



REPORT DRAFTED BY
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THE HELLENIC POLICE AND THE RACIST CRIME THROUGH THE “GOLDEN DAWN” CASE-FILE



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I. PREAMBLE

HumanRights360 while focusing on the recording and combatting racist crimes, has highlighted -beside the profound positive changes in anti-racist legislation- the continuation of delays in the investigation of crimes which are motivated from prejudice: relevant Authorities do not always follow prosecution ex officio for every crime that includes indicators of prejudice, the racist motive is not taken into consideration during the first steps of the investigation, while the Authorities do not intervene for the rescuing of victims and the arrest of perpetrators, even when the incident occurred in front of police officers. At the same time, Golden Dawn's trial, through the case that was constructed and the historical conviction that followed, laid emphasis on the fact that prosecution authorities, and mainly the Greek Police, which first takes cognizance of criminal acts, implement practices that enhance the under-recording and inadequate punishment of racist

crime that organizations are pointing out for years. In addition, the racist motive is investigated inadequately by the Greek Police, even in salient cases, criminal load is systemically underestimated, and huge delays take place during the collection of evidence and fulfillment of cases. Thanasis Kampagiannis, lawyer of the civil action of the Egyptian fishermen in Golden Dawn's trial, has many times highlighted the need to investigate the way in which prosecution authorities in Greece have dealt with criminal actions that occurred with a racist motive. It is an honorary circumstance that he undertook this study so we can investigate the way prosecution authorities acted in cases in which they confronted racist crimes, through a plentiful material of documents and case files for the years 2008-2013. The citation, analysis, and evaluation of this material will lead to secure conclusions regarding the assessment of the attitude of the prosecution authorities, along with the prevention or the non-punishment of similar incidents in the near future.

II. INTRODUCTION

SCOPE of this Report is the investigation of the way that prosecution authorities in Greece have confronted criminal actions conducted with a racist motive. When referring to prosecution authorities mainly we refer to the Greek Police, which usually is the first to act regarding criminal actions, and at the same time, is the first step of Justice in the relation between the citizen and the law.

SOURCE AND FIELD OF REFERENCE of our Report is the case file that was conducted following the murder of Pavlos Fyssas in September 2013, in terms of which numerous case files were united and associated for the evaluation and substantiation of the criminal organization "Golden Dawn".

IN THE TERMS OF CRIMINAL INVESTIGATION

that was accomplished after the decision of the Plenary of the Court of Appeal of Athens, by the special appeals investigating judges, I. Klapa and M. Dimitropoulou, the judges, requested from the territorially competent Public Prosecutor's Offices the issuing of copies of case files from which evidence arises on the commission of criminal acts from executives, members, and supporters of "Golden Dawn".

FOLLOWING THESE, we have a plentiful material of documents and case files for the years 2008-2013 allowing us to investigate the way the prosecuting authorities acted on the cases that dealt with racist crimes.



Vasco Gargalo for
#XthemOut campaign.

III. METHODOLOGY -STRUCTURE

This report identifies and examines the practices and trends in the attitude of prosecution authorities, as they emerge from the comparative study and analysis of the recorded cases included in the case file of the Golden Dawn trial. The report includes quantitative and qualitative elements from cases in which these practices, that contributed to the underreporting and the defective sanctioning of the racist crime that have been pointed out for years by the organizations in charge of recording incidents of racist violence, are identified¹.

In the context of an accurate and impartial recording that will lead to a comparative study and to the draw-

ing of the final conclusions regarding these defective practices, the report also includes some cases in which the prosecuting authorities acted in the manner prescribed by law and completed the investigation of the case, highlighting thus the qualitative and quantitative characteristics of the crime.

In addition to the cases it analyzes, this Report describes the context of the legislation, as historically presented and amended, and the impact of these amendments on the development of active cases while at the same time drawing information on the attitude of the prosecuting authorities from the findings of the RVRN's reports. Finally, it concludes a comparative assessment of trends and practices reflected in the attitude of the prosecuting authorities to draw final conclusions and make recommendations accordingly.

¹ See the important work of the Racist Violence Recording Network (RVRN) at: <http://rvrn.org/>



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THE STRUCTURE OF THE REPORT IS THE FOLLOWING:

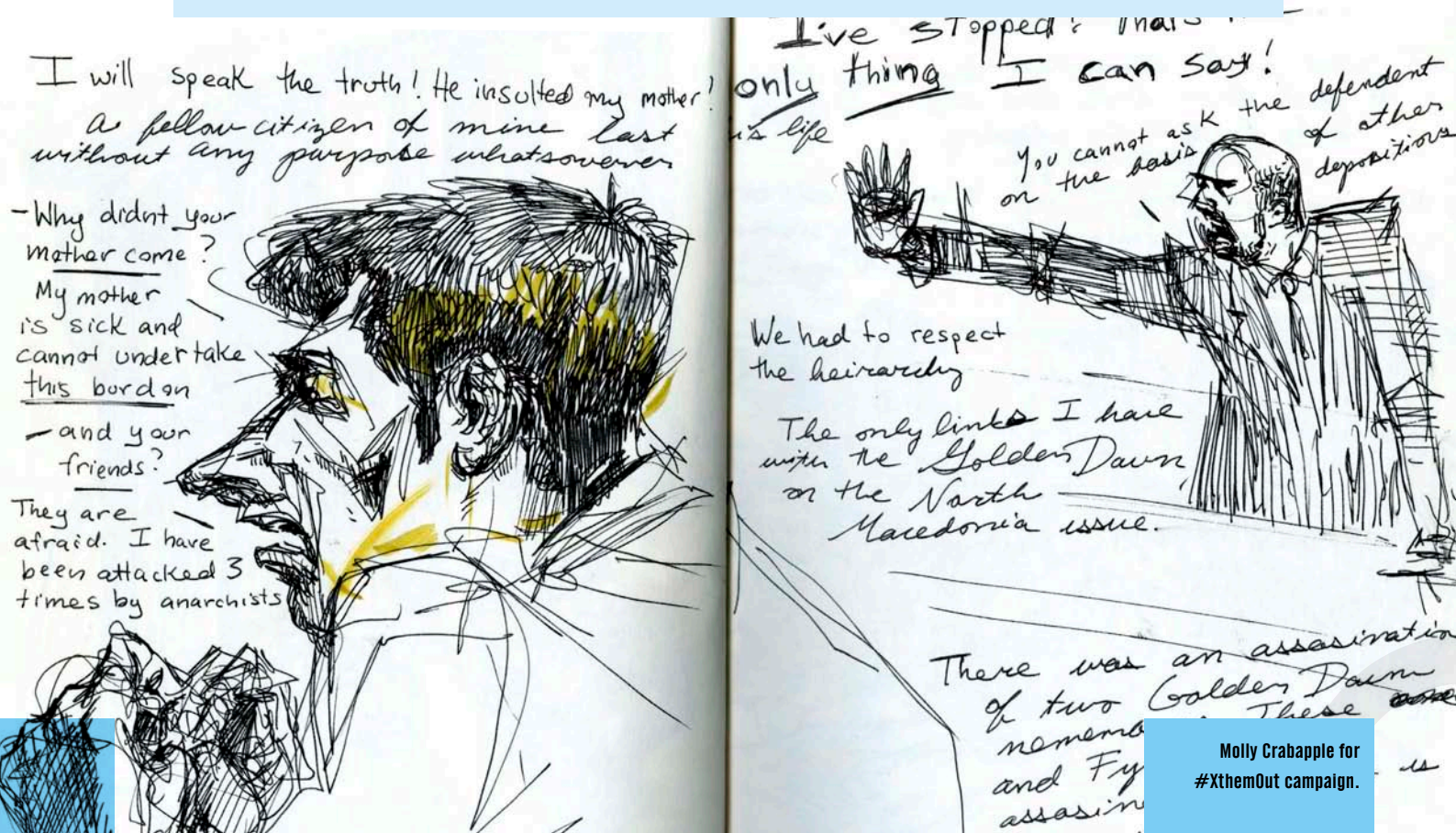
A Preliminarily, we will define racist crime based on the legal provisions and we will illustrate the legal framework and its amendments.

B Furthermore, we will utilize the findings of RVRN's reports to set the context for our report, both in terms of criminal tendencies and in terms of assessing the attitude of prosecution authorities by the organizations that recorded them.

C In the main part of our report, we will index 20 relevant cases, utilizing the available documents, citing for each: a) the facts, b) their treatment and evaluation by the prosecuting authorities, c) the course of the case and c) some first findings.

D Following this, we will summarize our observations and identify practices and trends in the attitude of the prosecuting authorities, as they emerge from the comparative study of the recorded cases.

E Finally, we will attempt to draw some final conclusions.



IV. RACIST CRIME AND ITS PUNISHMENT IN THE LAW

National anti-racism legislation has undergone several amendments and mainly the following amendments, concerning the years which are the subject of the present report

(a) Law 927/1979 («on punishing acts or activities aiming at racial discrimination»)

Law 927/1979 as adopted (Government Gazette A' 139/28-6-1979) used to criminalize the *«incitement to acts or activities which may result in discrimination, hatred or violence against individuals or groups of individuals on the sole grounds of the latter's racial or national origin»*, as well as the expression *«offensive ideas against any individual or group of individuals on the grounds of the latter's racial or national origin or religion»*.

In order for the criminal prosecution to proceed, a criminal complaint by the victim was required.

Article 24 of Law 1419/1984 (Government Gazette A 28) added the element of "religion" next to race or ethnic origin.

Article 39 par. 4 of Law 2910/2001 (Government Gazette A` 91/2.5.2001), stipulates that: *«The acts described in articles 1 to 3 of Law 927/1979 (Government Gazette 139 A) are prosecuted ex officio»*.

Article 16 of Law 3304/2005 («Application of the principle of equal treatment irrespective of race or ethnic origin, religion or belief, disability, age or sexual orientation») replaced article 3 of Law 927/1979.

Article 1 of Law 4285/2014 («Amendment of Law 927/1979 (Government Gazette A' 139) and its adaptation to the Framework decision 2008/913/ΔΕΥ of 28 November 2008, to combat certain forms and manifestations of racism and xenophobia through criminal law (L 328) and other provisions»), amended Law 927/1979

and in particular the public incitement is criminalized only when it is committed "in a way that endangers public order or poses a threat to the life, liberty or physical integrity of such persons". Moreover, sexual orientation, gender identity and disability are added to the protected qualities.

(b) Resident permits for third country nationals – victims of criminal actions

We have to remind at this point that article 84 par. 1 of law 3386/2005, stipulated that third country nationals without legal documentation would not enjoy the provision of services : *«Public agencies, legal entities in public law, local authorities, public utility organizations and corporations and social security organizations shall not provide their services to third-country nationals who do not hold any passport or other travel document recognized by international conventions, or visa or residence permit and, generally, cannot prove that they have legally entered and reside in Greece, with the exception of hospitals and clinics, in case of third-country nationals urgently admitted for treatment and minors».*

For third-country nationals who had been victims of crime, residence permits were provided for exceptional reasons:

- According to article 44 par. 1 indent B of Law 3386/2005: *«if these (criminal acts) result from a court decision and for as long as their treatment lasts»*
- According to the same article, as amended by article 42 of law 3907/2011: *«Victims of criminal acts, in accordance with articles 1 and 2 of Law 927/1979 (Government Gazette 139 A') and article 16 paragraph 1 of Law 3304/2005 (Government Gazette 16 A'), when criminal prosecution of these acts has been initiated and till issuing of the judicial. If these persons are under medical treatment, residence permits shall be issued for the duration of their treatment ».*
- According to article 19A of the Greek Nationality Code (Law 4251/2014), as stipulated by article 8 paragraph 25 of Law 4332/2015 (Government Gazette A 76/9.7.2015), residence permits on humanitarian grounds can be granted to third-country nationals who reside in Greece and fall under the following categories: *«b. Victims and important witnesses of criminal actions, provided for in Articles 81A, 187, 187A, 309 and 310 of the Criminal Code and Articles 1 and 2 of Law 927/1979 (GG A 139) as in force or*

are punishable as serious crimes and are against life, health, physical integrity, property, ownership, personal and sexual freedom provided a preliminary examination has been ordered or criminal proceedings have been initiated and until the case is closed or a final decision is issued by court. The competent District Court Public Prosecutor establishes the existence of the aforementioned preconditions...»

- Article 10 of law 4332/2015, adds an indent ζ' at paragraph 1 of article

41 of law 3907/2011 (cases of prohibition of return of allies) and in particular : «ζ. Victims and important witnesses of criminal actions as stipulated in article 10 of law 4285/2014 and in articles 1 and 2 of law 927/1979 (A' 139) provided a complaint has been filled or a report has been submitted to the competent authorities and until the issuance of the relevant according to indent b of paragraph 1 of article 19A of Law 4521/2014, act of the public prosecutor».

(c) Crimes with racist motives and racist crime

- In 2008, an indent was added to article 79 of Penal Code (article 23 num. 1 law 3719/2008, Government Gazette A' 241) concerning the racist motive. Paragraph 2 stipulated that: *"The commission of an act out of hatred on the grounds of national origin, race, religion, or hatred on the grounds of different sexual orientation against the victim, constitutes an aggravating circumstance».*
- In 2013, following the adoption of article 66 of law 4139/2013 (Government Gazette A 74), this indent was replaced as such: *"The commission of an act out of hatred on the grounds of race, color, religion, descent, national or ethnic origin, sexual orientation or gender identity of the victim, constitutes an aggravated circumstance and the sentence cannot be suspended."*

- In 2014, following the adoption of article 10 of law 4285/2014, the provision of article 79 paragraph 3 was repealed and replaced with article 81A on racist crime as such: «1. The last indent of paragraph 3 of article 79 is repealed from the penal code. 2. Article 81A is added after article 81 of the Penal code as such: *"If an act is committed out of hatred on the grounds of race, colour, religion, descent, national or ethnic origin, sexual orientation, gender identity or disability, of the person against whom the attack is committed, the minimum limit of the sentence rises as stated below...The above imposed sentence cannot be suspended."*

IMPORTANT NOTE: The adoption of this provision (repeal of Article 79 (3) on the "racist motive" and the enactment of a new provision of 81A on "racist crime") without a transitional provision for ongoing cases, meant that, in all the open trials for the acts referred to in this Report, it was made impossible to use the repealed provision on the racist motive, while the provision on the racist crime could not be used as a subsequent and more aggravating provision for the accused (principle of non-aggravation).

→ In year 2015, art. 21 of Law 4356/2015 replaced the notion of "hatred" with the more objective notion of the "choice of the victim" due to his/her characteristics, namely *"if the circumstances indicate that a crime has been committed against a victim who choice was made on the grounds of race, color, nationality or ethnic origin, genealogy, religion, disability, sexual orientation, identity or gender characteristics"* (Article 81A of the Penal Code, now 82A).

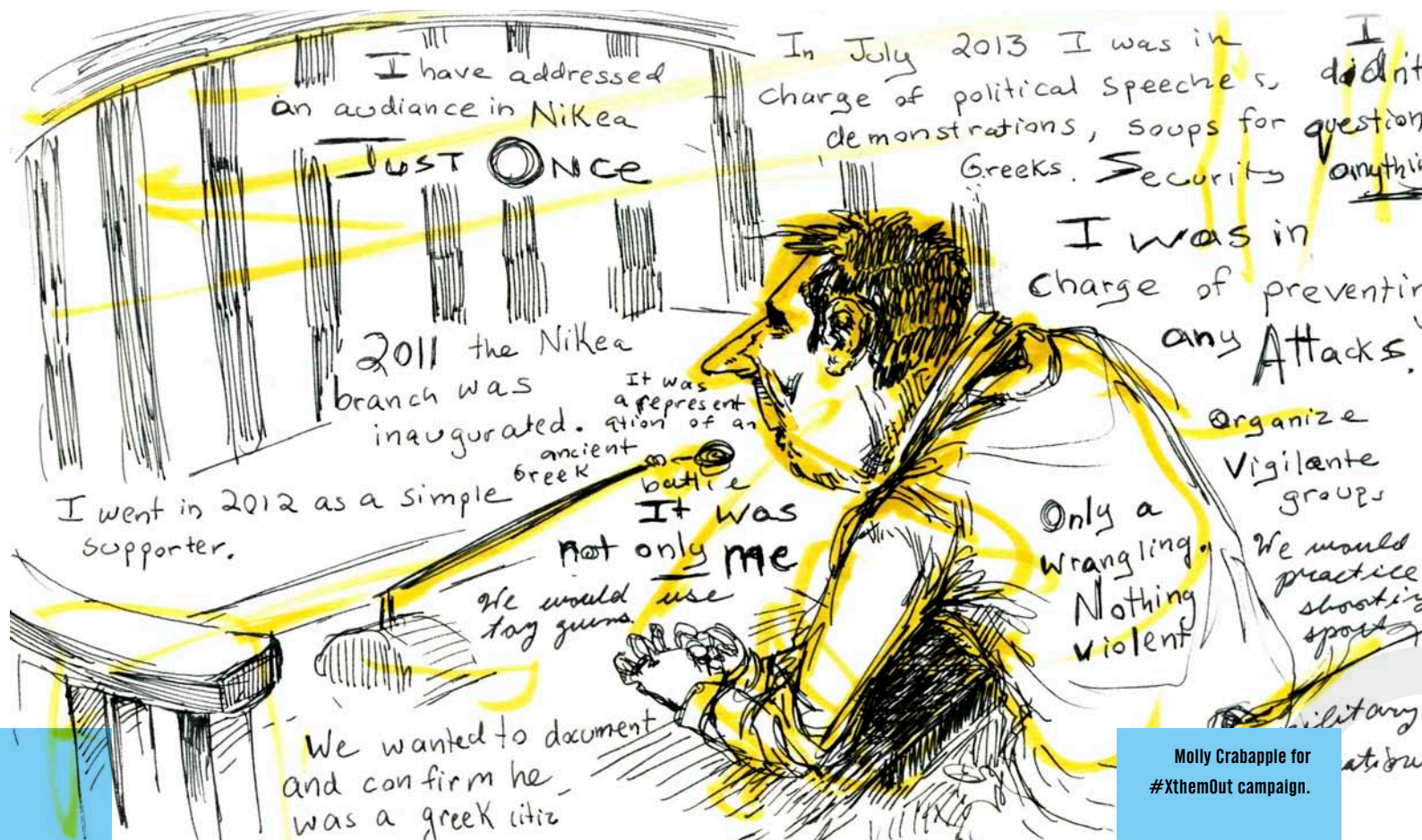
Molly Crabapple for
#XthemOut campaign.



(d) Police circulars and special Departments of the Hellenic Police

In 2006, a circular was issued by the Chief of the Hellenic Police (Circular 7100/4/3, 24/5/2006) on the subject: "Treatment of racism, xenophobia and intolerance in police action". This circular specified when the racist motive is compulsorily investigated, namely: when the alleged perpetrators confess and the victims and witnesses of a crime invoke it, when there is evidence based on elements commonly accepted by the Code of Criminal Procedure and when the perpetrators and victims of the crime identify themselves or belong to different racial, religious and social groups. It further established the obligation of officers to investigate any racist motives in the context of the disciplinary inquiry of cases involving unethical conduct by police officers against individuals belonging to vulnerable ethnic, religious or social groups or who are foreigners.

With the press release from 29/10/2012, the Ministry of Public Order and Citizen Protection announced the establishment of specialized organic units within the Hellenic Police to deal with racist violence, and the Presidential Decree 132/2012 (Government Gazette A-239 / 11-12-2012, Establishment of Departments and Offices engaged in the Fight against Racial Violence) was issued. The Departments were established in January 2013.



V. FINDINGS OF RVRN'S REPORTS REGARDING THE ATTITUDE OF PROSECUTION AUTHORITIES

For the purposes of this report, and in order to illustrate the criminal trends, we will utilize the most reliable recording tool (taking under consideration the fact that until 2013 the competent authorities were not recording racist violence incidents), which are the annual reports of the Racist Violence Recording Network (RVRN).

The Racist Violence Recording Network (RVRN) was set up at the initiative of the National Commission for Human Rights (NCHR) and the Office of the UN High Commissioner for Refugees in Greece (UNHCR) with the participation of initially 18 and today 51 non-governmental organizations and other stakeholders «aiming to fill the gap created by the absence of an

official and effective data collection mechanism for hate crimes according the international and European obligations of the state».

In its first report, for the period 1.10.2011-31.12.2011, the Racist Violence Recording Network recorded 63 incidents of racist violence. Out of the total of the victims, 27 were undocumented, 23 were asylum seekers, 5 were legal residents, 1 was a recognized refugee and 1 was granted subsidiary protection status (in 6 cases, the status of the victim is unknown). Facts about the act of violence: mostly physical assaults (30) and serious injuries (12) (10 in need of medical treatment). There is a distinct category consisting of 18 incidents, where police and racist violence are interlinked (10 in Athens and 8 in Patras).

As regards the crucial issue for this report concerning the lodging of official complaints by the victims, the RVRN report of 2011 states: *«Participating bodies realized that even when the victim, usually bearing signs of a recent violent attack, seeks help resorting to their services, he/she avoids pressing charges. The reasons for this unwillingness could be attributed to fear, lack of trust in the system and sometimes, passive familiarity with racist behavior».*

In its report covering the period January-September 2012 the Racist Violence Recording Network, documented, after interviewing the victims, 87 incidents of racist violence against refugees and migrants, of which 83 occurred in public spaces (squares, streets, public transport). The majority of these incidents concerns physical attacks against foreigners while the types of crimes are mainly severe bodily injury (in 50 cases) and assault (bodily injury, in 30 cases).

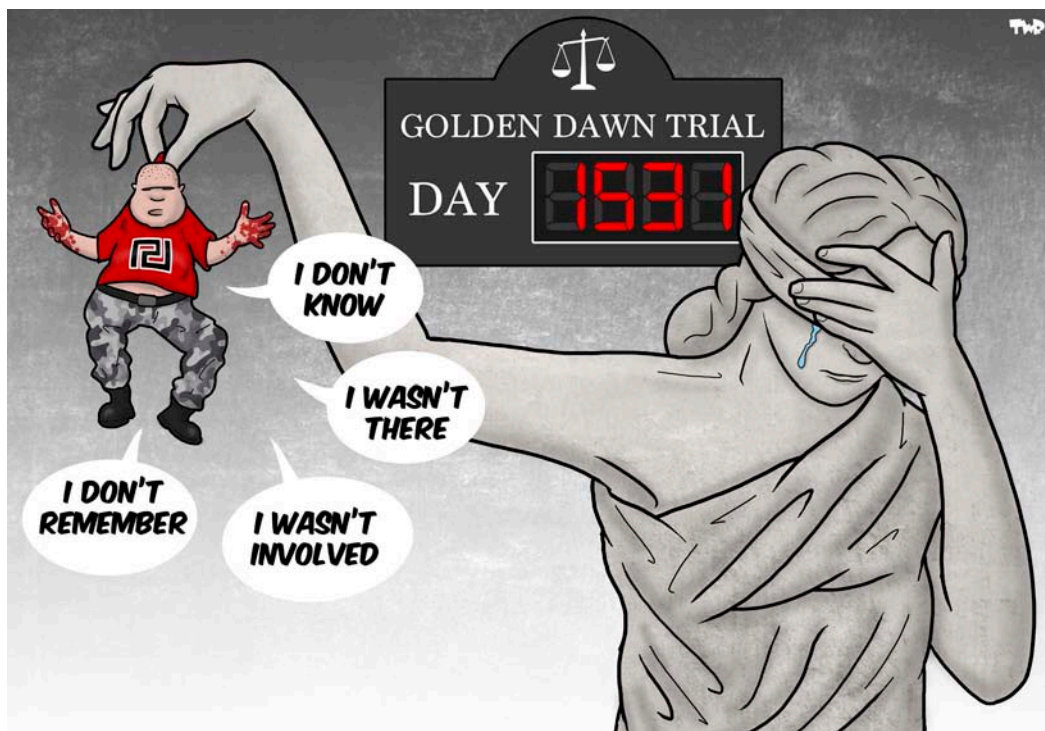
In 84 out of 87 incidents the victims consider the fact of their foreign origin the reason for the attack; they believe they became targets either because of their skin color or due to any other characteristic revealing the fact they were not natives. There is a distinct category of 15 incidents where police and racist violence are interlinked.

As regards the crucial issue for this report concerning the lodging of official complaints by the victims, RVRN's report states: *«Only 11 victims have addressed the competent authorities to file an official complaint and initiate judicial procedures, while 14 would like to do so. The rest do not wish to take further actions either because they lack legal documents and are therefore afraid that they will be arrested to be deported or because they believe that they will find no justice. Those lacking legal papers, even they who would like to report the attacks to the authorities, are immediately arrested upon arrival at the police station with a view to be deported, and as a consequence they are deterred from reporting any racist attack against them. In effect, rather than being dealt with by the police as possible victims of a crime, the authorities prioritize control of the victim's legal residence in the country and thus abstain from their duty to investigate the reported incident. In addition, during judicial procedures against the perpetrator, persons without legal documents are dissuaded from participating in the process since they are again threatened with arrest and deportation. In 22 cases the victims of racist attacks said that they tried to report the incidents to the police but were faced with unwillingness or deterrence and, in some cases, the actual refusal of the police authorities to respond²».*

In its findings, the report of RVRN states the following: *«Despite relevant criticism by the Racist Violence Recording Network, as well as by other national and European organizations, which have repeatedly called on the Greek*

2 <http://rvrn.org/2012/10/findings-1-1-2012-30-9-2012/>

state to take immediate measures for the control of racist attacks, it is particularly disconcerting to find no effective response. It is telling that no perpetrator of a violent racist attack has been sentenced until today. The Minister of Justice admitted that the number of racist violence cases prosecuted is minimum, while there is great discrepancy between the evidence provided by the authorities about racist violence crimes and that provided by other sources. The main problem rests with the inability or unwillingness of the criminal investigation authorities to record racist violence incidents, to investigate the cases thoroughly and to arrest the perpetrators, or, at times, with the practice of deterring the victims of the attacks who do not have legal residence papers from reporting racist violence incidents to the police. The effective response to the problem of racist violence presupposes the ability of the victims themselves to go to the police authorities and report the acts against them, without the fear of being affected so negatively as to be dissuaded from reporting crimes against them. The public interest to prosecute and respond to acts of criminal violence should take priority over the public interest to control those who remain irregularly in the country»³.



Tjeerd Royaards for
#XthemOut campaign.

3 <http://rvrn.org/2012/10/findings-1-1-2012-30-9-2012/>

In the annual report of 2012, for the period January-December 2012, the Racist Violence Recording Network documented, through interviews with victims, 154 incidents of racist violence, of which 151 were committed against refugees and migrants and 3 against European citizens. The majority of incidents concern physical attacks against foreigners, while the types of crimes are mainly severe body injuries (in 66 cases) and assaults (in 76 cases). Threats against foreigners have also been reported as well as cases of verbal abuse and property damage.

In the vast majority of cases, the victims consider the fact that their characteristic as foreigners is the reason for the attack; they believe that they were targeted because either of their skin color or of any other characteristic revealing the fact, they were not natives (the majority of migrant victims were Muslims). In 91 cases, the perpetrators are believed to belong to extremist group and in 25 incidents where police and racist violence are interlinked.

As regards the crucial issue for this report concerning the lodging of official complaints by the victims, the RVRN report of 2012 states: *«Lodging of official complaints and the response of state and local authorities: Only 24 victims have addressed the competent authorities to file an official complaint and initiate judicial procedures, while 23 would like to do so. ... In many cases, the victims of racist attacks stated that they attempted to report the incidents to the police but were faced with unwillingness or deterrence and, in some cases, the actual refusal of the police authorities to respond. Moreover, some victims did not wish to lodge a complaint because they had already been victims of police violence or because they argued that the perpetrators were associated with the police and / or the Golden Dawn and were afraid of being targeted. Finally, there is a widespread impression that, even if the victims report the incident to the competent authorities, they will find no justice. A significant, though not general, trend is that victims do not receive any substantial assistance from the police, and, on the opposite, they often face indifference and are also deterred from officially denouncing the incident. These indicative reports show that a significant number of prosecuting agents consider racist attacks as a daily and ordinary phenomenon, they dismiss the reported cases as insignificant and show, therefore, no will to tackle it. They avoid intervening during racist attacks and when they do so, they treat victims with indifference and mistrust, and/or discourage them from filing official complaints»⁴.*

4 <http://rvrn.org/2013/04/2012-annual-report/>

In the annual report of 2013, for 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 migrants or refugees, while the other 22 were committed against LGBT persons and 1 against a human rights defender (legal counselor of victims).

The qualitative data collected regarding the attacks highlight the *modus operandi* recorded in the 2012 annual report which continued to be recorded in 2013: the victims report the use of weapons during the attacks, such as batons, crowbars, folding truncheons, spray, chains, brass knuckles, knives and broken bottles, use of large dogs.

The crucial semester following the murder of Pavlos Fyssas and during and the pre- trial detention of leading members of the Golden Dawn with the accusation of a criminal organization (October-December 2013) a significant decrease of incidents of racist violence has been noted.

As regards the crucial issue for this report concerning the lodging of official complaints by the victims, the RVRN report of 2013 states: *«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. 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... There is, currently, no guarantee as regards the possibility to lodge a complaint by persons who do not hold legal documents. ... 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)»*⁵.

The findings of RVRN's annual Reports indicate a systematic underpinning of racist crime and an ongoing impunity of perpetrators, with significant responsibilities of prosecuting authorities and lawmakers who have not addressed the issues which had emerged.

5 http://rvrn.org/wp-content/uploads/2014/04/Report2013_EN.pdf

VI. THE INDEXING OF CASES OF RACIST VIOLENCE THROUGH THE GOLDEN DAWN CASE FILE

For the purposes of this Report, we have indexed the following twenty cases (for the vast majority of which there were drawn up case files), in order to observe the way in which law enforcement authorities have dealt with incidents of racist violence.

Time of occurrence

These are twenty incidents from the year 2009 to the year 2013 and specifically per year:

- Year 2009: one (1).
- Year 2010: two (2).
- Year 2011: four (4).
- Year 2012: nine (9).
- Year 2013: four (4).

Nationalities of victims

The victims are in all cases of foreign origin, in the vast majority men, while in one case the victim is a Cypriot citizen and in another a Greek-Egyptian. In one case, the victims are women of Greek descent from Albania. The nationalities of the victims are: Bangladesh, Congo, Senegal, Somalia, Afghanistan, Pakistan, Albania, Egypt, Nigeria and Cameroon.

Offences

The offences are directed primarily against life and physical integrity. In some cases, there is damage to for-

eign property, arson, robbery, while in three cases the offences were committed in places of worship or burial.

Place where the offence was committed

In the majority of the cases, the place of commission of the offence was Athens (city center) and Attica in general, but also Ioannina, Thessaloniki, Ierapetra.

Time when the offence was committed

There is an escalation of frequency, culminating in the year 2012. The entry of Golden Dawn in Parliament during the May-June 2012 elections is obviously not irrelevant.

Characteristics of the perpetrators

The perpetrators are, in the vast majority, men of Greek origin and young age. In a few cases, women were involved in the commission of criminal acts.

Case 1

Date of the incident: 2/6/2009

FACTS OF THE CASE

On June 2, 2009 in Ioannina, unknown perpetrators vandalized the city's Jewish Cemetery, destroying 7 tombstones (memorials) and causing damage to the Holocaust Memorial built in honor of the Jews of Ioannina who were killed in the Birkenau camp. The vandalism was not an isolated incident: it was repeated on July 9 with the destruction of two other tombstones, and similar acts had taken place several times in the past. Specifically, on March 25, 2009 unknown perpetrators had painted a Nazi swastika on the gate of the Cemetery, on January 21, 2009 they had destroyed three tombstones, on February 26, 2007 they had painted the symbol of the reversed swastika on the gate of the Cemetery. On February 8 2003, they had written Nazi slogans, they had painted Celtic crosses and caused damage to the Holocaust Memorial, on April 15, 2002 they had destroyed four tombstones etc.

TREATMENT / EVALUATION BY THE AUTHORITIES

Although the vandalisms and destructions were systematic, the police never arrested any perpetrators. According to a complaint by the then municipal councilor and president of the Israeli Community, Moses Elisaf, published in the local press ("Explosion of anti-Semitic anger in the Jewish Cemetery", in the newspaper "Neoi Agones", 4/6/2009), when he called the Police to report the incident, he faced indifference when he was told "you should file a criminal complaint", as if the systematic and repeated desecration of the cemetery "were a common occurrence in the police report", despite the fact that the offences of law 927/1979 are prosecuted Ex officio (see Chapter IV, point (a) of this Report). The vandalism was denounced by local bodies and parties, while the press noted the connection of the events with the local core action of Golden Dawn, which from 2008-2009 maintained a relevant website and publicly advertised its actions.

COURSE OF THE CASE

No arrests or court rulings have been recorded in the course of the case. The aforementioned criminal acts were reported to the investigating authorities by A.R., an investigator of the Nazi violence in the city of Ioannina and were read (Document 425) at the hearing of the First Three-Member Court of Appeal for Felonies of Athens in the context of the investigation of the Nazi criminal organization "Golden Dawn".

FINDINGS

It is denounced that the systematic desecration of the Jewish Cemetery of Ioannina was not the subject of an ex-officio investigation by the prosecuting authorities, resulting in the impunity of the perpetrators and the long-term recurrence of the crime.

Case 2

Date of the incident: 3/7/2010

FACTS OF THE CASE

On July 3, 2010 at around 00:30, at the junction of Sarri and Kranaou streets, two unknown perpetrators who were driving a private car with plate number IKA 7 ***, brand SMART, color black, stopped their vehicle, after having located H.M., a Bangladeshi national, and sprayed his hand with caustic spray. When he run after them, on Klafthmonos Square, the perpetrators beat him and took away his mobile phone and the amount of 450 euros. The perpetrators escaped unharmed. The victim went to the police the same day and reported the criminal acts against him, bringing into their attention the plate number of the vehicle which the perpetrators were driving. A case was filed by the Acropolis Police Department for the crime of robbery. Although the cover note (Ref. No.: 1052/6/175 / 24-1-2011) contains a forensic report, no offence related to bodily harm is mentioned. The police officer who was in charge of the case, testified on 14/10/2010 that "nothing positive has emerged from the investigations so far".

TREATMENT / EVALUATION BY THE AUTHORITIES

Although the identification of the license plate is a routine matter that can be handled immediately, the relevant investigation of the police authorities was

carried out after a year and a half. Thus, in his testimony on 12/3/2012, another police officer of the Acropolis PD identifies as the owner of the car Ilias Panagiotaros, executive of Chrysi Avgi, elected MP from May 2012 and since September 2013 accused of directing a criminal organization. The accused member of Chrysi Avgi claimed that on 3/7/2010 he was out of Athens and specifically in Spetses, where "my engagement took place in a well-known hotel complex of the island". The accused gave his statement before an investigating officer in February 2015 and was released on restrictive terms.

COURSE OF THE CASE

The case (ABM: Z2011 / 10158) was not brought to judgement and was terminated in June 2019 with an acquittal ruling of the Judicial Council of the Misdemeanors' Court of Athens (no. 2560/2019). The victim was never found to testify again before the investigating authorities and to identify the accused as the perpetrator. The first Three-member Court of Appeal for Felonies of Athens (during the trial of the criminal organization "Golden Dawn") convicted Panagiotaros of the crime of directing a criminal organization.

FINDINGS

The delays in the proper administration of justice constitute a permanent and well-established issue in the Greek judicial system. In the case of racist crime, these delays, especially when they are completely unjustified, as in the case of not identifying a car license plate for a long time, lead to the loss of critical evidence, as temporary residence and mobility are components of the status of the refugee and the migrant. The inability of the judicial authorities to locate the victim, following an unduly long period of time since the commission of the act, meant in this case that the investigation of the crime became impossible.

Case 3

Date of the incident: 30/10/2010

FACTS OF THE CASE

On October 30, 2010, at night, a group of unknown perpetrators attacked a place of religious worship for Muslims (i.e. an informal mosque) located on Aristomenous Street on Attica Square. Inside the building there were about 40 Bangladeshi nationals. The perpetrators locked the door making the exit impossible, broke the glass and threw burning cloths and rubbish, drenched in oil, inside, trying to set fire that would endanger the lives of the trapped persons. The victims of the attack managed to extinguish the fire with a fire hose that was in the area where the Muslims wash themselves shortly before prayer. Police and the Fire Brigade arrived at the scene, while the crowd of the perpetrators was still assembled. The victims were finally released from the area, in the presence of the police. The victims identified residents of the surrounding area in the crowd of the perpetrators. No arrests were made. Journalists who arrived at the scene the next day photographed the burnt entrance which was covered with stickers of the "Hellenic Dawn" faction with the slogan "Mosques Never and Nowhere" and the photo of N. Michaloliakos, leader of the Golden Dawn party and candidate for mayor of Athens in the next month's municipal elections.

TREATMENT / EVALUATION BY THE AUTHORITIES

It is not known whether a case was filed for this incident. The head of the Muslim Union of Greece N.E. reported the incident and requested from the Hellenic Police Headquarters the guarding of the area by police forces. On November 17, 2010, he also fell victim to an attack by a crowd that pre-empted him outside the same place of prayer, led by T.S., a supporter and later MP candidate of the Golden Dawn party.

COURSE OF THE CASE

The perpetrators of the arson were not punished. The facts of the arson were presented by witnesses to the investigating authorities and, following a summons by the Prosecutor to the hearing of the First Three-member Court of Appeal for Felonies of Athens that heard and determined the case of the criminal organization "Golden Dawn". T.S., accused of the crime of joining a criminal organization, was acquitted.

FINDINGS

Targeting places of worship and burial was a common pattern of racist violence during the period under consideration. A series of racist crimes committed in the center of Athens, especially in the years 2010-2012, under the cloak of the “committees of indignant residents”, went unpunished.

Case 4

Date of the incident: 12/5/2011

FACTS OF THE CASE

On May 12, 2011, in the center of Athens, a large group of members and supporters of Golden Dawn led by its leaders, as well as other far-right groups, on the pretext of a protest rally held after the murder of a Greek citizen heading towards the Athens City Hall, carried out a large number of attacks (pogroms) against passers-by, with the only criterion being their apparent foreign origin (skin color). Photographic and video footage shown in the media shows young men chasing dark-skinned migrants across the Varvakeios



flea market. In one of the scenes, a group of people chase an alien, with one of the perpetrators holding a knife or screwdriver and his face clearly visible. In another scene, a group of about 15 people beat a second alien, while others run or hide inside shops. Attacks were also carried out in shops, but also on migrants who were in line waiting to receive food from the City of Athens Homeless Center.

In the following days, human rights organizations published complaints from third-country nationals from Congo, Senegal, Somalia, Afghanistan and Pakistan. The victims were dozens, most of them stabbed and hit in the head, with many of them having received medical treatment at the Polyclinic in Omonia and, through EKAB, at the hospital “G. Gennimatas”.

The previous night, at 00:30 on 12/5/2011, the 21-year-old A.A.M., a Bangladeshi national, had been killed by unknown perpetrators, following a knife attack at

the intersection of Stratigou Kalari and Konstantinidis streets in Kato Patisia. According to the media, the young man received at least four stabs from the perpetrators. According to the declarations of eyewitnesses published in the media, he was chased by two unknown men on a motorcycle, who, when they caught up with him, acted as follows: one of them got off the motorbike, fatally stabbing him more than five times and then got on the bike and, along with the driver and accomplice, disappeared. The 21-year-old was taken to the hospital, where he was pronounced dead. As an eyewitness told a journalist, the perpetrators shouted: "Those we find today, we will slaughter you."

TREATMENT / EVALUATION BY THE AUTHORITIES

Although the crimes mentioned at the beginning of the text were committed at noon and in the afternoon, in public view and in many cases in front of police officers, according to video footage, the police forces did not arrest any perpetrators on the spot. According to the announcement of the Hellenic Police dated 12/5/2011, "a total of forty seven (47) people (-40- locals and -7- foreigners) were arrested and one (1) foreigner was arrested for bodily harm and damage to property". Except in a known case involving damage to foreign property, separate case files for some of the offences committed ended up in the archive of unknown perpetrators. According to media reports, the murder of the 21-year-old Bangladeshi national remained unsolved.

COURSE OF THE CASE

On 12/5/2014, a criminal complaint was filed with the Prosecutor's Office of the Supreme Court regarding the pile of criminal acts that had taken place in the center of Athens during the days 10-14 /05/2011 by organized groups of members of the Golden Dawn against migrants and refugees. The complaint was then linked, under the supervision of the special appeals investigating judges Mrs. Klapa and Mrs. Dimitropoulou, as evidence with the accusation of the criminal organization of article 187 of the Greek Penal Code in the "Golden Dawn" trial.

As regards the preliminary investigation, following a special order of the Prosecutor of the Court of First Instance of Athens, the 6th Department for Combating Racist Violence of the Hellenic Police took cognizance of the action (see Chapter IV, item d, of this Report). However, the complaint was placed in the archive of unknown perpetrators, while the misdemeanors were time-barred.

Concerning the evidence for the constitution of a criminal organization, the complaint and the relevant documents were read by the First Three-member

Court of Appeal for Felonies of Athens (trial of the criminal organization "Golden Dawn") as documents of the indictment to be read (documents to be read no. 173-178) under the title "Racist Pogrom".

A document of EKAB was presented and read regarding hospital transfers on 12/5/2011. We quote its contents because it depicts the number and the seriousness of the criminal acts (many of them felonies) committed that day: "at 18:25, transfer of a wounded man (reported gunshot wound) from the Athens General Hospital Polyclinic to the Athens General Hospital Gennimatas ... at 20:45, transport of the injured (reported head injury, bleeding) from Moustoxydi Street to the Athens General Hospital Gennimatas ... at 17:42, transport of the injured (reported head injury from a clash) from Piraeus and Sophocles Street (homeless shelter), to the Athens General Hospital Gennimatas ... at 18:40, transfer of the injured (reported head injury, from beating) from the Athens General Hospital Polyclinic to the Athens General Hospital Gennimatas ... at 18:39, transfer of the injured (reported skull fracture from beating) from the Athens General Hospital Polyclinic to the Athens General Hospital Gennimatas... at 19:18, transport of the injured (reported head injury) from 3rd September and Iouliau Street to the Athens General Hospital Gennimatas... at 19:02, transport of an injured person (reported head injury, bleeding, his finger was cut off) from Meg. Alexandrou and Kallergi Street to the Athens General Hospital Gennimatas... at 19:40, transfer of the injured (reported head and eye injury, prob. from beating) from Patision and Averof 1 Street, in the area of Polytechnio to the Athens General Hospital Gennimatas...".

The Golden Dawn executives who starred in the rally of 12/5/2011 (Elias Kasidiaris, Elias Panagiotaros, etc.) were convicted of leading and joining a criminal organization.

FINDINGS

The complete impunity of the perpetrators of the racist pogrom of 12/5/2011, as expressed by the inertia of the police and prosecutors, multiplied the spread of racist violence and established the belief in the victims that the State is not interested in its sanctioning.

Case 5

Date of the incident: 2/6/2011

FACTS OF THE CASE

On June 2, 2011, in Kassandria, Hal-kidiki, R.N. together with another person attacked three Albanian nationals with rubber truncheons and unleashed racist insults ("damn your race", "damn your Albania"). A fight ensued in which there were injuries on both sides, resulting in a case against all participants. R.N. cited as the reason for his act that the three Albanian nationals looked at his girlfriend.



Depiction of the attack from Kanellos Cob for #XthemOut campaign.

TREATMENT/EVALUATION BY THE AUTHORITIES

Although the three Albanian nationals testified that there was a clear racist motive in RN's act, neither the police nor the court investigated the crime as a racist crime. The case was brought to judgement by the Prosecutor's Office for the offences of concurrent dangerous bodily injuries, while the racist insults were legally characterized as mere "insults", without the use of Art. 1 par. 1 of Law 927/1979 as in force (incitement to acts of violence or hatred against persons solely on the grounds of their racial and ethnic origin).

COURSE OF THE CASE

In the proceedings before the Single-Member Misdemeanors' Court of Polygyros, the three Albanian nationals and their witnesses reiterated the racist nature of the attack. C.C. testified that: "Probably the first defendant has a problem with the foreigners, I heard that he is with the supporters of Golden Dawn", K.E. testified that: "We are afraid to go to the police. "He is a racist with the Albanians", M.E. (witness of Greek origin) testified that: "the first one is used to this, to create problems with Albanians, with children aged 12-14 and with Pontic Greeks. He is a racist Golden Dawn supporter. Many times, he did this in front of the Bus Station (KTEL) where I work. He has been sued many times. K.K. in

his statement said that: "He was insulting us, damn your race ... I believe that the motive is racist", while the other two Albanian nationals also supported the same argument (the above passages are taken from the minutes of the decision no. 1580/2011 of the court).

However, the court that convicted all the accused on both sides did not use the provision of article 79 par. 3 of the Penal Code as was the case during the measurement of the sentence, which defines as an aggravating circumstance, the ethnic, racial and religious hatred... against the victim". We do not know the progress of the case in the second instance. It should be noted here that during the trial before the First Three-Member Court of Appeal for Felonies of Athens with accused executives and members of the Golden Dawn for the crime of the criminal organization, the name of R.N. appeared on a list of members of the Central Committee of the Nazi organization.

FINDINGS

This case is indicative of a broader trend in the way prosecutors and the judiciary have dealt with crimes with alleged racist motives. The police did not investigate the racist motives as required by the circular of the Chief of the Hellenic Police (see. In Chapter IV, point d, of this Report), did not ex officio use anti-racist legislation in the cover note of the case file, while usually the allegation of the perpetrator on previous insults or clashes was considered sufficient, so that the racist motive was not even investigated as a subsidiary element. The prosecuting authorities proceeded to the legal description of the cover note of the case file and, in the end, the court did not use the aggravating circumstance of the racist motive in the computation of the sentence, in which the victim civil party has no possibility of intervention according to the rules of criminal procedure.

Case 6

Date of the incident: 16/9/2011

FACTS OF THE CASE

On September 16, 2011, in the evening, on Pergamou Street in the center of Athens, L.I., M.G. and S.T., Greek citizens, accompanied by about ten other people, attacked three Afghan nationals who were sitting on the steps of a block of flats outside their home. The attack was preceded by a brief dialogue in which the perpetrators asked the victims their ethnic origin, told them they “smelled” and called on them to “return to their country”. Following an order by S.T., the first two chased the victims and the first stabbed the Afghan R.A. with a sharp object in the chest and the second with a broken bottle in the shoulder. The perpetrators were arrested in the act, following an indication by the victims, and were taken to the Police Department of Agios Panteleimon. R.A. was taken to the hospital by EKAB.

TREATMENT / EVALUATION BY THE AUTHORITIES

Despite the severity of the wound of R.A. in the pneumothorax, who was admitted to the Laiko hospital and then to the 2nd Thoracic Surgery Clinic of the Athens General Hospital “I Sotiria” where his wounds were sutured, the police authorities did not take the necessary steps for the accurate description and the proper legal evaluation of the committed acts. Thus, due to the transfer of R.A. at the hospital, no forensic document was issued by the Police Department, so that a forensic doctor could go to the hospital and examine the victim. The required actions were left to the personal initiative of the victim, who was released from the hospital on 21/9/2011 and the police cover note legally described the acts as dangerous bodily harm, while the accused perpetrators were released the next day. Furthermore, no investigation into the racist motive for the attack results from the documents of the case file.

COURSE OF THE CASE

The victim R.A., although he had left the country, eventually returned to testify in court. The First Single-Member Misdemeanors’ Court of Athens for crimes caught in the act, after six years and multiple deferrals, found the accused persons guilty of the crime of dangerous bodily harm as co-perpetrators (decision number 74344/2017). No charges for breach of the legislation against racism

were filed with the court. The court sentenced him to three years in prison, but did not use the provision of Article 81A for racist crime (see Chapter IV, point (c) of this Report), although it reasoned that “a group of 10 -15 people, who were patrolling the area, approached them ... The complainants were asked by members of that group about their place of origin ... the accused said that they “smell” and that “they should go back to their country”, with the aim of insulting the honor of the complainants». In the second instance, the Fifth Three-Member Misdemeanors’ Court of Athens reduced the sentences of the the accused (decision number 3181/2018), recognizing the extenuating circumstance of the previous good character (minority of a first instance female judge).

It should be noted here that in the trial before the First Three-Member Criminal Court of Appeal for Felonies of Athens with accused executives and members of the Golden Dawn for the crime of the criminal organization, S.T. was charged with membership in a criminal organization, an offence for which she was acquitted.

FINDINGS

The long duration of the case jeopardized the attendance of the victim and main witness in the courtroom, a development which was eventually avoided. The legal description of the damages of R.A. as a dangerous bodily injury by the Police and later by the Prosecution and the Court, at the moment when the victim received a deep wound to the chest from a sharp object (probably a knife), is indicative of a tendency of systematic underestimation of the criminal blameworthiness of acts with a racist motive.

Case 7

Date of the incident: 28/10/2011

FACTS OF THE CASE

On October 28, 2011, around 14:30, a group of at least ten (10) people (among them P.M., S.J.A, G.F., etc.), holding in their hands chains, metal and wooden batons, surrounded SK. and EM, asked them if they were Greek, asked for their IDs and when they refused to show them, they slapped them, spat on them, threw them on the ground and started hitting them with kicks, punches and with the batons on their body and head, until one of the two fainted on the road and before they left they deducted the amount of money that one victim had on her, i.e. fifty (50) euros. The victims were transferred with multiple injuries to Evangelismos General Hospital.



Depiction of the attack from George Micallef for #XthemOut campaign.

TREATMENT/EVALUATION BY THE AUTHORITIES

Following the notification of the policemen in a passing patrol car, to whom the victims gave the description of the perpetrators, five of the perpetrators (two of them minors) were arrested in a few minutes and were identified by the victims. A case was filed for the offences of robbery, dangerous bodily harm, illegal carriage and use of weapons. Two of the accused were remanded in custody pending trial.

COURSE OF THE CASE

The three-member Athens Juvenile Court found the minor defendants guilty of dangerous bodily harm and illegal possession of weapons (decision number 225/2013) and acquitted them of the offence of robbery, characterizing in its reasoning the motive of the attack as racist, which- according to the court - rules

out robbery as “the accused did not intend to take their mobile phones by force, but to beat them because they were Albanian”. The Third Single-Member Court of Appeals for Felonies found the perpetrators guilty of robbery, dangerous bodily harm, illegal possession and use of weapons (decision number 3054/2015) and did not accept any suspensory effect of the appeal. The three-member Court of Appeals for Felonies found the accused persons guilty again.

It is worth noting that at the hearing of the First Three-Member Court of Appeal for Felonies of Athens in the case of the criminal organization “Golden Dawn” it emerged, from the testimony of witnesses and the reading of documents, that P.M. was chief of the Nazi organization in the city of Drama at the time of the attack.

FINDINGS

The response of the police authorities to the call of the victims was immediate. However, the effective action of the prosecuting authorities (in the present case, the arrest of the perpetrators in the act) does not replace the work of the judge and the gaps of the legislation. The legal provisions on racist motives were not applied due to the legislative changes that had already taken place (see Chapter IV, point (c) of this Report), and the fact that racist motives were identified worked in favor of the accused. The lack of understanding and the non-recognition of the racist motive as subsidiary element meant that this was not judicially established, even in the most obvious racist attacks.

Case 8

Date of the incident: 22/2/2012

FACTS OF THE CASE

On February 22, 2012, in Piraeus, five unknown individuals, wearing helmets, hoods and holding in their hands woods, iron sticks and teasers, invaded the residence of Pakistani nationals M.Y. and T.M. on Deligiorgi 30 Str., hit them in various parts of the body and especially the first of them seriously in the head, with the result that he was transferred by an EKAB ambulance to a hospital. The perpetrators escaped unharmed.

TREATMENT / EVALUATION BY THE AUTHORITIES

The officer of the police station of Piraeus, H.B. who was on duty at the time of the incident did not file a case in the context of a *delicto in flagrante* nor did he conduct a preliminary investigation, although he was informed by police officers who became aware of and were involved in the incident. He limited himself to asking his colleagues to tell the victims to go to the relevant service and report the incident. This inaction resulted in the loss of critical time and the non-collection of evidence, resulting in the non-arrest of the unknown perpetrators. The event was made public by a complaint of the organization "Piraeus Open School for the Immigrants" on 20/3/2012.

The victims testified before the police authorities following the publicity of the case, they requested the criminal prosecution, and the most seriously injured person (hospitalized for ten days in hospital) was examined by a forensic doctor. The forensic report refers to "serious bodily injury" and "fracture of the head". Although the facts (numerous blows to the head by many perpetrators with iron sticks and the result of grievous bodily injury) constitute the commission of a felony (grievous bodily injury or attempted murder, depending on the assessment of the perpetrators' intent), the police for the misdemeanor of the dangerous bodily injury (number of the cover note of the Police Department of the Municipal Theater of Piraeus 1046/2/785-γ/4-4-2012).

COURSE OF THE CASE

The evolution of this case is not known, nevertheless, it is probable that it was placed in the archive of unknown perpetrators. An administrative inquiry was initiated against the police officer H.B., the conclusion of which charged him

with disciplinary liability, imposing on him the lowest disciplinary sanction of the fine. We do not know the outcome of the criminal part of the case against the police officer (breach of duty before the Three-Member Misdemeanors' Court of Piraeus).

FINDINGS

In the present case, the police authority did not investigate in the slightest the committed criminal acts, showed inertia in the investigation of the case and erroneously assessed the committed acts as misdemeanors, despite the clear content of the forensic report that came to its knowledge. In this case, there is no question of investigating the racist nature of the attack, which is highly probable because the victims pointed out to the perpetrators the place where they had hidden money, but the perpetrators did not care. The disciplinary proceedings against the police officer H.B. was initiated only after the publication of the case and resulted in the lowest possible disciplinary sanction.

Case 9

Event Date: 12/6/2012

FACT OF THE CASE

On June 12, 2012 at 3 am, in Perama, a group of 10-20 people, supporters and members of the organization "Golden Dawn", led - according to witnesses - by the local chief of the organization A.P., approached on motorbikes the house of a family of Egyptian fishermen running a fish shop in the area. On the terrace, which is accessible from the downhill road, they found the Egyptian citizen A.E., while he was sleeping outside, and hit him repeatedly on the head and all over his body with irons and wooden sticks, leaving him unconscious. They then went down to the entrance of the house and tried to break in through the locked door, however the occupants of the house tried to push them away by closing the windows and shouting. When they left, and after they emptied the contents of a fire extinguisher inside the house, the perpetrators destroyed the vehicles of the Egyptian fishermen. Five of the alleged perpetrators were arrested half an hour after the attack and were identified at the Police Department by the victims. A.E. was transferred to the hospital (first to Tzanio, then to Evangelismos) and received medical treatment for a few weeks. To restore his jaw, he had to undergo maxillofacial surgery with a wire bandage, as a result of which, he was unable to eat solid food for many months.



TREATMENT / EVALUATION BY THE AUTHORITIES

The legal description of the attack against A.E. according to the police and the Prosecutor's Office, was that of "serious bodily injury". While in the hospital, the patient was not examined by a forensic doctor although a relevant order had been issued to the Forensic Medicine Service under the supervision of the Police, which was not completed. The perpetrators, following their statement to the investigating officer, were released on restrictive terms. It should be noted that, while at least two of the perpetrators wore black T-shirts of Golden Dawn (a fact that is confirmed by the affidavit of the police officer who apprehended them), when they appeared before the Investigator and the Prosecutor, the accused wore different clothes, that is, they had the opportunity to change their T-shirts while they were in police custody and supervision. And this, although the dress was a critical piece of evidence both for the commission of the act and for the establishment of its racist motive.

From the review of the case file (ABM Φ12 / 979A) it comes out that the confidentiality of the perpetrators' mobile phones was not lifted, in order to identify elements of planning, organization, etc. of the committed act. A video was brought to the notice of the Piraeus investigator, which was depicting the Golden Dawn MP of the second electoral district of Piraeus, G. Lagos, on the afternoon of 11/6/2012, a few hours before the attack, referring to the Egyptian fishermen in the area who "do whatever they want, they sell their fish as they want", concluding that from now on "they will render account to Golden Dawn". Although the lawyer of the victims requested the summon of the Golden Dawn MP and the provision of explanations by the latter, such an action never took place.

Following the murder of Pavlos Fyssas and the start of the criminal prosecution for the criminal organization "Golden Dawn", the prosecutor's office merged the case files of the offences whose perpetrators were members and executives of Golden Dawn, in order to substantiate the offence of the criminal organization. In the context of merging the case files, the acts against A.E. were more accurately legally described as an attempted homicide in complicity, while the alleged perpetrators were also accused of the crime of joining a criminal organization.

COURSE OF THE CASE

The First Three-Member Court of Appeal for Felonies of Athens found the five accused guilty of the attempted murder of A.E. and of joining a criminal organization (decision number 2425/2020). A minor girl who participated in the attack was also found guilty by the Three-Member Juvenile Court for the crime

of attempted murder. The clearance of the decision of the first instance was not completed at the time of drafting this report.

FINDINGS

The non-attribution of the intent for murder to the perpetrators during the pre-trial proceedings of this case and before the murder of Pavlos Fyssas, despite the special circumstances of the act (attack during bedtime, many people armed with irons and batons, numerous blows on the head, the caused damage etc.) is indicative of the wider tendency to underestimate the criminal blameworthiness of offences committed against a foreign national. The aiding and abetting of police officers in the concealment of critical evidence by the perpetrators (change of clothes) reflects existing connections of Golden Dawn within the core structure of the law enforcement authorities. The irregularities in the preliminary investigation and during the main investigative actions posed obstacles to the judicial investigation of the case, which, however, were eventually overcome by the court seized.

Case 10

Date of the incident: 22/8/2012

FACTS OF THE CASE

On August 22, 2012, at 03:00 AM, in Syntagma Square, five to six unknown young perpetrators, wearing T-shirts bearing the word "Golden Dawn", approached the Greek Cypriot P.P., a Cypriot and British citizen, and resident of Germany, they asked him what his origin was and, when he refused to answer, they inflicted bodily injuries on him, throwing him on the ground and hitting him with kicks and punches, then they removed a gold chain from his hand and fled in an unknown direction. The patient was transferred by EKAB to the hospital where he was diagnosed with a fracture of the zygomaticomaxillary complex.

TREATMENT / EVALUATION BY THE AUTHORITIES

In the letter from 12/10/2012 sent to the Greek authorities from Germany where he returned, the victim stated the facts as well as his assessment that the perpetrators beat him because they believed that he was a foreigner and that only when he told them that he was a Cypriot did they stop to hit him and left. Minutes after his injury, the victim spoke to a police officer, who urged him to go to the hospital. However, from the case file (filed only after the letter) and from the testimony of another police officer on 18/12/2012, it appears that the police officer in question did not make any report of the incident as he should have done, as well as that the Hellenic Police did not take any action to locate the police officer on duty, let alone the perpetrators.

COURSE OF THE CASE

No further development of the case is known (ABM/ΙΔ2013/18012), it is probable that it will end up in the archive of unknown perpetrators.

FINDINGS

Racist violence has an extensional tension attributed also to the fact that the victim is selected based on characteristics as they are perceived by the perpetrator, even if this perception is wrong. In this case, the supposed characteristic of foreign origin (probably the color of the skin) and the refusal of the victim to answer to the question about his origin (perceived as ignorance of the Greek

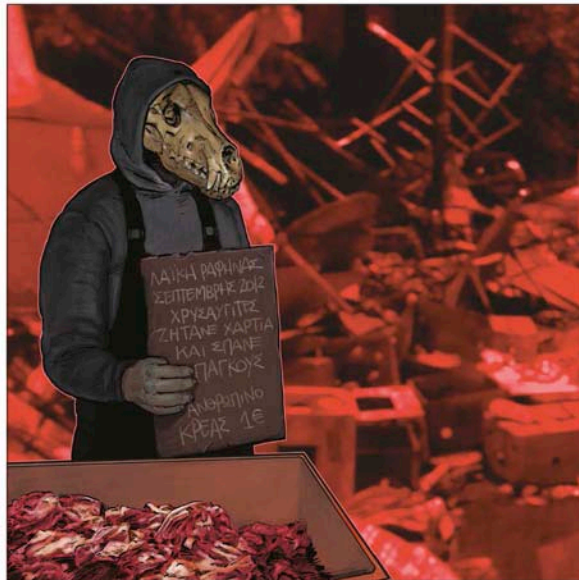
language) led to the beating of a Cypriot citizen of Greek origin. Once again, there is an erroneous investigation of a racist incident by the police authorities, even at the level of recording, which was finally made possible on the initiative of the victim himself.

Case 11

Event Date: 7/9/2012

FACTS OF THE CASE

On September 7, 2012 in Rafina, Attica, a group of members of the Golden Dawn led by two MPs and leading members, Georgios Germenis and Panagiotis Iliopoulos, and in the presence of the police escort of one of them, carried out checks of legal documents on migrants' stalls during a festival on the occasion of a local religious holiday, assuming police duties, without being authorized to do so. The fact of the fraudulent exercise of police powers unquestionably emerges from audiovisual material but also from subsequent interviews



Depiction of the attack from Leandros for #XthemOut campaign.

of one of the two deputies. The Golden Dawn team broke two migrant stalls and destroyed items for sale. A case was filed for these acts, which had been widely publicized, as they had been videotaped and shown on the initiative of the Nazi organization itself, but without following the procedure of *delicto in flagrante*, as no one was arrested. Similar "actions" with characteristics of fraudulent exercise of powers and damage to foreign property were carried out on the same days by Golden Dawn throughout Greece, led by MPs and other executives.

TREATMENT / EVALUATION BY THE AUTHORITIES

Police located the Nigerian I.P., a migrant whose victim's property was destroyed, although he possessed all the legal documents and participated in the

festival meeting the legal requirements, who testified asking the perpetrators to be prosecuted. The video of the attack was confiscated and transcribed, while the National Security Agency was seized of the case. The transcript of the case file describes the commission of the offences of fraudulent exercise of powers, disturbance of the public peace and aggravated damage to foreign property. In December 2012, a second victim named U.A., also a Nigerian national working as a retailer, approached the authorities and filed a criminal complaint.

COURSE OF THE CASE

Although the lifting of the immunity of the Golden Dawn MPs proceeded immediately, within the next month, the case file (ABM: Γ2012 / 3460) remained in the phase of preliminary investigation for more than three and a half years, although documents show that the afflicted I.P. who was summoned again to the Police Department of Agios Panteleimon and on 9/3/2016 confirmed his testimony, resided at the same address, which was notified to the police already since September 2012. Finally, the criminal prosecution was officially initiated, and the indictment was drawn up on 24/10/ 2016 (four years after the commission of the criminal act) with an indication of urgency due to the risk of time-barring, following the letter of 10/10/2016 of the Secretary General of Transparency and Human Rights of the Ministry of Justice Mr. K. Papaioannou to the Prosecutor of the Supreme Court, the Chief Prosecutor of the Athens Court of First Instance and the Prosecutor in charge of Racist Violence, with which a relevant notice from the lawyer of the complainants in the Golden Dawn Trial was notified to the Ministry.

In a subsequent phone conversation of the victim I.P. with the author of this report (in his capacity as a lawyer), the victim stated that the police officers of the police department of Agios Panteleimon told him (falsely) that "the perpetrators apologized for their actions" and urged him to terminate the case. Nevertheless, the victim reiterated his complaints, confirming that the MP who asked for his documents "was also present during the damages". However, the victim, obviously disappointed by the long delay of the case and having formed the belief that the administration of justice would be impossible and largely in vain, did not attend the hearing. The other victim, U.A., had already left the country and was absent during the trial.

Following this, the president of the 8TH Single-Member Misdemeanors' Court of Athens, in a meeting of 9/1/2019, acquitted Iliopoulos and Germenis of the accusation of causing unprovoked damage to foreign property at the Rafina festival

on September 7, 2012, while the prosecution for the two other offences for which he was charged (usurpation and committing acts of violence) ceased on parole. This conclusion was drafted in the prosecutor's proposal, which stated that:

"It has been proven without any doubt that a large group of people with Golden Dawn insignia, in which MPs P. Iliopoulos and G. Germenis had a leading role, acted in a coordinated manner at the Rafina festival, overturning vendors' stalls and causing damage. However, the involvement of the accused in the violent acts was not proven with certainty, so I propose that they be acquitted due to doubts", according to an article in the newspaper *I Efimerida ton Syntakton* (Gioti Tessi, "Raid in the Rafina flea market: The organization was found guilty, the accused were declared innocent ", *Efimerida ton Syntakton*, 10/1/2019).

The First Three-Member Court of Athens for Felonies, in the context of the trial of the Nazi criminal organization "Golden Dawn", read, among other things, documents from the above case and convicted Iliopoulos and Germenis for the crime of the criminal organization, the first for joining and the second for the aggravating circumstance of its leadership.

FINDINGS

The delay in the administration of justice has disproportionate consequences for victims of foreign origin in the context of racist crimes, as victims either leave the country or lose the necessary trust in the institutions in order to go and testify. This belief of the victims is reinforced by the police authorities whose actions in this case, indicate an intention to conceal racist crimes. The presence of a police officer accompanying the MP at the time of the commission of the criminal acts, is indicative of the state Gordian knot that the Three-Member Court of Appeal for Felonies, which tried the Golden Dawn MPs as leaders of a criminal organization, was called upon to cut.

Case 12

Event Date: 10/9/2012

FACTS OF THE CASE

On September 10, 2012, in Metamorfosi, Attica, a group of people among whom the participant K.K., a Greek citizen, went to a barber shop owned by a Pakistani national and, after having a clash with people inside the barber shop, started a fire using an improvised explosive device (Molotov cocktail), while Z.A., a Pakistani employee, was inside the barber shop. The attack followed previous visits by the identified perpetrator, who had made threatening remarks to Pakistani nationals, telling them they "smelled" and asking them to "leave the country". The perpetrators escaped without being arrested. On September 22, 2012, a day when an anti-racist demonstration was organized by local organizations and collectives to protest against the arson of the barber shop, in the evening, a group of people on motorcycles among whom K.K., attacked Pakistani nationals walking home from work after first asking them where they come from. A Pakistani national, R.A., was stabbed next to his heart during the attack and the attackers removed his mobile phone. In a call made by the perpetrator from the victim's cell phone to a person who happened to be his doctor, the perpetrator used the phrase: "we killed him because he is Pakistani, we will take care of you who gives him a job, we are from Golden Dawn". That same night, two more attacks were carried out against Pakistani nationals. The perpetrators escaped. The identification of K.K. was made possible following the lifting of the confidentiality of the stolen mobile phone.

TREATMENT / EVALUATION BY THE AUTHORITIES

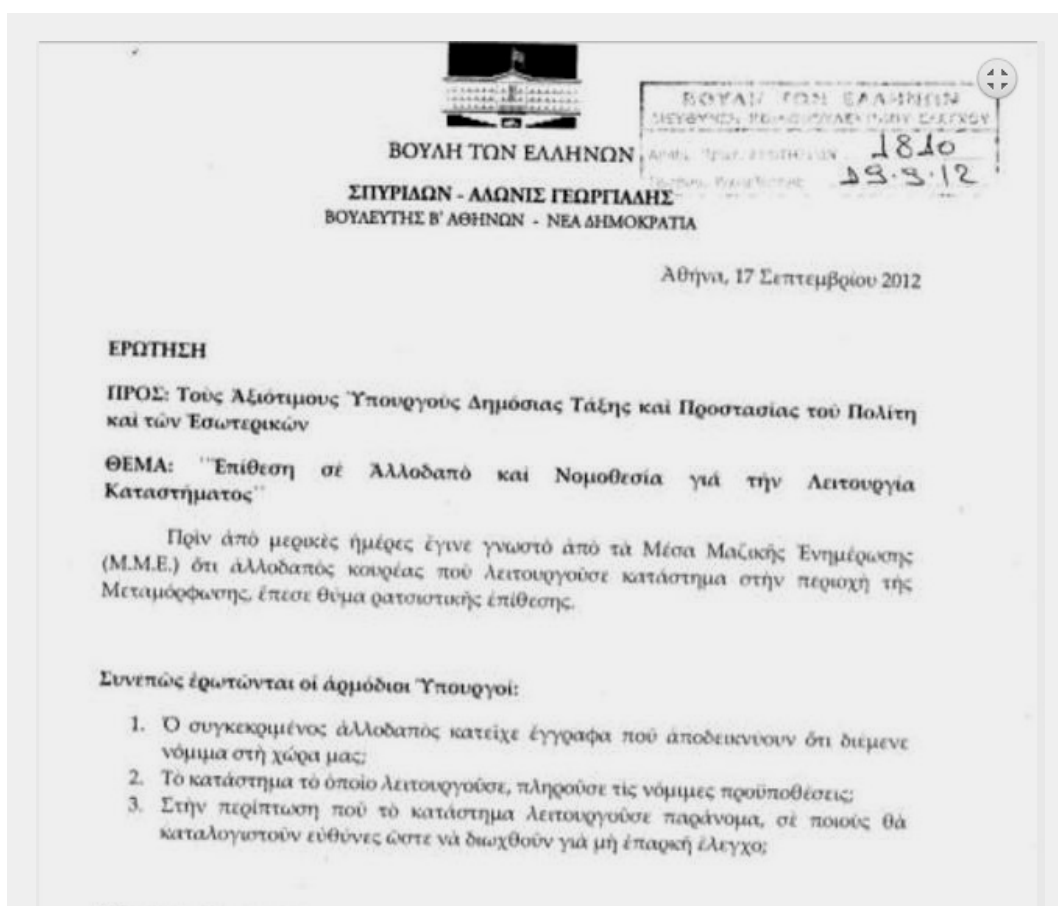
Although the conversation of K.K. with a close person emerged as early as September 2012, the perpetrator was not arrested by the police until the murder of Pakistani worker Sahzat Lukman in Petralona in January 2013 (see Case 17). The subsequent arrest of K.K. was announced at the same time as the establishment of the Police Departments engaged in the fight against racial violence. However, although the motives for the attacks were clearly racist, the police investigation did not address this dimension. The other perpetrators were never sought, the organized commission of the crimes was not investigated despite the existence of four separate incidents in temporal and spatial relevance and with the same *modus operandi*, while the racist motive was never mentioned in any cover note or later in the indictment despite the fact that the newly established Service did take charge of the case.

COURSE OF THE CASE

The Mixed Jury Court of Athens, with its 325 / 28-3-2014 decision, convicted the perpetrator K.K. for the commission of the crime of arson (incident 10/9/2012) and attempted murder (incident 22/9/2012). However, it did not apply the aggravating circumstance of the racist motive in the computation of the sentence (art. 79 par. 3), although in the description of the facts of the case the offences are attributed to the origin of the victims. The 2nd Mixed Jury Appeals Court of Athens, with its decision 471 / 9-11-2017, convicted the perpetrator as at first instance.

FINDINGS

The faulty investigation of a clearly organized racist group that acted systematically in the area of Metamorfosi, Attica, in September 2012 meant that, although one of the perpetrators was brought to justice and punished for his actions, many of the perpetrators went unpunished. The acts were not assessed as racist in the computation of the sentence.



Nine days after the attack, the then MP of New Democracy, Adonis Georgiadis, submitted a parliamentary question on whether the victim had legal documentation of being an "illegal migrant" [lathrometanastis].

Case 13

Date of the incident: 25/9/2012

FACTS OF THE CASE

On September 25, 2012, in the evening, on Lemesou Street in the center of Athens (Amerikis Square), an unknown number of people caused heavy losses and serious damage to the property of the Cointreau store, owned by a Cameroonian, and to the adjacent offices of the Tanzanian Community, which constitute a legally recognized association, since 2010, of Tanzanian nationals living in Greece. The crimes were committed in rallies, during which, according to the police, "residents of the area gathered to protest against the escalation of crime in their area of residence ... [where] they expelled foreigners and mainly colored regular customers of the shops in the area . ». The next day, the interim manager of the C.A. recognized PG as one of the perpetrators of the damage to his store, whom he sued. After the arrest of P.G. and his apprehension at the Agios Panteleimon Police Station, P.G. sued C.A. for the offences of false accusations, defamation, insult and threat.

TREATMENT / EVALUATION BY THE AUTHORITIES

From the draft document of the case file (protocol number: 1052/8/77-a ' / 27-9-2012), it results that for the mentioned criminal acts only the offence of damage to foreign property was ascertained, and specifically article 382 par. 1, i.e. the aggravated damage "due to non-provocation by the victim". No reference is made to the commission of the offence of disturbance of the public peace of a. 189 of the Greek Penal Code with public order as a protected legal good, nor to that of the breach of home peace (since the reported incidents result in damage to property inside the store and offices of the Tanzanian Community). There is no further reference to the violation of Law 927/1979.

COURSE OF THE CASE

The President of the Tanzanian Community S.F. and the head of Cointreau C.A. stated, testifying as witnesses to the investigating authorities and in the Golden Dawn trial (in which PG was accused of the crime of joining a criminal organization), that they were never summoned to a criminal hearing for the above case. The Cointreau store was finally set on fire on 13/5/2013 by a group of perpetrators among whom the defendant t P.G. (see Case 19).

FINDINGS

The commission of crimes with victims of foreign origin, namely “of colored skin”, as certified by the Police, which reached the point of damage to foreign property and the destruction of offices of legally recognized migrant communities, does not seem to be acknowledged by the authorities as a matter of “public order”. The complaints of the alleged perpetrators exposed the victims to the filing of opposite lawsuits, which - according to the victims - discouraged them from reporting to the authorities (although there was a possibility of ex-officio prosecution). Impunity led to the escalation of racial violence, as evidenced by the subsequent development of the case.

Case 14

Date of the incident: 5/10/2012

FACTS OF THE CASE

On October 5, 2012 at 15:20, a group of men driving a car of brand MERCEDES VITO, white color, with covered license plates, went to Lavrio, Attica, in the area of Neapoli, and specifically on 38 Ilia Menti Street, where the car laundry and lubricant shop owned by I.N., of Pakistani origin, is located. The co-driver disembarked, opened the sliding door of the truck and about 10 people came out of it, wearing black clothes, out of which, two



Depiction of the attack from Dimitris Mastoros for #XthemOut campaign.

(2) were wearing T-shirts bearing the “Golden Dawn” insignia. The perpetrators, having their facial features covered with “full face” type hoods, carrying wooden bats, poles and other objects, attacked and beat 3 people of Pakistani origin, namely: a) N.S., an employee of the above store, who was injured slightly to the head and arms, b) J.A., an employee who managed to escape and c) A.R., who was in the store and suffered head, arm, leg and back injuries according to the forensic report. In the above store, the perpetrators caused damage to the glass wall and a machine, with a total value of about 3,000 euros.

TREATMENT/EVALUATION BY THE AUTHORITIES

The first and third victims (who suffered serious head injuries and had to have stitches) were examined by a forensic doctor who described the injuries as “dangerous” in his reports. However, the offences mentioned in the cover note of the case file of the Attica Police Department (Ref. number: 1046/2/2 / 17-1-2013) are those of simple unprovoked bodily injury, damage to foreign property in complicity and violation of the law. 2168/93 “On weapons”, at the expense of unknown perpetrators. However, as the third victim was lacking legal documents, he was arrested and the measure of administrative expulsion was applied against him.

Following the indications of an anonymous whistleblower, the accusations were made against three well-known members of the Golden Dawn of the local organization of Anavyssos, while the car of one of them matched the description of the car of the unknown perpetrators. But when they were called to provide their statement, the victims had not been called to identify them (the most severely beaten had also been deported).

COURSE OF THE CASE

It is unknown whether a trial was held in this case (ABM: A13 / 2711).

FINDINGS

The characterization of the criminal acts as simple bodily injuries in the police cover note in the moment when the police officers had received the forensic report that characterized the injuries (on the head) as dangerous, but also the expulsion of the victim and key witness, constitute the context of impunity for racist violence and justify the victims’ reluctance to go to the police.

Case 15

Date of the incidents: 12/10/2012

FACTS OF THE CASE

On October 12, 2012 and around 21:30, in Attiki Square, three unknown perpetrators attacked the Greek-Egyptian citizen A.M. just as he was getting off the trolley. He was beaten several times with brass knuckles and chains on the head, while the perpetrators had with them two dogs that were used to terrorize the victim. As a result of the blows, the victim was seriously injured in his left eye. The perpetrators escaped and were never arrested.

The victim testified at the Police Department of Agios Panteleimon, where he requested the criminal prosecution of the perpetrators, and then (the next day) he was admitted to the hospital from where he left voluntarily on 18/10/2012, in order, as the doctors note, to be treated medically in his country. The case received publicity in the news bulletins: the victim, who was studying in Egypt and was in Greece to see his family, complained that the perpetrators were wearing Golden Dawn T-shirts. In the relevant videos, the victim is in the hospital and appears hospitalized in bed, while the damage he suffered in his left eye is visible.

TREATMENT / EVALUATION BY THE AUTHORITIES

The police investigation of the case was limited to taking the victim's testimony and declaring that the perpetrators could not be found during the procedure of *delicto in flagrante*. According to the cover note of the PD Agios Panteleimon to the Prosecutor's Office (Ref. number: 1046/2/230-ε'/ 20-12-2012), no action took place to locate the perpetrators, although the incident took place while the victim was getting off a trolley in a busy area in Attica Square. And yet, the police never tried to locate the driver or other passengers who were eyewitnesses or use video footage from cameras at nearby stores. Although the incident received widespread publicity and was portrayed as another racist attack by Golden Dawn perpetrators, the police did not even contact the hospital where the patient was being treated, in order to receive medical documents and to arrange for a forensic doctor to visit him.

The only action that results from the written documentation is the inability to locate the victim in order for him to receive the referral to the forensic doctor, one or two months after the attack, ie during the time he had already traveled to Egypt to receive proper medical care there. Despite the well-known fact of

the hospitalization of the victim, the police authorities assessed the committed criminal act as "dangerous bodily injuries". The medical records of the victim show that he suffered permanent bodily injury to his left eye, which implies that the correct legal description of the offence is the felony of grievous bodily injury.

COURSE OF THE CASE

The perpetrators of the attack continue to escape the arrest. The case file (ABM: 1B2013 / 7645) was placed in the archive of unknown perpetrators.

FINDINGS

The flawed police investigation into crimes that constitute racist crimes meant that many perpetrators of similar crimes were left unpunished. The preliminary investigation actions of the police result in an underestimation of the criminal blameworthiness of the committed acts, which is then usually endorsed as a given fact by the prosecutorial authorities.

Case 16

Event Date of the incident: 15/11/2012

FACTS OF THE CASE

On November 15, 2012 and around 03.00, in Volos, after a check made by the police in a car on board of which there were M.Z., K.M. and D.K., 2 bottles containing flammable material, petrol and alcohol-which can explode when launched- and a nail in their neck were found (i.e. improvised explosive devices known as "Molotov cocktails", ready for use), with which the above persons were planning to attack a mosque located in N. Ionia, Volos. In the luggage compartment of the above car were also found 122 hunting cartridges as well as a full-face hood of black color, which was in the jacket of K.M. During the searches in the houses of the aforementioned, a hunting rifle without a license, knives, flammable material were found and confiscated, while printed material of the Golden Dawn was also found. One defendant accepted the charges, while the other two denied them, admitting that they had an after-midnight appointment that night at the offices of Golden Dawn in Volos, where they used to go often as supporters.

TREATMENT / EVALUATION BY THE AUTHORITIES

According to the case file (ABM: H2012 / 663), the accused were charged with the offences of violation of Art. 272 par.1 of the Greek Penal Code, "Violations related to explosives" and specifically for the manufacture and joint possession of explosives, as well as the provisions of Law 2168/1993 " On Weapons ", including provisions on the illegal possession and carrying of weapons.

According to the indictment, the three aforementioned persons, acting as co-perpetrators with joint intent and co-decision, illegally constructed and possessed explosives and improvised explosive devices in order to cause public danger to foreign property and people and in particular to attack a mosque located in Admitou Street in Nea Ionia, Volos, motivated by hatred against Muslims. The accused gave their statement before an investigator and were released on restrictive terms.

COURSE OF THE CASE

We do not know whether a trial was held for this case or its development.

FINDINGS

The timely intervention of the authorities prevented the planned arson, which had a clearly racist motive. The targeting of places of prayer and burial of other religions was escalated from the desecration of these places with paints and slogans to arsons (committed or attempted) from which persons and property were endangered. The case file of the Golden Dawn trial, with the context of which the present report is related, contains photographic material of actions of the Nazi organization outside places of worship of Muslims with the slogan "Fire in the mosques".

Case 17

Date of the incident: 17/1/2013

REAL INCIDENTS

On January 17, 2013, in Petralona, Attica, after midnight, D.L. and X.S., of Greek nationality, on board of a motorcycle, spotted the Pakistani worker S.L., who was riding his bicycle to his place of work, in a street market. The perpetrators blocked the victim with their motorcycle, immobilized him and stabbed him jointly seven times, once in the heart. Residents who heard the victim's screams from their home managed to see the characteristics of the perpetrators, before they abandoned their victim and left, and informed the police. In less than half an hour, the perpetrators were arrested by the police in Syntagma Square, with two daggers in their possession. At the Attica General Police Directorate (GADA), the perpetrators claimed that their victim blocked their road with his bicycle and that is the reason why they quarreled with him, resulting in the homicide. One of the two perpetrators was a firefighter. In the houses of the two perpetrators, objects were found, which were identified as weapons (knives, blades, airguns, etc.), while in the house of one, leaflets of the Nazi organization "Golden Dawn" were found.



TREATMENT / EVALUATION BY THE AUTHORITIES

Although the facts of the crime were flagrant concerning the possible existence of a racist motive (absence of conflict, trivial pretext in relation to the severity of the blows, abandonment of the victim, findings in the perpetrators' homes, no other visible motive), the police endorsed the allegation of manslaughter "for no significant reason", which was subsequently reiterated by the Prosecutor and the Judicial Council in the ruling bringing the case to judgement. Therefore, critical investigations that are now considered commonplace in homicides (lifting the confidentiality of cell phones of the perpetrators, search for audiovisual material through cameras, attempt to locate witnesses, etc.) did not take place.

COURSE OF THE CASE

The Mixed Jury Court of Athens sentenced the perpetrators for homicide, which the defendants committed in a calm mental state and as co-perpetrators (decision number: 398 / 15-4-2014) and applied the aggravating circumstance of Art. 79 par. 3 on the racist motive, judging that "the act was committed out of hatred caused due to the differences in the external characteristics of the victim, his religion, his national and ethnic origin". A police officer of GADA who came as a witness supported his belief that the homicide "was an ordinary street fight" and that the perpetrators "looked shocked".

During the trial before the 2nd Mixed Jury Court of Appeal of Athens, a police officer who participated in the apprehension and subsequent arrest of the perpetrators revealed for the first time the phrases used before him by the perpetrators to justify themselves: "We took good care of him, he was a foreigner, they enter our houses, they have come to our country, and they and hurt us. Didn't we do well to him? " When he got asked why he had not previously testified these facts of which he said he was absolutely certain, he replied that he did not consider them important for the case and regarded them as "nonsense". The 2nd Mixed Jury Court of Appeal of Athens re-convicted the perpetrators as at first instance (decision number: 286/2019). However, he did not make use of the aggravating circumstance of the racist motive that had in the meantime been abolished and replaced by another legal provision (see Chapter IV, point (c) of this Report), while acknowledging the mitigating circumstances of their former good character, which meant the release of the convicted under the provisions of parole.

In October 2020, the accused were convicted at first instance by the First Three-Member Court of Appeal for Felonies of Athens for the crime of joining a criminal organization in the trial of the Nazi criminal organization "Golden Dawn" and returned to prison.

FINDINGS

The arrest of the perpetrators by the police, following the provision of information by citizens, was important for the investigation of the case. However, the failure to investigate the racist motive, even when the facts are salient and is explicitly stated by the perpetrators, creates serious indications of concealment by the prosecuting authorities. Judges, regular and jury, managed to assess the crime as racist, despite the police misconduct and concealment.

Case 18

Date of the incident: 13/2/2013

FACTS OF THE CASE

On February 13, 2013, in Ierapetra, Crete, a group of about ten perpetrators with the participation of G.S., P.G., D.A., M.E., P.E., all of them young local men, went to a farmhouse inhabited by the Pakistani nationals I.M., L.A. and M.H. and attacked them with wooden sticks on their head and body, causing them bodily injuries. The victims were hospitalized at the General Hospital of Ierapetra, while the perpetrators escaped.



Depiction of the attack from Kostas Kiriakakis for #XthemOut campaign.

TREATMENT / EVALUATION BY THE AUTHORITIES

An eyewitness, who was in an adjacent olive press at the time of the attack, testified to the police authorities and presented the license plates of two of the perpetrators. One of them was called the next day by the police and admitted his presence at the scene, denying his involvement in the beating, while naming four other perpetrators, all members of the local branch of Ierapetra of Golden Dawn. According to the case file (Ierapetra Security Department, Ref. number: 1043/58737/14-α / 15-2-2013), the perpetrators committed the offences of dangerous bodily harm, threat and use of weapons. The victims were arrested as

they were leaving the hospital, because they lacked legal documents to stay in the country. Following a legal action by their lawyer, the victims were able to prevent their expulsion.

COURSE OF THE CASE

The three-member Misdemeanors' Court of Lassithi convicted the five perpetrators for the offences of dangerous bodily harm, threat, use of weapons and criminal gang (decision number: 1079/2014). In one of the trials, the police re-arrested the victims who had been summoned as witnesses, in the absence of legal documents, but following the actions of their lawyer, they were released. The three-member Court of Appeal for Misdemeanors' of Eastern Crete convicted the perpetrators again. The same perpetrators were accused before the First Three-Member Court of Appeal for Felonies of Athens for the crime of joining a criminal organization in the Golden Dawn trial: one of them (head of the local branch of Ierapetra) was found guilty and the four were acquitted.

FINDINGS

The presence of an eyewitness and the mobilization of the police authorities meant the arrest of the perpetrators of the racist attack. However, the arrest of the victims and their precarious position, until the possibility to issue legal documents following the relevant legislative changes (Chapter IV, point b, of this Report), confirms the reasons for incomplete registration and punishment of acts of racist violence.

Case 19

Date of the incident: 13/5/2013

FACTS OF THE CASE

On the evening of 13 to 14 May 2013, P.N. and P.G. (both Greek nationals) and other unidentified perpetrators violently threatened C.A., a Cameroonian national and owner of the Cointreau bar on Lemesou Street in Amerikis Square, telling him not to open his shop and then, at 2am, set the shop on fire using sledgehammers to break the glass wall and gasoline for arson. A fire brigade arrived at the scene. The fire was extinguished before it spread. It is noted that the store was located on the ground floor of an apartment building in which there were residences. The perpetrators temporarily escaped.

TREATMENT / EVALUATION BY THE AUTHORITIES

According to the victim and other witnesses who testified to the police and judicial authorities, the perpetrators were known, had set up a night patrol in the area as early as September 2012 and had committed criminal acts against the trader, using phrases such as "go black dog" "We do not want a brothel here, go to your homeland to open a shop there". However, in previous attacks, the victims either did not report the acts against them to the police authorities or did so, but they were subsequently sued for false accusations.

Following multiple testimonies of the victim on 14/5, the prosecuting authorities, in the presence of a member of the judiciary, conducted an investigation in the apartment of one of the two perpetrators on 15/5, where he was found and arrested. During his interrogation, he confessed his actions. Racist slogans and Golden Dawn symbols were found in his home. The case file was established for the offences of arson with intent which could result in danger for foreign property, illegal violence and the aggravated case of damage, and was notified to the newly established Police Service engaged in the fight against racial violence of the Attica Security Division. No indictment for the violation of law 927/1979 was made.

COURSE OF THE CASE

P.N. and P.G. were tried in the first instance before the 2nd Three-Member Misdemeanors' Court of Athens for crimes caught in the act, and were found guilty of arson, illegal violence and an aggravated case of damage, with a total prison sentence of three (3) years and five (5) months each (decision number: 60084 /

20-11 -2013). The court accepted the aggravating circumstance of article 79 par. 3 of the Penal Code for committing the act "out of hatred caused due to race, color etc.". The First Three-Member Misdemeanors' Court of Athens re-convicted the perpetrators for the reported criminal acts, however it did not re-invoke the provision for the racist motive (decision number: 7058/2017).

The First Three-Member Court of Appeal for Felonies of Athens that tried the case of the Nazi criminal organization "Golden Dawn", convicted P.N. for the offence of joining a criminal organization, while acquitting P.G. charged with the same offence.

FINDINGS

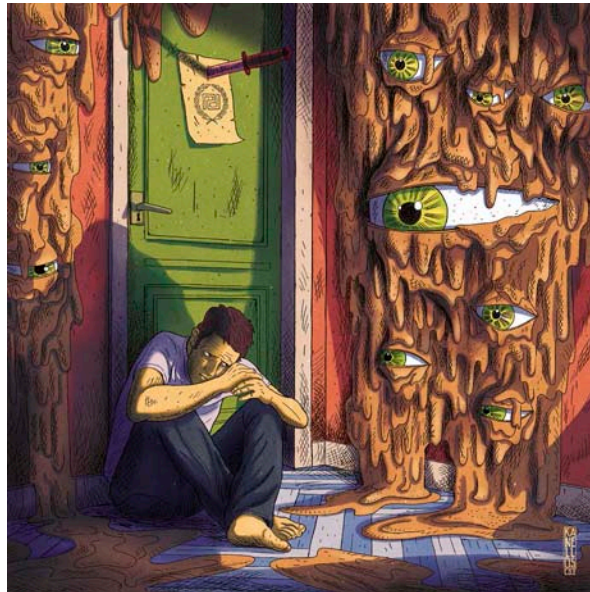
The organized action of racist groups for a long time was left unpunished by the prosecuting authorities, resulting in the escalation of acts of violence. This case is one of the few to take into consideration the aggravating circumstance of the racist motive. However, the non-prosecution for a violation of Law 927/1979 is indicative of the difficulty of prosecuting and judicial authorities in assessing and punishing racist crime as such, even in the most egregious cases.

Case 20

Date of the incident: 7/9/2013

FACTS OF THE CASE

On September 7, 2013 at around 22:00, in the center of Athens, according to the victim, two unknown perpetrators, together with D.G., followed the Afghan national J.A.S. at the entrance of the block of flats on Veranzerou Street, where the apartment he rented was located and in which he lived with two of his minor children. As he was unlocking the door, they violently entered his house and asked him to show them his residence permit, pretending to be the police.



Depiction of the attack from Kanellos Cob for #XthemOut campaign.

The two men hit the Afghan national on the head and threatened him, while D.G. guarded the entrance of the apartment, hindering the entrance to third parties and the escape of J.A.S.. In the previous days, strangers had "marked" the foreigners' apartments in the block of flats with black Celtic crosses. Two days after the beating of J.A.S., that is, on 9/9/13 around 14:00, the same perpetrators in the presence of D.G. were waiting for him at the entrance and threatened him with the phrase: "if you do not go away, at night 10 people will come to kill you". When the Police were called and those involved were taken to the Police Department, the victim did not file a criminal complaint, as D.G. threatened to file a counter-complaint for false accusation and the procedure of *delicto in flagrante* will be followed for all. Similar actions against other foreigners by D.G. have been reported by the owner of the house rented by J. A. S.

TREATMENT / EVALUATION BY THE AUTHORITIES

The victim identified D.G., a female resident of the same block of flats and a Golden Dawn MP candidate in the 2012 parliamentary elections, as the person who systematically harassed, threatened and violently attacked foreigners living on Veranzerou Street and the wider area, with the assistance of Golden Dawn

members. He sued D.G. and other unknown perpetrators filed on 21/10/2013, for the offences of violating Law 927/1979, illegal violence, breach of the home peace etc.

COURSE OF THE CASE

J.A.S. left the country in October 2013 and migrated to Sweden, after family reunification with his wife who was already there. The fate of the indictment is unknown. The report was read as a document in the trial of the criminal organization "Golden Dawn", while witnesses who were aware of the incidents were examined. The natural perpetrators of the acts against J.A.S. remained unpunished.

FINDINGS

The vulnerability and temporary status of refugees and migrants in the country where racist crimes were committed against them often lead to the impunity of the perpetrators.

VII. TRENDS AND PRACTICES IN THE ATTITUDE OF LAW ENFORCEMENT AUTHORITIES – COMPARATIVE EVALUATION

After reviewing the racist crimes contained in the Golden Dawn case file, we can identify those practices that have contributed to the under-registration and the inadequate punishment of the racist crime that has long been pointed out by the organizations responsible for recording racist violence. Thus:



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1 Cases are recorded in which criminal acts are committed before police officers, but who do not take prompt action and do not make apprehensions or arrests according to the procedure of *delicto in flagrante*, with the result that the perpetrators escape and remain unpunished. In the most emblematic case of the 2011 pogrom (Case 4), a series of crimes were committed before police officers in broad daylight, according to a video, but the police officers did not intervene. In the case of the arson of the mosque in Attiki Square (Case 3), the prosecuting authorities did not bring in suspects for the criminal act of arson, although the victims complained that the perpetrators were still outside the mosque when the police arrived.

2 In many cases, law enforcement authorities do not take the necessary action *ex officio* to file a case and initiate an investigation into criminal acts, but they expect the victims or citizens who have become aware to come to the Police Department and file a complaint. Thus, in the case of the desecration of the Jewish Cemetery in Ioannina (Case 1), the police authorities asked a complaining citizen to come to the Police Station and file a complaint despite the recorded systematic desecration of the cemetery and the self-evident *ex officio* prosecution. In the case of the beating in Piraeus (Case 8), the duty officer asked the victims to come to the Police Department even though they had been transferred to the hospital, having suffered serious injuries. In the case of the beating of a Cypriot citizen in Syntagma who was considered a foreigner by the perpetrators (Case 10), the police officer who became aware of the crime from the victim did not even make a formal report to the Service, as normally provided, with the result that the Hellenic Police could not locate neither the perpetrators, nor even the police officer himself. In the case of the destruction of the Tanzanian Community offices by a series of unknown perpetrators (Case 13), the police did not deal with the case although *ex officio* prosecuted offences were committed. In all these cases, the *ex-officio* prosecution for violation of law 927/1979 is systematically avoided.

3 In cases in which the prosecuting authorities have already been seised and a case file is being established, there is a delay in the execution of standard investigative actions, which dramatically delays the investigation of the case, the identification of the perpetrator and the conduct of the court proceedings. Given the temporary status of refugees and migrants and their

very probable re-departure from the country, this practice greatly increases impunity compared to common criminal offences. Thus, in the case of the robbery of a Bangladeshi national in 2010 (Case 2), the identification of the owner of a car through his license plate took a year and a half and the statement of the alleged perpetrator before the investigator for the felony of the robbery took place five years after the act, when the residence of the victim was not known anymore. In the case of the beating of the Greek-Egyptian in Attica Square (Case 15), the prosecuting authorities did not take formal actions, such as finding the driver of the trolley from which the victim got off, so that he - and possibly other passengers - could testify as witnesses, in order to identify the perpetrators.



4 During the preparation of the case file and its transmission to the prosecuting authorities, there is a systematic underestimation of the criminal blameworthiness of the crimes, with a legal description (mainly of bodily injury) inferior to that indicated by the facts, the case documents and the findings of the case law. Usually, this practice is accompanied by an incomplete forensic recording of the injuries, which is left at the initiative of the victim, and results in the establishment of a case of minor criminal misconduct (misdemeanor instead of felony, minor misdemeanor instead of major, etc.). Thus, in the case of the beating of the Greek-Egyptian in Attica Square (Case 15), the bodily injury was described as dangerous and not as severe (the victim lost his sight in one eye), while his diagnosis, although the victim received medical treatment at the hospital and his case had received wide publicity in the media, was left to the victim's initiative, with the result that the forensic referral

was not served, as he had already left the country. In the case of the attack on the house of the Egyptian fishermen (Case 9), the injury of A.E. was described as severe bodily injury although the facts and the hospitalization of the victim indicated the existence of a possible intent for murder. The visit of a forensic doctor to the hospital where the patient was treated, although ordered, never took place. In the case of the beating of Pakistani nationals in Lavrio (Case 14), the bodily injuries are described by the Police as simple, although the forensic report characterizes them as dangerous.

5 In many cases, the racist motive is not investigated and this not only in the most difficult cases where it appears as a subsidiary element (along with other motives, e.g. previous dispute, clash, etc.), but even when it is absolutely dominant. This defect is reflected in the inadequate investigative actions but also in the cover note of the case file to the Prosecutor, where on the one hand the reference to the racist motive is usually absent, on the other hand the offence of the violation of Law 927/1979 is not taken into consideration, although many times the facts (i.e. the phrases used by the alleged perpetrators, etc.) solemnly substantiate it. Thus, in the case of the beating of Albanian nationals in Kassandreia, Halkidiki (Case 5), the prosecuting authorities did not include the violation of Law 927/1979 in the cover note of the case file, although the phrases of the alleged perpetrator ("damn your race") would have justified it. But even in the case of the murder of the Pakistani national S.L. in Petralona (Case 17), the prosecuting authorities never investigated the racist motive, but only recorded - and from one point onwards endorsed - the perpetrators' claim that the seven stab wounds against an unarmed victim (one in the heart) were the result of a "quarrel for a trivial reason".

6 In some of the recorded cases, police agencies give the victims the impression of active synergy in concealing criminal acts and their racist motive. Thus, in the case of the attempted murder of A.E. at the house of Egyptian fishermen in Perama (Case 9), police officers allowed the accused to change their clothes and thus conceal an important piece of evidence for the commission and the racist nature of the murder. In the case of the murder of the Pakistani national S.L. in Petralona (Case 17), some of the police officers who testified at the hearing either openly endorsed the allegations of the perpetrators or concealed critical facts which were introduced at a later

stage, including the main phrases of the perpetrators during their arrest solemnly revealing the racist motive of the homicide. In the case of the damage done to a Nigerian national in Rafina (Case 11), a police officer was present during the commission of the criminal acts (as an MP's companion), while another police officer came to convey the apology of the accused – a fact which was not revealed during the proceedings-, in order to exercise pressure on the victim to withdraw his desire for criminal prosecution, although his main duty was to implement the prosecutor's order to take a statement on behalf of the victim. The disciplinary and criminal liability for these illegal police actions is rare and, when it occurs, as was the case of the officer on duty in Piraeus (Case 8), the result of the official administrative inquiry is the imposition of the lightest possible punishment.

7 In many of the cases investigated, the facts of the crime, the identity of the perpetrators and the affirmation of a racist motive were evidence of the existence of organized crime. However, the prosecuting authorities until the murder of Pavlos Fyssas in September 2013 and the establishment of the case file for criminal organization, never investigated the organized nature of the crimes, even when there were serious indications for this. Thus, in the case of the 2011 pogrom (Case 4), the arson of a mosque in Attica Square (Case 3), the beating of Afghan nationals in Agios Panteleimon (Case 6), the beating of a Greek-Egyptian in Attica Square (Case 15), the damage and arson of Coin-treau in America Square (Case 13 and 19), the time and place of the act, the modus operandi of the perpetrators, the number of persons and the organization in the form of patrolling of areas, their action under the auspices of the same organization ("Golden Dawn") could lead to the correlation of the cases long before September 2013, a move that would facilitate the conduct of investigative actions of increased probative weight and the dismantling of the emerging criminal network. Similarly, in the case of the attacks on Pakistani nationals in Metamorphosis (Case 12), the facts revealed the existence of an organized criminal group (other than one arrested perpetrator), which was never dismantled. The nationality of the victims played an indisputably leading role in the occurrence of these irregularities.

8 The systematic impunity provided by the prosecuting authorities to the perpetrators of racist crimes has strengthened the belief of the victims that recourse to the authorities is futile and may also mean turning the victim

into a perpetrator through the filing of counter-complaints for false accusations or the arrest of the victim in the absence of legal documents. Thus, in the case of the Cameroonian national, owner of the store in America Square, the victim had previously filed a complaint (Case 13) against the perpetrator who later set fire to his shop (Case 19), which resulted in the filing of a counter-complaint by the perpetrator for false accusations. In the case of the beating of the Afghan national on Veranzerou Street (Case 20), the victim did not file a criminal complaint according to the procedure for *delicto in flagrante* and, at the first opportunity, he left the country. In the case of the damage to foreign property in Rafina (Case 11), the victim, a Nigerian national, although he knew the perpetrators, clearly expressed his frustration with the prosecuting authorities and did not appear as a witness.

9 An additional flaw to the existing sense of impunity has been the absence of a legal framework (until 2015) for the protection of the aggrieved third-country national who did not have legal documents, which resulted in the arrest and - in the worst cases - the expulsion of the victim. Thus, in the case of the beating of Pakistani nationals in Lavrio (Case 14), the main witness and victim was arrested by the Police due to the lack of legal documents and was deported from the country. In the case of the beating of Pakistani nationals in Ierapetra, Crete (Case 18), the victims were arrested by the police as they were leaving the hospital, and they were in danger of being arrested even when they came to the court to testify, until they managed to obtain a legal residence permit.

10 As a result, there are few cases in which the police authorities acted effectively and prevented the commission of racist crimes or arrested their perpetrators immediately. Thus, in the case of the attempted arson in Volos (Case 18), the police prevented the commission of the crime, arresting the perpetrators. In the case of the robbery against the two women of Greek origin from Albania (Case 7), they immediately got mobilized and arrested the perpetrators. In various cases (with the most important being the attempted murder of A.A. in Perama and the murder of S.L. in Petralona), the performance of the duties by police officers in accordance with the law coexists with misconduct and neglect by other police officers or even by their synergy and active concealment of crimes. In any case, the cases investigated in this Report belong to a small minority where case files were established. In other words, it is nothing but the tip of the iceberg of a regime of impunity for racist violence.

VIII. FINAL CONCLUSIONS

The findings of our Report and their comparative evaluation confirm what is mentioned in the reports of the Racist Violence Recording Network and explain the underestimation of the racist crime and its flawed criminal sanctioning during the disputed period 2009-2013.

Of course, the law enforcement authorities and specifically the Greek Police do not bear all the responsibility for this phenomenon. A self-evident example: the underestimation of the criminal blameworthiness of racist crimes contained in the cover notes of the case files, as already analyzed, could be corrected (and in some cases it was corrected) by the prosecutorial and judicial authorities, the same could also happen with the preliminary investigation actions that did not take place, etc. Experience, however, shows that the actions and assessments of the Police decisively mark the criminal development of a case. If some actions are not taken immediately, in the first place, and if things are assessed in a way that is reflected in a cover note, the inertial force (especially if there is no presence and intervention of the victim through a

lawyer) usually means accepting the status quo, which is established by prosecutors and members of the judiciary. The attitude of the police authorities constituted, in other words, a kind of "sieve", which largely explains the underestimation and flawed punishment of racist crime.

To interpret this confirmed attitude of the police authorities, we must not resort primarily to the connection of police officers and nuclei within the law enforcement authorities with the Nazi criminal organization "Golden Dawn", which appears as the common perpetrator of many of the described racist attacks. This connection is of course existing and verified. It is clearly visible from the facts of some of the cases that were analyzed and, moreover, it has been emphatically pointed out by the first instance decision of the First Three-Member Criminal Court of Appeal for Felonies of Athens that convicted a Piraeus Security police officer for the crime of joining a criminal organization. Relevant investigations were also carried out by the Division of Internal Affairs of the Hellenic Police, with a finding that unsuccessfully attempts to cancel the complaints (the result as published here: tinyurl.com/utj4rkke and here: tinyurl.com/4e39b7py and a first review here: [tinyurl.com / axf9tsuf](https://tinyurl.com/axf9tsuf)). For these connections, disciplinary and criminal liability must be in place, something that has not happened to date.

However, the extent of the problem is such that it is not effectively interpreted by individual attitudes, unless it is treated as what it really is, that is, as a systemic problem and, in fact, as a systemic problem beyond the narrow confines of the police.

A key to our understanding is the legislative provision into force since 2005 that third-country nationals do not have access to public services simply because they do not have legal documents (Chapter V, point b, of this Report). This provision sends a message to all services and authorities that citizens who lack legal documents belong to a lower category than those who possess them, even for the self-evident services of education, health, or protection of their physical integrity. Given that the lack of legal documents is basically a given fact for foreign citizens, this provision was a laboratory for the emergence of institutional racism. From 2010 onwards, the placement of undocumented third-country nationals in an informal "beta category" within the Greek legal system was accompanied by the active targeting of immigration - and to a point beyond the foreign origin itself- as was the case with the operation "Xenios Zeus" in 2012 (see in the Report of the Greek Ombudsman, The phenomenon of racist violence in Greece and its treatment, September 2013, p. 33 ff., <https://tinyurl.com/uckyfck9>). In this context, the migrant

and the refugee could not be accepted by the authorities as a victim of a criminal act, but they were understood exclusively as an "enemy". This also led to the demand by the State to the police authorities to arrest and expel the victim of a racist crime.

In other words, it is proven once again that institutional racism is a more important problem than the xenophobic attitudes and perceptions of a portion of the population. Xenophobia is of course reprehensible and acts as a greenhouse for violence. However, institutional racism is from the beginning endowed with the power of the state.

This conclusion is still useful today. The Hellenic Republic has made corrections to the unacceptable situation that prevailed at the legislative and institutional level, especially in the first half of the last decade, regarding racist crime. Today, criticism to the Greek authorities is less about the absence of laws and institutions and more about their non-implementation (see the documented contribution of the Racist Violence Recording Network and other organizations to the Committee of Ministers of the Council of Europe in the case of *Shakir v. Greece*, no. 48475/09, tinyurl.com/53k7a592). Furthermore, the condemnation of Golden Dawn as a criminal organization set for the first time with such clarity, an institutional red line against racist and fascist violence.

However, the confinement of thousands of third-country nationals to massive camps and detention centers on the islands, at border points and in the mainland, is again creating second-class citizens. The targeting of immigration and asylum seeking, which we witnessed in 2020 by the Greek authorities, with a rhetoric about “invasion” coming from official sources, in combination with the conditions of the pandemic, creates the same toxic mixture that preceded the

escalation of racist violence in the period of time covered by our Report.

We express the hope that the findings of this Report will become a domain of both civil society organizations and the institutions of the Greek State. Collective self-knowledge is a necessary condition for not repeating the phenomena of organized racist violence, institutional negligence of the State and systematic impunity of perpetrators, now and in the future.



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