



Comments of PRAKSIS in relation to ECRIS' upcoming fifth-monitoring cycle

(25.11.2013)

➤ **1. Racist violence: reporting incidents of racist violence**

For almost a decade, PRAKSIS offers its specialised services (medical, legal, psychosocial support) to diverse population groups, namely refugees, migrants, irregular migrants, victims of human trafficking, Roma, HIV patients, homeless and unemployed, hence our colleagues and volunteers work with socially vulnerable groups of people on a daily basis. The phenomenon of racist violence is not a new one but it has escalated in the last three years. In October 2011 we officially joined the national Network for Reporting Incidents of Racist Violence and since then the official recording of racist attacks against refugees, asylum seekers and migrants commenced.

Since 2011, the above national Network, which is coordinated by the National Commission for Human Rights and the United Nations High Commissioner for Refugees (UNHCR) and consists of 33 NGOs and other actors of civil society, has recorded through interviews with victims over 300 incidents of racist violence at national level; the vast majority of them were refugees and migrants. It has also recorded a significant increase in homophobic attacks and it has repeatedly sounded the alarm not only for the dramatic increase in racist attacks but also for the way in which these attacks were carried out. According to testimonies of the victims, the most common practice is "patrols" by organized men dressed in black,

pedestrians or motorcyclists who attack refugees and migrants on the streets, squares or at public transportation stops.

Only few of these cases have been reported to the police. Victims have complained about the inability or unwillingness of prosecutors to conduct a sufficient investigation and carry out arrests. The vast majority of victims who lack legal documents do not make an official complaint to the authorities due to fear of arrest and deportation.

In this respect, two aspects of the phenomenon, as recorded by PRAKSIS, are noticeable and worth mentioning. Firstly, the increased violence of the attacks carried out, especially the use of weapons such as chains, broken glass, bottles and knives. According to a victim's testimony that was attacked on a bus in the early hours, "*they attacked to kill and not to injure*". In all of the attacks, there was physical violence against third-country nationals whilst in almost half of the incidents there was grievous bodily harm (in 5 cases) with emergency medical care and hospitalisation required. In other incidents the attacks were carried out with the assistance of big dogs that contributed to the intimidation of the victims.

The second crucial element linked to the attacks is the identity of the perpetrators. In the majority of our recorded incidents and based on the victims' testimonies, the attackers appeared to belong to extremist / far right groups acting in an organised manner, dressed in black uniforms and in two instances they wore helmets in order to avoid identification and arrest. Of particular interest is also the involvement of the police to these attacks. In 3 out of 12 incidents recorded from PRAKSIS last year, the victims testified that the attackers belonged to the police force and that physical assaults took place during documentation checks carried out on the streets of Athens or within police stations in isolated cells / rooms during detention. In another recorded instance in Nea Michaniona –Thessaloniki a few months ago, an Iraqi citizen was severely beaten by a group of 15 locals who wrongly accused him of sexually harassing a young Greek girl. The victim was taken to hospital where he was operated. During our interview, he told us that two of the attackers wore black T-shirts that had the emblem of the political party "Golden Dawn" on them, inside their jackets.

➤ 2. Legislative issues

2.1 Current legislation

Law 3304/2005 on the "*implementation of the principle of equal treatment irrespective of racial or ethnic origin, religion or belief, disability, age or sexual orientation*" is a landmark for the promotion of the principle of equality and the protection of human rights in Greece. With the enactment of the above piece of legislation, the national legislator incorporated in our legal system two Directives of the European Union, namely: a) Directive 2000/43/EC on the "*implementation of the principle of equal treatment of persons irrespective of racial or ethnic origin in the areas of employment, work, participation in unions and professional organisations, education, social services and access to distribution and provision of goods and services*", and b) Directive 2000/78/EC in "*combating discrimination based on religion or belief, disability, age or sexual orientation*" exclusively in the field of employment and occupation. Criminal sanctions are imposed in cases of violation of the above provisions, according to article 16 of Law 3346/2005.

As for the criminal treatment of acts of racism and xenophobia, the provisions of Law 927/1979 « *on punitive acts or activities aiming at racial discrimination* » still apply. This law has been amended by Article 24 of Law 1419/1984, which added the word «religion» as a specific category of cases that should be protected from discrimination. Recently the category of acts that constitute criminal behavior based on other grounds of discrimination beyond the 'traditional' forms of racist violence was expanded, in order to include acts such as sexual orientation and gender identity. This was achieved by the recent amendment of the provisions of the Criminal Code. More specifically, Article 66 of Law 4139/2013 amended Article 79 paragraph 3 of the Greek Criminal Code which now has as follows: "*The commission of the act due to hatred based on nationality, race, religion, nationality or ethnic origin or because of a different sexual orientation or sexual identity of the victim constitute aggravating circumstances, and the sentence is not suspended*".

In this context, the role of the police is also important in arresting and bringing criminals to justice so that the above provisions can be enforced. With the coming into force of

Presidential Decree 131/2012 on December 2012, the Ministry of Public Order and Citizen Protection created special police units and offices aimed at the fight against racist violence. These units are found at the premises of all Police Directorates or Sub-directorates throughout Greece. There is a national phone line (11414) available for migrants, refugees and asylum seekers on a 24basis in order to make an official complaint. According to the police authorities, the complaint can be anonymous or by a third party and not what the victim and then investigated. In any case the anonymity of the complainant is ensured. All incidents of violence are then reported to specialized doctors who examine the victims in order to issue official certificates regarding their physical condition in order to support their claims in the penal courts. This is seen as a positive development; however PRAKSIS view is that we should be reluctant about the efficacy of this new police unit. The inability of irregular migrants to file a complaint against their perpetrators is a crucial aspect of our officially expressed reluctance, since it is mostly irregular migrants who fall victims of racial violence. Furthermore, the victims of racist violence are still not eligible for free legal aid, as it is the case with other categories of people. Therefore, they need to pay a minimum amount of 100 Euros in order to officially make a complaint to the police and take bring the case before the courts.

2.2 Recent legislative initiatives for tackling hate speech and racist violence

On 20.11.2013 the new antiracist bill was brought before the Greek Parliament and is expected to come soon into force. It provides severe penalties and sanctions for those who violate its provisions, whilst it provides that public funding of political parties will be suspended in case their MPs get involved in such acts. Those who mediate, excite or incite acts or actions that could lead to discrimination or hatred for groups of people based on race, colour, religion, nationality, ethnic origin, or sexual orientation will be punished with imprisonment of three months up to three years and a fine of 5.000-20.000 Euros. The same penalties are foreseen for those who intent to induce or encourage the commission of offences such as the destruction of aliens' property, or any other acts that pose a threat to public order.

If those acts have resulted in the commission of crime, then a penalty of at least six months and a fine of 15,000 to 30,000 Euros is foreseen, whilst the same penalties will apply

for those who recommend or participate in any organization or association that aims in the commission of such acts. The same penalties will be also imposed to those who intentionally and publicly (orally, through the press, or on the internet), deny maliciously the importance of genocide or crimes against humanity, war crimes, Holocaust and praise Nazism in a way that may incite violence or hatred for any of the above grounds.

In addition, If the offenses were committed for the benefit or on behalf of a legal entity or association of persons (e.g. political parties) or by a legal representative or the authorized person, the Minister of Justice may additionally impose by resolution (cumulatively or alternatively) the following :

a) Administrative fine of 10 thousand to 100 thousand Euros

b) exclusion from entitlement to public benefits , grants, subsidies , advertising supplies etc. for a period of one to six months. If these criminal offenses are committed on air, during a radio or TV show, sanctions may be imposed by the National Broadcasting Council.

It is rather obvious that the above initiatives have a clear focus, i.e. the prevention and suppression of criminal violence carried out by MPs who belong to the far-right political party “Golden Dawn” (Chryssi Aygi) in the last few years¹. It is worth pointing out that the above criminal acts based on discrimination and any subsequent acts committed as a result, shall be prosecuted *ex officio* from the relevant judicial authorities. Of great importance is also the fact that potential victims of such crimes may file a complaint for free, without having to pay an amount of money in order to protect themselves from racist violence. That is a greatly needed development in the case of irregular migrants and refugees who fall victims of such acts.

¹ It is also worth pointing out that yesterday (20.11.2013) two Greek citizens (N.P. and G.P.) were found guilty for having intentionally committed the crimes of arson, illegal violence, and aggravated case of damage caused to the property of an alien citizen from Cameroon on 13 and 14.05.2013. For the first time, the racist motive was acknowledged from the penal court as an aggravating circumstance. They were both followers of the far-right political party “Golden Dawn”.

➤ 3. Protecting victims of racial violence - Integration policies

The protection of victims of racial violence is of particular importance, especially in cases the victims are third-country nationals and they do not possess residence permits or any other form of legal document. This problematic situation has particularly been stressed by PRAKSIS in the recent past, as well as by many organisations that participate in the national Network for Reporting Incidents of Racial Violence.

It should also be noted that pursuant to the provisions of Law 4052/2012 (Article 86) the state now recognises to aliens who file an official complaint against their employers for illegal and abusive employment to be issued residence permits on humanitarian grounds (pursuant to Article 44 paragraph 1 of Law 3386/2005, as it applies). This is also a positive development, following the incidents in Manolada². However, for victims of racial violence who do not possess legal documents in Greece, there is still no special provision for obtaining residence permits on humanitarian grounds or other exceptional grounds. This legislative “gap” has been particularly stressed from PRAKSIS and other NGOs, and it seems that our collective pressure has brought another positive development.

More specifically, in the provisions of the new Migration Code which has been lodged to the Greek Parliament in October and is about to come into force, Article 44 of current law 3386/2005 will be replaced by a new broader category of beneficiaries for residence permits on humanitarian grounds. In this new category, a provision for granting residence permits to victims of racial violence is foreseen, on humanitarian grounds, in a similar manner to those permits granted to victims of human trafficking. PRAKSIS welcomes this development and we look forward to assisting migrants in getting hold of those permits that will allow them to integrate into Greek society.

² In this case, three Greek citizens, so-called “caretakers”, opened fire to a number of illegal migrants from Bangladesh who were working on the fields collecting strawberries, and who simply wanted to get paid for their work. This attack took place in April 2013 and a dozen of the above workers were taken to hospital after being seriously injured from gunshots.

➤ 4. **Concluding remarks**

Despite the calls for the ratification of the 12th Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms on the Prohibition of Discrimination, Greece has still not ratified the above Protocol that was officially signed on 4.11.2000.

Additionally, the Greek state has not established its own official mechanism for reporting incidents of racist violence. Until the aforementioned Network of NGOs commenced its operation, it was practically impossible for victims to officially report such incidents. They had to either sue the perpetrators directly or seek the assistance of the police authorities which due to its involvement in racist attacks was simply not the wisest thing to do. As already mentioned above, in some instances the victims of the attacks were undocumented migrants and were therefore afraid to seek the protection of the police, due to potential arrest, detention and deportation. Furthermore, there have been incidents in the past where police officers were involved in incidents of racist violence.

The States' indifference to deal with this phenomenon as a whole has contributed to the escalation of violence against refugees, asylum-seekers and migrants in the last few years. Thanks to the role of the Network of NGOs and the pressure exercised on our behalf, in conjunction with a number of tragic events (the incidents in Manolada and the most recent fatal attack carried out by a follower of the Golden Dawn party against a 36 year old Greek citizen who developed antiracist action), the State finally reacted by taking initiatives to tackle racist violence, hate speech, and to protect victims of racist violence. It is hoped that this collective effort will eventually lead to more arrests and convictions of perpetrators.

➤ 5. Future challenges

Being a member of the Network and a leading NGO with considerable experience in dealing with socially vulnerable groups, we believe that a thorough and well-structured National Strategic Plan must be drawn in order to prevent and effectively fight the phenomenon of racism as a whole. In this context, the collaboration of the State with NGOs is indispensable. The expertise of the NGOs that participate in the Network is greatly needed for the State, which should seek to build upon our collaboration and move forward in reforming the national legislation where appropriate, so that a modern and coherent legal framework is truly applicable. Furthermore, campaigns must be carried at national level in order to inform Greek citizens about the importance of these issues and the danger that racist behavior and violence constitute for the society as a whole. Additionally, members of the Network shall seek to actively engage in the exchange of views and knowledge with other European NGOs, especially with counterparts from countries that face similar problems with Greece (economic and social crisis, unemployment, safety issues).

PRAKSIS will most certainly continue to have an important role in this context, by recording incidents of racist attacks, participating in public discussions with State agencies and public servants, and above all by offering our continuous support to the victims of racist violence at all times.
