficient mobilization of the law enforcement and judicial authorities towards combating the phenomenon.

It is the duty of the Greek Ombudsman to reiterate, within the framework of its institutional mandate, that the increase and severity of the racist violence incidents demand combating racist criminal actions effectively through, among other measures, the establishment of a modern and functional legislation.

So that those phenomena may be combated, it is imperative to arrive at an effective investigation of the racist motive, to take appropriate protection measures and to impose proportionate as well as effective penalties. More specifically, it should be noted that it is necessary to take special measures to combat the racist violence incidents when perpetrated by bodies which wield public power and by public officials whose accountability should be ensured through an effective investigation process of any racist motive.

Equally significant is the protection of racist violence victims according to the international obligations our country has undertaken, an issue which has been found wanting. Even the provision allowing for victims of Law 927/1979 and Law 3304/2005 to be placed under the process of Article 44, Para. 1, Case b, Law 3386/2005 (residence permits issued to victims of hatred crimes by the Ministry of the Interior on humanitarian grounds) does not seem to have been put to good use. **It is also noted** that even in the exceptionally rare cases when criminal proceedings have started, according to the provisions of Law 927/1979 or Law 3304/2005, the application of the above provision is not self-understood by the services competent for its application.

It should also be noted that it is necessary to protect those who have been material witnesses to incidents of racist violence by providing a residence permit issued on humanitarian grounds and a relevant addendum to Article 44, Para.1, Case b, Law 3386/2005 or, at least, through a provision analogue with the one for the protection of those who have been witnesses to acts of human trafficking (Article 9, Para 6, Law 2928/2001 as amended by Article 8, Para 5, Law 3875/2010).

It is the Greek Ombudsman's duty **to signal** that the inadequacy and ineffectiveness of the existing framework, something which is corroborated by the fact that it has been in disuse for over 30 years, renders it imperative to take into account the following prerequisites so that the new legislative initiative may be successful:

1. perpetrators and victims should be sufficiently aware of the existence of the law
2. reporting attacks and protecting the victims should be encouraged
3. thorough police investigation of the incidents should be ensured

4. the consistency of the prosecuting and judicial practice when applying the law should also be safeguarded
5. adequate and systematic publicity should be given in racist incidents

4. Racism and xenophobia in schools

The Greek Ombudsman also notes that educating students on the principles of non-discrimination and respect for the rights of others is among the goals of education. Further, the creation of the necessary pedagogical climate through the development of harmonious inter-personal relations in school and in the classroom is a basic component in achieving the goals of education.

The Greek Ombudsman visits schools on a regular basis, meets with students and teachers, and is briefed on many and diverse violent behaviors and incidents within and outside school, among members of the school community, or in conjunction with third parties. The Greek Ombudsman has verified that incidents of violence among and between students are not normally reported to the school authorities or to the teachers. And even when such incidents become known, the school authorities' intervention is exhausted on verbally condemning violent behavior and on taking disciplinary action against or admonishing the perpetrators without thoroughly occupying themselves with the students involved in relevant incidents as perpetrators, as victims, or as witnesses.

Targeting and merely taking disciplinary action against students exercising violence cannot bring about the desired results. Indeed, in some cases such practices may even lead to greater conflicts or turn students who behave aggressively or insultingly into "heroes". The goal is to have students understand the damage caused and look for ways to overcome tension or prejudice.

It is necessary for the Ministry of Education to reinforce the message addressed to all members of the education community (teachers, students, and parents) that the school will not accept in its community any form of racist or xenophobic behavior from anyone whatsoever and that students who have been victims of such attacks may address themselves to the school's administration, to the supervising education administrations, and to specialized bodies championing human rights.

The Greek Ombudsman's recommendations:

- multi-level measures should be taken to prevent and fight violence and racist violence effectively in school. Those measures should include promoting democracy, educating students on human rights, designing targeted activities which raise student awareness, and developing practices for peaceful resolution of conflicts and peaceful co-existence
- establish procedures for hearing and reconciling students and for alternative sanctions so that the role of the students themselves in resolving conflicts may be reinforced

- teachers should be appropriately supported, assisted by mental health specialists, educated on issues pertinent to human rights, linked steadily with the specific school community they serve in, and supported in practice by the Ministry so that they may undertake positive actions
- implement specialized school activities (health education, cultural, and environmental programs) focusing on the fight against violence and racism.

The Greek Ombudsman notes that the role parents have is by no means a negligible one when it comes to preventing and fighting racist violence incidents in schools. However, the Greek Ombudsman should also point out that, sadly, there has been an increase in the cases of parents who are set on removing or stopping from registering in school specific students (due to origin, disability, or special educational needs) or who disrupt the school's operation in other ways.