



**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

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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*

Introduction

The Greek National Commission for Human Rights (hereinafter GNCHR), which was established by law 2667/1998 in accordance with the Principles relating to the Status of National Institutions (The Paris Principles) and is accredited with *A-status* by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI), is the independent advisory body to the State on matters pertaining to human rights protection. The GNCHR has a very broad mandate to provide advice to the Greek State on matters pertaining to the promotion and safeguard of human rights. Its mandate covers the whole spectrum of human rights in terms of *ratione materiae* and, since its establishment, the GNCHR has dealt with a broad range of human rights issues, including the protection of the rights of child.

The GNCHR has a pluralistic composition. Its 41 members are nominated by NGOs, trade unions confederations, independent authorities, universities, bar associations, political parties, Parliament and the Administration.

According to its founding law, the GNCHR's mission consists in: a) the constant monitoring of human rights issues, the information of the public and the advancement of research in this connection; b) the exchange of experiences at international level with monitoring bodies and similar organs of international organisations, such as the UN, the Council of Europe, the OECD, or of other States; c) the formulation of policy proposals on matters related to its objectives.

In view of the upcoming eighty-fifth February pre-sessional working group, the GNCHR welcomes the opportunity to submit its Shadow Report to the Committee concerning the implementation of the CRC in line with article 45(a) of the Convention, after taking into account the Greek State Report in 2018, in line with article 44 of the Convention, which has been ratified and incorporated into the national legal order by Law 2101/1992 (Government Gazette 192/A').

* The present submission was adopted by the GNCHR. Rapporteurs: Prof. Maria Gavouneli, GNCHR President, Dr Katerina Charokopou, GNCHR Human Rights Officer.

Accordingly, the present Report focuses on the main challenges faced by the Greek State party in implementing the CRC, while highlighting the shortcomings and gaps in the existing legislation. It draws upon the GNCHR's reports, public statements and general recommendations on related issues as well as the data available in the relevant Reports by Institutions participating at the GNCHR Plenary, such as, the Hellenic League for Human Rights (hereinafter HLHR), the Greek Council for Refugees (hereinafter GCR), the Greek Ombudsman (hereinafter Ombudsman), the National Confederation of Disabled People (NCDP), Rainbow Families Greece, the Greek Council for Refugees etc.

Methodology

The GNCHR, in its role as a monitoring body of the State's compliance with its international obligations and in order to submit one comprehensive report, has followed the Guidelines of the Committee on the Rights of the Child regarding the structure and the content of alternative reports. In this regard, the report is composed of a section-by-section analysis based on the clusters in the official reporting guidelines for the State. For the purposes of this report the Committee has grouped the articles of the CRC together in nine (9) clusters. The report provides a situation analysis in law and practice of the extent to which law, policy and practice in Greece complies with the provisions of the CRC, a series of specific comments on the State report as well as concrete examples of relevant evidences and measures. After the reference to each cluster, the present Report ends in conclusions and Recommendations to the Greek State authorities to ensure the full implementation of the Convention.

The General Comments set out in the Committee's interpretation of various provisions of the CRC have been also taken into account and referred in the Report.

Public Hearing

The GNCHR on the basis of its pluralistic and polyphonic composition, regularly consults with the relevant stakeholders and persons in the field concerned by means of organizing public hearings. In this framework, the GNCHR invites persons, at its discretion, to be heard before it, who can assist its work by an account of personal

experiences or the expression of views in connection with the protection of human rights (Article 4 (5) of law 2667/1998). “Hearings” is a good example of the operation of the GNCHR, especially while working on reports but also on proposals for legislative amendments and relevant implementation measures. Findings and results of the hearings are incorporated in the report and are beneficial for the formulation of comprehensive recommendations to the State.

Therefore, the GNCHR has organised a public hearing aiming to a comprehensive and independent assessment of the progress made and the difficulties encountered in the implementation of the CRC, thus complementing the monitoring role of the UN Treaty Bodies towards the State’s compliance with its obligations.

In particular, from the 41 invited persons and institutions, in the public hearing the following were represented:

1. National Centre for National Solidarity (EKKA)
2. Deputy Ombudsman for children’s rights
3. Office of the National Rapporteur on Trafficking in Human Beings, Ministry of Foreign Affairs
4. Centre for Social Welfare in Attica District
5. Ministry of Labour and Social Affairs
6. Ministry of Education and Religious Affairs
7. Centre for the Development of Educational Policy (KANEP GSEE)
8. United Nations High Commissioner for Refugees (UNHCR)
9. International Organization for Migration (IOM)
10. UNICEF
11. Amnesty International, Greek Section
12. Network for Children’s Rights
13. Medecins sans Frontières (MSF)
14. ARSIS, Association for the Social Support of the Youth
15. Smile of the Child
16. National Federation of Persons with Disabilities (ESAmEa)
17. ELEPAP-Rehabilitation for the Disabled
18. Hellenic Federation of Associations of Parents and Carers of Persons with disabilities (POSGKAmEa)
19. Greek Transgendered Support Association (SYD)

20. Hellenic League for Human Rights
21. Greek Council for Refugees (GCR)
22. Child Protection Organization “Terre Des Hommes”

During the hearing a non-paper with specific questions regarding updated information, data and statistics was distributed to the participants, in order to facilitate the discussion. After the completion of the hearing the participants were requested to send their written contributions answering these specific questions. Up to the present time, answers have been sent by the following authorities and bodies:

1. National Centre for National Solidarity (EKKA)
2. Office of the National Rapporteur on Trafficking in Human Beings, Ministry of Foreign Affairs,
3. Ministry of Labour and Social Affairs
4. Ministry of Civil Protection, Cyber Crime Division
5. Ministry of Civil Protection, First Reception Services
6. Ministry of Justice
7. Centre for Social Welfare in Attica District
8. United Nations High Commissioner for Refugees (UNHCR)
9. National Confederation of Disabled People (ESAMEA)
10. International Organization for Migration (IOM)
11. Medecins sans frontières (MSF)
12. ARSIS, Association for the Social Support of the Youth
13. Smile of the Child
14. Hellenic Federation of Associations of Parents and Carers of Persons with disabilities (POSGKameA)
15. Greek Transgendered Support Association (SYD)
16. Greek Council for Refugees (GCR)
17. Child Protection Organization “Terre Des Hommes”
18. Network for Children’s rights
19. OLKE, Lesbian & Gay Community of Greece
20. Rainbow Families Greece
21. SOS children’s villages Greece
22. Federation of Parents Associations of Children’s with Dyslexia and Learning Difficulties

It should be noted, that all the answers that have been sent by the competent bodies, have been taken into consideration for the drafting of the present Report and there is an explicit reference to the author, as per the case.

I. General measures of implementation (art. 4, 42, 44(6))

In its 2012 COBs, the Committee has reiterated its previous concern (CRC/C/15/Add.170, para. 13) about the lack of a clear structure or body for the coordination of the implementation of child rights policies and programmes among all the relevant ministries and institutions and among the central, regional and municipal levels.

As far as the National Plan of Action for Children's Rights is concerned, the Committee has recommended that it shall contain specific time-bound and measurable goals to effectively monitor progress in the enjoyment of the rights of children throughout the State. The National Plan of Action for Children's Rights should be linked to national, sectoral and municipal strategies and budgets to ensure appropriate allocation of the financial, human and technical resources required for its implementation. In this regard, the Committee has recommended the increase and prioritization of budgetary aiming at protecting the services provided for children at all levels from cuts in the current financial situation.

National Plan of Action for Children's Rights

The GNCHR welcomes the adoption of Law 4491/2017 providing for a Mechanism for Monitoring of a National Plan of Action for Children's Rights¹ and acknowledges particular importance to the establishment of the Mechanism, attached to the General Secretariat for Human Rights of the Ministry of Justice. In accordance with the law, the National Mechanism meets regularly every two (2) months and in exceptional cases upon invitation of its president. In this regard it is provided that the Mechanism ensures, among others, children's participation in the consultation process with civil society on the elaboration of the National Plan of Action for Children's Rights (art. 10 of law 4491/2017). Yet, the GNCHR notes the fact that organizations representing children with disabilities have not been involved in the Mechanism and this does not fulfill the requirements of the Convention on the Rights

¹ Law 4491/2017 "*Legal gender recognition- National Mechanism for Monitoring and Evaluation of the Action Plan on the Rights of the Child and other provisions*" (OGG 152/A, 13.10.2017)

of Persons with Disabilities (CRPD)², pointing out the significance of participation of children with disabilities and their representatives in decision-making processes³.

Indeed, a National Plan of Action for Children's Rights has already been elaborated under the coordination of the General Secretariat of Human Rights of the Ministry of Justice. However, except from the elaboration of the Plan of Action the operation of the Mechanism remains restricted, since the Plan of Action has not been put in place until now. Unfortunately, it is an established negative practice followed by all successive governments, elaborating new Action Plans, which means that the previous are never completed or fully implemented. Issues of concern to this direction have been also identified recently by the new government, which announced its intention to update and implement the Plan of Action for Children's Rights⁴.

Taking into account the importance of the National Plan of Action for Children's Rights, the GNCHR has drawn up a Report with comments, focusing primarily on **(i)** the methodology and the development of indicators for the assessment of the positive or negative impact of public or private policies and practices on the rights of the child, **(ii)** the monitoring of the implementation of the National Plan of Action for Children's Rights and **(iii)** the general principles of child budgeting⁵. In this context the GNCHR has identified priority axes in the field of the protection of the rights of the child, namely: **a)** the serious economic and social consequences of the economic crisis (poverty, social exclusion, right to health and social insurance, etc), **b)** the dimension of the refugee crisis (unaccompanied minors, "protective" detention conditions, living conditions in first receptions areas and accommodation centers etc) and **c)** the impact assessment of policies on the fundamental rights of the child, and in particular on children with additional vulnerabilities, such as children with disabilities and chronic diseases. Besides that, the GNCHR stresses the need for a reference in the National Plan on specific measures of reasonable accommodation.

² Art. 4 (3) of the CRPD and Art. 7 (1) of the CRPD. See also par. 3 of art. 4 "General Obligations" of the CRPD: *"In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall continuously consult with and actively involve persons with disabilities, including of children with disabilities, through their representative organizations"*. See GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020 (29.11.2018) [in Greek], p. 14, 30, 68, 70, 81

³ Child protection is not a luxury! - [The GNCHR adopts the Principles on Child Protection in Greece](#) (June 2016) [in Greek]

⁴ [Announcements of the Minister of Justice](#), 2.12.2019

⁵ GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020 (29.11.2018) [in Greek]

The GNCHR notes with disappointment, that despite the important steps that have been made so far, there is no National Plan of Action for Children's Rights in place in the Greek institutional framework until now.

Recommendations

- According to the General Comment No. 9 (2006) of the Committee on the Rights of the Child, the GNCHR recommends the competent State authorities that the National Plan of Action for Children's Rights be comprehensively developed, including plans and strategies for vulnerable children, as well as measurable outcomes. The GNCHR encourages the government to be bound on these goals.
- The GNCHR invites the Government to update and start implementing a National Plan of Action for Children's Rights as soon as possible. In this regard, the GNCHR stresses the need of continuity and coherence in public policies and practices and recommends to the Greek State bringing in, where necessary, the proper policy changes that would ensure the institutional continuity.
- With regard to the National Mechanism for Monitoring and Evaluating of the National Plan of Action for Children's Rights, the GNCHR recommends the involvement of representative organisations of children in both, elaboration and monitoring of implementation of the National Plan.
- The GNCHR recommends to the competent State authorities to enact a law to specify the term "reasonable accommodation"⁶ and mainstream it in all aspects of social life. They should further ensure and facilitate the proper law adaptations without other delay.

⁶ See Greek anti-discrimination Law 4433/2016 "*Implementation of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation*" (OGG 232/A, 9.12.2016) and Art. 5 of 200/78/EU available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>

Allocation of resources

In its 2012 COBs, the Committee has recommended to increase, prioritize and monitor budgetary for the protection of the rights of children especially in situations of vulnerability, including children with disabilities, Roma children, unaccompanied, migrant and asylum seeking children.

The GNCHR, taking into consideration, the General Comment No. 19 (2016) of the UN Committee on the Rights of the Child on public budgeting issues for the realization of the rights of the child (Article 4 of the CRC)⁷, and bearing in mind the negative effect of the financial and economic crisis over the past years, stresses the need to evolve a child-centered budgetary policy in combination with the child mainstreaming in all the sectors and levels of public policy. To this end, particularly important is the development of indicators for the assessment of the positive or negative impact of public or private policies and practices on the rights of the child and the importance of “child budgeting”. Following the key recommendations made by the European Social Policy Network (ESPN) towards tackling child poverty, EU child-specific indicators (including a child-specific material deprivation indicator on which important progress has already been made) should be adopted so as to enhance monitoring progress towards children’s rights⁸.

As far as the child-centered budgetary policy is concerned, this should be reflected in "child-friendly" budgets for the protection of childhood and the projection of specific costs to the National Budget aiming to fund all child-related policies (child budgeting). The costs should be checked for compliance with special justification from the General Accounting Office of the State. In this regard, strengthening the Ombudsman’s role through additional legislative guarantees, would ensure its operation not only as a control mechanism but also as a body promoting the rights of the child and taking initiatives.

Recommendation

⁷ Committee on the Rights of the Child, “General comment No. 19 (2016) on public budgeting for the realization of children’s rights (art. 4)”, CRC/C/GC/19.

⁸ European Commission: [Progress across Europe in the implementation of the 2013 EU Recommendation on 'Investing in children: Breaking the cycle of disadvantage' - A study of national policies](#) 2017

The GNCHR suggests the competent State authorities should set as visible political priority child poverty entering the corresponding appropriations in the national budget and monitoring the progress towards children's rights

Data collection

In its 2012 COBs, the Committee was concerned at the lack of a national database with comprehensive and disaggregated data on children allowing the assessment of the progress made in implementing the provisions of the Convention by the competent Greek authorities. In this regard, the Committee has reiterated its recommendations that the State party strengthen its mechanisms for data collection by establishing a national central database on children and developing indicators consistent with the Convention.

The GNCHR notes with particular concern, that the Hellenic Statistical Authority, being responsible for the collection and dissemination of the country's official statistical data, does not collect on a regular basis data with special reference to children in all institutional levels. In fact, there is a lack of a unified data-collection system allowing an assessment of the extent to which all children living in Greece are exercising their human rights. More specifically, the GNCHR stresses the lack of a coordinated data system connecting the public authorities such as the judiciary, the police and social welfare services and recommends to the Greek State to improve a coherent collection of data that goes beyond the internal recording and in which it is expected to include reliable and comprehensive statistics. The GNCHR, taking into account, *inter alia*, the recommendation of the UN Committee to strengthen children data collection mechanisms, considers it appropriate that a national central database be set up, where all data related to the implementation of all the rights of the child will be gathered under the explicit responsibility of the relevant State instruments.

Recommendation

The GNCHR recommends to the Greek government to further enhance the capacity of the Hellenic Statistical Authority in order to play an important role, in

synergy with the all the involved stakeholders, towards the development of national statistics under a children rights-based approach.

Cooperation with civil society, dissemination and awareness-raising

The Committee has reiterated its previous recommendation to further improve cooperation and coordination on a regular basis with non-governmental organizations (NGOs) and involve them in the Convention's implementation, especially in the light of the current economic situation. Additionally the Committee urges the State party to intensify its efforts to incorporate child rights issues into all curricula of different levels of education and strengthen awareness-raising programmes, including campaigns on the Convention

The GNCHR shares the concerns of the Committee relating the recent economic crisis and its results. Indeed, due to the economic situation, families with children have been significantly affected. The Greek State is entrusted with the responsibility to support the family and to put in place measures in order to prevent a further worsening of the family life⁹. To this end the competent State authorities should improve the cooperation and coordination on a regular basis with non governmental organizations (NGOs) relating to the Convention's implementation¹⁰. In the same direction, the GNCHR in its Annual Report 2018¹¹, points out that the promotion of human rights is best accomplished through the dissemination of human rights knowledge and includes a range of activities, among others, the collection, production and dissemination of information material, the organization of relevant activities, promotional events and working with the mass media. A key issue in all of these activities is to raise public awareness of human rights issues and to inform citizens of their rights and the available mechanisms for their protection¹².

⁹ [GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020](#), 29.11.2018 [in Greek]

¹⁰ Ibidem

¹¹ GNCHR Annual Report 2018

¹² [GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020](#), 29.11.2018 [in Greek]

Recommendation

The GNCHR calls upon the State authorities to raise public and political awareness towards the rights of the children. In this context, the GNCHR suggests involving all relevant stakeholders, including civil society, in order to fully promote awareness-raising and educational campaigns.

II. General principles

Non discrimination and the right to life, survival and development

The Committee has recommended to review domestic laws and expeditiously take all measures necessary to ensure that all children in Greek territory, including children of Roma origin, children with disabilities children of undocumented migrant parents etc., be treated equally and as individuals.

Furthermore, the Committee recommends that the State party conduct as quickly as possible an assessment of the effects of the crisis on the life prospects and development of children especially adolescents with a view to minimizing risks to their survival and development.

Although national constitution and law guarantee the principle of non discrimination, children in Greece face in practice discriminations with regard to their fundamental rights to health and education. Roma and refugee/migrant children do not have in practice equal access to social services and to quality education under the same conditions as Greek nationals. Moreover, the GNCHR expresses its concerns about the impact of the austerity measures on the right to health, the reduction of health insurance coverage among the population, the results of the previous cuts to the public health care system and its critical understaffing, the persistence of child poverty¹³ in case of children having an ethnic or migrant background, having poorly educated parents, and living in single-parent households, the increase of insufficient nutrition and the very high increase of health care demand in combination with a sharp decrease of health care expenditure and of specialized staff as well as the inadequacy of services and structures for children with disabilities and chronic diseases¹⁴.

In light of the above mentioned, the GNCHR expresses its satisfaction for the adoption of law 4554/2018¹⁵, according to which, the National Center for Social Solidarity (EKKA) maintains a Register of Unaccompanied Minors (article 24 of law

¹³ [FRA Fundamental Rights Report 2019](#)

¹⁴ [GNCHR Factsheet on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights"](#) (2010-2018)

¹⁵ Law 4554/2018 "*Insurance and pension regulations - Addressing undeclared work - Enhancing worker protection - Unaccompanied minors and other provisions*", (OGG 130/A, 18.7.2018)

4554/2018). In this respect, the collection of data on children shall be improved by the full development of the National Mechanism's Single Geographic Information System (EIS), in accordance with article 19 of law 4445/2016¹⁶, which will allow the interconnectivity among all the child protection State actors including the National Referral Mechanism for victims of trafficking in human beings. However, there is no information available regarding the implementation of EIS.

Moreover, it should be highlighted, that combating child poverty has been and continues to be one of the GNCHR's priorities¹⁷. The effects of the crisis have seriously affected the life of children including the adolescents. Indeed, child poverty in Greece is not a new phenomenon: the relevant index had started increasing slowly but steadily already since the late 1990s. This increase has become more dramatic in the years that followed. According to a research conducted by Athens University of Economics and Business, it is estimated that, in 2013 20% of children (as opposed to 4% in 2009) lived in families who are not in position to buy the necessary goods for securing the minimum level of decent living¹⁸. In 2015, in Greece, more than 2.2 million people were living under the line of poverty, among whom 440,000 were children¹⁹. Following an OECD Working Paper, in Greece the anchored child poverty rate increased from around 15% in 2008 to 40% in 2015, twice as high as the relative income child poverty rate²⁰. According to further OECD data, the high rate of child poverty could be explained, *inter alia*, by the significant factor of the high rise in unemployment (80% of poor children had a father working for most of the year in 2007, compared to only 66% in 2014), combined with an around 20% fall of the real minimum wage²¹.

¹⁶ Law 4445/2016 "National Mechanism for the Coordination, Monitoring and Evaluation of Social Integration and Cohesion Policies, Regulations for Social Solidarity and Implementing of the Provisions of Law 4387/2016 (A/85) and other provisions", (OGG 236/A, 19.12.2016)

¹⁷ GNCHR, "Recommendations of the National Commission for Human Rights (NCHR) for Childhood Protection: Health and Welfare", 8.5.2014, *op.cit.*

¹⁸ See Athens University of Economics and Business, Policy Analysis Research Unit, *The Anatomy of Poverty in Greece of 2013*, Information Brochure 5/2013, (eds.) M. Matsaganis, C. Leventi, p. 5-7, available at: http://www.paru.gr/files/newsletters/NewsLetter_05.pdf and *The politics against poverty in Greece during the crisis*, Information Brochure 6/2013, (ed.) M. Matsaganis, p. 5, available at: http://www.paru.gr/files/newsletters/NewsLetter_06.pdf

¹⁹ GNCHR Written Information on the Second Periodic Report of the Hellenic Republic for the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 2015

²⁰ See [Child poverty in the OECD: Trends, determinants and policies to tackle it](#), 18/10/2018, DELSA/ELSA/WD/SEM(2018)17

²¹ See OECD POLICY BRIEF ON CHILD WELL-BEING, p. 3: <https://www.oecd.org/els/family/Poor-children-in-rich-countries-Policy-brief-2018.pdf>

Indeed, the high unemployment rate (16,8 %)²² and the difficulty of access to social services financed by the State combined with the important shrinking of state financing deteriorate the already hazardous living conditions for both children and their families and render necessary the evaluation of the results of the financial crisis in children and adolescents' life and development, while aiming at minimising the hazards in their life and development²³.

Considering the above the GNCHR formulates the following recommendations²⁴:

- The competent Greek authorities should proceed to the establishment of a guaranteed level of decent living for children, and the ratification by the Hellenic Republic of the third Optional Protocol to the UN Convention on the Rights of the Child on a communications procedure. Furthermore, the competent State authorities to implement the existing legislative provisions without discrimination on any ground.
- Particular emphasis should be put by the competent State authorities on the need to tackle child poverty and social exclusion through integrated strategies that go beyond ensuring children's material security and promote equal opportunities so that all children can realise their full potential.

Roma children

The Committee has expressed its concern that many Roma continue to live in housing that fails to meet minimum standards of habitability and infrastructure. In this regard, the Committee recommends that the State party design public policies aimed particularly at addressing, both in the short-term and in a sustained manner, the problem of increasing child poverty. These policies must be capable of effectively coordinating actions at the national, regional and local levels, and actions in different areas (particularly economy, health care, housing, social policy and education).

²² See Eurostat October 2019, <https://ec.europa.eu/eurostat/documents/2995521/10075437/3-29112019-BP-EN.PDF/749d647b-6961-5d3d-a8c6-8eaca44a539d>

²³ Committee on the Rights of the Child, *Consideration of reports submitted by State parties under article 44 of the Convention, Concluding observations: Greece, op.cit.*, par. 28-29 and Greek Ombudsman (Ombudsman for Children's Rights), *Recommendations about the content of a National Plan of Action for Children's Rights*, July 2013, par. 11.

²⁴ See also [GNCHR Factsheet on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights"](#) (2010-2018)

Furthermore, the Committee has reiterated its views that the right to be heard shall be guaranteed for all children, and is also concerned at the lack of information on the measures taken to ensure that the right to be heard is enjoyed, *inter alia*, by Roma children

The GNCHR has repeatedly stressed the importance of ensuring the protection of Roma children and calls for the confrontation of alarming cases that irrefutably violate their rights. Agreeing with the findings of the Ombudsman²⁵, the GNCHR highlights the need to ensure for Roma children the equal enjoyment of their rights to health, education, housing, labour and social participation.

The behavior of State authorities towards Roma Children

As constantly observed by the GNCHR, the rights of both minor and adult Roma are violated by certain State authorities. Especially in relation to Roma minors, the Committee on the Rights of the Child has expressed its concern for the arbitrary and discriminatory manner in which police authorities stop and cross-check Roma minors, as well as the violation of their right to a fair trial²⁶. Data collected by the FRA demonstrate the alarming dimensions of discriminatory practices in Greece based on the ethnic profiling of Roma by the police²⁷. The low reporting rates of victimisation to the police by the Roma is easily explained by the fact that Greece stands out amongst seven EU - Member States as having a highly policed Roma community which considers its encounters with the police to be discriminatory²⁸.

In this regard and in the light of the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination²⁹, as well as the Conclusions and Recommendations of the UN Committee against Torture³⁰ and the judgments and

²⁵ Ombudsman, [Press Release: The Ombudsman calls for immediate measures for the protection of minors and the social inclusion of Roma](#), 24.10.2013.

²⁶ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012, par. 68-69.

²⁷ FRA, [EU-MIDIS II Second European Union Minorities and Discrimination Survey](#), Data in Focus Report-The Roma, 2016.

²⁸ Ibidem, p. 40.

²⁹ UN Committee on the Elimination of Racial Discrimination, [Concluding observations on the twentieth to twenty-second periodic reports of Greece](#), CERD/C/GRC/CO/20-22, 3.10.2016.

³⁰ UN Committee against Torture, [Concluding Observations on the seventh periodic report of Greece](#) (CAT/C/GRC/7), 7.8.2019.

views of international human rights courts and monitoring bodies³¹, the GNCHR highlights the inadequate manner in which the State deals with instances of police violence against Roma and proposes the adoption of measures addressing cases of Roma maltreatment, such as the effective punishment of the perpetrators and the admission of more Roma to the police force. In fact, in 2010, it was decided by the ECtHR that Greece violated both Articles 3 (prohibition of inhuman and degrading treatment) and 6(1) (right to a fair trial) for reasons of serious ill-treatment of a 16-year old Roma by the police³².

Recommendations

- The GNCHR recommends to the competent State authorities to take urgent action ensuring the rights of Roma children. To this end, the GNCHR suggests involving all relevant stakeholders, including civil society, in order to fully promote awareness-raising and educational campaigns. In the same direction, it should be established a targeted working group³³ with the task of examining the issue of human rights training of law enforcement personnel with emphasis on practical rather than theoretical application of human rights.
- The GNCHR shares the FRA opinion 5.2, according to which, the Member States in order to tackle limited reporting of discrimination and anti-Gypsyism to the authorities, should ensure that law enforcement agencies cooperate with equality bodies, as well as Ombudsmans and national human rights institutions³⁴.
- The GNCHR shares the *UN Committee on Elimination of Racial Discrimination* Recommendations³⁵, according to which, the competent State authorities should implement without further delay decisions handed down by the European Court of Human Rights that relate to Roma rights violations.

³¹ UN, Human Rights Committee, *Andreas Kalamiotis v. Greece*, 24.7.2008 and ECtHR, *Bekos and Koutropoulos v. Greece* [No 15250/02], 13.3.2006; *Karagiannopoulos v. Greece* [No 27850/03], 21.9.2007; *Petropoulou-Tsakiris v. Greece* [No 44803/04], 6.3.2008.

³² ECtHR, *Stefanou v. Greece* [No 2954/07], 4.10.2010.

³³ The GNCHR has, since 2008, stressed the need to establish a working group in this direction. See: GNCHR, [Annual Report 2008](#)

³⁴ [FRA Fundamental Rights Report 2019](#), p. 11

³⁵ UN Committee on the Elimination of Racial Discrimination, [Concluding observations on the twentieth to twenty-second periodic reports of Greece](#), CERD/C/GRC/CO/20-22, 3.10.2016. p. 5

Living conditions

The GNCHR, having stated its position repeatedly with regard to the lack of solutions provided for the housing problems facing the Roma community in Greece, expresses its deep concern about the multiple violations of the right to water and refers to both the ECtHR decisions regarding Greece³⁶ and reports on water-related issues³⁷. Many Roma houses do not even have the infrastructure required for water and sanitation, whilst entire settlements have been left without access to water due to water supply problems³⁸. Consequently, the Roma are forced to transfer water to the settlement from other locations outside.

Additionally, the GNCHR observes that the number of children receiving insufficient nutrition is constantly increasing. Nutrition problems constitute a fundamental factor of child health degradation, both mental and physical. Poor children in Greece have more chances of being undernourished, even though children who do not belong to income poverty can also experience circumstances of deprivation³⁹. Even more, it should be pointed out that the structures of social protection as well as family and child support on a regional and local level are insufficient. Wherever supporting social services exist, they are neither efficient, nor is their personnel sufficiently trained in child protection. They are understaffed which frequently leaves no possibility for social workers to make home visits. In light of the above mentioned, the GNCHR places particular emphasis on the need for the competent Greek Authorities to collect sufficient statistical data, capable of allowing it to evaluate the progress achieved relating to the application of the Convention's provisions⁴⁰.

³⁶ CoE, ECHR, *International Centre for the Legal Protection of Human Rights (Interights) v. Greece* [No 49/2008], 11.12.2009; *European Roma Rights Center v. Greece* [No 15/2003], 8.12.2004 (violation of the right to adequate housing according to Article 16 ESC).

³⁷ [*European Territorial Cooperation Programme: Actions that protect the right to health and the protection of the Roma population*](#), Thessaloniki 2012 ; FRA, EU-MIDIS European Union Minorities and Discrimination Survey, *Data in Focus Report - The Roma*, 2009 ; Council of the European Union, [*Council Recommendation on effective Roma integration measures in the member states*](#), 9 and 10 December 2013, par. 1. 6. (d), p. 7.

³⁸ GNCHR, [*The Right to Water. GNCHR Recommendations for its effective protection*](#) (2014).

³⁹ See footnote 37

⁴⁰ GNCHR and Factsheet on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights" (2010-2018)

Recommendations

- The GNCHR taking into account the *UN Committee on Elimination of Racial Discrimination* Recommendations⁴¹, according to which, the competent State authorities should make the necessary steps to effectively implement the National Strategy for the Social Inclusion of Roma 2012-2020, calls upon the competent State authorities to elaborate the next National Strategy for the Social Inclusion of Roma such as by creating monitoring and accountability mechanisms on which Roma representation should be guaranteed.
- The GNCHR encourages the competent State authorities to ensure the horizontal and intersectoral coordination of the competent services, the introduction of structural changes and institutional measures in all social sectors, and the collection of sufficient statistical data by the Greek Authorities in order to evaluate the progress achieved relating to the application of the Convention's provisions.
- The GNCHR emphasizing that everyone and especially members of vulnerable groups, must have equal access to adequate and safe water, without any discrimination, urges the State to take specific measures to ensure access to clean and adequate water for the Roma, while highlighting the value of initiatives taken by the competent local authorities⁴².

⁴¹ UN Committee on the Elimination of Racial Discrimination, [Concluding observations on the twentieth to twenty-second periodic reports of Greece](#), CERD/C/GRC/CO/20-22, 3.10.2016. p. 6

⁴² GNCHR, [The Right to Water. GNCHR Recommendations for its effective protection](#) (2014)

III. Civil rights and freedoms

Freedom of thought, conscience and religion

The Committee has reiterated its previous recommendations that the State party ensure a child's religious affiliation or lack of one, and in no way hinders respect for the rights of the child. In this regard, the competent State authorities should take effective measures to prevent and eliminate all forms of discrimination on the grounds of religion and belief and by promoting religious tolerance and dialogue in cooperation with civil society.

Religion and religious education

The GNCHR stresses that the exercise of the right to abstain from religious education courses is regulated in a way which is not compatible with religious freedom, as it is made subject to prior formal justification. On the contrary, the measure of legal exemption from religious instruction and the related school exams upon request of the parents concerned, 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 generalized exemption from it, to the extent that such a measure renders automatically a general education course optional⁴³. By adopting an alternative approach, the GNCHR considers that, in a pluralistic and democratic school, which respects religious diversity, a course with catechetical content, which teaches in a compulsory manner the Orthodox Christian tradition⁴⁴ does not meet the needs of the students⁴⁵.

In particular, in light of a recent decision of the Council of State (660/2018) relating religious education courses in primary and secondary education, the Council of State has accepted that such courses are addressed solely to Orthodox Christian

⁴³ Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights (ICCPR), 2013

⁴⁴ According to Article 1(1a) of Law 1566/1985 regarding the Structure and function of the primary and secondary education

⁴⁵ [Statement by the GNCHR on the occasion of the implementation of the curricula of their course Religious in schools](#), [in Greek], 2016

students, as a “confession” lesson, while a more objective, critical and pluralistic approach, would apply as a “form of group proselytism”. In this respect, the decision incorrectly identifies State and Religion and likewise incorrectly identifies the development of national consciousness and religious conscience, thus recognizing an extremely limited content of the religious conscience, in contradiction with the purpose of the relevant constitutional provision, which guarantees the freedom of the religious conscience (art 13 of the Greek Constitution- Religious Freedom)⁴⁶.

The GNCHR draws the attention of the competent authorities to the urgent need to ensure the full implementation of the rights of the child; and namely the right to freedom of thought, conscience and religion and compliance to the concluding observations and recommendations of the international bodies on the protection of human rights. In the same context, it should be taken into consideration the art. 2 of the First Additional Protocol to the ECHR, which recognizes that “... *the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions...*”, without entitling the parents to claim the teaching with specific religious content (EctHR, 10/01/2017, Osmanoglu, paragraphs 22-25).

Recommendations

- The GNCHR recommends that the State authorities take the necessary measures in order to ensure in primary and secondary education the right of the child to freedom of thought, conscience and religion by promoting religious tolerance and dialogue in the society
- Furthermore, the GNCHR calls upon the Greek State to comply with constitutional and international law requirements and modern European cultural reality, ensuring that religious education include an introduction to the history and the main principles of each religion

⁴⁶ See [Presentation by President of the GNCHR, Mr. G. Stavropoulos \(The lesson of the Religious in light of the recent decision 660/2018 of the Council of State\)](#) [in Greek], 2018

Birth registration, name and nationality

The Committee has called upon the State party to strengthen all necessary measures to ensure that all children are duly registered at birth, including through improvement of the provision of information on, and easier access to, birth registration facilities and that all children, especially those from disadvantaged groups, are able to be registered under, and make use of, their full original name as chosen by their parents or other legal guardian.

As far as the issue of registration of children is concerned, the birth registration of children, regardless of their citizenship, is provided by law 344/1976 “on civil status acts”⁴⁷ as amended and applicable. However there are shortcomings and gaps in both law and practice. To mention, it has been observed that when children are born abroad and registered as children of two Greek same-sex parents, they are not granted a Greek birth certificate and thus are effectively deprived of their right to Greek nationality⁴⁸. In this context, the GNCHR, taking into account the recent Hearing of stakeholders and persons on the rights of the child that has organized and the findings and results that followed, notes the demand of the related organization for recognition and acceptance of different types of families, such as same-sex parents and on the need of equivalent legal protection of the rights of children born to same-sex couples⁴⁹.

Additionally, special attention should be paid in case of the registration of Roma children in the Civil Registration Offices. In fact, Roma children usually have neither birth registration documents, due to the reason that the birth did not take place in a maternity hospital, nor a certificate certifying the birth. The constant practice applied by the Roma, is to have a decision issued in the context of the non-contentious jurisdiction, which certifies the birth event in Greece, as children of parents holding unknown citizenship. However, this practice does not address the problem effectively.

⁴⁷ Law 344/1976 “*Birth Registration Acts*” (OGG 143/A, 9/11.6.1976)

⁴⁸ [Rainbow Families Greece](#)

⁴⁹ [Rainbow Families Greece](#), see also [GNCHR Observations on the Draft Law of the Ministry of Justice “Registered Partnership and other Provisions](#), 2015

Recommendations

- The GNCHR suggests amending the legislation in order for children born before or after the conclusion of a civil partnership, to be treated in all respects as children born in marriage and to retain this status after the termination or cancellation of the civil partnership
- The GNCHR recommends to the competent State authorities to take promptly the necessary measures in order to facilitate the registration of Roma children at birth

Right to appropriate information and access to information from a diversity of sources and protection from material harmful to his or her well-being

The Committee has recommended that the State party continue its efforts to make sure that the media know and respect the rights of the child. In this context, the State party should ensure that children have access to information and material from a diversity of national and international sources, especially those aimed at the promotion of their social, spiritual and moral well being and physical and mental health.

The right to appropriate information has always been of particular interest to the GNCHR. In the field of the mass Media the GNCHR has systematically raised public awareness especially contributing to the protection of the presumption of innocence and of personal data. Moreover, since 2009, the GNCHR has addressed comprehensive recommendations to the State regarding the protection of the best interests of the child during the criminal proceedings⁵⁰. In this regard, the GNCHR has specifically examined in a separate report the right to interpretation and translation and the right to information in criminal proceedings⁵¹. Especially in case of refugee and migrant children, the GNCHR has expressed serious concerns regarding the lack of appropriate measures and repeatedly addressed recommendations to the competent State authorities to ensure that children have access to information in their languages.

⁵⁰ GNCHR [Juvenile and Young Adult Criminal Record](#)

⁵¹ [GNCHR Report of Recommendations on the right to interpretation and translation and the right to information in criminal proceedings, 23.11.2015](#)

Recommendation

- The GNCHR recommends to the competent State authorities to ensure that all children within the Greek territory have access to information in their languages without discrimination.

IV. Violence against children

Measures to prohibit and eliminate all forms of harmful traditional practices, including, but not limited to, female genital mutilation and early and forced marriages (art. 24(3))

The Committee has recommended that the State party strengthen mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional and other care, as well as strengthen support for victims of violence, abuse, neglect and maltreatment. Further the Committee draws the State party's attention to general comment No. 13 (2011) on the right of the child to freedom from all forms of violence.

The GNCHR welcomes the ratification of the *Convention on preventing and combating violence against women and domestic violence* (law 4531/2018 – Istanbul Convention), which expands the protection of law 3500/2006 on *Combating domestic violence and other provisions*, that has not dealt fully and effectively with the issue of domestic violence, since it had not criminalized all offences of domestic character. Specifically the Istanbul Convention aims, among others, to the child protection against all forms of neglect, abuse and violence, taking into account the best interest of the child.

The GNCHR considers the issue of sexual misconduct to be extremely serious and timely given the migratory and refugee flows, while there are alarmingly increasing trends of such occurrences in countries that host such populations internationally. Article 38 of the Istanbul Convention, in addition to criminalizing attitudes impelling female genital mutilation, appears to provide wider protection and use of the instrument in cases of self-mutilation and self-injury especially in cases where minors are concerned. The GNCHR considers the ratification by the Greek Parliament of the Convention on preventing and combating violence against women and domestic violence to be effective in this regard.

The issue of early and forced marriages, was introduced to the Plenary Session of the GNCHR in 2005, on the occasion of a marriage of a girl as young as eleven years

of age, by the Mufti in Thrace⁵². The GNCHR strongly condemned this practice and expressed its strong disapproval of these marriages. The GNCHR urges the Greek State to provide recent statistics regarding marriages of juveniles in Thrace. The GNCHR considers that matters of family law have to be interpreted in light of regional and international human rights standards, such as the ECHR, the ICCPR, the CEDAW, the CRC etc. For instance, article 16 par. 2 of the CEDAW declares null and void marriages between minors and refers for the minimum marriage age to the national laws. For Greece this law is art. 1350 par. 1 of the Civil Code which sets as a general rule the eighteen (18) years for both persons to be lawfully in a position to get married. In this regard, the GNCHR evaluates as positive steps: **i)** the adoption of Greek law 4511/2018, which essentially renders the application of Sharia law (Islamic law) to be optional among the Muslims of Thrace in family and inheritance matters, and **ii)** the adoption of Presidential Decree 52/2019 "*Procedural Rules for the Jurisdictional Cases of the Muftis in Thrace - Composition, Organization and Operation of the Mufti Department of Justice Affairs in Mouftiates of Thrace*". In particular, art. 3 of this Presidential Decree states, *inter alia*, that "The future spouses must be eighteen (18) years of age. The Mufti, after hearing the relevant persons as well as the persons in charge of custody of the minors, may allow the marriage before the eighteen (18) years of age, if there is an important reason.", in line with art. 1350 par. 2 of the Civil Code⁵³, which stipulates an exception of the general rule of par. 1 art. 1350 of the Civil Code.

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (arts. 37(a) and 28(2))

The Committee concerned at the general lack of information on phenomena of violence and of reliable statistical data collected by the State party as well as at the inadequacy of the staff and services dealing with child victims of abuse and neglect, has recommended that the State party ensure that professionals working with and for children (including teachers, social workers, medical professionals, members of the

⁵² [GNCHR, Resolution on the Marriages of Minors by the Mufti in Greece](#), 2015

⁵³ Art. 1350 par. 2 of the Civil Code: "*The future spouses must have reached the age of eighteen. The court may, after hearing the future spouses and the persons in charge of the custody of the minor, permit the marriage before the eighteen (18) years of age, if there is an important reason.*".

police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of abuse, domestic violence and neglect affecting children.

According to the Greek Transgendered Support Association (SYD)⁵⁴, there have been some recorded cases and testimonies of transgender people reporting incidents of discrimination, intimidation, isolation and even racist violence in the field of education. In addition, there are quite a few trans children who have reported that they were forced to leave school due to acts of intolerance and in-school bullying. Taking particular account of the overriding interests of children, States should take appropriate legislative and other measures to educate staff and other students to ensure that the right to education is exercised effectively and without discrimination on grounds of sexual orientation and gender identity. This includes, in particular, the guarantee that children and young people have the right to be educated in a safe environment; an environment free from violence, harassment, social exclusion or other forms of discrimination and degrading treatment related to sexual orientation and gender identity. With particular regard to the prevailing rights of children, effective measures must be taken at all levels to promote effective tolerance and respect in schools, irrespective of sexual orientation and gender identity. This should further include providing adequate information on sexual orientation and gender identity, for example through anti-discrimination programs and relevant educational material.

As constantly observed by the GNCHR, the rights of both minor and adult Roma are violated by certain State authorities. Especially in relation to Roma minors, the Committee on the Rights of the Child has expressed its concern for the arbitrary and discriminatory manner in which police authorities stop and cross-check Roma minors, as well as the violation of their right to a fair trial. Data collected by the FRA demonstrate the alarming dimensions of discriminatory practices in Greece based on the ethnic profiling of Roma by the police⁵⁵.

In this regard and in the light of the Concluding observations of the Committee, as well as the Conclusions and Recommendations of the Committee against Torture

⁵⁴ <http://www.transgender-association.gr/>

⁵⁵ FRA, *EU-MIDIS II Second European Union Minorities and Discrimination Survey*, 2016. p. 40.

and the judgments and views of international human rights courts and monitoring bodies, the GNCHR highlights the inadequate manner in which the State deals with instances of police violence against Roma and proposes the adoption of measures addressing cases of Roma maltreatment, such as the effective punishment of the perpetrators and the admission of more Roma to the police force. In fact, in 2010, Greece was convicted by the ECtHR for violation of both Articles 3 (prohibition of inhuman and degrading treatment) and Violation of Article 6(1) (right to a fair trial) because of the serious ill-treatment of a 16-year old Roma by the police⁵⁶. In this context, the GNCHR stresses the need to implement its initiative to establish a working group which will examine the issue of human rights training of law enforcement agents. This specific GNCHR recommendation, which has been expressed since 2008⁵⁷, focuses on creating a special curriculum designed for law enforcement agents, with emphasis on practical rather than theoretical application of human rights.

With respect to the right to education, the GNCHR would like to particularly focus on the very important issue of school violence and bullying. For this reason, the GNCHR recalls that the CRC Committee recognizes that different forms of violence against children (such as corporal punishment, bullying, sexual harassment and abuse and verbal and emotional abuse) are interlinked and that violence in the family and school reinforce one another. Action against violence, therefore, must take a holistic approach and emphasise non-tolerance of all forms of violence⁵⁸.

Taking into account the above mentioned, the GNCHR has repeatedly stressed the importance of ensuring the protection of Roma children and calls for the confrontation of alarming cases that irrefutably violate the rights of Roma children. Further, the GNCHR expresses its concerns with regard to illiteracy and lack of formal education, that make especially younger Roma bound “to rely even more on informal economic activities, such as collecting scrap metal”, and therefore, more vulnerable and deprived of rights. Moreover, such phenomena aggravate due to the segregation policy and the very poor education for Roma children. In this context, the UN Committee on the Rights of the Child has also communicated its concerns at violence

⁵⁶ ECtHR, *Stefanou v. Greece* [No 2954/07], 4.10.2010.

⁵⁷ GNCHR, Annual Report 2008.

⁵⁸ Committee on the Rights of the Child, day of general discussion on violence against children within the family and in schools, Violence against Children, Within the Family and in Schools, Report on the twenty-eighth session, 28 September 2001, CRC/C/111, 2001, par. 697, 706, 724 and 727.

in schools, the cases of bullying among students, the persistence of the limited access of Roma children to school, their limited enrolment and segregation in schools⁵⁹. It is remarkable, that Greece stands out with an exceptionally high rate of non-attendance: 43 % of Roma children of compulsory school age are not attending school⁶⁰.

As far as domestic violence is concerned, it has been constantly in the focus of the GNCHR. The GNCHR has from time to time highlighted the need to improve law 3500/2006 on domestic violence⁶¹.

Bearing in mind the concerns of the Committee on the Rights of the Child regarding the lack of a National Child Database and particularly the lack of statistical data on children experiencing violence and other forms of abuse, the GNCHR underlines that no particular improvement has been noted and reiterates the need for the creation of such a child-centered database and indicators compatible with the CRC, in particular on violence, child trafficking and sexual exploitation, which have to be broken down, inter alia, by age, gender, ethnic and socio-economic background and by groups of children in need of special protection.

Recommendations

The GNCHR suggests the addressing of the following recommendations to the Greek State:

- Greece should take appropriate legislative and other measures to educate staff and students to ensure that the right to education is exercised effectively and without discrimination on grounds of sexual orientation and gender identity. At the same time Greece should take all appropriate measures to combat violence and bullying in schools and create an environment of tolerance, peace and understanding of cultural diversity.
- Greece should prioritize the strengthening of mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional and

⁵⁹ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012, p. 13

⁶⁰ https://fra.europa.eu/sites/default/files/fra-2014_roma-survey_education_tk0113748enc.pdf

⁶¹ See the website of the GNCHR: <http://www.nchr.gr/index.php/en/2013-04-03-10-23-48/2013-04-03-10-41-35>

other care. The National Plan of Action for Children's Rights could be developed as a valuable tool to this direction.

- A child-centered database and indicators compatible with the CRC, in particular on violence, child trafficking and sexual exploitation, which have to be broken down, inter alia, by age, gender, ethnic and socio-economic background and by groups of children in need of special protection, have to be developed the soonest possible.

V. Family environment and alternative care

Family support and alternative care

The Committee recommends that the State party put in place measures to prevent a worsening of the trend towards depriving children of their family environment, in particular with regard to improved understanding and knowledge of parental responsibilities, and to provide all forms of support to families to increase their parenting capacities, as well as to search for family-type alternatives when necessary.

The GNCHR pays particular attention to both family support and alternative care and stresses the need for an extensive institutional framework for family support services and high quality of alternative care⁶². Strengthening the family support services especially in cases of children at risk of abandonment (children of vulnerable or minority groups such as Roma, disabled children, children whose families are at risk of poverty or social exclusion), prevents children's separation on the one hand, while developing integrated community structures towards children's protection and prevents institutionalisation on the other⁶³.

The GNCHR, taking into consideration that a financial and economic crisis has a serious impact on children and their families, notes with great concern that different measures and relevant expenses cuts in social services and alternative care settings have indeed affected children in Greece⁶⁴. In particular, the services for children have deteriorated steadily⁶⁵, public spending in social services has been reduced, reliance on institutionally-based care for children lacking parental support has increased etc.

⁶² - GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020 (29.11.2018) [in Greek], http://www.nchr.gr/images/pdf/apofaseis/paidia/paratiriseis_EEDA_ESSDP.pdf

- GNCHR [Observations on the Ministry of Labor, Social Security and Social Solidarity "Measures to promote the institutions of foster care and adoption"](#), 2018

⁶³ [European Commission 2013, Investing in children: Breaking the cycle of disadvantage A study of national policies](#)

⁶⁴ - GNCHR Observations on the National Action National Plan of Action for Children's Rights on Children's Rights 2018-2020 (29.11.2018) [in Greek],

http://www.nchr.gr/images/pdf/apofaseis/paidia/paratiriseis_EEDA_ESSDP.pdf, and

- European Commission: [Progress across Europe in the implementation of the 2013 EU Recommendation on 'Investing in children: Breaking the cycle of disadvantage' - A study of national policies](#) 2017

⁶⁵ ESAMEA: [Written Statement for the CRPD Pre-Sessional WG - 11th Session \(April 8-11\)](#)

⁶⁵ [Primary Health Care and Health System: Reforms, Problems and Prospects](#), National Centre for Public Administration and Local Government, 2017

In this regard, the GNCHR deplores the fact that in Greece, alternative care is underdeveloped and mostly based on the institutional welfare model⁶⁶. Moreover, the institutional and organisational insufficiencies are not only limited in terms of supporting the family, but they also have an impact on alternative care which replaces the parental one when removal from the biological family is deemed necessary. The phenomenon of the gradual passing of the obligation for childhood protection from the State to the private sector should be further pointed out, since in fact, children are often placed in guest houses or community houses belonging to non-profit private law legal entities or in church establishments⁶⁷. In this framework, the GNCHR expresses its serious concerns towards the lack of a comprehensive institutional framework regarding the operation of public or private childcare institutions or of alternative care institutions.

Furthermore, the GNCHR welcomes the institution of the community centers provided by law 4368/2016⁶⁸, whose operational framework has been defined by the Ministerial Decision 1344/2019⁶⁹, and which are designed and considered to provide, among others, support and services to vulnerable groups including families and children, as well as, to further refer, if necessary, to the appropriate structures, constitute an important step⁷⁰. Yet they operate understaffed, while in practice they only examine the access of families to social benefits, without providing any other support or counseling or therapeutic intervention. The GNCHR, recognizes that these measures albeit relevant, form a fragmented social policy and stresses the need to collect and record all of all the available establishments under a unified registry in order to become a useful tool for persons in need.

The GNCHR, having previously been extensively concerned with the necessity to provide institutional and effective protection to the particularly vulnerable social group of children, has noted that the current coverage and level of social security and social welfare benefits are inadequate to ensure a decent standard of living⁷¹.

⁶⁶ GNCHR [Observations on the Ministry of Labor, Social Security and Social Solidarity "Measures to promote the institutions of foster care and adoption"](#), 2018

⁶⁷ GNCHR [Observations on the Ministry of Labor, Social Security and Social Solidarity "Measures to promote the institutions of foster care and adoption"](#), 2018

⁶⁸ Law 4368/2016 (OGG 21 A, 21.2.2016)

⁶⁹ Ministerial Decision 1344/2019 Determination of the functional instructions of the community centers (OGG B'/Δ14/15834/2371/19.04.2019)

⁷⁰ Written Submission by Ministry of Labour and Social Affairs, 29.10.2019

⁷¹ GNCHR and Factsheet on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights" (2010-2018) and [GNCHR Observations in view of the examination of the 27th greek report on](#)

In line with the above mentioned, the Ombudsman's analytic Report for the Child, which was submitted to the European Network for Ombudspersons for Children (ENOC), on the grounds of a relevant research conducted in 2011⁷², points out the most important problems, which actually remain unsolved until to date, both in public and private child protection institutions, in particular: cuts in benefits and services, staff employment restrictions, especially in public institutions due to limited financial resources⁷³, asylum character of the existing child care institutions, lack of a unified data-collection system allowing an assessment of the extent to which the institutions concerned are exercising children rights⁷⁴. According to the data presented by the Greek Ombudsman in its Special Report 2015, out of 3.000 children hosted in several institutions, only 1000 are hosted in public establishments.

In this regard, the GNCHR voices its deep concerns about the number of children which are born and living in maternity hospitals and abandoned children living in pediatric hospitals. Specifically, a total of 76 children aged from 16 months to 16 years are accommodated in the Pediatric Hospitals of Attica (41 in Pedon Agia Sofia, 20 in Pedon Pentelis, 15 in Aglaia Kyriakou), 15 abandoned infants are in maternity hospitals (Elena, Venizelos and Alexandra)⁷⁵. Many of the abandoned children living in

[the application of the european social charter \(articles 3, 11, 12, 13 and 14\) and on the 11th greek report on the application of the additional protocol to the european social charter \(article 4\) \(reference period 01/01/2012-31/12/20\)](#)

⁷² Greek Ombudsman (Ombudsman for Children's Rights), *The rights of children living in institutions. Report on a study of the European Network of Ombudspersons for Children (ENOC)*, July 2011.

⁷³ According to report by representatives of many private institutions to the Ombudsman, they are even threatened with closure because of their reduced resources and increased taxation on both donations and their property. At the same time, the cases of children that must be removed from their natural families are increasing, as the extreme poverty acts as an additional factor that exacerbates the inability of some parents to adequately care for their children. Greek Ombudsman (Ombudsman for Children's Rights), *Report to the UN Committee on the Rights of the Child*

⁷⁴ Similar problems have been also identified by the NGO ["The Smile of the Child"](#)

⁷⁵ The dimension of the problem is depicted in a series of press releases, interviews and publications:

- Pan-Hellenic Federation of Public Hospitals Workers (POEDIN)

18/04/2019

<https://www.poedhn.gr/deltia-typoy/item/4128-staxti-sta-matia-i-lysi-pou-dothike-xthes-apo-to-ypourgeo-ygeias-gia-ta-egkataleimmena-paidia-sta-paidiatrika-nosokomeia>

16/04/2019:

<https://www.poedhn.gr/deltia-typoy/item/4120-i-poedin-kalyptei-kai-stirizei-ti-sygkentrosi-ton-ergazomenon-tin-tetarti-1742019-kai-ora-830pm-stin-pyli-tou-nosokomeiou-paidon-agia-sofia-gia-ta-egkataleimmena-paidia-pou-pollaplasiazontai>

27/09/2019:

<https://www.poedhn.gr/deltia-typoy/item/4526-sto-paidiatriko-nosokomeio-aglaia-kyriakoy--filokseneitai-me-eisaggeliki-entoli-11xrono-agori-me-vary-aftismo-kai-se-synexi-diegersi-me-sovaro-kindyno-aftotratismoy>

11/10/2019:

<https://www.poedhn.gr/deltia-typoy/item/4581-sto-paidon-agias-sofias-sovara-epeisodia-992019-apo-egkataleimmena-paidia-ta-opoia-kai-pali-afksanontai>

13/9/2019

pediatric hospitals, according to a prosecutor's order, are exhibiting abusive behavior. Although steps have been made to address the problem, recent data, public releases and several publications clearly point to a stagnation. The GNCHR stresses the need for the children concerned to be transferred in appropriate structures immediately.

Recommendations

In light of the above, the GNCHR recommends to the Greek State authorities to take the following necessary measures:

- to adopt a comprehensive strategy and an National Plan of Action for Children's Rights on deinstitutionalization
- to integrate all children protection institutions under a single institutional framework
- to collect and record all the existing institutions under a central unified registry in order to become a useful tool for children in need of specific protection and to strengthen the mechanisms for data collection on children in all areas of concern developing accordingly specific indicators
- to develop a coherent monitoring system to monitor progress of implementation of related measures and to evaluate their impact on child poverty
- to implement deinstitutionalization measures developing a support system for orphaned children when they leave institutions and to improve the existing measures ensuring that children who have been in institutional care are better equipped for starting their independent life
- to promote alternative care in families (family members or qualified and prepared caregivers) for children deprived of parental care and community prevention services so as to prevent child abuse and detect high-risk situations
- to upgrade the existing structures instead of developing new structures, bringing in,

https://www.ethnos.gr/ellada/60695_egkataleimmena-brefi-sto-paidon-sta-azitita-50-paidia

- Pediatric Psychiatric Society of Greece - Union of Child and Adolescent Psychiatrists Press Release

<https://www.hscap.gr/eisaggelika>

<https://www.hscap.gr/dt>

- [Interview with Gerassimos Kolaitis, Professor of Pediatrics of the Athens Medical School and Director of the Department of Mental Health and Psychiatry of Children and Adolescents at Children's Hospital "Agia Sofia"](#)

- Georgousopoulou Vassiliki (2017), Thesis, First Pediatric Clinic, [Epidemiological study of children at AGIA SOFIA according to General Prosecutor's order for reasons of abuse and / or neglect](#)

where necessary, the proper policy changes that would ensure the institutional continuity.

Children deprived of family environment and foster care

The Committee recommends that the State party develop a clear policy of deinstitutionalization and foster care to ensure that children deprived of a family environment receive adequate care and protection, and introduce measures to ensure the effective functioning, monitoring and evaluation of the existing institutional and foster care programmes. Further, it recommends that the State party strengthen its policies in order to assist parents to properly provide for their children so they are not obliged to put the children in care

With regard to alternative care for children in Greece, this is provided by various organisations including public, private and church-run entities, without specific requirements or a formal single procedure of certification provided by law⁷⁶. In this context, the GNCHR raises serious concerns over the lack of a coherent and comprehensive legislative framework providing for quality standards as well as of a transparent registration system⁷⁷.

In light of the above, the GNCHR welcomes the adoption of law 4538/2018 providing for measures for the promotion of Foster Care and Adoption⁷⁸. 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 deinstitutionalization. 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

⁷⁶ Greek Ombudsman 2015: [The Rights of Children living in Child Care Institutions](#)

⁷⁷ Pan-Hellenic Federation of Parents and Guardians of Disabled People (POSGAmeA)

⁷⁸ Law 4538/2018 "Measures for the promotion of Foster Care and Adoption and other provisions" (OGG 85 A, 16.5.2018)

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,⁷⁹ 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)⁸⁰. Thus, despite that the National 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 provided⁸¹. 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 parent⁸². 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 parents⁸³.

⁷⁹ Decision D11/oik.57758/2484 (OGG 5090/B/14.11.2018) of the Dep. Minister of Labour and Social Affairs

⁸⁰ Information submitted by the Ministry of Labour and Social Affairs

⁸¹ [“The Smile of the Child”](#)

⁸² Information submitted by the [Rainbow Families Greece](#) and (OLKE, LESBIAN & GAY COMMUNITY OF GREECE)

⁸³ See intra p. 22

Overall, the new legislation is a good step forward towards the development of quality family- and community-based care for children in Greece⁸⁴. 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.

Recommendations

- 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.
- The GNCHR stresses the need for children to be transferred from Social Welfare Institutions to safe and supportive residence or to community based residence or to their family under the government's support
- The GNCHR deems necessary the collaboration of the competent welfare services through their consistent horizontal networking and coordination
- The GNCHR, bearing in mind that foster care has been greatly underdeveloped in Greece, calls upon the competent State authorities to ensure that foster care parents 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 is far from being considered as an alternative care option in Greece.

⁸⁴ See <https://www.openingdoors.eu/Greece: 2018 Country factsheet Greece: Strengthening families. Ending institutional care.>

VI. Disability, basic health and welfare

Health care and health services, social security and childcare services and facilities

The Committee concerned that deep-rooted discrimination still exists and that measures for children with disabilities are not carefully monitored, as well as that statistical data on children with disabilities in the State party is still unavailable, has recommended that the State party revise and adopt specific legislation in order to fully protect all children with disabilities, and establish a monitoring system that carefully records progress made and identifies shortcomings in implementation.

In this regard, following the recent Concluding Observations of the UN CRPD Committee, the State party should, *inter alia*, ensure the expeditious deinstitutionalisation of children with disabilities and develop a comprehensive strategy and accessible services for the full and effective participation of children with disabilities in all decision-making processes⁸⁵.

The primary health in Greece is characterized by a series of reforms, however they remained incomplete and did not substantially improve the situation⁸⁶. There is still a lack of a coherent and stable protective framework, as some of the criteria are tightening while in some other cases they are becoming more flexible. With regard to the right of access to healthcare to children with disabilities and chronic diseases, the GNCHR expresses its serious concerns regarding the problems observed in practice, such as inaccessibility of the public healthcare units for persons with disabilities, lack of specialized staff in the treatment of children with heavy and multiple disabilities, low number of dental clinics, limited access of children with disabilities who reside on islands or remote areas to healthcare units, low number of early intervention units for all the children with disabilities and low number of recovery and rehabilitation centers. As a result the families resort to private centers⁸⁷. Furthermore, it particularly worrying that the relevant existing services and structures continue

⁸⁵ [Concluding Observations on the initial report of Greece, CRPD/C/GRC/CO/1, 24.9.2019](#)

⁸⁶ [Primary Health Care and Health System: Reforms, Problems and Prospects](#), National Centre for Public Administration and Local Government, 2017

⁸⁷ Written Submission by the Pan-Hellenic Federation of Parents and Guardians of Disabled People (POSGKAmA), 18.10.2019

having a character of asylum and operating socially isolated, with the hosted children receiving inadequate coverage of their medical, therapeutic and educational needs.

The State has not established recreation centers, nor has provided for care and services in the community for children especially for those with serious or multiple disabilities. The situation causes great concern, given that in certain cases, these children are also neglected in the family⁸⁸. Furthermore, it is to be noted, that the State has not transposed yet into national policy neither the UN Guidelines on alternative care, nor the content of the Recommendations of the Council of Europe 2005 (5) on the rights of children living in residential institutions and CM/Rec (2010) 2 on deinstitutionalisation and community living of children with disabilities.

In relation to the children with disabilities, the recent reforms have been regrettably followed by reductions to special treatments for children with autism, and changes to the process for administering special education treatment therapies⁸⁹.

With regard to the deinstitutionalisation policy towards disabled people, it has become a challenge in recent years. Social protection programmes are more and more afflicted due to the dismantling of the Welfare State as a result of the recent financial crisis⁹⁰.

Pertaining to services and structures for children with disabilities and chronic diseases, there is concern that the State has not taken care of centers of creative employment, recreation centers, as well as, care and services within the community, which is of particular importance, as in some cases these children are also neglected in the family and do not receive sufficient state support⁹¹. In this respect, the GNCHR worries about the fact that a part of this social policy depends almost entirely on European programmes for its funding.

⁸⁸ The GNCHR [Childhood protection: Health and Welfare](#)

⁸⁹ ESAMEA: [Written Statement for the CRPD Pre-Sessional WG - 11th Session \(April 8-11\)](#)

⁹⁰ See: [GNCHR: Protection of the rights of older persons](#) and [GNCHR Statement on the impact of the continuing austerity measures on human rights](#)

⁹¹ [GNCHR Observations in view of the examination of the 27th greek report on the application of the european social charter \(articles 3, 11, 12, 13 and 14\) and on the 11th greek report on the application of the additional protocol to the european social charter \(article 4\) \(reference period 01/01/2012-31/12/20\)](#)

Recommendation

- The GNCHR, with regard to the disability approach and the implementation of specific effective measures to protect the rights of persons with disabilities on an equal basis, underlines the need not only for sufficient, clearly defined sums of money and funding systems, but also for commitment of policy-makers, awareness raising, proactive stakeholders, and control mechanisms in order for the system's utmost transparency to be ensured.

Survival and development and standard of living and measures, including material assistance and support programmes with regard to nutrition, clothing and housing

The Committee recommends that the State party make every effort to provide programmes and services for children with disabilities with adequate human and financial resources.

The GNCHR appreciates the fact, that in Greece most measures and structures providing services targeted to persons with disabilities apply regardless of race, color, national or ethnic origin. Programs, such as the electronic disability platform operating in the framework of the national Organisation for Welfare Benefits and Social Solidarity (hereinafter OPECA)⁹², the “Deinstitutional Program for People with Disabilities”, designed by the Ministry of Labour and Social Affairs in 2017⁹³, tax exemptions, free travel pass, reduced or free of charge participation in medicines etc. could be considered as additional safeguards of adequate living standards to people with disabilities without discriminations.

However, the GNCHR continues to voice its concern for the long-term effects of the austerity programmes over the past eight years and the reducing of public expenditures in the social rights sector⁹⁴. It is seen that poverty of children, in

⁹² <https://opeka.gr/>

⁹³ [GNCHR Annual Report 2017 – Contribution of the Greek Ministry of Labour and Social Affairs](#)

⁹⁴ GNCHR Observations on the National Action National Plan of Action for Children's Rights on Children's Rights 2018-2020 (29.11.2018) [in Greek], http://www.nchr.gr/images/pdf/apofaseis/paidia/paratiriseis_EEDA_ESSDP.pdf, pp. 43,46,76, GNCHR, Statement on the impact of the continuing austerity measures on human rights, 15.7.2015, available at

particular of those belonging to vulnerable groups, persists and the works for giving family aids have been insufficient. In this regard, measures such as the reduction in the New Revised Table for Determining Disability Rates of the minimum disability rates have left families without disability allowance towards their children. The new Integrated Health Care Regulation⁹⁵ in fact restricts remedies of Special Education and reduces the role of several professional specializations in the area such as Psychologists, Ergotherapists, Logopedists, Logotherapists, Physiotherapists Associations etc⁹⁶.

Bearing in mind the above mentioned, the GNCHR emphasises the fact that the cumulative effect of financial measures such as several cuts in benefits and social rights⁹⁷ over the past years, undermine the living standards⁹⁸, especially in case of persons with disabilities⁹⁹. In this respect, the GNCHR is highly concerned with two recent legislative developments (evaluation of the type and rate of disability by a doctor of unrelated specialty and abolition of disability tax exemptions), both resulting in ill treatment of persons with disabilities and/or chronic disease¹⁰⁰.

http://www.nchr.gr/images/English_Site/CRISIS/GNCHR_Statement_%20impact_of_austerity_measures_on_HR_2015_.pdf and GNCHR [Written Submission](#) by the Greek National Commission for Human Rights Article 11 of the Convention on the Rights of Persons with Disabilities on situations of risk and humanitarian emergencies, A/HRC/31/NI/9 (24.2.2016)

⁹⁵ [Integrated Health Care Regulation](#)

⁹⁶ [Statement from the Association of Greek Psychologists Prot. Nr.: 13474/10.10.2018](#)

[Ergotherapists Association](#)

[Pan-Hellenic Logopedists Association](#)

[Greek Logotherapists Association](#)

[Panhellenic Association of Physiotherapists](#)

[Pan-Hellenic Federation of Parents and Guardians of Disabled People \(POSGAMEA\)](#)

⁹⁷ [GNCHR: Protection of the rights of older persons](#) GNCHR and Factsheet on the "Impact of Economic Reform Policies and Austerity Measures on Human Rights" (2010-2018)

⁹⁸ [GNCHR Statement on the impact of the continuing austerity measures on human rights protection](#) and GNCHR [Written Submission](#) Humanitarian emergency (24.2.2016)

⁹⁹ Ibidem

¹⁰⁰ - The first problem issue is the medical evaluation regarding the type and rate of disability of the person concerned. More specifically, according to a Circular issued in 2016 there is no need of relation among the specialty of the doctor responsible for the disability evaluation with the type of disability of the person concerned, which illustrates the ineffective way, in which this procedure takes place. See: Ministerial Decision Φ.10035/25885/1152 (OGG 1931/B 29.12.2006), which amended the Ministerial Decision Nr. Φ7 / Prot. Nr. 909 / 3.7.1981 (B'414), and appointment of the Freelancer's Insurance Organisation (OAEE) recently replaced by the Unified Social Security Fund (EFKA) as provided by art. 42 (1) of law 1140/1981. See also the recent judgment (838/2015) of the national Court of Appeal. A similar problem to report is in case of medical evaluation regarding the type and rate of disability of children, where there is no requirement by law of the presence of a pediatrician during the procedure.

Recommendations

With regard to an active participation of children with disabilities in the community:

- The GNCHR encourages the government to ensure full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children¹⁰¹. In this respect the GNCHR reiterates the need for signature and ratification of the third Optional Protocol on a communications procedure¹⁰².
- The GNCHR encourages the competent State authorities to guarantee the participation of organizations that represent children during the consultation, as well as, the evaluation procedure of the National Plan of Action for Children's Rights, in order for best practices to be identified and invites the Government to update and start implementing a National Plan of Action for Children's Rights as soon as possible. In this context, the GNCHR recommends to the competent State authorities to achieve synergies among the National Plan of Action for Children's Rights and the National Plan of Action on the Rights of Person with Disabilities, in order to ensure an added value with regard to child protection.
- There is a need to elaborate a National Strategy with clear time-bound measures and the allocation of sufficient funds for effective deinstitutionalization at all levels¹⁰³ with specific axes relating to the protection of childhood and a child focused fiscal policy, meanwhile ensuring the participation of the Greek Ombudsman as the independent mechanism for the implementation of the CRPD and all relevant stakeholders including a representative organisation of children with disabilities¹⁰⁴. To this end the competent national authorities should mainstream child rights across all policy levels involved.
- The GNCHR highlights the need for social policy measures to be integrated in a framework of public, free-of-charge health and welfare services which shall be

¹⁰¹ GNCHR [Childhood protection: Health and Welfare](#)

¹⁰² The above Protocol was adopted in New York on 19 December 2011 and entered into force on 14 April 2014. See also GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020 (29.11.2018) [in Greek], p. 84

¹⁰³ [Concluding Observations on the initial report of Greece, CRPD/C/GRC/CO/1, 24.9.2019](#)

¹⁰⁴ GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020 (29.11.2018) [in Greek], p. 84-85

steadily provided and funded by the State budget, in order to ensure the child's physical, mental, spiritual, moral and social development and reduce poverty and inequality.

VII. Education, leisure and cultural activities

Aims of education with reference also to quality of education (art. 29)

The Committee, concerned at the existence of discrimination towards children belonging to vulnerable groups, having reminded the State party that priority should be given to children, has called upon the State party to ensure equal access to education and to intensify its efforts to incorporate child rights issues into all curricula of different levels of education. In this respect, the Committee has urged the State party to guarantee the enrolment of all Roma children of mandatory school age, to integrate them in preschool and primary education in all regions and communities of the State party.

In accordance with Article 16 of the Greek constitution, which guarantees free education at all levels, the education system is designed around the principle of equality. Nevertheless, taking into account the negative effects of the reduction in public spending on social services provided to children over the past years¹⁰⁵, the right to equal access to education has been disregarded at various levels in Greece. In particular, Greece's educational system has suffered up to date a series of cuts in public spending (a decline of close to 36% in nominal terms over the past decade), and a recruitment freeze of public civil servants which has impacted wages and resulted in the hiring of new teachers on short-term contracts. This is affecting the quality of schools and the education system as a whole as it deals with an increasingly diverse student body, including high levels of child poverty and a larger proportion of migrant and refugee students¹⁰⁶.

Moreover, the GNCHR in the context of its institutional role as the national independent advisory body to the State for the protection of human rights, recognizes children with additional vulnerabilities such as, children living in an institutions, children with disabilities and chronic diseases, with learning difficulties, at risk of

¹⁰⁵ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012

¹⁰⁶ OECD Newsroom: [Greece can turn its education system into a source of inclusive and sustainable growth](#), 19.4.2018

- The report, Education for a Bright Future in Greece available at <http://www.oecd.org/greece/education-for-a-bright-future-in-greece-9789264298750-en.htm>
- [BBC news: Greek tragedy for education opportunities](#)

social exclusion etc., as a national priority and puts particular emphasis on their rights, in particular those relating to child welfare as well as special education and training¹⁰⁷.

In view of the above mentioned, the GNCHR would like to stress the following issues:

Early childhood education care¹⁰⁸

As far as early childhood education care is concerned, reference should be made here to the results of the prolonged recession. In fact, due to reasons related to spending cuts in budget and staff, several problems have arisen also in this area, such as inadequate enrolment in public kindergartens, overcrowded classes, non-transparent selection of children, shortage of vacancies, insufficient control by the supervising authorities, disproportional exceeding of the lawful ratio of nursery teachers to children¹⁰⁹.

Roma Children

The limited access of Roma children to school and their limited enrolment, despite several actions undertaken by the State authorities, remains a major issue¹¹⁰. The problem is related to the situation of the Roma families and the socioeconomic environment they live in on the one hand, and to the specific schools the children attend or do not have access to on the other. The GNCHR taking into account the lack of measures focused to the improvement of the situation, agrees with the findings of the Ombudsman¹¹¹ and highlights the need to ensure for Roma children the equal enjoyment of their rights to health, education, housing, labour and social participation. Especially towards the integration of Roma children into the educational procedure, the GNCHR considers necessary the registration and documentation of the specific school population of every region and the collection of all relevant data on Roma communities. The necessary funds should be allocated for the functioning of

¹⁰⁷ GNCHR Observations on the National Action National Plan of Action for Children's Rights on Children's Rights 2018-2020 (29.11.2018) [in Greek], http://www.nchr.gr/images/pdf/apofaseis/paidia/paratiriseis_EEDA_ESSDP.pdf

¹⁰⁸ In Greece, preschool attendance for two years before primary school was made compulsory in 2017

¹⁰⁹ See Greek Ombudsman for Children's Rights, *Report to the UN Committee on the Rights of the Child*. Findings and Recommendations of the Independent Authority on the implementation of Children's Rights in Greece. (July 2003 - December 2011), April 2012.

¹¹⁰ See intra p. 29.

¹¹¹ Ombudsman, [*Press Release: The Ombudsman calls for immediate measures for the protection of minors and the social inclusion of Roma*](#), 24 October 2013.

permanent learning mentors, whilst the training of Roma mediators that will function as a link between Roma communities and schools is also required¹¹².

Furthermore, pertaining to segregation practices in education, the GNCHR considers it as unacceptable, as well as the dispersion in schools located in areas remote from Roma children's residence. The convictions by the European Court of Human Rights (hereinafter ECtHR) against Greece for the segregation of Roma children recognised that the placement of Roma children in special classes located in an annex of the main school building amounted to discrimination¹¹³ and illustrate the need to take immediate action in order to secure access to desegregated, inclusive education for all pupils¹¹⁴. This conclusion is also shared by the ECRI Report on Greece¹¹⁵.

Gender identity and education

The GNCHR has repeatedly affirmed the need to free society from deep-rooted prejudices and stereotypes, and the crucial role of education to this effort¹¹⁶. In this context, the GNCHR remains concerned over the absence of a holistic approach regarding the issue of human rights education, which is easily identified in the curricula of both primary and secondary education.

Although, there is a number of initiatives with regard to discrimination in the field of education for reasons, among others, of transphobia¹¹⁷, indeed the sex and gender identity education is not included in the school curricula¹¹⁸. Moreover, school books do not include illustrations of Rainbow Families, which constitutes an

¹¹² GNCHR, [GNCHR Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights \(ICCPR\)](#) (2013).

¹¹³ ECtHR, *Sampanis and Others v. Greece*, No. 32526/05, 5 June 2008
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-86797>

¹¹⁴ ECtHR, *Lavida and others v. Greece* [No 7973/10], 30.8.2013; *Sampani and others v. Greece* [No 59608/09], 29.4.2013, *Sampanis and others v. Greece* [No 32526/05], 5.6.2008.

¹¹⁵ CoE, ECRI, [Report on Greece \(fifth monitoring cycle\)](#), 24 February 2015, CRI(2015)1, par. 108.

¹¹⁶ See: GNCHR, [Recommendations on Transgender persons and legal gender recognition](#) (2015), - [GNCHR Observations on the Draft Law of the Ministry of Justice regarding amendment of the anti-discrimination Law 3304/2005](#) and [GNCHR Written Information to the Committee on the Elimination of Racial Discrimination 2016](#)

¹¹⁷ It is an initiative by the Rainbow School, a voluntary non-profit collegiality, with regard to discrimination in the field of education, which conducts research for the recording of homophobic, Lesbophobic, amiphobic and transphobic incidents occurring in context of school life. In this context, it engages the competent authorities of the Greek State (Ministry of Education) and promotes cooperation with relevant stakeholders working in the field of education.

¹¹⁸ [Rainbow Families Greece](#) and [\(OLKE, LESBIAN & GAY COMMUNITY OF GREECE\) LGBT Organisation](#)

additional discrimination against the children of such families¹¹⁹. Including the human rights of transgender people and gender-based discrimination in human rights education and training programs can help create a culture of recognition and acceptance of different types of families¹²⁰. Furthermore, there is a series of complaints about discriminatory treatment in the field of education due to gender characteristics (by certain students of secondary education and of their parents) as well as in the field of family status due to sexual orientation (by persons living in same-sex registered civil partnership), which have been submitted to the Greek Ombudsman¹²¹. The Deputy Ombudsman for Children's Rights concluded to a report focusing on the need to introduce a mandatory class of Sexual Education from primary school which actually is not in place yet. In light of the above mentioned, the GNCHR deems necessary to raise public awareness in relation to the rights and specific needs of vulnerable groups, such as transgender people, with a special focus on respect for diversity and equal access to human rights¹²².

Recommendations

- The GNCHR encourages the competent State authorities to ensure that socially disadvantaged children, including Roma, have equal access to education and care, irrespective of their place of residence or their ethnicity. Access to preschool institutions should be improved and children in marginalised communities should be favoured in preschool enrolment and attainment. Roma families should be motivated to enroll and support their children in school, improving their awareness of the long-term benefits of subsequent school attendance and attainment.
- The GNCHR stresses the need for the competent authorities to take all necessary steps in order to apply the gender dimension in all policies and measures with regard to children protection and to introduce sex and gender identity education in the school curricula
- The GNCHR recommends to the competent State authorities to increase the capacity of places and the quality of services provided in the early child-care

¹¹⁹ [Rainbow Families Greece](#)

¹²⁰ <http://www.transgender-association.gr/>

¹²¹ Greek Ombudsman [Annual Report 2017](#)

¹²² See GNCHR, [Recommendations on Transgender persons and legal gender recognition](#) (2015).

facilities so as to fill the gaps identified and to extend the hours of their operation so as to respond to the working patterns of the parents.

Children with disabilities

The right to education of children with disabilities and access to school on an equal basis with other children/inclusive education

The Committee continues to be concerned with the fact that deeply-rooted discrimination still exists and that measures for children with disabilities are not carefully monitored on a standard basis, as well as with the fact that statistical data on children with disabilities in the State party is still unavailable. With regard to education the Committee recommends that the State party equip schools with the necessary facilities for the inclusive education of children with disabilities and ensure that they can choose their preferred school or move between regular schools and special needs schools according to their best interest.

Taking into account the law development in the field of education, the GNCHR notes with particular concern that, in practice discrimination against children with disabilities still exists and that the rights of children with disabilities in relation to the rights of their peers are not addressed on an equal basis¹²³. Besides, the GNCHR expresses its reservations concerning classifying and grouping teachers with particular disabilities, which results in drastic limitations being imposed on their access to work¹²⁴.

Considering that persons with disabilities constitute an exceptionally heterogeneous population group, the GNCHR is of the opinion that prolonging separate legislation and scattered provisions on the matter constitutes per se a form of discrimination against persons with special needs, which is to be added to the already existing social and educational inequalities of the Greek educational system¹²⁵.

¹²³ [Recommendations](#) on the Bill on Special Education (10.7.2014)

¹²⁴ [GNCHR Recommendations on Special Education](#)

¹²⁵ [Recommendations](#) on the Bill on Special Education (10.7.2014)

Particularly, the GNCHR expresses its deep concerns regarding the chronic problems in the education of children with disabilities, such as recruitment of substitute teachers rather than permanent educational specialized personnel¹²⁶, non-timely start of the school year, difficulties in the access to inclusive education, as well as, absence of relevant data¹²⁷. In this respect, the State should provide for the removal of these obstacles and make the most of each individual's potential¹²⁸.

Other important issues in case of children with disabilities and special needs, is the high rates of drop-out in general schools and placement in special schools or segregated school units. Indicatively, according to the data of National Confederation of Disabled People (ESAMEA)¹²⁹ in school year 2017-2018 the number of children with disabilities in special schools was 10,809, consisting mainly of 36.3% of children with intellectual disabilities, 29.9% of children with autism and 13.7% of children with multiple disabilities. Further, in general schools a number of 79,934 children with disabilities and / or special education needs were provided with the relevant medical assessment. A percentage of 57.3% of students with disabilities and / or special education needs (according to medical assessment) did not receive special support in general schools, rather they are supported by the general teacher. The number of pupils receiving special support was dramatically reduced in the primary lower and upper secondary education, where more than 90% of pupils were supported by the general teacher. In integration classes a percent of 32% of the children with disabilities and / or special educational needs has been enrolled and only a 7% was provided with parallel support. In the integration classes were enrolled 39,440 pupils, of which only 25,542 have had a medical assessment, whereas 35% of them attended the classes without having received a medical assessment. At last, 78% of children with disabilities who received a parallel support, were supported less than 20 hours per week, while in the reference year it is estimated that 717 pupils, although approved, were ultimately not supported.

Furthermore, with regard to reasonable accommodation at school in the matter of children with disabilities, Greece, after having ratified the CRPD, is obliged to

¹²⁶ Recruitment of substitute teachers rather than permanent educational specialized personnel.

¹²⁷ GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020 (29.11.2018) [in Greek], http://www.nchr.gr/images/pdf/apofaseis/paidia/paratiriseis_EEDA_ESSDP.pdf, pp. 35, 43, 46

¹²⁸ [The GNCHR Observations](#) on the National Plan of Action for Children's Rights (2018-2020)

¹²⁹ Written contribution by ESAMEA, the National Confederation of Disabled People (NCDP), 21.10.2019. See also: <https://www.esamea.gr>

proceed with the necessary adjustments, in order for the children with disabilities to enjoy the right of education and access to school on an equal basis with other children, placing particular emphasis on inclusive education. Yet, despite the fact that actions targeted at inclusive education for children with disabilities are included in the National Plan of Action for Children's Rights, it does not include an explicit guarantee of an inclusive educational system for children with disabilities¹³⁰. Apart from an unreasonable delay of the State in issuing the relevant executive act on equal treatment in the field of education, the lack of a reference in the National Plan of Action for Children's Rights on specific measures of reasonable accommodation, places additional obstacles to this direction¹³¹.

Recommendations

With regard to the right to education and access to school on an equal basis with other children/inclusive education:

- The GNCHR recommends to the competent State authorities to comply with the principles and practices of co-education and follow the model "one school for everyone"¹³². In particular, the Greek State should take the appropriate measures to ensure the full and effective participation, accessibility, attendance and achievement of all students without discrimination¹³³ at all stages and educational levels. To this end, emphasis should mainly be placed on the following measures:
 - Elimination of the distinction between "Special Education" and "Education" in the existing legislation and promotion in a coordinated way of the integration of students with special educational needs into General Education¹³⁴. Creation of Integration Classes in all general schools¹³⁵ and timely start of the school year for children with disabilities and/or special educational needs¹³⁶.

¹³⁰ <https://government.gov.gr/ethniko-schedio-drasis-gia-ta-dikeomata-tou-pediou/>

¹³¹ See intra p.8.

¹³² Pan-Hellenic Federation of Parents and Guardians of Disabled People (POSGAmeA)

¹³³ [General comment No. 4 \(2016\) on the right to inclusive education](#)

¹³⁴ [2017-2018 Annual Report on Education: The Greek primary, secondary Special Education, Part A: Access of persons with disabilities to education and employment – European Frame of Reference \(2005-2016\). Development Center for Education Policy of Greek General Confederation of Labour \(KANEP/GSEE\) in collaboration with the Observatory on Disability Issues of the National Confederation of Persons with Disabilities \(NCPD\)](#), p. 195 and GNCHR Statement [in Greek]: [Ensuring the timely start of the school year for children with disabilities and/or special educational needs](#) (5.6.2017)

¹³⁵ [The GNCHR Observations](#) on the National Plan of Action for Children's Rights (2018-2020)

¹³⁶ GNCHR [Statement](#) [in Greek]: Ensuring the timely start of the school year for children with disabilities and/or special educational needs (22.7.2016)

- Allocation of sufficient financial and human resources in order to address the chronic shortage in inclusive education¹³⁷. Moreover, the GNCHR suggests entering the corresponding appropriations in the national budget and decoupling its funding from the National Strategic Reference Framework (NSRF) programs¹³⁸.
- Renovation of school facilities and modernizing the equipment to render school accessible to all children; Development of a scheme of transport to and from school for children with disabilities
- Introduction of school books in Braille system, all audio materials to deaf students' needs, appropriate electronic equipment for all children's needs, interpretation into sign language etc;
- Collection of data by the competent State authorities on the school enrolment and drop-out rates of children with disabilities at various levels of education, disaggregated by sex and national or ethnic origin, in line with the recommendations of the Committee on Economic, Social and Cultural Rights, in order to identify obstacles to accessing and continuing education and to devise appropriate strategies¹³⁹.

- Moreover, in line with the observations of the UN Committee on the Rights of the Child regarding an "integrated model of education"¹⁴⁰, the GNCHR recommends to the competent State authorities to include in the National Plan of Action for Children's Rights an explicit guarantee of an inclusive educational system for children with disabilities¹⁴¹.

- The GNCHR encourages the State to ensure that all teachers, support staff and other educational professionals have the necessary skills and tools to support children with disabilities in school settings. Besides, educational authorities

¹³⁷ [General comment No. 4 \(2016\) on the right to inclusive education](#) and [Committee's Draft General Comment on Article 24 of the CRPD](#)

¹³⁸ GNCHR Annual [Report](#) 2016, p. 21, GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020 (29.11.2018) [in Greek]
http://www.nchr.gr/images/pdf/apofaseis/paidia/paratiriseis_EEDA ESSDP.pdf, p. 3-4

¹³⁹ UN, Committee on Economic, Social and Cultural Rights, [Concluding observations on the second periodic report of Greece](#), 27 October 2015, E/C.12/GRC/CO/2, παρ. 40

¹⁴⁰ The UN Committee on the Rights of the Child suggests that equal inclusive education can only operate with policies aim at changing the school environment, in order to meet the needs of the child and not the opposite. See GNCHR Observations on the National Plan of Action for Children's Rights 2018-2020 (29.11.2018) [in Greek], p. 39, 76

¹⁴¹ <https://government.gov.gr/ethniko-schedio-drasis-gia-ta-dikeomata-tou-pediou/>

should incorporate children's rights, with a particular focus on children with disabilities, into teacher training curricula¹⁴².

¹⁴² The GNCHR [adopts](#) the Principles on Child Protection in Greece [in Greek] (June 2016)

VIII. Special protection measures

Children outside their country of origin seeking refugee protection, unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration (art. 22)

Asylum seeking and refugee children (CRC Art. 22, COBs paras 62 - 65, SR paras 232 -242)

Introductory Note: On November 1st 2019, a new Law on *International Protection and other provisions* (L. 4636/2019, Government's Gazette 69/A/1.11.2019) has been published. Most of its provisions will enter into force on 1/1/2020. As a general remark, the GNCHR expressed its concern since new restrictions are imposed on asylum seekers limiting the scope of their rights guaranteed under the previous regime (L. 4375/2016)¹⁴³. L. 4636/2019 codifies and amends all previous legal provisions regarding the recognition and status of third-country nationals or stateless persons as beneficiaries of international protection, the status of refugees or beneficiaries of subsidiary protection, the reception of the above applicants, granting and revoking international protection status as well as the provision of judicial protection¹⁴⁴.

More specifically, in relation to the status of unaccompanied children, they are henceforth not exempted from the border asylum procedures whereas their appeal against first instance decisions rejecting their asylum claims does not have an automatic suspensive effect. The previous L. 4375/2016 (art. 45 par. 7) explicitly provided that applications for international protection submitted by unaccompanied minors are always examined under the ordinary procedure. However, article 75 par. 7 of L. 4636/2019 restricted the scope providing that "Applications of unaccompanied minors under fifteen (15) years, as well as minors who are victims of human trafficking, torture, rape or others serious forms of psychological, physical or sexual violence are always examined under the ordinary procedure" leading to a differential

¹⁴³ For more details, see GNCHR [Observations](#) on the Draft Law of the Ministry for Citizen's Protection "On International Protection: provisions for the recognition and status of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or beneficiaries of subsidiary protection and for the content of this protections, unification of provisions for the reception of applicants for international protection, the procedure for granting and revoking international protection status, the restructuring of judicial protection to asylum seekers and other provisions", 24.10.2019 [in Greek].

¹⁴⁴ See [Explanatory Memorandum](#) of L. 4636/2019 [in Greek].

legal treatment of minors based solely on age criteria, without proper justification provided by the Greek legislator. Furthermore, given the persisting deficiencies in protection of unaccompanied minors (i.e. lack of effective guardianship, problems with age determination, inadequate reception and accommodation facilities, restricted access to health care and education) and the repetitive interim measures and judgments of the European Court of Human Rights against Greece for violations of children's rights (asylum seekers) under the ECHR, the GNCHR identifies as a key challenge the application of the new legal provisions as early as 1/1/2020 without risking an infringement of the children's rights under the UN CRC (Convention on the Rights of the Child) and/or the ECHR (European Convention for Human Rights).

Guardianship

In its 2012 COBs, the Committee has stressed the absence of an effective system of guardianship of minors, calling upon the State to adopt legislation for the establishment of a functional, substantial and effective guardianship system for unaccompanied and separated minors and ensure that unaccompanied asylum seekers are promptly appointed a legal representative.

The provision which was first introduced in 1999 and is still in force¹⁴⁵, according to which the Public Prosecutors for Minors, or lack thereof, the local Prosecutors of the Court of First Instance act as temporary guardians to the unaccompanied minors, has been found problematic in its application due to the limitation of their role to the mere appointment of a guardian, without being able to exercise effectively their duties of everyday care or supervision of the minor. The GNCHR proposed in its first special Report on the unaccompanied minors (2007) that the "appointment of a curator or a counselor for every minor -particularly in the context of the child's welfare- will safeguard the rights of the child and uphold the principle that the protection of the children must be taken into consideration in all the decision-making relating to them. The Special Guardian will coordinate the communication of the minors with the institutions, will ensure access to education

¹⁴⁵ Article 1 (4) of Presidential Decree 61/1999 (OGG63 / A / 6.4.1999), article 19 par. 220/2007 (OGG251/A/ 13.11.2007), article 11 par. 1 of Presidential Decree no. 113/2013 (OGG146/A/ 14.6.2013), article 45 par. 1 of Law 4375/2016 (OGG51/A/ 3.4.2016).

and medical care for the minor, will support the minor throughout the asylum procedure and will assist in the search of his or her family". The GNCHR reiterated its position in view of each subsequent reform of the Greek asylum system. In March 2017, the GNCHR considered the Draft Law on *Special Guardianship of Unaccompanied Minors* which aims to cover an imperative social need and an essential regulatory gap. The GNCHR welcomed this legislative initiative in its relevant *Observations*¹⁴⁶ given the fact that the unaccompanied minors constitute one of the most vulnerable social groups and are in need of special and immediate response and protection. More concretely, L. 4554/2018 (Government Gazette 130/A/18.7.2018) followed some of the recommendations of the GNCHR, such as the replacement of the term 'third country national' by the wider term 'alien' so that the scope of application of the law also covers the unaccompanied minors who are EU nationals as well as the inclusion of a clause which provides for a Register of Hosting Facilities mirroring the Register of Special Guardians. The provision on the Register of Special Guardians ensures a sound operation of the facilities as well as the exercise of effective control and supervision upon them. On the contrary, the suggestion of the GNCHR pertaining to the clarification of the law in terms of the exercise of the 'parental responsibility' was not followed. This clarification involved on one hand the inclusion and identification of all the cases where a child is not under the care of an adult and, on the other hand, the expansion of the scope of protection of the law to cover the monitoring, in the alternative, of the correct application of this responsibility by a Guardian. At the same time, the recommendations of the GNCHR with regards to the necessary data for the Register of Unaccompanied Minors were not taken into account. What was also not followed was the recommendation of the GNCHR to avoid the issuance of multiple Common Ministerial Decrees following the law in view to regulate more clearly some critical provisions such as the issue of confidentiality and security of personal data (Article 25), the maximum number of unaccompanied minors per Guardian, the interconnection among Registers, the update of any changes or the destruction of data and any other necessary detail pertaining to the implementation of these provisions (Article 26).¹⁴⁷ Today, the implementation of the new Guardianship system

¹⁴⁶ GNCHR, [Observations on the Draft Law on Special Committees for Unaccompanied Minors \(2017\)](#) [in Greek]

¹⁴⁷ Recently, a series of delegated regulatory acts of Law 4554/2018 have been issued, such as the Ministerial Decree D11/OIK 26945/1074 on the Registry of Hosting facilities for Unaccompanied Minors (OGG2399/B/19.6.2019) pursuant to Article 26, JMD11/no.6943/1073 for the Register of Unaccompanied Minors (OGG2474/B/ 24.6.2019) pursuant to Article 24, JMD11/no.28203/1153 for

is still pending since the L. 4554/2018 is only partially in force (articles 19 and 24 to 28) and the rest of the provisions will be enforced on March 1st 2020¹⁴⁸ - almost two years after its publication and after several postponements of its date of entry into force.

In addition, information received by the civil society¹⁴⁹ highlight that there is no common practice of the Public Prosecutor's Offices regarding the grant of the "duty of care" to the unaccompanied children's next of kin, in case they are present in Greece. In practice, in the above cases, a guardian is appointed from the NGO Metadrasi Guardianship Network for Unaccompanied Minors¹⁵⁰, leading to an unlawful disruption of family ties and imposing an unnecessary extra burden on the guardianship dysfunctional system.

Recommendations

- The GNCHR, in line with the Committee's Recommendations, has repeatedly recommended for the appointment of a guardian for every unaccompanied minor, as soon as possible, or else from the identification, as provided by Greek law.

Reception and accommodation

In its 2012 COBs, the Committee has also reiterated its previous concern at the substandard conditions of reception of unaccompanied and/or separated children and recommended an increase of the number of spaces in reception facilities together while ensuring adequate living conditions in those. At the same time, the Committee

the Determination of Standard and Substantive Qualifications required for selection of a person as a professional guardian, impediments, determining the number of unaccompanied minors per professional guardian, technical details of their training, their lifelong training, and their regular evaluation, type, terms, content of the contract, their remuneration and any necessary details (OGG2558/B/ 27.6.2019) pursuant to Article 28, JMD11/no.28304/1154 on the Registry of Professional Guardians (OGG2725/B/2.7.2019) pursuant to Article 25 and MH D11/28925/ 169 on Approval of the Rules of Procedure of the Supervisory Committee for Unaccompanied Minors of the article 19 of Law 4554/2018 (OGG2890/B/5.7.2019).

¹⁴⁸ See article 73 of Law 4623/2019, OGG134/A/9.8.2019.

¹⁴⁹ Memorandum of Terre des Hommes Hellas dated 18.10.2019 submitted at the GNCHR.

¹⁵⁰ Metadrasi, Guardianship Network for Unaccompanied Minors,
<https://metadrasi.org/en/campaigns/guardianship-of-unaccompanied-minors/>.

repeated its standard Recommendation on non-detention of children who enter the country in an irregular manner.

It is true that since 2012, the number of spaces in reception and accommodation facilities for asylum seekers and unaccompanied and/or separated children in particular has been increased¹⁵¹, however still there is greater demand than supply. The latest statistics published (and regularly updated) by the National Center for Social Solidarity are illustrative of the child protection gap for unaccompanied minors due to the limited number of available accommodation places in long-term accommodation facilities (shelters or apartments). According to the above data¹⁵², out of 5,279 unaccompanied minors in Greece (estimated number) 1,376 minors are being hosted in long-term hosting facilities while 3,344 children are out of long term or temporary facilities (RICs) with 257 of which found in 'protective custody' and 1,184 living in unofficial/unsafe living conditions (in shared apartments, in squats, homeless).

In its Observations to Draft Law 4540/2018, the GNCHR noted various problems pertaining to the reception conditions of unaccompanied minors and revisited the issue of detention of minors in general. More concretely, delays in the registration of unaccompanied minors have been observed which results in them being left homeless and exposed to dangers. Based on information provided by the Network for Children's Rights, even the situation in shelters raises issues of effective child protection, since there is no uniformity in internal regulation, personnel and facilities and there is a lack of interpreters and lawyers¹⁵³.

Further, due to the insufficient places in the Hosting Facilities for Minors (long or short-term) or hotels, they remain in 'protective custody', in breach of international standards¹⁵⁴ and the relevant case law of the European Court of Human Rights¹⁵⁵, or

¹⁵¹ According to the Memorandum of UNCHR dated 11.10.2019 submitted at the GNCHR, there are 46 shelters for unaccompanied minors in Greece, 36 out of which are funded by AMIF and face difficulties regarding the disbursement of funds.

¹⁵² National Center for Social Solidarity (NCSS), Statistics, Updated data on the situation of unaccompanied minors in the country 2019, last updated: 30.11.2019, http://www.ekka.org.gr/images/EKKA_Dashboard_30-11-2019.pdf.

¹⁵³ Memorandum of Network for Children's Rights dated 23.12.2019 submitted at the GNCHR.

¹⁵⁴ UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), [Joint general comment No. 4 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 \(2017\) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of](#)

even in completely inappropriate facilities for children such as the RICs (Reception and identification Centers) where the special needs of these children are not taken into account.

The recently issued General Regulation for the Functioning of Centers of First Reception is seen as a positive step as it provides that the unaccompanied minors found in the RICs be hosted in distinct areas separately from the adults and that qualified staff¹⁵⁶ must cater for their administrative and psychosocial support. However, in a recent Announcement, the GNCHR observed that there is an urgent need to immediately transfer all unaccompanied minors from inappropriate, due to overcrowding, "safe zones" of RICs in the Eastern Aegean islands to suitable shelters for minors in mainland, given that unaccompanied children are one of the most vulnerable groups of the population in need of special and immediate treatment and protection from the State. An illustrative example of the inadequate provision of safe living conditions in RICs is the recent murder of a minor from Afghanistan. According to the UNHCR, almost 70 unaccompanied children are housed in the "safe zone" of RIC of Moria, and more than 500 boys and girls stay in various areas of the overcrowded site, without a guardian and exposed to exploitation and abuse. Some of them are accommodated with unknown adult, which is prohibited by law¹⁵⁷. The UNHCR runs since 2015 the ESTIA (Emergency Support to Integration and Accommodation) programme offering 25,653 accommodation places for asylum seekers in apartments and buildings. 50% of the residents are children¹⁵⁸. In 2019, the Ministerial Decision No. 6382/19 was adopted, regulating the framework for the implementation of the Cash Assistance and ESTIA programmes (Government Gazette 853 / B / 12.03.2019). However, there is little progress regarding alternative care for unaccompanied children, such as placement with a foster family or supported independent living for older unaccompanied children¹⁵⁹.

[international migration in countries of origin, transit, destination and return](#), 16 November 2017, CMW/C/GC/4-CRC/C/GC/23, para. 5; UNHCR, [UNHCR's position regarding the detention of refugee and migrant children in the migration context](#), January 2017.

¹⁵⁵ See recent judgment of the first section of the ECtHR in the [H.A. and Others v. Greece, App. No 19951/16, 28.02.2019](#) [in French]

¹⁵⁶ JMC 1/7433, OGG2219/B/10.06.2019.

¹⁵⁷ United Nations High Commissioner for Refugees in Greece, [Press Release: The UNHCR is shocked by the death of a boy from Afghanistan in Lesvos: calls for the urgent transfer of all unaccompanied children in safe accommodation sites](#), 25.08.2019 [in Greek]

¹⁵⁸ Data as of 26.11.2019. For more details visit: http://estia.unhcr.gr/en/home_page/

¹⁵⁹ United Nations High Commissioner for Refugees in Greece, [Roundtable on Supported Independent Living for Unaccompanied Children](#), 1.2.2018.

The GNCHR would like to link the precarious situation of homeless unaccompanied children with the Committee's Recommendations (**COBs paras 66 – 67**) regarding a systematic assessment of the situation of children in street situations and the development and implementation of a national strategy for children working or living on the streets. To the GNCHR's knowledge, there has been no progress in this matter.

Recommendations

- The GNCHR, in line with the Committee's Recommendations, strongly recommends to the State 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.
- The GNCHR also recommends to the State to urgently address the needs of homeless unaccompanied children on the streets by, among others, further promoting and implementing alternative foster care and supported independent living for unaccompanied children.

Detention

In its 2012 COBs, the Committee recommended that children, either separated or together with their families, who enter the country in an irregular manner, are not detained.

The State, in its Report to the Committee (para. 240) asserts that "children are not being detained" but are placed under "protective custody at police stations".

The GNCHR deplores that, despite the fact that unaccompanied children should not be detained and that according to Greek law their detention is permitted "only in very exceptional cases [...] as a last resort solution, only to ensure that they are safely referred to appropriate accommodation facilities for minors"¹⁶⁰, detention of unaccompanied children is actually applied in practice rather frequently. In accordance with the ECtHR's jurisprudence, "protective custody in police stations"

¹⁶⁰ Article 46(10A) of Law 4375/2016, inserted by Article 10 of Law 4540/2018.

amounts to unlawful detention, contrary to article 5 ECHR¹⁶¹. Unaccompanied children are detained in police stations and pre-removal facilities on the mainland ("protective custody") or in Reception and Identification Centres at the Aegean islands in unacceptable conditions, reaching the threshold of an "inhuman and degrading treatment". In the European's Committee on the Prevention of Torture (CPT) view¹⁶², "holding persons for several weeks or months in such appalling conditions can easily be considered as amounting to inhuman and degrading treatment". A recent practice, especially for younger unaccompanied children, is to be hosted at hospitals, as a last resort and an alternative form of "protective custody". According to the UN Working Group on Arbitrary Detention "protective custody under Greek law does not always amount to detention but, in practice, it has mostly been implemented through the detention of children in pre-removal detention facilities or police stations. In some cases, children have been placed under protective custody in hospitals, also under the care or supervision of police forces"¹⁶³. In the GNCHR's view, the placement of healthy unaccompanied children in medical facilities entails risks for their physical and mental health¹⁶⁴. The huge existing gaps in the protection of unaccompanied minors in Greece, due to which unaccompanied minors, boys and girls, remain exposed to grave dangers, are also stressed by a recent ECtHR judgement in the case *H.A. and others v. Greece*¹⁶⁵. In particular, in February 2019, the ECtHR found that the automatic placement of unaccompanied asylum-seeking girls under protective custody in police facilities (pre-moval centre of Tavros), without taking into consideration the best interests of the child, violated article 5(1) ECHR. In another occasion, the ECtHR, applying Rule 39 of the Rules of the Court, granted interim measures in favour of the two unaccompanied girls and indicated to the Greek authorities to transfer the minors immediately to a shelter for unaccompanied minors

¹⁶¹ ECtHR, [Sh.D. et autres c. Grèce, Autriche, Croatie, Hongrie, Macédoine du Nord, Serbie et Slované](#), 13.6.2019, para. 69 [in French].

¹⁶² [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 from 10 to 19 April 2018](#), CPT/Inf (2019) 4, pp. 4-5.

¹⁶³ Working Group on Arbitrary Detention, [Preliminary Findings from its visit to Greece \(2-13 December 2019\)](#).

¹⁶⁴ Greek Council for Refugees, [The European Court of Human Rights grants interim measures in favour of two detained unaccompanied girls](#), 28.3.2019. The Greek Ombudsman, [Rights of Children on the Move. Annual Report 2018](#), p. 33 [in the Greek version].

¹⁶⁵ ECtHR, *H.A. and others v. Greece*, *op. cit.*

and to ensure that the reception conditions provided to them would be in accordance with article 3 ECHR¹⁶⁶.

Recently, the European Committee of Social Rights (ECSR), during its 306th session (20-24 May 2019), by its decision on admissibility and on immediate measures in the case *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, Complaint No. 173/2018, dated May 23, 2019¹⁶⁷, decided to indicate to the Government immediate measures to be adopted. In fact, ECRE and ICJ, with the support of GCR lodged a collective complaint before the ECSR with regard to the situation of *inter alia* unaccompanied children in Greece, alleging serious systemic flaws in Greek law, policy and practice, which deprive unaccompanied children in Greece (both on the mainland and islands) and accompanied migrant children on the Greek islands of rights to housing, health, social and medical assistance, education and social, legal and economic protection, are contrary to the obligations of Greece under the European Social Charter (ESC). The Greek State failed to adopt yet the indicated immediate measures, whereas the overall situation of the unaccompanied migrants remains critical. Therefore, the GNCHR issued a Statement calling upon the Greek State to implement the Decision on the admissibility and on immediate measures of the European Committee of Social Rights regarding migrant children¹⁶⁸.

Recommendation

- The GNCHR, in line with the long-standing Committee's Recommendation on the abolition of detention of children for reasons related to their migration status, has **urged the State**, in multiple occasions, **to refrain from any administrative or "de facto" detention of unaccompanied minors**.

¹⁶⁶ Greek Council for Refugees, The European Court of Human Rights grants interim measures in favour of two detained unaccompanied girls, *op. cit.* See similar: Arsis, [The European Court of Human Rights granted interim measures with regards UAMs detained in police station](#), 10.10.2019 [in Greek].

¹⁶⁷ ECSR, [International Commission of Jurists \(ICJ\) and European Council for Refugees and Exiles \(ECRE\) v. Greece, Complaint No. 173/2018](#), 23.5.2019.

¹⁶⁸ GNCHR, [Statement on the implementation of the Decision on the admissibility and on immediate measures of the European Committee of Social Rights regarding migrant children](#), 19.9.2019 [in Greek].

Best interest assessment/best interest determination procedures

In Greece, there is a lack of formal best interest assessment and/or best interest determination procedures in relation to asylum seeking children. The best interests of the child is recognized by Greek Law on International Protection as a primary consideration (art. 20, 59, 75 L. 4636/2019) and is being taken into account in several decisions regarding the child's reception and identification, detention, examination of international protection application, and guardianship and representation. According to the State's report (para. 234) a BIA tool was used in relocation (exceptional relocation mechanism in 2016 and 2017). Currently, a BIA tool (single form) continues to be applied in Dublin procedures by the Asylum Service¹⁶⁹. Law 4554/2018 on Guardianship of Minors sets procedural rules on how a BIA and a BID of an unaccompanied minor will be carried out and gives the National Center for Social Solidarity the responsibility to develop "model procedures" binding upon guardians. However, it has not yet entered into force. Given the several shortcomings in the reception system and the asylum procedures for unaccompanied minors, the GNCHR considers it of utmost importance to adopt a clear uniform BIA tool for all administrative authorities involved to be used in every decision affecting the child.

Recommendation

- The GNCHR, in line with the Committee's previous general recommendations to States, invites the State to put in place formal BIA and BID procedures, with strict procedural safeguards, to assess and determine the unaccompanied children's best interests for all decisions directly affecting them.

Child Labour (art. 32)

GNHCR is echoing ILO CEACR's Observations (2018)¹⁷⁰ and Direct Request (2015)¹⁷¹ namely the obligation of the Greek State to comply with the following:

- i) Authorization to carry out hazardous work from the age of 16 years: The Committee therefore expresses the firm hope that the Government will take the

¹⁶⁹ Asylum Service, Dublin III, http://asylo.gov.gr/en/?page_id=81

¹⁷⁰ [ILO CEACR's Observations \(2018\)](#)

¹⁷¹ [Direct Request \(2015\)](#)

necessary measures, without delay, to ensure that the amendments with regard to the minimum age for the exemptions from the prohibition on the employment of young persons in hazardous work as laid down in section 7(5) of Presidential Decree No. 62/1998 will be raised to at least 16 years so as to be in compliance with Article 3(3) of the Convention. It requests the Government to provide information on any progress made in this regard.

ii) Conditions of work of young persons: The Committee requests the Government to take the necessary measures to ensure that the conditions of employment for young persons under the age of 18, particularly as regards minimum wage, are maintained at a satisfactory standard. The Committee further requests the Government to continue to provide information on the manner in which the Convention is applied, including, for example, statistical data on the employment of children and young persons, extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied involving children and young persons.

iii) Application of ILO Convention 138 in practice: The Committee requests the Government to continue to provide information on the manner in which the Convention is applied, including, for example, statistical data on the employment of children and young persons, extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied involving children and young persons”.

Sale, trafficking and abduction (art. 35)

Child Trafficking

Article 35 CRC requires all States to take appropriate measures to prevent the abduction, sale or trafficking of children. Indeed, this provision is augmented by the Optional Protocol on sale of children, child prostitution and child pornography. Although, in some cases, sale of children and child trafficking overlap, there are other forms of sale that do not constitute child trafficking and are relevant to the prosecution of perpetrators.

Legislation (OP-CRC-SC - COBs para. 10, SR para. 277)

Greece signed the OP-CRC-SC on 7 September 2000 and ratified it by virtue of Law 3625/2007 (Government Gazette 290/A/24.12.2007), following recommendations of the GNCHR¹⁷². However, the provisions of the said Protocol have been not properly incorporated into domestic legal order given the misinterpretation of the term “sale of children” which has been translated into the Greek language as “trafficking of children”.

In its 2012 COBs, the Committee recommended that the State party ensure that the definition of sale of children, which is similar to but not identical to trafficking in persons, is included in the national legislation in order to adequately implement the provision on sale contained in the Optional Protocol.

According to the State (SR para. 277), the definition of the sale of children under the related Optional Protocol is the same as the concept of trafficking in human beings, as stipulated in art. 323A of the Greek Penal Code (trafficking in human beings for the purpose of forced labour, beggary, removal of organs, forced marriage and forced recruitment of minors into armed conflicts) and art. 351 of the same Code (human trafficking for the purpose of sexual exploitation). However, the above assumption disregards the separate abhorrence attached to the crime of sale of children and raises questions as to the comprehensive integration of this crime into the domestic legal order.

It is a positive step that, by virtue of law 4531/2018 (incorporating the Council of Europe Convention on preventing and combating violence against women and domestic violence into Greek law) forced marriage is added in art. 323A of the Greek Penal Code as a form of exploitation amounting to trafficking. By law 4619/2019 (new Penal Code, Government Gazette 95/A/11.6.2019), the purpose of obtaining illicit property was added as a constituent element of the crime.

¹⁷² [Positions and Proposals of the NCHR on Trafficking in Persons – The situation in Greece](#), 14.6.2007

Unaccompanied minors – Trafficking of children

The GNHCR has stressed the link between the inadequate care system for unaccompanied minors and the increased risk of being coerced to commit criminal acts or to be trafficked throughout Europe¹⁷³. Until 2016 at least 10,000 unaccompanied children who reached Europe disappeared. In 2018, over 17,000 children (unaccompanied and accompanied) reached Greece. A number of incidents of sexual harassment towards children in camps have been reported. According to Médecins sans Frontières¹⁷⁴, "during 2018, MSF responded to 28 cases of sexual violence (rape, non-penetrative sexual assault, sexual threats +/- physical assault) that took place on Lesbos (in and around Moria camp) amongst the migrant population. Of the cases of rape and non-penetrative sexual assault, 18 of these were adults, and 10 were children / minors (under 18 years old)".

Data collection (COBs paras. 19-20, SR paras. 18-21)

A National Referral Mechanism (NRM) for victims of human trafficking has already been established in the Ministry of Labour and Social Affairs and has been operative since 1/1/2019. For the period 1/1/2020 until 15/10/2019, 126 reports for potential victims of trafficking have been submitted by the Hellenic Police, the Asylum Service, the First Reception and Identification Service and the National Center for Social Solidarity, non-governmental organizations and the UNHCR. According to the first semester's report (January-June 2019), 40 out of 82 potential victims are children. 8 out of 40 of them are unaccompanied minors. 16 out of 40 of them are of Greek nationality and have been reported as victims of beggary¹⁷⁵. The GNCHR welcomes the inauguration of the National Referral Mechanism and closely monitors its first year of operation in order to evaluate its contribution into the effective prevention of trafficking in human beings and identify any legal or factual challenges in the course of its implementation. However, in principal, based on the number of cases reported until 15/10/2019 and the feedback received by NGO's working in the field on human

¹⁷³ 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.

¹⁷⁴ On the hotspot of the island of Lesbos, MSF has a clinic outside of Moria RIC, where they treat urgent cases of sexual violence which have happened in the last 5 days. See MSF, Contribution dated 18.6.2019 to the GNCHR's Submission to the UN Committee against Torture, June 2019.

¹⁷⁵ For the full text of the Report see: <https://sway.office.com/xpLNDJmZlUnQ8lqa> [in Greek]

trafficking issues, the GNCHR reiterates its concern that the crime of human trafficking remains severely underreported.

Training (OP-CRC-SC - COBs para. 18, SR paras. 281, 283-284)

The Office of the National Rapporteur on Trafficking in Human Beings and the National Center for Social Solidarity have focused on capacity building and awareness-raising activities on the new National Referral Mechanism and identification and protection of human trafficking victims among the front line officers and focal NRM points. In 2019, there have been 5 information sessions (Athens, Thessaloniki, Patras, Pyrgos, Kalamata, Crete), 9 capacity building seminars (Samos, Lesvos, Kos, Leros, Chios, Orestiada, Rhodes, Athens, Thessaloniki) and 12 targeted meetings in specific stakeholders in Athens aiming at the training of their personnel in order to promote the reporting under NPM¹⁷⁶. In the GNCHR's view, the training and capacity building activities of public officers should be reinforced and expanded to all public officers providing services to potential victims of human trafficking. The Office of the National Rapporteur on Trafficking in Human Being communicated to the GNCHR last June a new draft Action Plan to Combat Human Trafficking (2019-2023). This Action Plan provides a series of awareness-raising activities for the sensibilisation of the general public and the limitation of the vulnerability of targeted groups as well as education and training activities for professionals. However, there is no detailed budgeting of the proposed actions and no governmental planning on funding of these actions.

Recommendations

- The GNCHR recommends to the State to early identify unaccompanied minors –within or outside the asylum system- in order to effectively prevent their further victimization and exploitation by trafficking networks.
- The GNCHR calls the State to finalize all budgetary issues related to the National Action Plan to Combat Human Trafficking (2019-2023) in order to be implemented as soon as possible.

¹⁷⁶ Data received by the Office of the Greek National Rapporteur on Trafficking in Human Beings and the National Center for Social Solidarity on 22.11.2019.