



Greek National Commission for Human Rights (GNCHR)

**Observations on the National report submitted in accordance
with par. 5 of the annex to HRC resolution 16/21
in view of the Third Cycle of Universal Periodic Review (UPR)
of Greece during the UN Human Rights Council's 39th Session**



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).

Table of Contents

I. Introductory Remarks.....	5
II. General Observations and methodology.....	6
III. Specific Observations.....	6
General framework.....	6
Ratification of international instruments.....	8
National Action Plans (NAPs)	9
Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance	10
<i>Antiracist legislation</i>	<i>10</i>
<i>Data collection with regard to racist crimes</i>	<i>14</i>
<i>National Council against Racism and Intolerance – National Action Plan against Racism and Intolerance.....</i>	<i>14</i>
Discrimination on the ground of sexual orientation.....	16
Protection of the Roma.....	18
<i>The specific situation of Roma population and the impact of Covid-19 pandemic</i>	<i>18</i>
<i>Incidents of alleged police violence against Roma people</i>	<i>19</i>
<i>The issues of pending civil registration and acquisition of Greek citizenship</i>	<i>20</i>
<i>Roma Inclusion National Strategy 2021-2027.....</i>	<i>21</i>
Situation of persons belonging to minorities.....	21
Combating Domestic Violence	21
<i>Violence against women in times of crisis.....</i>	<i>23</i>
Trafficking in human beings (THB)	24
Gender equality	25
<i>Gender mainstreaming.....</i>	<i>25</i>
<i>Participation in political and public life</i>	<i>26</i>
<i>Employment and the impact of coronavirus pandemic.....</i>	<i>27</i>
<i>Work life balance</i>	<i>29</i>
Accountability of law enforcement personnel.....	30
Right to a fair trial.....	31
Freedom of religion.....	32
<i>Religion and religious education.....</i>	<i>32</i>
<i>Religious oath</i>	<i>33</i>

Human Rights Education, Training and Awareness-raising	33
Rights of migrants	33
<i>Management of migration flows in accordance with the principle of non refoulement.....</i>	<i>34</i>
<i>Decent living conditions and treatment of vulnerable asylum seekers</i>	<i>36</i>
<i>Detention</i>	<i>38</i>
<i>Asylum procedures</i>	<i>40</i>
<i>Treatment of unaccompanied minor children</i>	<i>42</i>
Rights of persons with disabilities.....	43
Rights of the Child.....	44

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I. Introductory Remarks

The D3 Department of the Ministry of Foreign Affairs submitted Greece's draft National report, elaborated by the Legal Department of the Ministry of Foreign Affairs, in close cooperation with all Ministries involved in the promotion and protection of human rights, in view of the Third Cycle of Universal Periodic Review (UPR) of Greece during the UN Human Rights Council's 39th Session, 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 can play in the Third UPR Cycle and bearing in mind the importance of the UPR, which is the only human rights mechanism which reviews the situation of all 193 UN Member States, and all human rights, the GNCHR 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 recommendations received by Greece during the second UPR cycle were implemented. 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, addressed the Human Rights Council, by submitting its Stakeholder Report to Greece's UPR, focusing on 12 priority themes, related to Greece's 207 recommendations from the 2016 second UPR cycle. The GNCHR Report was taken into account in view of the drafting of the National Report.

Following the submission of its Stakeholder Report, the GNCHR also made a [Statement](#) on Turkey's withdrawal from the Istanbul Convention (31 March 2021), submitted its [Observations](#) on the draft Law of Ministry of Justice "Reforms regarding parent-child relationships and other family law issues" (31 March 2021), proceeded to specific [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" (19 May 2021), published its [Observations](#) on the draft Law of the Ministry of Labour and Social Affairs among others on the Protection of Employment and the ratification of ILO Convention No. 190 on violence and harassment in the world of work (10 June 2021), submitted a [Memo](#) to the Committee appointed by the Prime Minister with the aim of drafting a National Strategy for the Equality of LGBTIQI+ persons in Greece (25 June 2021), submitted its 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 (7 July 2021), submitted its [Observations](#) on the draft Law of the Ministry of Migration and Asylum among others on the reform of deportation and return procedures of third-country nationals (8 July 2021) and published its National [Report](#) on the situation of human rights of migrants at borders (19 July 2021).

* The present Observations were adopted by the GNCHR Plenary, on July 30, 2021. Rapporteurs: Prof. Maria Gavouneli, President, Ellie Varchalama, Second Vice-President and the GNCHR Scientific Staff: Dr. Katerina Charokopou, Dr. Roxani Fragou and Eva Tzavala.

In addition, the GNCHR encouraged its Members, as well as the Racist Violence Recording Network to participate in the UPR process¹.

II. General Observations and methodology

The draft Report contains an extensive – 28 pages – presentation and evaluation of the implementation of the recommendations accepted by Greece during the second UPR cycle 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. Furthermore, the GNCHR points out with satisfaction that the national Report refers both to civil and political, as well as to economic and social rights, thus covering a wide range of human rights, in accordance with the spirit of the UPR.

The content of the present Observations, following the same form of presentation as the national Report submitted by the Greek State party, 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.

III. Specific Observations

General framework

Bearing in mind the necessity of an "investment" in social rights and in their delivery, consistent with the use of maximum available resources², 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 recovery³. 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 recommendations received during the Second UPR Cycle⁴, **the cumulative impact of these measures has never been assessed**⁵.

¹ The Racist Violence Recording Network (RVRN) is a coalition of fifty-one agencies which provide medical, social and legal aid and/or come in direct contact with the victims of racist violence aiming to monitor racist violence incidents and provide support to the hate crime victims. The RVRN was established in 2011 at the initiative of the GNCHR and the Office of the UN High Commissioner for Refugees in Greece (UNHCR) and 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.

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

³ 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.

⁴ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.99, 134.104, 134.105, 134.107.

Furthermore, with regard to the **impact of the COVID-19 pandemic on human rights**, the GNCHR has pointed out that COVID-19 is a syndemic pandemic, interacting with and exacerbating existing inequalities in chronic diseases and the social determinants of health, while disproportionately affecting the most vulnerable social groups, including Roma, refugees, asylum-seekers and migrants, detainees, persons with disabilities and chronic diseases and LGBTQI+ people⁶. 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 problems⁷.

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 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 kind⁸. 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 conditions⁹. 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 receptions centers on three Greek Aegean Islands¹⁰, as well as in most Roma communities of the Country.

With regard to the further **strengthening of the Greek Ombudsman's competences** and bearing in mind the Prime Minister's announcement, dated March 12, 2021, which highlighted 4

⁵⁵ 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 [in Greek], May 2021, p. 7. For a more concise version of the Report in English, see [Summary](#) of the GNCHR Recommendations to the State regarding the impact of the pandemic.

⁶ 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 [in Greek], May 2021, p. 8.

⁷ 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 [in Greek], May 2021, p. 10.

⁸ 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 [in Greek], May 2021, p. 29-30.

⁹ 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 [in Greek], May 2021, p. 30-31.

¹⁰ See relevant [Press Release](#) of the Health Ministry, 8 June 2021 [in Greek]. INFO MIGRANTS, [Greece starts vaccination campaign at facilities for asylum seekers](#), 4 June 2021.

key issues related to the response to incidents of violence by police officers, including the enhancement of the Ombudsman by creating an autonomous structure with a Deputy Ombudsman, specialised staff and exclusive responsibility to assist in dealing with police violence, the GNCHR is monitoring the implementation of the relevant announcement¹¹.

Finally, the GNCHR stresses that in the National Report there is no reference to the **amendment of the Hellenic Constitution by Parliament**, on 25 November 2019. In this regard, the GNCHR recalls that nine (9) amendments were approved out of a total of forty-nine (49) proposed, while several recommendations addressed by the GNCHR were not retained. In particular, the GNCHR's proposal to amend Article 5(2) of the Constitution on equal treatment in order to cover sexual orientation and gender identity as grounds failed to pass¹².

Ratification of international instruments

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. It is worth mentioning 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)¹³. The GNCHR notes with regret, nonetheless, that the law ratifying the **Istanbul Convention remains inactive**, since crucial penal provisions were not included in the Criminal Code, while the issuance of joint ministerial decisions is still pending¹⁴.

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 implementation¹⁵. 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**

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 [in Greek], May 2021, p. 47.

¹² GNCHR [Proposals](#) for the reform of the Constitution, 7 February 2019, p. 5 [in Greek].

¹³ 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 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 on preventing and combating violence against women and domestic violence and adaptation of the Greek legislation, 1 March 2018.

¹⁴ 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.

¹⁵ 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.

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 text¹⁶.

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.

National Action Plans (NAPs)¹⁹

The GNCHR has welcomed with great satisfaction, as one of the stakeholders involved in the process, the **first National Action Plan (NAP) 2020-2023 on the Rights of Persons with Disabilities**, which includes comprehensive protection policies and measures relevant to women with disabilities, chronic diseases, children etc. in accordance with the UN guidelines²⁰. Another positive development is the adoption of the **NAP on Women, Peace, Security** by the Ministry of Foreign Affairs. With regard to the newly adopted **NAP for Children's Rights** (17 June 2021), the GNCHR has been actively participating in the relevant consultations by the General Secretariat of Transparency and Human Rights of the Ministry of Justice. Another 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**²¹.

The GNCHR has also welcomed the **National Action Plan against Racism and Intolerance 2020-2023**²², developed by the Ministry of Justice in consultation with the National Council against Racism and Intolerance²³, in accordance with Law 4356/2015, in which the GNCHR participates. The Action Plan includes a certain number of policy components for preventing

¹⁶ 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.

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 UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 137.1, 137.2, 137.3, 137.4, 137.5, 137.6, 137.7, 137.8, 137.9. See 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 UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.11, 134.12, 134.13, 134.14, 134.15, 134.16, 134.17, 134.18, 134.20, 134.30, 134.136.

²⁰ Positive measures in this direction were included in the [National Action Plan on Gender Equality 2016-2020](#).

²¹ GNCHR [Contribution](#) to the elaboration of the new Roma Inclusion National Strategy 2021-2027, 8 March 2021.

²² Ministry of Justice, [National Action Plan against Racism](#).

²³ Ministry of Justice, [National Council against Racism and Intolerance](#).

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 addressed²⁴.

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 (eg. migrants lacking legal status/residence permit), as well as the **EU Gender Equality Strategy (2020-2025)** and the **LGBTQI+ Equality Strategy (2020-2025)**²⁵. 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](#)²⁶. The GNCHR notes with satisfaction the submission of the Committee's Report to the Prime Minister, in June 29, 2021 and confirms its willingness and readiness to assist in the demanding task of the National Strategy's implementation.

Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance²⁷

Antiracist legislation

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.

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

²⁴ 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.

²⁵ 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.

²⁶ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek].

²⁷ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.35, 134.36, 134.39, 134.40, 134.41, 134.42, 134.43, 134.44, 134.45, 134.46, 134.47, 134.48, 134.49, 134.51, 134.52, 134.54, 134.56, 134.57, 134.58, 134.59, 134.60, 134.62, 136.9, 136.10.

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 each member of a community, who is targeted by individuals or groups with racist, xenophobic, homophobic or transphobic motives²⁸.

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 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 crimes²⁹.

As far as **Law 927/1979** (widely known as the "anti-racist law") is concerned, it has been rarely implemented. 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.

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

²⁸ 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.

²⁹ 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. See, for instance, Court decision 398/15.4.2014 of the Athens' Mixed Juror Court and Court decision 286/6.5.2019 by the Athens' Mixed Juror Court of Appeal (case of the murder of Pakistani citizen S.L.).

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 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 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 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)³⁰.

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 crime³¹. According to an RVRN Survey among its members (currently 51), in view of the RVRN's submission in the Sakir case, **in only one case, 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

³⁰ 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.

³¹ 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.

4478/2017, neither Court decisions for compensation based on Law 3811/2009 were reported by RVRN members in the incidents/cases of racist violence recorded by them³².

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, 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 violence³³.

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 area³⁴.

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**.

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. 13.

³³ 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.

³⁴ 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.

Data collection with regard to racist crimes

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 policymaking³⁵. To this end, the GNCHR points out with emphasis the need to **enhance the capacity of the 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, while insisting on the need to develop and use appropriate quantitative and qualitative indicators aiming at monitoring human rights implementation and measuring progress, so as to support policy formulation, impact assessment and transparency.

With regard to 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 Paraskevaidis**, which instructs precisely the biannual collection of files on racist crimes.

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 held a meeting since last December**, when it completed

³⁵ GNCHR, Stakeholder Report to the Universal Periodic Review (UPR) of Greece UN Human Rights Council, 39th session, 25 March 2021, p. 9.

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 field³⁶, 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) languages³⁷. 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 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 underreporting³⁸.

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

³⁶ See *supra*, p. 10.

³⁷ 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.

³⁸ 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.

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 account³⁹.

Discrimination on the ground of sexual orientation⁴⁰

The GNCHR recalls that, 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 public⁴¹**.

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 LGBTIQ+ 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 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

³⁹ 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.

⁴⁰ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.64. 134.65, 134.66.

⁴¹ See GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTIQI +, 25 June 2021 [in Greek], p. 5-6.

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"⁴².

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**⁴³.

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)⁴⁴.

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 parents⁴⁵.

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

⁴² 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.

⁴³ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek], p. 10.

⁴⁴ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek], p. 11.

⁴⁵ GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTQI +, 25 June 2021 [in Greek], p. 12.

Protection of the Roma⁴⁶

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 rights⁴⁷, concerns similar with those reported by CERD in its 2016 Concluding Observations⁴⁸. In particular, the GNCHR emphasised in its **Covid-19 Reports** the negative impact of the pandemic on Roma populations in the country and the specific needs of Roma people, such as access to health, water supply, electricity, waste disposal⁴⁹. Given the fact that 96 % of the entire Roma population in Greece has incomes below the national income poverty threshold⁵⁰, 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**⁵¹. Likewise, the **distance-learning measures deteriorated further the already lowest proportion of Roma in formal education**⁵². 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-learning⁵³.

The GNCHR was notified in November 27, 2020 with a letter submitted by the Pan-Hellenic Confederation of Greek Roma 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 school attendance as a key for progress in the social inclusion of Roma⁵⁴. Relevant recommendations had addressed the CRC Committee to

⁴⁶ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.122. 136.19.

⁴⁷ 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.

⁴⁸ 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.

⁴⁹ 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.

⁵⁰ FRA, EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016, p.14.

⁵¹ 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.

⁵² FRA, EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016, p. 29.

⁵³ 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.

⁵⁴ 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

the Greek Government, calling upon the State authorities to ensure that Roma have equal access to quality education⁵⁵. Besides, school segregation remains still a problem despite the legal prohibition of this practice and the case law of the European Court of Human Rights⁵⁶, 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 system⁵⁷. 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 end⁵⁸. The GNCHR encourages the competent State authorities to **ensure the effective implementation of the existing anti-racism regulatory framework in practice**⁵⁹.

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)⁶⁰. 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 was notified by HELLAN PASSE of new incidents of police impunity and violence abuse, that took place, pursuant to witnesses testimonies, in a Roma camp in Zevgolatio in Corinth in July 7, 2021, during a Police operation⁶¹. The frequency of the cases, which makes 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.

⁵⁵ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012, par. 26-27.

⁵⁶ FRA, EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016, p.10.

⁵⁷ 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.

⁵⁸ 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 v. 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.

⁵⁹ See *supra*, p. 11 et seq.

⁶⁰ FRA, EU-MIDIS II, Second European Union Minorities and Discrimination [Survey](#) Roma – Selected findings, 2016.

⁶¹ 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.

phenomenon seem systemic, the court delays and the judicial leniency in some cases⁶², 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 rights⁶³. At this point, the GNCHR shares the CERD's recommendations⁶⁴, 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.

The issues of pending civil registration and acquisition of Greek citizenship

The GNCHR has repeatedly expressed its strong concerns about **pending civil registration of a large number of Greek Roma**⁶⁵, especially to the extent that **settlement of the registration is the main condition for proving or acquiring Greek citizenship**⁶⁶. In particular, in its recent Observations on Law 4604/2019 by the Ministry of Internal Affairs⁶⁷, 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 4674/2020⁶⁸, abolished the favorable provisions before they start being implemented (article 40 of Law 4674/2020).

⁶² GNCHR [Report](#) and Proposals on issues related to the situation and the rights of the Gypsies in Greece, 2009 [in Greek].

⁶³ 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.

⁶⁴ 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.

⁶⁵ 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.

⁶⁶ 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.

⁶⁷ 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).

⁶⁸ "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 2021-2027*⁶⁹

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**.

*Situation of persons belonging to minorities*⁷⁰

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 past⁷¹ 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**⁷².

Combating Domestic Violence

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 and Harassment Convention* 190, by Law 4808/2021 (OJ 101/A/19.6.2021) for the protection of**

⁶⁹ GNCHR [Contribution](#) to the elaboration of the new Roma Inclusion National Strategy 2021-2027, 8 March 2021 [in Greek].

⁷⁰ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.94. 134.123, 136.18.

⁷¹ 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.

⁷² 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.

the employment, **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, **iv)** the legal redefinition of the concept of rape on the basis of non-consent by Law 4604/2019 (new Penal Code art. 336) and **v)** the Annual [Report](#) 2020 on police response to domestic violence incidents issued by the Domestic Violence Services of the Hellenic Police. 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 women⁷³. 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 behind⁷⁴.

With regard to the new Law 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 it⁷⁵. 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 measures⁷⁶.

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 victims⁷⁷. At the same time, the GNCHR shares the concerns of the *UN Working Group on discrimination against women and girls* regarding the non-prosecution of perpetrators despite the significant number of domestic violence reported cases.⁷⁸ In the context of the crime of domestic violence, Article 312 of the new Penal Code⁷⁹ complements to a certain

⁷³ 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.

⁷⁴ 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.

⁷⁵ 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.

⁷⁶ 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.

⁷⁷ 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.

⁷⁸ 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.

⁷⁹ 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."

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 Code⁸⁰. 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 challenge⁸¹, the GNCHR appreciates the role and capacity of the Observatory established by the *General Secretariat for Demography and Family Policy and Gender Equality* (GSDFPGE)⁸², 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 pandemic⁸³. 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 Greece⁸⁴. 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"⁸⁵, that particularly affected the enjoyment of women's 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 distancing⁸⁶. 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**

⁸⁰ 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.

⁸¹ 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.

⁸² 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.

⁸³ UN [Women](#), Council of Europe, [News](#) 2020.

⁸⁴ 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, [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 [in Greek], May 2021.

⁸⁵ ENNHRI, [Annual Report](#) on the Rule of Law situation in EU Member States, March 2021

⁸⁶ 1st Annual [Report](#) on Violence Against Women, General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE), November 2020.

migrants and refugees, Roma people, women with disabilities and LGBTQI+ who are under threat as victims of multiple discrimination.

Trafficking in human beings (THB)⁸⁷

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")⁸⁸. 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 bodies⁸⁹. Through its second Communication⁹⁰, 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 that **the COVID-19 pandemic 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*

⁸⁷ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.84. 134.85, 134.86, 134.87.

⁸⁸ GNCHR, *Chowdury and Others v. Greece*. [Recommendations](#) for the full compliance of the Greek State, 27 August 2018; 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.

⁸⁹ GNCHR, *Chowdury and Others v. Greece*. [Recommendations](#) for the full compliance of the Greek State, 27 August 2018.

⁹⁰ 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.

for granting international protection and other provisions⁹¹" 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 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. A positive development to this direction is the launch by the **Ministry of Citizen Protection of the Strategy to tackle Trafficking in Human Beings (THB) 2021-2025**, which was presented in an online press conference, on July 29, 2021, in the presence of the National Rapporteur for Combating Trafficking in Human Beings, Iraklis Moskof⁹².

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.

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

⁹¹ 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.

⁹² Ministry of Citizen Protection, [Press Release](#). The Ministry's of Citizen Protection Strategy to tackle Trafficking in Human Beings 2021-2025, 29 July 2021; The Ministry's of Citizen Protection [Strategy](#) to tackle Trafficking in Human Beings 2021-2025, 29 July 2021.

touching upon private and public life and defined -for the first time- "gendered discrimination"⁹³. 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 law⁹⁴.

A recent positive development is the adoption of the **National Action Plan on Women, Peace, Security** by the Ministry of Foreign Affairs⁹⁵ 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 rise**. 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 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 Exchange⁹⁶. 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 clubs⁹⁷. 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 practice⁹⁸. 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

⁹³ 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.

⁹⁴ See Article 2: "Definitions" of Directive 2006/54/EU.

⁹⁵ In implementation of UN Security Council Resolution 1325/2000, [Flash Report](#), 20 September 2020.

⁹⁶ For more information see European network of legal experts in gender equality and non-discrimination

⁹⁷ 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".

⁹⁸ GNCHR [Oral Statement](#) on the implementation of the Convention on the Elimination of All forms of Discrimination against Women (CEDAW), November 2020.

progress⁹⁹. 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 disappointing¹⁰⁰. Furthermore, Greece ranks last in the EU on the Gender Equality Index¹⁰¹, 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 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 women¹⁰², that highlighted and exacerbated an evident setback in protecting women's labour rights¹⁰³. **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 market¹⁰⁴. 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*¹⁰⁵, according to which Greece is lagging behind other countries in the EU

⁹⁹ 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.

¹⁰⁰ See [Observatory](#) of the General Secretariat for Gender Equality 19th e-bulletin - Female Unemployment, 2019-04-01 [in English].

¹⁰¹ 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%.

¹⁰² GNCHR, [Factsheet](#) on the Impact of Economic Reform Policies and Austerity Measures on Human Rights, 2019, GNCHR, [Statement](#) 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.

¹⁰³ 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.

¹⁰⁴ European Committee of Social Rights, [Statement](#) on COVID-19 and social rights, adopted on 24 March 2021, p. 6.

¹⁰⁵ 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 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 authorities¹⁰⁶.

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 State and related to the care of the family, children and the elderly¹⁰⁷. In 2018, 23.7% of women in the active population were unemployed, compared to 14.7% of men¹⁰⁸. This is a significantly larger gap than the EU average (0.5%)¹⁰⁹. Similar are the results of the INE Annual Report 2020¹¹⁰, 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 crisis¹¹¹. 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**¹¹².

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 mandate¹¹³, **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 GSFPGE¹¹⁴, including the recent launch of the Pegasus project¹¹⁵, which contains policy proposals for addressing the

¹⁰⁶ [Direct Request \(CEACR\) - adopted 2020](#), published 109th ILC session 2021.

¹⁰⁷ 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 risen to 36.7% in 2014 from 29.8% in 200. See Institute of Labour of the Confederation of Labour (INE GSEE), [Update](#), March-April 2018.

¹⁰⁸ General Secretariat for Demography and Family Policy and Gender Equality (GSDFPGE) "Women's Unemployment", Table 3 Unemployment rates by gender 2013-2018.

¹⁰⁹ EIGE database EU - 28 for 2017.

¹¹⁰ Institute of Labour of the Confederation of Labour (INE GSEE), [Annual Report 2020](#), The Greek economy and the employment, October 2020 [in Greek] p. 10.

¹¹¹ 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 [in Greek], May 2021.

¹¹² See Greek General Confederation of Labour (GSEE) CEACR Observations, 30 August 2019.

¹¹³ 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.

¹¹⁴ See [UPR Mid-term reports](#), Greece.

¹¹⁵ 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

existing gender gap in pensions on a multifaceted basis, in order to overcome, *inter alia*, the shortcomings of the recent Law 4387/2016¹¹⁶.

However, the GNCHR still identifies certain gaps in the existing legislation and in its implementation in practice,¹¹⁷ that limit women's labour rights, such as the high female unemployment rate¹¹⁸, 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-gap¹¹⁹. Additionally, there is still a failure to collect reliable statistics on gender discrimination in the workplace in Greece¹²⁰.

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 case¹²¹, and that the European Commission is charged with the task of monitoring the implementation and ensuring the correct transposition of EU law by Member States¹²², **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 and what does this imply¹²³. Bearing in mind the impact of the previous crisis on reconciliation of work, private and family life¹²⁴ and the tendency of mothers in Greece to settle the dispute

(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, September 2020.

¹¹⁶ 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.

¹¹⁷ GNCHR, [Submission](#) to the UN Human Rights Council's Universal Periodic Review of Greece, September 2015.

¹¹⁸ [Observatory](#) of the General Secretariat for Gender Equality 19th e-bulletin - Female Unemployment.

¹¹⁹ GNCHR, [Submission](#) to the UN Human Rights Council's Universal Periodic Review of Greece, September 2015.

¹²⁰ Greek General Confederation of Labour (G.S.E.E) CEACR Observations 30.8.2019.

¹²¹ ECJ 106/77 [Amministrazione delle Finanze dello Stato v. Simmenthal S.p.A.](#), (1978) ECR 643.

¹²² AT A GLANCE Implementation in action. [Transposition, implementation and enforcement of Union law](#)

¹²³ 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.

¹²⁴ EIGE, Reconciliation of work, family and private life in the European Union [Policy Review](#), 2015, p. 39-40, sceptical about the effective implementation in practice.

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 action¹²⁵, the GNCHR voices its **concerns about the essential implementation of Law 4808/2021** (OJ 101/A/19.6.2021)¹²⁶. 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 field¹²⁷.

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 GNCHR expresses its concerns about the fact that in Greece self-employed parents do not have access to this form of parental leave¹²⁸.

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 rights¹²⁹. 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**¹³⁰.

Accountability of law enforcement personnel¹³¹

The GNCHR remains concerned about the **frequency, volume and character of reported cases of law enforcement arbitrary conduct and closely monitors recent allegations of unjustified violence by the Greek Police**. Acknowledging that unjustified or disproportionate use of force and repressive measures undermines the rule of law, while violating fundamental human rights, the GNCHR calls on the Greek State¹³² and all competent bodies, such as the National Mechanism for the Investigation of Arbitrary Incidents¹³³, to proceed promptly and

¹²⁵ EIGE, Reconciliation of work, family and private life in the European Union [Policy Review](#), 2015.

¹²⁶ 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].

¹²⁷ 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].

¹²⁸ EIGE, [Who is eligible for parental leave in Greece?](#), May 2021.

¹²⁹ GNCHR, [Observations](#) on draft law on equal treatment, 2016.

¹³⁰ See GNCHR, [Memo](#) to the Committee for the drafting of the National Equality Strategy of LGBTIQI +, 25 June 2021 [in Greek].

¹³¹ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.24. 134.40, 134.42, 134.68, 134.70. 134.71, 134.73.

¹³² GNCHR [Statement](#) on the occasion of the recent allegations of unjustified use of force by the Greek Police and the announcement of the Minister of Citizen Protection regarding the use of cameras by Police, 15 January 2020.

¹³³ GNCHR Letter to the National Mechanism for the Investigation of Arbitrary Incidents regarding the investigation of complaints of unjustified violence by the Hellenic Police on March 7, 2021 at Nea Smirni square, 9 March 2021.

decisively to the impartial and thorough investigation of any relevant allegation of unjustified use of force by the Police. This said, the GNCHR acknowledges as a positive step to this direction the enhancement of the relevant legislative framework and the granting to the Ombudsman of wider powers by **Law 4662/2020**.

In particular, acknowledging the role of law enforcement Authorities as vital for the protection of citizens' life and health and bearing in mind that the serious impact of the pandemic on people's lives intensified the need to grant the **Police extensive powers** for the monitoring of compliance with emergency measures, no longer in force, the GNCHR recognises that Greek Police, which has been entrusted with the supervision of the implementation of strict restrictive measures, is, from the beginning, at the **forefront of tackling the pandemic** and understands its enhanced role as regards the management of health risk¹³⁴.

Nevertheless, following the allegations for unjustified violence, the GNCHR stresses that **the pandemic does not exonerate the Police from its obligation to use its currently extensive powers in a manner that is fully compliant with its mandate, which is no other than to serve and protect citizens while respecting their fundamental freedoms and human rights**. The GNCHR highlights at this point, as it has now been proven, more than a year after the outbreak of the pandemic, that abusive police practices and undue reliance on strict repression measures have not only led to serious infringements, but in fact have undermined efforts to combat the spread of the virus. The GNCHR lays particular **emphasis on 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.

In this regard, the GNCHR highlights that it is crucial to conduct a **public debate on drastic amendment of the organisation, functioning and order of the Greek Police**, based on a fundamentally different model of policing, which meets the real needs for the citizens' safety and ensures a peaceful daily life.

Right to a fair trial¹³⁵

The GNCHR has repeatedly addressed various aspects of the **right to a fair trial, rationalisation and acceleration of judicial proceedings** being one of the most important. Albeit fully appreciating the need to accelerate the conclusion of penal proceedings, as Greece has been found in breach of the relevant European Convention on Human Rights provisions in several cases, the GNCHR has continuously expressed its concern that such the measures might create more problems than those they would solve. In particular, the GNCHR addressed recently the issue of **access to justice during the pandemic**, confirming that the COVID-19 crisis has had a decisive impact on the functioning of all the significant aspects of the justice system on many levels, with multifaceted consequences not only for the courts, but also for the entire spectrum of the functioning of justice. The GNCHR particularly reiterates that there is an urgent need to address the systemic and chronic issue of delivering justice within reasonable time, which the

¹³⁴ 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 [in Greek], May 2021, p. 42 et seq.

¹³⁵ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.88. 134.89.

European Court of Human Rights (ECtHR) has found Greece to be in violation of in many cases. At the same time, the GNCHR recognises that digitisation of Justice constitutes a significant challenge for Greece, welcomes the initiatives of the Ministry of Justice in cooperation with the Ministry of Digital Governance for the realisation of the National Strategy for the Digital Justice and encourages the increase of the use of digital tools to all the different stages of the functioning of justice¹³⁶.

More specifically, the GNCHR stresses the need to **strengthen measures for the facilitation and the safety of the courts' functioning** in view of the loosening of the restrictions that had been in place due to the pandemic, aiming at the immediate re-functioning of the justice system and the protection of the right to a fair trial and human dignity. In view of the **increase of the courts' backlog**, it is necessary to ensure that cases are distributed in such a way that the post-emergency case ranking does not focus on financial issues related to the protection of individuals' rights and follows fair and objective criteria, while encouraging mediation. In addition, the GNCHR considers that it is crucial to take special care of vulnerable groups who are at an even greater risk of having their rights infringed, by prioritising the cases concerning these groups.

Freedom of religion¹³⁷

Religion and religious education

Taking into account both the relative decision¹³⁸ 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*¹³⁹, 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,**

¹³⁶ 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 [in Greek], May 2021, p. 36 et seq.

¹³⁷ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.93. 136.14.

¹³⁸ 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].

¹³⁹ ECtHR, *Papageorgiou and others v. Greece* [App nos 4762/18, 6140/18], 31 January 2020.

which teaches in a compulsory manner the Orthodox Christian tradition¹⁴⁰ 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 reality¹⁴¹.

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 protected¹⁴².

Human Rights Education, Training and Awareness-raising¹⁴³

With regard to human rights education, 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 migrants

As a general remark, the GNCHR would like to flag that the State Report focuses only on asylum seekers' and refugee's situation in Greece even though UPR's Recommendations in the previous reporting cycle refer both to migrant and refugee rights. In particular, several Recommendations (134.123 134.125, 134.126, 134.136, 134.127, 134.135, 134.138) urge the Greek State to continue the protection of the rights of migrants already living in the Greek territory, with particular reference, among others, to **working conditions of migrant workers and its**

¹⁴⁰ According to Article 1(1a) of Law 1566/1985 regarding the Structure and function of the primary and secondary education.

¹⁴¹ 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.

¹⁴² 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.

¹⁴³ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.20. 134.21, 134.22, 134.23, 134.24. 134.25, 135.2.

effective supervision by state authorities (134.127). The GNCHR in its recent Observations to the Draft Law of the Ministry for Migration and Asylum on returns addressed the persistent issue of labor exploitation, with particular abusive working conditions of migrant land workers on the occasion of a new fire in a camp in Manoladaon 27.6.2021¹⁴⁴. As evidenced by the reports on the situation in the area, the incidents of arbitrariness continue, as most of the land workers remain without legal documents, while working in inhumane conditions¹⁴⁵. In fact, the GNCHR attached particular importance in the execution of the landmark decision of the ECtHR, *Chowdury and others v. Greece*, urging the Greek State to substantially comply with its obligations arising from international and European commitments. In this context, the GNCHR reiterates its Recommendations for the implementation of the current institutional framework through the adoption of appropriate individual and general measures in order to prevent and combat all forms of forced labor and labor exploitation.

On the specific information provided by the State **on the treatment of asylum seekers and irregular migrants**, the GNCHR would like to make the following comments:

Management of migration flows in accordance with the principle of non refoulement¹⁴⁶

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 (36.310) and 2018 (50.508) with an increase in 2019 (74.613) and a decline in 2020 (15.696).

Certain Recommendations of States in the previous UPR reporting circle put an emphasis on regional and international cooperation among States for the successful management of migration and refugee flows with full respect for human rights. Similarly, the GNCHR has reiterated, in multiple occasions, that **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. The principle of solidarity and responsibility-sharing among EU States is of primordial importance when designing a common asylum and migration policy. Therefore, the EU Pact on Migration and Asylum currently under negotiations at the EU level is an opportunity to adopt a more human rights and people centered approach to migration.

¹⁴⁴ GNCHR, Observations on the Draft Law "Establishment of procedures for deportation and return of third-country nationals, issues of residence permits and procedures for granting international protection and other provisions within the competence of the Ministry of Immigration and Asylum and the Ministry of Citizen Protection" [in Greek], 8 July 2021, p. 28.

¹⁴⁵ Generation 2.0 RED, [Report on the situation at Manolada](#), June 2021.

¹⁴⁶ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.130, 134.132, 134.134.

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 principle**¹⁴⁷. In recent years, and especially in 2020, there has been an increase in incidents reported by international organizations¹⁴⁸, civil society¹⁴⁹ 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.

The GNCHR worried about the multiplication of **reported incidents on pushbacks** revealing a repeated methodology issued a Statement¹⁵⁰ 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 bodies¹⁵¹ upon the Greek

¹⁴⁷ GNCHR, [Proposals](#) for the Reception of Asylum Seekers and their access to asylum procedures, 6 June 2002.

¹⁴⁸ 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. UN Committee Against Torture, Concluding Observations on the seventh periodic report of Greece, 3 September 2019, CAT/C/GRC/CO/7. Working Group on Arbitrary Detention, Preliminary Findings from its visit to Greece (2-13 December 2019). 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. Council of Europe Commissioner for Human Rights, Letter: Greek authorities should investigate allegations of pushbacks and ill-treatment of migrants, ensure an enabling environment for NGOs and improve reception conditions, 12 May 2021.

¹⁴⁹ 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. Information also received during an online hearing of relevant stakeholders convened by the GNCHR on 18.6.2020. GNCHR, [Press Release](#): Hearing of public authorities and persons on refugee and migrant issues during the meeting of the Third Sub-Commission of the GNCHR, 19.6.2020.

¹⁵⁰ GNCHR, [Statement](#) on the reported practices of push backs, 7 July 2020.

¹⁵¹ United Nations High Commissioner for Refugees, Briefing Note: UNCHR calls on Greece to investigate pushbacks at sea and land borders with Turkey, 12 June 2020. Greek Ombudsman, Interim Report: Alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection, 28.4.2021. Council of

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.

Decent living conditions and treatment of vulnerable asylum seekers¹⁵²

In 2019 there has been an **increase of refugee and migration flows in Greece**, compared to the previous year¹⁵³. Reception centres on the islands at the end of 2019 were overcrowded, far beyond their hosting capacities¹⁵⁴, 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 decided to carry out a monitoring visit in Samos (20-21.1.2020), where it concluded that the system had collapsed¹⁵⁵. 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 was asphyxiating. Based on official data on the occupancy/capacity rate at the Eastern Aegean Islands¹⁵⁶, there were 41.897 refugees/migrants at the islands whereas the official capacity of hosting and accommodation facilities was 8.816 places. 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. Apart from a collapse of the hosting capacity of the reception centers, other **worrying findings possibly entailing violations of human rights** were the limited access to formal education for migrant children residing in camps¹⁵⁷, the severely defected provision of health and psychological services to refugee population in the

Europe Commissioner for Human Rights, Letter: Grek authorities should investigate allegations of pushbacks and ill-treatment of migrants, ensure an enabling environment for NGOs and improve reception conditions, 12 May 2021.

¹⁵² UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.129, 134.143, 134.130, 134.131, 134.144, 134.145, 134.148, 134.149, 134.147, 134.139, 134.142.

¹⁵³ 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.

¹⁵⁴ 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 December 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.

¹⁵⁵ See GNCHR, [Press release](#): "In Samos, the system has collapsed", 23.01.2020. For more information on the findings of the GNCHR see GNCHR, [National Report](#) on the situation of human rights of migrants at the borders, July 2021.

¹⁵⁶ The Ministry for Citizen Protection issues Situational Reports every day. See National [Situational Picture](#) regarding the islands at Eastern Aegean Sea.

¹⁵⁷ Refugee Support Aegean, [Report](#): Excluded and segregated - The vanishing education of refugee children in Greece, April 2021.

camps¹⁵⁸ and incidents of violence (such as arsons, violent confrontations among rival communities, extortions, rapes of women and minors) and a general climate of insecurity among residents in the official and non official camps at borders. In Lesbos, a fire broke out in Moria in 2020 which destroyed the largest part of the camp and its infrastructures. The GNCHR noted in a Statement¹⁵⁹ that the fire in Moria occurred as part of an escalating violent upheaval due to the suffocating conditions in reception centers, 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. The GNCHR in a previous Statement¹⁶⁰ had already expressed its concern about the increase in incidents of violence, racist attacks, hate speech and xenophobia on the islands of the Eastern Aegean. 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.

Efforts on decongestion of the islands via relocation of unaccompanied children to other EU countries¹⁶¹ and transfer of vulnerable to COVID-19 asylum seekers to mainland Greece were being reinforced during 2020¹⁶².

More particularly, regarding the special reception needs of vulnerable people, the GNCHR has previously recommended to the State to provide material reception conditions to minors from third countries, regardless of their status and give special attention and care to the needs of persons with disabilities and/or chronic illness for whom material reception conditions must not be interrupted or restricted¹⁶³. **Law 4540/2018** and subsequent **Law 4636/2019** did not exclude vulnerable people from the restriction or termination of the material reception conditions, however provided for a decision to be made on an individual and objective basis, taking into account the specific situation of the person. In addition, it is positive that Greek law provides that access to medical care may not be interrupted or restricted.

¹⁵⁸ Medecins Sans Frontieres, [Report](#): Constructing Crisis at Europe's Borders - The EU plan to intensify its dangerous hotspot approach on Greek islands, June 2021.

¹⁵⁹ GNCHR, [Statement](#) on the fire in Moria and the day after, 11 September 2020.

¹⁶⁰ GNCHR, [Statement](#): Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 5 March 2020.

¹⁶¹ A pilot program which run on voluntary basis aimed at relocating a total of 1600 children from Greece to other 11 EU countries and Norway.

¹⁶² In 2020, over 33.617 transfers from the different islands to the mainland have taken place. Ministry for Migration and Asylum, [Annually Information Bulletin – Asylum](#), December 2020 [in Greek].

¹⁶³ 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.

Detention¹⁶⁴

In accordance with European Union law and 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 pursued¹⁶⁵. Irrespective of the above, detention shall be imposed only on the basis of an individual assessment and provided that alternative measures have already been considered¹⁶⁶. In the previous reporting cycle, States recommended, among others, to the Greek Government to limit the use of detention measure. On the contrary, by virtue of **Law 4636/2019** as amended, the detention measure was reinforced and expanded to all asylum seekers (and not just those already in detention), including vulnerable persons and unaccompanied minors¹⁶⁷. In 1.11.2019, 4.385 migrants were being detained for immigration purposes (administrative detention of asylum seekers and returnees) 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 EU¹⁶⁸. The Committee Against Torture in its 2019 Concluding Observations 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 measure¹⁶⁹. Similarly, with regard to minor third-country nationals,

¹⁶⁴ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 136.26, 136.24, 134.149, 134.148.

¹⁶⁵ Article 8 of the Directive 2013/33/EU on Reception Conditions and Article 15 of the Directive 2008/115/EC on Returns. FRA, Alternatives to detention for asylum seekers and people in return procedures, [Report](#), 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 January 2018.

¹⁶⁶ 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.

¹⁶⁷ GNCHR, [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", 23.4.2020. According to information that the GNCHR received from civil society organizations - during the hearing of persons and bodies held before the GNCHR on 6 July 2020, 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 reasoning.

¹⁶⁸ Greek Ombudsman, Return of third country nationals, [Special Report 2019](#).

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

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" regime¹⁷⁰. **Law 4760/2020** that abolished detention of unaccompanied minors in police departments is a positive step. In practice, given the official statistics¹⁷¹, only few children are being detained in police departments and for the shortest period possible.

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 reasoning¹⁷².

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 alternatives¹⁷³. 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.

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 May 2018. The GNCHR proposed the abolition of the relevant legislative provision.

¹⁷⁰ 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.

¹⁷¹ National Center for Social Solidarity, [Situation Update](#): Unaccompanied Children (UAC) in Greece, 30 June 2021.

¹⁷² 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 July 2020.

¹⁷³ United Nations Network on Migration, [Press Release](#): COVID-19 & Immigration Detention: What Can Governments and Other Stakeholders Do?, 29 April 2020. Council of Europe, Commissioner for Human Rights, [Statement](#): Commissioner calls for release of immigration detainees while COVID-19 crisis continues, 26 March 2020. UNHCR, [Press Release](#): UNHCR stresses urgent need for States to end unlawful detention of refugees and asylum-seekers, amidst COVID-19 pandemic, 24 June 2020.

*Asylum procedures*¹⁷⁴

In the last reporting cycle, States put an emphasis on the quality of the asylum procedures and the capacity of the Asylum Service to meet the demands for access to asylum. It is true that back in 2016, due to the increased number of arrivals in 2015 and 2016¹⁷⁵ 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 claims¹⁷⁶ 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 exercise¹⁷⁷. 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 Article 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 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

¹⁷⁴ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.128,134.131,134.145,134.133.

¹⁷⁵ According to [UNCHR data](#), 861.632 people arrived in Greece through sea or land in 2015 and 177.234 in 2016.

¹⁷⁶ 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 May 2016.

¹⁷⁷ 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 August 2016 [in Greek].

several months to years. **These delays still 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 procedure¹⁷⁸. The new legal regime entered into force on January 1st 2020 and the GNCHR closely monitored its application by conducting on-site visits to Asylum Offices and convening an online hearing of relevant stakeholders on this particular aspect¹⁷⁹. 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 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. 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 personnel¹⁸⁰. 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 elapsed¹⁸¹. 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 applicants for free

¹⁷⁸ For further analysis on the GNCHR's positions see GNCHR, [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, [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](#).

¹⁷⁹ GNCHR, [Press Release](#): the GNCHR held a hearing of bodies on issues of international protection and social security coverage of refugees, 7 July 2020 [in Greek].

¹⁸⁰ An official complaint was lodged before Frontex and the Greek Ombudsman.

¹⁸¹ GNCHR, [Reference Report](#) on the refugee and migrant issue, September 2020, p. 58 [Greek version].

legal aid at the appeals stage in accordance with the provisions of national and EU law. 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.

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 applications¹⁸². The State Report refers to the measures adopted to address this urgent situation in paras 119-122, describing accurately the events that took place. 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 States¹⁸³. 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.

Treatment of unaccompanied minor children¹⁸⁴

In line with States' Recommendations during the previous reporting cycle on the amelioration of the identification, care and supervision/monitoring of unaccompanied minors who arrive in Greece, a **Special Secretariat for the Protection of Unaccompanied Minors** has been established in the Ministry of Migration and Asylum which supervises and coordinates different state authorities involved in child protection matters. The Greek Government has set as priority the protection of unaccompanied children which reached high numbers in 2020¹⁸⁵. The child protection deficits identified by the GNCHR during its on-site monitoring visits and information

¹⁸² Greek Legislative Act "Suspension of Asylum Applications" (OJ 45/A/2.3.2020).

¹⁸³ GNHCR, [Statement](#): Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 5 March 2020.

¹⁸⁴ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.153, 134.154, 134.146, 134.147, 134.151.

¹⁸⁵ According to official statistics (National Center for Social Solidarity) in January 2020, 5.463 unaccompanied minors were registered in Greece.

received by stakeholders during a hearing on the implementation of the Convention on the Rights of the Child, are the following: unsafe housing problems (insufficient places in hostels, unsafe "safe zones" in the RICs, maintenance of the "protective custody" measure in Police Departments, homelessness), insufficient to no access to formal education, absence of a state guardianship system, excessive delays in access to asylum, insufficient to no legal support during asylum procedures, problems in the age assessment process, reports of phenomena of exploitation and violence against minors and cases of disappearances of children from the RICs and the Accommodation Facilities for UOMs. The Special Secretariat had launched in 2021 the initiative of a national tracing and protection mechanism for unaccompanied children in precarious conditions together with the UNHCR Office in Greece¹⁸⁶. This mechanism will substantially contribute to combatting homelessness and preventing children go missing.

On the particular topic of guardianship that raised concerns among States in the Human Rights Council, the GNCHR deplores that there is still a **lack of an effective guardianship system** which impedes UOMs from enjoying a whole variety of human rights enshrined in law. 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.

As a last remark, issues of **child protection**, especially of migrant children, are complex as **coordination and cooperation of many state bodies are required**, while EU institutions, other international organizations and civil society organizations are also involved. However, the protection of the most vulnerable groups, such as migrant children and especially unaccompanied minors should be an absolute priority of the Government and the competent authorities given the current situation in Greece, where thousands of children are without a safe and age-appropriate shelter, while they face an imminent danger to their lives, physical and mental health. To this end, the GNCHR urges the Greek State to fully comply with the recent decision issued by the European Committee of Social Rights on the protection of migrant children's rights in Greece¹⁸⁷.

Rights of persons with disabilities¹⁸⁸

The GNCHR welcomes the adoption of the **first National Action Plan for the Rights of Persons with Disabilities** in 2020. However, the GNCHR deplores the fact that the existing legal

¹⁸⁶ UNHCR, [Joint press release](#): Greece launches national tracing and protection mechanism for unaccompanied children in precarious conditions, 6 April 2021.

¹⁸⁷ European Committee of Social Rights, Decision on the merits of 26th January 2021, Complaint no. 173/2018, ICJ and ECRE v. Greece.

¹⁸⁸ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.110, 134.111, 134.112, 134.113, 134.114, 134.115.

framework combating direct or indirect discrimination on the grounds of disability in law and practice still contains discrimination aspects in. Upon assessing the antidiscrimination legislation¹⁸⁹, and examining how the principle of equal treatment is implemented in all sectors of social life, there seems to be a lack of implementing “reasonable accommodation” in sociopolitical areas, for the latter is restricted in the field of employment and vocational training¹⁹⁰. As defined by par. 1 of art 27 of the CRPD, the right of persons with disabilities to enjoy, “*a work environment that is open, inclusive and accessible*” to them, is guaranteed and therefore a claim for reasonable accommodation on their behalf should be protected by the Greek legal order. More specifically, national law clearly states that the principle of equal treatment applies to all ‘persons’ in the public sector as well as in the private sector, including public bodies (par. 1 of art. 3 of law 4443/2016). In this light, and taking into account the failure of the State authorities to provide the necessary adjustments towards persons with disabilities, the GNCHR stresses the need of combating discrimination including direct adaptations in the legislation.

Rights of the Child¹⁹¹

The GNCHR welcomes the adoption of Law 4538/2018 providing for measures for the promotion of Foster Care and Adoption¹⁹². The recent law targets the swift and effective management of the issue of adoption and registration of children living in closed-care institutions, in order to achieve de-institutionalization. This will enable children without parental care to be placed in foster care or to be adopted under specific safeguards thus improving the development of family-based forms of care for children in Greece. To implement the new legislation, national and local authorities must take a series of actions. In particular, foster care parents should receive adequate training and ongoing support, both emotional and financial, in order to be able to provide high quality care for children. Social workers should also receive necessary training since foster care has not been considered as an alternative care option in Greece yet.

In accordance to the new legislation, the National Council of Foster Care and Adoption (E.S.An.Y.) has been established as advisory body on foster care and adoption,¹⁹³ as well as the National Register of children in institutional care, foster care and adoption (2019) (it replaced the National Register for Children protection), the National Register of Unaccompanied Minors (2018) and the National Register of Guardians (2019)¹⁹⁴. Thus, despite that the National

¹⁸⁹ Law 3304/2005, which transposed the two antidiscrimination Directives, introduced the concept of “reasonable accommodation” in the Greek legal context. It has been revised by law 4443/2016 but its point of reference has remained in the field of employment.

¹⁹⁰ It should be here pointed out, that in relation to the distinction between the terms “integration” and “inclusion” the UN Committee, insists on the need to apply a “integration model for education”, assessing that equal inclusive education can only function based on policies aimed at adjusting school environment in order to meet children’s’ needs and not the opposite. See GNCHR Observations on the National Action Plan on Children’s Rights 2018-2020, 29 November 2018 [in Greek], footnotes 64-65.

¹⁹¹ UPR of Greece (2nd Cycle-25th session), Thematic list of recommendations, Recommendations 134.27, 134.83, 134.90, 134.91, 134.92, 136.6.

¹⁹² Law 4538/2018 “Measures for the promotion of Foster Care and Adoption and other provisions” (OJ 85/A/16.5.2018).

¹⁹³ Decision D11/oik.57758/2484 (OGG 5090/B/14.11.2018) of the Dep. Minister of Labour and Social Affairs.

¹⁹⁴ Information submitted by the Ministry of Labour and Social Affairs.

Registers are already in operation, while the National Register of Guardians for Unaccompanied Minors is soon expected to begin its operation, **data or statistics on child protection in our country cannot be provided**¹⁹⁵. Additionally, it should be noted that the National Council of Foster Care and Adoption does not convene monthly as required by law; its last assembly was in June 2019.

Apart from the above mentioned, the GNCHR acknowledges particular importance to another essential issue that needs to be addressed, which is **the recognition of the paternal role of a non-biological parent**. Specifically, the lack of legal recognition of the non-biological parent as a legal parent hinders this parent from exercising effective parental care participating actively in the decision-making process such as health issues of the child. This problematic issue appears even worse in cases where the partnership of the parents ends due to separation or death of the non-biological parent. In the first case, the biological parent is granted the custody of the child, even if the parents were legally registered as partners and decided to have a child together. In the latter case, the non-biological parent has no right to the custody of the child, as this right remains in the biological family of the deceased biological parent¹⁹⁶. In this context, the GNCHR, reiterates the need of the related organization for recognition and acceptance of different types of families, such as same-sex parents.

Overall, the new legislation is a good step forward towards the development of quality family- and community-based care for children in Greece¹⁹⁷. It is expected to make a positive contribution towards the reduction of the procedural burden of foster care proceedings and is bound to ensure investment in public awareness raising, training and supervision of foster care.

Regarding de-institutionalisation policy, it has become a challenge in recent years, however social protection programmes are more and more afflicted due to the dismantling of the Welfare State as a result of the financial crisis¹⁹⁸. The GNCHR urges the Greek State to plan the gradual abolition of welfare units, where persons with disabilities or chronic diseases live and their replacement with appropriate small family-based units in line with the EU de-institutionalization policy based on non-discrimination and non-exclusion¹⁹⁹. In this regard, the GNCHR recommends that emphasis must be placed on important structural changes and institutional measures in the Welfare sector replacing the institution-centered welfare system by other "open protection" measures.

¹⁹⁵ "The Smile of the Child".

¹⁹⁶ Information submitted by the [Rainbow Families Greece](#) and (OLKE, Lesbian & Gay Community of Greece).

¹⁹⁷ [Country factsheet Greece](#): Strengthening families. Ending institutional care, 2018.

¹⁹⁸ GNCHR, [Report](#) on the Protection of the rights of older persons, 20 November 2014; GNCHR, [Statement](#) on the impact of the continuing austerity measures on human rights, 15 July 2015.

¹⁹⁹ GNCHR, [Observations](#) on the Draft of the seventh periodic report of the Greek Government the International Convention regarding the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, October 2017.