



ANNOUNCEMENT

The GNCHR on the unsettling situation in the Eastern Aegean islands and the recent asylum developments

6.9.2019

The Greek National Commission for Human Rights (GNCHR), as the independent advisory body to the State on matters pertaining to human rights protection and the National Human Rights Institution (NHRI), according to UN principles, has the duty, within the powers conferred to it by its founding law, to monitor developments in the field of its activities, to address relevant opinions to the competent state bodies, as well as to take initiatives for public consciousness-raising. The GNCHR acknowledges particular importance to the international protection regime and has issued a series of relevant decisions (reports, statements, announcements) such as the recent **Reference Report on Refugees** (September 2019) wherein the positions of the GNCHR on reception and accommodation of international protection applicants, detention of international protection applicants, international protection procedures at first and second degree, unaccompanied minors, push-backs of third-country nationals to the Greek-Turkish borders and integration of refugees in Greece are resumed.

The GNCHR follows with concern the increasing number of foreigners arriving in Greece, especially through the islands, in comparison with those arriving in 2018. According to the latest data from the United Nations High Commissioner for Refugees (UNHCR), the arrivals in 2019 (until 25.08.2019) reached 31,265¹ while according to Frontex, July 2019 saw an increase of up to 25% in arrivals at the Greek islands compared to July 2018². At the same time most reception centers on the islands have exceeded their hosting capacities **risking a violation of fundamental human rights of third-country nationals**, such as the protection against inhumane or degrading treatment and the ensurance of a decent living standard. Officially,

¹ <https://data2.unhcr.org/en/situations/mediterranean/location/5179>

² <https://frontex.europa.eu/media-centre/news-release/migratory-situation-in-july-arrivals-in-europe-up-slightly-from-previous-month-rlBoYl>

today, 10,383 people are hosted in the Reception and Identification Center (RIC) of Moria in Lesbos whereas the center's capacity is for 3,000³. The GNCHR, with a Statement, has already alerted the State on overcrowding conditions in the RIC of Moria⁴ and has expressed, in a previous Report on living conditions on reception and accommodation centers for migrants and refugees⁵, its deep concern about the ongoing incidents mainly in the accommodation sites of the Eastern Aegean islands, as well as the often uncontrolled incidents of violence in the accommodation sites in mainland, which contribute to exacerbated racism and xenophobia.

Overall, the GNCHR has repeatedly formulated the following **Recommendations** to the State on the reception conditions of newcomers to the eastern Aegean islands:

1. **the immediate termination of the entrapment** of applicants for international protection in the Eastern Aegean islands and **the lifting of geographical limitations** imposed on them, as well as their **transfer to mainland** in order to ensure the immediate decongestion of the islands,
2. **the abolition of the measure of geographical limitation** imposed on applicants arriving at the eastern Aegean islands and the adoption of a provision whereby any geographical limitation shall be based on an **individual assessment** and be imposed by a reasoned administrative decision, providing also the applicants with a right to effective judicial protection, given the nature of the measure, i.e. the restriction of their freedom of movement.

The transfer of 1,400 refugees and migrants from the RIC of Moria to accommodation sites of Northern Greece, scheduled for 2 -3 September 2019, will alleviate the situation on the island⁶, however, problems still occur in several other islands of the Eastern Aegean, such as Samos, Kos etc. The GNCHR proposes the **increase of accommodation places in mainland**, in long term accommodation sites that fulfill the **minimum decent living standards**, since, in practice, applicants tend to remain in these sites for several months or years, waiting for the outcome of their international protection applications.

Irrespective of the above, there is an urgent need to immediately transfer all unaccompanied minors from inappropriate, due to overcrowding, "safe zones" of RICs in the Eastern Aegean islands to suitable shelters for minors in mainland, given that unaccompanied children are one of the most vulnerable groups of the population in need of special and immediate treatment

³ Ministry for Citizen Protection, [National Situational Picture Regarding the Islands at Eastern Aegean Sea \(1/9/2019\)](#)

⁴ GNCHR Statement, ["The GNCHR expresses its deep concerns about the situation in the Reception Centers of the Eastern Aegean islands and, especially, of Moria in Lesbos"](#) (2018)

⁵ GNCHR Report, ["Living conditions in hotspots and accommodation sites for migrants and refugees"](#) (2016)

⁶ Ministry of Citizen Protection, [Announcement regarding the transfer of more than 1.400 refugees and migrants from the Reception Center of Moria to accommodation sites of Northern Greece, 2.9.2019](#) [in Greek]

and protection from the State. An illustrative example of the inadequate provision of safe living conditions in RICs is the recent murder of a minor from Afghanistan. According to the UNHCR, almost 70 unaccompanied children are housed in the “safe zone” of RIC of Moria, and more than 500 boys and girls stay in various areas of the overcrowded site, without a guardian and exposed to exploitation and abuse. Some of them are accommodated with unknown adult, which is prohibited by law⁷. According to the latest data from the National Center for Social Solidarity⁸, 1,776 unaccompanied minors are hosted in long term or temporary housing facilities, whereas 2,444 children remain out of accommodation sites, of which 233 are in 'protective custody' and 1,115 in informal / precarious housing conditions (in apartments with others, in squatters, in homelessness). The GNCHR's standing position is to **ensure a sufficient number of reception and accommodation places for all unaccompanied minors** in sites appropriate to their age, which will ensure an adequate living standard for their physical, mental, moral and social development. Furthermore, the GNCHR has mentioned the **need to appoint a guardian for every minor**, as soon as possible or from identification and has welcomed the new legal framework on Guardianship for Unaccompanied Minors of Greek Law No. 4554/2018 (see GNCHR Observations⁹), which was pending since 2007. However, the implementation of the new system of Guardianship for Unaccompanied Minors is still pending, notwithstanding the entering into force of certain provisions (Articles 19 and 24 to 28) by Greek Law No. 4611/2019. In respect to the remaining provisions, Law provided for their entry into force on 1st September 2019. However, this date was extended by law (article 73 of Greek Law No. 4623/2019, Government Gazette 134 / A / 09.08.2019) for the 1st March 2020.

Finally, the GNCHR, over the last years, it has been a valuable assistant to the State in its effort to reform the asylum system to achieve a fair and effective asylum system. Besides, the State, expressing its confidence in the independence and expertise of the GNCHR, has assigned to it an additional role in the asylum process, i.e. to nominate members in the Appeal Committees. Therefore, the GNCHR, in the exercise of its statutory powers, closely monitors developments in this field. Particularly, following the entry into force of Greek Law No. 3907/2011, the GNCHR had the opportunity, in multiple occasions, to stress the pivotal importance of **safeguarding the administrative and financial autonomy of the Asylum Service**, which shall be staffed by sufficient civil personnel as well as **the need for institutional protection and independence of the Appeals Committees**, which serve as the compulsory second degree (review) of international protection claims. According to European law (Article 46 of

⁷ United Nations High Commissioner for Refugees in Greece, [Press Release: The UNHCR is shocked by the death of a boy from Afghanistan in Lesvos: calls for the urgent transfer of all unaccompanied children in safe accommodation sites](#), 25.08.2019 [in Greek]

⁸ <http://www.ekka.org.gr/index.php/2018-05-08-09-50-30> , last update: 15.08.2019.

⁹GNCHR, [Observations on the Bill on guardianship of unaccompanied minors](#) (2017) [in Greek]

Directive 2013/32/EU), as incorporated in Greek law (Article 61 of Greek Law 4375/2016), and interpreted by the Council of State, (Plenary Judgments 2347/2017, 2348/2017), the Independent Appeals Committees of Law No. 4399/2016, which operate today, exercise judicial powers while the procedure before them serves a full and ex nunc examination of both factual and legal issues, fulfilling the conditions of an "effective remedy" pursuant to Article 46 of the above Directive. The lodging of an appeal, in accordance with EU law, must allow for an automatic suspension, giving the applicant the right to remain in the country until the outcome of his appeal. Following the recent meeting of the Government Council for Foreign Affairs and Defence, the Government, through its Spokesman, announced "a change in the institutional framework on asylum procedure, with the abolition of the second degree for the examination of appeals in view of – in the event of a rejection of his asylum application - the immediate enforcement of the return procedures in the applicant's country of origin. Always with respect to the EU acquis, for the implementation in full of the EU-Turkey Joint Statement "¹⁰. In a Communication from the Ministry of Citizen Protection, it was clarified that any changes proposed by the Government in the asylum legislative framework will be put to public consultation¹¹. It is without question that the GNCHR will take part in this process, fulfilling its institutional role. Given its composition, which includes civil society organizations, universities and independent authorities, it remains always vigilant to provide consulting services to the State within its powers conferred to it by the national legislator.

In the meantime, the GNCHR calls on the State to take into account the need for a **prompt and unhindered processing of pending international protection applications**, at all stages of the asylum procedure¹², while **ensuring the quality** of administrative decisions in order to meet the requirements of "effectiveness". Furthermore, the GNCHR emphasizes that **the secondary examination in law and substance of applications for international protection constitutes an obligation under the Common European Asylum System** and therefore cannot be abolished by the national legislator without raising questions on the compatibility of Greek provisions with EU law. In addition, as a first step of our practical contribution, the GNCHR submits to the competent authorities its comprehensive multi-page Reference Report on Refugees, which contains the GNCHR's updated positions on asylum procedures and other topical issues related to international protection.

¹⁰ Athens News Agency – Macedonian Press Agency (ANA-MPA), [New strong policy on refugees and migrants](#), 31.8.2019

¹¹ Ministry of Citizen Protection, [Announcement on migration – reply to the announcement of SYRIZA](#), 1.9.2019 [in Greek]

¹² Indicatively, on 31.7.2019, 66,908 applications for international protection were pending before the Asylum Service (<http://asylo.gov.gr/wp-content/uploads/2019/08/Greek-Asylum-Service-data-July-2019-gr.pdf>) while about 3,000 appeals (already filed from 2012-2013) are pending before the Appeals Committees of the PD. No. 114/2010 and about 14,776 appeals before the Appeals Authority.

