



Δίκτυο Καταγραφής Περιστατικών Ρατσιστικής Βίας



RACIST VIOLENCE RECORDING NETWORK

2013 ANNUAL REPORT

Introduction

Year 2013 has been of key importance for the developments of racist phenomena in Greece. The last quarter of the year is demarcated by the murder of Pavlos Fyssas, the criminal investigations and the arrest and detention before trial of persons allegedly involved in the murder, as well as of leading members of Golden Dawn with many offences, the most important being the formation of a criminal organization. During this quarter a significant decrease of incidents of racist violence is noted, reinforcing the belief that it took a long time for the Greek authorities to acknowledge the existence, the volume, the characteristics and the need to deal with the phenomenon of racist violence.

The investigation of past cases of racist violence and prosecution of criminal acts in which members of Golden Dawn are allegedly involved have been very positive steps. In no case, however, should we ignore the long-term institutional tolerance towards crimes with bias motivation. Moreover, it should be emphasized that anti-racist rhetoric must be constantly reflected in concrete and coherent measures. At this level, the institutional deficiencies remain. The failure to provide any guarantees for the filing of complaints by persons who have been victims of racist violence but do not possess legal document is considered one of the most important deficiencies. Effective prevention and combat of hate crime presupposes the effective ability of the victim to report such a crime under safe conditions, without fear of being penalized or found in such a position that would deter the victim from reporting the crime. The setting up of the Departments and Offices combatting racist violence within the Hellenic Police, an initiative welcomed by the Network, is a necessary but insufficient condition for the effective combat against this phenomenon. Other prerequisites are necessary, which have not yet been addressed. These include transparent and objective selection and recruitment procedures of the personnel of these units; specialized training; the ability of victims of racist violence without legal documents to lodge a complaint; and effective investigation and conviction of racially motivated unlawful acts by police officers.

Moreover, the monitoring of specific cases which have been recorded by the Racist Violence Recording Network demonstrates that the racist motivation is not thoroughly and carefully investigated by law enforcement authorities from the stage of preliminary

investigation. Finally, particular concern is caused due to the significant increase of incidents where police violence is connected to racist violence, namely when the perpetrators are members of the law enforcement bodies. The culture of impunity for such acts is reinforced by the lack of an effective independent mechanism to investigate complaints of police brutality and arbitrariness, in accordance with the recommendations of international bodies.

After two and a half years of operation and after having published four reports and a number of written interventions to the state authorities, the Network notes that most of its observations are now considered as common ground. Data published by the Network constitutes a reference point for national and international human rights institutions. However, the responsibility to systematically record hate crimes is primarily a state one. A well-governed state should be seeking acknowledgment, recording and prosecution of hate crimes. On the contrary, any negligence in recognizing and dealing with the phenomenon by the competent state authorities maintains and aggravates the belief that such criminal acts are tolerated, thus fueling tensions which disrupt social cohesion and undermine the basic principles of the rule of law.

For the above reasons, under no circumstances should one get the impression that Greece has adequately dealt with the problem of racist violence. The risk of resurgence is present -many recent data indicate that- while even the temporary decrease of serious racist crimes should not allow us to overlook everyday incidents of lower intensity which reveal the constant presence of widespread racist attitudes within the society and its endemic presence in public administration and the security bodies. We must also point out emphatically that in the future, when the trials of the members of Golden Dawn shall be on-going, special care must be taken for the protection of the human rights' defenders and the witnesses of racist attacks, who may be targeted because of their role.

Definitions and methodological clarifications:

The present report is the fourth one published by the Racist Violence Recording Network since its foundation in October 2011. The extensive reference to data and findings of the Network, both by media and in the texts of national and European bodies¹, as well as in legal proceedings², impose some clarification as to their definitions and the methodology used.

For the purposes of the Network, incidents of racist violence are crimes or violent acts or behaviors against persons who are targeted because of national or ethnic origin, color, religion, sexual orientation, gender identity or disability. Any criminal or violent acts or behaviors against human rights' *defenders*, namely any persons who promote and protect human rights and are targeted because of their actions are also recorded.

The Racist Violence Recording Network was set up in mid-2011 at the initiative of the National Commission for Human Rights (NCHR) and the Office of the UN High Commissioner for Refugees in Greece (UNHCR) following two major findings: a) the absence of an official and effective data collection mechanism of hate crimes; and b) the need for coordination among organizations who record on their own initiative any incidents of racist violence against persons who recourse to their services. The completion of the Network's common record form is undertaken following interviews with the victims. Victims' testimonies are used solely and exclusively by the Network with the purpose of combating racism and hate crimes.

Records of hate crimes by the Racist Violence Recording Network cannot capture the full volume and intensity of hate crimes on the ground, since the recorded incidents concern only those where victims contacted the organizations-members of the Network operating in areas where the incidents occurred. Therefore, the qualitative trends of racist violence in Greece as recorded by the Network are of greater importance. In any case, the Network's recordings are considered more complete than official data of the national authorities and this should receive special attention from the State. It should be indicatively mentioned that the report of the European Union Agency for Fundamental Rights ranks Greece in the lowest quality category as regards state mechanisms for recording and publishing data on hate crimes³.

Before proceeding to the presentation of the findings of the Network, it is necessary to make an important observation: hate crimes occur, to a lesser or greater extent, in all countries⁴. As indicated in the aforementioned FRA report "EU Member States with comprehensive data collection mechanisms do not, necessarily, have the highest rates of

¹ See, for example the reports by the Hellenic Ombudsman, the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE), as well as the report by the European Union Agency for Fundamental Rights (FRA).

² Most typical is the trial of the accused for the murder of Sachzat Loukman.

³ See, Fundamental Rights Agency, "Making hate crime visible in the European Union: acknowledging victims' rights", November 2012, pp. 8-9.

⁴ See Office for Democratic Institutions and Human Rights of the OSCE, "Hate crime laws. A practical guide", March 2009, p. 11.

hate crime. These mechanisms simply record the incidence of hate crime more efficiently and are more transparent when it comes to publishing data. In contrast, EU Member States with limited data collection –where few incidents are reported, recorded and therefore prosecuted– can be said to be failing in their duty to effectively tackle hate crime in all its diversity”⁵.

The Racist Violence Recording Network recognizes that the Greek authorities have made positive steps towards the recognition, recording and responding to hate crimes. However, the findings of the Network, and their comparative review at European level, clearly indicate that the percentage of recorded incidents remains at very low levels compared to the reality on the ground.

A well-governed state could only benefit from the recognition, recording and prosecution of racial crimes⁶. The Racist Violence Recording Network urges the Greek authorities to intensify their efforts in combating and prosecuting hate crimes. Unaddressed crimes motivated by racism, xenophobia and intolerance feed tensions that disrupt social cohesion and fuel insecurity among affected communities and the society as a whole.

⁵ See Fundamental Rights Agency, “Making hate crime visible in the European Union: acknowledging victims’ rights”, November 2012, p. 36.

⁶ It must be specified that the prosecuting authorities of the United Kingdom, although demonstrating the most comprehensive system for the recording of hate crimes at European level, continue to provide the serving police officers with the following instructions: “Many people do not report hate crime. We know that confidence is likely to be lower in communities who are often targeted for hate crime. It is important that we overcome these barriers and close the gap between actual crime and reported crime. This is one of the few categories of criminal activity where we are actively seeking to increase the recorded crime rate and shed light on the so-called ‘dark figure’ of unreported crime.”, The 2012 Hate Crime Strategy and Manual, The Association of Chief Police Officers, UK, p. 7.

Findings

During the period January - December 2013, the Racist Violence Recording Network documented, through interviews with victims, 166 incidents of racist violence with at least 320 victims: 143 incidents were committed against immigrants or refugees, while the other 22 were committed against LGBT persons and 1 against a human rights defender (legal counselor of victims). The number of victims is significantly higher because of the recording of the incident of labor exploitation linked with racist motive in Nea Manolada, where 155 victims were shot and 35 of them hit by the supervisors of their employers.

Geographical and temporal dispersion: 103 incidents occurred in Athens, and particularly in areas of the city centre, such as Aghios Panteleimonas, Attica Square, America Square and other areas around Omonia, while 8 incidents were recorded in the broader area of the region of Attica. Moreover, 15 incidents were recorded in Thessaloniki, 15 in Patras, 1 incident with 155 victims in Nea Manolada, Ilia, 5 in Piraeus, 5 in the Prefecture of Heraklion, Crete, 4 in Chania, 2 in Mytilene, while incidents were also recorded in Rhodes, Lamia, Kos, Corfu, Kavala, Giannitsa and on a ship sailing in Greek territorial waters.

The majority of incidents occurred in public places, whereas the incidents which occurred in areas of detention were increased (23 incidents within police stations or immigrants' detention centers). This finding, together with the increase in racist incidents of police violence in general, raises particular concern (see a specific reference in the unit "Involvement of police personnel and public servants in racist attacks").

It is worth noting that during the critical period after the murder of Pavlos Fyssas and the arrest of leading members of Golden Dawn with offences of establishing a criminal organization (October-December 2013), the Racist Violence Recording Network recorded 18 incidents of racist violence. The significant decrease in the incidences of racist attacks compared to the previous months of 2013, apart from the positive dimension it bears, supports the relevant data and position of the Network regarding the existence of hit squads, against which the Greek State was unfortunately too slow to take action.

Characteristics of the attacks: The majority of incidents concern physical attacks against migrants and refugees, while the types of crimes are mainly severe personal injuries (in 75 cases) and personal injuries (in 58 cases), mostly combined with threats, verbal abuse, property damage and theft. Most incidents occurred at night or in the early morning hours.

There were also 27 incidents of verbal violence (verbal abuse, threats), 1 of which was combined with insults to the victim's religion, 1 was combined with indecent exposure/insult to sexual dignity and 12 with arbitrary detention after the victim was arbitrarily brought before the authorities. Furthermore, there were 2 incidents of arson and 3 incidents of disturbance of the domestic peace, accompanied by threats and verbal abuse.

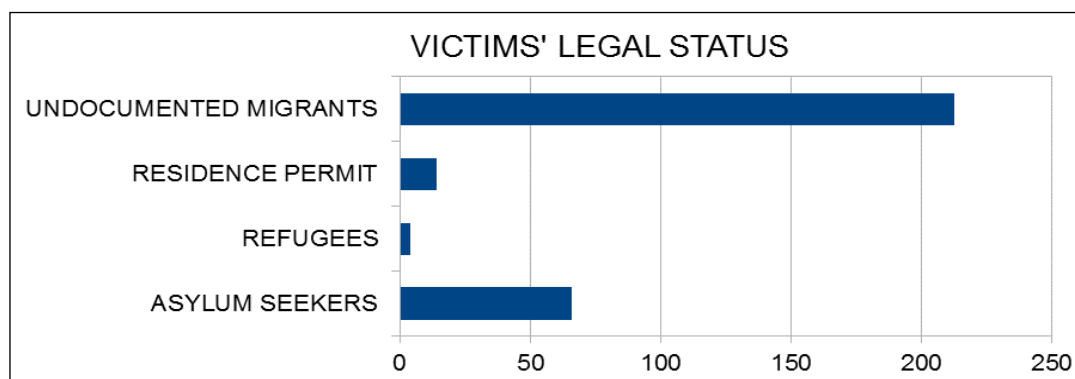
It must also be noted that the Racist Violence Recording Network recorded, after contact with the victim's family and representatives of the Pakistani community, the fatal attack against the 26-year old Sachzat Loukman by two persons on a motorcycle in Petralona in early 2013.

In at least 20 recorded incidents, the victims were targeted due to discriminatory motives in conjunction with other motives. These are the so-called "mixed motive" hate crimes, a phenomenon which has been identified and analyzed in detail in the relevant international literature⁷. The "mixed motive" incidents which were recorded by the Network concern either racist attacks emanating from and in conjunction with labor exploitation (the most emblematic case is in Nea Manolada) or racist attacks followed by removal of assets (mobile phones, money and/or legal documents of residence). These incidents are typical racist crimes, since the victim is targeted and the criminal act takes place because of the victim's perceived "diversity". The victim's "diversity" in these incidents is the determining element⁸.

Victims: The victims who approached the members of the Network and reported the incidents, consisted of 296 men, 11 women, 1 trans man and 12 trans women. The average age of victims is 29 years.

Within the group of **immigrants and refugees**, the victims originated from Afghanistan (51), Pakistan (11), Algeria (4), Bangladesh (164), Egypt (4), Morocco (8), Somalia (3), Sudan (6), Guinea (6), Tunisia (1), Iran (6), Syria, (3), Eritrea (1), Congo (4), Nigeria (6), Senegal (1), Palestine (1), Ivory Coast (3), Albania (1), Burkina Faso (3), Ghana (1), Libya (1), Mali (2), Mauritania (1), New Guinea (1) and Cameroon (1). Furthermore, 2 victims were citizens of Bulgaria, while in one incident the origin was not declared.

As regards the legal status of the above victims (at the time they were recorded by the Network): 66 were asylum seekers, 4 were recognized refugees, 14 were holders of legal residence permits, while 213 held no legal documents or were under deportation orders.



⁷ Although one definition of the "typical" hate crime is widespread, when the perpetrator's motive is purely racist, many times the motivation behind a hate crime is quite complex. Research has shown that hate crimes often have multiple motives. ODIHR-Hate crime laws pp. 53-54.

⁸ See also the Special Report of the Greek Ombudsman, "The phenomenon of racist violence in Greece and how it is combated", p. 14.

In the vast majority of cases, the victims consider that their characteristics as foreigners is the reason for the attack; they believe that they were targeted because of their skin color, ethnic origin or religion and/or any other relevant characteristic revealing the fact they were not natives (the majority of foreign victims were Muslims).

Within the **group of LGBT persons**, the Racist Violence Recording Network documented in 2013 six (6) victims of attacks based on sexual orientation. These incidents involve threats, verbal abuse and, in one case, physical injuries.

There were also 16 recorded victims of racist violence due to gender identity. Most of them concern cases of arbitrary detention of trans women in Thessaloniki, where many persons were multiply victimized, since they were taken in police stations in degrading conditions and detained for two or three days (see a specific reference in the section “Involvement of police personnel and public servants in racist attacks”). There were also 4 recorded incidents involving verbal abuse, threats and personal injuries.

Finally, the Racist Violence Recording Network recorded an incident of arbitrary detention of the lawyer of the victims during the above-mentioned incident when the victims were arbitrarily brought before the authorities.

Perpetrators: The perpetrators of the attacks recorded were almost always men, except for 14 cases of attacks by mixed groups where participation of women is also recorded. In two incidents women were recorded as perpetrators: one incident of verbal abuse and denial of medical treatment in a hospital pharmacy because of national origin, and one incident of verbal abuse and personal injury due to sexual orientation.

The average age of the perpetrators in the incidents where the victims were able to assess it, was approximately 27 years. The overwhelming majority of the perpetrators are of Greek nationality. There were also 3 recorded assaults by mixed ethnic groups, e.g. an assault by a group involving Albanian perpetrators in the center of Athens. In only 6 among 166 reported assaults there was one single perpetrator. Most assaults were committed by groups of 2-10 persons.

Verbal assault is recorded in 2 incidents (verbal abuse, threats, degrading behavior), while in 2 incidents the perpetrators were the employers of the victims. Finally there were 44 recorded incidents of violence by uniformed officers (see next chapter).

In 75 cases, the victims of the attacks believe that the perpetrators are linked to extremist groups. This also emerges from the qualitative data collected regarding the attacks, as well as the *modus operandi* recorded in the 2012 annual report and continues to be recorded in 2013: in these cases, the perpetrators are believed to act in organized groups, moving either by motorcycle or on foot, often being accompanied by large dogs. They are dressed in black and at times with military trousers, wearing helmets or having their faces covered. Most assaults occur after sunset or in the early morning hours. Motorcycle or foot “patrols” by persons dressed in black are the most common practice; they act as self-proclaimed vigilante groups who attack refugees and migrants in the streets, squares or public transportation stops.

It must be noted that, in 15 cases, the victims or witnesses to the attacks reported that they recognized persons associated to Golden Dawn among the perpetrators, because either they wore the insignia of the organization, or they were seen participating in public events of the organization in the area, or they were known as members of the local branches of the party.

Intensity of attacks and weapons: Qualitative data on the nature of the attacks resulting from the recording of the incidents demonstrate the continuation of the modus operandi of racist violence organized groups in 2013: the victims report the use of weapons during the attacks, such as clubs, crowbars, folding batons, spray, chains, brass knuckles, knives and broken bottles, use of large dogs. The victims often suffer multiple injuries such as fractures, sprains, lesion injuries, abrasions, eyesight and hearing damages, symptoms of post-traumatic stress, etc.

Involvement of police personnel and public servants in racist attacks: The Racist Violence Recording Network observes with great concern the increase in incidents where police violence is linked to racist violence.

Among 44 incidents of violence by uniformed officers recorded in 2013, 23 took place in detention facilities. In 31 incidents, the victims reported that they were targeted because of the fact they were not natives and/or their skin color, religion and ethnic origin. 10 of them took place in detention areas (police stations, detention centers). In these incidents the uniformed officers, during the exercise of their duties and in routine operations, resort to unlawful acts and violent practices.

In 12 incidents recorded during June-July 2013, the victims were targeted due to their gender identity: the incidents involve repetitive arbitrary detention of trans women in Thessaloniki. These incidents were reported extensively in the press during that period and they were accompanied by threats, verbal abuse, derogatory characterizations regarding gender identity, denial of access to a legal counsel, and in one case even denial to provide medication.

Finally, the Network expresses great concern over the incident regarding the arbitrary detention of the victims' legal counselor.

Furthermore there were 2 recorded incidents where the perpetrators were public officials, namely:

- 1 incident during which a student, according to her testimony, fled to the teachers' room to be protected from being attacked by her classmates because of gender identity. The school guard locked her in the classroom, showing indifference for her security, and when the Director of the school arrived, he allegedly told her, "I will call Golden Dawn just for you".
- 1 incident during which a hospital pharmacy supervisor verbally allegedly abused a foreign woman and refused to give her medical treatment, although she showed her asylum seeker's documentation.

The Racist Violence Recording Network expresses particular concern regarding recorded racist incidents by uniformed officers and civil servants, noting that they

should be addressed with particular attention as they bear a particular moral condemnation since they are being committed by representatives of the state.

Complaints and the authorities' response: At the time of the recording, only 33 among 166 incidents were reported to the police, thus initiating criminal proceedings. The vast majority of victims did not wish to take any further action, mainly because of fear associated with the lack of legal documents (see below, "Access of the victims to the justice system").

There were also reports concerning unwillingness or discouragement and, in some cases, refusal on behalf of the police authorities to collaborate in practice and encourage the lodging of a complaint. Furthermore, some victims did not wish to lodge a complaint because they have previously been victims of police violence or because they knew that the perpetrators had relationships with the police and/or Golden Dawn and they feared that they would be targeted. There were also reports on the lack of confidence of the victims in the justice system and consequently many of them feel that it would be hopeless to initiate criminal proceedings.

These indicative reports demonstrate that, in general, an important part of the prosecuting authorities consider racist attacks as an everyday phenomenon integrated into a "normality" and, therefore, do not feel there is any special need to address it. The victims' testimonies frequently show that, when present, authorities avoid intervening during the incidents and, when they do so, they often treat the victims with depreciation and/or they are discouraging them from initiating any process.

The Racist Violence Recording Network once again assesses that the recorded findings are exceptionally alarming, while increasing concern rises from the fact that the incidents recorded by the Network's members are only the tip of the iceberg. The geographically limited range of the participating organizations, the spreading fear amongst the victims which often prevents them from approaching even the organizations which support them so as to report the incidents, even anonymously, as well as the limited capacity of organizations to provide effective protection to the victims, are strong indications that the number of racist violence attacks recorded by the Network is much lower than the actual one. This conclusion is reinforced from the frequent media reports of incidents in areas different from the ones where the participating organizations are active, while it is validated by the report of the Greek Ombudsman: "It is interesting but not inexplicable that the incidents which were initially collected from the press are usually not found in the list of the Network and vice versa. These are essentially two ways of recording which **complement one another** since most victims of attacks who have chosen to address the Network do not wish, mainly because of fear, frustration or lack of confidence in the state institutions, to take further actions in respect to their case"⁹.

⁹ See also the Special Report of the Greek Ombudsman, "The phenomenon of racist violence in Greece and how it is combated", p. 15.

Important developments against racist violence by the competent police and judicial authorities

Departments and Offices combating racist violence within the Greek Police:

In its 2012 Annual Report, the Network welcomed the legislative initiative of the Ministry of Public Order and Citizens Protection to establish Departments and Offices combating racist violence within the Greek Police (Presidential Decree 132/2012). At the same time the necessary conditions for the effective operation of these units were highlighted, including transparent and objective selection and recruitment processes of the officers, specialized training, as well as the urgent need to investigate and convict unlawful actions by racially motivated police officers.

According to data shared with the Network by the Greek Police, in 2013, the competent authorities of the Greek Police (Departments and Offices combating racist violence) recorded nationwide one hundred and nine (109) cases with suspected racist motive. All of them were investigated further and were submitted to the local competent Prosecuting Authorities. In forty-three (43) of them charges were pressed under Law No. 927/1979.

However, these figures relate only to a small sample of racist violence assaults which took place in Greece in 2013, since as explained below, they are reports by holders of legal residence documents and therefore had the possibility to lodge a complaint before the police authorities (apart from the telephone complaints). It is indicative that, from the 166 incidents recorded by the Network, only 33 were actually reported to the police.

Moreover, the Racist Violence Recording Network notes that the two-day training for persons serving in these Departments at the beginning of their operations is considered insufficient for the increased training needs on such sensitive and complex issue. The Network therefore suggests a mandatory process of continuous training, for the police officers appointed in these Departments, as well as for the entire personnel of the Hellenic Police who come into contact with vulnerable social groups. To that end, the Network has repeatedly proposed to the Greek authorities to formally request assistance from international and European organizations with expertise and experience in training security bodies and judicial authorities. It is also proposed to draft Guidelines containing basic information and guidelines related to hate crime. The Racist Violence Recording Network could be actively involved.

Access of victims to the justice system:

There is, currently, no guarantee as regards the possibility to lodge a complaint by persons who do not hold legal documents. Persons without legal residence documents, who constitute the majority of victims of racist attacks according to the recordings of the Network, even in case they wish to denounce the incidents, are automatically detained upon their arrival at the police station, and issued with detention and deportation orders. As a result they are deterred being from reporting racist violence incidents against them. If legal proceedings are initiated, persons without legal residence documents are again discouraged to participate in the process, as they are threatened

with arrest and detention for the purpose of deportation. It must be stated that the majority of victims who were recorded by the Network in 2013 did not wish to lodge a complaint due to fear mainly related to the lack of legal documents.

However, effective prevention and combat of hate crime presupposes the effective ability of the victim to report such a crime under safe conditions, without fear of being penalized or found in such a position that would deter the victim from reporting the crime. Competent authorities should encourage and facilitate the victims –regardless of their residence status in the country– to report threats or assaults against them. The Racist Violence Recording Network, in order to effectively address the above issue and reduce subsequent impunity, had proposed in its first recommendations towards the authorities in 2012 to explicitly provide for the suspension of arrest and deportation decisions against victims who file a complaint, complemented by the granting of a residence permit on humanitarian grounds, similar to the protection framework for victims of trafficking. More specifically, it is suggested, in cases where victims and/or witnesses without legal residence documents report incidents of racist violence, to suspend arrest and deportation decisions under a special prosecutor act which shall at first verify the grounds of the complaint and shall recognize a victim or witness of a racist crime as such, in order to grant a special protection status (residence permit on humanitarian grounds) for the time deemed necessary for the prosecution and conviction of the perpetrators and pending final judgment in the criminal proceedings against the offender.

The above proposal by the Network was reflected in the draft for the Ratification of the Code of Immigration and Social Integration, as was initially submitted in the Greek Parliament, in the provisions on humanitarian status (Article 19) where in case (b) it was added that it would be possible to grant a residence permit for humanitarian or other reasons to “victims and essential witnesses of crimes which are provided for in Articles 187, 309 and 310 of the Criminal Code or which are punished as a felony and committed against their life, health, physical integrity, assets, property and personal and sexual freedom, provided that the prosecution procedure has been initiated or that preliminary examination was ordered pending a final court decision or until the procedure is closed. The fulfillment of these requirements shall be established by an act of the competent Public Prosecutor, both before and after the prosecution. The act of the Public Prosecutor shall be notified to the Directorate of Migration Policy of the Ministry of Interior”.

The above provision, which provided for a residence permit on humanitarian grounds for all victims of felonies, came to fill the legal vacuum which existed on the residence permits of racist crimes victims, by expanding it to all victims of felonies irrespective of the racial motive in the criminal acts. The Racist Violence Recording Network welcomed this initiative insofar as it would contribute to the effective access of victims and witnesses to the Greek justice system. The Network expresses its great concern for the non adoption of this specific provision, as the Code of Immigration and Social Integration was ratified without the provisions for humanitarian status (Article 19). In any case, the Network expresses its intense opposition to the recently promoted amendment which essentially exempts public officials from any accountability and leads to the further intimidation of the victims. This unacceptable amendment reverses the

burden of proof in the expense of the victims, threatening them with deportation and immediate court under the flagrant crime procedure and essentially criminalizing the recourse to legal protection¹⁰.

The message of the State must be the absolute respect of the physical integrity and safety of any person living in the Greek territory. Lack of a protection mechanism for victims of racist violence sends a message of impunity to organized groups of racist violence and exacerbates the lack of confidence in the rule of law.

Adequate investigation of racial motive:

The Racist Violence Recording Network recognizes the Greek authorities have made positive steps towards effective recording and prosecuting hate crimes. The recognition of the racial motive as an aggravating circumstance in November 2013 for the first time, in a trial regarding arson in a store in Kypseli belonging to a national of Cameroon is an important step towards this direction. Another positive step is the significant increase in racially motivated cases which have found their way to the courts, the most significant being the ongoing trial for the murder of Sachzat Loukman in January 2013 in Petralona.

However, based on the monitoring of specific cases which have been recorded by the Racist Violence Recording Network, it appears that the racial motive is not thoroughly and carefully investigated by the law enforcement authorities at the stage of preliminary investigation. The Police Circular dated 24/5/2006, which states that, in the framework of their enforcement action and particularly during preliminary investigation, the Police Authorities should investigate the possibility of a racial motive in the crimes committed, should collect information and record/report incidents through a specific form for all crimes with racist or multiple (mixed) motive, seems to remain inactive.

In terms of court proceedings, the impunity of the perpetrators is a result of the fact that the relevant provision of Article 79 par. 3 of the Criminal Code which was added through a legislative amendment in 2008 and stipulates that the perpetration of an act of hatred on national, racial, or religious grounds or hatred due to differentiated sexual orientation or gender identity constitutes an aggravating circumstance, is not applied by neither the police nor the Prosecutor at the stage of the criminal prosecution; it is applied only at the stage of the decision on the sentence, thus, after the guilt or innocence of the offender has been established.

It is therefore necessary to take an immediate legislative initiative in order to ensure the investigation of racial motive at the stage of preliminary investigation, regardless of the aggravating circumstance at the stage of the decision on the sentence.

¹⁰ See the relevant press release by the Racial Violence Reporting Network: <http://rvrn.org/2014/03/%CE%BD%CE%B1-%CE%B1%CF%80%CE%BF%CF%83%CF%85%CF%81%CE%B8%CE%B5%CE%AF-%CE%B1%CE%BC%CE%AD%CF%83%CF%89%CF%82-%CE%B7-%CE%B1%CF%80%CE%B1%CF%81%CE%AC%CE%B4%CE%B5%CE%BA%CF%84%CE%B7-%CF%84%CF%81%CE%BF%CF%80/>.

Along with the explicit commitment of the prosecuting authorities to record, from the moment a complaint has been filed, any events or suspicions of the victim that relate to racist motives, it is required to establish provisions which: a. provide that the crime committed with racist motive is a distinct offence; or b. provide, in relation to some specific types of crimes (including, indicatively, those against life, physical integrity, personal freedom and property), for a sentence increase in case the crime is committed due to racist motive; or c. provide for the racist motive to constitute a general aggravating circumstance, but within a specific framework regarding the sentencing of the crime. In that manner, the exercise and initiation of the prosecution will be enabled, based on a specific type of crime that will allow the investigation of the racist motive already from the beginning of the criminal proceedings, including the stages of interrogation and judicial process.

Nevertheless, it should be reiterated that, notwithstanding any legislative amendment, the State should provide adequate training and guidance to the prosecuting and judicial authorities involved so that the racist motive is investigated at all stages of the criminal proceedings.

Adequate investigation and combat against racist violence by police officers:

The Racist Violence Recording Network notes with concern the increase in incidents where police violence is linked to racist violence. It is imperative to deal effectively with the reports/testimonies/complaints about any kind of police arbitrariness, whether it is an offense by the police officers during the performance of their duties or perpetuation of stereotypical reactions against the victims, which are stemming from personal opinions, or the absence of specific training so that racist behaviors which constitute violations of human rights may directly or indirectly evolve. Therefore, the practical and unconditional condemnation on behalf of the State of any act of police brutality and arbitrariness is imperative.

To this end, it is proposed to amend the current legislative framework with a view to establishing an effective mechanism for complaints regarding police violence and arbitrary incidents, for the independent investigation and monitoring in accordance with the recommendations of international organizations. The Network emphatically reiterates the recommendations of the Greek Ombudsman and the National Commission for Human Rights¹¹ in order to resolve the issue of the effective functioning as well as of the independence of the Offices against Incidents of Arbitrariness, which are provided for by Law No. 3938/2011, but are not operating. The same applies for the Commission which is foreseen in the same Law for the assessment of the complaints, the function of which is critical in order to review cases after the issuance of relevant decisions by the European Court of Human Rights¹².

Adequate investigation of attacks on grounds of sexual orientation and gender identity: The Racist Violence Recording Network has expressed its satisfaction for the explicit inclusion of gender identity in the last subparagraph of Article 79 par. 3, namely

¹¹ http://www.nchr.gr/images/pdf/apofaseis/astunomia/Grafeio_Kataggelion_2010.pdf

¹² As above, p. 69.

in cases of crime victims where the motive of hatred constitutes an aggravating circumstance under Law No. 4139/2013. This is a positive step that brings our country closer to European laws and practices.

However, P.D. No. 132/2012 by the Ministry of Public Order and Citizen Protection on the establishment of specific Departments and Offices combating racist violence includes persons or groups of persons victimized solely because of “their racial or ethnic origin or their religion”. Therefore, both this P.D. and any legislative initiative aiming to tackle hate crime should include the cases of persons being targeted because of a different sexual orientation and gender identity.

Recommendations to the State:

The Racist Violence Recording Network addresses the following recommendations to the Greek State in order to combat hate crimes, namely criminal acts against a person because of their national or ethnic origin, color, religion, disability, sexual orientation and gender identity.

To the Ministry of Public Order and Citizen Protection

A. Combat hate crime

1. Adoption of a specific operational plan to prevent and tackle racist attacks, in cooperation with specialized international and European organizations.
2. Condemnation of racist attacks by the political leadership and the leadership of the Police and explicit prevention of the police from racially motivated violent practices.
3. Conduct of a training program, with the assistance of international and European organizations with expertise and experience in the training of security and justice forces, for the persons serving in the Departments and Offices against Racist Violence, as well as the entire personnel of ELAS.
4. Ensured implementation of the Circular no. 7100/4/3 dated 24.5.2006 on the obligation of the officers to investigate racial motivation, to collect relevant data, to record and/or report each incident against a person due to national or ethnic origin, color, religion, disability, sexual orientation and gender identity based on a specific form, whether a complaint has been lodged or not.
5. Information of the police regarding their obligation to assist the victims, to intervene for their rescue and to make sure that they are brought before the competent services.
6. Cooperation of the police departments with governmental or non-governmental bodies and immigrant communities in order to provide medical and social assistance, legal assistance and interpretation to facilitate the victims' access to the police.
7. Protection of the rights of human rights *defenders*, namely those persons and institutions which promote and protect human rights, as well as the *witnesses* of racist attacks and ensuring of their access to the authorities.

B. Combat racially motivated police violence

1. Amendment of the current legislative framework with a view to establishing an effective mechanism for any complaints of police violence and arbitrary incidents, for independent investigation and monitoring in accordance with the recommendations of international organizations.
2. Prediction of a specific procedure in the framework of disciplinary control within Hellenic Police for faster processing of racially motivated arbitrary acts.

To the Ministry of Interior

Suspension of the detention and deportation order for victims who lodge a complaint of racist violence, based on a specific Prosecutor's act, until the issuance of the final

judgment in the criminal proceedings against the perpetrator and establishment of a specific protection regime with residence permit for the period which is deemed necessary for the prosecution and conviction of perpetrators.

To the Ministry of Justice

1. Creation of an official and uniform system for the recording and monitoring of racist crimes, in cooperation with the police and any governmental or non-governmental body which collects relevant data.
2. Inclusion of sexual orientation and gender identity in the P.D. No. 132/2012 of the Ministry of Public Order and Citizen Protection on the establishment of specific Departments and Offices against Racist Violence.
3. Establishment of a specific legislative committee, in order to take immediate legislative initiative so as to ensure the investigation of racial motive at the stage of preliminary investigation, regardless of any aggravating circumstance, at the stage of the decision on the sentence.
4. Exemption from the fee for the filing of a complaint according to criminal law and/or of a civil action for the victims.

Finally, the above recommendations for the effective treatment of acts of racist violence, must be accompanied by measures and policies to improve the climate of security in neighborhoods, to tackle human trafficking, drug trafficking, prostitution and criminal networks, to upgrade these areas and to relief the population, to limit the ghettoisation of poor/homeless immigrants and refugees and to promote their social inclusion.

Athens, 02/04/2014

The Racist Violence Recording Network was created on October 2011 through the initiative of the UNHCR office in Greece and the National Commission for Human Rights. The following non-governmental organizations and other bodies, which provide legal, medical, social or other support services and come into contact with racist violence victims, participate currently to the Network: Act-up Hellas, Aitima, Antigoni - Information and Documentation Centre on Racism, Arsis, Doctors of the World, Amnesty International, Network for the Social Support of Refugees and Migrants, ASANTE, Greek Helsinki Monitor, Greek Council for Refugees, Greek Forum of Migrants, Greek Forum of Refugees, Greek Transgendered Support Association, Hellenic Action for Human Rights - Pleiades, Hellenic League for Human Rights Hellenic Red Cross, Human Rights Commission of the Bar Association of Rhodes, Initiative for the Rights of Prisoners, Positive Voice, Medical Intervention, "Babel" Day Centre, World Without War and Violence, Movement for the Support of Refugee and Migrant Rights (Patras), LATHRA? Solidarity Committee for Chios refugees, METAdrasi, Ecumenical Refugee Program, Group of Lawyers for the Rights of Refugees and Migrants, Group of Lawyers for the Support of Refugee and Migrant Rights (Thessaloniki), Lesbian and Gay Community in Greece, Association of Afghans United in Greece, Forum of Migrants in Crete, Colour Youth, i-RED Institute for Rights, Equality and Diversity, PRAKSIS, YsMedia, as well as the Greek Ombudsman and the Council for Migrant Integration of the Municipality of Athens as observers as an observer.