

HELLENIC REPUBLIC

GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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**GNCHR Submission to the OEWG-Ageing :**  
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*The GNCHR in its capacity as the independent advisory body to the Greek State on matters pertaining to human rights protection has precisely addressed the protection of the rights of older persons in Greece. In its thematic report<sup>i</sup> the GNCHR considered its long-term work on issues pertaining to equality and non discrimination<sup>ii</sup> as well as to social rights<sup>iii</sup> and the impact of economic crisis and austerity measures on them<sup>iv</sup>.*

*More precisely, in its thematic report the GNCHR qualified the following axes : Civil and political rights : Autonomy and participation ; Informed consent in healthcare ; Protection from violence and abuse - Social and economic rights: Right to social security and safety and right to work ; Right to health and care - Equality and non-discrimination.*

*Conclusively, the GNCHR's Plenary was in favour of adopting an International Convention on Older Persons' Rights. In this regard, the GNCHR welcomes the possibility offered to NHRIs to submit a formal input to the work of the forthcoming Eights Session of the Open-ended Working Group on Ageing.*

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## Equality and Non-Discrimination

### *Constitution and Legislation in Greece*

In Greece, the “*respect and protection of the value of the human being constitute the primary obligations of the State*” and they are constitutionally guaranteed (Article 2(1) of the Constitution). The same applies to non-discrimination which is guaranteed by means of an explicit constitutional provision on equality before the law (Article 4(1) of the Constitution), the full protection of life, honour and liberty for all persons living in the Greek territory irrespective of nationality, race or language and of religious or political beliefs (Article 5(2) of the Constitution) or even the right to receive legal protection by the courts (Article 20(1) of the Constitution). The abovementioned provisions belong to the non-revisable provisions.

More specifically, the protection and respect of older persons' rights are guaranteed by Article 21(3) of the Greek Constitution, which specifies that “*the State shall care for the health of citizens and shall adopt special measures for the protection of [...] old age [...]*”, while, at the same time, securing the unimpeded and effective exercise of the “*rights of the human being as an individual and as a member of society*” and the “*principle of the welfare state rule of law*” as defined in Article 25(1).

Law 3304/2005<sup>v</sup> (as amended by Law 4443/2016<sup>vi</sup>) on the *Application of the principle of equal treatment regardless of racial or ethnic origins, religious or other beliefs, disability, age or sexual orientation*, by means of which Directives 2000/43/EC (on implementing the principle of equal treatment among persons irrespective of racial or ethnic origin) and 2000/78/EC (on establishing a general framework for equal treatment in employment and occupation) were introduced into the Greek legal order, constituted a turning point for the promotion of the principle of equality and the protection of human rights in Greece. Age discrimination is explicitly mentioned in Law 3304/2005.

### *Assessing the legal framework - Challenges*

It is nowadays observed in Europe that discrimination on the grounds of age is the most common ground of discrimination<sup>vii</sup>. The Greek citizens consider (to a greater extent in comparison with the EU majority) that all forms of discrimination for which they were asked are common in their country. The ground of age is among the aforementioned forms of discrimination with quite a high rate, reaching 43%<sup>viii</sup>.



The GNCHR has expressed its concern regarding the implementation of the principle of equal treatment in Greece, especially in times of financial crisis. Many of the austerity measures adopted in Greece (especially related to employment and social security) are connected to age and entail unfavourable treatment solely based on age, introducing, thus, an unjustifiable direct discrimination in violation of Directive 2000/78<sup>ix</sup>. In fact, in some cases indirect discrimination on the grounds of sex and multiple indirect discrimination on the grounds of sex and age are highly likely, since, for instance, most pensioners below 55 years of age are women who have retired with fewer years of service on the grounds that they were mothers of underage children<sup>x</sup>.

According to the GNCHR's findings the legislative framework, despite the recent amendments of Law 3304/2005 by Law 4443/2016, is still to be improved in order to effectively address discrimination on the grounds of age<sup>xi</sup>.

The GNCHR notes, that Law 3304/2005 concerns exclusively the field of employment. The provisions on the burden of proof; on the *locus standi* of legal persons in order to exercise the rights of victims in their own name rather than do so as their representatives; on the protection of witnesses; and on providing legal assistance in any case of discrimination, should be further modified in accordance with the GNCHR's recommendations.

Lastly, the Greek legislation does not provide for the prohibition of multiple discrimination. The GNCHR has emphasized the need for an explicit provision in this regard<sup>xii</sup>.



## **Neglect, Violence and Abuse**

### *Assessing the phenomenon in Greece*

Older persons neglect, violence abuse is being more and more recognised as a major social problem not only on an international or a European level<sup>xiii</sup>, but also in Greece, despite the serious lack of data regarding the size of the problem. According to the information gathered by the deliberation held in the GNCHR with the participation of national stakeholders, the data about cases of older persons abuse are exceptionally limited in Greece. This is due to the fear of older persons to testify their experience, as well as to the absence of national policy for systematically recording these cases of violence and abuse against older persons. The types of older persons' abuse are many and more than one usually take place simultaneously: physical abuse, psychological abuse – which includes emotional, mental and verbal abuse – financial abuse, sexual abuse, social abuse, as well as neglect<sup>xiv</sup>.

Regarding physical abuse, the cases annually recorded demonstrate the problem of insufficient or non-existent monitoring not only in retirement homes, but, even more so, in home care. Statistical data show that approximately 70% of those exercising violence to older persons are either family members or persons very close to them and most of them are either their partners or their children<sup>xv</sup>. It is worth mentioning that during the first 36 months of its operation (4.12.11 – 4.31.14) the Greek National Hotline SOS 10-65 received 595 calls regarding complaints of older persons abuse<sup>xvi</sup>.

With regard to neglect, violence and abuse in Greece, the GNCHR had addressed the following recommendations:

- To raise awareness of the medical, hospital and paramedical staff, as well as to every person providing care and treatment to older persons, in order to facilitate the timely addressing of cases of violence, abuse or neglect involving older persons.
- To enhance protection measures for those reporting cases of violence, abuse or neglect so as to encourage both older persons and any other care provider to file a complaint regarding such issues.
- To intensify support and help to older persons who have fallen victims of violence, abuse or neglect and take appropriate measures for their unimpeded access to justice.



- To raise public awareness towards problems encountered by older persons and their protection, especially regarding a form of abuse which particularly afflicts our country: financial material abuse<sup>xvii</sup>.

#### *Assessing the legislative framework*

Law 3500/2006 *On combatting domestic violence*<sup>xviii</sup> provides a more specialised legislative framework of protection to every family member who may suffer violence, older persons included. However, there is no explicit provision for older persons.

It is worth mentioning, in fact, that its Article 22, provides for the granting of legal aid to victims of domestic violence seeking urgent protective measures in order to deal temporarily with the situation due to the particular incident and cannot afford to pay the necessary legal costs.

Prior to the adoption of the aforementioned law, the GNCHR had highlighted some of the weaknesses of the Draft Law<sup>xix</sup> and a few of them had been indeed remedied. However, the implementation of the relevant legislation does not fully and effectively guarantee protection against domestic violence<sup>xx</sup>.

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<sup>i</sup> GNCHR, [Protection of the rights of older persons](#), 2014.

<sup>ii</sup> Equality and non-discrimination : <http://www.nchr.gr/index.php/en/2013-04-03-10-23-48/2013-04-03-10-29-34>.

<sup>iii</sup> Especially, health and social security : <http://www.nchr.gr/index.php/en/2013-04-03-10-23-48/2013-04-03-10-47-48>.

<sup>iv</sup> Impact of financial crisis and austerity measures on human rights : <http://www.nchr.gr/index.php/en/2013-04-03-10-23-48/2013-04-03-10-41-02>.

<sup>v</sup> OGG 16 A/27.1.2005.

<sup>vi</sup> OGG 232A/9.12.2016.

<sup>vii</sup> P. Stagkos, “Discrimination on the grounds of age and the challenge of intergenerational solidarity in the Greek and European law”, *Review of Labour Law*, Vol. 73, Year 2014, p. 978.

<sup>viii</sup> European Commission, Special Eurobarometer, *Discrimination in the EU in 2012*, June 2012, QC1, QC4, QC5, QC6, QC10, available at: [http://ec.europa.eu/justice/discrimination/files/eurobarometer393summary\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/eurobarometer393summary_en.pdf). Furthermore,

according to the same research, as far as employment is concerned, if the candidate is aged over 55, this constitutes an important factor – disadvantage for his/her hiring for 54% of the persons asked, while on the same subject, 82% of the persons asked answered that the age over 55, as a ground of discrimination in the labour market is highlighted due to the financial crisis.

<sup>ix</sup> S. Spiliotopoulou – Koukouli, “Austerity measures and human rights: judgements of international bodies, EU law and examples of Greek case-law”, *Review of the Social Security Network*, Iss. 2/644, par. 173,181,182,189.

<sup>x</sup> *Idem*, par. 83, 176, 190.



<sup>xi</sup> GNCHR [Statement](#) [in Greek] on the Draft Law of Ministry of Justice, Transparency and Human Rights, submitted to the Parliament on 9.11.2016 and entitled «Incorporation of Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, of the Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, and of the Directive 2014/54/EC, on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers II) adoption of measures in order to comply with Articles 22, 23, 30, 31(1), 32 and 34 of the Regulation No 596/2014 on market abuse and repealing the Directive 2003/6/EC of the European Parliament and the Council and the Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC and transposition of the Directive 2014/57/EU on criminal sanctions for market abuse and its implementing Directive 2015/2392, III) transposition of Directive 2014/62 on the protection of the euro and other currencies from counterfeiting through criminal law, and the replacement of the Framework-Decision 2000/383/JHA and, IV) Establishment National mechanism for investigating incidents of arbitrariness in security forces and in detention facilities » (17.11.2016) ; GNCHR [Observations](#) [in Greek] on the Draft Law of the Ministry of Justice, Transparency and Human Rights «Implementation of the principle of equal treatment regardless of race, color, national or ethnic origin, descent, religion or belief, disability or chronic illness, age, marital or social status, sexual orientation, gender identity or characteristics and other provisions» (20.9.2016) ; GNCHR, “*Comments regarding Law 3304/2005 ‘Implementation of the principle of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation’ and recommendations for its amendment*”, 2010 Annual Report, pp. 39-48 and GNCHR, “Comments on the Bill “Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation - Harmonisation of Legislation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006”, 2008 Annual Report.

<sup>xii</sup> GNCHR, “Comments regarding Law 3304/2005 «Implementation of the principle of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation» and recommendations for its amendment”, 2010 Annual Report and GNCHR “[Comments on the Bill “Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation- Harmonisation of Legislation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006”](#)”, 2008 Annual Report.

<sup>xiii</sup> See in this respect World Health Organization, Regional Office for Europe, *European report on preventing elder maltreatment*, 2011, pp. 1-9, available at: [http://www.inpea.net/images/WHO\\_EU\\_Report\\_Elder\\_Mistreatment\\_2011.pdf](http://www.inpea.net/images/WHO_EU_Report_Elder_Mistreatment_2011.pdf).

<sup>xiv</sup> See in this respect J.J.F. Soares, H. Barros, Fr. Torres-Gonzales, El. Ioannidi-Kapolou, G. Lamura, J. Lindert, J. de Dios Luna, G. Macassa, M.G. Melchiorre, M. Stank, ABUEL. *Abuse and Health Among Elderly People*, 2010, p. 22, available at: <http://www.hig.se/download/18.3984f2ed12e6a7b4c3580003555/ABUEL.pdf>.

<sup>xv</sup> N. Georgantzi, *Elder abuse and neglect in the European Union UN Open-ended Working Group on Ageing*, 21-24 August 2012, available at: <http://social.un.org/ageing-working-group/documents/ElderAbuseNGOEWG2012.pdf>.

<sup>xvi</sup> According to a research conducted by partners of the Press Office of NGO LifelineHellas, from the published cases of abuse of older persons, it appears that for the time period 2010-2014 the following data arises, which are not absolute of course, but paints a picture of the size of the problem: 27 older persons were murdered, 390 older persons were victims of violence, 7 older women were victims of sexual abuse and 192 older persons were victims of financial abuse. See LifelineHellas, Press Release, “World Elder Abuse Awareness Day. Help exists! And it's available to all! 1065: National SOS Hotline for old persons”.

<sup>xvii</sup> Greece is amongst the five EU countries which have emphasized the financial/material abuse. See “The European Reference Framework Online for the Prevention of Elder Abuse and Neglect (EuROPEAN)”, The European Reference Framework Online for the Prevention of Elder Abuse and Neglect. Background, Good Practices and Recommendations, 2009-2011, p. 7, available at: <http://www.forumseniorov.sk/European%20Reference%20Framework.pdf>.

<sup>xviii</sup> OGG 232 A/10.24.2006.



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<sup>xix</sup> GNCHR, “Comments on the Bill entitled Combating Domestic Violence”, 09.02.2006, summary in English, available at:

[http://www.nchr.gr/images/English\\_Site/GYNAIKES/Domestic%20Violence%202006.pdf](http://www.nchr.gr/images/English_Site/GYNAIKES/Domestic%20Violence%202006.pdf).

<sup>xx</sup> UN HRC 29, Written submission by the Greek National Commission for Human Rights, A/HRC/29/NI/2, available at: <https://daccess-ods.un.org/TMP/5608794.68917847.html>.