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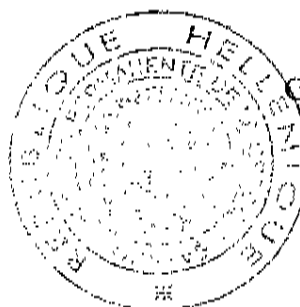
PERMANENT MISSION OF GREECE  
GENEVA

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### NOTE VERBALE

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and, following the latter's Note Verbale, dated 28 January 2014, on the human right to safe drinking water and sanitation, has the honour to submit the attached contribution by the Greek National Commission for Human Rights.

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 28 February 2014

**To: The Office of the High Commissioner for Human Rights**  
**Special Rapporteur on the human right to safe drinking water and sanitation**  
**Sustainable Human Development Section**  
**Special Procedures Branch**  
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 Att.: 4 pages

**1. What mechanisms are available in your Excellency's country to individuals who are alleged victims of violations of their human rights to water and/or sanitation?**

For the purposes of the present submission, a brief preliminary remark must be made concerning the Greek legal order and the rights to water and/or sanitation.

A right to water or sanitation is not explicitly enshrined in any provision of the Greek Constitution. However, such rights could be indirectly derived or inferred from the constitutional provisions on the respect and protection of the value of the human being (article 2 par. 1), the right of the protection of life and health (article 5 par. 2 and 5) and the protection of the environment and the principle of sustainable development (article 24 par. 1).

It should also be stressed that according to article 967 of the Greek Civil Code "freely and perpetually running water" is a thing of "public use". Besides, the Joint Ministerial Decision No.Y2/2600/2001 on the "quality of water for human consumption" implementing Directive 98/83/EC on the quality of water intended for human consumption (O.G. 892B/11-7-2001), as amended by Joint Ministerial Decision No.DYG2/G.P.38295/22.3.07 (O.G. 630/B/26.4.2007), provides that "'the water intended for human consumption' [...] falls under the State's obligation to all citizens on its territory as a "public" good"" (article 2).

As a general rule, the mechanisms available in Greece to individuals who are alleged victims of violations of their human rights to water and/or sanitation are of three kinds. Apart from (a) the complaint mechanism established by the service provider (see below, answer to question no 6.), accountability can be enhanced by an independent branch of government which monitors the performance of public institutions, therefore (b) an independent administrative authority or (c) the judiciary.

The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. It also implies the State's obligation to ensure non-discrimination and equality in its realization as well as participation and transparency. As a consequence, the apposite mechanisms are, more precisely, the Ombudsman, the Consumer's Ombudsman and civil, penal and administrative courts.

**2, Have courts adjudicated on any cases related to human rights to water and/or sanitation? If yes, please indicate relevant cases and attach copies of relevant judgments.**

As a general remark, the Greek case law concerning the rights to water and/or sanitation is rather scarce. Courts continuously adjudicate on cases which potentially have an implicit connection to the aforementioned rights but substantially they are only related to the division of competencies, technical and detailed aspects of the norms rather than on fundamental rights as such, and on the right to water in particular.

However, there have been notable exceptions to this trend and certain judgments, mainly delivered by administrative courts, should be underlined:

(A) The River Asopos case was the impetus for a large number of judgments, not only by national courts but also by the Court of Justice of the EU.

As far as this case is concerned, one of the most important issues at stake was the right to health.

Actually, high levels of pollution, due to the discharge of industrial liquid waste into the River Asopos and the groundwater in the Oinofyta region for over 40 years, affected several villages with a combined population of more than 200 000 inhabitants. The presence of heavy metals (in particular of Cr-6) in the soil and water implied serious health risks including heightened risks of cancer for the residents.

On 8 July 2011, FIDH and the Hellenic League lodged before the European Committee of Social Rights a collective complaint against Greece, claiming Greece's failure to eliminate or reduce the harmful impact of the large-scale industrial pollution of River Asopos on the health of the residents. The decision on the merits (23.1.2013) of the European Committee of Social Rights recognised Greece's violation of the right to protection of health guaranteed by the European Social Charter.

Greek courts had previously adjudicated on the case and although not explicitly referring to the rights to water and/or sanitation, they nonetheless focused on the pollution of drinking water and the right to health. For purposes of illustration, we note the most apposite excerpts from these cases: a) "According to the Supreme Administrative Court, the problems are mainly connected with the uncontrolled dumping in the Asopos River - owing to the lack of a central waste processing unit - of waste (some of which is dangerous because of its high nickel or chromium content) by some of these companies, especially those in the metal-working sector. One of the main problems is the high level of chromium in the area's drinking water" (Nos. 3975/2010, 3976/2010, 3981/2010, 3977/2010, 3979/2010, 3978/2010 and 3974/2010 (December 2010) of the Supreme Administrative Court) and b) "The Supreme Administrative Court stated as follows: the immediate resolution of the problem connected with the deterioration of the natural environment in the area of the River Asopos and its catchment basin, which has taken on alarming proportions and has become a threat to the local population's health and lives, is a matter of urgent public concern which must be dealt with without delay" (No. 845/2010 and No. 846/2010 (August 2010) of the Supreme Administrative Court).

(B) Decision No. 714/2008 of the Commission on Stays of Execution of the Greek Council of State regarding the water supply of the city of Korinthos is very interesting. As alleged by the Municipal Water Supply and Sewerage. Company of Korinthos, the water provided to the city, by virtue of certain drillings, was unsuitable for drinking and dangerous for the public health. Besides, during drought periods, water was not available to people throughout the day. The relevant authorities had therefore decided to supply water from the Drizas Springs of the Stimpthalia Lake. According to the applicants, this would irrevocably harm the natural environment of the general region of the lake. The court had, therefore, to strike a fair balance between the protection of the environment on one hand and the need to provide people with clean water on the other. Taking into consideration the limited environmental impact of the litigated solution and the "imperative need" to respond to the water supply problem of Korinthos, the court did not order the suspension of the relevant water works, thus implicitly considering the right of citizens to clean water as a matter of higher priority, even though it did not say so in such explicit terms.

(C) The pending privatization of EYATH (Thessaloniki Water Supply and Sewerage SA) has already been brought before the Greek Council of State. Although its decision is not yet accessible, there is evidence that the court has ruled that, as a public good, water must be

exempted from privatization.

**3. Have courts or other mechanisms addressed issues that relate to the government's obligation to take steps, to plan for, or to provide resources for the full realization of the rights to water and/or sanitation? How have courts addressed these issues?**

There are court cases, albeit not numerous, which have addressed the State's obligation to take steps for the full realization of the rights to water and/or sanitation.

Here again, the Asopos case gave rise to the ground-breaking decision No. 923/2008 of the Thebes Court, of First, Instance. The court invoking the Joint Ministerial Decision No .Y2/2600/2001 on the "quality of water for human consumption", not only implicitly recognized a right to water, but also addressed two specific orders to the municipality involved. Indeed, the court found that the water supplied in the region of Dilesi through Oinofyta's municipal supply system, which comes from local wells, is neither healthy nor safe and poses serious threats to the 6000 local users. Accordingly, it ordered the Oinofyta municipality to deliver safe water to the 6000 inhabitants of Dilesi using tankers until a new supply system was operating in Dilesi. The court also ordered the municipality to provide more information to inhabitants about the risks of using the municipal water supply network, which was in a state of severe disrepair and full of hexavalent chromium.

The aforementioned decision on the merits (23.1.2013) of the European Committee of Social Rights also pointed out the State's obligation to take relevant steps. Although the Committee acknowledged that certain measures were taken by the Greek authorities, it noted with concern the delay and deficiencies in the implementation of existing regulations and programmes, which had already been denounced in a number of judicial decisions at the national level. Moreover, the Committee considered that, due to the scale of the pollution as well as due to the fact that the problems had been known for a long time, the public information initiatives were insufficient. Indeed these were initiated too late and, in most cases, were sporadic and insufficiently coordinated. Therefore, the Committee concluded that Greece had failed to fulfill its obligations under articles 11 par. 1 and 11 par. 3 of the Charter, by failing to take appropriate measures to remove as far as possible the causes of ill-health, to prevent the spreading of diseases and to provide advisory and educational facilities for the promotion of health, as provided for in article 11§2.

In this context, decision No. 662/2012 (November 2012) of the Commission on Stays of Execution of the Hellenic Council of State is also important. Among others, it underlines the obligation of the plaintiff, a private company, to contribute to the resolution of the problem of environmental degradation in the region of the Asopos River and its watershed. In its decision, the Committee considered that the problem of environmental degradation has assumed alarming proportions and is a threat to the life and health of the population. "Immediate resolution of this problem represents an urgent reason of public interest that must be reached without delay and with the contribution of the plaintiff [company] regarding its environmental performance and in which the confidence of the Administration has been deservedly shaken, and that, due to, among other things, the dangerous substances used in the production process, but also because the plaintiff did not demonstrate, in the past, exemplary respect of environmental legislation but [is author] of violations of measures relating to the precautionary principle".

Apart from the courts, the Ombudsman also addressed to the competent authorities the relevant issues relating to the Asopos case. However, it should be noted that the Ombudsman examined another important case concerning the right to clean water, the Municipality of Mouresio case. After the Ombudsman's actions and despite the Municipality's initial denials, the drinking water was found to be polluted, in breach of the standards on the "quality of water for human consumption" provided for in the relevant Joint Ministerial Decision No.Y2/2600/2001. The Ombudsman monitored the case for years, proposing precise measures for the protection of the public health and the improvement of the water supply network, such as the cleaning of the springs, the protection of the aqueduct and the implementation of indicative panels in the areas where the water was not drinkable. Finally, in the Mouresio case the Mayor was prosecuted in accordance with the criminal provisions of the aforementioned Joint Ministerial Decision.

**4. Have courts or other mechanisms addressed the obligation to ensure non-discrimination and equality in the realisation of the human rights to water and sanitation? What orders have courts adopted in that regard?**

Even though courts have not addressed the obligation to ensure non-discrimination and equality in the realization of the human rights to water and sanitation, as such, certain groups and individuals have been identified as particularly vulnerable or marginalized as regards the access to water.

The relevant issues are dealt with cases concerning the housing problems of the Roma communities. The Ombudsman constantly reaffirms the need to provide the Roma communities with basic facilities and infrastructure so as to assure the full enjoyment of their rights to water and sanitation.

Equal access to water and sanitation is often not assured to detainees in detention or holding centers. This is often taken into consideration, along with other elements, by the European Court of Human Rights (ECtHR), when considering the detention conditions in cases concerning alleged violations of article 3 of the Convention<sup>1</sup>.

**5. Does the National Human Rights Institution deal with alleged violations of the human rights to water and/or sanitation? If yes, please indicate relevant cases and attach copies.**

The Greek National Commission for Human Rights (NCHR) is a consultative to the State institution on issues pertaining to human rights protection. Unlike the Ombudsman, the NCHR is not a national mechanism which treats specific complaints by individuals who are alleged victims of violations of their human rights. However, it goes without saying that alleged violations of human rights to water and/or sanitation fall within its mandate and it, therefore, deals with such relevant issues.

The NCHR has already addressed various recommendations on the protection of the environment, which is one aspect of the rights to water and/or sanitation. Besides, the NCHR, in its last observations (2012) on the draft report of the Greek State for the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), had stressed the need to specifically address the right to water. Reference was made to the Asopos case, which at the

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<sup>1</sup> i.e. for access to drinking water (ECtHR, *M.S.S. v. Belgium and Greece*, 21.1.2001) and/or adequate hot water (ECtHR, *Peers v. Greece*, 19.4.2001 and ECtHR, *Dougoz v. Greece*, 6.3.2001).

time was still pending before the European Committee of Social Rights.

More importantly, the NCHR is, at this very moment, preparing a report precisely on the rights to water and/or sanitation. As already reported by the NCHR, the economic crisis and austerity measures have led and continue to lead to rapid and dramatic deterioration of living standards in Greece. Coupled with the dismantling of the Welfare State, they are rendering a significant part of the population destitute, widening the social divide and disrupting the social fabric. In this context, the pending sale process of 51% of EYATH (Thessaloniki Water Supply and Sewerage SA) and the scheduled sale of EYDAP (Athens Water Supply and Sewerage Company), which are the two biggest Water Supply and Sewerage Companies in Greece, are cause for grave concern regarding the enjoyment by everyone of the rights to water and/or sanitation.

**6. Can people address complaints to service providers, regulators or other mechanisms?  
How do they work?**

The provision of water supply and sewerage services, in Greece, is assured by state-owned and municipal enterprises, one in every region of the Greek State. Everyone is entitled to address complaints directly to the service provider. According to the "Obligations towards the Consumer Charter" of Athens Water Supply and Sewerage Company, the biggest provider in Greece, the complaints are treated by the competent Head of Service in cooperation with the competent Director-General.

As far as the Greek Ombudsman is concerned, he can investigate individual administrative actions or omissions or material actions taken by government departments or public services that infringe upon the personal rights or violate the legal interests of individuals or legal entities. He is therefore competent on issues relating to the right to water and/or sanitation issues. Before submitting a complaint to the Greek Ombudsman, the complainant should first come into contact with the public service involved with his/her case. Only if the problem is not resolved by the service concerned should a complaint be submitted to the Ombudsman.

People can address complaints to the Consumer's Ombudsman within 3 months after the alleged violation occurred. If the Consumer's Ombudsman judges himself competent and the complaint, is not manifestly ill-founded, he addresses the issue to the company against which the complaint is lodged. After listening both to the consumer and the company, he tries to find a compromise. If such an agreement is not possible, then the Consumer's Ombudsman publishes a report-recommendation without indicating, though, the names of the parties. If the recommendation is not approved, then as a last resort, the case report is published indicating the names of the parties.