



Greek National Commission for Human Rights (GNCHR)

**Observations on Greece's combined 23rd and 24th periodic
report to the Committee on the Elimination of Racial
Discrimination (CERD) of the International Convention on
the Elimination of All Forms of Racial Discrimination**



July 2021



The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection and the National Human Rights Institution (NHRI). It was established in accordance with the UN Paris Principles and is governed by Law 4780/2021. Its members are persons appointed by forty-two institutions whose activities cover the field of human rights (independent Authorities, universities, third level trade unions, NGOs, political parties and the Administration).

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Observations on Greece's combined 23rd and 24th periodic report to the Committee on the Elimination of Racial Discrimination (CERD) of the International Convention on the Elimination of All Forms of Racial Discrimination*

I. Introductory Remarks

The Legal Department of the Ministry of Foreign Affairs submitted Greece's draft combined twenty-third and twenty-fourth periodic report to the Committee on the Elimination of Racial Discrimination (CERD) (hereinafter draft Report) on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) to the Greek National Commission for Human Rights (GNCHR), Greece's *A status* National Human Rights Institution (NHRI). Taking into account the key role that NHRIs play in combating racism and racial discrimination, in encouraging and assisting the State party to meet its reporting obligations, as well as in following-up to the concluding observations and recommendations of the Committee¹ and in accordance with its founding legislation (Article 12(b), (e) and (g) of [Law 4780/2021](#))², the GNCHR³ submits the following Observations, with a view to contributing to the draft Report's enrichment by completing the image of the context and the conditions under which the ICERD is implemented in Greece. In this regard, the GNCHR would like to commend the Ministry of Foreign Affairs for systematically submitting its draft Reports to international monitoring bodies for comment to the GNCHR. Furthermore, the GNCHR, as an 'A' status accredited NHRI, will address CERD by submitting its Written information in view of the Country review, focusing on the main challenges faced by the Greek State party in implementing the ICERD.

II. General Observations

The draft Report contains an extensive – 48 pages – presentation and evaluation of the implementation of the provisions of the ICERD without limiting itself to a simple indication of the legislation and the relevant structures established for the protection of every right. The GNCHR considers that it should, at this point, recall the need to clearly describe the issues arising during the application of any legislation in practice as closely as possible to reality and to find solutions to the shortcomings of the protection framework.

* The present Observations were adopted by the GNCHR plenary on 7 July 2021. Rapporteurs: Prof. Maria Gavouneli, President, Ellie Varchalama, Second Vice-President and the GNCHR Scientific Staff: Katerina Charokopou, Roxani Fragou, Eva Tzavala and Antonis Veneris.

¹ CERD, [General Recommendation 28](#), Follow-up to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Sixtieth session, 2002), UN Doc. A/57/18 at 109 (2002), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.6 at 221 (2003), Preamble and par. 13.

² According to which, "The Commission shall in particular: [...] b) Submit recommendations and proposals, carry out studies and deliver an opinion on the adoption of legislative, administrative and other measures which contribute to the improvement of human rights protection, [...], e) monitor and express recommendations to the State for the operation of a reliable and effective system for recording incidents of discrimination, racism and intolerance [...], g) deliver an opinion on reports which the country is to submit to international organisations on related matters, draw up and submit its own independent reports [...]".

³ The GNCHR has in the past dealt with issues regarding the elimination of racism and all forms of discrimination, while formulating for this purpose specific recommendations to the Greek competent Authorities. See, in particular, GNCHR, [Discrimination – Racism](#).

The content of the present Observations, following the same form of presentation as the draft Report submitted by the Greek State party and taking into account both the CERD's [Concluding Observations](#), dated 3 October 2016⁴, as well as the CERD's [Observations](#) contained in a letter dated 17 May 2018 on the information provided by the State party on the specific recommendations identified by the Committee in its 2016 Concluding Observations⁵, draws on the diverse GNCHR work and, in particular, on information gathered at consultations with NGOs, experts and members of the community as well as evidence-based data, including desk research. Most importantly the GNCHR's Observations draw on the data available in the relevant Reports of the Members of the Racist Violence Recording Network (RVRN) and RVRN itself, which was set up at the initiative of the GNCHR and the Office of the UN High Commissioner for Refugees in Greece (UNHCR).

At this point, the GNCHR takes this opportunity to stress that the RVRN, which was established in 2011 by the GNCHR and the Greek Office of UNHCR, consists today of fifty-one (51) Non-Governmental organisations (NGOs) and Civil Society Organisations (CSOs), which acknowledge and jointly pursue combating racist violence, as well as all racially motivated acts on the grounds of race, colour, religion, descent, national or ethnic origin, sexual orientation, gender identity, sex characteristics and disability. The RVRN remains, without a doubt, the most effective mechanism for the avoidance of underreporting of hate crime in the country to date. Indeed, the RVRN's methodology and most of its observations are now considered as common ground and data published by the RVRN constitutes a reference point for national and international human rights institutions. In order to achieve on this and avoid a resurgence of racism, we need to rely more and more on the established procedures and practices of the Greek State.

III. Specific Observations

The key issues this report focuses on are:

- General framework
- Antiracism legal framework and anti-discrimination legislation
- Rights of LGBTIQI+ persons
- The situation of the Roma (COBs, par. 20-21)
- Mixed migratory flows: migrants, asylum seekers and refugees (COBs, par. 22-23)
- Situation of persons belonging to minorities (COBs, par. 10-11)
- Gender equality

⁴ CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#).

⁵ CERD, Letter addressed to the Greek State party on the information provided on the specific recommendations identified by the Committee in its 2016 Concluding Observations, 17 May 2018, [REFERENCE: CERD/95th session/FU/AR/ks](#).



- Violence against women
- Victims of trafficking in human beings (THB)
- Labor discrimination of migrant workers (COBs, par. 24-25)
- Right to security of person and protection by the State against violence or bodily harm
- Freedom of religion
- Education and non-discrimination

General framework (COBs, par. 6-9)

Bearing in mind the necessity of an "investment" in social rights and in their delivery, consistent with the use of maximum available resources⁶, the GNCHR has advocated with a strong voice for the imperative need to mitigate the adverse impact of both the financial and the pandemic crisis and accelerate the social and economic recovery⁷. Nonetheless, the GNCHR notes with disappointment that, despite its repeated recommendations for the need to effectively monitor and assess the impact of both austerity measures and restrictive containment measures taken to tackle the COVID-19 pandemic, as well as the CERD's recommendation for conducting impact assessments before adopting such measures to ensure that they are not discriminatory to those vulnerable to racial discrimination⁸, **the cumulative impact of these measures has never been assessed**⁹.

Furthermore, with regard to the **impact of the COVID-19 pandemic on human rights**, the GNCHR has pointed out that the pandemic has caused an unprecedented health, economic, social and humanitarian crisis, exacerbating pre-existing systemic inequalities, discrimination and marginalisation, while disproportionately affecting the most vulnerable social groups, including Roma, refugees, asylum-seekers and migrants, detainees, persons with disabilities and chronic diseases and LGBTQI+ people. Indeed, acknowledging that COVID-19 is a syndemic pandemic, interacting with and exacerbating existing inequalities in chronic diseases and the social determinants of health, the GNCHR concluded that the pandemic created a vicious circle, whereby high levels of inequality and discrimination fuel the spread

⁶ European Committee of Social Rights, [Statement](#) on COVID-19 and social rights, adopted on 24 March 2021, p. 2.

⁷ GNCHR, [Factsheet](#) on the Impact of Economic Reform Policies and Austerity Measures on Human Rights (2019), which summarises all relevant GNCHR statements, recommendations, reports and interventions.

⁸ CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 7.

⁹ GNCHR, [Factsheet](#) on the Impact of Economic Reform Policies and Austerity Measures on Human Rights, 2019; GNCHR, [Observations](#) on the Draft Law of the Ministry of Labor and Social Affairs on the Protection of Labor - Establishment of an Independent Authority "Labor Inspection" - Ratification of the ILO Convention C190 on Violence and Harassment - Ratification of the ILO Convention C187 on the Promotional Framework for Occupational Safety and Health – Incorporation of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, 14 June 2021, p. 16-18; GNCHR, [Recommendations](#) to the State regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, May 2021, p. 7.

of the virus, which, in turn, perpetuates and exacerbates serious pre-existing inequalities against those groups who are affected the most¹⁰. With this in mind, the GNCHR insists that human rights are key in shaping the pandemic response and they need to be at the centre of national strategies to combat COVID-19, while not only mitigating the broader impact of the crisis on people's lives, but also avoiding creating new or exacerbating existing problems¹¹.

In addition, the GNCHR stresses the need to **continue and strengthen efforts for a fair, affordable, timely and full access to a COVID-19 vaccine**, corroborating that an affordable and non-discriminatory access to the vaccine is a human right. The aforementioned derives from the international obligations Greece is bound to abide by, and, especially, from the International Covenant on Economic, Social and Cultural Rights, whereby State parties are under the obligation to take all the necessary steps, to the maximum of their available resources, to secure the fair, affordable, timely and full access to the vaccine, without discrimination of any kind¹². Furthermore, recognising that the State's attempt to vaccinate the population is an extremely difficult venture, with which the competent national Authorities are coping in a responsible and effective manner, the GNCHR recalls that the necessary, in many cases, prioritisation of specific population groups should be done with objective, appropriate and transparent criteria, which take into account the vulnerability of these groups and are in accordance with the standards and rules set forth by human rights law. At the same time, the GNCHR stresses the need to promote the vaccination of those population groups who are most exposed and vulnerable to the virus due to the health conditions they are living under, such as Roma people, detainees, asylum-seekers, refugees or migrants who find themselves in unsafe health conditions¹³. According to public announcements by the Greek Minister of Health a large-scale COVID vaccination drive for asylum seekers has started for people living in reception centers on three Greek Aegean Islands¹⁴.

Finally, with regard to the Country's international obligations, the GNCHR acknowledges with satisfaction that Greece has ratified nearly all of the core international human rights treaties. Worth mentioning is that, in June 2018, Greece took the important step of ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)¹⁵. The GNCHR notes with regret, nonetheless, that the law

¹⁰ GNCHR, [Recommendations](#) to the State regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, May 2021, p. 8.

¹¹ GNCHR, [Recommendations](#) to the State regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, May 2021, p. 10.

¹² GNCHR, [Recommendations](#) to the State regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, May 2021, p. 29-30.

¹³ GNCHR, [Recommendations](#) to the State regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, May 2021, p. 30-31.

¹⁴ See relevant [Press Release](#) of the Health Ministry, 8.6.2021 [in Greek]. INFO MIGRANTS, [Greece starts vaccination campaign at facilities for asylum seekers](#), 4.6.2021.

¹⁵ Furthermore, it is to be underlined that Law 4531/2018 ratifying, among others, the Council of Europe Convention preventing and combating violence against women and domestic violence and adjusting the Greek legislation (OJ 62/A/5 April 2018) was followed by two other positive legislative steps i.e. the redefinitions of

ratifying the Istanbul Convention remains inactive, since crucial penal provisions were not included in the Criminal Code, while the issuance of joint ministerial decisions ensuring that victims can claim compensation is still pending¹⁶. In addition, the GNCHR deplores that there has **been no further progress on the ratification of a series of international and regional human rights instruments**¹⁷, among which the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families¹⁸.

In the framework of **effectively combating hate crime**, supporting victims and developing a safety net of prevention measures, the GNCHR has also recommended that Greece complies with the EU Anti-racism Action Plan (2020-2025) and the EU strategy on victims' rights (2020-2025), focusing on the most marginalised vulnerable groups who become victims of racist crimes (e.g. migrants lacking legal status/residence permit), as well as the **EU Gender Equality Strategy (2020-2025)** and the **LGBTQI+ Equality Strategy (2020-2025)**¹⁹. In this regard, the GNCHR has welcomed the appointment by the Prime Minister of a Committee with the aim of drafting a **National Strategy for the Equality of LGBTQI+ persons in Greece**, as a response to the European Commission's first ever strategy at the EU level, while contributing to the Committee's work by submitting its own GNCHR [Memo](#)²⁰. The GNCHR notes with satisfaction the submission of the Committee's Report to the Prime Minister, in June 29th, 2021 and confirms its willingness and readiness to assist in the demanding task of the National Strategy's implementation.

The GNCHR has also welcomed the **National Action Plan against Racism and Intolerance 2020-2023**²¹, developed by the Ministry of Justice in consultation with the National Council

gender by Law 4604/2019 and of the legal concept of rape on the basis of non-consent in the Criminal Code (Art. 336). See GNCHR [Observations](#) on Draft Law regarding the Ratification of the Council of Europe's Convention on Preventing and combating violence against women and domestic violence and adaptation of the Greek legislation, 1 March 2018.

¹⁶ GNCHR, Stakeholder Report to the Universal Periodic Review (UPR) of Greece UN Human Rights Council, 39th session, 25 March 2021, p. 3; League for Women Rights, [Statement](#), International Women's Day: today we are not celebrating, we are vigilant and we demand, 8 March 2021.

¹⁷ Such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms; the European Convention on Nationality; the Framework Convention for the Protection of National Minorities; the ILO conventions: C129 - Labour Inspection (Agriculture) Convention; the C097 - Migration for Employment Convention (Revised); the C183 - Maternity Protection Convention; the C189 - Domestic Workers Convention; the C121 - Employment Injury Benefits Convention; the C118 - Equality of Treatment (Social Security) Convention; the C094 - Labour Clauses (Public Contracts) Convention; the 2002 Protocol to the Occupational Safety and Health Convention; the 2014 Protocol to the Forced Labour Convention No. 29.

¹⁸ GNCHR, Stakeholder Report to the Universal Periodic Review (UPR) of Greece UN Human Rights Council, 39th session, 25 March 2021, p. 9. See also CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 26.

¹⁹ RVRN, Universal Periodic Review Stakeholder Submission, Submission to the UN UPR, Thirty-Ninth Session of the Working Group on the UPR, Human Rights Council, 25 March 2021, par. 10.

²⁰ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek].

²¹ Ministry of Justice, [National Action Plan against Racism](#).

against Racism and Intolerance²², in accordance with Law 4356/2015, in which the GNCHR participates. The Action Plan includes a certain number of policy components for preventing discrimination and racism and combating racist violence, as well as an evaluation system which allows the implementation of the adopted actions to be monitored on an annual basis. Despite the positive above-mentioned developments, the GNCHR has pointed out that there are still key issues related to the promotion of the equal access to basic rights, the effective implementation of the anti-racist legal framework, as well as the establishment of a comprehensive referral system for the support and protection of the victims, which remain to be addressed²³.

Moreover, the GNCHR welcomed in principle the **ratification of the ILO Violence and Harassment Convention 190**, by Law 4808/2021 (OJ 101/A/19.6.2021) for the protection of the employment, acknowledging that it can contribute to the prevention of sexual and psychological violence at all levels and areas of activity, the punishment of perpetrators and, above all, the timely and appropriate protection of victims of violence and/or harassment, provided that it will not remain inactive and that is accompanied by appropriate implementation measures. In this regard, the **GNCHR deplored the way the Greek legislator chose to ratify the ILO C190**, as the bill submitted to Parliament – and finally voted – raised serious issues regarding the Convention's effective implementation²⁴. In addition, the GNCHR placed particular emphasis on the **confusion caused by the bill (now voted Law 4808/2021) with regard to the limits of the relative competences of the finally three (3) co-responsible Independent Authorities** – the Labor Inspectorate (SEPE), the Ombudsman and the National Transparency Authority – stressing that ambiguity and duplication of responsibilities are to the detriment of victims of violence and harassment, as well as of CSOs assisting them. To this end, the GNCHR recommended the clarification and complete rewording of the relevant provisions, a recommendation which was not accepted in the final text²⁵.

Finally, with regard to the CERD's concern about the **lack of statistical data on the enjoyment of the ICERD rights** by all ethnic groups and religious minorities in the State party and its relevant recommendation, according to which reliable, detailed socioeconomic information is necessary for the monitoring and evaluation of policies in favour of minorities²⁶, the GNCHR points out with emphasis the need to enhance the capacity of the

²² Ministry of Justice, [National Council against Racism and Intolerance](#).

²³ GNCHR, [Contribution](#) to the National Action Plan against Racism, January 2020; RVRN, [Letter](#) to the President of the National Council against Racism and Intolerance, General Secretary of Justice and Human Rights of the Ministry of Justice and to the Members of the National Council against Racism and Intolerance, 15 December 2020.

²⁴ GNCHR, [Observations](#) on the Bill of the Ministry of Labor and Social Affairs regarding the protection of the employment, 14 June 2021, p. 19-20.

²⁵ GNCHR, [Observations](#) on the Bill of the Ministry of Labor and Social Affairs regarding the protection of the employment, 14 June 2021, p. 19-20.

²⁶ CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 8-9.

Hellenic Statistical Authority in order to play an important role, in synergy with all the involved stakeholders, towards the development of national statistics under a human rights-based approach. The GNCHR has repeatedly expressed its serious concerns at the general lack of available and updated data and statistics on various areas of human rights protection, disaggregated by sex, age, race, ethnicity, geographical location and socioeconomic background, which are necessary for the systematic monitoring and evaluation of progress towards the realisation of human rights, as well as for informed and targeted policymaking²⁷.

Antiracism legal framework (COBs, par. 12-19)

The GNCHR welcomes and fully encourages the initiatives of the Greek Authorities to improve the antiracism legislation, acknowledging that significant steps have been made in this direction. The most important among these initiatives are, for instance, the establishment and operation of the National Council against Racism and Intolerance (Law 4356/2015), Law 4478/2017, transposing the EU Directive 2012/29/EU on the Protection of Victims of Crime, the amendment of Article 81A of the Criminal Code (now 82A), the appointment of Special Prosecutors for Racist Crime, the classification of the case files related to racist crimes with the label "RV" to facilitate their identification, the training of judges and prosecutors on racist violence, as well as the establishment of two (2) Divisions and sixty-eight (68) Offices Against Racist Violence in the Hellenic Police.

Nonetheless, the GNCHR points out with concern that, despite the above positive developments, many **structural problems and shortcomings have been identified to date regarding the unhindered and proper implementation of the legislative framework**, such as Law 4478/2017, as well as the recording of the racist-related cases and the provision of services to the hate crime victims. At the same time, convictions by national courts in such remain limited.

In particular, with regard to the most significant measure taken by the Greek Government, Article 81A of the Criminal Code on "racist crime", the GNCHR confirms that, undoubtedly, the establishment of a general aggravating circumstance for crimes with bias motivation under the aforementioned Article 81A is a clear and positive message to organised groups of racist violence perpetrators. However, **the actual impact of Article 81A on pending criminal cases has been quite limited**. This was the result of the absence of a specific transitional provision which would explicitly provide for the replacement of the Article previously in force (Article 79(3d) by Article 81A. More specifically, although national courts could not apply the general aggravating circumstance regulated in Article 81A in pending cases, since this would inevitably constitute a deterioration of the defendants' position (which is not allowed inter alia by the Greek Criminal Code, Greek Constitution, ECHR and ICCPR), if such transitional provision was in place, the racist motive could be taken into account at earlier stages and not

²⁷ GNCHR, Stakeholder Report to the Universal Periodic Review (UPR) of Greece UN Human Rights Council, 39th session, 25 March 2021, p. 9.

just in the sentencing. This would allow for a more extensive case law, including a more extended and systematic analysis of the crucial aspects of racist crimes²⁸. For instance, in the case of the murder of Pakistani citizen S.L. (crime date: 17 January 2013), in the first instance, the Court referred to Article 79(3)²⁹, while, in the second instance, the Court should have used Article 81A³⁰. However, the second instance court, although it described the homicide as a "racist crime", explicitly did not use the Article 81A clause, as this could be considered a deterioration of the defendants' position, as well as due to the fact that the repeal of Article 79 has not an explicit reference to continuing persecution with Article 81A³¹. In other high-profile cases of racist crime, Greek courts acknowledged the racist motive of the crime, but avoided using the specific articles of the Criminal Code, either in its old form (Article 79 (3d)) or in the new one (Article 81A, now Article 82A)³².

Similarly, according to RVRN's findings, in most recent cases especially on the islands of north Aegean, the possible racist motivation of the attacks was not investigated in practice. Local police Authorities seem to have disregarded the obligations of internal circular 7100-25-148/7-11/2014 and Public prosecutors routinely do not seem to include the hate crime element, despite the *modus operandi* of the perpetrators, meaning elements showing that the perpetrators may have acted in an extreme, xenophobic and organised manner³³. In addition, especially on the islands of Samos and Lesbos, **critical challenges are observed regarding the investigation of racist crimes.**

As far as **Law 927/1979** (widely known as the "anti-racist law") is concerned, it has been rarely implemented. Indeed, Greek Authorities have failed to fully implement Law 927/1979. A landmark decision is the conviction against Neo-Nazi Golden Dawn Party by national court on 7th October 2020. The court found high-profile political figures, namely MPs of the political party "Golden Dawn" as members of a criminal organization, who have been implicated in racist rhetoric and violent activity organization. The impact of the verdict against Golden Dawn expresses in practice the protection provided by law to each individual, as well as to

²⁸ RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 3.

²⁹ Court decision 398/15.4.2014 of the Athens' Mixed Juror Court.

³⁰ Court decision 286/6.5.2019 by the Athens' Mixed Juror Court of Appeal.

³¹ Court decision 286/6.5.2019 by the Athens' Mixed Juror Court of Appeal.

³² RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 4.

³³ RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 4-5. For the *modus operandi* of perpetrators, see RVRN, [2013 Annual Report](#), April 2014, p. 7-8.

each member of a community, who is targeted by individuals or groups with racist, xenophobic, homophobic or transphobic motives³⁴.

Furthermore, according to Article 52(2) of the Code of Criminal Procedure, for victims to lodge an **appeal against an initial rejection of such complaints before the Public Prosecutor's Office at the Court of Appeal** they still need to pay a **fee of 250 Euros**, for all crimes, including those related to antiracist legislation (Law 927/1979, Law 3306/2005 and Article 82A criminal code). Additionally, the **abolition of Article 361 B of the Criminal Code**, defining the criminalisation of the discriminatory offer of goods, may send the message that organising practices with racist characteristics, such as distributing food "only to Greeks", is socially acceptable and compatible with the principles of a democratic society.

Moreover, with regard to the transposition of the **"EU Victims Directive"** through Law 4478/2017, the GNCHR notes with regret that the implementation of the relevant provisions is very limited, while delays have been identified, despite the fact that it is a common ground that a dominant factor for addressing effectively the consequences of racist crime is the provision of support to the victims. In particular, according to the RVRN's recordings of incidents involving foreigners who were assaulted and hospitalised following the incident, it seems that firstly, **law enforcement and prosecution Authorities** usually consider victims as part of the criminal procedure, mainly as a source of information about the case or in a manner consistent with the involvement of each victim in the criminal proceedings, but they **do not focus on the fact that hate crime victims may need support in a more holistic way**. Especially for the law enforcement Authorities, which usually are the first who meet the victim, they should be familiar with the procedures for supporting the victim in order to provide relevant information or referral. Another element based on the RVRN quantitative data concerns the **medical staff** which interacts with the victims strictly on a medical basis, solely addressing the victims' medical issues, while to our best knowledge **no other form of support is provided or offered to these persons (e.g. psychological/social support)**. At the same time, the medical staff of hospitals and other healthcare providers seems to be totally disconnected from the criminal procedure (e.g. no information is provided to the victims regarding the possibility of reporting an incident), while at the same time no or very limited support is provided to the hate crime victims by the social services in the hospitals, in which the victims are hospitalised. However, the GNCHR takes this opportunity to remind that, according to the Law 4478/2017, it is imperative that all Authorities involved in this process are thoroughly familiar with, and bound by, certain basic instructions, depending on the phase of the procedure: a) first contact with the competent authority (victim identification, individual needs assessment, referral); b) reporting of the incident to the Authorities; c) criminal investigation; d) penal procedure; e) post-trial phase of the penal

³⁴ For more information see RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 5 and RVRN, [Annual Report 2020](#), April 2020, p. 7.

procedure. For that purpose, the competent Authorities must be clearly designated and informed of their duty to implement the law, so as to be able to lay down proper internal procedures (e.g. designate compliance officers and implement compliance protocols)³⁵.

Additionally, in relation to the **24/7 11414 dedicated phone line** for the reporting of racist crimes, this number is not accessible nationwide, while there is no provision of interpretation³⁶. The GNCHR deplores that lack of interpretation services is a general identified gap in the national reporting system for hate crime.

Moreover, the GNCHR highlights the need for speeding up the **identification procedure of undocumented third-country nationals who are victims of racist violence or material witnesses to respective incidents**, in order to minimise restrictions of freedom imposed to them. In addition, the amendment of **Article 41 of Law 3907/2011 by Law 4332/2015**, according to which a **return decision shall not be issued against undocumented persons** when they report alleged hate crimes till the public prosecutor's final decision on the hate motivation, is not yet fully implemented and disseminated amongst the migrant communities. The risk of arrest still exists and thus demotivates victims from reporting incidents of hate crime³⁷.

In this regard, in light of the RVRN's submission in the Sakir case, RVRN requested from its Members (currently 51) to fill a survey in order to identify in which cases, where RVRN Members provided legal, medical, psychosocial or other support to victims of hate crime, Law 4478/2017 for the establishment of the minimum standards on rights, support and protection of victims of crime ("Victims Directive") was applied or the Court decided to grant compensation to the victim from the Hellenic Compensation Authority (Law 3811/2009). The RVRN members were also asked if they were aware of cases where victims and witnesses of racist crimes, who are not citizens of EU member States, were granted a residence permit for humanitarian reasons in accordance with Article 19A of Law 4251/2014, as amended by Law 4332/2015. Based on the **survey findings, in one case only, in 2014, a victim of racist attack, being a migrant with no legal documents, was granted a residence permit for humanitarian reasons** in accordance with Article 19A of Law 4251/2014. No other cases supported by Law 4478/2017, neither Court decisions for compensation based on Law

³⁵ RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 10.

³⁶ RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 10.

³⁷ RVRN, Universal Periodic Review Stakeholder Submission, Submission to the UN UPR, Thirty-Ninth Session of the Working Group on the UPR, Human Rights Council, 25 March 2021, par. 30.

3811/2009 were reported by RVRN members in the incidents/cases of racist violence recorded by them³⁸.

In light of the above-mentioned observations, the GNCHR notes with emphasis that, while there is in place an anti-racist legal framework, the **Greek Authorities fail to investigate the cases, prosecute and convict perpetrators with the use of available legal tools**. This is why RVRN, based on the implementation of the relevant legal framework, recommends to the involved Authorities to proceed with the ex-officio prosecution of any offense in which indicators of bias motivation are identified. Additionally, several cases handled by RVRN Members, corroborate that the bias element of a crime is frequently "filtered out" during police investigations³⁹. RVRN argues that the Greek Government, after a prolonged state of denial, legislated on racist crime, but fails to implement such legislation in practice.

Anti-discrimination legislation

Bearing in mind that at the level of both the European Union and the national legal order, legal protection against discrimination is explicitly recognised only in the field of employment, the GNCHR highlights the urgent need to extend legal protection against discrimination beyond employment and vocational training, in order to cover as well the fields of education, healthcare and access to goods and services in general.

More specifically, the GNCHR recommends the **amendment of Law 4443/2016**, which introduced in the Greek legal system, among others, Directives 2000/43/EC and 2014/54/EU regarding the prohibition of any form of direct or indirect discrimination, **so that its scope is not limited to the areas of employment and occupation**. In particular, it is recommended to extend the scope of application of Article 3 of Law 4443/2016 regarding the legislation's scope in the areas of:

- (a) education (not just vocational training), at all levels and in all forms of education services provided;
- (b) access to healthcare services, including voluntary activities, such as voluntary blood donation, as well as the voluntary (non-remunerated) donation of other biological material,
- (c) social security system,
- (d) access to goods and services provided to the public⁴⁰.

³⁸ RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 13.

³⁹ See also European Network Against Racism, Racist Crime and institutional Racism in Europe, ENAR [Shadow Report 2014-2018](#), p. 7, 25.

⁴⁰ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTIQI +, 25 June 2021 [in Greek], p. 5-6.

Statistical data

With regard to the CERD's recommendation to improve the **data collection system for statistics on complaints of hate crimes**, the GNCHR highlights that there is no differentiation between acts prosecuted under Article 81A and racist rhetoric prosecuted under Law 927/1979. Generally, in practice, there is no systematic procedure for classifying the files of the cases in order to ensure the effectiveness of the monitoring of the criminal proceedings, e.g. there is no differentiation between criminal complaints filed by civilians, often by the victims themselves, and files created by State prosecutions. At the same time, the numbers of convictions are remarkably low in relation to the recorded incidents. In addition, the absence of a systematic and commonly accepted procedure for collecting of substantiated and detailed evidence is not in line with the content of the **Circular, dated 12 December 2018, by the Supreme Court's Deputy Prosecutor, Konstantinos Paraskevaïdis**, which instructs precisely the biannual collection of files on racist crimes.

As regards **recordings by civil society**, in 2020, RVRN recorded an **increase in incidents of racist violence, particularly against refugees, migrants and human rights defenders who were targeted due to their affiliation with the above-mentioned groups**. This increase is linked to the political polarisation at a European and global level regarding the reception of refugees and migrants, coupled with national and local factors shaping the situation in Greece. It is also inextricably linked to the institutional targeting of refugees and migrants through the official speech of political leadership representatives at a central and local level, as well through the media. Portraying refugees and migrants as a threat to national sovereignty, although it does not seem to be a unique domestic trend, but a broader European rhetoric with political implications, as strongly reflected in public discourse, especially in early 2020, has been instrumental in exonerating racist violence and intensifying the sense of impunity⁴¹.

At the same time, the **COVID-19 pandemic sparked a rise in discrimination and racism coming from public officers especially against vulnerable groups**, including women, children, Roma, refugees, asylum-seekers and migrants, detainees and LGBTIQI+ people. In 2020, RVRN recorded incidents which either directly or indirectly relates to the pandemic. It found that the pandemic and the consequent restriction measures of individual freedoms have shaped a new context in which aspects of racism have taken a new dimension. Refugees and asylum seekers are perceived not only as a threat to national sovereignty but also to public health, while it is noted that discrimination against specific target groups in terms of their access to services, is on the rise. Racially motivated incidents of harassment, arbitrariness and violence by police representatives, during checks on movement restriction measures, affect almost all targeted groups⁴². Speaking of the COVID-19 pandemic and the rise in institutional racism, an example of arbitrary racist conduct of law enforcement officers

⁴¹ RVRN, [Annual Report 2020](#), April 2020, p. 5.

⁴² RVRN, [Annual Report 2020](#), April 2020, p. 5.

which raises serious concerns is the issuing of fines arbitrarily during the pandemic. Although not always combined with racist violence they are key elements in the synthesis of the new reality of the manifestations of racism and especially institutional racism, within the context of the pandemic.

More specifically, during January-December 2020, **RVRN recorded, through interviews with victims, 107 cases of racist violence**. In 74 incidents the targets were migrants, refugees or asylum-seekers due to their ethnic origin, religion or colour, human rights defenders due to their association with refugees and migrants, as well as shelters or other services for unaccompanied children or asylum-seekers. In 3 incidents the victims were Greek citizens who were targeted due to ethnic origin. In 30 incidents, the victims were LGBTQI+ individuals, while among LGBTQI+ victims there were also four third-country nationals, under the status of either asylum-seekers or recognized refugees. In 50 incidents the targets were more than one victim, whereas in 77 incidents the assault was committed by a group (of at least 2 persons)⁴³.

Speaking of the **RVRN**, it is a steadily growing network which now includes **fifty-one (51)** rather than forty-seven (47) Members, as noted in the State's Report, while its latest **Annual Report was published in April 2021** (instead of May 2021)⁴⁴. The GNCHR, therefore, notes that it could be useful to proceed to the relevant correction in the State's Report in order to also give the exact dimension of a Civil Society empowered when given the opportunity.

Finally and in view of the CERD's concerns and recommendations, on the absence of an effective data collection system, the GNCHR deplores the **absence of any disaggregated data on residence permits for humanitarian reasons granted to third-country nationals who are victims of or witnesses to racist crimes**, as requested by CERD⁴⁵. The GNCHR reminds that according to the RVRN survey's findings, there was only one such case, in 2014⁴⁶.

Racist hate speech and racist crimes

The GNCHR shares RVRN's view, according to which the targeted initiatives for eliminating discrimination and racism are strongly connected with the **effective monitoring of the relevant indicators, including the trends of racist violence**. In this regard, GNCHR has welcomed the initiative of the Prosecutor's Office of Athens in 2018 for classification of the case files related to racist crimes with the label "RV" to facilitate their identification. Also, GNCHR has welcomed the decision of the Greek police to proceed with the analysis of the quantitative trends of the complaints submitted to its services concerning hate crimes. Finally,

⁴³ RVRN, [Annual Report 2020](#), April 2020, p. 12.

⁴⁴ RVRN, [Annual Report 2020](#), April 2020.

⁴⁵ CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 17(f).

⁴⁶ RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 13. Also see *supra*, p. 14.

the collaboration of the Greek police with RVRN in order for the latter to cite the official data in its annual report as an effort to provide a better understanding of racist crimes in Greece, through the comparative analysis of the data collected by the Greek Police and those collected by CSOs, is considered as a positive development in the field of strengthening coalitions between Authorities and Civil Society.

Nonetheless, the GNCHR reiterates with emphasis the recommendation repeatedly addressed to the Greek Authorities by RVRN, urging them to **publicise the quantitative and qualitative analysis of the recorded incidents of racist violence, as well as the follow up procedures**, given that this would not only highlight the trends that need to be considered in order to effectively combat the aspects of racist crime, but it would also enhance the transparency of procedures and the trust in an effective national mechanism for recording incidents of racist violence⁴⁷.

The GNCHR remains concerned about the **absence of a unified national system for monitoring** the procedural steps from the time of the recording by the Police until the relevant procedures at the prosecutors' level and the Courts, but also the access of the victims to supporting services. The introduction of such a system and the analysis of the relevant qualitative and quantitative trends would allow the Authorities to have comprehensive findings regarding the implementation of the legal framework for both the investigation of hate crimes and the support of the victims, resulting in the adoption of more targeted initiatives for the improvement of the protective framework for the victims. As RVRN has highlighted on several occasions, establishing trust in a unified and effective national system remains a key aim, despite the already positive developments in this area⁴⁸. Establishing trust in an effective national monitoring system will definitely contribute to enhancing trust in the Police and Justice system, which is one of the main CERD recommendations⁴⁹.

In addition, the GNCHR notes that the **Greek Police Services against Racist Violence remain understaffed**, with no nationwide operation, while **proper and continuous training to all staff of Greek police for protecting the victims**, facilitating their access to the complaint mechanism, and investigating the bias motivation from an early stage, is not included in the National Action Plan against Racism and Intolerance (NAP). The GNCHR acknowledges the positive initiative for training for prosecutors and judges in the NAP, while stressing, nonetheless, that this exercise should be continuous, until relevant indicators demonstrate the increased use of the relevant legal tools.

⁴⁷ RVRN, Universal Periodic Review Stakeholder Submission, Submission to the UN UPR, Thirty-Ninth Session of the Working Group on the UPR, Human Rights Council, 25 March 2021, par. 14. See for more details RVRN, [Annual Report 2020](#), April 2020, p. 54, 55, 57; RVRN, [Annual Report 2019](#), June 2020, p. 32-34; RVRN, [Annual Report 2018](#), April 2019, p. 30.

⁴⁸ RVRN, Universal Periodic Review Stakeholder Submission, Submission to the UN UPR, Thirty-Ninth Session of the Working Group on the UPR, Human Rights Council, 25 March 2021, par. 15. See also RVRN, [Annual Report 2020](#), April 2020, p. 55.

⁴⁹ CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 17(e).

Widespread use of hate speech

Regarding the prevention of hate speech, the GNCHR expresses its deep concern about the **recent frequent use of xenophobic rhetoric against migrants in the official political discourse, including by persons who hold public office**, encouraging or legitimising racist violence and, thereby, undermining the significant efforts by Greece to improve the Authorities' response to hate crimes. In particular, the GNCHR points out that the use, in several cases, by the press, a number of ultra-right politicians and occasionally by State officials of the term "invader", when referring to migrants, is particularly dangerous, as it draws on military combat terminology, encouraging the presumption that potential attacks against migrants qualify as legitimate defence. This rhetoric, which was intensified during the February-March 2020 Greece-Turkey border crisis, has given rise, according to the RVRN's findings, to a barrage of attacks against migrants and human rights defenders across Greece⁵⁰. As the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance during his mission to Greece pointed out, hate speech was present in the media, on the Internet and social media platforms. It usually went largely unchecked and unpunished, as effective self-regulatory mechanisms seemed to be lacking. Also, lesbian, gay, bisexual and transgender groups have reported that homophobic and transphobic hate speech, verbal harassment and inappropriate comments are allegedly routine in the general public discourse, resulting in them feeling constantly discriminated against and excluded in day-to-day life⁵¹.

Case law of criminal Courts

With regard to the **treatment of racist crime by the judicial Authorities**, the GNCHR welcomes the information on the case law of criminal Courts contained in the Country's report and would like to add to it two more Court decisions concerning incidents recorded by RVRN Members, noting that, in both decisions, Article 82A of the Criminal Code on recognising the racist motive as an aggravating circumstance in the committed crime, has been implemented.

Indeed, in July 2020, the trial of the "**Crypteia**" case was concluded in the Mixed Jury Court of Athens, which found the defendant guilty of the offences of attempted arson which could result in endangering someone, and in particular the Community of Afghan Migrants and Refugees, with the aggravating circumstance of Article 82A CC, public incitement to violence and hatred (Law 927/1979), as well as for criminal possession of a weapon and threat to

⁵⁰ RVRN, Universal Periodic Review Stakeholder Submission, Submission to the UN UPR, Thirty-Ninth Session of the Working Group on the UPR, Human Rights Council, 25 March 2021, par. 34.

⁵¹ UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece, 4 May 2016, [A/HRC/32/50/Add.1](#), par. 44-45.

commit crime⁵². At the same time, by a very important Court decision, **decision no. 764/2020 of the Three-Member Lower Criminal Court of Chalkida**, the Court also recognised the racist motive (Article 82A CC) in the perpetrator's actions as an aggravating circumstance because the victim was attacked due to her gender identity. The incident was recorded by an RVRN Member in 2015⁵³.

However and despite the positive developments reported, the GNCHR has witnessed, through its RVRN Members, **unacceptable delays in the process of investigation, which hinder the victims' right to an effective remedy**. The most prominent of these cases is the one of the racist attacks at **Sappho Square** (Mytilene, Lesbos, 22-23 April 2018). According to victims, there were dozens of men and women among the perpetrators who had covered their features and they were throwing rocks, bottles and objects ablaze. Extremist groups infiltrated and took advantage of that gathering of refugees and residents of Lesbos and they brutally attacked refugees, including several young children⁵⁴. Approximately 30 refugees were taken to the hospital, many with head injuries. The total number of injured persons was much higher. Police arrested 120 refugees. The refugees were charged with "illegal occupation of public space", "riot" and "resistance against the Authorities". None of the perpetrators of the attacks against the refugees was arrested. The case file regarding the racist violence against the refugees was transmitted by the Police to the Prosecutor in November 2018 and identified 26 persons as potential perpetrators of the attacks. The Public Prosecutor pressed charges in February 2019, invoking also Article 81A ("racist motive") and requested that a "main investigation" be carried out. **The case has since been pending before the Office of the Investigating Judge, while the defendants have not been called to provide their statements to date**. The delays in the investigation of the aforementioned case have fostered a climate of impunity on the island of Lesbos, while many of the defendants in this case have already been identified as suspects of attacks against members of migrant-related CSOs. Another aspect of the incident, which confirms the impact on the victims and highlights as a main factor of the under-reporting phenomenon the resulting lack of trust to the Authorities, is the decision of one of the victims not to proceed to submitting a complaint to the Authorities, as none of the perpetrators was eventually arrested⁵⁵.

At this point, the GNCHR recalls that, as CERD has highlighted in its [General recommendation No 36](#) on Preventing and combating **racial profiling by law enforcement officials**, "people who perceive that they have been subjected to discriminatory law enforcement actions tend to have less trust in law enforcement and, as a result, be less willing to cooperate, thereby potentially limiting the effectiveness of the latter. [...] This sense of injustice, humiliation, loss

⁵² RVRN, [Annual Report 2020](#), April 2020, p. 52.

⁵³ RVRN, [Annual Report 2020](#), April 2020, p. 52.

⁵⁴ RVRN, [2018 Annual Report](#), 19 April 2019, p. 14, 20.

⁵⁵ RVRN, [2018 Annual Report](#), 19 April 2019, p. 22. For more information see RVRN, [Communication](#) from the Racist Violence Recording Network, pursuant to Rule 9.2 of the Rules of the Committee of Ministers of the Council of Europe for the supervision of the execution of judgments and the terms of friendly settlements, relating to the case of Sakir v. Greece (Application No. 48475/09), 18 December 2020, p. 10-11.

of trust in the law enforcement, secondary victimisation, fear of reprisals and limited access to information about legal rights or assistance may result in reduced reporting of crimes and information for intelligence purposes"⁵⁶.

National Council against Racism and Intolerance – National Action Plan against Racism and Intolerance

The GNCHR has contributed and continues to be actively involved through consultation and reporting in the field of combating racist hate speech and violence with racist motives, while repeatedly calling upon the State to take effective measures in this regard. In this context and with the purpose of developing a comprehensive national strategy to combat racism and intolerance in Greece, the GNCHR has welcomed the establishment by the Greek Ministry of Justice of the National Council against Racism and Intolerance (NCRI), in which both the GNCHR and the RVRN are represented. The GNCHR takes this opportunity, however, to note the **serious challenges in the operation of the NCRI, which remains understaffed**, in providing targeted and effective responses aiming at addressing worrying developments in this field. The NCRI should operate on a steadier and more frequent basis, conduct decisive interventions aimed at the supervision of the implementation of legislation against racism and intolerance, especially in cases of its violation with the involvement of public officials. Furthermore, the GNCHR notes with disappointment that the NCRI **has not convened since last December**, when it completed and published the National Action Plan against Racism and Intolerance (NAP), despite the fact that a number of its Members has repeatedly called for it.

With regard to the **National Action Plan against Racism (NAP)**, developed by the Ministry of Justice in consultation with the NCRI, the **GNCHR has welcomed the work done in this field⁵⁷, while at the same time expressing specific observations**, as pointed out in the Country's report. Indeed, the GNCHR has welcomed inclusive and lengthy procedures followed during the consultation, which enabled the NCRI Members to make a significant contribution to shaping the NAP. Efforts of effective cooperation are, in fact, reflected to a great extent both in the preparation of the NAP and the Guide for the Rights of Victims of Racist Crimes. In addition, with regard to, first, the Guide to the Rights of Victims of Racist Crimes, the GNCHR welcomes both the quality of the analysis of the relevant information contained therein and the decision to translate it into nine (9) languages⁵⁸. The proper dissemination of the guide, in all nine (9) languages, is expected to contribute to the information and awareness of the targeted communities/groups. Such an initiative, in

⁵⁶ CERD, General recommendation No. 36, Preventing and Combating Racial Profiling by Law Enforcement Officials, 24 November 2020, [CERD/C/GC/36](#), par. 26.

⁵⁷ See *supra*, p. 10.

⁵⁸ GNCHR, [Contribution](#) to the National Action Plan against Racism, January 2020; RVRN, [Letter](#) to the President of the National Council against Racism and Intolerance, General Secretary of Justice and Human Rights of the Ministry of Justice and to the Members of the National Council against Racism and Intolerance, 15 December 2020.

combination with the re-distribution of the Guide for Supporting Racist Crime Victims and Refraining from Racist Behavior for the public servants, an activity which is also included in the NAP, are in the right direction in order to address the widespread underreporting⁵⁹.

Despite the positive above-mentioned developments, the GNCHR has pointed out that there are still **key issues remaining to be addressed**. In particular, as far as the analysis of the conceptual framework is concerned, the GNCHR has underlined the serious lack of effective integration policies, despite the inclusion of some actions in this direction. Furthermore, with regard to addressing the widespread underreporting, while there is a satisfactory analysis of the phenomenon and the need to address it through increasing trust in the Authorities, as well as through providing for relevant policies and actions both in terms of information as well as at the level of training of the Authorities, the GNCHR deplores that the actions envisaged are not considered efficient in terms of scope and frequency, while at the same time structural issues of access to the complaint are not resolved, such as for instance the absence of interpretation for the operation of the Special Telephone Line "11414", which essentially excludes non-native speakers from the relevant possibility. In addition, the GNCHR shares the RVRN's observations, according to which the NAP does not contain actions which would allow the deeper understanding of the phenomenon of underreporting in order to address it more effectively (for instance, victimization survey). This is why, among others, both the GNCHR and the RVRN, reiterate the recommendation repeatedly addressed to the Greek Authorities, urging them to publicize the quantitative and qualitative analysis of the recorded incidents of racist violence, as well as their development, given that such a procedure not only highlights the trends which need to be considered in order to effectively combat the aspects of racist crime, but also enhances the transparency of procedures and the trust in an effective national mechanism for recording incidents of racist violence. Moreover, regarding access of victims of racist crimes to services and protection, the GNCHR highlights the absence of actions by specific Ministries which are decisively involved in supporting victims of racist violence directly or indirectly, such as the Ministry of Health, as well as coordination actions for optimal protection and support of victims of racist violence, such as the creation of a protocol or guide for the coordination of support services for victims of racist violence based on Law 4478/2017, as well as for their protection from secondary victimisation. Finally, while actions on combating discrimination are included in the NAP, the GNCHR expresses its serious concerns over the fact that these actions are not comprehensive interventions aiming at addressing effectively discrimination and promoting equal and unhindered access to education, health and housing services, while the new reality of limited access to these services due to the spread of the coronavirus and containment measures have not been taken into account⁶⁰.

⁵⁹ RVRN, Universal Periodic Review Stakeholder Submission, Submission to the UN UPR, Thirty-Ninth Session of the Working Group on the UPR, Human Rights Council, 25 March 2021, par. 25.

⁶⁰ GNCHR, [Contribution](#) to the National Action Plan against Racism, January 2020; RVRN, [Letter](#) to the President of the National Council against Racism and Intolerance, General Secretary of Justice and Human Rights of the

Training activities

With regard to the training of judges and prosecutors, the **GNCHR has increased its interaction with judges and prosecutors**, in order to raise awareness and knowledge by the judiciary of international human rights norms, standards and practices and related jurisprudence. To this end, in addition to the annual open seminars covering a wide range of human rights, addressed to the general public, the GNCHR also undertook a more specialised cycle of seminars to judicial officers entitled "Education in Human Rights". Furthermore, the GNCHR is elaborating a series of seminars addressed to the special prosecutors for the investigation of racist crimes, which will be carried out in autumn 2021. In addition, the GNCHR assists in the human rights education not only of judges, but also of other legal professionals, such as lawyers, prosecutors and other judicial Authorities and law enforcement officers, by engaging with judicial educational bodies and professional legal training bodies (eg. ensuring curricula reflect international human rights law), as well as by providing itself training and seminars on human rights.

Rights of LGBTIQI+ persons

The GNCHR recalls that, as already stated⁶¹, at the level of both the European Union and the national legal order, legal protection against discrimination based on *inter alia* sexual orientation, gender identity and/or sex characteristics is explicitly recognised only in the field of employment and underlines the urgent need to extend legal protection against discrimination beyond employment and vocational training, in order to cover as well the fields of education, healthcare and access to goods and services in general. To this end, the GNCHR has recommended the **amendment of Law 4443/2016**, in order to **extend its scope of application in the areas of: (a) education** (not just vocational training), at all levels and in all forms of education services provided, **(b) access to healthcare services**, **(c) social security system**, as well as **(d) access to goods and services provided to the public**⁶².

Furthermore, with regard to the legal gender recognition, the GNCHR has **welcomed the adoption of Law 4491/2017 on the Legal Gender Recognition**, assessing it as a particularly positive step towards the full and effective implementation of human rights of LGBTIQI+ persons. Nonetheless, the GNCHR considers it necessary to highlight the **urgent need to review the whole procedure**, as it has emerged, after four (4) years of implementation, that the court procedure for the legal gender recognition is one of the main factors contributing to the serious delays regarding the change of the identification data in the registries. The average time for the current process of legal gender recognition is 18 months from the date of application. In addition, the court process is costly as it charges people with

Ministry of Justice and to the Members of the National Council against Racism and Intolerance, 15 December 2020.

⁶¹ See *supra*, p. 9 et seq.

⁶² See GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTIQI +, 25 June 2021 [in Greek], p. 5-6.

court costs and lawyers' fees, which makes it inaccessible to low-income persons. Finally, it has been observed in court decisions that, despite the de-psychiatricisation of gender identity by Law 4491/2017, the non-existent term "gender identity disorder" is repeated. Increased lengths, and thus costs, of a painstaking and time-consuming procedure not only exclude trans persons from enjoying their fundamental rights, but can also be a strain for public Authorities. Replacing the current legal gender recognition procedure in Greece by a simple administrative procedure for legal gender recognition based on self-identification, as applied in other Council of Europe Countries, such as e.g. with a unilateral declaration in the registry, renders human rights guaranteed by the European Convention on Human Rights "practical and effective [and therefore] not theoretical and illusory"⁶³.

In addition, with regard to the civil partnership pact, the GNCHR has welcomed the adoption of Law 4356/2015, noting with emphasis that the inclusion of same-sex couples in the civil partnership pact restores a blatant discrimination of the past. However, the GNCHR points out the existence of a **significant legislative gap regarding LGBTQI+ couples** who have entered into a civil partnership in Greece, which consists in the **complete lack of any recognition of parenthood on children born during the civil partnership**⁶⁴.

Moreover, the GNCHR confirms that it is a constant request of the LGBTQI+ community to enjoy the right to **marriage for all couples, regardless of gender, with full rights** (eg. marital benefits, allowances, parental leave, child custody and parental care, childbirth, retirement, inheritance and other tax issues)⁶⁵.

At the same time, following the adoption of Law 4356/2015 on the civil partnership pact, the GNCHR had welcomed the Greek legislators initiative to expand the eligibility requirements of foster parents, encouraging him to go one step further, allowing both **adoption by both partners of the pact, as well as adoption by one partner of the pact of the child of the other partner**. The GNCHR recommends the elimination of any discrimination in matters relating to the adoption, foster care and/or assisted reproduction due to gender, sexual orientation and gender identity of prospective parents⁶⁶.

Finally, the GNCHR would like to stress the need to **replace the reference to "gender characteristics", where such a reference is made in the State's report, by the phrase "sex characteristics"**. When we refer to sex characteristics, in order to include intersex persons, we mean the characteristics and traits associated with sex identity, including the primary sex characteristics, which are directly involved in reproduction of the species, as well

⁶³ ECtHR, *Christine Goodwin v. United Kingdom* [appl. no. 28957/95], 11 July 2002. For more information see GNCHR, Transgender persons and legal gender recognition. [Recommendations](#), September 2015; GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek], p. 7-9.

⁶⁴ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek], p. 10.

⁶⁵ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek], p. 11.

⁶⁶ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek], p. 12.

as the secondary sex characteristics, which features not directly concerned with reproduction, such as voice quality, facial hair, and breast size.

The situation of the Roma (COBs, par. 20-21)

The specific situation of Roma population and the impact of Covid-19 pandemic

The GNCHR has repeatedly expressed its deep concerns with regard to the specific situation of Roma people in Greece and the need for promoting and respecting their rights⁶⁷, concerns similar with those reported by CERD in its 2016 Concluding Observations⁶⁸. Unfortunately, the **COVID-19 pandemic affected disproportionately the current situation** and revealed the socioeconomic exclusion in the daily lives of Roma⁶⁹. The GNCHR closely monitoring the Greek Government's series of measures in response to the pandemic, issued two Covid-19 Reports in order to assess the impact of the measures on the enjoyment of human rights and on the rights of vulnerable groups including, among others, Roma⁷⁰. In this regard and also in line with the relevant recommendations of all international and European human rights mechanisms, mandates or bodies, which highlight that poverty, social exclusion and marginalization have excessively affected Roma comparing to other vulnerable groups during the pandemic⁷¹, the GNCHR focused the interest in its **first Covid-19 Report** on the

⁶⁷ See GNCHR website: [ROMA \(nchr.gr\)](https://nchr.gr). See also GNCHR [Contribution](#) to the elaboration of the new Roma Inclusion National Strategy 2021-2027, 8 March 2021 [in Greek], FRA The survey's first 'Data in Focus' [report](#) on the Roma, April 2009, FRA EU-MIDIS at a glance Introduction to the FRA's EU-wide discrimination [survey](#), 2009, FRA EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016.

⁶⁸ CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 20-21.

⁶⁹ This situation is also reflected in a recent question submitted for written answer, in the framework of parliamentary control, by a member of the governing party to the Minister of Labour and Social Affairs which elaborated the National Strategy on Roma Social Inclusion (Prot. Nr. 6816/24.5.2021). In particular, the effectiveness of the measures taken for the implementation of National Strategy on Roma Social Inclusion 2014-2020 with regard to housing, employment, access to water and electricity supplies as well as the census of Roma population has been put under question.

⁷⁰ GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

⁷¹ ECRI, [Annual Report](#) of ECRI's activities covering the period from 1 January to 31 December 2020, March 2021, σελ. 9. Βλ. έτσι και Council of the EU, [Council conclusions](#) on a human-rights based post-COVID-19 recovery, approved by the Council at its 3785th meeting held on 22 February 2021, 22 February 2021; European Commission, [EU Roma strategic framework for equality, inclusion and participation for 2020 – 2030](#), COM(2020) 620 final, 7.10.2020, p. 2, CERD, [Statement 3 \(2020\)](#), Prevention of Racial Discrimination, including Early Warning and Urgent Action Procedures. Statement on the Coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination, 4-7 August 2020; CESCR, [Statement](#) on the Coronavirus disease (COVID-19) pandemic and economic, social and cultural rights. Statement by the Committee on Economic, Social and Cultural Rights, E/C.12/2020/1, 6 April 2020; FRA, [Bulletin #5: Coronavirus Pandemic in the EU – Impact on Roma and Travellers](#), 1 March – 30 June 2020; UN OHCHR, COVID-19 Response, [Guidance COVID-19](#), 13 May 2020.

established problems in Roma neighborhoods. In particular, the GNCHR emphasised in its **first Covid-19 Report** the specific needs of Roma people, such as access to health, water supply, electricity, waste disposal⁷². In some areas (Xanthi, Larissa) many families have even faced serious obstacles related to food supply and hygiene. The GNCHR has welcomed the financial support measures to 98 Roma municipalities for medical supplies and equipment to their communities to this end. In its **second Covid-19 Report**, the GNCHR reiterated its worries about the negative impact of the pandemic on Roma populations in the country⁷³. Especially, the Report underlines the need to ensure access to clean drinking water, sufficient to cover all the water supply needs of the population, safe sewage disposal and supply of electricity, medicine, food and to all basic social services. Moreover, given the fact that 96 % of the entire Roma population in Greece has incomes below the national income poverty threshold⁷⁴, while the majority of them work in trade and tourism services, both sectors suffered serious damage, **they remained practically unemployed and in some Roma neighborhoods (Larisa, West Achaia) with almost zero economic activity**⁷⁵. Likewise, the **distance-learning measures deteriorated further the already lowest proportion of Roma in formal education**⁷⁶. In this respect, the GNCHR points out the **urgent need for protection of the right to education** of Roma children, notably in times of crisis, as the unprecedented crisis of the pandemic. As a result of distance-learning measures, most of **Roma children had no access to education**, since they live in informal settlements and encampments without access, or adequate access, to the internet or information technology (IT) equipment, in order to benefit from online distance-learning⁷⁷.

The GNCHR was notified in 27.11.2020 with a letter submitted by the Pan-Hellenic Confederation of Greek Roma HELLAN PASSE (hereinafter HELLAN PASSE), which appoints a representative in the GNCHR Plenary, to the Minister of Education and Religious Affairs, claiming that Roma children are in practice excluded from distance-learning and calling upon the competent authorities **to ensure equal access of all Roma children to education** and

⁷² GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020.

⁷³ GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

⁷⁴ FRA, EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016, p.14.

⁷⁵ See ELLAN PASSE, Contribution to the GNCHR Report regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, May 2021.

⁷⁶ FRA, EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016, p. 29.

⁷⁷ GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021, ECRI, [Annual Report](#) of ECRI's activities covering the period from 1 January to 31 December 2020, March 2021, p. 9.

school attendance as a key for progress in the social inclusion of Roma⁷⁸. Relevant recommendations had addressed the CRC Committee to the Greek Government, calling upon the State authorities to ensure that Roma have equal access to quality education⁷⁹. Besides, school segregation remains still a problem despite the legal prohibition of this practice and the case law of the European Court of Human Rights⁸⁰, according to which Greece systematically violated the right of Roma children to inclusive education and failed in adopting measures towards the inclusion of those children to the national education system⁸¹. A positive development to this direction is the issuance by the competent Prosecutor's Office in Kalamata of a penal order, which making explicit reference to the ECtHR *Sampanis and Others v. Greece* case (Application no: 59608/09), requires that online education measures ensure access to education for all children and provide at same time the necessary resources and/or devices to that end⁸². Bearing in mind the above mentioned, the GNCHR shares the ELLAN PASSE reports that many Roma communities across the country have been and continue to be in a **severe humanitarian crisis**⁸³. Furthermore, the GNCHR shares the Concluding Observations of CERD, which has drawn, since 2016, to the attention of the Greek authorities its concerns about the **deficiencies and inequalities in case of Roma in different areas** (particularly economy, health care, housing, social policy and education) and further recommended addressing the problem both in the short-term and in a sustained manner through effectively coordinating actions at the national, regional and local levels⁸⁴.

⁷⁸ According to the letter, the Pan-Hellenic Confederation of Greek Roma HELLAN PASSE (hereinafter HELLAN PASSE) calls upon the Minister, among others, to draw up an action plan for equal access of all Roma children to the educational process and to ensure for this purpose the necessary child budgeting. The GNCHR closely monitors the progress made by the authorities to this end. Previously HELLAN PASSE, in its 12.10.2020 Memo to the GNCHR, has stressed the great importance for Roma women, who often quit school to enter into an early marriage and childbirth to attend second chance schools along with their children.

⁷⁹ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012, par. 26-27.

⁸⁰ FRA, EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016, p.10

⁸¹ ECtHR, *Sampanis and Others v. Greece*, [Application No. 32526/05], 5.6.2008 and [Application no: 59608/09], 11.12.2012, and ECtHR, *Lavida and Others v. Greece* [Application No. 7973/10], 30.8.2013. According to the court decisions, “*despite the authorities’ willingness to provide schooling for the Romani children, the arrangements for registering the children in question at school and their assignment in special preparatory classes – hosted in an annex to the main building of the school – has definitively resulted in discrimination*”. See also [GNCHR Submission to UNCRC](#), January 2020, 30-31, 48.

⁸² In particular, following a request from HELLAN PASSE in collaboration with the association of Greek Gypsies (Halkidaioi) of Agia Triada in Kalamata, the competent Prosecutor's Office proceeded with a penal order, pursuant to the ECtHR decision (Application 59608/09) [case of Sampani and others vs Greece](#) (par. 75 of the ratio of the decision), setting out that in order for the right to education to be essentially implemented, it must be first provided regardless of the circumstances. The ECHR, which is supra-legislative, shall be strictly implemented [...]. In this framework, distance-learning measures shall ensure access to the education providing at same time the necessary resources to that end. See ELLAN PASSE Contribution to the GNCHR Report, May 2021.

⁸³ ELLAN PASSE, Contribution to the GNCHR regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, May 2021.

⁸⁴ See CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 20-21.

The GNCHR encourages the competent State authorities to **ensure the effective implementation of the existing anti-racism regulatory framework in practice**⁸⁵.

Incidents of alleged police violence against Roma people

The GNCHR remains deeply concerned with the rising of incidents of alleged police violence towards Roma people during the pandemic. However, there are low reporting rates of Roma complaints which should be interpreted, according to a survey of the EU Fundamental Rights Agency along with the high prevalence rates of discrimination based on ethnic origin (48% in Greece)⁸⁶. Aware of this situation and recognizing that **the Greek Roma community is the most exposed part of Greek society during the pandemic**, the GNCHR underlines that **Roma should not be selectively blamed for spreading the virus**. In this regard, the National Commission in its last Covid-19 Report, taking into account the Police extensive powers for monitoring the compliance with Coronavirus emergency measures in connection with allegations for unjustified use of force and violence by police officers (recent incidents in Aspropyrgos, Larissa, Agia Sofia in Thessaloniki), drew once again the attention of the competent authorities to the need to avoid police violence and arbitrariness against Roma citizens⁸⁷. More recently, the GNCHR was notified by ELLAN PASSE of new incidents of police impunity and violence abuse, that took place, pursuant to witnesses testimonies, in a Roma camp in Zevgoliati in Corinth in 07/07/2021, during a Police operation⁸⁸. The frequency of the cases, which makes the phenomenon seem systemic, the court delays and the judicial leniency in some cases⁸⁹, result in a regime of substantial impunity. In this respect, the GNCHR would like to reiterate here its observations included in its Covid-19 Reports with regard to the Police obligation to use its currently extensive powers in compliance with its mandate and in order to serve and protect citizens while respecting their fundamental freedoms and human rights⁹⁰. At this point, the GNCHR shares the CERD's recommendations⁹¹, highlights the importance of **proper, initial and periodic training and retraining of law enforcement officers on human rights** and welcomes the Prime Minister's announcement for a comprehensive upgrade of police studies to this end.

⁸⁵ See *supra*, p. 14 et seq.

⁸⁶ FRA, EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016.

⁸⁷ ELLAN PASSE, Contribution to the GNCHR Report regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, May 2021.

⁸⁸ ELLAN PASSE Letter to the Minister of Citizen Protection (Prot. Nr. 633/09-07-2021). In this regard ELLAN PASSE convicted the incidents and called upon the authorities to end police impunity and combat antigypsyism.

⁸⁹ GNCHR [Report](#) and Proposals on issues related to the situation and the rights of the Gypsies in Greece, 2009 [in Greek].

⁹⁰ GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

⁹¹ See CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 21.

The issues of pending civil registration and acquisition of Greek citizenship

The issue of the **pending civil registration of a large number of Greek Roma remains unsettled**⁹². Due to the fact that births often do not take place in a hospital and therefore are not declared, Roma children do not have a birth certificate and thus no access to the education. Moreover they later face the challenge their own children to be children of stateless parents born in Greece⁹³. The settlement of the process would further contribute to the social inclusion of Roma and thus to the prevention and combating social exclusion and marginalization of the Roma. The problem has been pointed out in its Concluding Remarks on Greece by the UN Committee on the Rights of the Child since 2012, while the State itself acknowledges this administrative challenge in par. 72 in its respective Report⁹⁴.

The GNCHR has repeatedly expressed its strong concerns in this direction, especially to the extent that **settlement of the registration is the main condition for proving or acquiring Greek citizenship**⁹⁵. In particular, in its recent Observations on Law 4604/2019 by the Ministry of Internal Affairs⁹⁶, the GNCHR underlined the **need to facilitate the acquisition of Greek citizenship for those Roma people**, who remain unregistered and who, in order to apply for citizenship, have to follow a long-term and expensive judicial procedure for the issuance of the legal documents required by law in cases of pending civil registrations pursuant to Article 1 par. 2 KEI. While the GNCHR's proposals were accepted by the national legislator and the law provided, for the first time, for the recognition of Greek citizenship for stateless Roma and their consequent civil registration settlement (article 46 of Law 4604/2019), a subsequent amendment by Law 4674/2020⁹⁷, abolished the favorable provisions before they start being implemented (article 40 of Law 4674/2020).

⁹² GNCHR [Contribution](#) to the elaboration of the new Roma Inclusion National Strategy 2021-2027, 8 March 2021 [in Greek], p. 19-20, [GNCHR Submission to UNCRC](#), January 2020, Written [Information](#) submitted by the GNCHR in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, 2016, p. 16, GNCHR [Submission](#) to the United Nations Human Rights Committee: NHRI report on Greece's 2nd periodic report under the International Covenant on Civil and Political Rights (ICCPR), 2015, p. 10.

⁹³ See GNCHR [Contribution](#) to the elaboration of the new Roma Inclusion National Strategy 2021-2027, 8 March 2021 [in Greek], p. 19-20.

⁹⁴ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012, par. 32-33 and 71.

⁹⁵ GNCHR [Contribution](#) to the elaboration of the new Roma Inclusion National Strategy 2021-2027, 8 March 2021 [in Greek], p. 19-20, [GNCHR Submission to UNCRC](#), January 2020, Written [Information](#) submitted by the GNCHR in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, 2016, p. 16, GNCHR [Submission](#) to the United Nations Human Rights Committee: NHRI report on Greece's 2nd periodic report under the International Covenant on Civil and Political Rights (ICCPR), 2015, p. 10.

⁹⁶ GNCHR [Observations](#) on draft Law "Promotion of substantial gender equality, prevention and combating gender-based violence - Provisions for Greek citizenship - Provisions for local government elections - Other provisions" Government Gazette 50/A/26.03.2019).

⁹⁷ "Strategic development perspective of the Local Government Organizations, provisions for the competence of the Ministry of Interior and other provisions" (Government Gazette 53/A/11-3-2020).

Roma Inclusion National Strategy 2021-2027⁹⁸

A positive step is the launch by the General Secretariat for Social Solidarity and Fight Against Poverty of the Ministry of Labour and Social Affairs of the elaboration process of the new **Roma Inclusion National Strategy 2021-2027**. The GNCHR **applauds the timely notification on the content of the Roma Inclusion National Strategy 2021-2027** under preparation by the General Secretariat for Social Solidarity and Fight Against Poverty of the Ministry of Labour and Social Affairs, in order for the National Commission to provide its expert views as the independent advisory body to the State on all matters pertaining to human rights protection and promotion and the National Human Rights Institution in Greece⁹⁹. The GNCHR, fully aware of its mission, notified to the Ministry its observations and proposals and at the same time suggested providing awareness-raising, information and training activities to this direction¹⁰⁰. Likewise the GNCHR welcomes the involvement in the process of the civil society, such as ELLAN PASSE, which is also in line with the observation of CERD to improve both monitoring and accountability mechanisms and the representation of Roma in those mechanisms¹⁰¹.

Furthermore, the GNCHR appreciates the fact that **the new National Strategy is in line with the proposals and findings of the European Commission** in its Communication to the European Parliament and the Council concerning the new EU Roma strategic framework for 2020-2030, promoting effective equality, socio-economic inclusion and meaningful participation of Roma¹⁰², which further requires a strengthened commitment necessary to tackle persistent discrimination, including antigypsyism, and to improve inclusion of Roma people in education, employment, health and housing. Moreover the GNCHR underlines here that the **substantial participation of the Greek Roma through their Representatives, Roma local associations and federations and the Roma community itself, must be ensured** at all stages of policy-making, design, implementation, monitoring and evaluation of measures, actions and policies, so to effectively address their challenges and needs¹⁰³.

As far as the monitoring and evaluation of measures, actions and policies is concerned, the GNCHR deplores the absence of a comprehensive evaluation of the actions and implementation measures of the Roma National Strategy 2012-2020, reiterating at the same time its positions on the importance **of indicators in measuring the progress of Roma equality, inclusion and participation and**

⁹⁸ GNCHR [Contribution](#) to the elaboration of the new Roma Inclusion National Strategy 2021-2027, 8 March 2021 [in Greek].

⁹⁹ Letter to the GNCHR by the General Secretariat for Social Solidarity and Fight Against Poverty of the Ministry of Labour and Social Affairs (Prot. Nr. 756/11.2.2021).

¹⁰⁰ GNCHR [Contribution](#) to the elaboration of the new Roma Inclusion National Strategy 2021-2027, 8 March 2021 [in Greek].

¹⁰¹ CERD, Concluding observations on the twentieth to twenty-second periodic reports of Greece, 3 October 2016, [CERD/C/GRC/CO/20-22](#), par. 21.

¹⁰² [COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL](#) A Union of Equality: EU Roma strategic framework for equality, inclusion and participation, COM(2020) 620 final, [ANNEX I](#), [ANNEX II](#).

¹⁰³ See also Report of Civil Society Organizations for the implementation of the National Strategies for the Integration of the Roma in Greece, Evaluating progress in the four key policy areas of the National Strategy, 2018

thus facilitating the reporting¹⁰⁴. From this point of view, the GNCHR suggests to the competent authorities and stakeholders to take advantage from the findings of the evaluation of the previous EU Framework for National Roma Integration Strategies in 2018 and **develop a set of indicators** following the model developed by the European Commission (Structural indicators, Process indicators, Outcomes or result indicators)¹⁰⁵.

Additionally, as the GNCHR pointed out while evaluating the results of the implementation of the "Integrated Action Plan for the Social Inclusion of Greek Roma 2001-2008", a key criterion for Roma social inclusion, is the **establishment of legal guarantees**, i.e. an integrated institutional and regulatory framework capable of ensuring the effective participation of Roma people in social life and capable of limiting at the same time those factors that could undermine implementation¹⁰⁶. In parallel, the new Strategy is an opportunity **to maintain a single coherent system for regularly collecting statistics and related data**, that would feed into reporting and monitoring, improve transparency and accountability, and promote policy transfer and learning¹⁰⁷.

The GNCHR remains vigilant and calls upon the competent State authorities to launch a comprehensive extended long-term public consultation of the **Roma Inclusion National Strategy 2021-2027** with all relevant stakeholders, especially ensuring the participation of Greek Roma communities itself.

Mixed migratory flows: migrants, asylum seekers and refugees (COBs par. 22-23)

As a general remark, it is true –and indeed, the Committee on Elimination of Racial Discrimination and other human rights bodies have acknowledged that - that Greece, due to its geographical location, situated at the external EU borders served the last years (2015-2020) as one of the main gateways to Europe for people fleeing persecution or poverty in their home countries. A small State submerged in a deep debt crisis for years and with limited infrastructure to host asylum seekers was called upon to manage hundreds of thousands of people asking simultaneously for access to the territory, to asylum and to proper accommodation. Based on the UNHCR's statistical data, there were steadily large numbers of third country nationals arriving irregularly at the Greek shores or the Evros river in 2017

¹⁰⁴ GNCHR Observations on the National Action National Plan of Action for Children's Rights on Children's Rights 2018-2020 (29.11.2018) [in Greek].

¹⁰⁵ FRA [Monitoring framework for an EU Roma Strategic Framework for Equality, Inclusion and Participation: Objectives and indicators](#), 2020, European Commission (2018), Communication from the Commission to the European Parliament and the Council – [Report on the evaluation of the EU Framework for National Roma Integration Strategies up to 2020](#), COM(2018) 785 final, Brussels, 4 December 2018.

¹⁰⁶ Written [Information](#) submitted by the GNCHR in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, 2016, p. 15-16.

¹⁰⁷ See [COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL A Union of Equality: EU Roma strategic framework for equality, inclusion and participation](#), COM(2020) 620 final, p. 7. The European Commission encourages Member States to consult [the European handbook on equality data](#) (2016 revision), [Guidelines on improving the collection and use of equality data](#) (2018) and [Data collection in the field of ethnicity](#) (2017). Member States are encouraged by the European Commission to allocate the necessary resources for such data collection and take advantage of the support of the FRA in order to strengthen their capacities to this end.

(36.310) and 2018 (50.508) with an increase in 2019 (74.613) and a decline in 2020 (15.696). Even if Greek legislation had already provided for the establishment of First Reception Centers since 2011 (Law 3907/2011), organized centers of first reception for refugees and migrants began to operate several years later. The first Centers of First Reception operated at Evros in March 2013. Nowadays, there are six RICs operating at borders (Chios, Samos, Fylakio, Leros, Kos, Mytilene) and thirty-three facilities in mainland Greece. Specifically, after the adoption of the EU-Turkey Statement in March 2016, all people who irregularly cross the Greek-Turkish sea borders are obliged to stay in the Eastern Aegean Islands pending the examination of their applications for international protection; therefore, a geographical restriction is imposed on them. This led to an overcrowding of reception facilities and an increased demand of access to asylum in the islands. The newly established Greek Asylum Service (June 2013) was overwhelmed by applications for international protection. From the date of its operation until the end of 2019, it had received 281.372 applications out of which 87461 were pending at that moment. Existing Regional Asylum Offices in Lesbos and Rhodes were reinforced and new Regional Asylum Offices in Samos, Chios, Leros and Kos were established to meet the needs. However, despite the increase of Asylum Offices and Reception and Accommodation Centers, the so-called “refugee crisis” in Greece continued for several years revealing the shortcomings of the system, as prescribed by EU law and implemented by the Greek authorities, creating an asphyxiating situation for migrants and refugees, especially at borders. The Greek National Commission closely monitors the situation since the beginning of the “crisis” exercising its overall breadth of competence with a view to protect and prevent violations of refugee and migrants’ rights. With respect to all recent major amendments to national legislative framework on migration, international protection and naturalization, the GNCHR offered its consulting services to governmental and parliamentary authorities with a view to harmonize national legislation and practice with international and European human rights standards. Some of the below specific comments have been already addressed to the Greek State in the form of recommendations.

The Greek State is bound by all major regional and international human rights treaties, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as mentioned above and Protocol No 4 to the European Convention on Human Rights which contains the prohibition of collective expulsion of aliens in article 4. The GNCHR welcomed the active participation and adoption by the Greek State of the two Global Compacts on Refugees and Migration. However, it advises the State to advance with their implementation at national level, by drafting a National Implementation Plan of the Global Compact for Migration. In relation to the above and to the key targets of Greece, as mentioned in par. 79 of the State Report, the GNCHR reiterates its firm belief that a holistic and human rights based approach should be adopted in the Greek State’s strategic planning on migration and asylum policies. Legal migration is inextricably linked to irregular migration, which puts the lives and rights of the people on the move at risk. The CERD has adopted the same view in its 2016 Concluding Observations. In par. 26, the Committee called the Greek State to increase its efforts to ensure the respect of

migrants' rights arriving in the same migratory flows as refugee and asylum seekers. In this respect, a strengthened international and European cooperation is needed. More accessible and legal routes for migration to Europe will help alleviate the human suffering of irregular migrants trapped at EU borders as well as the pressure of national reception and asylum systems of frontline States that pay the high price of failed EU policies.

Protection of human rights at borders

The CERD during the previous reporting cycle has put an emphasis on the situation at borders, formulating concrete Recommendations to the Greek State in light of the unfavorable situation that was being establishing in the field at that time. Despite the decrease of the flows in subsequent years (2017-2020), persistent shortcomings in the Greek reception system and asylum procedures in combination with the de facto entrapment policy imposed to all third country nationals arriving at the Greek shores in the aftermath of the EU-Turkey Statement, created an asphyxiating situation resulting in the rise of incidents of violence and delinquent behaviors among migrant communities as well as adding to a general climate of civil unrest involving also inhabitants and police forces.

The Greek National Commission has since the beginning condemned EU outsourcing policies of migration control to third countries that did not offer an equivalent to the Geneva Convention protection, in accordance with EU law provisions (application of third country concept). In addition, its standard Recommendation to the Greek State had been the immediate transfer of those who still live in RICs to mainland to ensure the decongestion of the overcrowded reception centers in the islands. Priority had to be given to vulnerable applicants for international protection and unaccompanied minors for whom the living conditions in the islands were definitely not suitable – according also to ECtHR's relevant interim orders and judgments¹⁰⁸ – and adequate support was needed in order to sustain a decent living while their applications for international protection were being examined by the Greek authorities.

¹⁰⁸ J.R. and others v. Greece, application no. 22696/16, 25.1.2018 (violation of Article 5 par. 2); Kaak and others v. Greece, application no. , 3.10.2019 (violation of Article 5 par.4); Sh.D. and others v. Greece, application no. 14165/16, 13.6.2019 (violations of Articles 3 and 5 par.1); H.A. and others v. Greece, application no. 19951/16, 28.02.2019 (violations of Article 3, 13 in conjunction with 3 and 5 paras. 1 and 4). Equal Rights beyond Borders, Application no. 59841/19, A.R. v. Greece, Order on interim measures, 21.11.2019. Greek Council for Refugees, "The European Court of Human Rights provides interim measures to unaccompanied minors living in the RIC and the "jungle" of Samos island", 30.12.2019. Equal Rights beyond Borders, Application no. 6184/20, H.M. and R.M. v. Greece, Order on interim measures, 14.5.2020. Equal Rights beyond Borders, Application no. 15192/20, M.A. v. Greece, Order on interim measures, 29.1.2020. Equal Rights beyond Borders, Application no. 15782/20, M.A. v. Greece, Order on interim measures, 7.4.2020. Equal Rights beyond Borders, Application no. 19614/20, A.B. v. Greece, Order on interim measures, 14.5.2020. RSA, "European Court of Human Rights orders Greece to safeguard asylum seekers' life and limb on Lesbos", 24.9.2020.

Given the aggravating circumstances at land and sea borders with Turkey, the GNCHR decided in 2020 to prioritize monitoring activities at borders¹⁰⁹ and report in the following areas: (i) allegations of illegal forced removals and protection from refoulement, (ii) access to asylum procedures and reform of the Greek asylum law (iii) detention of asylum seekers and returnees and (iv) reception conditions with particular reference to vulnerable people and unaccompanied children. Preliminary findings of these activities can be found in the GNCHR's Reference Report on the Refugee and Migrant Issue¹¹⁰. However, a full analysis of findings and recommendations related to the above four particular areas of interest are included in a special National Report on the situation of human rights of migrants at the borders published under a project of the European Network of NHRIs on monitoring, reporting and protecting migrants' rights at borders (2019-2021)¹¹¹. A comprehensive comparative Regional Report on common findings and recommendations of several European NHRIs will soon be out¹¹².

(i) Allegations of illegal forced removals and protection from refoulement (CoBs paras. 22 (e) and 23 (c))

The GNCHR brought to the attention of the State, as early as 2002, reports from NGOs, such as Amnesty International and the World Organization against Torture, on illegal practices of violent push backs at the Greek-Turkish land borders, which raise concerns about respect for the fundamental rights of third-country nationals and the non-refoulement principle¹¹³. In recent years, and especially in 2020, there has been an increase in incidents reported by international organizations¹¹⁴, civil society¹¹⁵ and the press on individual or group pushbacks allegedly taking place at the Greek-Turkish land and sea borders - which also constitute the EU's external borders. What is most worrying is the lack of an effective investigation of those cases officially reported to the authorities generating a general climate of impunity. No Greek Court had yet ruled upon such a complaint¹¹⁶, and in few cases where official investigations

¹⁰⁹ On January 20 and 21, 2020, a delegation of the GNCHR made an on-site visit to Samos in order to monitor the implementation of its previous recommendations to the State on the refugee and immigration issue, to draw preliminary conclusions regarding the implementation of the new Law 4636/2019 on International Protection and finally to detect any new challenges in the field, due to the large number of foreigners trapped on the islands inside and outside reception and accommodation centers. See relevant press release.

¹¹⁰ Part B, September 2020.

¹¹¹ https://www.nchr.gr/images/English_Site/PROSFYGES/Greek_National_Report-compressed.pdf

¹¹² See preliminary findings: <http://ennhri.org/wp-content/uploads/2021/06/Presentation-regional-report-Tzavala-v2.pdf>

¹¹³ GNCHR, *Proposals for the Reception of Asylum Seekers and their access to asylum procedures*, 6.6.2002

¹¹⁴ The UN Committee Against Torture, the UN Working Group on Arbitrary Detention, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the Council of Europe's Commissioner for Human Rights have raised concerns over reported incidents of pushbacks.

¹¹⁵ Reports, information and complaints submitted by the Hellenic League for Human Rights, the Greek Council for Refugees and Amnesty International which are GNCHR's Members but also from Refugee Support Aegean, Human Rights 360, HIAS and ARSIS.

¹¹⁶ In June 2017, the Hellenic League for Human Rights a complaint was submitted before the Prosecutor of the Supreme Court Prosecutor regarding push-backs incidents against Turkish nationals during the period of May-June 2017. More recently, the Greek Council for Refugees submitted a criminal report to the Prosecutor of the Supreme Court, together with a file with information concerning allegations of illegal, informal and violent push-

were opened there has been no outcome. The Interim Report of the Greek Ombudsman on alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection concluded, among others, that the Ombudsman lacked *“the necessary statutory tools and means to investigate effectively and comprehensively the factual basis of the complains”* and underlined that *“all police replies to the Ombudsman’s enquiries included the following: the local police directorates noted that no evidence or indications emerged to confirm the allegations or to provide at least the necessary basis for a formal internal investigation for human rights violations by acts or omission of police officers”*. Likewise, during an online hearing organized by the Greek National Commission on 18 June 2020 on this specific topic¹¹⁷, the representatives of the Hellenic Police who attended stated that any complaints submitted in the past have been investigated in a substantial way and have proven unfounded. The information provided by the State in its Report reaffirms the above (par. 90). The EU Fundamental Rights Agency (FRA) has issued a Report on Fundamental Rights Issues at Land Borders which included information on the Greek situation, noting that *“independent monitoring at borders can help flag fundamental rights risks before violations may occur. Effective protection of fundamental rights requires systematic reporting of violations, effective investigation of all allegations, and effective and dissuasive sanctions when violations occur”*¹¹⁸. Monitoring mechanisms need to be truly independent, adequately resourced and have appropriate expertise and powers. What is also important is to ensure an enabling space for the effective and independent functioning of any monitoring body. All relevant authorities must respect the mandate of each monitoring mechanism (national or international and work constructively with them¹¹⁹. Recommendations of national and international monitoring bodies should be taken thoroughly into consideration by the Greek authorities when drafting legislation texts or formulating relevant policies. The UN Committee Against Torture (CAT), in its Concluding Observations (September 2019) in follow up of the examination of the seventh periodic report of Greece underlined: *“the Committee is seriously concerned at consistent reports that the State party may have acted in breach of the principle of non-refoulement during the period under review.”* In particular, the reports refer to repeated allegations of summary forced returns of asylum seekers and migrants, including Turkish nationals [...] of the Evros region, with no prior risk assessment of their personal circumstances¹²⁰. The UN Working Group on Arbitrary Detention, in follow up to its visit in Greece (December 2019) has stressed that: *“the Working Group was informed that some newly arrived persons in the Evros region*

backs of refugees from the Evros region, which also concern Turkish citizens, in particular during the period from 27.4.2019 until 19.6.2019. See the relevant [Press Release](#) [in Greek] and the [text of criminal complaint](#) in English, published by Statewatch.

¹¹⁷ The hearing of 18th June 2020 was attended by representatives of the Government, the competent security forces, international organizations, independent authorities and civil society organizations. See press release and statement July

¹¹⁸ https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-land-borders-report_en.pdf, p. 44

¹¹⁹ ENNHRI Opinion on Independent Human Rights Monitoring Mechanisms at Borders under the EU Pact on Migration and Asylum, March 2021

¹²⁰ UN Committee Against Torture, Concluding Observations on the seventh periodic report of Greece, 3 September 2019, CAT/C/GRC/CO/7.

are arrested, detained in very poor conditions, and summarily returned across the Greece-Turkey land border without being given the opportunity to apply for international protection in Greece". Following these, the Working Group urged the Government "to ensure that such practices, including any possible acts of violence or ill treatment that has occurred during such incidents, are promptly and fully investigated"¹²¹. The CPT issued its final Report in November 2020 calling on Greece to reform its immigration detention system and stop pushbacks¹²².

The GNCHR worried about the multiplication of reported incidents on pushbacks revealing a repeated methodology issued a Statement¹²³ calling the Greek authorities: to ensure that all state organs comply with the non-refoulement principle without exception, act in conformity with it and carry out rescue at sea operations in a timely manner, as required by international law; to establish an official independent mechanism for recording and monitoring informal pushbacks complaints, due to the most serious human rights violations involved; to effectively investigate allegations of informal pushbacks, disproportionate use of force and lethal injuries, underlining that any failure to do so not only contravenes international human rights obligations binding Greek authorities but also exposes the country under international human rights law; to bring those responsible for any such illegal act to justice; to ensure, through the use of technological equipment and other ways of operational action, the collection of objective data available to the police and judicial authorities for the effective investigation of complaints on pushbacks; to ensure an effective cooperation with the judicial authorities as required in the context of investigations of complaints on pushbacks; and to take measures on the effective access of victims to justice and their protection similarly to other victims of crime, such as victims of trafficking in human beings and victims of forced labor. In addition, the GNCHR called Frontex to ensure that its operations at the EU external borders with Turkey comply with the non-refoulement principle and the duty to rescue persons in distress at sea.

Noting that, albeit repeated calls by the GNCHR and other national and international bodies upon the Greek Government to effectively investigate reported incidents of informal forced returns, the Greek Government still denies all allegations of pushbacks at the Greek-Turkish borders, the GNCHR has established a Working Group for the establishment of a Mechanism for recording and monitoring incidents of informal forced removals, with the participation of civil society organisations active in the field and with the assistance of European and international organisations.

¹²¹ Working Group on Arbitrary Detention, Preliminary Findings from its visit to Greece (2 - 13 December 2019).

¹²² Report to the Greek Government 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 13 to 17 March 2020, CPT/Inf (2020) 35.

¹²³ GNCHR [Statement on the reported practices of push backs](#), July 2020.

(ii) Access to asylum procedures and reform of the Greek asylum law (COBs paras. 22 (c) and 23 (f))

As a consequence of the increased number of arrivals in 2015 and 2016¹²⁴ and the subsequent closure of borders along the Western Balkan Route, the Greek Asylum System reached its limits with almost 60.000 people trapped in Greece asking simultaneously for access to asylum. The standard operation hours of the Regional and Central Asylum Offices could not meet their needs and therefore the Asylum Service opted for the use of electronic means (online call via Skype) to facilitate access to registration of asylum claims¹²⁵ together with a coordinated action of the Ministry of Interior and the UNHCR Office in Greece, IOM and EASO to install movable asylum units in refugee camps all over Greece for a one-off pre-registration exercise¹²⁶. What is more, an accelerated special border procedure was instituted by Greek Law 4675/2016 for those falling within the ambit of the EU-Turkey Statement which in practice fell short of necessary procedural safeguards. This special asylum procedure still applies by virtue of art. 90 of Law 4636/2019. In addition, by a new Joint Ministerial Decision nr. 42799/2021, the safe third country concept applicable so far with respect to Syrians entering Greece through Turkey falling within the scope of the EU-Turkey Statement has been expanded to cover also Syrians, Afghanis, Pakistanis, Bangladeshis and Somalis applicants. Taken into account the de facto suspension of returns to Turkey for more than a year, and the restrictive scope of application of the Geneva Convention on the Status of Refugees in the Turkish territory, **the GNCHR is of the opinion that tens of thousands of asylum seekers risk to be exposed to a situation of legal uncertainty**; their applications for international protection already pending for months before the Greek Asylum Service will be rejected on admissibility grounds and they will be detained with a view to return to Turkey. However, without any tangible prospect of reactivation of returns to Turkey and without any guarantees that in fact, once returned to Turkey they will have access to asylum procedures, their right to asylum as well as other fundamental human rights are threatened.

Furthermore, the statistics on asylum applications offered by the State (SR paras. 119-128) reflect the situation in the field, where there has been a decrease of the “backlog” of pending applications due to Covid-19 which resulted in reduced flows –and thus fewer new applications – together with long periods of closure of administrative services to the public. Significant delays in registration of asylum claims (access to asylum) and in the examination of asylum applications at first and second degree (fair and efficient asylum procedure) were recorded by the GNCHR in 2020, varying from several months to years. **These delays still**

¹²⁴ According to [UNCHR data](#), 861.632 people arrived in Greece through sea or land in 2015 and 177.234 in 2016.

¹²⁵ Skype was exclusively used for booking an appointment to register an asylum claim with physical presence at the Asylum Service. However, not all third country nationals could benefit from this service –for certain nationalities there was no available interpretation and therefore queuing before the Regional Office was inevitable. In addition, due to the huge demand of access to Skype lines and shortage of administrative personnel and interpreters, access to the asylum was de facto restricted. See Campaign for the access to asylum, [Open letter to the Asylum Service](#), 19.5.2016.

¹²⁶ By virtue of this pre-registration exercise, 27.592 asylum seekers were pre-registered within 2 months (6.6.2016 – 30.7.2016). See relevant [Press Release](#) of the Ministry of Interior, 23.8.2016 [in Greek].

persist with regard to regular asylum procedures in mainland Greece whereas the border procedures have become faster but with fewer guarantees for asylum seekers.

An extended reform of the Greek Law on International Protection occurred in 2019 (Law 4636/2019) in order to streamline and speed up all procedures. Tighter deadlines were introduced but without securing first decent living conditions for the applicants, adequate legal safeguards for the most vulnerable ones, such as victims of torture and unaccompanied minors and the unhindered provision of free legal aid to all applicants who wish to submit an appeal, as minimum guarantees for a fair and efficient asylum procedure¹²⁷. More particularly, in October 2019, Law 4636/2019 on International Protection was passed by the Parliament, which aimed to codify separate national provisions for the recognition and status of beneficiaries of international protection, asylum procedures, reception conditions for applicants for international protection and judicial protection of them. However, soon afterwards, this legal framework was amended (see Law 4686/2020) since the newly established Ministry of Migration and Asylum wished to improve the provisions of Law 4636/2019 in order to speed up the process of granting international protection. In total, four amending laws of Law 4636/2019 have passed by the Parliament, with most of them concerning matters related to child protection¹²⁸. Most recently the GNCHR called upon the competent Ministers to urgently take the necessary measures, in line with international and regional standards on human rights, in order to tackle delays in renewal of residence permits in case of beneficiaries of international protection, who are employed with expired residence permits, through no fault of their own¹²⁹.

¹²⁷ For further analysis on the GNCHR's positions see [GNCHR's Observations](#) on Draft Law of the Ministry for Citizen's Protection "On international protection: provisions for the recognition and status of third country national or stateless persons as beneficiaries of international protection and other provisions" [in Greek only] and GNCHR's Observations on Draft Law of Ministry for Migration and Asylum "Improvement of migration legislation, amendments of provisions of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions" [[summary in English](#)]. For the current asylum procedure, visit the official website of the Ministry for Migration and Asylum, [Applying for Asylum](#).

¹²⁸ Law 4674/2020 "Strategic development perspective of the Local Government Organizations, regulation of issues within the competence of the Ministry of Interior and other provisions", Government Gazette A'53/11.3.2020, Law 4686/2020 "Improvement of migration legislation, amendments of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions", Government Gazette A'56/12.5.2020, Law 4756/2020 "Measures to support workers and vulnerable social groups, social security regulations and provisions for the support of the unemployed", Government Gazette A'235/26.11.2020 and Law 4760/2020 "Regulations of penitentiary legislation, provisions for the Provident Fund for Employees in the Security Corps and other provisions of the Ministry of Citizen Protection and the Ministry of Immigration and Asylum", Government Gazette A'247/11.12.2020. A new bill amending L. 4636/2019 was already launched in opengov for public consultation and will soon be submitted to the Parliament.

¹²⁹ GNCHR's letter (Prt. Nr. 179/21.7.2021) to the Ministers of Immigration and Asylum, of Labour and Social Affairs and of Citizen Protection. The GNCHR, having received numerous reports from civil society organizations, many of whom are members of the Racist Violence Recording Network, on significant deficits with regard to the protection of recognized refugees whose residence permits have expired and have not been timely renewed or extended by the competent State authorities, sent a letter to the Ministers of Immigration and Asylum, of Labour and Social Affairs and of Citizen Protection on the 21th July 2021. The GNCHR drew to the attention of the competent Ministers both the increased seasonal labour needs during the summer and the increased risk of labour exploitation and forced labour in case of employed beneficiaries of international protection with expired residence permits.

The GNCHR submitted its Observations to the competent authorities at all stages of the above legislative reforms and monitored the implementation of the new legal framework during on-site visits in Asylum Service and Regional Asylum Office of Samos and by convening an online hearing on matters of international protection and social security coverage of refugees with the participation of the competent authorities (Ministry for Migration and Asylum, Asylum Service), international organizations (UNCHR) and civil society (Greek Council for Refugees, Network for Children Rights, Greek Forum for Migrants, Greek Forum for Refugees, Danish Refugee Council, Solidarity Now, Doctors without Borders a.o.¹³⁰

More analytically, the GNCHR, evaluating Law 4686/2020 on Improvement of migration legislation, amendments of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions stated that although some of the new regulations were positive - for instance, the replacement of paper asylum card with an electronic card -, **expressed its reservations on the introduction of an e-service system for decisions on asylum applications which raises concerns as to its compatibility with the right to appropriate notification of a decision and of the reasons for that decision in fact and in law** (par.25 of the Preamble, Directive 2013/32/EU). The GNCHR noted that the manner in which the decision is serviced as well as the provision and quality of the interpretation/translation of the decision and of the information on how to challenge the decision determine decisively whether the applicant understood the content and the legal effects of the serviced decision in order to be able to file an effective remedy. The service of the decision directly to the applicant fulfills the criteria of "appropriate notification" or "simple and accessible way" of Law 4636/2019. Whereas, the service to a third person, i.e. the Director of the Reception and Identification Center or the plenipotentiary lawyer or other counselor does not guarantee the applicant's actual knowledge and jeopardizes his/her access to an appeal. It is the GNCHR's view that the non-provision within the text of the EU Directive of the possibility of notifying a decision by electronic means as well as the lack of a consistent practice from other EU Member States leads to the conclusion that this practice is unsafe. Article 82 par. 3 of Law 4636/2019 as amended stipulates that "Service of the decision to the applicant shall be effected by a registered letter to the registered address of residence or stay or at the place of work, to himself or to his attorney or to his authorized counsel or representative in accordance with article 65 hereof. Together with the decision, in the event that service is effected to the applicant, an accompanying form shall be communicated in a language which he understands and which shall explain in a simple and accessible manner the contents of the document served, its consequences for him and the actions he may take. Exceptionally, if the decision recognizes the applicant as a beneficiary of international protection, only the excerpt of the operative part of the decision shall be served in accordance with the above paragraphs".

Based on information received by NGOs working in the field with asylum seekers, **there are reported incidents of applicants not being informed in a language that they understand**

¹³⁰ GNCHR, [Press Release](#): the GNCHR held a hearing of bodies on issues of international protection and social security coverage of refugees, 7.7.2020 [in Greek].

of the content of the serviced decision. Moreover, in practice, there is a widespread use of the possibility to service the decision to the Director of the RIC or the detention center (special procedure for prisoners or residents in RICs as per par. 4 of article 82) who has the obligation to immediately find the applicant and service the decision in his/her hands. In addition, the organizations in the field confirm the concerns expressed by the GNCHR during the discussion of the new Law 4686/2020 before the Parliament in relation to the assumption of responsibility for the full registration of the application for international protection by the Reception and Identification Service. The GNCHR in its Observations in the Draft Law 4686/2020¹³¹ considered that the assignment of this competence without additional safeguards to the RICs might cause problems in the asylum procedure since under the new regime of Law 4636/2019, data and information provided by the applicant at the stage of full registration of his/her asylum claim are extremely critical to the categorization and further referral of his/her case to the relevant asylum procedure (priority, fast-track, Dublin, etc.). Therefore, the GNCHR emphasized that the assumption of the relevant responsibility by the RICs should be accompanied by the same substantive and procedural guarantees as in the asylum procedure (adequately trained staff, appropriate interpretation, prior information from the UNHCR or the European Asylum Support Office, adequate time to prepare etc). In the implementation of this provision, **the GNCHR found that the staff of the RICs who have undertaken the registrations are not specialized in this domain and do not have the necessary knowledge to avoid irreparable mistakes**, which may obstruct the transfer of persons to other countries through the Dublin III Regulation. For example, if the applicant's name or other personal information has not been properly recorded from the outset, they cannot be corrected at a later stage in the absence of an official identification document and thus, will not be accepted by the authorities of the other EU state.

Based on the new legislation, an electronic application of self-registration was launched by the Greek Asylum Service to facilitate access to asylum. However, applicants encounter several practical problems completing the online form which have been communicated by the civil society organizations to the Asylum Service. At borders, there are certain delays at the stage of registration of asylum claims at the Regional Asylum Offices of Samos and Kos while a serious complaint was raised by HIAS Greece on minors being systematically registered as adults by Frontex's personnel¹³². Finally, delays in full registration of unaccompanied minors and other applicants for international protection leads to a de facto loss of their right to family reunification under the Dublin procedure since on the one hand minors had already turned 18 and on the other hand the 3-month time period had elapsed¹³³.

A key problem that persists over time and which, despite the corrective actions of the Administration has not been resolved in practice is the inability to meet all the requests of the

¹³¹ GNCHR's Observations on Draft Law of Ministry for Migration and Asylum "Improvement of migration legislation, amendments of provisions of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions", 23.04.2020 [summary in English].

¹³² An official complaint was lodged before Frontex and the Greek Ombudsman.

¹³³ GNCHR, [Reference Report](#) on the refugee and migrant issue 2020, op. cit., p. 58 [Greek version].

applicants for **free legal aid at the appeals stage** in accordance with the provisions of national and EU law. The right of international protection applicants to free legal aid - at least in the second degree - is enshrined in Article 20 of Directive 2013/32/EU and is a basic procedural guarantee for the exercise of the right to an effective remedy (Article 46 of Directive 2013/32/EU, Article 47 of the EU Charter of Fundamental Rights, Article 13 of the European Convention on Human Rights). During the first weeks of implementation of the Law 4636/2019, the GNCHR's delegation in Samos found that an information sheet in Greek was being handed over by the Regional Asylum Office to rejected asylum seekers at first degree with information and directions how to submit an appeal under the new Law. This practice was of course defective to meet the requirements of the law regarding the adequate information of the applicant on his right to appeal. Based on information received by the organisations which participated in the 6th July 2020 hearing, only 33% of asylum seekers has access to free legal aid. The Register of Lawyers of the Asylum Service cannot cover the huge demand for legal aid. In the islands of the Eastern Aegean, free legal assistance from lawyers of the Asylum Service Register is from minimal to zero. Civil society organizations that provide free legal services to applicants are trying to fill the gap in the field, but they cannot cope with the tens of thousands of rejection decisions produced and serviced during the pandemic. The Ministry of Migration and Asylum has issued since 2018 two calls for lawyers to staff the Asylum Service Register, however there is limited participation due to unfavourable remunerations combined with the specialized knowledge required given the complexity of asylum procedures. The Asylum Service, reacting flexibly to the needs and the identified gaps in the field, recently decided to provide remote legal assistance to the islands of the Eastern Aegean through a video conference by lawyers of the Regional Office of Attica's Register. This model has been endorsed in Samos; the GNCHR has not yet evaluated its functionality and efficiency.

Moreover, the GNCHR had already underlined in its Observations in the Draft Law 4636/2019 the significant shortcomings and gaps that have been identified in practice during the evaluation of the operation of the provision of free legal aid in the second degree of the asylum procedure. **To ensure the accessibility of legal aid, the GNCHR called on the Greek State to ensure in practice the provision of free legal aid to all applicants wishing to file an appeal** as well as the explicit provision of a safeguard in case of objective reasons that prevented the applicant from receiving the free legal aid, although he had requested it. The only possibility currently offered by the Greek law is for the applicant to ask once for the postponement of the examination of his appeal to a subsequent date. The competent Independent Appeal Committee will review his claim for postponement and if it considers that the applicant will suffer an irreparable harm due to the lack of legal aid and that his appeal is likely to be accepted, then it will grant the postponement (article 98). The universal provision of free legal aid in the second degree becomes extremely critical and substantial after the introduction of Law 4636/2019 and the stricter procedures in the second degree (mandatory specific grounds for appeal against the penalty of inadmissibility, attendance in person or by proxy of the Independent Appeals Committee session, abolition of automatic

suspensive effect for certain categories of appeals and the need to file a separate application for suspension, etc.). The lack of legal aid can have a direct impact on the success or failure of the appeal and therefore raises questions regarding its ineffectiveness. Also of concern is the information received by the GNCHR from the Register of Lawyers of the Asylum Service¹³⁴ for an unusually dramatic reduction of applications for free legal aid after the entry into force of Law 4636/2019 as amended by Law 4686/2020. The amendments in the service of documents and the digitization of the process through the Asylum Service platform lead to the inability of the applicants for international protection to request timely free legal aid. There are also delays in the assignment of cases by the Regional Asylum Office to the Lawyers of the Register, resulting, in some cases, to the case being assigned to a lawyer after the submission of the appeal by the applicant.

In addition, the **abolition of the automatic suspensive effect** of the appeal and the introduction of a lot of exceptions (article 104 par. 2 of Law 4636/2019) for which the prior submission of a request for suspension is required by the applicant before the Independent Appeals Committee, although compatible under certain conditions with the EU law, it may be contrary to Greece's obligations under the European Convention on Human Rights. According to the settled case law of the European Court of Human Rights, a remedy in order to be effective within the meaning of Article 13 of the ECHR requires to have an automatic suspensive effect.

Furthermore, regarding the **exceptional application of the accelerated border procedure**, the GNCHR has already pointed out, in a relevant Report that the extremely short deadlines raise doubts about the effectiveness of the international protection process and that it has received reports from the UNHCR and a number of NGOs active in the field for shortcomings in the border procedure of article 90 par. 3 and for "poor quality" of decisions due to the super-fast procedure. In the same spirit, the European Union Agency for Fundamental Rights, in a recent Opinion, expressed doubts as to whether the deadlines of the border procedures of the former Article 60 par. 4 or/and of the ordinary procedure can be further shortened without the quality of the decisions being compromised¹³⁵.

In particular, regarding **vulnerable asylum seekers**, the GNCHR has noted certain irregularities in the screening process (identification) of victims of torture and/or other serious forms of psychological, physical or sexual violence or exploitation as well as major gaps in the provision of adequate psychosocial support to them as provided by Law 4636/2019. According to the new Law 4636/2019 (articles 39 par. 5 and 58 par. 1), the following categories of persons are considered as vulnerable: children, unaccompanied children, direct relatives of victims of shipwrecks (parents and siblings), persons with disabilities, elderly, pregnant women, single parents with minor children, victims of

¹³⁴ Observations by Lawyers from the Register of Lawyers of the Asylum Service on the implementation of Law 4636/2019 submitted to the GNCHR on 14.9.2020.

¹³⁵ European Union Agency for Fundamental Rights (FRA), [Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy](#), 04.03.2019.

trafficking, persons with serious illness, persons with cognitive or mental disability and victims of torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation. The finding that a person belongs to a vulnerable group has as its only consequence the immediate coverage of his / her special reception needs. However, significant delays in identification of vulnerable people¹³⁶, due to shortage of medical personnel present at borders result to asylum procedures being initiated without the applicants' vulnerability having been assessed. For the wider category of persons in need of special procedural guarantees due to their age, gender, sexual orientation, gender identity, mental disorder or as a result of torture, rape or other serious forms of psychological, physical or sexual violence (article 67 of Law 4636/2019), the cessation or non-application of the accelerated procedure laid down in Article 83 (9) and the border procedure laid down in Article 90 are provided for, under the condition that "adequate" or "appropriate" support is not provided, for instance the possibility for the applicant to move during the personal interview, if this becomes necessary due to his health situation, as well as the leniency in non-important inaccuracies and contradictions, insofar as the latter relate to the state of his health. However, the GNCHR had pointed out in its Observations¹³⁷ on the Draft Law that there was no mention of the indicative forms of "adequate support" mentioned in the Preamble (par. 29) of the EU Directive 2013/32, such as the provision of "sufficient time, in order to create the conditions necessary for their effective access to procedures and for presenting the elements needed to substantiate their application for international protection". The GNCHR has also highlighted the lack of provision by the Law for the relevant decision-making body and for the criteria on which it shall be decided whether or not those in need for specific procedural guarantees will be excluded from the above procedures. During the hearing of persons and entities held before the GNCHR on 6.7.2020, the difficulty of implementing this provision in practice was confirmed, due to the fact that, as non-governmental organizations pointed out, the criteria of "adequate support" are not clear, resulting to the creation of insecurity and inability to control and challenge the legitimate or not subjection to the accelerated procedure. In any event, for certain categories of persons in need of specific procedural guarantees, such as victims of torture and violence, it is objectively established that the conditions of "adequate support" are not fulfilled, as in practice there is a gap in the certification of victims (the competent bodies, i.e. public hospitals, declare lack of competence), while victim rehabilitation centers are not operating. Therefore, it is reasonable to expect that the victims in question cannot establish clearly and accurately the facts which led them to leave their country of origin and give sufficient evidence supporting their claims without previously obtaining proper medical and psychological treatment (Article 61 of the Law 4636/2019).

¹³⁶ AIDA Country report on Greece, last updated: 30/11/2020. See in particular the Chapter on Asylum Procedures/Guarantees for vulnerable groups/[identification](#).

¹³⁷ GNCHR, Observations on the Draft Law of the Ministry for the Protection of Citizen "On International Protection ... and other provisions" (2019), *op. cit.*, pp. 19-20.

The GNCHR, conscious of the significant problems for the physical and mental health of asylum seekers **victims of torture or related acts of inhuman treatment**, who do not receive in practice medical care and rehabilitation, held a hearing on 4.3.2020 in order to identify any gaps and deviations in national legislation in the light of the EU framework, international conventions, and guidelines, and to capture the obstacles which exist during the implementation of the procedures for the identification and rehabilitation of victims of torture. Following this hearing and based on a thorough research, the GNCHR expressed its particular concern for the incorrect transposition of article 25 of the EU Directive 2013/33 into the national legal order, which imposes an obligation on public authorities to identify and rehabilitate victims of torture. In the same context, it was stated that the competent authorities for the identification of victims of torture did not apply article 61 of Law 4636/2019, since they did not have the appropriate knowledge to perform their duties, a fact that due to its gravity has a serious impact on the core of the right to the identification of victims of torture, which may adversely affect their request for international protection. To that end, the GNCHR submitted a specific proposal for the amendment of article 61 of Law 4636/2019 to the Greek State, so that it can be both reflected the full scope of the requirements of article 25 of the EU Directive 2013/33 and institutionalized the distinction and the different purposes of the concepts of "identification" and "certification" of the victims of torture. The GNCHR also proposed specific additions to the provisions of Articles 61 and 77a of Law 4636/2019, so that the staff working in the relevant field can be properly trained and thus, identify "obvious" cases but also incidents for which there are indications of torture, in order for the victims to be referred to rehabilitation immediately and without undue delay. With regard to the entities which will be involved in the above procedures, the immediate need to establish a permanent mechanism of uninterrupted funding, in order to carry out the processes of identification and rehabilitation of victims of torture was also stated. Finally, the GNCHR pointed out that in addition to the "identification" process, the "certification" of victims of torture is a different concept, since the latter aims at the submission of certificates for judicial use. Furthermore, the "certification" of victims of torture must be carried out in the light of the principles of the Istanbul Protocol, namely by a full scientific team, which will be independent of any public or private body for reasons of impartiality and objectivity, following the purposes, principles, guarantees, and procedures set out in the above-mentioned Protocol. Regarding the condition and the procedures of the "certification" of the victims of torture which take place in Greece, the GNCHR reserved to express its views in the future in the context of the process concerning the drafting of the respective national legislation.

With regard to **unaccompanied asylum seekers**, who fall within the broader category of persons in need for special procedural guarantees, it is extremely worrying that the explicit reference in previous Law 4375/2016 that all unaccompanied minors are exempted from accelerated procedures was abolished. Following consultations on the Draft Law 4636/2019 and the reactions of many institutions, independent authorities, international organizations and organizations for the protection of refugees and migrants, a new provision was

introduced whereby applications of unaccompanied minors under 15 years of age or/and minors who are victims of trafficking, torture, rape or other serious forms of psychological, physical or sexual violence are only exempted from accelerated asylum procedures. This last provision is questioned by the GNCHR as to its compatibility with EU law (article 25 par. 6 of EU Directive 2013/32 on Guarantees for unaccompanied minors). A major shortcoming of the procedure of examining asylum applications by unaccompanied children is the lack of a guardian or representative for every child to assist him/her throughout the procedure. A consistent Recommendation of the Greek National Commission, which is in line with the relevant Recommendations of UN treaty bodies, is the appointment as soon as possible of a guardian for each unaccompanied minor, who will exercise genuine care and supervision of the minor. Law 4554/2018 established for the first time a regulatory framework for guardianship of minors, which, however has not yet been implemented. The provision, which was introduced in 1999 and has remained in force ever since, according to which Juvenile or other Court Prosecutors act as temporary guardians of unaccompanied minors has been deemed problematic in practice. Their role is limited by the law regarding the appointment of a guardian and does not include the exercise of daily care and supervision of the minor, for which there is a real protection gap.

The UN Working Group on Arbitrary Detention that visited Greece from 2 to 13 December 2019 upon the invitation of the Government has urged the authorities to ensure the prompt examination of applications from vulnerable individuals in practice¹³⁸. While Law 4636/2019 provided for a prioritization of their asylum applications, in practice this could not be achieved due to shortcomings on vulnerability assessments which prolonged the asylum procedure. Although speedy asylum procedures for vulnerable people are of utmost importance, the fairness of the asylum procedure could be imperiled if not accompanied by a strict compliance with special procedural safeguards provided by law. Therefore, subsequent Law 4686/2020 de-prioritized their asylum applications.

At the end of February – beginning of March 2020, increasing tensions were observed at the Greek-Turkish land borders when suddenly large group of migrants and refugees, with the invitation of the Turkish government gathered along the border line asking for entry into EU territory. The Greek Government considered that the "sudden, massive, organized and coordinated pressure from population movements on its eastern, land and sea borders constitutes an active, serious, exceptional and disproportionate threat to the country's national security" and suspended for one month the lodging of new asylum applications¹³⁹. The State Report refers to the measures adopted to address this urgent situation in paras 80-86, describing accurately the events that took place. It is significant to note that indeed during this crisis situation, the Greek authorities cooperated with independent monitoring bodies,

¹³⁸ Report of the Working Group on Arbitrary Detention on its visit to Greece, 29 July 2020, A/HRC/45/16/Add.1. par. 81.

¹³⁹ Greek Legislative Act "Suspension of Asylum Applications", Government Gazette A' 45, 02.03.2020.

such as the European Committee on the Prevention of Torture (CPT) who performed an *ad hoc* visit at borders in March 2020¹⁴⁰.

The GNCHR, noting with concern the developments on the Greek-Turkish land borders, among others, issued a Statement with specific proposals addressed to the national authorities as well as to the EU and its Member States¹⁴¹. In fact, the GNCHR called upon the Greek Government to lift the decision to suspend the lodging of asylum application as well as the decision to automatically return newcomers to the states of origin or transit – while providing for a legal access route to asylum in a coordinated manner. Indeed, at the end of March 2020, the suspension measure of lodging an asylum application in Greece ceased permanently, while those who entered in March 2020 and wished to apply for international protection were able to register their claim. However, the GNCHR expresses its concern about the indiscriminate prosecution and detention of those who have illegally entered Greece in March 2020.

(iii) Detention of asylum seekers and returnees (COBs par. 22 (a) and par. 23 (a))

In accordance with European Union law and Article 5 of the European Convention on Human Rights, the deprivation of liberty on grounds related to immigration can only be employed as a last resort and unless less intrusive measures are sufficient to achieve the legitimate aim pursued¹⁴². Irrespective of the above, detention shall be imposed only on the basis of an individual assessment and provided that alternative measures have already been considered¹⁴³. Under previous regime (Law 4375/2016) new arrivals were being detained for 3 to maximum 25 days inside reception and accommodation centers. When they applied for asylum, there were normally released and hosted in reception and identification centers. Due to the overcrowding in RICs at the Aegean Islands, this measure was soon abolished in practice. On the other hand, if they did not apply for asylum or there were reasons for absconding or had committed an offence, they were being detained either in police departments or in pre-departure detention centers. Similarly, detainees who have expressed their will to voluntarily return to their country of origin via International Organization for Migration programmes were also being detained. This last practice was criticized by the CPT

¹⁴⁰ The CPT made a five-day rapid reaction visit to Greece to examine the way in which persons attempting to enter the country and apprehended by the Hellenic Police or Coast Guard have been treated, notably since 1 March 2020, when inter alia the processing of asylum requests was suspended. The visit took place between 13 and 17 March 2020.

¹⁴¹ GNHCR, [Statement](#): Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 5.3.2020.

¹⁴² Article 8 of the Directive 2013/33/EU on Reception Conditions and Article 15 of the Directive 2008/115/EC on Returns. European Union Agency for Fundamental Rights, [Alternatives to detention for asylum seekers and people in return procedures](#), October 2015. See also Council of Europe, Steering Committee on Human Rights (CDDH), [Analysis of the legal and practical aspects of effective alternatives to detention in the context of migration](#), CDDH(2017)R88add2, 26.01.2018.

¹⁴³ Regarding the issues of detention of asylum seekers, see also GNCHR, Comments on the Bill by the Ministry for Citizen Protection: "Establishment of Asylum Service and First Reception Service, adjustment of Greek legislation to the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals' and other provisions", 2010.

delegation who made an ad hoc visit to Greece in 2016 and was further reiterated in 2018¹⁴⁴. In 1.11.2019, 4.385 migrants were being detained for immigration purposes (administrative detention) whereas returns were effectuated at a slower pace. The Greek Ombudsman reiterated that if detention becomes the rule rather than an exception, the legal basis of proportionality of the deprivation of liberties will be tested. It is all too clear that, with respect to the return-readmission system, what is at stake is the endurance of both the EU borders and the rule of law, as one of the core and founding values of the EU¹⁴⁵.

The United Nations Committee Against Torture (CAT), in the Concluding Observations on the Seventh Periodic Report of Greece¹⁴⁶, expressed its additional concern over the fact that detained migrants and asylum seekers are often deprived of fundamental judicial guarantees, such as access to a lawyer and the right to lodge objections against detention. In view of the GNCHR's Recommendations¹⁴⁷, the CAT noted that Greece should refrain from the detention of asylum seekers and foreigners who have irregularly entered Greece for a long period of time and make use of detention as a last resort and for the shortest period of time possible, while highlighting the need to ensure procedural guarantees to the detainees, such as access to a counsel, the possibility of challenging the legality of administrative detention and the provision of adequate health care.

More specifically, with regard to **vulnerable applicants for international protection**, the GNCHR has already expressed the Opinion that they should not be detained, as the imposition of the detention measure on a person belonging to a vulnerable group constitutes, as a rule, a disproportionate measure¹⁴⁸. Similarly, with regard to **minor third-country nationals**, irrespective of their residence status in the country and regardless of their family status (if they are unaccompanied or accompanied by an adult), they should not be detained for reasons related to immigration and asylum law. Several international and regional monitoring mechanisms, like the ECtHR, the European Committee on Social Rights and the UN Committee Against Torture have condemned the practice of minor children being detained in police stations under the "protective custody" regime¹⁴⁹. Law 4760/2020 that abolished detention of

¹⁴⁴ [Report](#) to the Greek Government on the visits carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to Greece carried out from 13 to 18 April 2016 and 19 to 25 July 2016, CPT/Inf (2017) 25, par. 29. [Report to the Greek Government](#) on the visit to Greece carried out by CPT from 10 to 19 April 2018, Strasbourg, 19 February 2019, paras. 83, 96.

¹⁴⁵ The Greek Ombudsman, Return of third country nationals, [Special Report 2019](#).

¹⁴⁶ Committee against Torture, [Concluding observations](#) on the seventh periodic report of Greece, par. 20-23.

¹⁴⁷ GNCHR, Information relevant to the implementation of the Convention against Torture (2019), p. 23.

¹⁴⁸ GNCHR, [Observations](#) on the draft law of the Ministry for Migration Policy "Transposition into Greek legislation of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast, L180/96/29.6.2013) and other provisions, Amendment of Law 4251/2014 (A' 80) regarding the transposition into Greek legislation of Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, Amendment of asylum procedures and other provisions" [in Greek], 7.5.2018. The GNCHR proposed the abolition of the relevant legislative provision.

¹⁴⁹ GNCHR, [Statement](#): The GNCHR calls on the State to urgently adopt the immediate measures indicated by the European Committee of Social Rights regarding the minor foreigners [in Greek], 19.9.2019.

unaccompanied minors in police departments is a positive step. In practice, given the official statistics¹⁵⁰, only few children are being detained in police departments and for the shortest period possible.

Under Law 4636/2019 on International Protection which entered into force on January 1st 2021, measures restricting the freedom of third country nationals are generalized and strengthened. Detention measure expressly extends to all applicants for international protection, even at liberty, including vulnerable persons and unaccompanied minors. According to information that the GNCHR received from civil society organizations, following the entry into force of Law 4636/2019, a broad interpretation of the concept of "public order risk" is observed in the field, so that several applicants for international protection, who are free, are arrested and detained without a detailed reasoning¹⁵¹.

Another persistent violation of human rights in practice is the absence of consideration and use of alternative to detention measures, despite repeated recommendations by international and national human rights bodies and even in light of the pandemic that aggravated the risk for their life and health of those detained in pre-removal centers with no prospect of return to Turkey, given the de facto suspension of all returns of third country nationals to Turkey since March 2020. International organisations and human rights bodies have called for the release of all migrants in detention and the use of alternatives¹⁵². It is a well-established rule that pre-removal detention with no prospect of deportation may raise issues of arbitrariness and unlawfulness.

In addition, although Law 4636/2019 provides for a maximum detention period of 18 months for asylum seekers and Law 3907/2011 provides accordingly a maximum detention period of 18 months of returnees, in accordance with EU Directives, the GNCHR is alarmed by the vague wording of new article 46 (5) of Law 4636/2019, whereby applicants for international protection may be detained for a maximum of 18 months (in the context of the asylum procedure), with a possibility of prolongation of the detention for another 18 months (in the context of the return procedure), so consecutively 36 months (see SR par. 137).

The CERD in its Concluding Observations condemns the automatic detention of migrants arriving on the islands after the conclusion of the EU-Turkey Statement and recommended that the reception and identification centers be converted into "open centers" (COBs par. 23 (a)). Contrary to the above recommendation, Law 4636/2019 as amended by Law 4686/2020 provides for "Closed Controlled Island Centers of temporary reception and accommodation of

¹⁵⁰National Center for Social Solidarity, [Situation Update: Unaccompanied Children \(UAC\) in Greece](#), 30 June 2021.

¹⁵¹ See the Positions of representatives of the Greek Council for Refugees, Metadrasi and Human Rights 360 during the hearing of persons and bodies held before the GNCHR on 6.7.2020.

¹⁵² United Nations Network on Migration, [Press Release: Covid-19 & Immigration Detention: What Can Governments and Other Stakeholders Do?](#), 29.4.2020. Council of Europe, Commissioner for Human Rights, [Statement: Commissioner calls for release of immigration detainees while Covid-19 crisis continues](#), 26.3.2020. UNHCR, [Press Release: UNCHR stresses urgent need for States to end unlawful detention of refugees and asylum-seekers, amidst COVID-19 pandemic](#), 24.6.2020.

third-country nationals or stateless persons". Information on the mode of operation of these new "multipurpose" centers is vague and often contradictory. The construction of a Closed Controlled Structure has progressed in Samos and is expected to be completed shortly in Kos and Leros. The GNCHR cannot affirm whether the new "multipurpose" reception facilities in the islands will constitute open, close or controlled centers. The Council of Europe's Commissioner of Human Rights requested information from the Greek government about the deprivation of liberty regime that will be applicable to the new facilities in the islands. In his reply letter, the Greek Ministry of Citizen Protection did not clarify the terms of operations of the new facilities¹⁵³.

(iv) Reception conditions with particular reference to vulnerable people and unaccompanied children (COBs par. 22 (b) and (d), par. 23 (b), (c), (d) and (e))

In 2019 there has been an increase of refugee and migration flows in Greece, compared to the previous year¹⁵⁴. Reception centres on the islands at the end of 2019 were overcrowded, far beyond their hosting capacities¹⁵⁵, with immediate danger of violation of fundamental rights of third-country nationals, such as the protection against inhuman or degrading treatment and the provision of a minimum level of decent living. For these reasons, among others, the GNCHR Plenary decided that a delegation of GNCHR's members should carry out monitoring field visits at the beginning of 2020.

During the **on-site visit carried out by the GNCHR in Samos (20-21.1.2020)**, it concluded that the system had collapsed¹⁵⁶. The key finding of the GNCHR delegation is that the situation regarding the reception and the living conditions of asylum seekers in and around the RIC in Vathy is out of control and diminishes every concept of human dignity of the persons living in its areas. Due to the geographical restriction imposed on them as a result of the EU-Turkey Statement, the delays in Dublin family reunification procedures and the lack of adequate accommodation places for unaccompanied minors and other vulnerable asylum seekers to be transferred in mainland Greece, the situation in the islands is asphyxiating. Based on official data on the occupancy/capacity rate at the Eastern Aegean Islands¹⁵⁷, there were 41.897 refugees/migrants at the islands whereas the official capacity of hosting and accommodation facilities was 8.816 places. In Samos, while the RIC was designed to host up to 648 persons, on January 2021 inside and around it live in containers, tents and makeshift shacks 7.208

¹⁵³ Council of Europe, Commissioner for Human Rights, [Commissioner seeks information from the Greek government on its plans to set-up closed reception centres on the Aegean islands](#), 3.12.2019.

¹⁵⁴ According to the [data](#) from the UNHCR, 74613 in total entered Greece from the islands and Evros in 2019, in contrast to 50508 people in 2018.

¹⁵⁵ See the informational data from the Ministry for the Protection of the Citizen about the situation on the islands. According to the [National Situational Picture](#) regarding the refugee/migrant issue (30/12/2019), 38465 persons reside in the RICs of the islands of the Eastern Aegean (Lesvos, Samos, Kos, Chios, Leros), which have a capacity of 6178 places.

¹⁵⁶ See GNCHR, [Press release](#): "In Samos, the system has collapsed", 23.01.2020.

¹⁵⁷ The Ministry for Citizen Protection issues Situational Reports every day. See [National Situational Picture regarding the islands at Eastern Aegean Sea](#).

persons. In addition, within the ESTIA program run by the UNHCR, 282 persons were accommodated in Samos in apartments. Metadrasi hosted also 20 people (18 vulnerable and 2 places for transit) in its Shelter. Applicants for international protection were obliged to live under dire or even undignified living conditions during the processing of their international protection claims, which can take up to several months or years. There was **a big gap in the provision of health and psychological services**. Only one doctor was assigned with vulnerability assessments for applicants based on appointments which were scheduled after several months. Primary health care was provided by the General Hospital of Samos which was severely understaffed (for instance, there is only one pediatrician) and no interpretation services were provided. Another supervising doctor (for medical and psychosocial services) was present in the camp; however he did not treat patients. Neither psychologists nor social workers were available to the refugee/migrant population. At that time, the National Public Health Agency had an open call for 3 doctors and 3 psychologists (for a short term employment contract). In addition, medicines of any kind were not available in the camp due to a recent fire in the warehouse. The GNCHR recorded an outbreak of scabies amongst asylum seekers. Children had also been suffering from breathing problems, diarrhea and skin problems - even bites from mice. Similar incidents were reported in the press. **Access to formal education was almost non-existent regarding the refugee and migrant population residing in Vathy**. Only children aged between 6-15 years living in urban settings such as the ESTIA apartments were allowed to enroll in the morning classes of public schools, alongside Greek citizens. Around 40-60 children were currently enrolled in primary and secondary schools. For the children living in or outside the RIC, their only option was the enrollment in the Reception Facilities for Refugee Education (DYEP), i.e. afternoon preparatory classes for all school-age children aged 4 to 15. For children at preschool age (4-5), a Nursery School operated in the RIC with 35 registered pupils. For the children at school age (6-15), classes take place in the afternoon in public schools designated for this use by the Minister for Education. However, although a relevant Ministerial Decision had been issued since October 2019, these DYEP never started to operate. The reason was that no recruitment process for teachers to be employed in DYEP of Samos had taken place. The children who lived in the hotspot (around 1500) in practice had access only to non-formal education provided by various NGOs. **The most alarming finding was the lack of control by the authorities over a large part of the "jungle"**, where the informal camp outside the RIC is extended and frequently security incidents are noted, such as violent confrontations and injuries among rival racial communities, extortion from traffickers or other organized groups, arson for reasons of trespassing of forest land or other reasons, rapes of women and minors, incidents of domestic violence and human trafficking. These criminal activities are organized or isolated and their victims usually do not report the actions in question due to the lack of a supporting mechanism (e.g. victim hosting centres other than the RIC) and mechanisms to facilitate access to justice (such as providing interpretation services to the Police Department). According to the information collected during the GNCHR's monitoring visit, 330 **unaccompanied children** were registered by the RIC of Vathy, out of which 65-70 boys and 7 girls resided in "safe zones" (one for boys and one for girls) inside the camp and 2

unaccompanied infants resided in the arrivals area (where the Police/Frontex has a container). For the rest of them (boys and girls), their residence was unknown. In March 2020, following the crisis on the Greek-Turkish border and after the visit of the EU Commissioner to Greece and the announcement of immediate support measures, a pilot program (from April 2020) began relocating unaccompanied minors from Greece to other European countries on a voluntary basis. The aim is to relocate a total of 1600 children to 11 EU countries and Norway who have expressed interest. Following the Moria fire in September 2020, all 408 unaccompanied minors living in the camp were relocated to safe shelter at mainland and will be relocated to other EU countries. By the end of September 2021, all 1790 unaccompanied minors were relocated from the RICs of the Eastern Aegean Islands to appropriate shelters in mainland Greece. The Special Secretariat for the Protection of Unaccompanied Minors had launched in 2021 the initiative of a national tracing and protection mechanism for unaccompanied children in precarious conditions together with the UNCHR Office in Greece¹⁵⁸. This mechanism will substantially contribute to the prevention of missing children.

In **Lesvos**, the Moria camp was the largest (informal) refugee camp in Europe, hosting 12.646 asylum seekers, more than four times its hosting capacity¹⁵⁹. On 8th September 2020, a fire broke out in Moria which destroyed the largest part of the camp and its infrastructures. The GNCHR noted in a Statement¹⁶⁰ that the fire in Moria occurred as part of an escalating violent upheaval, a situation which has been recorded by the Greek National Commission since 2018¹⁶¹, due to the suffocating conditions in RICs of the Eastern Aegean islands, as a result of European and national entrapment policies for newly arriving migrants at EU external borders in conjunction with the prolonged asylum procedures, undignified living conditions and the lack of integration policies for the day after.

With the **outbreak of Covid-19 in Greece**, a number of measures have been adopted by the Government in order to confront the pandemic, with a direct impact on the enjoyment of human rights by all those living within the Greek territory. The GNCHR in its relevant Report¹⁶² stressed out that restrictive measures aiming at combating the spread of the pandemic should not undermine respect for human rights and rule of law, nor discriminate, but take into account the special needs of the particularly vulnerable groups. In all of the plenary sessions, during the pandemic period, issues of refugee and migrant protection were examined. The GNCHR considered that the situation in the Reception and Identification Centers, residences and accommodation facilities, remained critical, while structural

¹⁵⁸ UNHCR, [Joint press release](#): Greece launches national tracing and protection mechanism for unaccompanied children in precarious conditions, 6.4.2021.

¹⁵⁹ According to the official National Situational Picture at the Eastern Aegean Islands on 1.9.2020, 14.712 asylum seekers were being hosted in Lesvos in different accommodation schemes (<https://infocrisis.gov.gr/10244/national-situational-picture-regarding-the-islands-at-eastern-aegean-sea-1-9-2020/?lang=en>) in an island of 114.880 registered inhabitants (a 12,80% of the population).

¹⁶⁰ GNCHR, [Statement](#) on the fire in Moria and the day after, 11.9.2020.

¹⁶¹ 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 Lesvos, 15.10.2018.

¹⁶² GNCHR, [Report](#) on the need for protection of human rights with regard to the measures taken in response to the Covid-19 pandemic and recommendations to the State, 10.6.2020.

problems continued to exist. The overpopulation and the complete lack of hygiene and medical services, combined with limited access to healthcare and basic services, aggravated the risk of Covid-19 infections. Prevention was almost impossible, as social distancing measures could not be applied. It should be noted that during the first wave of the Covid-19 pandemic in Greece there have been no cases among the population hosted in the RICs of the islands, although isolated cases had been reported in other areas of the islands. At the few accommodation centers of the mainland, where cases have occurred, the latter have been effectively addressed by the State and did not spread to the other residents of the RIC or the surrounding residents. A decisive factor for preventing the spread of COVID-19 infection in hotspots was the decision of the competent Authorities to transfer a significant number of refugees from the islands to mainland (vulnerable asylum seekers, including approximately 200 elderly persons and 1,730 persons with chronic diseases). In 2020, over 33.617 transfers from the different islands to the mainland have taken place¹⁶³.

It should be noted that the measures restricting the movement of residents in RICs were successively being extended¹⁶⁴ although lifted for the rest of the population, raising doubts as to the respect of the proportionality principle. In a relevant Press Release, 26 organizations argued that the prolongation of the restriction measures to all accommodation centers was arbitrary and not based on scientific evidence¹⁶⁵. Some organizations have even documented deterioration in the mental health of applicants for international protection, while movement restriction hindered their access to vital services (medical, legal, etc.) outside the facilities where they reside. The GNCHR has pointed out that measures to address the pandemic need to be based on a legal basis, be proportionate and limited in time. Decisions should be continuously re-assessed with a balancing of the rights involved, as what is proportionate at the beginning of the pandemic can be disproportionate over time, and then the measure should be mitigated or abolished.

The GNCHR in its Statement¹⁶⁶ had expressed its concern about the increase in incidents of violence, racist attacks, hate speech and xenophobia on the islands of the Eastern Aegean. In March 2020 violent incidents and clashes between police forces and residents were observed, as a result of the Government's decision to build new closed centers through land property

¹⁶³ Ministry for Migration and Asylum, [Annually Information Bulletin – Asylum](#), December 2020 [in Greek].

¹⁶⁴ The first restrictive measures were imposed on 21.03.2020 and extended to 31.08.2020 by successive Ministerial Decisions. See the latest Joint Ministerial Decision, No. D1a/GP int48940/2020 Government Gazette 3168/B/1-8-2020 *Prolongation of the application of the Joint Decision of the Ministers for the Protection of Citizen, Health and Migration and Asylum, No. D1a/GP int. 20030/21.3.2020, "Adoption of measures against the manifestation and spread of coronavirus COVID-19 in the Reception and Identification Centres, to the entire Territory, for the period from 21.3.2020 to 21.4.2020" (B' 985), up to and including 31.8.2020.*

¹⁶⁵ Specifically, they highlight that "in any event, for the purpose of restricting the freedom of movement of the residents in the accommodation centers in question, public health reasons cannot be invoked, as this would not be based on any scientific basis". In fact, they note that in some cases the measures violate the EU Directive on the conditions for the reception of applicants (2013/33, Article 8 concerning detention). [Press release](#) [in Greek]: Organizations in Greece, as well as national and international health organizations, warn: Discrimination does not protect against Covid-19, 17.7.2020.

¹⁶⁶ GNCHR, [Statement](#): Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 05.03.2020.

requisition, despite the objections of local authorities and without previously relieving the congestion on islands due to asylum seekers staying in the overcrowded open structures¹⁶⁷. In addition, the **GNCHR is aware, through the Racist Violence Recording Network, of specific racist and xenophobic attacks against newly entering refugees and migrants, employees in international organizations, NGOs and civil society actors, as well as journalists**¹⁶⁸. The immediate termination of the entrapment of asylum seekers on the islands and their transfer to the mainland constitutes a compelling need, not only for reasons of respect for fundamental rights, but also in order to ensure the fragile social peace of the reception societies.

Finally, regarding the special reception needs of vulnerable people, the GNCHR, in its Observations¹⁶⁹ on the draft Law 4540/2018, made specific legislative proposals, which are congruous with the purpose of the Directive and which the Greek legislator did not address, such as: a) the introduction of an explicit reference to the obligation to provide material reception conditions to minors from third countries, regardless of their status (applicants for international protection or not); and b) special care for persons with disabilities and/or chronic illness, for whom material reception conditions mustnot be interrupted or restricted. On the basis of the Law 4540/2018, the Greek State partly followed the above GNCHR's Recommendations and provided that: a) minors shall receive special reception conditions after their identification and not after the lodging of an application for protection, as is the case for other beneficiaries; and b) the restriction or termination of the material reception conditions shall be on an individual and objective basis, taking into account the specific situation of the person, in particular for vulnerable persons (including those suffering from severe or incurable illness and disabled persons) and access to medical care may not be interrupted or restricted. Articles 57 and 58 of the Law 4636/2019 maintained the same status for minors and vulnerable persons. However, the GNHCR in its Comments¹⁷⁰ on the Draft Law 4636/2019 indicated that lesbians, homosexuals, transgender, bisexual, queer and intersex (LGBTI), who should be identified by reception services and accommodated appropriately in reception and hosting structures, given the increased risks that these people

¹⁶⁷ Indicatively, see Athenian-Macedonian News Agency, "[Machines and Police Force at Chios and Lesbos islands for closed centers –Tension to ports](#)", 25.02.2020.

¹⁶⁸ In detail, see the [Press Release](#) of the Racist Violence Recording Network: Serious concern over attacks against refugees and humanitarian workers, 05.03.2020.

¹⁶⁹ GNCHR, [Observations](#) on the draft law of the Ministry for Migration Policy "Transposition into Greek legislation of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast, L180/96/29.6.2013) and other provisions, Amendment of Law 4251/2014 (A' 80) regarding the transposition into Greek legislation of Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, Amendment of asylum procedures and other provisions", 2018.

¹⁷⁰ GNCHR, [Comments](#) on the Draft Law of the Ministry for the Protection of Citizen "On International Protection: Provisions concerning the recognition and status of third-country nationals or stateless persons as beneficiaries of international protection, a unified status for refugees or persons who are entitled to subsidiary protection and the content of the protection provided, the unification of the provisions for the reception of applicants for international protection, the procedure for granting and withdrawing the status of international protection, the restructuring of the judicial protection of asylum seekers and other provisions" [in Greek], 2019, pp.18-19.

evidently face¹⁷¹, should also be included in the persons in need of special reception conditions.

Situation of persons belonging to minorities (COBs, par. 10-11)

The GNCHR welcomes as a **positive development for the effective enjoyment of the rights of the Muslim minority in Thrace and their social inclusion the adoption of Law 4511/2018** amending Article 5 of Law 1920/1991 with regard to the Muftis in Thrace, providing that members of the Muslim minority in Thrace have the option between civil law and Islamic law (Sharia) in matters of family and/or inheritance law, as well as **Presidential Decree 52/2019** on procedural rules on cases falling under the jurisdiction of the Muftis. The GNCHR acknowledges that this amendment, by granting minority members in Thrace the right to opt-out, and resort to domestic civil law, respecting, at the same time, their right to opt-in for the application of Sharia law, upon the condition of mutual agreement between the parties, grants the right to each party to seek Justice before domestic courts, and in accordance with Greek substantive and procedural law.

However, applying Islamic law within the framework of a European legal order seems to result in contradictions between individual rights and principles of equality, on the one hand, and religious freedom on the other. For this reason, bearing in mind the reservations regarding the non-application of the general domestic legal framework to women of the Muslim Minority in Thrace regarding family and inheritance matters which the GNCHR has expressed in the past¹⁷² and insisting on the need to put more effort in informing members of the Muslim minority in Thrace of their rights and possibilities for judicial recourse, so that they can benefit from Greek civil law, the GNCHR aligns itself with the Recommendations of the Council of Europe Parliamentary Assembly, which calls on the **Greek Authorities to monitor whether this legislative change will be sufficient to satisfy the requirements of the Convention**¹⁷³.

¹⁷¹ See Recommendation of the European Parliament at European Parliament, Committee on Women's Rights and Gender Equality, [Report on the situation of women refugees and asylum seekers in the EU](#), 2015/2325 (INI), 10.2.2016. See the Recommendation of the GNCHR, Information relevant to the implementation of the Convention against Torture, 2019, p.31.

¹⁷² GNCHR, [Recommendations](#) regarding freedom of religion with special emphasis on compliance of Greece with the ECtHR judgments, 1 March 2001, p. 11; GNCHR, [Observations](#) on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights (ICCPR), 5 December 2013, p. 12-13; GNCHR, [Written Information](#) in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, July 2016, p. 13.

¹⁷³ Council of Europe, Parliamentary Assembly, [Resolution 1704\(2010\)](#), Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (eastern Greece), Text adopted by the Assembly on 27 January 2010 (6th Sitting), par. 18.5.

Gender equality

Gender mainstreaming

The GNCHR has welcomed the adoption of Law 4604/2019 on the “*Promotion of substantive gender equality, prevention and combating of gender-based violence*”, which expands the principle of non-discrimination based on gender, sexual orientation or gender identity to all private or public law relations of physical persons, introduced “gender mainstreaming” in all policies touching upon private and public life and defined -for the first time- “gendered discrimination”¹⁷⁴. However, it fell short of containing an explicit prohibition based on sex characteristics in line with the provisions of Laws 4443/2016 and 4491/2017. In addition, by virtue of Law 4604/2019 the definitions of “direct” and “indirect” discrimination stipulated in Law 3896/2010 were replaced; the new wording adopted raises questions as to its compatibility with EU law¹⁷⁵. Moreover, the GNCHR notes with disappointment that its proposal, during the recent Constitutional amendments, to enrich the non-discrimination grounds, provided for by Article 5 par. 2 of the Greek Constitution, including sex, gender identity and sex characteristics, among others, was not taken into account. In Particular, the GNCHR proposed to extend the “absolute protection of life, honor and liberty already provided for, without discrimination of nationality, race, language or religion or political belief”, to include protection against discrimination based on color, disability, age, sex, sexual orientation, gender identity or sex characteristics, national or social origin, ethnic minority, property, birth or other status, in accordance with international and European human rights standards¹⁷⁶. The proposal was discussed at the Parliament but was not finally adopted given the lack of special majority required.

A recent positive development is the adoption of the National Action Plan on Women, Peace, Security by the Ministry of Foreign Affairs¹⁷⁷ in cooperation with all competent Ministries and agencies including the GNCHR.

Participation in political and public life

The GNCHR appreciates that gradually quotas on participation of women in political and public life raised. In particular, Law 4555/2018 *on the Reform of the Local Government Institutional Framework* raised gender quota on the total number of candidate regional, municipal and community counselors from 33% to 40%. Further, Law 4604/2019 increased the existing gender quota for parliamentary elections from at least 33% to at least 40% of the

¹⁷⁴ Article 2 par. 9 defines gendered discrimination as physical, psychological or verbal conduct, through which persons are degraded, inter alia, on the grounds of gender identity.

¹⁷⁵ See Article 2: “Definitions” of Directive 2006/54/EU.

¹⁷⁶ GNCHR, [Proposals](#) for the reform of the Constitution, 7.2.2019 [in Greek], p. 5.

¹⁷⁷ In implementation of UN Security Council Resolution 1325/2000.

total number of candidates. Most recently, Law 4706/2020 *on corporate governance of public limited companies, modern capital market, incorporation into the Greek legislation of Directive (EU) 2017/828 of the European Parliament and of the Council, measures for the implementation of Regulation (EU) 2017/1131 and other provisions* introduced a 25% quota for the representation of women in administrative boards of listed companies in the Athens Stock Exchange¹⁷⁸. Law 4276/2020 *Reforming the institutional framework of the nominations in sports bodies, distinguished escorts for disabled athletes, establishment of a National Platform for Athletic Integrity, Hellenic Olympic Committee (EOC), Hellenic Paralympic Committee (EPA) and other provisions* also adopted a positive quota with a view to the balanced participation of men and women in the administrations of sports clubs¹⁷⁹. It is here worth mentioning, that the Greek Parliament elected in 2020 the first female President of the Hellenic Republic, while both Presidents of the Supreme Court and the Council of State are women.

However, the GNCHR remains skeptical about the effective implementation of the legislative framework in practice¹⁸⁰. Although a comprehensive legal framework for the protection and promotion of women's human rights is in place, implementation lags behind, notes also the *UN WG on discrimination against women and girls* in its visit in Greece in April 2019. The lack of available and reliable data and strong monitoring capacity is also a key challenge that impedes progress¹⁸¹. According to the statistics of the Observatory of the General Secretariat for Demography and Family Policy and Gender Equality (hereinafter GSDFPGE), women's empowerment in Greece both in the public and private sector is disappointing¹⁸². Furthermore, Greece ranks last in the EU on the Gender Equality Index¹⁸³, with the lowest scores in relation to women in power. **The GNCHR deplores the fact that women remain under-represented in all major political offices** (the Cabinet, the Parliament and the Municipal and Regional Councils), despite the applicable 1/3 gender quota referring to the total number of candidates for election and not the elected ones. In the private sector, only 9% of board members of the largest publicly listed companies are women, despite that the

¹⁷⁸ For more information please visit: <https://www.equalitylaw.eu/downloads/5251-greece-gender-quota-of-a-minimum-of-25-for-administrative-councils-of-listed-companies-100-kb>.

¹⁷⁹ Article 2: "General Assembly of a sports club - Nominations - Amendment of article 5 of law 2725/1999" includes in paragraph 5 the following wording: "The number of candidates of each sex must be at least equal to one third (1/3) of the number of seats to be elected, including that of the president. If during the calculation made on the basis of the above-mentioned fraction a decimal number appears, it is rounded to the next whole unit".

¹⁸⁰ GNCHR Oral Statement on the implementation of the Convention on the Elimination of All forms of Discrimination against Women (CEDAW), November 2020.

¹⁸¹ UN Human Rights Council, Visit to Greece: [Report](#) of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019. The WG experts are concerned that there is uneven coordination of support services for victims of the various forms of gender-based violence, as well as programmes for perpetrators.

¹⁸² See [Observatory of the General Secretariat for Gender Equality 19th e-bulletin - Female Unemployment](#), 2019-04-01 [in English].

¹⁸³ EIGE, [Index score for Greece for 2019](#) is 51.2% whereas the average score in EU countries is 67.4%. Greece's score in the [domain of power](#) is 24.3%.

investing in economic empowerment of women could yield higher development returns in the achievement of sustainable development goals such as gender equality (Goal 5).

The GNCHR draws the attention of all competent State authorities and European and international relevant mechanisms and bodies to the need for additional supportive measures to women with regard to the above mentioned quota provided by recent legislation, or else the measures are likely to fail.

Employment and the impact of coronavirus pandemic

The GNCHR has repeatedly in the past commented on the disproportionate impact of the financial crisis and austerity measures on women¹⁸⁴, that highlighted and exacerbated an evident setback in protecting women's labour rights¹⁸⁵. **The current unexpected crisis which the coronavirus pandemic caused and the emergency restrictive employment measures taken to tackle the crisis, affected disproportionately women's labour rights.** According to the findings of the European Committee of Social Rights, indications are that women's employment has been placed at greater risk than men's by the pandemic, while the disadvantages are likely to be more lasting in terms of reduced career prospects and even ultimate exit from the labour market¹⁸⁶. It is here worth mentioning, that CEACR Committee, referring to the conclusions of the *UN Working Group on Discrimination Against Women in Law and in Practice*¹⁸⁷, according to which Greece is lagging behind other countries in the EU regarding women's rights despite the legal and policy frameworks, due to poor implementation of law, persistence of discrimination and lingering impacts of the crisis and austerity measures, invited the Government to take all the necessary measures. The Government, in order to assess and address all the issues identified by the Committee on the Application of Standards of the International Labour Conference, should collaborate with employers' and workers' organizations, the Ombudsperson and the enforcement authorities¹⁸⁸.

Based on the statistical data on Greece of INE research, women during the period 2008-2014, were gradually forced to leave paid work in order to meet needs that were not covered by the

¹⁸⁴ GNCHR, [Factsheet](#) on the Impact of Economic Reform Policies and Austerity Measures on Human Rights, 2019, GNCHR, "[Statement of the Greek National Commission for Human Rights \(GNCHR\)](#) on the impact of the continuing austerity measures on human rights", July 2015, GNCHR, "[Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter](#)", October 2014, GNCHR, "[Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights \(ICCPR\)](#)", December 2013.

¹⁸⁵ Since 2011, the ILO CEACR through its Reports concerning Greece has expressed its concerns about the "disproportionate impact" of the crisis and the accompanied austerity measures on women and the widening of the pay gap to their detriment, [Observation](#) (CEACR) - adopted 2011, published 101st ILC session 2012.

¹⁸⁶ European Committee of Social Rights, [Statement](#) on COVID-19 and social rights, adopted on 24 March 2021, p. 6.

¹⁸⁷ UN Human Rights Council, Visit to Greece: [Report](#) of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019.

¹⁸⁸ [Direct Request](#) (CEACR) - adopted 2020, published 109th ILC session 2021.

State and related to the care of the family, children and the elderly¹⁸⁹. In 2018, 23.7% of women in the active population were unemployed, compared to 14.7% of men¹⁹⁰. This is a significantly larger gap than the EU average (0.5%)¹⁹¹. Similar are the results of the INE Annual Report 2020¹⁹², which shows that the pandemic had a serious impact on young women's unemployment. Specifically, in the fourth quarter of 2020, the unemployment rate for women aged 15 to 19 exceeded 70%, when in the first quarter of the same year, it was equal to 35.6%. For women aged 25 to 29, the unemployment rate increased from 25%, in the fourth quarter of 2019, to 33% in the fourth quarter of 2020. In this regard, the GNCHR shares the INE's findings, according to which the pandemic crisis is exacerbating gender inequality, especially at a young age, in a labor market where gender equality was far from achieved prior to the onset of the crisis¹⁹³. Taking into account the above mentioned, **the GNCHR notes deeply worried, that what may appear to be temporary public health-related measures could risk embedding permanent**¹⁹⁴.

In terms of positive recent developments, the GNCHR welcomes: **i)** the transposition of EU Directives on gender equality into the national legal order by law 4443/2016, which actually re-transposed EU Directives 2000/43 and 2000/78, as well as the Gender Recast Directive 2006/54 and designated the Greek Ombudsman as the Equality Body with an enhanced monitoring mandate¹⁹⁵, **ii)** the transposition of the Work-life balance EU Directive 2019/1158, that aims to achieve equality between men and women with regard to labour market opportunities and treatment at work, by facilitating the reconciliation of work and family life for workers who are parents, or carers, and **iii)** and some initiatives undertaken by the GSFPGE¹⁹⁶, including the recent launch of the Pegasus project¹⁹⁷, which contains policy

¹⁸⁹ During the period 2008-2014, the men employment reduced by 26.4% and that of women by 19.5%. Especially for women, the risk of poverty and social exclusion in Greece rose to 36.7% in 2014 from 29.8% in 2008, Update, [INE ΓΣΕΕ Edition 240](#), March-April 2018.

¹⁹⁰ General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE) "Women's Unemployment", Table 3 Unemployment rates by gender 2013-2018.

¹⁹¹ EIGE database EU - 28 for 2017.

¹⁹² INE ΓΣΕΕ, [Annual Report 2020](#), The Greek economy and the employment, October 2020 [in Greek] p. 10.

¹⁹³ GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021, GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

¹⁹⁴ See Greek General Confederation of Labour (G.S.E.E) CEACR Observations 30.8.2019

¹⁹⁵ Discrimination between men and women continues to be the main reason that action is sought by the Greek Ombudsman according to its special Annual Reports on Equal Treatment.

¹⁹⁶ See UPR Mid-term reports, Greece:

<https://www.ohchr.org/en/hrbodies/upr/pages/uprimplementation.aspx>

¹⁹⁷ The "PEGASUS: Addressing the Gender Pension Gap in Greece" Project is implemented with the collaboration of the General Secretariat for Family Policy & Gender Equality (coordinator), the Research Centre for Gender Equality (KETHI) and the National Center for Social Research (EKKE) and is co-funded by the European Union's "Rights, Equality and Citizenship" Program (2014-2020), September 2020. See also Pegasus: Policy proposals for tackling the gender gap in pensions in Greece – Synopsis file:///E:/CEDAW/PEGASUS_SYNOPSH.eng.pdf

proposals for addressing the existing gender gap in pensions on a multifaceted basis, in order to overcome, *inter alia*, the shortcomings of the recent Law 4387/2016¹⁹⁸.

However, the GNCHR still identifies certain gaps in the existing legislation and in its implementation in practice,¹⁹⁹ that limit women's labour rights, such as the high female unemployment rate²⁰⁰, dismissals of pregnant women in the private sector in flagrant breach of the law, the absence of a minimum single maternity benefit to all working mothers and the continuous reduction of the already insufficient day-care structures for children and dependent persons. Moreover, the multiple State interventions to collective autonomy, especially as to the scope and mandatory character of both general and sectoral Collective Agreements setting uniform labour standards, resulted in the widening of the gender pay-gap²⁰¹. Additionally, there is still a failure to collect reliable statistics on gender discrimination in the workplace in Greece²⁰².

Work life balance

The GNCHR, as noted above, **welcomed in principle Law 4808/2021** (OJ 101/A/19.6.2021), which, *inter alia*, transposed the EU Directive 2019/1158 in national law. With respect to the transposition itself, the GNCHR, taken into account both that community law must be fully and uniformly applied in all the Member States, as explained by the ECJ in the Simmenthal case²⁰³, and that the European Commission is charged with the task of monitoring the implementation and ensuring the correct transposition of EU law by Member States²⁰⁴, **drew the attention of the Greek State to the unusual transposition of the Directive 2019/1158/EU**. In particular, as regards the structure of the new Law, the repealed and amended national provisions are not included in the Law-text and the numbering and wording of the Directive's provisions is not followed, which in practice causes legal uncertainty and will not facilitate neither the application of the community law nor its monitoring by the European Commission.

After the transposition of the EU Directive 2019/1158 in national law with the main objective to **facilitate the reconciliation of work and family life and achieve equality between men and women**, the question arises is how the harmonization measures of the new legal tool will contribute to the work-life balance of employees and at the same time achieve gender equality

¹⁹⁸ Law 4387/2016 *Unified Social Security System - Insurance-pension system reform - Income and gambling tax arrangements and other provisions*. See in detail "[PEGASUS: Addressing the Gender Pension Gap in Greece](#)" Project.

¹⁹⁹ [Submission by the Greek National Commission for Human Rights \(GNCHR\) to the UN Human Rights Council's Universal Periodic Review of Greece](#), September 2015

²⁰⁰ 2019-04-01 [Observatory of the General Secretariat for Gender Equality 19th e-bulletin - Female Unemployment](#) [in English]

²⁰¹ [Submission by the Greek National Commission for Human Rights \(GNCHR\) to the UN Human Rights Council's Universal Periodic Review of Greece](#), September 2015.

²⁰² Greek General Confederation of Labour (G.S.E.E) CEACR Observations 30.8.2019.

²⁰³ ECJ 106/77 [Amministrazione delle Finanze dello Stato v. Simmenthal S.p.A.](#), (1978) ECR 643.

²⁰⁴ AT A GLANCE Implementation in action. [Transposition, implementation and enforcement of Union law](#)

and what does this imply²⁰⁵. Bearing in mind the impact of the previous crisis on reconciliation of work, private and family life²⁰⁶ and the tendency of mothers in Greece to settle the dispute between them and their employers privately, thus accepting a violation of their rights, afraid of losing their jobs, while those who complain to the Ombudsman's Office are often hesitant to proceed to further action²⁰⁷, the GNCHR voices its **concerns about the essential implementation of Law 4808/2021** (OJ 101/A/19.6.2021)²⁰⁸. In this regard, the GNCHR **appreciates the benefits of the new rules** (requirements for paternity, parental and carers' leave and flexible working arrangements) on the one hand and stresses on the other, that **implementation measures should primarily promote the participation of women in the labour market, the equal sharing of caring responsibilities between men and women, and the closing of the gender gaps in earnings and pay**, instead of reinforcing existing inequalities in this field²⁰⁹.

It is worth mentioning here, that the new set of provisions **should apply in a non-discriminatory manner to all categories of workers**, non-formal" workers included, promote equal opportunities and reduce, under no circumstances, the national labor "acquit". In this regard, the National Commission expresses its concerns about the fact that in Greece self-employed parents do not have access to this form of parental leave²¹⁰.

The GNCHR also expresses its concerns about the application of flexible working arrangements for working parents or carers, that is often the case of working mothers, especially in relation with the general flexibility in working hours provided by other provisions of the new Law, and recommends to the competent authorities to ensure transparency and objectivity, as well as, prohibit discriminations among employees when exercising those rights²¹¹. Finally, the GNCHR expresses its disappointment with regard to the fact that **Greece is one of the Member States that does not grant parental leave to parents who are same-sex couples**²¹².

Violence against women

The GNCHR **welcomes the recent positive developments that aim to combat violence against women**, and among them as the most significant: **i) the ratification of the ILO Violence**

²⁰⁵ See [The potential contribution of the EU directive on work-life balance for parents and carers Based on a legal and social scientific analysis of work-life balance in the Netherlands and Sweden](#) Master thesis, 2019.

²⁰⁶ EIGE, [Reconciliation of work, family and private life in the European Union](#) Policy Review, 2015, σελ. 39-40, sceptical about the effective implementation in practice.

²⁰⁷ [Reconciliation of work, family and private life in the European Union](#), Policy review, European Institute for Gender Equality, 2015.

²⁰⁸ See GNCHR, [Observations](#) on the Bill of the Ministry of Labor and Social Affairs regarding the protection of the employment, 14 June 2021 [in Greek].

²⁰⁹ See GNCHR, [Observations](#) on the Bill of the Ministry of Labor and Social Affairs regarding the protection of the employment, 14 June 2021 [in Greek].

²¹⁰ EIGE, [Who is eligible for parental leave in Greece?](#), May 2021.

²¹¹ [GNCHR Observations on draft law on equal treatment](#), 2016.

²¹² See GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTIQI +, 25 June 2021 [in Greek].

and Harassment Convention 190, by Law 4808/2021 (OJ 101/A/19.6.2021) for the protection of the employment²¹³, **ii)** the ratification of the *Istanbul Convention on preventing and combating violence against women and domestic violence* by Law 4531/2018, **iii)** the redefinition of *gender* by Law 4604/2019 and **iv)** the legal redefinition of the concept of rape on the basis of non-consent by Law 4604/2019 (new Penal Code art. 336). However, the GNCHR remains concerned with regard to those women facing intersectional forms of discrimination or those in more vulnerable situations, such as minority, migrant and refugee women, women with disabilities, as well as older women and lesbian, transgender and intersex women²¹⁴. Above all, the GNCHR, addressing the issue of discrimination against women in a cross-cutting manner in various areas of its work, remains deep **concerned about the effective implementation in practice of the new rules, which is often the case in Greece**. Although a comprehensive legal framework for the protection and promotion of women's human rights is in place, implementation lags behind²¹⁵.

With regard to the new bill 4808/2021, the GNCHR addressed specific recommendations to the State stressing, *inter alia*, the risk of overlapping responsibilities, since the law assigns three (3) co-responsible Independent Authorities – the Labor Inspectorate (SEPE), the Ombudsman and the National Transparency Authority. **Overlapping of roles** may deteriorate the situation of victims of violence and harassment instead of improving it²¹⁶. Nevertheless, the GNCHR notes positively that Law 4808/2021 can contribute to the prevention of sexual and psychological violence at all levels and areas of activity, the punishment of perpetrators and the timely and appropriate protection of victims of violence and/or harassment, provided that it will not remain inactive and that is accompanied by appropriate implementation measures²¹⁷.

Furthermore, with respect to the **prevention of discrimination against women of vulnerable groups** according to Law 4531/2018 that ratified the Istanbul Convention, the GNCHR draws the attention of the competent State authorities to the need for coordination of all the authorities involved and to the systematic provision of psychological, social and legal support and accommodation to the victims²¹⁸. At the same time, the National Commission shares the concerns of the *UN Working Group on discrimination against women and girls*

²¹³ See supra p. 10.

²¹⁴ 1st Annual Report on Violence Against Women, General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE), November 2020, 1st Annual Report on Violence Against Women, General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE), November 2020, UN Human Rights Council, Visit to Greece: Report of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019.

²¹⁵ UN Human Rights Council, Visit to Greece: Report of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019.

²¹⁶ GNCHR, Observations on the Bill of the Ministry of Labor and Social Affairs regarding the protection of the employment, 14 June 2021, p. 19-20.

²¹⁷ GNCHR, Observations on the Bill of the Ministry of Labor and Social Affairs regarding the protection of the employment, 14 June 2021, p. 19-20.

²¹⁸ UN Human Rights Council, Visit to Greece: Report of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019.

regarding the non-prosecution of perpetrators despite the significant number of domestic violence reported cases.²¹⁹ In the context of the crime of domestic violence, Article 312 of the new Penal Code²²⁰ complements to a certain extent, after the ratification of Istanbul Convention, the Law 3500/2006, which continues to apply for all criminal offences not covered by Article 312 Penal Code²²¹. Bearing this in mind, the GNCHR, points out, that it is of particular importance, **in the event of a future reviewing the Penal Code, to redefine “domestic violence”, in a more clarified, comprehensive and coherent manner in order to effectively address the crime.**

While, lack of available sex-disaggregated data in relation to all forms of gender-based violence and crimes against women remains a key challenge²²², the GNCHR appreciates the role and capacity of the Observatory established by the *General Secretariat for Demography and Family Policy and Gender Equality* (GSDFPGE)²²³, as a positive challenge to address the lack of available statistical data and research.

Violence against women in times of crisis

The COVID-19 pandemic has shown that violence and domestic violence against women thrives during the lockdown period. The UN and the Council of Europe described violence against women, during the first period of the Covid-19 pandemic, as a shadow pandemic”²²⁴. The GNCHR is monitoring closely the Greek Government’s series of measures in response to the COVID-19 pandemic, given that they affect directly the enjoyment of human rights in Greece²²⁵. The GNCHR deplores on many occasions that the measures adopted took the form of Acts of Legislative Content (expedited legislative process), whose implementation was further specified through Joint Ministerial Decisions and Circulars, establishing in many cases an atypical “emergency law”²²⁶, that particularly affected the enjoyment of women’s

²¹⁹ UN Human Rights Council, Visit to Greece: [Report](#) of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019.

²²⁰ Art. 312 (Physical injury of vulnerable persons) par. 3 PC: “*The same penalties are imposed when the act is committed against a spouse during the marriage or against a partner during the cohabitation.*”

²²¹ Explanatory Memorandum (Αιτιολογική Έκθεση) attached to the draft Law 4531/2018, Charalambos Th. Sevastidis, President of the Court of First Instance, [NOTES ON THE NEW CRIMINAL CODE](#), 2019, EIGE [Country report](#), Gender equality, How are EU rules transposed into national law? 2019, p. 125.

²²² GNCHR, Information on CEDAW, 2020, UN Human Rights Council, Visit to Greece: [Report](#) of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019.

²²³ The GSDFPGE is part of the National Mechanism for Gender Equality at central national level together with: 1) the Research Centre on Gender Equality (KETHI), 2) the Gender Equality Units of all ministries and 3) the Ombudsman (Equality Section). See Article 4(1) of law 4604/2019.

²²⁴ UN [Women](#), Council of Europe, [News](#) 2020.

²²⁵ GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

²²⁶ [ENNHRI’s annual report on the Rule of Law situation in EU Member States](#), March 2021

fundamental rights notably their freedom of movement. The General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE) itself highlighted that gender-based violence was one of the most tragic consequences of social distancing²²⁷. Significant increases in allegations of domestic violence were recorded during the "quarantine" and compulsory confinement at home due to the first wave of the pandemic in March 2020 in Greece. In accordance to official figures, the number of complaints on SOS line has almost quadrupled during the first phase of the pandemic.

As stressed above, **the GNCHR puts special emphasis on the impact of the emergency measures on domestic violence in case of vulnerable categories of women, including migrants and refugees, Roma people, women with disabilities and LGBTQI+ who are under threat as victims of multiple discrimination.**

Sexual abuse incidents in the context of exploitation in power relations²²⁸

Remarkable is the recent **increase, in Greece, of incidents of sexual harassment, abuse and exploitation in power relations**, including the workplace, politics, sport, arts and educational settings²²⁹. The GNCHR has welcomed the courage of the gold medallist in sailing Sofia Bekatorou to publicly denounce the incident of sexual abuse she suffered at a young age, in the context of exploitation in a power relation and hierarchy in the workplace²³⁰. This seems to have been the beginning of the "break of silence" of victims of sexual violence in public sphere. The GNCHR, as the National Human Rights Institution in Greece is monitoring these specific issues closely and with great sensitivity and attaches the utmost importance to the incidents and the protection of the rights of victims. Moreover, the GNCHR emphasizes that **access to justice for victims of sexual violence, the effective investigation of violations of sexual life and freedom and the fair administration of justice are among the most fundamental aspects of the protection of fundamental rights.**

The GNCHR, watching some of the reactions to the sharing of the traumatic experience of the victims on mass and social media, finds extremely worrying the **high risk of secondary and repeat victimization, intimidation and retaliation of all the victims of sexual violence**, especially when the perpetrator cannot be prosecuted or punished.

The GNCHR, considering the low rates of reports of sexual violence incidents to the competent control authorities as well as the low rates of prosecution, and based on zero tolerance,

²²⁷ 1st Annual [Report](#) on Violence Against Women, General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE), November 2020.

²²⁸ [Statement of the Greek National Commission of Human Rights \(GNCHR\)](#) on sexual abuse incidents in the context of exploitation in power relations in the light of the recent complaints in sport. The Statement was adopted by the Plenary of the GNCHR on 20.1.2021.

²²⁹ League for Women Rights, Press Release, 15.1.2021.

²³⁰ [Statement of the Greek National Commission of Human Rights \(GNCHR\)](#) on sexual abuse incidents in the context of exploitation in power relations in the light of the recent complaints in sport. The Statement was adopted by the Plenary of the GNCHR on 20.1.2021

unequivocally condemns all forms of sexual violence and calls on the State to further strengthen the institutional framework and ensure through legal and other measures:

- i) the timely **intervention to protect victims of all forms of sexual violence**, the effective **judicial protection** of their rights and the **victims' access to fair justice** through effective, transparent and confidential and without delay procedures
- ii) the strengthening of all services dealing with cases of sexual harassment and abuse, such as **health structures, police, psychological, social and legal support services**, telephone hotlines and **accommodation** to women under threat
- iii) the **facilitation of women's access to leadership and decision-making positions in both the public and private sectors**, by ensuring and promoting their balanced representation in collective and governing bodies as well as in political life
- iv) the systematic and regular **collection of detailed, reliable and comparable data**
- v) the adoption and strengthening of **awareness-raising and information activities** aimed at preventing and raising awareness of the rights of victims, for example the **#MeToo** movement and the **"Break the Silence - Speak, Do Not Tolerate"** initiative of the Deputy Ministry of Sports under the Council of Europe program for "Children protection in Sport" to encourage victims to break their silence
- vi) the **full implementation** of the ratified Istanbul Convention (Law 4531/2018), the recently ratified ILO *Violence and Harassment Convention* 190 and definitely the Directive 2012/29/EU on Victims' Rights.

Victims of trafficking in human beings (THB) - Labor discrimination of migrant workers (COBs, par. 24-25)

The GNCHR, since its establishment, has dealt with the complex phenomenon of trafficking in human beings and the **lack of an essential implementation of the regulatory framework on trafficking in human beings and / or forced labor of the rights of victims in practice**. In this regard, the GNCHR while systematically monitoring the compliance of the Greek State with the decisions of the European Court of Human Rights and the adaptation of Greek legislation to the international, European and national law provisions regarding human rights protection, submitted two Communications on the level of compliance of the Greek State with the ECHR judgment, *Chowdury and others v. Greece* (known as the "Manolada-case")²³¹. The GNCHR with its first Communication carried out a focused approach to assess the full compliance of the Greek State with the ECtHR judgment, in order to process and formulate suitable policy advice to the competent State bodies²³². Through its second Communication²³³,

²³¹ GNCHR *Chowdury and Others v. Greece. Recommendations for the full compliance of the Greek State*, 27 August 2018, [Communication](#) on the assessment of the level of compliance of the Greek State with GNCHR's recommendations on ECtHR judgment *Chowdury and Others v. Greece* (Manolada-case) 5 June 2020.

²³² GNCHR *Chowdury and Others v. Greece. Recommendations for the full compliance of the Greek State*, 27 August 2018.

the GNCHR attempted a further focused approach to the phenomenon of trafficking for the purpose of labour exploitation, assessing the implementation in practice of the regulatory and operational measures on matters pertaining to the prevention of human trafficking and forced labour, the promotion and protection of the rights of victims, as well as the effective prosecution of human trafficking and severe labour exploitation cases. Moreover, the GNCHR drew attention to the particular link between human trafficking and forced labour as well as to the connection between trafficking in human beings for the purpose of labour exploitation and undeclared employment in the agricultural sector in Greece, and called upon the Greek competent authorities to reconsider the relevant legislative and institutional framework.

It is necessary to point out here that **the pandemic of COVID-19 and the measures taken to respond to the outbreak of the crisis highlighted the challenges reported with regard to the case *Chowdury and others v. Greece***. Despite the fact that emergency measures were taken in order to protect the rights of all people without discrimination, yet they did not tackle the chronic problems faced by migrant workers in the agriculture sector. Thus, during the pandemic, the living and working conditions in the agriculture holdings, the overcrowding and the complete lack of basic human standards exacerbated the increased risk of labor exploitation and forced labor.

Recently, in view to the legislative proposal with regard to the “*Establishment of procedures for deportation and return of third-country nationals, issues of residence permissions and procedures for granting international protection and other provisions*”²³⁴ within the competence of the Ministry of Immigration and Asylum and the Ministry of Citizen Protection, the GNCHR reiterated its consistent recommendations and drew, among others, the attention of the State to the need for effective implementation of the regulatory and institutional framework trafficking in human beings and / or forced labor in order to eliminate the phenomenon in question. In particular, following a recent fire in a camp in Manolada that broke out on June 27, 2021, the constant problem of labor exploitation - with particularly abusive working conditions - of workers, mainly foreign land workers, came to the fore. As stated by the reports on the situation in the area, the incidents of arbitrariness continue, since most of the land workers remain without legal documents, while working in inhumane conditions.

Furthermore, **the GNCHR acknowledges the significant efforts of the National Referral Mechanism for Victims and Potential Victims of Trafficking in Human Beings and its coordinated action and partnership building**, among all actors involved in combating trafficking in persons as well as the training programs and campaigns provided on a large scale in this framework. It also brings in additional professionals and stakeholders into the

²³³ GNCHR [Communication](#) on the assessment of the level of compliance of the Greek State with GNCHR's recommendations on ECtHR judgment *Chowdury and Others v. Greece* (Manolada-case) 5 June 2020.

²³⁴ GNCHR “Establishment of procedures for deportation and return of third-country nationals, issues of residence permissions and procedures for granting international protection and other provisions, July 2021.

screening and identification process of mixed migratory/refugee flows (migration services, labor inspectors, health providers, local administration authorities). In this regard, the GNCHR, stresses the importance of coordinated proactive actions, notably training initiatives for organizations and services who deal with cases of labor exploitation, so that they can be aware of the various forms of severe labor exploitation and their causes in order to be ready to react appropriately and to give priority to the rights of migrants victims of severe labor exploitation.

The GNCHR, taking under serious consideration the recent developments in the event of land workers, especially after the outbreak of the pandemic Covid-19, encourages the competent State authorities to improve their labor working conditions in practice and address phenomena, notably the uncontrolled working environment, worse remuneration, residence settlement conditions as well as lack of provision for basic health and safety.

Right to security of person and protection by the State against violence or bodily harm

With regard to the right to security of person and protection by the State against violence, it is also to be stated that the GNCHR has particularly focused on monitoring the legal framework for the protection of the rights of individuals of victims of torture. Research studies which examine relevant issues have widely confirmed that experiences from the country of origin, such as torture or related acts of inhuman treatment, induce significant problems for the physical and mental health of a refugee, especially when the physical and/or mental injuries caused do not receive medical care and rehabilitation. **The phenomena in question indicate the urgent need for asylum procedures, which will focus on the immediate identification of vulnerable refugees, including victims of torture**, so that it can be ensured that full and unhindered access to health care services and justice are provided promptly.

Given the many components of this issue, on March 4, 2020, a public hearing among the competent public and private entities was held at the premises of the GNCHR, in order to identify any gaps and deviations in national legislation in the light of the EU framework, international conventions, and guidelines, and to detect the obstacles which genuinely exist during the implementation of the procedures for the identification and rehabilitation of victims of torture. Following the above-mentioned hearing and based on a respective investigation conducted for the matter at hand, the GNCHR expressed its particular concern and significantly, due to the incorrect transposition of Article 25 of the Directive 2013/33/EU into the Greek legal order, whose material objective consists of the obligation of identifying and rehabilitating victims of torture and the volume of its current applicability.

Specifically, the GNCHR pointed out²³⁵ that in addition to the "identification" process stemming from the intention of the EU legislator (Directives 2011/95/EU and 2013/33/EU),

²³⁵ GNCHR, [Protection of Victims of Torture and other Cruel](#), Inhuman or Degrading Treatment or Punishment, 15 December 2020 [in Greek].

the "certification"²³⁶ of victims of torture is a different concept. Namely, the "identification" process aims at the detection of the victims of torture so that they can be provided with health care services while the "certification" process pursues the objective of the submission of certificates for judicial use²³⁷. It is to be stated that the "certification" of victims of torture process is governed by a different framework and specifically, it must be carried out in the light of the Istanbul Protocol following the purposes, principles, guarantees and procedures set out in its provisions. In this regard and given the incorrect use of the wording of "certification" in the national legislation which transports the Article 25 of the Directive 2013/33/EU, the GNCHR submitted a concrete and extensive proposal to the national competent bodies so that it can be institutionalized the distinction and the different purposes of the concepts of "identification" and "certification" of the victims of torture.

Beyond the above-mentioned legal uncertainty, **the GNCHR has stated that the competent authorities for the identification of victims of torture have not had the appropriate knowledge to perform their duties.** It is well perceived that this fact due to its gravity has a serious impact on the core of the right to the identification of victims of torture, which may adversely affect their request for international protection²³⁸. To that end, the GNCHR submitted a specific proposal on 23rd September 2020²³⁹, concerning the necessity of the amendment of the respective national provisions, so that the Greek legal order can be in alignment with the material scope of the Directives 2011/95/EU and 2013/33/EU. In the same vein, the GNCHR has also proposed specific additions to the national legislation, so that the staff working in the relevant field can be properly trained and thus, promptly identify cases of torture victims, which will be referred to rehabilitation immediately and without undue delay. As for the entities which will be involved in the above procedures, the immediate need to establish a permanent mechanism of uninterrupted funding so as to carry out the processes of identification and rehabilitation of victims of torture has also been stated. Also, regarding the procedures of the "certification" of victims for tortures which take place in

²³⁶ The notion of "certification" is not mentioned in the corresponding provision of Article 25 (1) of the Directive 2013/33/EU. On the contrary, from the provisions of Articles 2 (e) and (f) and 15 (b) [Chapter V "*Identification of a Person as a Beneficiary of Subsidiary Protection*"] of the Directive 2011/95/EU, the obligation of "identification" of victims of torture is clearly deducted.

²³⁷ See in this regard Istanbul Protocol, "*Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*", New York and Geneva, 2004 (p. 1-2).

²³⁸ The judgment no.206/2019 of the Administrative Appeal Court of Piraeus is of the utmost relevance, as it was held, among other things, that the expert report of a certain NGO submitted by the applicant, according to which its expert group concluded that the findings, physical and mental, of the applicant are diagnostic and could not be caused by any other cause other than the described torture, does not call into question the Commission's assessment, since, "*...after the entry into force of the law 4540/2018 (Government Gazette 91/22-5-2018 A), and in accordance with Article 23 thereof, victims of torture are certified by a medical assessment from a public hospital, military hospital or appropriately trained doctors of public health service providers, including forensic experts, and the applicant does not provide any evidence that he has addressed any of the above-mentioned institutions, without result for any reason (lack of suitable infrastructure, workload), so as to have recourse to the experts of the above-mentioned NGOs...*", see in this regard the judgment of Administrative Appeal Court of Piraeus no.201/2019.

²³⁹ GNCHR, Protection of Victims of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 15 December 2020.

Greece, the GNCHR reserved to be placed in the future in the context of the process concerning the drafting of the respective national legislation. To conclude, **the GNCHR observed that the current national legislation with the abovementioned deficiencies has not been amended yet.**

Freedom of religion

Religion and religious education

Taking into account both the relative decision²⁴⁰ of the Hellenic Data Protection Authority (HDPa), according to which the statement that the student is not a Christian Orthodox and hence invokes grounds of religious conscience for exemption from religious education classes is not lawful because it contravene the fundamental principle of necessity of processing of personal data, as well as the latest judgment of the European Court of Human Rights (ECtHR) in the case of *Papageorgiou and others v. Greece*²⁴¹, the GNCHR remains concerned about the way the exercise of the right to abstain from religious education courses is regulated in Greece, highlighting that it is not compatible with religious freedom, as it is made subject to prior formal justification. In fact, the measure of legal exemption from religious instruction and the related school exams upon request of their parents, as implemented by the Greek Authorities, constitutes an initiative which does not address in depth the issue of religious education in schools, nor does it propose a long-term and effective solution. The compulsory character of the course of Religious instruction does not seem to be compatible with a generalised exemption from it, to the extent that such a measure renders automatically a general education course optional. By adopting an alternative approach, **the GNCHR considers that, in a pluralistic and democratic school, which respects religious diversity, a course with catechetical content**, which teaches in a compulsory manner the Orthodox Christian tradition²⁴² does not meet the needs of the students. The GNCHR underlines that religious education should include an introduction to the history and the main principles of each religion, so as to comply with constitutional and international law requirements and modern European cultural reality²⁴³.

²⁴⁰ HDPa, [Decision n° 28/2019](#), Indication of religion and nationality in secondary education qualifications and in the information system “myschool” and exemption of students from the religious education classes, 4 September 2019 [[Summary](#) of the Decision in English, p. 20].

²⁴¹ ECtHR, *Papageorgiou and others v. Greece* [App nos 4762/18, 6140/18], 31 January 2020.

²⁴² According to Article 1(1a) of Law 1566/1985 regarding the Structure and function of the primary and secondary education.

²⁴³ GNCHR, [Written Information](#) in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, July 2016, p. 60; GNCHR, [Statement](#) on the occasion of the implementation of the Curricula of the Religious classes in schools, 10 October 2016.

Religious oath

The GNCHR welcomes as a positive development for the enjoyment of freedom of religion the adoption of Law 4620/2019 introducing the new Code of Criminal Procedure (OJ 96/A/11.6.2019), by which the religious oath has been fully replaced by a political oath, so that the negative religious freedom is protected²⁴⁴.

Education and non-discrimination

The GNCHR shares the conclusions of the Working Group *on discrimination against women and girls* in its visit in Greece in April 2019, which points out, that **education can be a key site to shift rigid gender norms and stereotypes**²⁴⁵. Education on gender equality and gender norms starts in the family, continues at school, in the workplace and through society at large.

It is worth mentioning, that the GNCHR, in the framework of the preparation of its CRC Shadow Report, organized a public hearing (14.10.2019), in order to record the situation of the right to education in relation with vulnerable children and assess the progress made towards the implementation of the CRC²⁴⁶. Public hearings is a good example of the operation of the GNCHR, especially while working on reports but also on proposals for legislative amendments and relevant implementation measures. Following the findings and results of the public hearing, **children in Greece, although national constitution and law guarantee the principle of non discrimination, still face, in practice, discriminations with regard to their fundamental right to education**²⁴⁷. In this context, the GNCHR expresses its concerns about vulnerable children including Roma children, children with disabilities and chronic diseases, refugee/migrant children, LGBTQ+ children and their equal access, in practice, to quality education under the same conditions as Greek nationals. Moreover, the GNCHR recalling its recommendations to the Greek State on the negative effects of the reduction in public spending on social services provided to children over the past years²⁴⁸, and taken into account the adverse impact of Covid-19 pandemic on the education and well-being of children, especially the most vulnerable who are practically excluded from access to distance

²⁴⁴ For more information on the GNCHR's Positions see GNCHR, [Decision](#) on the Replacement of Religious Oath by Civil Oath, 29 May 2008; GNCHR, [Observations](#) on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights (ICCPR), 5 December 2013, p. 25-26; GNCHR, [Written Information](#) in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, July 2016, p. 61.

²⁴⁵ GNCHR, [Information](#) on CEDAW, 2020, UN Human Rights Council, Visit to Greece: [Report](#) of the Working Group on discrimination against women and girls, A/HRC/44/51/Add.1, April 2019.

²⁴⁶ [GNCHR Submission to UNCRC](#), January 2020.

²⁴⁷ [GNCHR Submission to UNCRC](#), January 2020.

²⁴⁸ GNCHR [Factsheet](#) on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights" (2010-2018), January 2018.

education²⁴⁹, reiterates that the right to equal access to education has been disregarded at various levels in Greece.

Education of Roma children

The limited access of Roma children to school and their limited enrolment, despite several actions undertaken by the State authorities, has been a major issue²⁵⁰, that deteriorated by the measures taken to address the COVID-19 pandemic and the implied school closure²⁵¹. The GNCHR has repeatedly stressed the importance of ensuring the protection of Roma children and called for the confrontation of alarming cases that irrefutably violate the rights of Roma children²⁵². In particular, as far as Roma children are concerned, the views of the UN Committee on the Rights of the Child in its Concluding Observations for Greece, regarding the segregation and the very poor education for Roma children, remain regrettably, as the GNCHR has pointed out above²⁵³, contemporary²⁵⁴.

The GNCHR taking into account the lack of measures focused to the improvement of the situation, agrees with the findings of the Ombudsman²⁵⁵ and highlights the need to ensure for Roma children the equal enjoyment of their rights to health, education, housing, labour and social participation. Especially towards the integration of Roma children into the educational procedure, the GNCHR reiterates the importance of the registration and documentation of the specific school population in every region and the collection of all relevant data on Roma communities²⁵⁶. Furthermore, pertaining to segregation practices in education, the GNCHR reiterates with disappointment that they are unacceptable. Finally, the GNCHR once again reminds all concerned the ECtHR judgments against Greece regarding the segregation of Roma children, which recognised that the placement of Roma children in special classes located in an annex of the main school building amounted to discrimination²⁵⁷, and illustrates

²⁴⁹ GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

²⁵⁰ [GNCHR Submission to UNCRC](#), January 2020, p. 17, 47-48, GNCHR [Written Information](#) in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, July 2016, p. 17, CoE, ECRI [Report](#) on Greece (fifth monitoring cycle), February 2015, par. 106-109 and 114.

²⁵¹ See supra p. 26-27.

²⁵² [GNCHR Submission to UNCRC](#), January 2020, GNCHR [Written Information](#) in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, July 2016, p. 16-17, CoE, ECRI [Report](#) on Greece (fifth monitoring cycle), February 2015, par. 106-109 and 114.

²⁵³ See also GNCHR, [Written Information](#) in relation to the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in Greece, July 2016, p. 17.

²⁵⁴ See supra p. 26-27.

²⁵⁵ Ombudsman, [Press Release: The Ombudsman calls for immediate measures for the protection of minors and the social inclusion of Roma](#), 24 October 2013.

²⁵⁶ See supra p.

²⁵⁷ ECtHR, *Sampanis and Others v. Greece*, No. 32526/05, 5 June 2008

<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-86797>

the need to take immediate action in order to combat antigypsyism and secure access to desegregated, inclusive education for all pupils²⁵⁸.

Education of students with disabilities

Several students with disabilities and chronic diseases, despite the developments in the field of the inclusion in mainstream schools, still receive education in special school units²⁵⁹. However, it should be highlighted here that the students' population of special schools has been increased the recent years. On the other hand, educational material, services and equipment, electronic environment and relevant information provided to students remain at a great extent inaccessible students with disabilities, while access to early intervention and pre-school services for children with disabilities is also very limited²⁶⁰.

According to recent data of the National Confederation of Disabled People of Greece (NCDP), students with disabilities and/or special educational needs, who are students in mainstream and special schools both in primary and secondary level of education, amount 101,683 students, which is the 7% of the total students' population of the country. The student population of **Special Education School Units** consists mainly of students with intellectual disability at a rate of 35%, students with autism at a rate of 31.4% and students with multiple disabilities at a rate of 12.1%²⁶¹. The vast majority of students with disabilities and/or special educational needs in secondary level of education studies in special vocational schools, while almost 50% of them are students in Special Vocational Education and Training Units. The number of students receiving special support (in addition to their general-education teachers) is significantly reduced in the secondary and upper secondary level of education, where the percentage of those students supported only by general-education teachers exceeds 90%²⁶².

A positive development towards the improvement of the situation of children with disabilities, is the elaboration and completion of the first National Action Plan for the Rights of Persons with Disabilities. The new Action Plan includes among its targets a series

²⁵⁸ ECtHR, *Lavida and others v. Greece* [No 7973/10], 30.8.2013; *Sampani and others v. Greece* [No 59608/09], 29.4.2013, *Sampanis and others v. Greece* [No 32526/05], June 2008. See also CoE, ECRI [Report](#) on Greece (fifth monitoring cycle), February 2015, par. 106-109.

²⁵⁹ Written contribution by ESAMEA, the National Confederation of Disabled People (NCDP), 21.10.2019. See: <https://www.esamea.gr>

²⁶⁰ Written contribution by ESAMEA, the National Confederation of Disabled People (NCDP), 21.10.2019. See: <https://www.esamea.gr>

²⁶¹ See ESAMEA [Press Release](#) [in Greek]

²⁶² GNCHR [Report](#) on the need for protection of human rights with regard to the measures taken in response to the coronavirus (COVID-19) pandemic and recommendations to the State. Description of the issues discussed in the Plenary Meetings during the lockdown Meetings of 8th, 22nd, 29th of April and of 6th May 2020, 12 June 2020, GNCHR [Report](#) regarding the impact of the pandemic and the measures taken to address it on human rights. Extraordinary times call for extraordinary responses, 5 July 2021 [in Greek], GNCHR Extraordinary times call for extraordinary responses: [Summary](#) of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights, 12 July 2021.

of measures and actions for the transition to Inclusive Education at all educational levels, as an explicit guarantee for children with disabilities.

Education of LGBTQ+ children

The GNCHR has repeatedly affirmed the need to free society from deep-rooted prejudices and stereotypes, highlighting the crucial role of education to this effort²⁶³. In the same context, the GNCHR remains concerned over the absence of a holistic approach regarding the issue of human rights education, which is easily identified in the curricula of both primary and secondary education. **Although, there is a number of initiatives with regard to discrimination in the field of education for reasons, among others, of transphobia²⁶⁴, indeed the sex and gender identity education is not included in the school curricula²⁶⁵.** Moreover, school books do not include illustrations of Rainbow Families, which constitutes an additional discrimination against the children of such families²⁶⁶. Including the human rights of transgender people and gender-based discrimination in human rights education and training programs, could help create a culture of recognition and acceptance of different types of families²⁶⁷. Furthermore, there is a series of complaints about discriminatory treatment in the field of education due to gender characteristics (by certain students of secondary education and of their parents) as well as in the field of family status due to sexual orientation (by persons living in same-sex registered civil partnership), which have been submitted to the Greek Ombudsman²⁶⁸. As the Deputy Ombudsman for Children's Rights concluded in its report²⁶⁹, focus should be put on the need to introduce a mandatory class of Sexual Education from primary school, which actually is not in place yet.

In light of the above mentioned, the GNCHR draws the attention of the competent State authorities to the need of protection of the right of children and young people to be educated in a safe environment; an environment free from violence, harassment, social exclusion or other forms of discrimination and degrading treatment related to sexual orientation and gender identity. This should further include providing adequate information on sexual orientation and gender identity, for example through anti-discrimination programs and

²⁶³ See: GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek], GNCHR, [Recommendations on Transgender persons and legal gender recognition](#) (2015), GNCHR [Observations on the Draft Law of the Ministry of Justice regarding amendment of the anti-discrimination Law 3304/2005](#) and GNCHR [Written Information to the Committee on the Elimination of Racial Discrimination 2016](#).

²⁶⁴ It is an initiative by the Rainbow School, a voluntary non-profit collegiality, with regard to discrimination in the field of education, which conducts research for the recording of homophobic, Lesbophobic, amiphobic and transphobic incidents occurring in context of school life. In this context, it engages the competent authorities of the Greek State (Ministry of Education) and promotes cooperation with relevant stakeholders working in the field of education.

²⁶⁵ [Rainbow Families Greece](#) and (OLKE, LESBIAN & GAY COMMUNITY OF GREECE) LGBT Organisation

²⁶⁶ [Rainbow Families Greece](#)

²⁶⁷ <http://www.transgender-association.gr/>

²⁶⁸ Greek Ombudsman [Annual Report 2017](#).

²⁶⁹ Greek Ombudsman [Annual Report 2017](#).

relevant educational material. The GNCHR underlines that the **introduction into schools of educational material on the elimination of gender stereotypes and the training of professionals** in the field, should be among State's priorities²⁷⁰.

Education of asylum seekers and refugees

Refugee children have a right to education according to the Convention on the Rights of the Child (CRC) and the Refugee Convention. According to articles 28, 29 and 30 of the CRC, the Greek State must take the appropriate measures (special care) so that minor asylum seekers or refugees enjoy the rights enshrined in the Convention, including: and the right to education. **The right of access to compulsory education is a fundamental, inalienable right of all children in Greece, regardless of nationality, residence status or other discrimination.** Education is also key for early integration into host societies of asylum seekers. The GNCHR has stressed in its Reference Report on the Refugee and Migrant Issue²⁷¹, the importance of ensuring unhindered equal access of migrant minors to the public system of primary and secondary education, by effectively enhancing their integration into the school morning curriculum, through actions specified in law on Educational Priority Zones (Law 3879/2010). The special provision stipulated in Law 4251/2014 (article 21 par. 8) on facilitation of access of refugee children to primary and secondary school (enrolment even with incomplete file and without further requirements). Unfortunately, there are no official data published regularly by the Ministry for Education. Based on data provided by the Ministry for Education to the Greek Ombudsman, on 26/2/2021 4184 children were enrolled in RSARE, 8.789 children in morning classes of primary and secondary schools without Educational Priority Zones and 1.450 children in schools with EPZ²⁷². Based on the GNCHR's monitoring, asylum seeking children hosted in reception and identification centers in the Eastern Aegean Islands have in practice insufficient to no access to formal education. A recent report by the Greek Ombudsman reveals that the percentage of children residing in accommodation centers in mainland Greece is high, however only a few ultimately follow the classes due to shortages in teaching staff, problems with transport, lack of technological means to follow e-classes (tele-education during the pandemic) and the negative stance by local communities and their own families²⁷³.

The measure of Reception School Annexes for Refugee Education (RSARE) for children residing in the camps was a positive measure of temporary character to meet the increasing needs of thousands of children stranded with their families in Greece back in 2015-2016 (see

²⁷⁰ See also European Commission, European network of legal experts in gender equality and non-discrimination, [Country report gender equality: Greece 2020](#). Panagiota Petroglou Reporting period 1 January 2019 – 31 December 2019.

²⁷¹ GNCHR GNCHR, [Reference Report](#) on the refugee and migrant issue 2020 [Greek version], p. 116-120.

²⁷² <https://www.synigoros.gr/resources/220421-antapokrish-dioikhshs-porisma-entaxh-prosfygopoulwn.pdf>

²⁷³ Greek Ombudsman, [Findings](#) on educational integration of children living in facilities and RICs under the Ministry for Migration and Asylum (in Greek), March 2021. See also Refugee Support Aegean, [Excluded and segregated – The vanishing education of refugee children in Greece](#), April 2021.

SR par. 245). However, based on the weekly curriculum and the lack of assessment of students' progress and the awarding of a certificate recognized by the Greek state leads to the conclusion that the conditions of "formal education" as defined in Law 3879/2010 are not met. **The Greek National Commission notes that the prolonged stay of refugee children in the parallel system of RSARE does not facilitate their integration into the public education system and the Greek society.** Besides, there is no justification for the continuation of operation of RSARE since they were initially implemented given the temporary stay of the families who were supposed to be relocated in another EU country (EU relocation program 2016-2017).

Finally, Article 28 of Law 4636/2019, which re-incorporated into the Greek legal order Directive 2011/95/EU on Qualification (recast) regulates access to education for minors in the same way as minors seeking international protection. beneficiaries of international protection. **Every minor beneficiary of international protection has the obligation to join the primary and secondary education of the public education system with the conditions that apply to Greek citizens.** In case of violation of this obligation, sanctions are imposed either to the adult members of the minor's family or to the minor himself. For minor applicants, if they do not comply and do not enroll or attend the respective school courses, because they do not wish to join the education system, the material reception conditions will be reduced. On the other hand, for the adult members of the minor's family, administrative sanctions will be imposed, similarly to the Greek citizens. According to the UN High Commissioner for Refugees, the verification that the above conditions are met is difficult, leaving a wide margin of appreciation to the Administration while it is not compatible with Article 20 of Directive 2013/33/EU where the reasons for reducing material reception conditions are specifically stated. Irrespectively of the above, in the application of "sanctions" against minors, the best interests of the child must be taken into account in accordance with Article 24 of the EU Charter of Fundamental Rights.