

The Committee of Ministers,

1. Having regard to Article 32 (art. 32) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter called "the Convention");
2. Having regard to the report drawn up by the European Commission of Human Rights (hereinafter called "the Commission") in accordance with Article 31 (art. 31) of the Convention and relating to the Applications lodged on 20 September 1967 by the Governments of Denmark, Norway and Sweden against the Government of Greece (Nos. 3321/67, 3322/67, 3323/67) and on 27 September 1967 by the Government of the Netherlands against the Government of Greece (No. 3344/67);
3. Whereas the said report was transmitted to the Committee of Ministers on 18 November 1969 and the period of three months provided for in Article 32, paragraph 1 (art. 32-1) of the Convention has elapsed without the case having been brought before the European Court of Human Rights in pursuance of Article 48 (art. 48) of the Convention;
4. Whereas in their Applications, which were joined by the Commission, the four Applicant Governments alleged that the respondent Government had violated Articles 5, 6, 8, 9, 10, 11, 13 and 14 of the Convention (art. 5, art. 6, art. 8, art. 9, art. 10, art. 11, art. 13, art. 14) and that it had failed to show that the conditions set out in Article 15 (art. 15) of the Convention for measures of derogation were satisfied;
5. Whereas the Governments of Denmark, Norway and Sweden on 25 March 1968 extended their original allegations to Articles 3 and 7 (art. 3, art. 7) of the Convention and Articles 1 and 3 of the First Protocol (P1-1, P1-3);
6. Whereas the Commission on 24 January 1968 declared the original applications admissible and on 31 May 1968 declared the new allegations also admissible;
7. Whereas the Commission in its report has expressed the opinion:
  - that legislative measures and administrative practices of the respondent Government have contravened Articles 5, 6, 8, 9, 10, 11, 13 and 14 (art. 5, art. 6, art. 8, art. 9, art. 10, art. 11, art. 13, art. 14) of the Convention and Article 3 of the First Protocol (P1-3);
  - that these measures and practices were and are not justified under Article 15 (art. 15) of the Convention;
  - that, by promulgating Constitutional Act "Eta", which was later interpreted by Constitutional Act "Lambda", the respondent Government has not violated Article 7 (art. 7) of the Convention or Article 1 of the First Protocol (P1-1);
  - that the respondent Government has violated Article 3 (art. 3) of the Convention;
8. Considering that the government of Greece has denounced on 12 December 1969, the European Convention on Human Rights and the First Protocol and that, in accordance with Article 65, paragraph 1 (art. 65-1) of the Convention, this denunciation will become effective on 13 June 1970;
9. Considering paragraph 2 of Article 65 (art. 65-2) of the Convention which provides that the denunciation "shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in respect of any act which, being

capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective";

10. Voting in accordance with the provisions of Article 32, paragraph 1 (art. 32-1) of the Convention;

11. Agreeing with the opinion of the Commission,

12. Decides:

(a) that the Government of Greece has violated Articles 3, 5, 6, 8, 9, 10, 11, 13 and 14 (art. 3, art. 5, art. 6, art. 8, art. 9, art. 10, art. 11, art. 13, art. 14) of the Convention and Article 3 of the First Protocol (P1-3);

(b) that the Government of Greece has not violated Article 7 (art. 7) of the Convention and Article 1 of the First Protocol (P1-1);

13. Having regard to the denunciation of the Statute of the Council of Europe by the Government of Greece on 12 December 1969;

14. Having regard to the denunciation on the same date by the same Government of the European Convention on Human Rights and of its First Protocol, mentioned above;

15. Having regard to Resolution (69) 51 of 12 December 1969;

16. Having considered the proposals made by the Commission in accordance with paragraph 3 of Article 31 (art. 31-3) of the Convention;

17. Considering that the Greek Government has declared on 7 December 1969 that it considers the report of the Commission as "null and void" and that it "does not consider itself legally bound by the conclusions of the said report";

18. Considering that the Greek Government was given an opportunity to take part in the discussions of the Committee of Ministers when it was examining the report of the Commission, but in a letter of 19 February 1970 the Government stated that it had no intention whatsoever of doing so and that such a participation would be "inconsistent with Greece's formal denunciation of both the Commission's report and the European Convention";

19. Considering that these circumstances and communications clearly established that the Greek Government is not prepared to comply with its continuing obligations under the Convention and thus with the system of collective protection of human rights established thereby, and that accordingly the Committee of Ministers is called upon to deal with the case in conditions which are not precisely those envisaged in the Convention;

20. Concludes that in the present case there is no basis for further action under paragraph 2 of Article 32 (art. 32-2) of the Convention;

21. Concludes that it must take a decision, in accordance with paragraph 3 of Article 32 (art. 32-3) of the Convention, about the publication of the report of the Commission;

22. Decides to make public forthwith the report drawn up by the Commission on the above-mentioned Applications;

23. Urges the Government of Greece to restore, without delay, human rights and fundamental freedoms in Greece, in accordance with the Convention and the First Protocol, taking into account, inter alia, the proposals made by the Commission which are attached hereto;

24. Also urges the Government of Greece, in particular, to abolish immediately torture and other ill-treatment of prisoners and to release immediately persons detained under administrative order;

25. And accordingly resolves to follow developments in Greece in this respect.

## A P P E N D I X

### PROPOSALS MADE BY THE EUROPEAN COMMISSION OF HUMAN RIGHTS

1. Arrest and detention should in all cases conform with the provisions of Article 5 (art. 5) of the Convention which implies, in particular, that the practice of detention, transfer and confinement to certain localities, and house arrest, under administrative order, should be abolished, and persons so detained immediately released.

2. The principle of the independence of the judiciary should be strictly observed which implies that no judge should be suspended or removed from office save on grounds provided for by law and by the decision of a tribunal established by law.

The jurisdiction of courts martial should be limited to charges against members of the Armed Forces and charges against civilians of offences against the security of the Armed Forces, whereas the ordinary criminal tribunals should alone be competent to try other criminal charges against civilians, including all charges of offences against public order or national security. Proceedings before courts martial, as well as before ordinary criminal tribunals, should be in accordance with Article 6 (art. 6) of the Convention which implies that the rights of defence shall be strictly observed. Any sentences previously imposed on civilians by extraordinary courts martial should be subject to review by an ordinary court.

3. The unimpeded access to independent and impartial tribunals should be assured to persons under arrest who allege that the methods of interrogation applied by the authorities, or the conditions of detention, do not conform to the provisions of Article 3 (art. 3) of the Convention.

4. There should be introduced a close control of the Security Police (Asphalia) in its treatment of persons under arrest, in particular by:

(i) the supervision by higher authorities of methods of interrogation;

(ii) the regular and recorded examination of the physical condition and general health of detainees;

(iii) a requirement that members of the family of any person arrested or detained on political grounds shall be immediately informed of the fact by the Security Police (Asphalia) and have reasonable and regular opportunities to visit the detainee;

(iv) the provision of adequate conditions of hygiene and nutrition for persons held in detention.

5. The basement cells of the Security Police (Asphalia) building in Bouboulinas Street, Athens, should no longer be used for detention in their present condition.

6. The conditions in Averoff Prison, as described in paragraph 16 of Part VI. (C). (Detention Conditions) of Vol. II, Part I of the report (page 402), should be corrected and the use of detention camps on Leros should be discontinued.

7. Compensation should be awarded in cases where it has been established by the Commission that torture or ill-treatment has been inflicted (paragraph 17 (i) of the Opinion of the Commission: Vol. II, Part I of the report, page 421).

8. Investigations should be undertaken in the cases mentioned in paragraph 17 (iii) of the Opinion of the Commission (Vol. II, Part I of the report, page 422) and in which it has not yet been established whether or not torture or ill-treatment has been inflicted.

9. Information or comments, whether oral or written, in the press or elsewhere, which are critical of the Government or the regime, should not be subject to any sanctions for that reason alone.

10. Free elections to the National Legislature should be held at the earliest date at which the necessary conditions can be established. These conditions should assure "the free expression of the opinion of the people" (Article 3 of the First Protocol to the Convention) (P1-3). This implies that the freedom of association, for the purpose of forming political parties, and the freedom of assembly, for the purpose of holding political meetings, should be promptly restored in conformity with Article 11 (art. 11) of the Convention. In this connection the Commission also recalls its proposal made under point 9 above relating to the freedom of expression.