

HELLENIC REPUBLIC

GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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GNCHR'S RECOMMENDATIONS ON REFUGEE PROTECTION

[ANNEX TO GNCHR'S REFERENCE REPORT ON REFUGEES]

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The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection. It was established by Law 2667/1998 in accordance with the UN Paris Principles. Forty institutions whose activities cover the field of human rights are currently represented in the GNCHR (independent authorities, departments of university-level educational institutions, workers' and disabled persons' confederations, NGOs, political parties and ministries).

Executive Summary

The Greek National Commission for Human Rights (GNCHR), in its institutional role as a National Human Rights Institution (NHRI), attaches particular importance to international protection and closely monitors the treatment of refugees, migrants, newcomers or long-term residents in Greece. Indeed, since its first years of operation, it has dealt with issues of entry and residence, reception conditions, asylum and naturalization procedures, unaccompanied minors, detention of applicants for international protection, education, health and work of aliens etc.

The GNCHR has, throughout its years of operation, been an advisor to the State, providing its expert views on legislative, administrative or other measures in line with the State's international and european obligations and with respect for the rights of every person in the Greek territory. Responding to its dual role as the NHRI in Greece and an independent advisory body to the State, the GNCHR considers it appropriate to compile in a single text all its Positions on Refugee and Migration Issues. The GNCHR's Reference Report aim is to serve as a useful guide for the State, the legislator, administrative and judicial authorities, law enforcement and government policy makers, experts and practitioners, researchers and all stakeholders active in the field.

Part A covers **GNCHR's activities in selected areas of refugee protection:**

A) Reception and accommodation of applicants for international protection, focusing on the problems of applicants trapped in the Eastern Aegean islands, their living conditions in Reception and Identification Centers and Accommodation Centers, the lack of an adequate number of accommodation places and the homelessness faced by asylum seekers and refugees;

B) Detention of applicants for international protection, emphasizing the indiscriminate imposition of detention on applicants, without prior consideration of alternatives to detention measures, and maintaining the measure of "protective custody" of minors, contrary to the recommendations of international organizations;

C) Asylum procedures at first and second degree, emphasizing the prolonged period of application of the derogatory "fast-track border procedure", the need to balance the interests of a speedy handling of international protection applications and the good quality of decisions thereon, and the operational problems of the Asylum Service and the Appeals Authority;

D) Unaccompanied minors, with emphasis on their reception, detention, hosting and effective protection;

E) Push-backs of third country nationals at the Greek-Turkish borders, with emphasis on the ineffective investigation by the State of the complaints lodged by alleged victims; and

F) Refugee integration in Greece, focusing on the obstacles faced by asylum seekers and refugees in accessing their rights (work, education, health, housing).

The Reference Report provides a comprehensive overview of GNCHR's previous Views and Positions in these areas, outlining the progress made by the Greek state in each respective field and the *lacunae* still persisting, based on GNCHR's research combining quantitative and qualitative methods. At the end of each chapter, the GNCHR addresses **key recommendations** to the State on a progressive scale; first, the GNCHR suggests a group of measures responding to urgent needs and situations where basic human rights of international protection applicants and refugees are at risk followed by a group of long-term solutions towards the full realization of human rights of refugees and asylum seekers in Greece.

Key recommendations – A

Conscious of the factual and legal difficulties encountered by the Greek State to cope with the ever-increasing number of aliens arriving at the Greek shores as well as the growing needs of refugee population residing in mainland Greece, the GNCHR recommends to the State:

1. The **immediate termination of the entrapment** of applicants for international protection in the Eastern Aegean islands and **the lifting of geographical limitations** imposed on them, as well as their **transfer to mainland** in order to ensure the immediate decongestion of the islands;

2. The **abolition of the general measure of geographical limitation** imposed on applicants arriving at the eastern Aegean islands and the adoption of a legal provision whereby any geographical limitation shall be based on an **individual assessment** and be imposed by a reasoned administrative decision, providing also the applicants with a right to effective judicial protection, given the nature of the measure, i.e. the restriction of their freedom of movement;

3. The **signing and immediate ratification of Protocol No. 4 to the European Convention on Human Rights**, which, among others, prohibits the collective expulsion of aliens and guarantees the freedom of movement, allowing for the imposition of lawful restrictions thereon under specific conditions;

4. The **increase of accommodation places** in mainland Greece, in centers suitable for long-term residence of applicants for international protection, with special care for families and vulnerable;

5. The **creation of medium size** -in terms of capacity- **Accommodation Centers**, within residential areas, fulfilling the minimum living standards;

6. The **strengthening of the urban accommodation program**, in particular for vulnerable groups and those living in inappropriate places, in cooperation with the UNHCR and with the aim of gradually hosting all asylum seekers;

7. The **issuance, as soon as possible, of the Rules of Operation** for all Accommodation Centers;

8. The **immediate and full staffing** of the Reception and Identification Service and Reception Centers with qualified staff;

9. The strengthening of accommodation centers with **medical and paramedical staff** as well as administrative personnel and social workers (interpreters, intercultural mediators, plumbers, electricians, housekeeping staff and managers for the proper operation of facilities);

10. The protection of **vulnerable groups** by taking measures, such as immediately transferring them to open accommodation facilities where they can receive appropriate care and support for their specific needs and proportionally increasing the accommodation places, which are not sufficient;

11. The safeguarding of the rights of applicants for international protection **with disabilities and chronic diseases**; and

12. The operation of reception centers and accommodation facilities aware of **LGBTQI** issues.

Key recommendations - B

Guided by the latest report of the European Commission on the Prevention of Torture of the Council of Europe, following its visit in Greece, the GNCHR emphasizes that, in respect to applicants for international protection:

1. The measure of detention should be used **only as an exception or as a last resort** for reasons expressly provided for by law and should be as short as possible.

2. Administrative detention on the grounds of irregular entry into the country **should not apply to applicants for international protection.**

3. The Greek authorities should always consider, in each individual case and before the imposition of a detention measure, the application of **alternatives to detention measures**, in accordance with the applicable national provisions (article 30 of Law 3907/2011, article 46 of Law 4375/2016).

4. Any decision to restrict / deprive asylum seekers of their personal liberty must be **examined by a court for its legality.**

Key recommendations - C

Taking note of the deficiencies of the current asylum system and the recent developments in asylum law, the GNCHR strongly encourages the State to ensure:

1. The right **of unhindered access to asylum** for all who expressed their will to, **without undue delays**;

2. The **prompt and unimpeded processing** of international protection applications at every stage of the process, with a view to **ensuring the quality** of administrative decisions, so that the process meets the requirements of effectiveness;

3. The **non renewal and termination of the application of derogatory border procedure** of Article 60 (4) of Law 4375/2016, which was introduced as an exceptional and interim measure;

4. The **administrative and financial independence** of the Asylum Service and the Appeals Authority;

5. The **institutional reinforcement of second instance and of the independence** of the Appeals Committees, which exercise jurisdictional functions and constitute the review mechanism, in law and substance, of international protection applications;

6. Compliance with **procedural safeguards** emanating from the submission of an application for international protection to the Greek authorities, such as ensuring the provision of **interpretation services and legal aid** – either at their own expense or as per the law-.

Key recommendations - D

The protection of unaccompanied minors is a multipronged and complicated issue. Coordination and collaboration among multiple stakeholders, i.e. state authorities, the European Union, the Office of the UN High Commissioner for Refugees in Greece and civil society is required. To this end, the GNCHR strongly recommends to the State:

1. The **abolition of administrative detention** of unaccompanied minors;
2. The **abolition of deportation measure** for all alien minors as well as the express guarantee in law that all minors are protected against deportation/return unless they are accompanied by a parent or a person responsible for their care who is eligible for removal. The repatriation of a minor can only be effected under the condition that it serves the best interests of the child -following adequate justification and individual assessment-;
3. **To ensure a sufficient number of places** in age-appropriate reception and hosting facilities for all unaccompanied minors which will guarantee an adequate level of living conditions and contribute positively to their physical, mental, spiritual, moral and social development. Accommodating minors in spaces shared with adults is prohibited;
4. The **appointment of a guardian for every minor**, as soon as possible, or else from the identification, as provided by law;
5. **The use of age-determination procedures only in the event that the age of the person is contested *in concreto* with a reasoned opinion.** This procedure, if applicable, must meet international medical standards and any medical examinations shall be used only as a last resort and after other age assessment methods have been exhausted, taking into account the margin of error. In any case, the presumption of minority must be applied, as provided by law;
6. The **provision of information, in their mother tongue or in a language that they understand**, on their rights and in particular their right to apply for

international protection as well as the consequences arising thereafter, throughout their stay in the Greek territory;

7. To **carry out more than one individual interviews** for each minor separately, with respect to all procedural guarantees provided by law; to ensure that the interviews are conducted by specially qualified staff with the assistance of a certified interpreter with the presence of a counselor, in a friendly environment enabling the children to express themselves, as they may have been exposed to traumatic experiences in the past;

8. The **provision of psychological, medical and legal support to every minor**, by qualified staff, free of charge and with the assistance of a certified interpreter, regardless of the residence status of the child;

9. To ensure **access for all minors, unaccompanied and accompanied, to formal education** throughout the Greek territory;

10. To **find legal employment and get a social insurance for minors over 15 years old** who wish to work, under the strict restrictions imposed by law and with the consent of the person exercising the duty of care; and

11. The **adoption of a special residence permit for unaccompanied minors** in Greece, which will allow full protection and enjoyment of their rights only on the basis of their minority, irrespectively of the outcome of their international protection application or any other examination of their residence status; alternatively, it is recommended that a special residence permit for humanitarian reasons be introduced which will be granted to unaccompanied minors regardless of other additional factors.

Key recommendations - E

In view of continuing reports from NGOs, international organizations and alleged victims regarding illegal push-backs of third country nationals at the Greek-Turkish borders, the GNCHR recalls its previous Recommendations, calling upon the Greek authorities to take all measures to secure:

1. **Compliance with the *non-refoulement* principle;**
2. The **unimpeded, timely and effective access** for all aliens with irregular entry, irrespective of race, religion, nationality, membership of a social group or political belief, to international protection procedures;
3. The **timely and thorough** investigation of all complaints about informal, violent push-backs in Evros.

Key recommendations - F

The GNCHR calls the Greek state to approach the issue of refugee integration into local communities in a holistic way, by formulating and implementing a consistent long-term integration policy. In view of the current situation in Greece for refugees and applicants for international protection, the GNCHR invites the Greek state and the competent Greek authorities:

1. To develop a **solid, human-centered** migration policy and a **long-term, holistic** integration policy of aliens into the Greek society, regardless of their residence status and the needs of each target group;

2. To facilitate **access to employment, education and health** for international protection applicants, with a view to their early integration into host societies and with respect to the obligations arising from EU law and international human rights law;

3. To ensure **effective access to employment** for asylum seekers and refugees, harmonizing the administrative practice of the competent public services on tax, social security or other related matters;

4. To allow access to employment for applicants **prior to the full registration of their application**, if, due to the extraordinary circumstances resulting from the large number of arrivals, the completion of the procedure for filing an international protection application, in accordance with the provisions in force, takes more than three months;

5. To ensure **unhindered equal access** of third-country nationals to the public system of primary and secondary education, effectively enhancing their integration into the school morning curriculum, through actions specified in law on Educational Priority Zones and to implement Greek-language learning programs, irrespectively of age;

6. To provide **unimpeded access to health care services** for asylum-seekers and refugees, by facilitating the issuance of a Social Security Number from the

competent authorities and putting into effect the system of access to health care with an Aliens Health Card;

7. To regulate the State's **obligation to provide interpretation services** in public hospitals and other public health units;

8. To set up special structures for asylum seekers and refugees **with disabilities** in order to have effective access to health services;

9. To provide housing and a **minimum living standard** for those recognized refugees who have no work or other means of subsistence;

10. To activate the functioning of the Migration and Refugee Integration Councils as well as the Migrant Integration Centers and Community Centers in the municipalities of the Greek territory, where a large number of migrant and refugee populations are concentrated in order to promote **active participation of aliens in political life.**