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LATHAM & WATKINS

In summer 2012, as part of the Poverty is Not a Crime campaign, Housing Rights Watch conducted a survey of national laws that penalise or criminalise the behaviour of people who are homeless. Legal experts prepared country reports that describe the nature of anti-social behaviour laws, as well as other regulations or ordinances that affect homeless people.

Greece

1. Introduction

According to the Hellenic Statistical Authority (EL.STAT.), the current number of homeless people in Greece amounts to at least 20,000, a rise of 20-25% compared to two years ago, although it is acknowledged that the official statistics do not depict the real growing number of homeless people¹. Greece is ranked 7th among the European countries that experience problems with poor and socially marginalized people. Currently, 27,7 % of Greek citizens live in poverty and social exclusion and do not have sufficient means to cover housing expenses.²

During the last months, due to the recent severe financial crisis and the austerity measures that have shrunk the economy, the situation has been gravely exacerbated. In the first semester of 2012, the income of the Greek families was reduced by about 5,5% compared to 2011³. According to a recent survey, one out of seven Greek citizens currently benefit from food rations⁴. As a result, there is a new category of citizens, which are long-term unemployed who cannot pay off their debts and have unexpectedly lost the right to a decent life. These people are unavoidably led towards the beggary.

Although the problem seems to affect the whole Greek territory, it is more prominent in the big urban centres and especially Athens. The phenomenon has taken particularly severe dimensions in Athens, a city of which the social character has undergone severe changes as a consequence. The economic turmoil, which has led to such social degradation, is considered as the worst recession in modern Greek history⁵, while Bloomberg recently stated that it is 'the highest collapse of a developed country, during the last three decades'⁶.

¹<http://www.wsws.org/articles/2012/mar2012/gree-m14.shtml>

²<http://www.localit.gr/?p=7398>

³<http://tvxs.gr/news/ellada/elstat-kata-55-meiothike-diathesimo-eisodima-ton-noikokyriou>

⁴http://freshsnews.blogspot.com/2012/03/blog-post_1123.html#ixzz29SBuPcKL

⁵<http://rodopinews.gr/26966>

⁶<http://www.skai.gr/news/finance/article/215435/vloomberg-ufesi-mesopolemou-stin-ellada-logo-litotitas/>

2. Criminal Offences

In Europe, there is an increasing trend towards the criminalisation of homelessness. In some countries for example, the act of sleeping on the streets is in danger of being subjected to fines or imprisonment.

In Greece, nevertheless, there are no legal provisions, directly criminalising homeless people. In addition, due to the recent severe financial problems, there is a growing sense of understanding and sympathy towards these people and it is quite rare that incidents have taken place resulting in attacks against or prejudice caused to them. However, even when such events occur (for example, in the last months, the police have used forceful means of a violent manner to remove homeless people that had found shelter in a number of places, such as an abandoned building of an Electricity company in Chania, Crete⁷, the Spiritual Center of Athens⁸, the enclosed gym of Rouf area in Athens⁹ and a Catholic church in Thessaloniki¹⁰), there has been quite some public outcry.

Some irregular and dangerous actions are however generally criminalized, in, for example, the Presidential Decree governing police officers and their duties, as well as the Greek Penal law, punishing beggary, and controlling the use of public places. Greek Penal law also provides clauses on disturbance of peace, transport security and circulation, as well as acute intoxication.

Presidential Decree 141/1991, published in Law Gazette A-58/30-4-1991 governing police officers, and their duties¹¹ This Decree comprises two provisions aiming at ensuring public security and order:

a) Surveillance of beggars and vagrants: Article 98 provides that *'The Greek Police cares for the release of the society from the beggary and the vagrancy, because they both boost the unemployment and create juvenile delinquents. In order to fulfill this aim, the Greek Police personnel is responsible for the implementation of the respective provisions and orders of the Service and cooperates with the competent welfare Services.'*

b) Surveillance of public centres: Article 100 provides that: *'1. The entrance of the police personnel in public spaces, in order to accomplish their duties is free at any time during 24 hours per day. The surveillance of public spaces is assigned to the sentinels, patrols or police officers, ordered specifically to fulfill this aim. 2. Public space is any open space (street, square and generally open land) and regarding the enclosed spaces, any such space that is not considered to be a residence.'*

Offences directly affecting homeless people

Begging

According to Article 407, *'whoever begs, due to laziness or avarice or consistently, is punished with imprisonment, up to three months'*.

In addition, Article 409 criminalises the neglect to prevent from beggary or vagrancy. It provides that: *'Whoever a) encourages to beggary or neglects to prevent from*

⁷http://tro-ma-ktiko.blogspot.be/2012/05/blog-post_9546.html

⁸<http://disorderisti.blogspot.be/2012/02/blog-post.html>

⁹http://www.star.gr/Pages/Ellada_Kosmos.aspx?art=26025&artTitle=epicheirisi_skoupa_tou_dimou_stous_astegous_sto_rouf

¹⁰http://www.rthess.gr/articles_det.asp?artid=20032

¹¹<http://www.policenet.gr/portal/downloads/astunomia-armodiotetes-organon/83.html>

beggary or vagrancy persons that are under his custody or are dependent on him, or b) gives to other people or provides them with persons under 17 years old or over this age, but physically or spiritually disabled, in order to provoke with their young age or their physical or spiritual disease or disability, the mercy or the curiosity of the public, for his own or someone else's financial benefit is punished with imprisonment up to six months or fine'.

In addition, there are some court judgments, confirming that beggary is a crime. For example, in its condemnatory judgment, 2121/2007, in a drug case, the Athens Supreme Court confirmed that the only past violation in the defendant's criminal record was beggary.

Offences indirectly affecting the homeless

Disturbance of the peace

Article 417 criminalises any behaviour that can disrupt the normal life of the citizens, especially during the night.

Namely, 'whoever disturbs, in public, the citizens' activities, entertainment or nocturnal calmness through excessive noise, produced during the exercise of an occupation, or provoked in another way, or through loud sounds, quarrels or any other acts is punished with imprisonment or fine'.

Disturbance of domestic peace

The third paragraph of Article 334 provides that: *'Whoever illegally enters a store or a public, municipal or communal service area or a legal entity of public law or a public-benefit corporation or stays in these areas, without the will of these entities, declared by their legal representative or officer, and interrupts or disturbs the execution of the regular service is punished with imprisonment of at least six months'.*

Infringement of legal provisions for streets

Article 420 punishes any action in breach of the legal provisions that ensure security and order on the streets. According to this Article, *'whoever infringes the legal provisions issued by the adequate authority and especially the police provisions, aiming at the security, order, comfort, calmness, neatness on public streets, squares or water is punished with fine or custody up to two months'.*

Disturbance of circulation

Article 431 provides that *'whoever obstructs, without right, the circulation in areas of public use, in land or water or disturbs it, in whatever way, or puts its security at risk, is punished with fine or custody up to two months, unless another provision punishes this act more severely'.*

Disturbance of transport security

Article 290 states that *'whoever, voluntarily disturbs the transport security on the streets or squares, is punished with: a) imprisonment, if the act can place a person at*

risk, b) life sentence, if the act led to a person's death. If the act was committed by negligence, imprisonment is imposed'.

Suppression of damages, which provoke the common sense

According to Article 384A, *'Whoever, provokes or stimulates, in whatever way, the common sense, in public or within stores, centres or other entertaining areas accessible to the public, where food or drinks are offered, by destroying or damaging or in whatever way rendering unfeasible the use of movable property, even with the owner's or the store/centre manager's consent is punished with imprisonment up to six months'.*

Acute Intoxication

Article 440 provides that *'whoever, under a state of voluntary intoxication, causes danger to a person, or substantial disturbance of public order is punished with fine or custody, unless another provision punishes this act more severely'.*

Legislation related to migrants

A special category of people that are in their vast majority roofless or live in squalid conditions and have to cope with the social exclusion, that xenophobia and racism create, are the irregular or undocumented immigrants.

The aforementioned provisions of the Greek Penal Code also apply to them, given that Article 5 of the Greek Penal Code provides that *'The Greek penal law applies to any act committed in Greek territory, even by non-Greek citizens'.* However, taking into account the difference in the treatment accorded to immigrants (namely the racism of which they are often victims), they have a special section in this report. It has to be mentioned that a new regulation, imposing as an aggravating circumstance to any crime, the illegal entrance of the defendant into the country, is about to be enacted in Greece¹².

During the last two decades, Greece has become the gateway to Europe, or even the destination, for hundreds of thousands of undocumented immigrants. The Greek government did not have the necessary resources, in order to receive in such a large number of immigrants in such a short time, and has still not adopted a satisfactory institutional framework or a specific integration policy.

Although a number of laws on immigrants' entry and residence (ie. Laws No. 2910/2001¹³, 3386/2005¹⁴, 3536/2007¹⁵, 3838/2010¹⁶) tried to resolve the problem, by providing them with the possibility to legalize their status, every attempt has failed.

¹²<http://www.tovima.gr/society/article/?aid=475305>

¹³http://www.travelsafe.gr/N2910_GR.pdf

¹⁴http://www.elinyae.gr/el/lib_file_upload/212a_05.1149574763509.pdf

¹⁵http://www.dsanet.gr/Epikairothta/Nomothesia/n3536_07.htm

¹⁶http://career.duth.gr/cms/files/fek_a49_300310.pdf

Thus, irregular immigrants have restricted access to social protection and are often arrested for illegal entry or stay, and also on the grounds of public health protection and prevention of criminality. 'For example, in 2010, 132,524 persons were arrested, a sharp increase from 95,239 in 2006. Nearly half of those arrested (52,469) were immediately deported. Those not deported either applied for asylum or were issued an order to leave the country within one month.'¹⁷

Even though, in the last years, the economic situation as well as the growing discrimination against these people, have reduced their entry rate, the actual size of the immigrant population in Greece that lives in squalor is still very high.

The main groups affected are Roma people, who are treated with extreme discrimination and are not aware of their rights, for example the principle of equal treatment between persons irrespective of racial or ethnic origin, which the European Directive 2004/43/EC¹⁸ guarantees.

In September 2006, the Greek Helsinki Monitor denounced the fact that the Centre on Housing Rights and Evictions (COHRE) had received disturbing reports concerning the continued illegal evictions of Roma in Greece throughout the last decade¹⁹.

Decriminalization

First of all, the Greek Constitution provides a specific clause for the protection of the right to housing. More specifically, Article 21 paragraph 4²⁰ stipulates: '*The acquisition of dwelling for those that are deprived of it or whose accommodation is inadequate constitutes a matter of specific care by the State*'. However, the Greek government had never, up to date, taken efficient actions, in order to align themselves with this requirement.

In addition, a new law has been recently enacted in Greece, providing a definition of homeless people, by attributing them the feature of a vulnerable group of the population. Namely, on the 1st of March 2012, the Law Gazette 41/2012²¹ was published, comprising the law 4052/2012, which sets out, on article 29, two provisions for homeless people, as follows:

1st: *Homeless people are recognized as a vulnerable group of the population, to which social protection is provided. Homeless people are defined as those people that reside legally in the Greek territory, that lack access or have insecure access to adequate, self-owned, rented or granted residence that fulfils the necessary technical specifications and that consists of the basic water and electricity supply services.*

2nd: *The definition of homeless people comprises mainly people that reside on the streets, hostels, those that receive temporary hospitality by necessity at foundations or other enclosed institutions, as well as those that reside in inadequate accommodations.*

¹⁷<http://www.migrationinformation.org/Profiles/display.cfm?ID=884>

¹⁸<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>

¹⁹<http://cm.greekhelsinki.gr/index.php?sec=194&cid=2666>

²⁰<http://nethellas.gr/Nomoi.htm>

²¹http://www.eaed.gr/attachments/4495_n.4052_12.pdf

This law, which fills the gap that existed in Greek legislation with regard to the definition of homeless people, constitutes the first step for Greece in order to claim and use the Community resources for the funding of the support programs and actions for these people.

Specifically, although there are no specific expenses in the government budget, there are some resources in the European Regional Development Fund and the European Social Fund that had not been disbursed, due to the legislative gap that existed until recently²².

In March 2012, just after the issuance of the above law, the Ministry of Labour announced the creation of the ‘National Network of Direct Social Intervention’, which aims at addressing the poverty and the social exclusion at a Pan-Hellenic level, through material and psychological support to vulnerable groups of people, mainly homeless people.²³

In addition, in order to cope with the recent severe phenomenon of the new category of homeless people, there are some non-governmental organizations (NGOs) that take initiatives to provide hospitality, feeding, healthcare and psychological support to whoever needs it. These organizations include the: ‘Solidarity’ of the Greek Church, ‘Red Cross’, ‘Klimaka’, ‘Praxis’, ‘Medecins du Monde’, as well as the Center of Reception and Solidarity of Athens Municipality, called ‘Kyada’.²⁴ For example, it is remarkable that Klimaka, as part of this support program, organizes during the last months various fund raising events (concerts, parties etc.), raising also public awareness and activation²⁵. Moreover, ‘ARSIS’ is an organization, promoting support programs for homeless young people over 15 years old.²⁶

In addition, in various Municipalities, apart from feeding, accommodation is provided, in order for homeless people to be hospitalized, when the weather is extremely aggravated.

3. Administrative Offences

Offences directly affecting homeless people

Offences indirectly affecting the homeless

Miscellaneous ordinances and decrees

Repression linked to offences

Sanctions

²²<http://www.plision.gr/?p=247>

²³<http://government.gov.gr/2012/03/14/27909/>

²⁴<http://www.iefimerida.gr/news/35755/%CF%84%CE%BF%CF%85%CF%82-20000-%CF%80%CE%BB%CE%B7%CF%83%CE%B9%CE%AC%CE%B6%CE%BF%CF%85%CE%BD-%CE%BF%CE%B9-%CE%AC%CF%83%CF%84%CE%B5%CE%B3%CE%BF%CE%B9-%CF%83%CF%84%CE%B7%CE%BD-%CE%B5%CE%BB%CE%BB%CE%AC%CE%B4%CE%B1>

²⁵<http://www.astegoi-klimaka.blogspot.be/>

²⁶http://erymanthos.eu/index.php?option=com_content&view=article&id=474:2012-09-25-15-54-39&catid=55:koinonia-politon&Itemid=61

4. **Appeals procedure**
5. **National Case Law**
6. **International Case Law**
7. **Additional Information**

The increasing charity and care taken through a cooperation between Municipalities and NGOs aim, in the long term, at reducing significantly poverty²⁷, at preserving the human life and dignity, and at helping the reintegration of these people into Greek society.²⁸ This would reinforce the sense of security of Greek citizens and also the sense that they are living in a compassionate society, which does not tolerate, even in this period of economic crisis, the miserable conditions in which some of its citizens have come to live.

²⁷The European target is the limitation of poverty until 2020.

²⁸<http://www.localit.gr/?p=7398>