

# REFERENCE REPORT ON THE REFUGEE AND MIGRANT ISSUE



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HELLENIC REPUBLIC  
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS (GNCHR)

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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 and is functioning in accordance with the UN Paris Principles. Forty-two institutions whose activities cover the field of human rights are currently represented in the GNCHR (independent authorities, departments of university-level educational institutions, trade unions, NGOs, political parties and ministries).

**Contents**

EXECUTIVE SUMMARY ..... 4

RECOMMENDATIONS ..... 12

    CHAPTER A: The situation at borders..... 12

    CHAPTER B: Push backs ..... 13

    CHAPTER C: Reception and accommodation conditions..... 14

    CHAPTER E: Asylum procedures ..... 18

    CHAPTER F: Protection of victims of torture ..... 19

    CHAPTER G: Protection of migrant minors..... 20

    CHAPTER H: Persons with disabilities or chronic diseases..... 22

    CHAPTER K: Integration..... 24

## EXECUTIVE SUMMARY

✚ A key priority for the GNCHR for 2020 was **the monitoring of the border situation** given the ongoing humanitarian crisis in the Eastern Aegean Islands, which came as a result of the increased flows since the summer of 2019, and the unrest at the Greek-Turkish land borders after a mass arrival of third country citizens wishing to enter European territory, at the invitation of Turkey. The Covid-19 pandemic in Greece actually reduced the new arrivals on the islands and in Evros, however it worsened the situation due to the emergency health measures that had to be taken to protect the vulnerable populations, including those living in RICs and Accommodation Centers and for the protection of public health.

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

On March 4, 2020, the GNCHR, noting with concern the developments on the Greek-Turkish land borders where increasing tensions were observed along the border line as well as the situation on the islands where the increase in incidents of violence, racist attacks, hate speech and xenophobia was alarming and in view of the crucial meetings

planned at the EU level on external border management policy, issued a *Statement on reviewing asylum and immigration policies and safeguarding human rights at the EU Borders*<sup>1</sup>. By the above Statement, the GNCHR submitted specific proposals addressed to the national authorities as well as to EU Member States and the EU.

At the end of March 2020, the suspension measure of submitting asylum applications in Greece ceased permanently, while those who entered in March 2020 and wished to apply for international protection were able - at least - to register their will to do so. However, the GNCHR expresses its concern about the indiscriminate prosecution of those who entered Greece in March, for instance through Lesvos, for illegal entry into the country. Contributing to the prevention of the spread of Covid-19 in RICs was the decision to relocate a significant number of refugees from the islands to mainland accommodation facilities (vulnerable, asylum seekers, including about 200 elderly people and 1,730 people suffering from chronic diseases) after relevant recommendation and assistance from the European Commission. In addition, a positive trend developed during the pandemic period is the solidarity in practice exercised by other EU countries towards Greece through their voluntary participation in the relocation scheme of unaccompanied minors from Greece.

✚ In 2020, there was an **increase in reported incidents of individual or group push backs at the Greek - Turkish land border, while cases of group push backs at**

<sup>1</sup> GNCHR, [Statement](#): Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 5.3.2020.

**sea are also recorded** with the use of methods that threaten the lives of migrants. In addition, it is particularly worrying that NGOs report push backs of third-country nationals after their entry into the Greek territory. The GNCHR, which monitors the issue over time, brought the issue back to the attention of the State, by formulating specific Recommendations, following comprehensive, detailed and reliable information received from the competent authorities, international organizations and international and national NGOs with longtime presence in the field during the recent online hearing of persons and authorities at the GNCHR.

On 18 June 2020, the GNCHR's Sub-Commission for the application of human rights to aliens held a hearing of public bodies and persons under the Commission's founding law, via video conference. The hearing was attended by representatives of the Government, the competent security forces, international organizations, independent authorities and civil society organizations.

Following the above hearing, the GNCHR issued a Statement<sup>2</sup>, noting that, based on complaints, there is clearly a gradual but steady consolidation of the characteristics of the phenomenon of reported informal push backs as well as of their repeated methodology. This fact in combination with the absence of complaints, according to the competent authorities, is of particular concern to the GNCHR, as the lack of an official independent mechanism for recording and monitoring complaints of informal push backs is essential and must be of immediate concern to the State

<sup>2</sup> GNCHR, [Statement](#) regarding the alleged push back practices, 9.7.2020 [in Greek]

due to serious human rights violations that this involves.

**✚ The level of provision of material reception and accommodation conditions for applicants of international protection in our country has dramatically deteriorated in the last year**, due to, among others, the increase in migration flows in 2019, the already large number of refugees and migrants living on the islands and mainland pending either a decision on their asylum application or their return to their countries of origin or transfer to another EU country through the Regulation Dublin III, the lack of adequate accommodation and of a sufficient number of permanent administrative and support staff for the operation of the sites and finally, the entrapment of thousands of people in the islands by virtue of the Joint EU-Turkey Statement. Moria has been the largest informal refugee camp in Europe whereas the undignified living conditions in the Eastern Aegean Islands have been condemned by international and European monitoring mechanisms and have led to interim measures indicated by the European Court of Human Rights to the Greek authorities in a significant number of cases.

Since the date of its signing, the GNCHR has sharply criticized the Joint EU-Turkey Statement, which proved to be an inapplicable, ineffective and a catalytic factor in restricting the rights of both asylum seekers who are stranded on the islands in indecent living conditions for a longtime period and of the inhabitants of Greek islands who bear the disproportionate burden of a dead-end European policy. In addition, this policy has contributed to the rise of racism and social

unrest. The GNCHR has repeatedly stressed the need to immediately end the confinement of applicants for international protection in the Eastern Aegean islands, by transferring them to mainland in appropriate long-term accommodation facilities and ensuring at least a decent standard of living in them. Pursuant to the Minister of Migration and Asylum, 17.000 people have been transferred from the islands to mainland Greece in the first half of 2020<sup>3</sup>. However, the latest legislative changes intensify the "overcrowding" on the islands, as they abolish the exclusion of vulnerable persons from the exceptional accelerated procedure of article 90 par. 3 of Law 4636/2019 that applies to the islands and establish new Closed Controlled Structures on the islands.

✚ By virtue of the latest modifications in the Greek legislation on asylum and migration (Law 4636/2019 and amending Law 4686/2020), **the detention measure was significantly strengthened and generalized**, contrary to international standards, the recommendations of international monitoring mechanisms as well as previous GNCHR's recommendations to the State. The GNCHR has already condemned the systematic and often arbitrary practice of administrative detention of asylum seekers and third-country nationals in return procedures in multiple occasions, analysing the international and European acquis that binds Greece while stressing the importance of the use of alternative measures. Detention should not constitute the rule, rather

the exception. In particular, with regard to vulnerable asylum seekers and minors, the GNCHR proposes the complete abolition of the detention measure which disproportionately affects their rights.

✚ **Significant changes to national asylum and immigration legislation have taken place in the last year.** In October 2019, Law 4636/2019 on International Protection was passed by the Parliament, which aimed to codify separate national provisions for the recognition and status of beneficiaries of international protection, asylum procedures, reception conditions for applicants for international protection and the judicial protection of them. However, soon afterwards, this legal framework was amended (see Law 4686/2020) since the newly established Ministry of Migration and Asylum wished to improve the provisions of Law 4636/2019 in order to speed up the process of granting international protection. The GNCHR, although it was not informed in advance about the forthcoming legislative changes, has thoroughly studied the proposed draft laws, elaborated its Observations thereon and submitted them, to the Minister and the Parliament.

At the same time, **the GNCHR closely monitored the operation of the asylum system, which once again reached its limits** taking into account the pathogenesis of the pre-existing system (e.g. majority of staff under temporary employment agreements, lack of space and adequate facilities) and the new exceptional circumstances (increased flows in the Eastern Aegean islands and massive applications for international protection in the second half of 2019,

<sup>3</sup> Ministry of Migration and Asylum, [Speech](#) of the Minister of Migration and Asylum, Member of the Parliament for Chios Mr. Notis Mitarakis, during the discussion of a question by the MPs of SYRIZA, 6.7.2020. [in Greek].

successive changes of competence at the Ministry level, changes in asylum procedures due to the implementation of the new Law 4636/2019 from January 1, 2020, unrest at the Greek-Turkish land borders and a decision to suspend access to asylum in March 2020 and a coronavirus pandemic, which significantly affected the functioning of services and the progress of asylum procedures). In this context, a GNCHR delegation visited the Asylum Service and the Regional Asylum Office of Attica in February 2020 to identify on the spot the problems and challenges faced by applicants for international protection and the staff of the Services as well as to discuss with the Directorate ways to improve the asylum system, in the aftermath of the implementation of the new Law 4636/2019. Furthermore, the Minister of Immigration and Asylum was invited and attended for the first time in GNCHR's history, its Plenary meeting in April 2020. In this occasion, he explained the reasoning of Law 4686/2020 and answered questions from members. Moreover, a special hearing of persons and public bodies was held in July 2020 by the GNCHR's Sub-Commission for Social, Economic and Cultural Rights and its Sub-Commission for the Application of Human Rights to Aliens on problems encountered in first and second degree asylum after the entry into force of Laws 4636/2019 and 4686/2020 and during the coronavirus pandemic.

✚ Due to the volume of migrants and refugees which our country has received in recent years, the actions of the GNCHR have particularly focused on monitoring the legal framework for the protection of the rights of

these groups. Research studies which examine relevant issues have widely confirmed that **experiences from the country of origin, such as e.g. torture or related acts of inhuman treatment, cause significant problems for the physical and mental health of a refugee**, especially when the injuries caused (physical and/or mental) do not receive medical care and rehabilitation. Refugees' physical and mental health problems indicate the urgent need for asylum procedures, which will focus on the immediate identification of vulnerable refugee groups, including victims of torture so that it can be ensured full and unhindered access to health care services and justice.

Given the many components of this issue, on March 4, 2020, a hearing was held at the premises of the GNCHR for the "Certification of Victims of Torture", in order to identify any gaps and deviations in national legislation in the light of the EU framework, international conventions, and guidelines, and to capture the obstacles which exist during the implementation of the procedures for the identification and rehabilitation of victims of torture.

Following this hearing and based on a thorough research, the GNCHR expressed its particular concern for the incorrect transposition of Article 25 of the Directive 2013/33/EU into the national legal order, which imposes an obligation on public authorities to identify and rehabilitate victims of torture. In the same context, it was stated that the competent authorities for the identification of victims of torture did not apply Article 61 of Law 4636/2019, since they did not have the appropriate knowledge to perform their duties, a fact that due to its

gravity has a serious impact on the core of the right to the identification of victims of torture, which may adversely affect their request for international protection. To that end, the GNCHR submitted a specific proposal for the amendment of Article 61 of Law 4636/2019, so that it can be both reflected the full scope of the requirements of Article 25 of the Directive 2013/33/EU and institutionalized the distinction and the different purposes of the concepts of "identification" and "certification" of the victims of torture. The GNCHR also proposed specific additions to the provisions of Articles 61 and 77a of Law 4636/2019, so that the staff working in the relevant field can be properly trained and thus, identify "obvious" cases but also incidents for which there are indications of torture, in order for the victims to be referred to rehabilitation immediately and without undue delay. With regard to the entities which will be involved in the above procedures, the immediate need to establish a permanent mechanism of uninterrupted funding, in order to carry out the processes of identification and rehabilitation of victims of torture was also stated. Finally, the GNCHR pointed out that in addition to the "identification" process, the "certification" of victims of torture is a different concept, since the latter aims at the submission of certificates for judicial use. Furthermore, the "certification" of victims of torture must be carried out in the light of the principles of the Istanbul Protocol, namely by a full scientific team, which will be independent of any public or private body for reasons of impartiality and objectivity, following the purposes, principles, guarantees, and procedures set out in the above-mentioned Protocol. Regarding the condition and the procedures of the "certification" of the victims

of torture which take place in Greece, the GNCHR reserved to express its views in the future in the context of the process concerning the drafting of the respective national legislation.

**✚ During the last year, the number of unaccompanied minors hosted in Greece has increased.** According to official statistics, in January 2020, 5.463 unaccompanied minors were registered in Greece, while it is worth noting that for 2019, minors (accompanied and unaccompanied) accounted for 32.8% of the total number of applicants for international protection<sup>4</sup>. Based on information gathered during the on-site visit to the Samos Reception and Identification Center and the hearing of persons and public bodies on the implementation of the International Convention on the Rights of the Child, child protection deficits were mapped in the field such as 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. Given the extremely dangerous and potentially abusive conditions faced by unaccompanied children, the UNHCR has called on European States to

<sup>4</sup> AIDA Report Greece 2019, <https://www.asylumineurope.org/reports/country/greece/statistics>.

open up places for their relocation as a matter of priority and speed up transfers for children eligible to join family members<sup>5</sup>.

In its *Observations* on the Action Plan for the Rights of the Child (2018-2020), the GNCHR advised to take into account the dimension of the refugee crisis as a national priority with the category of unaccompanied minors to be prioritized due to the particular vulnerability of this group. In the GNCHR's shadow report<sup>6</sup> on the implementation of the Convention on the Rights of the Child, the Commission examined the situation of migrant children under the scope of special protection measures (Article 22 of the Convention). The GNCHR focused on issues of guardianship, reception and accommodation, detention, best interests assessment and determination procedures, child labor and trafficking of minors.

The GNCHR also put an emphasis on the link between the precarious situation of homeless unaccompanied minors and the need for a systematic assessment of the situation of children on the streets and the development of a national strategy for children working or living on the streets. Similarly, the GNCHR noted the increased risk of unaccompanied minors due to the inadequate care system forcing them to commit crimes or being trafficked to Europe by trafficking networks<sup>7</sup>.

<sup>5</sup> UNHCR, [Greece must act to end dangerous overcrowding in island reception centres, EU support crucial](#), 1.10.2019.

<sup>6</sup> Greek National Commission for Human Rights, Information relevant to the implementation of the Convention on the Rights of the Child, Submission to the UN Committee on the Rights of the Child, January 2020.

<sup>7</sup> Hellenic Parliament, GNCHR's Oral Statement at the Subcommittee for combating human trafficking and exploitation, 16.5.2019; Memorandum of Terre des Hommes Hellas dated 18.10.2019 submitted at the GNCHR.

Indeed, 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.

In March 2020, following the crisis on the Greek-Turkish border and after the visit of the EU Commissioner to Greece and the announcement of immediate support measures, a pilot program (from April 2020) began relocating unaccompanied minors from Greece to other European countries on a voluntary basis. So far, 302 unaccompanied minors (or vulnerable minors with their families) have been transferred to Luxembourg, Germany, Ireland, Belgium, France, Slovenia, Lithuania, Portugal and Finland<sup>8</sup>. The aim is to relocate a total of 1600 children to 11 EU countries and Norway who have expressed interest. Following the Moria fire in September 2020, all 408 unaccompanied minors living in the camp were relocated to safe shelter at mainland and will be relocated to other EU countries.

✚ By virtue of recent legislative amendments on international protection

<sup>8</sup> European Commission, [Migration: Relocation of unaccompanied children from Greece to Portugal and Finland](#), 8.7.2020.

procedures, the treatment of people with disabilities or chronic diseases has become more unfavorable while their reception and accommodation conditions in Greece are inappropriate with an immediate risk to their health during the coronavirus pandemic. The prioritization of this category in relocation programs to other EU countries is necessary or in the alternative, their transfer to mainland Greece. Furthermore, the inclusion of the dimension of disability in all refugee and migration management policies, actions and programs is crucial.

The non-provision of material conditions suitable for the special needs of people with disabilities and / or chronic diseases (accessibility, increased needs for cleanliness and hygiene, etc.) contributes to the creation of an extremely unfavorable environment for the enjoyment of their rights under the Greek Constitution and international treaties. It should be noted that the shortcomings in the provision of social assistance and the limited access to the required medical and psychosocial services are vital for refugees and asylum seekers with disabilities. In the same context, the GNCHR is concerned about the identified shortcomings and difficulties in the process of identifying persons with serious illnesses and / or persons with mental and intellectual disabilities during the reception process of applicants for international protection.<sup>9</sup>

During the examination of the initial Report of Greece on the implementation of the United Nations International Convention on the Rights

<sup>9</sup> GNCHR [Observations](#) on the draft law of the Ministry for Migration Policy with regard to the amendment of asylum procedures (7.5.2018) [Excerpts].

of Persons with Disabilities, the GNCHR pointed out<sup>10</sup> that the effective protection of migrants, refugees and asylum seekers with disabilities remains a big challenge for the Greek State. Given that the implementation of Article 11 of the Convention on the Rights of Persons with Disabilities requires the commitment of all parties involved, the Greek state, as well as the UN, the EU, the EU Member States and the European institutions, there is an urgent need for the best possible management of migration flows with respect for human life and dignity.

✚ For many years, the integration of refugees was not even an item on the political agenda in Greece, while legislative provisions and actions for the integration of legally residing migrants have been fragmentary. **Integration is a precondition and a vehicle for the enjoyment of the rights of recognized refugees in Greece.** Regarding the applicants for international protection, Greece has specific obligations to provide material reception conditions, based on EU and national law. Housing, financial assistance and access to health, among others, constitute at the same time **a package of "early" integration measures** for newcomers into the local communities.

In July 2019, the Ministry of Migration Policy prepared a new *National Integration Strategy*, which has not yet been implemented. At the same time, the HELIOS 2 program (*Hellenic Integration Support for Beneficiaries of International Protection*) was launched, which

<sup>10</sup> GNCHR, Shadow Report submitted by the Greek National Commission for Human Rights to the UN Committee on the Rights of Persons with Disabilities in relation to the implementation by the Hellenic Republic of the Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD), July 2019.

is funded by the EU and implemented by the International Organization for Migration and concerns recognized beneficiaries of international protection from 1.1.2018. So far 12,519 people have registered for the program<sup>11</sup> from a total of 59.000 beneficiaries of international protection currently residing in Greece<sup>12</sup> out of whom 3193 have received a rent allowance. At the same time, access to work, health care and social benefits are extremely difficult for bureaucratic reasons. On the contrary, the Greek Government recently announced the exit of 11.237 beneficiaries of international protection from the reception and accommodation facilities destined for applicants for international protection. With a Statement<sup>13</sup>, the GNCHR called on the State not to proceed with the announced evacuation of accommodation centers without simultaneously providing for an alternative housing solution, since it is highly likely that most of the beneficiaries of international protection who will be evicted from their current places of residence will end up poor and homeless. **The GNCHR proposes the financial and logistical support and the extension of integration schemes so as to include all recognized beneficiaries of international protection in order to acquire the appropriate skills and knowledge which will enable them to have equal opportunities with Greek citizens in finding work and lead an autonomous life.**

Aware of the growing need to highlight the social integration problems of applicants for international protection, refugees, beneficiaries of subsidiary protection and migrants, and with a view to acquire comprehensive information and formulate an informed opinion on the above issues, the GNCHR held in recent years two hearings of public bodies, international organizations and civil society organizations active in the field (February 2018, July 2020) with wide participation as well as a two-day conference (December 2019) in collaboration with the UN High Commissioner for Refugees where representatives of key ministries and municipalities, experts from the administration and NGOs presented their experience. The information received during the above hearings and the conclusions of the two-day conference were taken into consideration for the drafting of this Report.

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<sup>11</sup> IOM Office in Greece, Helios [Factsheet](#) 16.7.2019 - 17.7.2020.

<sup>12</sup> According to the Minister of Migration and Asylum in a radio [interview](#), 21.7.2020 [in Greek].

<sup>13</sup>GNCHR [Statement](#): Termination of social care for beneficiaries of international protection. Immediate risk of homelessness for thousands of recognized refugees, 4.6.2020 [in Greek].

## RECOMMENDATIONS

### CHAPTER A: The situation at borders

The GNCHR *calls upon*:

1. *the Greek State* to **immediately terminate the geographical limitation** imposed on the applicants for international protection in the Eastern Aegean islands, by transferring them to mainland, in appropriate long-term accommodation facilities and ensuring a minimum decent standard of living. **The entrapment policy towards applicants for international protection in the Eastern Aegean islands is a no way out and their *de facto* detention in closed reception centers does not constitute a sustainable solution;**

2. *the representatives of national and local authorities* to exhibit a spirit of prudence and unison by permanently **abandoning rhetoric arousing xenophobic reflexes** and to contribute positively in combating violence, including racial violence;

3. *the Greek police and the Greek justice system* to **effectively investigate the complaints** about excessive use of force by the police, the attacks against police officers, particularly off duty as well as racist attacks from organized or unorganized groups against newcomer refugees and migrants, human rights defenders, staff of international and civil society organizations as well as journalists, while **guaranteeing the safety** of all persons working in the field;

4. *the EU Member States* to **revisit the EU migration and asylum policy in recognition of the *de facto* abolition of the EU-Turkey**

**Joint Statement** and to abandon policies outsourcing migration control and asylum procedures to third countries, as the latter have proven in practice not to provide effective guarantees for the protection of the rights of refugees and migrants;

5. *the EU Institutions* to proceed with the reform of the Common European Asylum System, and in particular the Dublin system, by **establishing a permanent relocation mechanism and a proportional distribution of international protection applicants among EU Member States, in replacement of the Dublin III Regulation**, in accordance with the principles of solidarity and the equitable distribution of burdens among EU Member States, as well as in full compliance with the international human rights' and refugee law;

6. *the European Union* to **redesign in a holistic way a new common policy on legal migration** to meet the increasing demands for specific skills and talents, taking into account the demographic shrinking of the EU population and promote legal, safe, efficient and controlled paths for the entry and stay of employees, students and researchers from non-member states, through the redesign of the failed Blue Card mechanism and the harmonization and simplification of procedures to obtain a work permit as seasonal staff, corporate executives and other categories of employees.

## CHAPTER B: Push backs

The GNCHR *calls upon the Greek authorities*:

1. 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;

2. to **establish an official independent mechanism for recording and monitoring informal push backs complaints**, due to the most serious human rights violations involved. The GNCHR can help in this direction, given its experience from the establishment and operation of the Racist Violence Recording Network in terms of setting up a framework for recording life-threatening incidents through practices with consistent methodological features;

3. to **effectively investigate allegations** of informal push backs, 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;

4. to **bring those responsible** for any such illegal act **to justice**;

5. 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 push backs;

6. to ensure **an effective cooperation with the judicial authorities** as required in

the context of investigations of complaints on push backs;

7. 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 *calls 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*. In this regard, *the GNCHR has already proposed to the EU Member States to strengthen the role of National Human Rights Institutions as independent human rights monitoring bodies at EU borders*<sup>14</sup>.

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<sup>14</sup> ENNHRI, [Stronger human rights monitoring at Europe's borders – why NHRIs are part of the solution](#), 27.05.2020.

## CHAPTER C: Reception and accommodation conditions

The GNCHR *calls upon the Greek State:*

1. to intensify its actions for the **immediate end of the entrapment** of applicants for international protection in the Eastern Aegean islands by lifting the geographical limitation imposed on them and by transferring those who still live in RICs to mainland to ensure the immediate decongestion of the islands. Priority should be given to vulnerable applicants for international protection, unaccompanied minors and recognized refugees for whom a sustainable autonomous solution must be offered;

2. to review the ineffective policy of imposing geographical limitations in the Eastern Aegean Islands and **to abolish this burdensome measure**. Nevertheless, 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. to proceed without further delay to the **signing and immediate ratification of f 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 terms;

4. to act immediately and continue the effort **to increase accommodation places in**

**mainland Greece in centers suitable for long-term residence of applicants for international protection**, with special care for families, the various categories of vulnerable people such as the disabled and the chronically ill, the single-parent families, the unaccompanied minors and victims of violence. In this context, *the GNCHR proposes particularly* the establishment of **medium-sized** (in terms of accommodation capacity) **Accommodation Centers, within residential areas**, which facilitate the integration of refugees in the Greek society. At the same time, the GNCHR points out that the undertaking of the ESTIA II program by the Ministry of Migration and Asylum results, on the one hand, to the establishment of a smooth transition procedure for the management of the program by the UN High Commissioner for Refugees and, in the meantime, the need for the timely recruitment of sufficient, permanent staff of various specialties (psychologists, legal, social workers, medical and paramedical staff, logistics staff, etc.) to support the needs of applicants for international protection. Furthermore, the GNCHR calls on the Ministry to strengthen with staff and resources **the program of renting apartments and hotels**, which ensure the conditions of a decent living;

5. to **issue** without further delay the **Rules of Operation for all Accommodation Centers**<sup>15</sup> and to staff the services of the General Secretariat of Reception and

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<sup>15</sup> For the Reception and Identification Centers, a General Operating Regulation has recently been adopted that applies to all RICs and Mobile Reception and Identification Units (see Ministerial Decision 1/7433, Government Gazette 2219/B/10.6.2019). Further specialization of these operating conditions can be done with the adoption of an Internal Regulation for each Center.

Identification and of the Reception Centers with qualified staff, in view also of the new competence to register applications for international protection based on L. 4636/2019. Given the coronavirus pandemic and the growing need for health services, the GNCHR advises the State to give immediate priority to the strengthening of reception and 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);

**6. to review the restrictive measures on circulation** and other protective measures against the spread of Covid-19 in RICs and Accommodation Centers **in the light of the principle of proportionality** and in balance with other fundamental rights of refugees and migrants and with emphasis on decongestion of RICs on the Eastern Aegean islands;

**7. to adopt concrete measures for the protection of vulnerable groups**, the safeguarding of the rights of applicants for international protection **with disabilities and chronic diseases** and the operation of reception and accommodation centers aware of **LGBTQI issues**<sup>16</sup>.

In addition, the GNCHR *calls the European Union* to **review asylum and migration policies towards a comprehensive proportional distribution agreement for applicants for international protection in**

**EU Member States to replace the EU-Turkey Joint Statement, taking into account the reality at the EU's external borders with Turkey** and the chronic humanitarian crisis in the Eastern Aegean islands, with a view **to protecting vulnerable populations** arriving in Greece and seeking international protection.

<sup>16</sup> European Parliament, Committee on Women's Rights and Gender Equality, *Report on the situation of women refugees and asylum seekers in the EU*, 2015/2325 (INI), 10.2.2016. GNCHR, *Information relevant to the implementation of the Convention against Torture* (2019), p. 31.

**detention and an effective access to health services.**

## CHAPTER D: Detention

With respect to administrative detention of asylum seekers and third country nationals in return procedures, the GNCHR:

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

2. *advocates for* the **abolition of administrative detention** of asylum seekers on the grounds of illegal entry and especially of those belonging to a vulnerable group, such as families with children or unaccompanied minors.

3. *requests* **the amendment of the recent legislative framework for the detention of third country nationals in return procedures** in order to always allow the consideration, in each individual case and before the imposition of a detention measure, the application of **alternatives measures**, in line with international and European standards. In this regard, the GNCHR calls the State to adopt widely the alternative measures to detention provided by L. 3907/2011, to deal, more particularly, with health risks, such as the recent coronavirus pandemic.

4. *calls upon the State* to ensure that detained asylum seekers or third-country nationals in return procedures have a **real, unhindered access to a lawyer**, the **possibility of challenging the legality of**

## CHAPTER E: Asylum procedures

The GNCHR *calls the Greek State:*

1. to ensure the **right of access to asylum** for all those who expressed their will to, **without undue delay and obstacles**;

2. to examine **promptly and smoothly** applications for international protection 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<sup>17</sup>;

3. to **not renew and terminate the application of derogatory border procedure of Article 90 par. 3 of L. 4636/2019**, which was introduced as an exceptional and interim measure. Irrespectively of the above, the State must eliminate the inclusion of unaccompanied minors and victims of torture, rape or other serious forms of psychological, physical or sexual violence in accelerated border procedures;

4. to ensure **the administrative and financial independence** of the Asylum Service and the Appeals Authority<sup>18</sup> and to upgrade the tools and working spaces of the

<sup>17</sup> GNCHR, [Report](#) on the EU-Turkey Agreement of the 18th of March 2016 regarding the refugee/migration issue in Europe in light of Greek Law No. 4375/2016 (2016); [Recommendations](#) of the NCHR, the Ombudsman, the High Commissioner for Refugees and the Greek Council for Refugees on Migration and Asylum in the light of the Greek Presidency of the EU Council (2002).

<sup>18</sup> GNCHR, [Public Statement](#) on the amendment modifying the composition of the Independent Appeals Committees (2016) [in Greek]; GNCHR, [Observations](#) on the Draft Law amending Laws 3907/2011 and 4251/2014 and adapts the Greek legislation to the provisions of the Directive 2013/32/EU (2016) [in Greek].

staff in view of the new challenges posed by the pandemic.

5. to **harmonise the administrative practice** of Regional Asylum Offices and Independent Appeal Committees as well as to interconnect the electronic records of the Reception and Identification Service and the Asylum Service for reasons of transparency, efficiency and acceleration of the procedures, in particular family reunification under Regulation 604/2013.

6. to comply with **procedural safeguards**, such as ensuring the provision of **interpretation services and legal aid** –at their own expense at all stages of the procedure<sup>19</sup> and free at the second degree to all who have requested for it<sup>20</sup>

<sup>19</sup> See Preamble par. 25 of Directive 2013/32 EE on Asylum Procedures: *“In the interests of a correct recognition of those persons in need of protection, every applicant should have **an effective access to procedures**, the opportunity to cooperate and properly communicate with the competent authorities so as to present the relevant facts of his or her case and sufficient procedural guarantees to pursue his or her case throughout all stages of the procedure”*. In this regard see GNCHR, [The right to interpretation and translation in the criminal proceedings and the right to information in the context of criminal procedures](#) (2015) [in Greek].

<sup>20</sup> Articles 20 to 23 of Directive 2013/32/EU on the right and terms of legal aid. See also relevant recommendations of the GNCHR in [Observations to Draft Law of the Ministry for Migration Policy “Adaptation of Greek legislation to the provisions of Directive 2013/33/EU of the European Parliament and the Council of 26th June 2013 etc](#) (2018) [in Greek].

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## CHAPTER F: Protection of victims of torture

With regard to the protection of victims of torture and other cruel, inhuman or degrading treatment or punishment, the GNCHR:

1. *expresses its particular concern* not only for the **incorrect transposition of Article 25 of the Directive 2013/33/EU** into the national legal order and the consequent non-implementation of the requirements relating to the identification of victims of torture but also for **the lack of knowledge of this field by the competent authorities**, which may have a serious impact on both the core of the right to identification of victims of torture and the effectiveness of their request for international protection.

2. *submits a specific proposal for the amendment of Article 61 of Law no 4636/2019*, so that it can be both reflected the full scope of the requirements of Article 25 of Directive 2013/33/EU and institutionalized the distinction and the different purpose of the concepts of "identification" and "certification" of the victims of torture. To that end, it is proposed that the identification process is to be carried out by the appropriately qualified staff of public or private bodies, which will identify the respective incidents so that the "victims of torture" can be provided with the necessary treatment for the damage caused and in particular, access to the necessary medical, psychiatric or psychological services with a view to their full recovery.

3. *proposes specific additions to the provisions of Articles 61 and 77a of Law no 4636/2019*, so that the staff working in the

relevant field can be properly trained and thus, identify "obvious" cases but also incidents for which there are indications of torture, in order for the victims to be referred to rehabilitation immediately and without undue delay. The training of the staff is expected to contribute to the immediate and on-the-spot investigation of the allegations of the potential victims of torture in all the hotspots of our country so that the information about their rights can be provided properly and the relevant incidents can be identified in time.

4. *expresses the urgent need to establish a permanent mechanism of uninterrupted financing*, so that the respective bodies active in this field can operate smoothly for the realization of this purpose.

5. *points out* that in addition to the "identification" process, **the process of "certification" of victims of torture must be carried out in the light of the principles of the Istanbul Protocol**, and namely, by a full scientific team, which will be independent of any public or private body for reasons of impartiality and following the purposes, principles, guarantees, and procedures set out in the above Protocol, so that the certificates issued can be submitted for judicial use or in difficult cases of "identification", i.e. when there are serious suspicions of torture, which, however, cannot be ascertained in the context of the identification process.

6. *reserves the right* to return and comment extensively on the condition and procedures for the "certification" of victims of torture, which take place in Greece, in the context of the process of drafting of national legislation.

## CHAPTER G: Protection of migrant minors

With respect to unaccompanied minors and all other children in migration context, the GNCHR:

1. *calls upon the Greek State to abolish the administrative or de facto detention of unaccompanied minors and all other children for reasons related to their migration status.* In this regard, the deprivation of liberty of unaccompanied minors under "protective custody" should be ended and alternatives in line with the principle of the best interests of the child implemented;

2. *calls upon the Greek State to take all necessary measures to ensure that unaccompanied minors in police stations, Pre-removal Detention Centers and Reception and Identification Centers have direct access to age-appropriate facilities,* where an adequate level of living conditions is ensured for their physical, mental, spiritual, moral and social development;

3. *draws the State's attention to urgently address the needs of homeless unaccompanied minors,* by promoting and implementing, *inter alia*, alternative forms of foster care and supported independent living for unaccompanied minors;

4. *calls upon the Greek State to identify unaccompanied minors in a timely manner,* regardless of whether they are asylum seekers or not in order to effectively avoid secondary victimization and exploitation by trafficking networks;

5. *calls upon the Greek State to immediately implement 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. *calls upon the Greek State to establish official age-determination procedures for the best interests of the child* (best interest assessment and best interest determination) with strict safeguards in order to properly assess and determine the interests of the unaccompanied minors for all decisions that directly affect them;

7. *calls upon the Greek State to abolish deportation measures for all migrant children* and to ensure their protection 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;

8. *reiterates its long standing Recommendation regarding the appointment of a guardian for every child, as soon as possible,* or else from the identification, as provided by law. In this regard, *the State should ensure* that there are no gaps on child protection and representation in practice, during the transitional period until the

guardianship system provided by Law 4554/2018 becomes operational – an excessive delay in the GNCHR's view;

9. *emphasizes* the importance of **providing information to migrant children in their mother tongue or in a language they understand**, on their rights and in particular about the right to apply for international protection and its consequences, depending on their age, throughout their stay in the Greek territory;

10. *reiterates its standard Recommendation* regarding **the inclusion and participation of children, especially migrant children, depending on their age, in all relevant procedures affecting them**;

11. *has already underlined* the **special needs of minors at the stage of the interview for their request for international protection**, which must be respected by the competent authorities, allowing more than one interview to be conducted for each minor separately, with ensuring that interviews are conducted by highly qualified staff, with the assistance of a certified interpreter and the presence of a counselor, in a friendly environment, with the care needed to express the child, who may have had a traumatic experience during past;

12. *draws the State's attention to* **the need to provide each unaccompanied minor with psychological, medical and legal support** by qualified staff, free of charge and with the assistance of a certified interpreter, regardless of the residence status of the child;

13. *emphasizes* the importance of **ensuring access for all minors**,

unaccompanied and accompanied, **to formal education** throughout the Greek territory;

14. *suggests that* the State *facilitate access to legal employment and 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

15. *further suggests that* the State should enact a **special residence permit for unaccompanied minors in Greece**, which will allow full enjoyment of their rights and protection 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. The present Recommendation is of utmost importance after the abolition of the Independent Appeals Committees' competence to refer the case to the competent Department of the Ministry for Migration and Asylum, if the requirements for a resident permit for humanitarian reasons are fulfilled (Article 19A of the Migration Code).

## CHAPTER H: Persons with disabilities or chronic diseases

In the current conditions of the pandemic, the GNCHR *calls on the Greek state to take, as a matter of priority, special measures to protect vulnerable groups, including people with disabilities and / or chronic diseases* given their belonging to groups at high risk of coronavirus infection and of occurrence of serious complications. At the same time, the GNCHR *calls on the Greek Government and the EU to integrate disability into their migration and asylum policies, in order to ensure their protection and security in accordance with the UN Convention on the Rights of Persons with Disabilities. The special needs of support for women and children with disabilities in refugee crisis management should be taken into account.*

Moreover, the GNCHR:

1. *reiterates its long standing Recommendation to the Greek State* for 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. A high priority issue is **the immediate transfer of all vulnerable persons from the islands to safe, accessible and decent facilities to mainland while ensuring an effective control regarding the provision of the necessary special living conditions in respective facilities**, in order to avoid similar situations in the future;

2. *suggests the establishment of specialized structures (reception, identification and residence), which can*

**meet the needs of migrants and refugees with disabilities and provide them with effective access to health-care services**, in consultation with the persons with disabilities and / or chronic diseases and their representative organizations;

3. *reaffirms its Recommendation for the strengthening of RICs and other temporary accommodation structures 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);

4. *calls upon the Greek State* to ensure access to social protection, information and adequate services, such as safe housing, health and medical care through a patient-oriented approach, in line with the recent Recommendations of the UN Committee on the Rights of Persons with Disabilities (CRPD);

5. *underlines the need* to ensure the transparent nature of the asylum procedure both for applicants for international protection with disabilities and / or chronic illnesses and for families with a member with disabilities. Priority should be given to **the acceleration of family reunification procedures of persons with disabilities and / or chronic illnesses with other members of their family** residing in the EU;

6. *emphasizes the need to adopt measures against discrimination on the grounds of disability* in other socioeconomic fields outside the employment, such as **social protection, social benefits, education etc**, for

all persons with disabilities living in Greece,  
including migrants, refugees and asylum  
seekers with disabilities.

## CHAPTER K: Integration

The GNCHR *calls upon*:

1. *the Central Administration* to develop, in cooperation with the Municipalities and the Regions, international organizations and civil society, 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 according to the needs of each target group. The GNCHR will assist the Greek State with its expertise and in the context of the negotiations for a new EU Pact on Migration and Asylum;

2. *the Greek State* to enact and implement positive measures for the **facilitation of 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. *the Greek State to address the gap in legislation and practice* regarding the provision of a decent standard of living **during the transitional period** from the recognition of applicants for international protection as beneficiaries of international protection until their inclusion in total in integration programs. **The GNCHR proposes the financial and logistical support and the extension of integration schemes so as to include all recognized beneficiaries of international protection in order to acquire the appropriate skills and knowledge which will enable them to have equal opportunities with Greek citizens in finding work and lead an autonomous life;**

4. *the Greek authorities* to ensure an **effective access to employment for applicants and beneficiaries of international protection**, harmonizing the administrative practice of the competent public services on tax, social security or other related matters while ensuring their equal treatment in terms and conditions of work to fight against illegal work and labor exploitation;

5. *the Greek Legislator to amend the provision in order to allow access to employment for applicants with the completion of full registration* or even prior to the full registration, if, due to extraordinary circumstances, the completion of the procedure for registration exceeds three months;

6. *the Greek authorities* to ensure **unhindered equal access of migrant minors to the public system of primary and secondary education**, by effectively enhancing their integration into the school morning curriculum, through actions specified in law on Educational Priority Zones. In addition, the Greek State must implement Greek language learning programs, irrespectively of age. Special care must be given to the effective access to formal education of minors residing in Reception and Identification Centers;

7. *the Greek legislator to abolish any kind of sanctions against minor applicants for international protection* for non-compliance with the obligation to join the public education system and to review in general, the imposition of sanctions against adult family members for the same reason in the light of principle of proportionality;

8. *the Greek authorities* to provide **unimpeded access to health care services**

**for applicants and beneficiaries of international protection**, by facilitating the issuance of a Social Security Number from the competent authorities and closely monitoring the implementation of provision of health services and medical coverage through the Foreigner's Temporary Insurance and Health Coverage Number of a Foreigner, taking corrective actions where needed;

9. *the Greek legislator* to enact the obligation to provide **interpretation services** in public hospitals and other public health units;

10. *the Greek State* to establish specialized facilities for applicants and beneficiaries of international protection **with disabilities** in order to have effective access to health services;

11. *the Greek State* to **ensure housing and a minimum living standard** for those recognized refugees who have no work or other means of subsistence, facilitating their access to social benefits. At the same time, the State should develop an effective and sustainable solution to address the obstacles faced by beneficiaries of international protection in accessing their right to housing, with respect to the obligations arising from international and European law.

12. *the local authorities* 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**;

13. *the Greek State* to take **specific measures with a view to combating discrimination, racism and intolerance** towards refugees and immigrants, thus giving beneficiaries of international protection a real chance to integrate into the Greek society.

