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*Joint Statement of the International Helsinki Federation for Human Rights (IHF) and Greek Helsinki Monitor (GHM) to the OSCE Conference on Discrimination, Racism and Xenophobia, Vienna, 4-5 September 2003*

### **Greek Judicial System Lacks Will to Deal with Incitement to Hatred and Discrimination**

The International Helsinki Federation for Human Rights (IHF) and its member organization Greek Helsinki Monitor (GHM) wish to draw your attention to the failure of the Greek judicial system to effectively litigate clear cases of hate speech, punishable under Greek law and international conventions to which Greece is a party. A letter expressing our deep concern has also been sent to Mr. Filippos Petsalnikos, Greek Minister of Justice.

In the past twelve months, seven cases against the publication of anti-Semitic, xenophobic or racist texts in the press have been filed by Greek Helsinki Monitor on the basis of the above-mentioned legislation. Regrettably, however, one of these cases has lapsed due to inactivity on the part of the prosecutors; one has ended up in acquittal despite overwhelming evidence that Greek law had been violated; and four are in the process of being quashed, again, despite overwhelming evidence of breaches of law: in two of them, a trial date of 26 September 2003 had first been set and then cancelled.<sup>1</sup>

- Two of the filed cases concern an openly anti-Semitic letter published in *Eleftherotypia* on 15 April 2002 and in *Ta Nea* on 16 April 2002. We are shocked to learn that the indictment chamber recently quashed the first case after a date for the trial had already been set, and that the charges against *Ta Nea* are under consideration to be dropped. The defamatory letter read, among other things: “...It’s a proven fact that Jews are untrustworthy and fickle. They infiltrate societies, first playing the poor souls to generate pity and, when the time comes, they’ll grab you by the throat.”
- In another case, a court in Patras dismissed a case against the Patras neighbourhood associations, which in November 2001 had published a blatantly racist letter against Roma in local newspapers in June 2003. The letter read: “Roma steal from the [non-Roma] resident’s fields, they snatch what they can find from the yards of the homes. They loot our cemetery, they swear, they beat people, they ring our bells. They should be immediately evicted from the area; any postponement or delay in resolving the problem we face will lead to militant action from the residents.”
- In a further case a Greek prosecutor moved so slowly that no trial could be held against the publisher of a xenophobic letter because the statute of limitation had

<sup>1</sup>Details of all these cases are included in the memorandum prepared by GHM and distributed by the IHF at this conference.

expired and the case lapsed. The case concerned a letter that was published on 26 January 2002 in the financial supplement *Economicos Tachydromos* of the daily *To Vima*. The letter read, for example: "*Migrants, the scum who are being channelled into Greece. They have come just on a whim, to kill, rob and rape Greece.*"

- In the case of two complaints filed against *Ta Nea* the paper continued, despite warnings, to publish want ads for homes for rent and sometimes for jobs that ended with the phrase "*no foreigners*", "*foreigners excluded.*" One of the cases was quashed before a date for the trial was set, in the other the date for trial was set but the case went back to the prosecutor who recommended that the charges be dropped.

After a year of litigation, only one case -- a case against "Albanophobia" -- is still proceeding in the judicial system. The case was filed because of a letter published on 12 October 2002 in the financial weekly *Ependytis* (in its supplement *Symbol*) and read, among other things: "*The 'terrible' situation exists in Greece because of the 'Albanian plague.' We should exhibit exemplary cruelty to those who break the law, in order for Albanians to respect us and the type of society we have managed to create.*"

The outcome of the above-mentioned cases appears to be a clear indication of the lack of will among some prosecutors and judges to hold trials or convict persons for statements that are openly racist, xenophobic or anti-Semitic -- and which are penalized by Greek law<sup>2</sup> and international standards.

In light of the above information, the IHF and the GHM urge the responsible authorities to take all possible measures within their legal competence to ensure that:

- All prosecutors and judges are provided with the necessary training and instructions to rigorously implement Greece's anti-racist legislation which is part of Greece's human rights obligations;
- The four cases against *Eleftherotypia* and *Ta Nea* be reviewed by the Supreme Court and then referred to trial before most lapse in October 2003;
- The case against neighbourhood associations be reviewed by the Supreme Court and then referred to an Appeals Trial;
- An investigation be launched into the slow judicial procedure in the *To Vima* case that led it to lapse before any ruling or trial and sanctions be imposed against those held responsible;
- The pace of judicial proceedings concerning the press, which have an eighteen-month statute of limitation period, will be accelerated in order to ascertain that no litigations will lapse solely on the ground that the statute of limitation has expired as a result of inactivity by prosecutors or other judicial personnel;
- The new EU Race Equality Directive be transposed into national law, worded in a way that would effectively exclude that such cases may not be tried, and taking into consideration the related recommendations of the Greek National Commission for Human Rights;

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<sup>2</sup> In particular under Law N° 927/1979 as amended by Law N° 1419/1984 and Law No 2910/2001.

- Greece makes the declaration under Article 14 of the International Convention for the Elimination of All Forms of Racial Discrimination (ICERD) it had pledged to the Committee on the Elimination of Racial Discrimination (CERD) in March 2001, so that individual or group complaints could be lodged to CERD (Greece and the UK are the only EU members who have not made such declaration to date);
- Make sure that the EU Race Equality Directive will guide Greek jurisprudence, along with jurisprudence of the Committee on the Elimination of Racial Discrimination (CERD) and recommendations of the European Commission against Racism and Intolerance (ECRI) recommendations; and that Greek courts, when presented with arguments based on international conventions ratified by Greece, include them in their deliberations and explanations of their rulings, rather than ignoring them as in the cases mentioned herein