



***Findings of the in situ visit undertaken by the National Commission of Human Rights and the Greek Ombudsman in detention centers for migrants in the Evros region\****

**I. Introduction**

From 18 to 20 March 2011 the National Commission of Human Rights (hereinafter NCHR) and the Greek Ombudsman (hereinafter the Ombudsman) visited the prefectures of Evros and Rodopi in order to investigate the conditions in the detention centers for aliens, the implementation of the relevant legislation for asylum and the management of migration and refugee flows at entry points.

The joint team was headed by Mr. K. Papaioannou, President of the NCHR and Mr. B. Karidis, Deputy Ombudsman for Human Rights. The members of the team visited the following detention places: Fylakion Detention Center for migrants, Department of Neo Himonio Border Guard Station, Department of Metaxades Border Guard Station, Department of Soufli Border Guard Station, Department of Tycherio Border Guard Station, Department of Ferres Border Guard Station, Venna Detention Centre for aliens. On top of those visits the team met with the Police Chief of

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\* The following text was adopted unanimously at the plenary session of the NCHR on June 30<sup>th</sup>, 2011.

Orestiada, G. Salamagka, and the Deputy Police Officer of Alexandroupoli, N. Menexidi.

In addition, a meeting was held on 19.03.2011 with representatives of local bodies, police officials and organizations that are active in the region. The meeting was attended by the Governor of the Hospital of Alexandroupolis Mr Raptopoulos, the rector of the Democritus University of Thrace Mr Remelis, the President of the Municipal Council, Mr Anglias, the Deputy Police Officer of Alexandroupoli K. Menexidis, the President of the Association of Police Officers of Rodopi Mr. Tzatzanas, the President of the Association of Police Officers Evros Mr. Hatzianagnostou, Mr Spyratos and Ms Kourafa from the "Doctors without Borders," and finally, Ms. Velivasaki from the 'Greek Council for Refugees' ». The participants discussed, inter alia, the possibility of setting up a cooperation network with relevant agencies.

The present [report comprises](#) the identification of problems as well as a number of proposals to address them, and general observations on the current situation regarding the management of migration and refugee flows at entry points.

## **II. International Legal Framework and supranational controls**

It should be noted that the processing and detention conditions as well as the procedure for international protection are regulated by both the national legal framework and the international law, as well as EU law binding for Greece ( see indicatively ECHR, ICCPR, CAT, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, TEU and Charter of Fundamental Rights of the European Union). Greece's non-compliance and/or the poor implementation of the existing legal framework have been heavily criticized both by organizations for the protection of human rights, and by jurisdictional organs of international organizations.

It should be noted that criticism for poor prison conditions has increased in recent years, as presented in the CPT reports<sup>1</sup>, and those of the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>2</sup> and the Fundamental Rights Agency of the European Union (FRA)<sup>3</sup>.

On March 15<sup>th</sup> 2011 the CPT issued a Public Statement on Greece under Article 10, paragraph 2 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.<sup>4</sup> The issuance of a public statement is the ultimate means the CPT may use to criticize a particular country, and it has been used so far only five times (1992 and 1996 regarding Turkey, 2001, 2003 and 2007 regarding Russia on the situation in Chechnya). The CPT stressed that *"the continuous lack of action to improve the situation in accordance with the Commission's recommendations on detention of illegal immigrants [...] does not give the committee any choice but to resort to extraordinary measure of issuing this public statement."*

The Greek Justice, Transparency and Human Rights Minister responded with a letter of complaint addressed to the President of CPT. He stressed that the issuance of public statements is related to cases where the nucleus of human rights (torture, physical and psychological abuse, forced disappearances, kidnappings, etc.) is flagrantly offended. There has been no such serious complaints about Greece. The letter also underlines Greece's responsibility in controlling illegal immigration and the

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<sup>1</sup> See *Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 to 29 September 2008*, CPT/Inf (2009) 20 (Strasbourg, 30 June 2009), *Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 17 to 29 September 2009*, CPT/Inf (2010) 33 (Strasbourg, 17 November 2010). The CPT visited detention places for migrants from 20<sup>th</sup> until 27<sup>th</sup> of January 2011 to assess the measures taken by the Greek authorities to implement the repeated recommendations. The full report from this visit has not been disclosed yet.

<sup>2</sup> *Report Submitted by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Mission to Greece*, A/HRC/16/52/Add.4 (4 March 2011).

<sup>3</sup> Fundamental Rights Agency, *Coping with a Fundamental Rights Emergency: The Situation of Persons Crossing the Greek Land Border in an Irregular Manner* (8 March 2011).

<sup>4</sup> <http://www.cpt.coe.int/documents/grc/2011-10-inf-grc.pdf>.

subsequent burden on the Greek prison system, while describing in detail the recent initiatives and measures adopted in correctional facilities.

Despite the fact that we understand the spirit of a part of the objections raised by the Minister of Justice, the public statement and its consequences are an issue the country has still to address.

Furthermore, recent decisions of the European Court of Human Rights (ECHR) show that not only the conditions of detention per se but also the legality of detention was at the root of the country's conviction for violation of Articles 3 and 5 ECHR. We indicatively note the decisions SD<sup>5</sup>, AA,<sup>6</sup> Tabesh<sup>7</sup>, MSS<sup>8</sup>, Rahimi<sup>9</sup> and RU<sup>10</sup> vs. Greece. We also note that there are more pending cases before the ECHR<sup>11</sup>.

Finally, regarding the asylum procedure and its implementation, particularly at entry points, we refer to the recent ECHR decision *M.S.S vs. Belgium and Greece*, in which, on top of the shortcomings in terms of detention conditions, Greece is considered as an unsafe country to return asylum seekers under the "Dublin II" Agreement, due to non-compliance with the safeguards for efficient examination of asylum claims and the insurance of appropriate reception conditions.

### III. General Findings

The purpose of the autopsy, as already mentioned, was to identify the problems concerning the management of migration and refugee flows at

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<sup>5</sup> *S.D. vs. Greece*, 11.06.2009. It concerns the detention conditions at the Department of Soufli Border Guard Station.

<sup>6</sup> *A.A. vs. Greece*, 22.07.2010. It concerns the detention conditions at the detention center for migrants of Samos.

<sup>7</sup> *Tabesh vs. Greece*, 26.11.2009.

<sup>8</sup> *M.S.S. vs. Belgium and Greece*, 21.01.2011. It concerns conditions in the facility at the airport.

<sup>9</sup> *Mr. Rahimi vs. Greece*, 05.04.2011. It concerns the detention centre for migrants at Pagani.

<sup>10</sup> *R.U. vs. Greece*, 07.06.2011. It concerns the detention conditions at the Department of Soufli Border Guard.

<sup>11</sup> See cases: *C.D. and others, B.R. and A.M* for detention conditions in Venna Also pending: *Mahmundi others, Qudus* for detention conditions at Pagani, *Lin* about the conditions in Elliniko detention center, *Mathloom* for the detention conditions at Elliniko Greek and Amygdaleza *Zontul* for tortures by port officers.

entry points, the conditions in detention facilities, and the identification and registration process of vulnerable groups.

The overall finding is that the situation in the Evros region has recently reached the level of a genuine humanitarian crisis due to the considerable increase in the number of incoming aliens (300 persons per day in average during the recent months). An additional finding is that the most important issues of violation of fundamental rights are mainly due to deficiencies in infrastructure, inadequate staffing of the relevant authorities, and the adoption of inefficient practices that have contributed to the deterioration of the problems. The main problems identified in detention facilities/centers may be summarized as follows:

#### ***A) Asylum Process***

Significant deficiencies are observed at the Greek frontier in terms of indentifying and registering incoming populations on the basis of their status as beneficiaries of international protection, vulnerable groups etc. It should also be noted that in spite of the installation of a FRONTEX team in the area, which assists the Police in the registration of incoming aliens and in conducting interviews, it seems that so far it is the Police that deals with the arrivals *en masse* without differentiating between groups with special characteristics. Therefore, serious issues are arising, both regarding the treatment of these people in accordance with the country's international and national obligations and, secondly, in ensuring full knowledge, on the part of the State, of the population present in the country.

It should also be noted that the visiting team received complaints about incorrect attribution of citizenship to aliens with no travel documents or other valid identification by FRONTEX. Furthermore, when FRONTEX registers minors, they do not indicate whether they are unaccompanied or not, information which is required in order to initiate the process of appointing a commissioner. Although the responsibility for the registration of foreigners lies with the Police, in practice the Police accept FRONTEX's

registration without its own verification of the data, a practice which proves problematic.

**Regarding the access to the asylum procedure,** there is still a serious problem in terms of proper information of the arrested aliens on their rights and the possibility of seeking asylum, due to the lack of adequate number of interpreters.

It is worth noting that despite the entry into force of P.C 114/2010, which has introduced significant improvements in the asylum process, there are still few requests for international protection registered at entry points. According to figures issued by the competent Police Headquarters of Orestiada since the implementation of this P.C (note: from 11.22.2010 to 30.03.2011), only 46 requests had been registered.

Apart from the problems in identifying beneficiaries and access to asylum procedures, problems are also encountered in the overall procedures. Specifically, inadequate staffing of departments responsible for examining asylum requests, problems on the legal or other assistance to vulnerable groups, including people who have suffered psychological or physical injuries and the delay in processing requests and issuing the relevant decision at first instance are the most important issues that were identified during the autopsy. According to data from the PD of Orestiada, reported above, on the applications submitted since the implementation of PD 114/2010, 15 decisions have already been issued at first instance, all negative; only 4 appeals have been received.

It should also be noted that at the time of the visit, problems of access to detention facilities and communication with detainees were reported by groups providing legal assistance to migrants and/or asylum seekers.

### ***B) Administrative deportation and detention***

According to information from the Police at the time of our visit, administrative deportation and detention for migrants entering the

country illegally is still the common practice. It is worth noting that in previous autopsies conducted at the entry points of the country (see. on 13.6.2007, 18.7.2007 and 12.6.2007 autopsy reports for Samos and Lesbos islands and the Evros River,) the Greek Ombudsman had highlighted the problems arising from the indiscriminate imposition of administrative deportation on all arrested migrants. The administrative detention of those arrested in most cases lasts for up to the maximum time (i.e. six months); the detained aliens are then released with a document requesting their 'voluntary' departure from the country within a specified period (usually 30 days).

It should also be noted the common phenomenon of detention of minors for long periods (e.g. at Fylakion, minors were detained already for 5 months), due to lack of appropriate facilities for minors. It should also be mentioned that the same centres are used to detain criminals (aliens with suspended execution of sentence and pending judicial deportation), as there is no room in the correctional facilities of the region. These aliens remain in the aliens' detention centers or in the departments of the border guard until their transfer to a prison is endorsed.

The adequacy of detention facilities appears to be a decisive factor for the duration of the detention at entry points. Specifically, it results that because of the limited capacity of the detention facilities, the detention time varies depending on the pressure and size of the flow of alien newcomers in the region. The practice seems to be that in case there is no adequate space in the detention places, those aliens whom it is impossible to deport, are usually released after a relatively short time, with a memo requesting them to leave the country within a specified period.

The issue of **detention of asylum seekers** is a separate one. It is observed that, despite the launch of PD 114/2010, by which the detention of asylum seekers **is permitted only in exceptional circumstances and under the condition that alternative measures cannot be taken for specific reasons**, and despite the judgments of the ECHR on the illegality of the detention of asylum seekers in Greece, Police continue

to issue decisions of administrative deportation, before the request for asylum is made; besides, the detention of aliens seeking asylum continues after submission and during examination of the requests, for up to six months.

This practice seems to be used as a deterrent for asylum requests from the potential beneficiaries of international protection at entry points.

### ***C) Conditions in detention facilities/centers***

Regarding the detention conditions, the overall finding was that the detention facilities have inadequate infrastructure and are unfit even for short-term detention. Therefore, the overcrowding in places of detention (according to information from the Police Directors during summer period, in some detention places, the number of prisoners amounted to three times the capacity of the place) in conjunction with the particularly long-term detention (in many cases six months long), obviously constitute unfavorable conditions of detention for these people.

In many detention places (such as Tycherio, Soufli) prisoners have to sleep on the floor. In addition there are no separate facilities for men, women and children (e.g., Feres). It was also observed that most places do not meet the minimum requirements, such as appropriate lighting and ventilation, minimum standards of hygiene and cleanliness, etc. The lack of appropriate in number sanitary facilities results in situations degrading of the human dignity of the detainees. In all detention facilities basic items related to the maintenance and personal hygiene were missing or inadequate (e.g. toiletries, blankets, food, cleaniong etc.). The problems have increased since the new legislation for the administrative division of Greece (through Law 3852/2010) was introduced, causing further confusion as to the division of tasks and responsibilities between Regions, Divisions etc.

Detainees had no adequate access to open air activities. In the quasi totality of the facilities visited, access to open air is restricted, with obvious



consequences on the physical and psychological well-being of the detainees, as well as on their relations with the guards. The authorities invoked security reasons for this situation; furthermore, the disciplinary action and criminal liability of police officers in case of escape of administrative detainees, is an additional reason why detainees' movements are restricted to the inner space.

Regarding the provision of medical care, in some centers, such as Tychemo and Fylakion, there is makeshift clinics operating; we were informed that in all centers there is some form of medical care as well as psychological support. However, the services offered are inadequate when considering the large number of prisoners whom they are supposed to cater.

An equally important issue that should be highlighted is the understaffing of the detention centers. The police are obliged to respond to various obligations which lie far beyond their formal set of duties. They are responsible both for carrying out administrative procedures and for the management of daily and social needs of prisoners. The great pressure on police officers because of long shifts under bad conditions and limited ability to communicate with the prisoners due to the lack of interpreters, may lead to incidents of police violence against prisoners. The CPT has repeatedly received such complaints during its visits to detention centers for aliens. Special training and care should be provided to the police serving in detention centers.

#### **IV. Meetings with competent bodies**

Following the invitation of the Greek Ombudsman a meeting was held, at the Ministry of Citizen Protection, on May 25, 2011, in order to discuss the serious issues related to detention conditions of illegal migrants in these centres and the overall management of migration and refugee flows at entry points.

The common [assessment was](#) that the situation is crucial and, beyond any legislative initiatives, urgent action is required. The issue of the reactions

of local communities against the creation and operation of Reception Centres in their area (e.g. Etoloakarnania) was raised. The Director of the Aliens' Division at the Ministry of Citizen Protection, Mr E. Katriadakis announced some measures (either already taken or to be taken) regarding the operation of detention centres and Centres of Border Guard in the Evros region, following the recommendations made by NCHR and the Greek Ombudsman. These actions include:

- Measures for the separation of men, women and children. In the Center of Feres only women with children are detained while unaccompanied minors are transferred to Amygdaleza.
- Funding for the cleaning of detention centers through the European External Borders Fund.
- Establishment of infirmaries.
- Solutions to address the lack of access to open air by detained aliens. For example, in Soufli a special area behind the building is created, which meets the need for preventing the escape of detainees. The existing institutional framework, under which police officers are liable to disciplinary action and criminal liability for the escape of detained aliens, should be revisited.
- Actions for the immediate replacement of mattresses and blankets.
- Permission to NGO representatives to enter detention places and inform aliens for their rights (see action of NGOs in projects financed by the EU).
- Distribution of UNHCR's brochures while phone numbers of UNHCR, the Ombudsman and NGOs are available in detention places.
- Recruitment of psychologists, sociologists, and interpreters from the Ministry of Citizen Protection and their dispatch at entry points for providing psychosocial support services.

Finally, it was reported that redeployment of police staff from other areas is planned, so as to address the mental and physical fatigue of the police serving in aliens' detention facilities.

The assessment of the Director was that these measures can be implemented within two months, i.e. by the end of July 2011. At a later stage we were informed on the recently introduced legislative framework for establishing Asylum Service of First Reception.

Regarding the procedure of examining asylum requests: in the Athens Aliens' Divisions (Petrrou Ralli), the interviews are conducted under the PC 114/2010 by ten Committees on the first degree; two Committees for the examination of appeals (second degree) after entering into force of the new Decree are set up, and three Committees are also set up for pending requests. Moreover, effort is made to divide pending asylum requests into active and inactive, so that the whole procedure is alleviated. It was also mentioned that there additional support is provided by the new European Asylum Support Office (EASO), which sent four experts to the Athens Aliens' Division (P. Ralli), in order to assist the asylum procedure and provide staff training.

At an additional meeting held on 06.06.2011, an update was given on the funding of actions by the Ministry of Citizen Protection and the Ministry of Health with European funds, in the context of the emergency measures, including legal aid programs and monitoring in the prefectures of Evros and Rodopi; the UN High Commissioner for Refugees was also involved, and five units with medical and nursing staff as well as two mobile units of KEELPNO were dispatched at entry points in order to provide medical care.

## **V. Recommendations for emergency measures**

Despite the fact that these actions and commitments at entry points are an important step to address the existing problems, it seems that they were not enough to bring about significant changes. The huge number of incoming aliens is hardly manageable for a country like Greece.

While the overall recommendation is that the management of these problems should be negotiated at the EU level so that the burden is

shared, at present there is a dire need for immediate action to be taken. Regarding the management of mixed flows at entry points, there is delay in both planning and implementation of action, particularly at the central government level. The issues to be addressed are not, cannot and should not be perceived as those of local authorities alone. At the same time, the situation is alarming in large cities and particularly in the center of Athens, and at exit points, including the ports of Patras and Igoumenitsa. In the current economic conjuncture and social context, the need for appropriate solutions made at the central government level is critically urgent.

## **VI. Proposals**

- The commitments announced by the competent authorities in the 25.5.2011 meeting with the Ombudsman (see Section IV hereof) should be immediately implemented.
- There is an urgent need to plan actions that effectively address the situation at entry points by the central government in cooperation with local bodies and civil society. Monitoring the implementation of these actions is equally necessary.
- EU funding for emergency measures and procedures to address current needs (such as improvement of living conditions, provision of adequate services, identification of beneficiaries for international protection and vulnerable groups, etc.) should be identified.
- Adequate reception and detention facilities are needed for persons who require special care (e.g. asylum seekers, unaccompanied minors, victims of trafficking, etc.)
- Immediate implementation of procedures of registration and identification of beneficiaries of international protection is required.
- Ensuring access to asylum procedures and improvement of same (e.g. a legislative framework for hiring interpreters, qualified staff, etc.)
- Implementation of the proposed alternative measures for asylum

seekers, unaccompanied minors and other vulnerable groups; it is obvious that detention alone has failed to serve as a deterrent to illegal immigration, and it has caused a series of convictions of Greece by the ECHR.

- Building networks of cooperation between the competent institutions of central government and local government and representatives of civil society for consultation and conflict resolution.
- Recruitment of appropriately trained and sufficient Police staff, provision of health services and legal assistance in cooperation with local bodies and organizations which are active in this field.
- Full and effective operation of the voluntary repatriation procedures, which will ensure the safe return to countries of origin for those who declare the intention to return.
- Need to redesign the overall administration of mixed flows at entry points.

In conclusion, the NCHR and the Greek Ombudsman underline that it is no longer possible to continue the old practices. The recent legislative initiatives and especially the Law 3907/2011, are reflecting the considerable efforts of Greece to streamline the administration system of mixed flows. This takes measures related to appropriate staffing and infrastructure, as well as systematic monitoring by the central government.

The NCHR and the Greek Ombudsman shall be at the disposal of the competent authorities and declare their availability for further cooperation so as to seek appropriate solutions.