



HELLENIC REPUBLIC

GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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Written Information

**submitted by the Greek National Commission for Human Rights (GNCHR)
in relation to the implementation of the
International Convention on the Elimination of all forms of Racial
Discrimination (ICERD)
in Greece**

July 2016

The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection. It was established by Law 2667/1998 and is functioning in accordance with the UN Paris Principles. Its 32 members are nominated by institutions whose activities cover the field of human rights (NGOs, trade unions, independent authorities, universities, bar associations, political parties, Parliament and the Administration).

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I. INTRODUCTION

The Greek National Commission for Human Rights (hereinafter GNCHR) welcomes the opportunity to submit written information to the Committee on the Elimination of Racial Discrimination (hereinafter the Committee) regarding Greece's combined twentieth and twenty-first periodic report on the implementation of the International Convention on the Elimination of all forms of Racial Discrimination (hereinafter ICERD).

The present report, following the same form of presentation as the report submitted by the Greek State party and taking into account both the list of themes issued by the Committee on 7 June 2016, as well as the Greek State party's report following up to the Concluding Observations of the Committee issued on 14 September 2009, focuses on the main challenges faced by the Greek State party in implementing the ICERD.

The present GNCHR Report draws upon the data available in the relevant Reports by Institutions participating at the GNCHR Plenary, such as the General Confederation of Labour of Greece (hereinafter GSEE), the Greek League for Women's Rights, the Panhellenic Federation of Greek Roma Associations (hereinafter PFGRA), the Greek Division of Amnesty International, the Hellenic League for Human Rights (hereinafter HLHR), the Greek Council for Refugees (hereinafter GCR) and the Greek Ombudsman (hereinafter Ombudsman). Information on the implementation of the ICERD was also received by members of the Racist Violence Recording Network (hereinafter RVRN), which was set up at the initiative of the GNCHR and the Office of the UN High Commissioner for Refugees in Greece (hereinafter UNHCR), such as Colour Youth.

Additional information and background can be found in the GNCHR Observations, dated 15 January 2015, submitted to the Greek State party prior to the submission of its final twentieth and twenty-first periodic report. In this regard, the GNCHR express its satisfaction that its input has been taken into account for the drafting of the report¹.

II. INTRODUCTORY REMARKS ON GNCHR

The GNCHR was established by Law 2667/1998 as an independent advisory body to the State on matters pertaining to the promotion and safeguard of human rights. The main rationale behind the establishment of the GNCHR was to ensure the constant monitoring of developments concerning human rights and the briefing of both the administration and public opinion on the dangers posed to human rights. The founding law of the GNCHR is based on the Paris Principles adopted by the UN General Assembly; the GNCHR has been granted A

¹ GNCHR, [*Observations on the draft of the twentieth to twenty-first periodic report of the Hellenic Republic regarding the implementation of the International Convention on the Elimination of all forms of Racial Discrimination \(ICERD\)*](#) (2015).

status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).

The GNCHR has a pluralistic composition. Its 32 members are nominated by NGOs, trade unions, 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.

The GNCHR mandate covers the whole spectrum of human rights; however it does not deal with individual cases.

Since its establishment, the GNCHR has dealt with a broad range of human rights issues. Among the factors playing a role for its agenda-setting are the urgency of a particular topic as well as its importance in terms of the seriousness of human rights violations involved, the numbers of individuals affected or its impact on the public.

The GNCHR publishes each year an Annual Report, describing its yearly activities and containing all its decisions. The Annual Report is communicated to Parliament, the Prime Minister, State authorities and other institutions.

All the reports, decisions and resolutions of the GNCHR are made public via the website of the GNCHR, their communication to the competent authorities, press releases etc.

Encouraging ratification of UN human rights standards

Every time the GNCHR deals with a particular issue – whether it comments upon a draft law or existing legislation or addresses administrative practices or omissions – it always examines whether and to what extent Greece complies with relevant international and EU human rights standards. For this purpose, since its creation, the GNCHR has repeatedly recommended to the Government to proceed with the ratification of international human rights instruments, mostly via its various Positions or Recommendations.

Some examples of international instruments for the ratification of which the GNCHR has undertaken advocacy or awareness raising campaigns are the following²:

² The ratification of some of them is also recommended by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, in his Report on Greece.

- the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (ratified: 24 January 2002),
- the Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (ratified: 11 January 2011),
- the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime (ratified: 11 January 2011),
- the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified: 11 February 2014),
- the Optional Protocol to the Covenant on Economic, Social and Cultural Rights (not signed),
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (not signed),
- the Convention against Discrimination in Education (not signed),
- Greece has not yet made a declaration under Article 14 ICERD that would allow individual communications to the Committee.

II. GENERAL LEGAL FRAMEWORK: RECENT DEVELOPMENTS

IMPACT OF FINANCIAL CRISIS AND AUSTERITY MEASURES ON HUMAN RIGHTS

The submission of the Report on the implementation of the ICERD comes at a time when Greece is entering the seventh year of a severe financial crisis.

The GNCHR welcomes the references in the Committee's List of themes regarding the impact of the cuts to the budget for public policies and public institutions active in the fight against racism and discrimination in Greece (the GNCHR, the Greek Ombudsman, the Labour Inspectorate, prosecutors and special police units, among others) on minority groups, such as Roma, migrants, refugees and asylum seekers, in particular children³.

In successive Statements, the GNCHR is echoing what has been already affirmed by competent international and European monitoring bodies, namely that austerity measures of indeterminate duration violate rules of international and European human rights law; and,

See HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 69(a).

³ UN, Committee on the Elimination of Racial Discrimination, [List of themes in relation to the combined twentieth to twenty-second periodic reports of Greece](#), 7 June 2016, CERD/C/GRC/Q/20-22, par. 13.

moreover, that the financing rules of International Financial Institutions (IFIs), including the International Monetary Fund or of other international or European mechanisms relating to the economic or financial support of a State, cannot circumvent the obligation to respect international and European human rights law, especially as these rules are also binding on all States participating in these mechanisms.

In particular, the GNCHR agrees with the overall conclusion of the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, in his Press Statement following his visit to Greece in May 2015, according to which “the economic crisis has resulted in further discrimination of the most vulnerable groups, such as migrants, refugees, asylum seekers, Roma, and LGBT communities” and urges the Greek State, the UN, the EU institutions, all EU Member States and all the international organisations involved, in a spirit of responsibility, solidarity and sincere cooperation, to take all appropriate measures with a view to ensuring that “the economic crisis [does] not become the reason for rolling back progress in the fight against racism and xenophobia”⁴.

Also the GNCHR agrees with the recent Statement of the Council of Europe (hereinafter CoE) Commissioner for Human Rights that there has been “progress in combating racism, but concerns remain about the impact of austerity”⁵, since as the Commissioner states “the economic crisis and austerity measures have adversely impacted the population of Greece”⁶.

The GNCHR recalls that, since 2010, it has already drawn the attention of the Greek State to *The need for constant respect of human rights during the implementation of the fiscal and social exit strategy from the debt crisis*⁷, whilst a year and a half later it issued a *Recommendation on the imperative need to reverse the sharp decline in civil liberties and social rights*⁸. In June 2013, the Plenary of the GNCHR recalled, in its Report entitled *Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards*, its serious concerns about the rapid deterioration of living standards coupled with the effective dismantling of the Welfare State⁹.

The recent *GNCHR Statement on the impact on human rights in Greece of the continuing austerity measures* took note of the judgments of national supreme courts as well as of

⁴ [Press Statement](#) delivered by the United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance M. Mutuma Ruteere on 8 May 2015 in Athens, Greece.

⁵ CoE, Commissioner for Human Rights, [Greece: progress in combating racism, but concerns remain about the impact of austerity \(Visit to Greece\)](#), Athens, 8 July 2016.

⁶ *Ibidem*.

⁷ GNCHR, [The need for constant respect of human rights during the implementation of the fiscal and social exit strategy from the debt crisis](#) (2010).

⁸ GNCHR, [Recommendation on the imperative need to reverse the sharp decline in civil liberties and social rights](#) (2011).

⁹ GNCHR, [Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards](#) (2013).

relevant decisions and reports issued by national, European and international monitoring bodies and drew attention to the prolonged implementation of austerity measures, which eventually acquire a permanent character¹⁰. In this Statement, the GNCHR observed with particular concern the degradation of human rights in Greece and, at the institutional level, an effective reversal of priorities and values, as fiscal and financial objectives have taken precedence over fundamental rights and social values.

The GNCHR Recommendations have had a significant impact. In particular, the *GNCHR 2011 Recommendation on the imperative need to reverse the sharp decline in civil liberties and social rights* was quoted by the European Committee of Social Rights (hereinafter ECSR) in seven decisions finding violations of the European Social Charter (hereinafter ESC) by Greece¹¹. The ECSR's example was followed by other European and international bodies, such as the CoE Committee of Ministers¹², the CoE Commissioner for Human Rights¹³, the ILO Committee of Experts on the Application of Conventions and Recommendations (hereinafter CEACR)¹⁴ and the UN Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr Cephias Lumina¹⁵. The ECSR, in its Conclusions XX-3 (2014) - Greece, again quoted this Recommendation and took into

¹⁰ GNCHR, [Statement on the impact of the continuing austerity measures on human rights](#) (2015).

¹¹ ECSR 23.05.2012, Complaints Nos 65/2011, *General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece* and 66/2011, *General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece*, as well as ECSR 07.12.2012, Complaints Nos 76/2012, *Federation of employed pensioners of Greece (IKA-ETAM) v. Greece*, 77/2012, *Panhellenic Federation of Public Service Pensioners (POPS) v. Greece*, 78/2012, *Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v. Greece*, 79/2012, *Panhellenic Federation of pensioners of the Public Electricity Corporation (POS-DEI) v. Greece*, 80/2012, *Pensioners' Union of the Agricultural Bank of Greece (ATE) v. Greece*.

¹² CoE, Committee of Ministers, [Resolution CM/ResCSS\(2013\)21 on the application of the European Code of Social Security by Greece \(Period from 1 July 2011 to 30 June 2012\), adopted by the Committee of Ministers on 16 October 2013 at the 1181st meeting of the Ministers' Deputies](#).

¹³ CoE, Commissioner for Human Rights, [Safeguarding human rights in times of economic crisis](#), November 2013, p. 52.

¹⁴ CEACR, Observation (CEACR) - adopted 2012, published 102nd ILC session (2013), [Social Security \(Minimum Standards\) Convention, 1952 \(No 102\) – Greece](#) ; Observation (CEACR) - adopted 2013, published 103rd ILC session (2014), [Social Security \(Minimum Standards\) Convention, 1952 \(No 102\) - Greece](#) ; Observation (CEACR) - adopted 2014, published 104th ILC session (2015), [Social Security \(Minimum Standards\) Convention, 1952 \(No 102\) – Greece](#). See also CEACR. Observation (CEACR) - adopted 2012, published 102nd ILC session (2013), [Protection of Wages Convention, 1949 \(No 95\) – Greece](#) ; Observation (CEACR) - adopted 2014, published 104th ILC session (2015), [Protection of Wages Convention, 1949 \(No 95\) – Greece](#).

¹⁵ UN, HRC, [Report of the UN Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr Cephias Lumina on his Mission to Greece \(22–27 April 2013\)](#), 7 March 2014, A/HRC/25/50/Add.1.

account the GNCHR Observations on the 24th Greek Report on the application of the ESC and on the 9th Greek Report on the application of the Additional Protocol to the ESC¹⁶.

Similarly, the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr Juan Pablo Bohoslavsky, in his Report presented before the Human Rights Council following his mission to Greece, quoting the *GNCHR Statement on the impact on human rights in Greece of the continuing austerity measures*¹⁷, referred to the GNCHR serious concerns about the dismantling of the welfare State, the increase in extremist and intolerant elements within society and the lack of capacity of the Greek State to fulfil its human rights obligations in the context of immigration and the management of refugee flows¹⁸. To this end, the Independent Expert urged the Greek authorities to “implement the structural adjustment programme outlined in the memorandum of understanding with due respect for human rights, taking fully into account judgments and decisions by national and international courts and human rights bodies and recommendations of the Greek National Commission for Human Rights as well of European and international human rights bodies”¹⁹.

In this regard, the GNCHR cannot but reiterate the need to refer to the impact of the financial crisis and the financial austerity measures, which have clearly affected the promotion of universal respect for and observance of human rights and fundamental freedoms for all and urgently call upon the Greek authorities, the UN, the EU institutions, all EU Member States and all the international organisations involved to immediately and jointly mobilise towards combating hate and prejudice.

NATIONAL ACTION PLANS ON HUMAN RIGHTS

The GNCHR welcomed the National Human Rights Action Plan, the National Action Plan for Children’s Rights, the Integrated Action Plan (IAP) for the Social Inclusion of the Greek Roma, as well as the Revised National Action Plan on the reform of the asylum system and migration management, which included a certain number of legislative and policy components.

With regard to the Action Plan for Children’s Rights, the GNCHR is willing to assist, once again, the General Secretariat of Transparency and Human Rights of the Ministry of Justice,

¹⁶ GNCHR, [*Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter \(Reference Period 1.1.2009-12.31.2012\)*](#) (2014).

¹⁷ GNCHR, [*Statement on the impact of the continuing austerity measures on human rights*](#) (2015).

¹⁸ UN, HRC, [*Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr Juan Pablo Bohoslavsky, on his Mission to Greece \(30 November-8 December 2015\)*](#), 21 April 2016, A/HRC/31/60/Add.2, par. 53.

¹⁹ *Idem*, par. 82.

via specific comments and recommendations during the process of evaluation and implementation of the Action Plan. On the contrary, the absence of a National Action Plan against Racism remains a fact. However, it is worth mentioning that the Ministry of Justice, Transparency and Human Rights has established for this purpose the “National Council against Racism and Intolerance”, an inter-ministerial body with the participation of the GNCHR, the UNHCR, the RVRN and other important stakeholders, whose main goal is, among others, to assist the Secretary General for Transparency and Human Rights in developing anti-racist policies and, in particular, in drafting a National Action Plan against Racism and Intolerance.

III. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

ARTICLE 2

Anti-discrimination legislation (par. 8 of the Committee’s concluding observations)

The GNCHR would like to focus on the shortcomings and gaps in the existing anti-discrimination legislation and highlight the specific recommendations it has made concerning the need for the amendment of Law 3304/2005 on the *Implementation of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation*, transposing EU Directives 2000/43/EC and 2000/78/EC²⁰.

At the time of the drafting of the present Report, Law 3304/2005 is currently under review by the competent authorities and a draft law on its amendment has been posted, prior to its submission to Parliament, in the Open Government platform²¹. It is to be noted, however, that the aforementioned draft law does not include many of the GNCHR Recommendations.

In particular, the GNCHR deems necessary to remind the following:

1. The Ombudsman should become the central body responsible for the promotion and monitoring of the application of the principle of equal treatment by private and public actors in all relevant fields, except for access to goods and services. The latter should fall under the competence of the Consumers’ Ombudsman. At the same time, the relevant duties of other bodies established through Law 3304/2005 should be adjusted to the Ombudsman’s new mission.

²⁰ GNCHR, [*Comments regarding Law 3304/2005 on “Implementation of the principle of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation”*](#) (2010).

²¹ See Ministry of Justice, Transparency and Human Rights, Open Government, Public consultation of draft law entitled [*Implementation of the principle of equal treatment irrespective of race, colour, ethnicity or ethnic origin, descent, religious or other beliefs, disability or chronic disease, age, family or social status, sexual orientation, gender identity or sex characteristics and other provisions*](#).

2. The prohibition of discrimination on multiple grounds should be added to Law 3304/2005²².
3. The amendment of a number of articles of Law 3304/2005 so that discrimination prohibited by this Law cannot be disguised as discrimination against third-country nationals, who are protected by other secondary EU law instruments.
4. The amendment of a number of articles of Law 3304/2005 regarding the scope of application of the equal treatment principle, positive action, professional requirements and different treatment on grounds of age, so that they are made consistent with the wording of Directives 2000/43 and 2000/78.
5. The improvement of the wording of the provisions of Law 3304/2005 which transpose procedural provisions of the Directives (standing of NGOs, burden of proof) and their incorporating into the relevant procedural codes.
6. The amendment of a number of articles of Law 3304/2005 with a view to facilitating the legal standing of NGOs before judicial authorities, the recognition of favourable – not unfavourable – *res judicata* and the legal standing of NGOs to engage in administrative proceedings.
7. The amendment of Law 3226/2004 regarding legal assistance to low income citizens, with a view to facilitating legal aid for lodging recourses to the courts for violations of Law 927/1979 (punishment of race discrimination) and Law 3304/2005.

The GNCHR's concerns regarding the existing anti-discrimination legislation are also shared by the Commission Against Racism and Intolerance (ECRI) of the Council of Europe, which, in the same line with the GNCHR, recommends that Law 3304/2005 should be amended in order to, among others: include the grounds of colour, citizenship and language, provide a direct obligation of all public authorities to prevent discrimination when carrying out their functions, enable NGOs to bring cases to court without representing a specific victim, enable the Ombudsman to initiate court cases, participate in them and intervene in favour of plaintiffs whose cases she/he has investigated, enable the Ombudsman to receive complaints from the private sector concerning racial discrimination and make the Equal Treatment Committee and the Labour Inspectorate independent authorities²³.

²² The prohibition of discrimination on multiple grounds should also be added to Law 3896/2010 on the *Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation-Harmonisation of Legislation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006*.

²³ CoE, ECRI, [Report on Greece \(fifth monitoring cycle\)](#), 24 February 2015, CRI(2015)1, par. 22, 24, 31 and 33.

Rights of persons belonging to minorities – Members of the Muslim minority in Thrace (par. 9, 17 of the Committee’s Concluding Observations)

The GNCHR applauds the measures taken in order to guarantee the rights of the Muslim minority and to ensure their social inclusion. However, it would like to focus on the matter of the implementation of the Holy Muslim Law (Sharia) instead of the Greek Civil Code in matters of family law or succession law.

In particular, the GNCHR has expressed its serious reservations regarding the non-application of the general domestic legal framework to women of the Thrace Muslim Minority regarding family and inheritance matters. It insists that more effort should be put in informing these women of their rights and possibilities for judicial recourse, so that they can benefit from Greek civil law²⁴.

Having repeatedly addressed its concerns to the State authorities on the matter and taking into consideration the Concluding Observations of the Committee on the Elimination of Discrimination against Women (hereinafter CEDAW Committee)²⁵, the GNCHR continues to observe that the Greek civil law does not apply to the Thrace Muslim minority regarding marriage and inheritance. Furthermore, the application of local Sharia law and general Greek Law is not in harmony with the provisions of the ICERD on non-discrimination.

Concern is also raised by judgment No 1862/2013 (Third Section) delivered by the Greek Supreme Court for civil and criminal law, creating a precedent which may affect the whole traditional judicial practice in Greece. In this Decision the Greek Supreme Court for civil and criminal law, in a case of inheritance law of members of the Muslim minority of Thrace, annulled the last will and testament of a deceased Greek Muslim man, which was made in accordance with the Greek civil code, as it was not compliant with Sharia law. The legal basis of this overruling was Article 4 of Law 147/1914, according to which matters regarding marriage and personal relations between spouses and other family members are settled according to the Holy Islamic Law (Sharia). The decision overturns the rights of Greek minority Muslims in Thrace to prepare wills under Greek civil law. The Muslim minority of Thrace have had the right to draw up civil wills under Greek law since 1946.

As for marital issues, as the GNCHR has already pointed out, marriage by proxy is contrary to the Greek public order and to specific provisions of international treaties ratified by Greece. Therefore, Muslim marriage by proxy is nonexistent regarding the representative and the future spouse and null regarding the person represented²⁶.

²⁴ 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).

²⁵ UN, Committee on the Elimination of Discrimination against Women, [*Concluding Observations: Greece*](#), CEDAW/C/GRC/CO/7, 1 March 2013, par. 36-37.

²⁶ 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).

Situation of Roma in Greece (par. 16 of the Committee's concluding observations)

The situation of the Roma community, in particular with respect to access to employment, housing, health care and mainstream education, listed among the Committee's suggested themes²⁷, has been among the GNCHR priorities since its very establishment²⁸. To this end and for the most effective approach of the Roma rights issues, the Panhellenic Federation of Greek Roma Associations (PFGRA) is represented in the GNCHR Plenary. It should be noted that one of the main demands of the PFGRA is strengthening of its institutional capacity in order for the Roma representation to be effective throughout the Greek territory. Furthermore, the GNCHR Plenary has decided to facilitate the dialogue between members of the Roma community and State authorities. For this reason, the GNCHR will host a meeting between members of the PFGRA and representatives of the Ministries represented in the GNCHR, so that they can discuss and exchange on how to address more effectively the challenges the Roma community is faced with in Greece and combat discrimination and social exclusion.

On the same wavelength, the GNCHR, within its mandate as the independent advisory body to the Greek State on matters pertaining to human rights protection and in its capacity as a Platform's member, had the pleasure and honour to host the 3^d meeting of the Operational Platform on Roma Equality (hereinafter OPRE)²⁹, which is a joint initiative of the CoE, EU Fundamental Rights Agency (hereinafter FRA), European Network of Equality Bodies (hereinafter Equinet) and European Network of National Human Rights Institutions (hereinafter ENNHRI)²⁹. The meeting took place in Athens, on 7-8 June 2016, at the GNCHR premises and gave the OPRE members the opportunity to exchange on how to strengthen Roma rights protection in Europe. In particular, the meeting's agenda was related to developments at national and international level of particular interest for the OPRE members, as well as to two specific thematics related to the Roma population: housing rights and evictions and access of Roma and traveller women to justice. Furthermore, the OPRE members had the chance to exchange views with stakeholders, including Roma, involved in Roma integration action since the morning session was dedicated to Roma issues in Greece.

In particular, the GNCHR has expressed its concern for the widespread prejudice which dominates Greek public opinion and the Greek Media, while highlighting that no progress has been made in the general situation of Roma in Greece and, more importantly, in issues

²⁷ UN, Committee on the Elimination of Racial Discrimination, *List of themes in relation to the combined twentieth to twenty-second periodic reports of Greece*, 7 June 2016, CERD/C/GRC/Q/20-22, par. 14.

²⁸ GNCHR, *Comments on the Report to be Submitted by Greece under article 9 paragraph 1 of the International Convention for the Elimination of All Forms of Racial Discrimination* (2008); *Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights (ICCPR)* (2013); *Right to water- Recommendations for its effective protection* (2014); Roma-related issues have also been discussed in the meeting with *ECRI representatives* (GNCHR has submitted written observations) and in the *presentation of the programme DARE-Roma School Segregation* (Brussels 23-24/2/2014).

²⁹ For more information see the COE-FRA-EQUINET-ENNHRI "OPRE Platform, available at: http://a.cs.coe.int/team81/opre_platform/SitePages/Home.aspx.

pertaining to housing, education, access to employment and public service. Moreover, the GNCHR focuses on the fact that the issues surrounding the protection of Roma rights are not limited to minority rights issues but in fact include individual rights³⁰.

In this context, it is worth mentioning that the ECRI, acknowledging the importance of the GNCHR's mandate and taking into consideration the GNCHR's Observations, recommends "the creation of a Task Force to develop a comprehensive national strategy to combat racism and intolerance. Such a Task Force should be composed of the relevant authorities, the two independent bodies (the Ombudsman and GNCHR) and NGOs, so that the cooperation between the authorities and civil society on this matter can be enhanced"³¹.

The Integrated Action Plan for the Social Inclusion of the Greek Roma

The GNCHR from the outset highlighted that the Integrated Action Plan (IAP) for the Social Inclusion of the Greek Roma lacked the solid legal guarantees which are able to neutralise the factors that undermine it. As reported by the Ombudsman, there is no institutionally and regulatory integrated framework in place able to ensure the effective participation/integration of Roma in Greek social life. This shortfall is also observed by Roma population itself, as well as by part of the leadership of this Country, political and administrative, who cares for the social inclusion of Roma. On the same wavelength, in its report on Greece, the ECRI had already observed that the previous Integrated Action Plan for Roma, which broadly had similar objectives with the IAP, has largely failed and that there was also insufficient participation of Roma representatives in its evaluation³².

As far as issues of housing are concerned, even though the house loan scheme was characterised as a good practice by the Committee of Experts on Roma and Travellers³³, the GNCHR has expressed its serious reservations in this matter. More specifically, the GNCHR considers that the loan program responds to only one type of installation and was costly and open to poor management, as it does not require any monitoring of the granting of the loans. Moreover, the suitability and the compliance of the program with the defined socio-economic conditions. This is mainly why the ECRI found that the plan on housing loans did not always benefit the targeted groups, while reports indicated that there may have been irregularities in the implementation of this scheme, such as loans not being provided to the intended beneficiaries³⁴. In fact, relevant decisions condemning Greece for the housing conditions of

³⁰ 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); [Comments on the Report to be Submitted by Greece under article 9 paragraph 1 of the International Convention for the Elimination of All Forms of Racial Discrimination](#) (2008).

³¹ CoE, ECRI, [Report on Greece \(fifth monitoring cycle\)](#), 24 February 2015, CRI(2015)1, par. 74.

³² *Idem*, par. 100.

³³ Committee of experts on Roma and Travellers (MG-S-ROM), *Opinion of the MG-S-ROM on the housing situation of Roma and Travellers in Europe*, MG-S-ROM (2009)4 (16.10.2009), p. 3.

³⁴ Coe, ECRI, [ECRI Report on Greece \(fourth monitoring cycle\)](#), CRI(2009)31, 15.9.2009, par. 71.

Roma³⁵, as well as relevant observations by the European Committee for Social Rights³⁶, prove that Greece still has a lot to accomplish, especially now that the IAP is over.

Within the context of the IAP, it is necessary to highlight that the practice of social-medical centres has proved positive for the Roma communities and, therefore, the GNCHR recommends that more of them be established and their activities be extended³⁷.

The issue of pending population registering

The issue of the pending population registration of a large number of Greek Roma remains clearly dominant when it comes to the case of housing reinstatement. The large number of Roma children that are not registered upon birth raise yet another issue of concern, as it is also stressed by the Committee on the Rights of the Child in its Concluding Observations for Greece³⁸.

In this regard, there is a strong resistance of the local authorities themselves, when it comes to registering the Roma who stay or travel through their territory. The authorities frequently invoke that registration based on “racial” criteria is prohibited. Nonetheless, municipal authorities must be aware of the citizens in need of protection and support in order to design and provide the proper interventions, not on grounds of race, but on grounds of equal participation of citizens to the services offered by the municipality, as well as other State authorities.

The rights of Roma women

The GNCHR shares the concern of the CEDAW Committee regarding lack of data on the employment of Roma women, their social exclusion, as well as the difficulties they face in the enjoyment of basic commodities such as access to healthcare facilities, social benefits, education and political and public participation³⁹. Moreover, concern is raised by the unfavourable position of Roma women within the Roma communities themselves.

The rights of 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 the rights of Roma children. Agreeing with the findings of the Ombudsman⁴⁰, the GNCHR highlights the

³⁵ CoE, ECSR, *International Centre for the Legal Protection of Human Rights, Interights v. Greece*, 25.5.2010 and *European Roma Rights v. Greece*, 8.12.2004.

³⁶ CoE, ECSR, *Conclusions XIX-4 (2011) (GREECE)*, Articles 7, 8, 16, 17 and 19 ESC, January 2012.

³⁷ GNCHR, *Comments on the National Strategic Plan for Social Protection and Social Inclusion 2008-2010, Annual Report 2008*, pp. 39 et seq.

³⁸ UN, Committee on the Rights of the Child, *Concluding Observations: Greece*, CRC/C/GRC/CO/2-3, 13.8.2012, par. 32.

³⁹ UN, Committee on the Elimination of Discrimination against Women, *Concluding Observations: Greece*, CEDAW/C/GRC/CO/7, 1 March 2013, par. 26, 28, 32-33 and 36.

⁴⁰ Ombudsman, *Press Release: The Ombudsman calls for immediate measures for the protection of minors and the social inclusion of Roma*, 24 October 2013.

need to ensure for Roma children the equal enjoyment of their rights to health, education, housing, labour and social participation.

Especially on 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 permanent learning mentors, whilst the training of Roma mediators that will function as a link between Roma communities and schools is also necessary⁴¹.

Furthermore, the GNCHR considers the segregation of Roma children unacceptable, as well as their dispersion in schools located in areas remote from their residence. The convictions by the European Court of Human Rights (hereinafter ECtHR) against Greece for the segregation of Roma children illustrates the need to take immediate action in order to secure access to access to desegregated, inclusive education for all pupils⁴². And this conclusion is also shared by the ECRI Report on Greece⁴³.

Regarding the segregation policy and the very poor education for Roma children, the UN Committee on the Rights of the Child has also expressed, in its Concluding observations for Greece, its concern at the persistence of the limited access of Roma children to school, their limited enrolment and segregation in schools. It is further concerned at violence in schools and the cases of bullying among students⁴⁴. Moreover, illiteracy and lack of formal education make especially younger Roma bound “to rely even more on informal economic activities, such as collecting scrap metal”⁴⁵, and therefore, more vulnerable and deprived of rights.

The behaviour of State authorities

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 trial⁴⁶. Data collected by the FRA demonstrate the alarming dimensions of discriminatory practices in Greece based on the ethnic profiling of Roma by the police⁴⁷. Low

⁴¹ 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).

⁴² 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.

⁴³ CoE, ECRI, [Report on Greece \(fifth monitoring cycle\)](#), 24 February 2015, CRI(2015)1, par. 108.

⁴⁴ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012, par. 60.

⁴⁵ CoE, ECRI, [Report on Greece \(fifth monitoring cycle\)](#), 24 February 2015, CRI(2015)1, par. 105.

⁴⁶ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012, par. 68-69.

⁴⁷ FRA, *EU-MIDIS European Union Minorities and Discrimination Survey*, Data in Focus Report-The Roma, 2009, p. 10.

levels of victimisation reporting to the police by the Roma is easily explained by the fact that Greece stands out amongst the seven Member States as having a highly policed Roma community which considers its encounters with the police to be discriminatory⁴⁸.

In this regard and in the light of the Concluding observations of the Committee⁴⁹, as well as the Conclusions and Recommendations of the Committee against Torture⁵⁰ and the convicting judgments and views of international human rights courts and monitoring bodies⁵¹, 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. For this purpose, the GNCHR stresses the need to set into motion the initiative to establish a working group that will examine the issue of human rights training among members of the police forces⁵². 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 police⁵³.

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 2008⁵⁴, focuses on creating a special curriculum designed for law enforcement agent, with emphasis on practical rather than theoretical application of human rights.

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. In so doing, it bears in mind both the ECSR decisions regarding Greece⁵⁵ and reports on water-related issues⁵⁶. Many houses do

⁴⁸ *Ibidem*.

⁴⁹ UN, Committee on the Elimination of Racial Discrimination, [Concluding Observations: Greece](#), CERD/C/GRC/CO/16-19, 14.9.2009, par. 13.

⁵⁰ UN, Committee against Torture, [Conclusions and Recommendations: Greece](#), CAT/C/GRC/CO/5-6, 27.6.2012, par. 12.

⁵¹ 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.

⁵² 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).

⁵³ ECtHR, *Stefanou v. Greece* [No 2954/07], 4.10.2010.

⁵⁴ GNCHR, [Annual Report 2008](#).

⁵⁵ CoE, ECSR, *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).

⁵⁶ [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

not even have the infrastructure required for water and sanitation, whilst entire settlements have been left without access to water due to water supply problems. Consequently, the Roma are forced to transfer water to the settlement from other locations outside.

The GNCHR emphasises that everyone and especially members of vulnerable groups, must have equal access to adequate and safe water, without any discrimination. The GNCHR 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 authorities⁵⁷.

Gender equality in general

The GNCHR has repeatedly issued several Reports on the implementation of the gender equality principle in Greece⁵⁸. Taking into consideration the impact of the austerity measures on gender equality, the GNCHR notes that there has been no substantial progress in the legislative framework and repeats the following remarks:

Law 3896/2010

The GNCHR welcomed the adoption of Law 3896/2010 on the *Implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation – Harmonisation with the Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 (recast) and relevant provisions*, since several of its observations regarding the relevant draft law were taken into account. It noted, however that this law is inadequate in certain respects:

Firstly, the definition it provides for “vocational training” is neither clear nor consistent with EU law, something which undermines legal certainty.

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.

⁵⁷ GNCHR, [The right to water- The Right to Water. GNCHR Recommendations for its effective protection](#) (2014).

⁵⁸ GNCHR, [Recommendations on Transgender persons and legal gender recognition](#) (2015) ; [Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter \(Reference Period 1.1.2009-12.31.2012\)](#) (2014) ; [Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights \(ICCPR\)](#) (2013) ; [Comments on the 7th Periodic Report of Greece \(2005-2008\) to the UN Committee on the Elimination of Discrimination against Women \(CEDAW\)](#) (2010) ; [Observations on the draft law “Implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation – Harmonisation with the Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 \(recast\) and relevant provisions”](#) (2010) ; [Comments on the Bill “Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation-Harmonisation of Legislation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006”](#) (2008) ; [Comments on the Bill “Implementation of the Principle of Equal Treatment for Men and Women as Regards Access to Employment, Vocational Training and Promotion, and Working Conditions”](#) (2006).

Moreover, Article 19 on “Positive Measures” does not comply with Article 116(2) of the Greek Constitution which introduces an obligation for all state organs⁵⁹. According to well-established jurisprudence of the Greek Supreme Administrative Court, this constitutional provision “obliges the legislator and all other State authorities to adopt in all fields the positive measures in favour of women that are appropriate and necessary for achieving the best possible result” with a view to minimising inequalities and with the ultimate goal to achieve substantive gender equality⁶⁰. Furthermore, Article 116(2) of the Greek Constitution states that the positive measures should aim to eradicate “inequalities” (which is a broader term than the term «*discrimination*» of Article 19 of Law 3896/2010)⁶¹.

Furthermore, the GNCHR noted, in its observations on the draft law for the transposition of Directive 2002/73/EC (which became Law 3488/2006), that there is no autonomous personal right to parental leave for both male and female workers⁶² and that Article 3(4) of this Law regarding the protection of maternity does not comply with the provisions of Article 21(1) and (5) of the Greek Constitution, which guarantee the effective protection of maternity⁶³. Especially in the private sector, women undergo unfavourable treatment during the hiring and negotiation process, not only when they are pregnant or have just given birth to a baby, but also when they have young children or are married and at child-bearing age⁶⁴.

Moreover, although Law 3896/2010 on the *Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and*

⁵⁹ Article 116 (2): “Adoption of positive measures for promoting equality between men and women does not constitute discrimination on grounds of sex. The State shall take measures for the elimination of inequalities actually existing, in particular to the detriment of women”.

⁶⁰ Greek Supreme Administrative Court, decisions Nos 2831/2003, 2832-2833/2003, 3027-3028/2003, 3185, 3187-3189/2003 and 192/2004.

⁶¹ See as noted by the GNCHR, *Comments on Bill titled “Application of the Principle of Equal Treatment Irrespective of Racial or Ethnic Origin, Religious or Other Beliefs, Disability, Age or Sexual Orientation”* (2003): The Greek Constitution, Article 4(2), guarantees substantive gender equality (Greek Supreme Administrative Court judgment No 1933/1998). On the occasion of the constitutional revision of 2001, the provision of Article 116(2) allowing derogations was repealed and replaced with a provision which requires positive measures as a means for achieving gender equality and the abolishment of all inequalities in practice, especially those affecting women. Consequently, as of the entry into force of the revised Constitution (18.4.2001), all provisions allowing derogations were null and void, while any provision introducing derogations in the future shall be invalid. This is why neither Law 3488/2006 transposing Directive 2002/73/EC nor Law 3896/2010 transposing Directive 2006/54/EC, allow derogations from gender equality in employment. Besides, both these Directives allow member States to introduce or maintain national provisions more favourable than their own and do not allow the reduction in the level of protection of workers in the areas which they cover. The GNCHR underlined that “according to fundamental principles of international and European law as well as to the explicit provisions of the Directives, the provisions of Article 116(2) of the Greek Constitution prevail as more protective”.

⁶² GNCHR, [Resolution on the Reconciliation between Professional and Family Life in view of the transposition of EU Directive 2002/73/EC into Greek law](#) (2005).

⁶³ Article 21(1): “The family, being the cornerstone of the preservation and the advancement of the Nation, as well as marriage, motherhood and childhood, shall be under the protection of the State” and Article 21(5): “Planning and implementing a demographic policy, as well as taking of all necessary measures, is an obligation of the State”.

⁶⁴ GNCHR, [Resolution on the Reconciliation between Professional and Family Life in view of the transposition of EU Directive 2002/73/EC into Greek law](#) (2005).

Occupation-Harmonisation of Legislation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 clearly includes among grounds of discrimination “any less favourable treatment arising from the gender reassignment of a person”, it ignores a very important parameter: that of “social gender”. Consequently, the protection provided by the above mentioned disposition covers persons who have undergone gender reassignment surgery, thus excluding the majority of trans persons who have not. For this reason, an amendment of this law is recommended, adding gender identity among the grounds on which discrimination in employment is prohibited⁶⁵.

The GNCHR has also underlined that the legal framework (Law 3488/2006 and Law 3896/2010, which transpose Directives 2002/73/EC and 2006/54/EC, respectively)⁶⁶ is inadequate for ensuring effective judicial protection to victims of discrimination, most of whom are women. Legal entities are not granted standing to engage in their own name in legal proceedings for the protection of the rights of the victims.

The GNCHR is constantly repeating a general observation, regarding the provisions transposing the EU gender equality Directives: the procedural provisions (mainly regarding the standing of legal entities and the burden of proof) are not incorporated into the relevant Codes of Procedure. As a consequence, they remain unknown to judges, lawyers and the persons concerned. Therefore, the transposition of the EU Directives is inadequate, since it does not establish the required legal certainty and transparency which would allow the victims of discrimination to be aware of their rights and to claim them before the courts and other competent authorities.

Work and gender equality

Despite the adoption of Law 3896/2010 and the measures mentioned in the Report of the Greek State under examination, the deregulation of employment relations due to the growing financial crisis and the successive austerity measures continue to aggravate the position of women in the labour market⁶⁷, rendering them even more vulnerable. International and European monitoring bodies, such as the CEACR⁶⁸, the CEDAW Committee⁶⁹, the ECSR⁷⁰

⁶⁵ See Greek Transgendered Support Association, *International Transgender Day of Remembrance/Resolution*, 21 November 2012.

⁶⁶ GNCHR, [*Comments on the Bill “Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation-Harmonisation of Legislation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006*](#) (2006).

⁶⁷ GNCHR, [*Observations on the 24th Greek Report on the application of the European Social Charter and on the 9th Greek Report on the application of the Additional Protocol to the European Social Charter \(Reference Period 1.1.2009-12.31.2012\)*](#) (2014).

⁶⁸ Observation (CEACR) - adopted 2014, published 104th ILC session (2015), [*Equal Remuneration Convention, 1951 \(No 100\), Greece*](#) (Ratification: 1975); Observation (CEACR) - adopted 2012, published 102nd ILC session (2013), [*Equal Remuneration Convention, 1951 \(No. 100\) - Greece*](#) (Ratification: 1975); Observation (CEACR) - adopted 2011, published 101st ILC session (2012), [*Equal Remuneration Convention, 1951 \(No 100\), Greece*](#) (Ratification: 1975); Observation (CEACR) - adopted 2010, published 100th ILC session (2011), [*Equal Remuneration Convention, 1951 \(No. 100\) - Greece*](#) (Ratification: 1975).

and the CoE Commissioner for Human Rights⁷¹ have also emphasised the serious impact of the crisis and austerity measures on women. The deregulation of employment relations due to the growing financial crisis and the successive austerity measures continue to aggravate the position of women in the labour market, rendering them even more vulnerable. According to the ECSR⁷² and other treaty-bodies' findings, fiscal consolidation decisions and austerity measures are taken without any *ex ante* or even *ex post* impact assessment⁷³. Taking into account the concluding observations of the CEDAW Committee⁷⁴, the GNCHR expresses its concern for the marginalisation of women in the labour market as reflected *inter alia* in the high female unemployment rates. The application of severe and deregulative labour market reforms with successive measures since 2010 (among others, Law 4024/2011 or Law 4093/2012) and the severe pension cuts regarding widows and other categories of women have also had a negative cumulative effect.

Furthermore, the reversal of the hierarchy of CAs and the weakening of the National General CA and the sectoral CAs affect women in particular, mainly regarding equality in pay and thus lead to the widening of the pay gap, as CAs used to be the best means to promote and protect uniform pay and employment conditions, without any discrimination.

Another source of concern is the continuous reduction of the (already insufficient) day-care structures for children and dependent persons as well as other social structures, which limit women's ability to take up employment or keep them in jobs with reduced rights, at the same time perpetuating gender stereotypes, as men are not encouraged to participate in such care. The harmonisation of family professional life should be a matter for both men and women. There is also a disturbing rise in discriminatory practices, especially on multiple grounds, to the detriment of women employed within the framework of sub-contracting or temporary employment. In such cases, women are especially targeted if they are engaged in trade union activity⁷⁵.

Since 2011, the CEACR through its Reports expresses its concerns at the "disproportionate impact" of the crisis and austerity measures on women and the widening of the pay gap to their detriment. The CEACR stresses in particular that "the combined effect of the financial

⁶⁹ UN, Committee on the Elimination of Discrimination against Women, [Concluding Observations: Greece](#), CEDAW/C/GRC/CO/7, 1 March 2013, par. 28.

⁷⁰ CoE, ECSR, [Activity Report 2015](#).

⁷¹ CoE, Commissioner for Human Rights, [Safeguarding human rights in times of economic crisis](#), November 2013, p. 23 and [Protect women's rights during the crisis](#), as well as [Greece: progress in combating racism, but concerns remain about the impact of austerity \(Visit to Greece\)](#), Athens, 8 July 2016.

⁷² Observation (CEACR) - adopted 2014, published 104th ILC session (2015), [Equal Remuneration Convention, 1951 \(No 100\), Greece](#) (Ratification: 1975).

⁷³ See GNCHR, [Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards](#) (2013); [Recommendation on the imperative need to reverse the sharp decline in civil liberties and social rights](#) (2011) and [The need for constant respect of human rights during the implementation of the fiscal and social exit strategy from the debt crisis](#) (2010).

⁷⁴ UN, CEDAW, [Concluding Observations: Greece](#), CEDAW/C/GRC/CO/7, 1 March 2013, par. 28.

⁷⁵ GNCHR, [Workers' rights and conditions of work in the framework of sub-contracting](#) (2009).

crisis, the growing informal economy and the implementation of structural reform measures adversely affected the negotiating power of women, and would lead to their over-representation in precarious low-paid jobs. Strong concerns on the severe impact on gender equality are also explicitly expressed in the Report of the High level mission to Greece⁷⁶. The CoE Commissioner for Human Rights has also emphasised the serious impact of the crisis and austerities measures on women⁷⁷.

In the private sector, the rapid growth of flexible forms of employment as well as the replacement of contracts of indefinite duration by fixed term contracts lead to a significant reduction in wages. The CEACR stresses, referring to the Ombudsman, that flexible forms of employment, mainly part-time and rotation work, are more often offered to women, especially during pregnancy and upon return from maternity leave, reducing their levels of pay, while layoffs due to pregnancy, maternity and sexual harassment increase. "Flexibility had been introduced without sufficient safeguards for the most vulnerable, or safeguards which had been introduced by law were not effectively enforced"⁷⁸.

In fact, unemployment, especially among women and young people, is especially high and as the CEACR notes, "a large number of women have joined the ranks of the 'discouraged' workers who are not accounted for in the statistics", while "small and medium-sized enterprises, which are an important source of employment for women and young people, close down massively"⁷⁹. According to the latest data of the Greek Statistical Authority (hereinafter ELSTAT), in May 2015 (which is, notably, a month of seasonal employment), male unemployment rate was 22,4% while female unemployment rate was 28,2%⁸⁰.

Moreover, fiscal consolidation decisions and austerity measures are taken without any *ex ante* or even *ex post* impact assessment, as the ECSR and other treaty-bodies are deploring⁸¹.

Also, "recalling that CAs have been a principal source of determination of pay rates, the Committee [Committee of Experts on the Application of Conventions and Recommendations] refers to its comments on Convention No 98 and calls upon the Government to bear in mind that collective bargaining is an important means of addressing equal pay issues in a proactive

⁷⁶ ILO, [Report on the High Level Mission to Greece \(Athens, 19-23 September 2011\)](#), par. 317-321.

⁷⁷ CoE, Commissioner for Human Rights, [Safeguarding human rights in times of economic crisis](#), November 2013, p. 23 and [Protect women's rights during the crisis](#).

⁷⁸ Observation (CEACR) - adopted 2011, published 101st ILC session (2012), [Equal Remuneration Convention, 1951 \(No 100\)](#), Greece (Ratification: 1975).

⁷⁹ Observation (CEACR) - adopted 2011, published 101st ILC session (2012), [Equal Remuneration Convention, 1951 \(No 100\)](#), Greece (Ratification: 1975). See also Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) ; Observation (CEACR) - adopted 2012, published 102nd ILC session (2013), [Discrimination \(Employment and Occupation\) Convention, 1958 \(No 111\)](#), Greece (Ratification: 1984).

⁸⁰ ELSTAT, [Press Release](#), 6 August 2015.

⁸¹ See GNCHR, [Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards](#) (2013); [Recommendation on the imperative need to reverse the sharp decline in civil liberties and social rights](#) (2011) and [The need for constant respect of human rights during the implementation of the fiscal and social exit strategy from the debt crisis](#) (2010).

manner, including unequal pay that arises from indirect discrimination on the ground of sex"⁸².

To the abovementioned observations the GNCHR adds the need to strengthen the Labour Inspectorate (SEPE) and the Ombudsman, which is deemed crucial at a time when both bodies are suffering major budget cuts. This is all the more so as the number of workers who cannot afford recourse to the courts for financial reasons is in constant increase.

More generally, the GNCHR shares the Ombudsman's fear that any progress achieved so far in employment and gender equality may be reversed, something which would result in failure to draw on valuable human resources, as well as in violation of the rule of law and democratic principles⁸³. The insufficiency of policy measures aiming at combating high female unemployment, the failure to encourage men's participation in family care, the gender pay gap to the detriment of women and the so-called "glass ceiling" on women's professional evolution indeed constitute problems of human rights and democracy.

Finally, the GNCHR is seriously concerned that the substantial changes to the Greek labour legislation, and in particular changes and cutbacks to the pension system and social security, in combination with changes provided for in Law 4326/2015 (known as "Third Memorandum")⁸⁴ which will effectively curtail the right to work, trade union rights and the right to strike, will have far-reaching impacts on the exacerbation of unemployment – by making collective dismissals ever cheaper and easier – and the collective representation of workers.

Participation of women in political and public life

The GNCHR expresses its concern for the negative climate surrounding the political system, which reflects a strong resistance to accepting the equal political presence of women in all structures of political power. Political party strategies by which party members are promoted and female members are placed in traditional posts, as well as the overall sexism that dominates public life prevent women from exercising their political role, maintaining the belief that politics are predominantly "male".

As regards the female trade union membership and the female membership in the executives of trade union bodies in Greece, the figures indicate that women's presence in the trade union movement has been relatively low⁸⁵. The issue has been addressed in detail in recent studies⁸⁶.

⁸² Observation (CEACR) - adopted 2011, published 101st ILC session (2012), [Equal Remuneration Convention, 1951 \(No 100\)](#), Greece (Ratification: 1975). See also Observation (CEACR) - adopted 2012, published 102nd ILC session (2013). Observation (CEACR) - adopted 2012, published 102nd ILC session (2013), [Discrimination \(Employment and Occupation\) Convention, 1958 \(No 111\)](#), Greece (Ratification: 1984).

⁸³ Ombudsman, Special Report 2012, [Gender and labour relations](#).

⁸⁴ OGG 94/A/14.8.2015.

⁸⁵ European Foundation for the Improvement of Living and Working Conditions (Eurofound), [Trade union strategies to recruit new groups of workers – Greece](#).

The GNCHR notes with emphasis that it shares the serious concerns of international human rights monitoring bodies, such as the CEACR⁸⁷, the CEDAW Committee⁸⁸ and the CoE Commissioner for Human Rights⁸⁹ that successive austerity measures combined with the deregulation of employment relations due to the growing financial crisis have led to the violation of the principle of equal treatment of men and women in employment and discourage women not only from being elected to trade unions, but even from joining them⁹⁰.

Family Law issues

As for gender equality in family law, the GNCHR highlights its observations concerning:

a) *The surname of spouses*: Article 1388 of the Civil Code, which provided that women retained their maiden name after marriage, was amended so as to allow the adding of a spouse's surname to the other, following an agreement between the couple (Article 28 of Law 3719/2008). This provision disrupts the continuum in the wife's identity, by allowing consecutive changes in surnames; it is therefore incompatible with the principle of gender equality.

b) *Parental Responsibility for children born out of wedlock*: Even though the GNCHR proposed not to amend of Article 1515 of the Civil Code on the parental responsibility for children born out of wedlock, Law 3719/2008 removed the precondition of the mother's consent in order for the father to be judicially awarded full or partial parental responsibility for child he has recognised.

c) *Validity of marriage*: The GNCHR has proposed the amendment of Article 1350(2) of the Civil Code that allows, pursuant to a court order, marriage at a younger age on serious grounds and the fixing of the minimum age in such cases at 16 years.

Gender Mainstreaming

In general, the GNCHR calls for the abolishment of sexist attitudes and stereotypes regarding the roles and responsibilities of women and men in the family and society, as well as for the effective implementation of gender equality in all areas (gender mainstreaming).

⁸⁶ See this way GSEE Labour Institute (INE-GSEE), [The Participation of women in administration of trade unions bodies of the General Confederation of Greek Workers](#), E. Varchalama, K. Boukouvalas, I. Papageorgiou (ed.), February 2015.

⁸⁷ Observation (CEACR) - adopted 2011, published 101st ILC session (2012), [Equal Remuneration Convention, 1951 \(No 100\), Greece](#) (Ratification: 1975). See also, Observation (CEACR) - adopted 2014, published 104th ILC session (2015), [Equal Remuneration Convention, 1951 \(No 100\), Greece](#) (Ratification: 1975).

⁸⁸ UN, Committee on the Elimination of Discrimination against Women, [Concluding Observations: Greece](#), CEDAW/C/GRC/CO/7, 1 March 2013, par. 28.

⁸⁹ CoE, Commissioner for Human Rights, [Safeguarding human rights in times of economic crisis](#), November 2013, p. 23 and [Protect women's rights during the crisis](#).

⁹⁰ GSEE Labour Institute (INE-GSEE), [The Participation of women in administration bodies of trade unions of the General Confederation of Greek Workers](#), E. Varchalama, K. Boukouvalas, I. Papageorgiou (ed.), February 2015, pp. 34-35.

To this effect, the GNCHR also highlights the need to adjust the provisions on family taxation to the gender equality principle. Noting the relevant observations made by the Ombudsman, the GNCHR underlines the need to adopt legislation that will allow spouses to submit separate tax returns. Even when spouses submit joint tax returns, the GNCHR proposes the introduction of an individual tax obligation for each spouse and the separate tax clearance through the abolition of Article 61(2) of the Code of Income Tax.

Finally, the GNCHR notes the establishment of a law commission for the drafting of a law on the promotion of substantive equality and welcomes the adoption of the National Action Plan for Substantive Gender Equality 2010-2013 drafted by the General Secretariat for Gender Equality. However, considering the final observations of the CEDAW Committee, the GNCHR expresses its concern for the budget cuts regarding the aforementioned Secretariat which jeopardise its autonomy. The Commission also notes that the National Commission for Equality between Men and Women remains dormant since 2008.

Legal gender recognition

As for the legal gender recognition, in the Greek legal order the concept of ‘gender identity’ is almost non-existent. There is, nonetheless, a tendency to gradually include the concept of ‘gender identity’ in various legislative texts, such as Law 4285/2014⁹¹. The GNCHR emphasises that gender identity is specifically mentioned in this law among the criteria which have to be met in order for a criminal act to qualify as a hate crime. For the first time, gender identity is explicitly included as grounds for protection against crimes motivated by hate.

On the contrary, the most important legislation implementing the principle of equal treatment in Greece, such as Law 3304/2005⁹², Law 3769/2009⁹³ and Law 3896/2010⁹⁴ make no specific reference to “gender identity”. There is, however, an explicit recognition contained in Article 3(2), (b) of Law 3896/2010, according to which “*discrimination on grounds of sex may also include any less favourable treatment arising from the gender reassignment of a person*”. Nonetheless, it becomes clear that such a provision covers only transsexuals who intend to undergo, are undergoing or have undergone gender reassignment, and thus excludes the large majority of transgender people who are not able, due to such reasons as choice health reasons or denial of access to any healthcare, to undergo gender reassignment surgery.

⁹¹ Aiming at adapting Law 927/1979 to Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law.

⁹² *On the Implementation of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation*, which incorporates two relevant EU directives (2000/43/EC dated 29 June 2000 and 2000/78/EC dated 27 November 2000).

⁹³ Implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

⁹⁴ On the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation-Harmonisation of Legislation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006.

For all of the abovementioned reasons, the GNCHR welcomes the initiative of the Ministry of Justice to set up a Law Drafting Committee for the legal gender recognition⁹⁵, as a first important step of the State towards the effective protection of transgender people and has on various occasions informed the Ministry of Justice of its willingness and readiness, as the independent advisory body to the Greek State, to assist the Law Drafting Committee in its task to take the necessary and appropriate legislative measures for the legal gender recognition.

In particular, taking into consideration the significant developments both at a national level – with the establishment of the aforementioned Law Drafting Committee for the legal gender recognition – as well as at a European level – with the adoption of Resolution 2048(2015) of the plenary of the CoE Parliamentary Assembly on *Discrimination against transgender people in Europe*⁹⁶ – and recognising every person’s right to self-determination, the GNCHR has addresses the following recommendations with regard to the need for effective institutional protection of transgender people and calls on the State to take the necessary measures to protect and promote their rights⁹⁷. More specifically, the GNCHR deems it necessary to highlight the need for:

- Full legal gender recognition as a fundamental dimension of the personality and the possibility of transgender people to change identification documents based on self-determination of their gender identity, without the requirement of irreversible gender reassignment surgery or other medical procedures⁹⁸.
- Amendment of the anti-discrimination legislation with the explicit inclusion of gender identity among the grounds of discrimination and ratification of the CoE Convention on Preventing and Combating Violence against Women and Domestic Violence.
- Full access to healthcare services and gender reassignment treatment covered by public health insurance on condition that they are freely chosen and declassification of transsexualism.
- Collection of comparable data and information regarding the situation of transgender persons in Greece, as well as effective protection and promotion of their rights.
- Education and sensitisation on the rights of transgender people.

⁹⁵ Ministerial Decision No 20692/7.4.2015 for the creation of a special law-drafting committee for the revision of the legislation on civil partnership and the legal gender recognition (OGG 696/B/24.4.2015), as amended by Ministerial Decision No 94388/18.12.2015 (OGG 2928/B/31.12.2015).

⁹⁶ CoE, Parliamentary Assembly, Committee on Equality and Non-Discrimination, Resolution 2048(2015), [Discrimination against transgender people in Europe](#), 22 April 2015.

⁹⁷ GNCHR, [Recommendations on Transgender persons and legal gender recognition](#) (2015).

⁹⁸ See Greek Transgender Support Association, Letter to the Minister of Interior on *Legal Gender Recognition and Sex Characteristics*, 20 April 2015, as well as *International Transgender Day of Remembrance/Resolution*, 21 November 2012.

Finally, it is worth mentioning that on 27 June, a number of A status APF NHRIs (Australia, Mongolia, Nepal, New Zealand and the Philippines) and the GNCHR issued a Joint Statement of National Human Rights Institutions on the protection against violence and discrimination on the basis of sexual orientation and gender identity at the Human Rights Council (HRC), calling among others the HRC to establish an Independent Expert. The statement was read out at the HRC by a representative of the GNCHR. The GNCHR expresses its satisfaction because following the aforementioned Joint Statement, the HRC passed a *Resolution on the protection against violence and discrimination based on sexual orientation and gender identity* establishing an Independent Expert on this issue and ensuring that sexual orientation and gender identity rights are discussed annually at the Human Rights Council⁹⁹.

Violence against women

Greek legislation

The GNCHR welcomed Law 3500/2006 on *Combating domestic violence and other provisions*¹⁰⁰. However, it considers that the Law still does not fully and effectively deal with domestic violence¹⁰¹. In particular, it does not criminalise all offences of domestic character. It fails to address the essence of the phenomenon of violence against women and its root causes (the persisting roles of “man-master” and “woman-servant”). It does not create legal certainty, as most of its provisions are not incorporated in the relevant Codes, subject matters of which it regulates, such as the Criminal Code, the Civil Code, the Code of Criminal and Civil Procedure. In particular, the GNCHR has observed that:

- (a) The acts criminalised by the Law were already covered by the Criminal Code, except for marital rape, marital sexual abuse and acts committed in the presence of minors. This creates confusion as to which acts are regulated by the Criminal Code or Law 3500/2006.
- (b) The Law is gender-neutral regarding perpetrators and victims. It fails to address the reasons why in practice the perpetrator - husband or partner of the female victim - normally escapes punishment.
- (c) No *ad hoc* institution to deal with the matter is established.
- (d) It is questionable whether the penal mediation introduced is constitutional (the Prosecutor, to whom it is entrusted, is given judicial competences incompatible with his/her office) and effective.

⁹⁹ UN, HRC, [Protection against violence and discrimination based on sexual orientation and gender identity](#), 28.6.2016, A/HRC/32/L.2/Rev.1.

¹⁰⁰ *Written submission by the Greek National Commission for Human Rights to the Human Rights Council*, A/HRC/29/NI/2, 12 June 2015.

¹⁰¹ GNCHR, [Comments on the Bill entitled Combating Domestic Violence](#) (9.2.2006).

(e) The police and the Prosecutor remain the main actors of the prejudicial phase, although they have proven to be unsuitable for the task, while the establishment of an *ad hoc* specialised body, such as a body of family social workers, is not provided for.

Moreover, the GNCHR deplores the continued delay in ratifying the CoE Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)¹⁰². Indeed, although Greece is listed among the first thirteen States to have signed the Istanbul Convention, in May 2011, its ratification is still pending. The GNCHR is convinced that the ratification of the Istanbul Convention will contribute significantly to combating violence against women in all areas of private and public life¹⁰³.

As far as the implementation of the Greek legislation is concerned, Law 3500/2006 is indeed an important step forward. However, domestic violence against women and children has not significantly decreased¹⁰⁴. The GNCHR has deplored that, while there seem to be a significant number of cases, very few perpetrators are prosecuted and punished. This is also a main concern of the Committee against Torture, which also deplores the fact that the Greek Criminal Code does not list rape and other acts of sexual violence as forms of torture but rather as “serious breaches of sexual dignity”¹⁰⁵.

Raising awareness to the phenomenon of domestic violence is still needed, mainly due to persisting patriarchal attitudes and deeply rooted stereotypes regarding the role and responsibilities of women and men as well as discriminatory practices. The CEDAW Committee has deplored the lack of State measures to eliminate stereotypes and negative traditional attitudes and practices. There are only a few studies on violence against women and domestic violence and their root causes and no statistical data on violence based on sex, age, minority/ethnic origin and the relationship between the perpetrator and the victim. We concur with the UN Committee against Torture, which urges State authorities to organise wide awareness-raising campaigns and training courses on the prevention of violence against women and girls, for officials who are in direct contact with victims (law enforcement officers, judges, lawyers, social workers, etc.) and the general public¹⁰⁶.

*The National Action Plan on Preventing and Combating Violence against Women
2009–2013*

The GNCHR welcomed the protection measures for victims of domestic violence included in the National Action Plan on Preventing and Combating Violence against Women 2009 –

¹⁰² CoE, *Convention on preventing and combating violence against women and domestic violence*, Istanbul, 11.V.2011.

¹⁰³ GNCHR, [Recommendations on Transgender persons and legal gender recognition](#) (2015).

¹⁰⁴ GNCHR, [Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the ICCPR](#) (2013).

¹⁰⁵ UN, Committee against Torture, [Conclusions and Recommendations: Greece](#), CAT/C/GRC/CO/5-6, 27.6.2012, par. 23.

¹⁰⁶ *Idem*.

2013. However, it highlighted that female victims are not always ensured effective access to justice. While applauding the exemption of domestic violence victims from court fees required for lodging a complaint (Article 28 of Law 4055/2012), the GNCHR insisted that lack of awareness by women as to their rights and the means to exercise them still hinders their protection¹⁰⁷.

National Criminal Statistics

Statistics on domestic violence are collected by the police and are publicly available. They present all cases investigated by the police and include the number of domestic violence victims. The data are gender- and age-disaggregated for victims only. Although the gender of perpetrators is also provided, this is not linked to the victim's gender; hence, the number of female victims of male perpetrators cannot be deduced. For femicides, the gender (not age) of perpetrators is provided. This information is further disaggregated to show the relationship between victim and perpetrator. Information on femicides shows 17 women murdered in 2011 and a total of 70 women murdered since 2007 by a male in a domestic context. Of the 70 women murdered, 46 were killed by their intimate partner (26 by their husband, 6 by their former husband and 14 by another intimate partner)¹⁰⁸. 149 rapes and 85 rape attempts were reported in 2013 and 134 rapes and 64 rape attempts in 2014¹⁰⁹.

Guarantee of migrants' rights and measures to promote their social integration (par. 12 of the Committee's concluding observations)

Detention conditions of illegal migrants

The GNCHR has dealt many times with detention conditions of illegal migrants in Greece¹¹⁰. The GNCHR has expressed its concerns regarding, among others, overpopulation and prolonged detention periods. The GNCHR has also underlined that the decision on the detention of an immigrant should be made in exceptional cases and only as an *ultimum refugium*, i.e. after all possible alternative measures have been taken into consideration.

The GNCHR has called on the Greek authorities to take into account and comply with the continuous recommendations of the Committee for the Prevention of Torture (CPT)¹¹¹ and the other international bodies, but also with the GNCHR observations, in order to guarantee

¹⁰⁷ GNCHR, [Recommendations on the Bill on "Fair satisfaction due to the excess of the reasonable length of proceedings in civil and criminal courts and the Court of Auditors"](#) (2014).

¹⁰⁸ European Anti-Violence Network (March 2013): Information provided based on data received from the National Police. See also WAVE, [Country Report 2012](#), p. 115.

¹⁰⁹ [Hellenic Police statistics](#).

¹¹⁰ See GNCHR, [Detention Conditions in Police Stations and Detention Facilities for Aliens](#) (2010) ; [Findings of the in situ visit undertaken by the GNCHR and the Greek Ombudsman in detention facilities for aliens in the Evros Region](#) (2011) ; [Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights \(ICCPR\)](#) (2013).

¹¹¹ CoE, Committee for the Prevention of Torture, [Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 4 to 16 April 2013](#), 16 October 2014, CPT/Inf (2014)26, par. 57 – 92.

that detention conditions are in line with the right to human dignity and the right to health. Several ECtHR judgments¹¹² have found a violation of Article 3 of the European Convention on Human Rights (hereinafter ECHR) due to inadequate conditions of detention and systemic deficiencies in the asylum procedure. Among them is the judgment in *AL. K. v. Greece*, where the ECtHR called for the adoption of general measures aiming at putting an end to the inhuman and degrading treatment prevailing in certain detention centers near the borders¹¹³.

Operation “Xenios Zeus”

The GNCHR has on several occasions questioned the methods employed by the police in order to verify whether immigrants are legal or not.

In particular, it has agreed with the Human Rights Watch’s findings, according to which “between August 4, 2012 and February 22, 2013 – the most recent period for which government statistics are available – police had stopped almost 85,000 people of foreign origin on the streets of Athens and taken to a police station for examination of their identification papers and legal status”¹¹⁴. Police officers stated that the operation had been successful, since during the prosecution of 85,000 immigrants only 4,811 of them – 6% – were found to be illegal. However, the Human Rights Watch Report, titled *Unwelcome Guest: Greek Police Abuses of Migrants in Athens*, has questioned whether this is a result of indiscriminate identity check rather than effective policing for monitoring unlawful conduct¹¹⁵.

The GNCHR retains its doubts in relation to the extent and intensity of police “clean up” operations which display an element of racist bias¹¹⁶.

Residence permit for humanitarian reasons

The GNCHR had expressed its serious concerns about the introduction by the government of the amendment to Article 19 of the draft law on *Immigration and Social Inclusion Code* (which became Law 4251/2014), while emphasising that it violated fundamental human rights, in particular the presumption of innocence as well as the right of access to

¹¹² ECtHR, *E.A. v. Greece* [No 74308/10], 30.7.2015; *Mahammad and others v. Greece* [No 48352/12], 15.1.2015; *AL. K. v. Greece* [No 63542/11], 11.12.2014; *Mohamad v. Greece* [No 70586/11], 11.12.2014; *A.E. v. Greece* [No 46673/10], 27.11.2014; *M. D. v. Greece* [No 60622/11], 13.11.2014; *H.H. v. Greece* [No 63493/11], 9.10.2014; *F.H. v. Greece* [No 78456/11], 31.7.2014; *Tatishvili v. Greece* [No 26452/11], 31.7.2014; *Los Santos and de la Cruz v. Greece* [No 2134/12], 2161/12, 27.6.2014; *Tabesch v. Greece* [No 8256/07], 26.11.2009; *S.D. v. Greece* [No 53541/07], 11.6.2009; *Rahimi v. Greece* [No 8687/08], 1.04.2011; *M.S.S. v. Belgium and Greece* [No 30696/09], 21.01.2011. See also, CJEU Judgments: Joined Cases C-411/10 and C-493/10 N.S. [2011] ECR I-13905, where the CJEU agreed with the ECtHR regarding systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in Greece.

¹¹³ ECtHR, *AL. K. v. Greece* [No 63542/11], 11.12.2014.

¹¹⁴ Human Rights Watch, *Unwelcome Guests. Greek Police Abuses of Migrants in Athens*, June 2013, p. 1.

¹¹⁵ Between August 4, 2012 and February 6, 2013 police only arrested 59 people (both foreigners and nationals) for criminal offenses such as possession of illegal weapons and drugs. *Idem*, pp. 6, 15-16.

¹¹⁶ The fact that over 94 % of those taken to police stations to verify their legal status in Greece were found to be in the country lawfully suggests that the police were casting an extraordinarily wide net. *Idem*, p. 16.

justice¹¹⁷. Serious reservations in this matter had also been expressed by the CoE Commissioner for Human Rights, who underlined that such an amendment would allow deportation following the rejection of any migrant's complaint that they have been victim of racist or other unlawful violence by law enforcement officers¹¹⁸.

Article 19 of the above draft law provided for the “*granting and renewal of residence permits on humanitarian grounds*”, in compliance with requirements of the Greek Constitution and international and European law. Among the persons for whom a residence permit on humanitarian grounds was provided, were third country nationals who were victims of and material witnesses for felonies and other serious criminal or racist acts, where a criminal prosecution had started for these acts and until a final court decision was given. While the Code was discussed in Parliament, an amendment to Article 19 was introduced, which reads as follows: “*if a public official is falsely accused of any of the above crimes and the falsity of the accusation is presumed by a preliminary investigation, following which proceedings are withdrawn, the plaintiff shall be judged for the offences set out in the eleventh chapter of the Criminal Code [perjury, false accusation etc.] by the procedure applying to flagrant crimes. In such cases, deportation may be imposed as a secondary penalty; otherwise, the administrative deportation proceedings shall apply*”.

Due to strong reactions, Article 19 of the Immigration and Social Inclusion Code, as a whole, together with the above amendment, was withdrawn. The provisions related to the protection of victims and material witnesses were re-introduced, without the amendment violating human rights, by Joint Ministerial Decision (JMD) No 30651/2014 on the *Establishment of a category of residence permit on humanitarian grounds and of the type, procedure and specific conditions for its granting*¹¹⁹, and later on by Article 4(2) of the draft law of the Ministry of Interior on the *Incorporation into the Greek legal order of Directives 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers and other provisions to the Migration and Social inclusion Code (Law 4251/2014)*. It is, therefore, the new Article 19(A) which includes, almost intact, the provisions of Article 1 of the Joint Ministerial Decision (JMD) 30651/2014 with regard to *Defining category of residence permit on humanitarian grounds, as well as the type, the procedure and the specific requirements for its*

¹¹⁷ GNCHR, [Press Release on the withdrawal of Article 19 as a whole from the Bill "Immigration and Social Inclusion Code"](#) (2014).

¹¹⁸ CoE, Commissioner for Human Rights, [Public Statement](#).

¹¹⁹ OGG 1453/B/5.6.2014.

granting¹²⁰, regulating the regime for granting and renewing residents permits on humanitarian grounds¹²¹.

Moreover, Law 4332/2015 provided that victims or material witnesses of the racist acts penalised under the relevant legislation may be granted, under certain conditions, a residence permit on humanitarian grounds, until a judgment has been delivered or the case has been closed. This is in compliance with the repeated GNCHR recommendations initially for the provision to be adopted¹²², as indeed was the case with Joint Ministerial Decision (JMD) No 30651/2014; and subsequently for it to be integrated in the Immigration and Social Integration Code, for reasons of legal certainty¹²³. This is a particularly important development in view of the repeated condemnations of Greece by the ECtHR for degrading treatment of migrants by persons acting in an official capacity and inadequate investigation of related complaints.

The GNCHR has welcomed the legislative recognition of the protection of victims and material witnesses of racist crimes and emphasised that the codification of legislation not only ensures legal certainty, but further more grants the protection of victims and material witnesses the appropriate legal status.

The GNCHR takes this opportunity to stress once again the need for the State authorities to intensify their efforts in combating and prosecuting hate crimes. Unaddressed crimes motivated by racism, xenophobia and intolerance feed tensions that disrupt social cohesion and fuel insecurity among affected communities and the society as a whole¹²⁴.

In order to avoid discouraging victims to press charges, the RVRN has also underlined the need a) to refrain from prosecuting persons illegally entering the country and b) to prohibit the arrest and detention of the victims and witnesses who press charges, for the period between pressing the charges and the issuance of the special prosecutor's act¹²⁵.

¹²⁰ OGG 1453/ B /5.6.2014.

¹²¹ GNCHR, [*Observations on the draft law by the Ministry of Internal Affairs entitled "Transposition in the Greek legal order of Directives 2011/98/EC on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EC on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, provisions regarding citizenship issues and other provisions"*](#) (2014).

¹²² GNCHR, [*Press Release "Withdrawal of Article 19 from the draft Law "Immigration and Social Inclusion Code"*](#) (2014).

¹²³ GNCHR, [*Observations on the draft law by the Ministry of Internal Affairs entitled "Transposition in the Greek legal order of Directives 2011/98/EC on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EC on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, provisions regarding citizenship issues and other provisions"*](#) (2014).

¹²⁴ RVRN, [*2013 Annual Report*](#), p. 4.

¹²⁵ RVRN, [*Press Release on recent legislative amendment on combating racist crimes*](#) (2015).

The GNCHR's concern is also shared by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, who, in his Report on Greece, urges the Greek authorities to “[p]rovide for guarantees for those migrants who do not own residence permits in order for them to feel free to report crimes”¹²⁶.

Living and working conditions of migrant workers

In a press release on *Working and living conditions of alien workers: the State's responsibility for the grim exploitation of our fellow beings*¹²⁷, the GNCHR forcefully declared that it was appalled by the cowardly attack of the employer's henchmen on alien workers' life in Manolada in 2013. It noted, however, that these criminal acts did not come as a surprise. They constituted the culmination of systematic criminal behaviour of employers. Many of our fellow beings – usually victims of trafficking – work and reside in other regions of the country as well, under conditions of slavery and poverty, which are tolerated by the State. All State authorities are bound to ensure the unimpeded and effective exercise of all human rights. Not only should they not violate these rights by their own acts or omissions, but they should also take timely and effective measures in order to prevent and repress any infringement by individuals. Unfortunately, they do not always fulfill their obligations. Alien workers are thus victims of the grim exploitation by employers, but also of breaches of the competent authorities' duties, for many years¹²⁸. The GNCHR expressed the expectation that the punishment of the perpetrators in the Manolada case, would be prompt, exemplary and effective¹²⁹.

The GNCHR expresses its strong concern regarding the recent tragic incident of the accident of farm workers working in Thebes' onion fields, which revealed in the most illustrative manner the chronic problems of labour in agriculture in our Country and proved that “Manolada practices” have not yet been eliminated. In fact, the incident confirms once more the State's and employers' tolerance towards the phenomenon of the massive and intensive work of migrant workers without legal residence permit, since the official documentation of 25 out of the 30 alien workers involved in the aforementioned accident was no longer in force. Actually, according to the GSEE Labour Institute's estimations, currently approximately 500.000 immigrants live in our Country without residence permits in force¹³⁰. Furthermore,

¹²⁶ HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 75(c).

¹²⁷ GNCHR, *Press Release: Working and living conditions of alien workers: the State's responsibility for the grim exploitation of our fellow beings* (2013), [Annual Report 2012-2013](#), p. 84.

¹²⁸ *Ibid.*

¹²⁹ On 30.7.2014, the Mixed jury Appeals Court of Patras acquitted the farmowners, accused *inter alia* for human trafficking. In 29.10.2014, the Supreme Court confirmed the acquittals pronounced by the appeals court and rejected the petition to squash the appeals court's judgments. See HLHR, [Press Release on the Manolada case](#) (2014).

¹³⁰ GSEE, [Press Release: Uncontrolled delinquency at the agricultural sector. Slavery conditions and risks even for the lives of farm workers are invisible to the State](#), 16.6.2016.

the GNCHR deplores the inhuman working conditions and the systematic violation of minimum wage and overtime legislation, as well as health and safety conditions for farm workers and urges the competent State authorities to take all the necessary measures to prevent such phenomena from reoccurring.

Moreover, as far as employment in agriculture is concerned, the GNCHR has expressed its concerns about the non compliance with Directive 2009/52/EC on sanctions against employers of illegally staying third country nationals, in spite of its transposition by virtue of Law 4052/2012. In particular, regarding effective and adequate inspection in practice of workplaces in all sectors of activity, as underlined in the aforementioned press release of the GNCHR. Furthermore, it should be noted that Greece has not yet ratified the ILO, C129 - Labour Inspection (Agriculture) Convention, 1969 (No 129).

The GNCHR has stressed that the recession and the crisis must not lead to disorganisation and inertia of the control mechanisms and urges all State authorities to fulfil, without delay, their duties. Especially, it has called on:

- the control mechanisms, such as the Labour Inspectorate (which has acknowledged its responsibility since 2008 and visited the area at the time of the events), the Control Service of Non-Insured Labour of the Greek Social Insurance Institute (IKA) and the agents of the Agricultural Insurance Organisation (OGA), to conduct regular and unannounced inspections,
- the Government and Parliament to reinforce the personnel, the material, infrastructure and the periodic training of the Labour Inspectorate, without any limitations,
- the Trafficking Investigation Department of the Hellenic Police to be actively involved,
- every competent authority to ensure to the victims, as required by the Constitution, the international conventions and European Union law (especially the Charter of Fundamental Rights, Directive 2009/52 which was transposed by Law 4052/2012, as well as other relevant Directives), in particular: (a) lawful residence and possibility of employment in Greece, medical care and compensation for any material and moral damage which they may have suffered and (b) full and retroactive satisfaction of all their labour, social security and other rights and guarantee of these rights for the future without discrimination in comparison to Greek workers.

The GNCHR reiterates its statements that any labour protection policy will be ineffective, unless the Labour Inspectorate is adequately staffed and appropriately strengthened¹³¹. In this regard, the GNCHR welcomes the ILO's technical assistance to the Greek aiming at curbing unemployment through the strengthening of active labour market policies and the social

¹³¹ GNCHR, [*The GNCHR Recommendation and decisions of international bodies on the conformity of austerity measures to international human rights standards*](#) (2013).

economy in Greece and enhancing the fight against undeclared work and informal economy¹³².

Migrants' access to health care

The GNCHR, given the serious dimensions that the refugee/migration issue has taken in Greece, reiterates the need for immediate coordination for the best possible management of the refugee/migration crisis, which is now about to get out of control, with grave and imminent dangers for both the persons involved as well as the receiving countries¹³³. The GNCHR once again reminds all concerned that fundamental human rights of migrants and refugees are at risk. There is an urgent need, now more than ever, for the EU, its member States as well as the United Nations, to consider their share of responsibility; to undertake the burden placed upon them in such a critical juncture in human history and work together for the best possible management of the ever increasing migration flows, while ensuring respect for human life and dignity. The GNCHR shares the concerns of the United Nations High Commissioner for Refugees, the European Council for Refugees and Exiles (ECRE) as well as other organisations concerning the widespread European measures aiming at the detaining of asylum seekers and refugees in Greece, as well as in countries neighbouring the EU such as Turkey.

For all the above reasons, the GNCHR has repeatedly called upon the Greek State, the UN, the EU institutions, all EU Member States and all the international organisations involved, in a spirit of responsibility, solidarity and sincere cooperation, to take all appropriate measures with a view to ensuring:

- the protection of human life, health and safety of all people living in Greece, and the effective management, in conditions of dignity, of the migratory flows towards the EU,
- the direct financing and effective functioning of the necessary structures and procedures, particularly through the creation of new and decent reception and hospitality centers in Greece,
- the full implementation in Greece of the EU legislation on alternate to detention measures,

¹³² ILO, [ILO to support Greece in boosting labour market policies and the social economy](#), 26.11.2015; [Supporting the transition from informal to formal economy and reducing undeclared work in Greece: identifying drivers and ensuring effective compliance](#), 21.9.2015, GRG/15/01/EUR. See also Observation (CEACR) - adopted 2015, published 105th ILC session (2016), [Labour Inspection Convention, 1947 \(No. 81\) - Greece](#) (Ratification: 1955); Observation (CEACR) - adopted 2013, published 103rd ILC session (2014), [Labour Inspection Convention, 1947 \(No. 81\) - Greece](#) (Ratification: 1955); Observation (CEACR) - adopted 2012, published 102nd ILC session (2013), [Labour Inspection Convention, 1947 \(No. 81\) - Greece](#) (Ratification: 1955).

¹³³ See the GNCHR, [Statement regarding the serious dimensions that the refugee/migration problem has taken in Greece](#) (2016), as well as the [GNCHR Release on The European Union has to urgently assume its responsibilities and redesign its asylum policy](#) (2015).

- the integration and full application in Greece, the soonest possible, of Directive 2013/33/EU of the European Parliament and of the Council laying down standards for the reception of applicants for international protection and
- the organisation and continuing support of a permanent and effective humanitarian support mechanism in the first reception countries, with particular attention to vulnerable groups.

Furthermore, as far as access to social rights in general is concerned, Law 4251/2014 on *Immigration and Social Integration Code and other provisions*¹³⁴ has repealed and replaced, in essence, Law 3386/2005 on *Entrance, residence and social integration of third-country nationals in Greece*¹³⁵. Article 26 of Law 4251/2014, which essentially reiterates Article 84 of Law 3386/2005, states in its first paragraph that Greek public bodies and institutions are not allowed to provide their services to undocumented migrants. The second paragraph determines the exceptions to that prohibition. Most importantly, hospitals and clinics are allowed to provide their services to undocumented migrants in cases of emergency and labour as well as to minors. Furthermore, according to Paragraph 4 of the same article, the employees of the aforementioned bodies and institutions who violate the provisions described above are liable to disciplinary and criminal sanctions for breach of their duties.

Such provisions as those of Paragraphs 1 and 4 of Article 26 of Law 4251/2014, which prohibit and criminally punish assistance to undocumented migrants, in cases other than emergencies, labour and hospitalisation of minors, lead to their inhuman and degrading treatment and violate their right to social assistance and healthcare, whilst endangering public health. The fact that those people are practically considered as “non-existent” by all public services, including health care institutions, constitutes a serious gap in the country’s public health system. This is why the GNCHR has repeatedly requested the repeal of these provisions.

Instead, the Ministry of Health has issued, in May 2012, a Circular¹³⁶ which recalled that access to health care and hospital system is not available to undocumented third-country nationals, with exceptions for specific categories of patients, such as minors, recognised refugees, asylum seekers, third-country nationals under protection on humanitarian grounds and beneficiaries of subsidiary protection, as well as for emergency cases. In addition, despite the repeal of Law 3386/2005 and its substitution with Law 4251/2014 in April 2014, the provisions on the prohibition of, and criminal punishment for, assistance towards undocumented migrants have remained, as described above, essentially unchanged. Therefore,

¹³⁴ OGG 80/A/1.4.2014.

¹³⁵ OGG 212/A/23.8.2005.

¹³⁶ Ministry of Health, Circular No Y4a/ouk. 45610/2.5.2012 on Clarifications regarding the access of third-country nationals and uninsured Greek citizens to the country’s health care and hospital system.

due to their obligation to apply these provisions, doctors have no option but to violate the duties imposed by the Constitution and the Hippocratic Oath.

More recently, in February 2016, Law 4368/2016 on *Measures for the acceleration in the government's work and other provisions*¹³⁷ was adopted. Article 33(1) of this Law provides for the right of uninsured people and socially vulnerable groups to have free access to public health care and hospitalisation. As in the previously mentioned provisions, this right is not granted to undocumented migrants, with the exception of certain categories of persons, which are elaborated in the second paragraph of the same article. Such persons are *inter alia* minors, pregnant women, prisoners and detainees, persons with severe disabilities, chronically ill and – under certain conditions – victims of trafficking and prostitution, on the one hand, and recognised refugees, beneficiaries of subsidiary protection, stateless persons, persons under protection on humanitarian or exceptional grounds and asylum seekers (including the family members of these persons), on the other. Accordingly, this article seems to further the provisions of previously adopted pieces of legislation, by covering a broader group of third-country nationals who, regardless of their legal status in Greece, can have free access to health care. However, it disregards – as do the previously mentioned provisions – the large numbers of undocumented migrants who reside in Greece and do not fall into any of the aforementioned categories, thus perpetuating their precarious state of “non-existence”.

Considering that Article 33(5) of Law 4368/2016 provides for the adoption of a Common Ministerial Act on the details of application of the said article, the Ministry of Labour, Social Security and Social Solidarity issued, in March 2016, a Circular¹³⁸ according to which, until the said Common Ministerial Act is adopted, the health care booklets for uninsured persons will be issued according to the procedure described in a Common Ministerial Act of 2006 which determines the conditions and criteria for the health care and hospitalisation of uninsured and financially weak citizens¹³⁹.

As far as infectious diseases are concerned, the Act of the Minister of Health concerning the limitation of the spread of infectious diseases, adopted in April 2012¹⁴⁰, was repealed in April 2015¹⁴¹. This Act provided for the medical control and examination of *inter alia* undocumented migrants and asylum seekers for infectious diseases, which are characterised as medical urgency according to the criteria of the WHO, ECDC and CDC. Doctors or other health care professionals who became aware of any breach of the provisions concerning the control process defined by the said Act were under the obligation to inform immediately the

¹³⁷ OGG 21/A/21.2.2016.

¹³⁸ Ministry of Labour, Social Security and Social Solidarity, Circular No Δ23/οικ.11753/928/11.3.2016 on Instructions regarding the procedure for the issue of health care booklets for uninsured persons.

¹³⁹ Common Ministerial Act No 139491/2006 (OGG 1747/B/30.11.2006).

¹⁴⁰ Ministry of Health, Act No G.Y. 39a/2.4.2012 on the Regulations for containing the spread of infectious diseases (OGG 1002/B/2.4.2012).

¹⁴¹ Ministry of Health, Act No Γ1/Γ.Π.οικ.24834/2015 (OGG 627/B/17.4.2015).

competent police or judicial authorities. Thus, undocumented migrants had to be reported in accordance with this Act. This Act had been heavily criticised due to the fact that it often led to the stigmatisation of socially vulnerable groups. It is noteworthy that the Act had been repealed for the first time in April 2013¹⁴², but was brought back into force in July 2013¹⁴³.

Protection of refugees and asylum seekers – conditions of detention for foreigners awaiting expulsion (par. 12 of the Committee’s concluding observations)

Unprecedented refugee emergency

Greece faces an unprecedented refugee emergency with record arrival numbers: between the 1st January 2015 and 19th June 2016 1.016.802 people arrived to Greece. In particular, as far as the first half of 2016 is concerned, out of the 222.151 arrivals to Europe, Greece has been the country of first arrival for 159.439 of them¹⁴⁴. The estimated total number of migrants and refugees currently present in Greece is 57.042 (48.593 on the mainland and 8.449 on the islands)¹⁴⁵. In fact, since the implementation of the EU-Turkey agreement, on the 10th of March, the number of migrants and refugees stranded in Greece increased by 33%¹⁴⁶.

Drastic action in the past months has helped to manage the influx but the sheer numbers involved exceeds the capacity of the system to deal with them. For this reason, the GNCHR has called the European Union to urgently assume its responsibilities and redesign its asylum policy, so that, along with the UN, can act in a consistent and effective manner, in order to show the human face of the EU and so that the values and principles which form the foundation of European civilisation are not simply words on paper¹⁴⁷. The GNCHR also attaches itself to the Open Letter addressed by Professor Alan Miller, Ex-President of the ENNHRI to the European Council on 10 September 2015 on the occasion of the Extraordinary Council of Interior Ministers on 14 September 2015¹⁴⁸.

The GNCHR had also expressed its deep concern regarding the recurring sea tragedies and the loss of human lives in the Mediterranean¹⁴⁹ and has contributed to the drafting of the ENNHRI Statement on the continuing tragedies in the Mediterranean Sea, a human rights approach¹⁵⁰.

¹⁴² Ministry of Health, Act No Γ.Π.οικ.39728/2013 (OGG 1085/B/30.4.2013).

¹⁴³ Ministry of Health, Act No οικ.62752/2013 (OGG 1652/B/4.7.2013).

¹⁴⁴ Source: [IOM and National Authorities](#).

¹⁴⁵ UNHCR, Regional Bureau Europe, [Weekly Update](#), 15 June 2016.

¹⁴⁶ Source: IOM, [Mixed Migration Flows in the Mediterranean And Beyond, Compilation of Available Data and Information, reporting period 2 June – 15 June 2016](#).

¹⁴⁷ GNCHR, [Statement regarding the serious dimensions that the refugee/migration problem has taken in Greece](#) (2016).

¹⁴⁸ ENNHRI, [An Open Letter from the Chair of ENNHRI to all its Members within the European Union](#) (2015) Brussels.

¹⁴⁹ GNCHR, [Press Release Regarding the recurring sea tragedies in the Mediterranean](#) (2015).

¹⁵⁰ ENNHRI, [Statement on the continuing tragedies in the Mediterranean Sea, a human rights approach. People before borders - Protection before border control](#) (2015).

Changes in the Asylum System

The GNCHR attaches particular importance to the institution of international protection and has issued a series of relevant Decisions and Recommendations. To this effect, it has also demonstrated in practice its active support to the new Asylum Service. Even prior to the summer 2015 influx, the GNCHR welcomed the establishment of the new autonomous Asylum Service and the Appeals Authority and has actively participated in the procedures laid down by law, thus expressing its trust, particularly in the work of the Appeals Authority¹⁵¹.

However, the new Asylum Service remains understaffed¹⁵². Meanwhile, although Article 1(3) of Law 3907/2011 provides for 13 Regional Asylum Offices to be set up in Attica, Thessaloniki, Alexandroupolis, Orestiada, Ioannina, Volos, Patras, Heraklion, Lesvos, Chios, Samos, Leros and Rhodes, only 7 are currently operational¹⁵³ along with 5 Asylum Units¹⁵⁴. Furthermore, the Regional Asylum Office of Attica, located in Athens, continues to receive the vast majority of asylum applications, whilst it does not have the capacity to register all applications in a timely manner. Persons, therefore, in need of international protection who do not manage to lodge their application are not protected from arrest, detention and deportation. Among applicants are vulnerable people, such as unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, as well as victims of torture, rape or other serious forms of psychological, physical or sexual violence. According to the Asylum Service registration of such cases is prioritised. However, the Greek Council on Refugees has reported a series of vulnerable cases who had to present themselves repeatedly before they finally had their asylum claim registered¹⁵⁵.

Such deficiencies were further exacerbated in crisis conditions, as a considerable number of those who want to seek asylum but are unable to register in a timely manner may be at risk of

¹⁵¹ With regard to this procedure, in fact, the GNCHR issued a Public Statement expressing its deep concern about the most serious and multiple consequences of the obvious legality issues arising from the procedure regarding the establishment of the Appeals Committees under Law 3907/2011, as amended. Such acts seriously undermined the GNCHR's trust in the new Appeals Committees. See GNCHR, [Public Statement on the procedure regarding the establishment of the Appeals Committees under Law 3907/2011](#) (2014).

¹⁵² See Aida, Asylum Information Database, [Country Report: Greece](#), November 2015, pp. 27-28.

¹⁵³ The RAO of Attica started operations on 7 June 2013 and from January to August 2015 registered 5,215 applications, the RAO of Southern Evros started operations on 29 July 2013 and from January to August 2015 registered 1,017 applications, the RAO of Northern Evros started operations on 11 July 2013 and January to August 2015 registered 351 applications by persons in administrative detention, the RAO of Lesvos started operations on 15 October 2013 and from January to August 2015 registered 217 applications, the RAO of Rhodes started operations on 2 January 2014 and from January to August 2015 registered 591 applications, the RAO of Thessaloniki started operations on 8 July 2015 and from January to August 2015 registered 486 applications and the RAO of Samos began operations on 14 January 2016. See Aida, Asylum Information Database, [Country Report: Greece](#), November 2015, p. 24. For more information see Asylum Service, available at: http://asylo.gov.gr/en/?page_id=49.

¹⁵⁴ The AU of Xanthi started operations on 20 November 2014, the AU of Amygdaleza started operations on 11 September 2013, the AU of Patras started operations on 1 June 2014, the AU of Chios started operations on 29 February 2016 and the AU of Leros started operations on 11 March 2016. See Asylum Service, available at: http://asylo.gov.gr/en/?page_id=49.

¹⁵⁵ Greek Council on Refugees, *Registration of asylum claims – Access to the procedure for vulnerable groups*, 8 January 2015, Doc. No 3/08.01.2015, where 4 cases of single-parent families are reported.

removal and, potentially, refoulement¹⁵⁶. The GNCHR called on the Greek authorities to investigate claims included in reports by international and European bodies, according to which operations of repulsion and refoulement of third country nationals constitute standard policy for addressing the immigration problem¹⁵⁷.

Furthermore, the GNCHR has expressed its deep concern regarding the content of the 18th of March Agreement between EU and Turkey and particularly the manner in which the latter will be implemented¹⁵⁸, due to the outright reversal of values at the European level in the field of human right¹⁵⁹.

In particular, the GNCHR evokes for the umpteenth time fundamental international and European human rights instruments¹⁶⁰ and recalls that the right of access to asylum and the prohibition of refoulement constitute fundamental pillars of the Refugee Law and the Universal Principles of human rights' protection upon which the international and European communities have been built. Moreover, there are serious doubts about the way in which the Agreement will be implemented in the Greek legal order. In particular, the GNCHR expresses the fear that the Agreement creates a legal *fait accompli* and Greece will be held responsible for any implementation problems that might arise, while there is also a pending case before the Grand Chamber of the ECtHR regarding the interpretation of the level of protection provided under Article 3 of the ECHR¹⁶¹.

For these reasons, the GNCHR calls upon the Greek State, the UN, the EU institutions, all EU Member States and all the international organisations involved, in a spirit of responsibility, solidarity and sincere cooperation, to take all appropriate measures with a view to ensuring:

- the observance of the principle of non-refoulement;
- the unhindered, timely and effective access of asylum seekers to the international protection processes;
- the unhindered and immediately effective operation of both the first instance asylum process and the second instance process before the Appeals Committees;

¹⁵⁶ UNHCR, [UNHCR observations on the current asylum system in Greece](#) (2014).

¹⁵⁷ 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).

¹⁵⁸ GNCHR, [Report on the EU-Turkey Agreement of the 18th of March 2016 regarding the refugee/migration issue in Europe in light of Greek Law No. 4375/2016](#) (2016).

¹⁵⁹ CoE, Parliamentary Assembly, [The situation of refugees and migrants under the EU-Turkey Agreement of 18 March 2016](#), Committee on Migration, Refugees and Displaced Persons (Rapporteur: Ms Tineke Strik), Doc. 14028/19.4.2016.

¹⁶⁰ In particular the EU Charter of Fundamental Rights and most notably Article 18 thereof; the 1951 Geneva Convention; the Protocol Relating to the Status of Refugees of 31 January 1967; Resolution 1821 (2011) of the Parliamentary Assembly of the Council of Europe on the interception and rescue at sea of asylum seekers, refugees and irregular migrants.

¹⁶¹ ECtHR, [Khlaifia and others v. Italy](#) [No. 16483/12], 1.2.2016.

- the direct financing and effective functioning of the necessary structures and procedures, particularly through the creation of new and decent reception and hospitality centers in Greece with particular attention to vulnerable groups and unaccompanied minors;
- the full implementation in Greece of the EU legislation on alternate to detention measures;
- the integration and full application in Greece, the soonest possible, of the Directive 2013/33/EU of the European Parliament and of the Council laying down standards for the reception of applicants for international protection;
- the immediate modification of the EU migration policy and particularly of the Dublin system, which now results in human stockpiling in particular countries and has proven inconsistent with the needs of reality as well as incompatible with the principles of respect for human rights, solidarity and fair burden-sharing between Member States;
- the extension and mandatory implementation of the relocation of refugees and asylum seekers from Greece to other EU Member States, in the context of a more equitable numerical distribution among the EU Member States, as dictated by the EU Charter of Fundamental rights and the EU Treaties¹⁶².

Furthermore, the GNCHR calls upon the Greek authorities to be particularly attentive to the implementation of the 18th of March Agreement between EU and Turkey, in order to make sure that the latter will not infringe fundamental rights of refugees, migrants and asylum seekers –as these are guaranteed under European and international law and interpreted by the international and European judicial bodies.

Lastly, the GNCHR calls upon the EU, which is after all the party to the Agreement with Turkey, not to pass the legal and moral responsibility of the refugee and migration crisis on to Greece. The EU must assume her own share of liability and responsibility and take all necessary measures so that the Agreement with Turkey will not be to the detriment of the rights of refugees and migrants.

Re-design of the EU asylum system and the Dublin III Regulation

The GNCHR has reiterated that continuing insecurity in countries of origin, which results in the increase of the flows, impose the need for revision of EU policy. In this respect, it should be taken into consideration that the respect of human life and dignity as well as the respect of the non-refoulement principle for persons in need or potentially in need of protection is a binding obligation under international and European law, not merely for Greece but also for every European State. In this context, the GNCHR has highlighted the need for more solidarity and responsibility-sharing among EU Member States. In view of the growing migration flow, it is not merely by providing financial assistance to Greece and other border

¹⁶² GNCHR, [*Report on the EU-Turkey Agreement of the 18th of March 2016 regarding the refugee/migration issue in Europe in light of Greek Law No. 4375/2016*](#) (2016).

countries that the EU will fulfil its primary duty to protect human rights. The EU asylum system must be re-designed and focus on human dignity and rights – not merely on ways to stockpile human beings in some Member States. The ENNHRI Statement¹⁶³, of which GNCHR is a member, should also be underlined. ENNHRI calls on the EU institutions and Member States to take urgent action regarding the Syrian refugee crisis, in particular for the immediate application of the EU Directive on Temporary Protection and coordinated action for enhanced sea rescue and individual evaluation of refugees.

In its oral statement at the presentation of the Report of the UN Special Rapporteur on Human Rights of Migrants, Mr François Crépeau, the GNCHR thanked the Special Rapporteur for recalling that “Greece is the custodian of an external EU border [...and requesting] a European-wide approach to migrants’ human rights”¹⁶⁴. Fully concurring with his Conclusions and Recommendations, the GNCHR particularly thanked him for recommending its reinforcement through the provision of competent staff and resources. The GNCHR also stated that “it is very glad that the Report includes recommendations to the EU and stresses the need for more solidarity and responsibility-sharing among EU Member States. The recommended revision of the Dublin Regulation is crucial. In view of the growing migration flow, it is not merely by providing financial assistance to Greece that the EU will fulfil its primary duty to protect human rights. The EU asylum system must be re-designed and must focus on human dignity and rights – not merely on ways to stockpile human beings in some Member States”¹⁶⁵.

Sadly, the Dublin III Regulation¹⁶⁶ does not effectively realise the fundamental EU principles of solidarity, human dignity and fair sharing of responsibility proclaimed by the Treaties and the EU Charter of Fundamental Rights (Articles 1 EU CFR, 2 and 3(3) TEU, 80 TFEU–asylum policies). Moreover, most measures against migration flows amount to automatic refoulement. Consequently, the deep human rights concerns in Greater Europe and the UN remain.

The GNCHR included similar observations in its oral statement at the presentation of the Report of the UN Working Group on Arbitrary Detention¹⁶⁷ and in its submissions to the Regional Representative for Europe Office of the High Commissioner for Human Rights, Mr

¹⁶³ ENNHRI, [Statement of the European Network of National Human Rights Institutions](#) (2014).

¹⁶⁴ GNCHR, *Oral Statement of the GNCHR delivered by the Geneva Representative of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), Mr Bruce Adamson, during the 23d session of the United Nations Human Rights Council on the report of the Special Rapporteur on the Human Rights of Migrants, Mr François Crépeau, following his visit to Greece* (2012), [Annual Report 2012-2013](#), pp. 99-100.

¹⁶⁵ *Ibidem*.

¹⁶⁶ Regulation (EU) No 604/2013 (criteria and mechanisms for determining the Member State responsible for examining an application for international protection (recast)), OJ L 180/31, 29.6.2013.

¹⁶⁷ GNCHR, [Oral Statement on the Report of the UN Working Group on Arbitrary Detention during the 27th session of the United Nations Human Rights Council](#) (2014).

Jan Jařab¹⁶⁸ and to the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere¹⁶⁹.

Unaccompanied minors (UAM)

As previously underlined by the GNCHR¹⁷⁰, the UN Committee on the Rights of the Child (CRC Committee) has expressed its concern that the public prosecutors either are unable to assign the guardianship to a responsible person or agency, or transfer the guardianship to directors of the reception centres for minors, and that the duties of the temporary guardian are vague and unclear¹⁷¹. Moreover, the CRC Committee has called upon the State party (a) to introduce appropriate legislative amendments to the national legislation, to enable the establishment of a functional, substantial and effective guardianship system for unaccompanied and separated minors, (b) to ensure that unaccompanied asylum seeking children are promptly appointed a legal representative in order to effectively gain access to the asylum procedure, as well as to assistance and protection, including access to free interpretation and (c) to create a national best-interests determination procedure that is complemented by procedural safeguards, in order to guide public and private institutions and administrative authorities in their actions affecting third-country national children and increase the capacity of reception facilities¹⁷².

The ECtHR has already found a violation of Article 5(1) ECHR, as the Greek authorities had not taken appropriate measures in order to place the minor in a special accommodation centre¹⁷³. The case concerned the detention of an unaccompanied minor for a two months period in Filakio detention centre.

The Ombudsman¹⁷⁴ has also highlighted the absence of a reliable system for the age assessment procedure for minors¹⁷⁵. According to the Ombudsman, the procedure prescribed by the relevant Ministerial Decision, concerning age assessment procedures for UAM under First Reception Services should be applied to all UAM. An age assessment procedure based on a holistic approach – and not merely on medical examinations or other physical/somatometric parameters – should be adopted. In this context, the GNCHR observes

¹⁶⁸ GNCHR, *Submission to Mr Jan Jarab, Regional Representative for Europe Office of the United Nations High Commissioner for Human Rights* (2015).

¹⁶⁹ GNCHR, *Submission to Mr Mutuma Ruteere, UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance* (2015).

¹⁷⁰ 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). See also, GNCHR, *Recommendations regarding Unaccompanied Minors* (2007), *Annual Report 2007*, pp. 39 et seq.

¹⁷¹ UN, Committee on the Rights of the Child, [Concluding Observations: Greece](#), CRC/C/GRC/CO/2-3, 13.8.2012, par. 62.

¹⁷² *Idem*, par. 63, 65.

¹⁷³ ECtHR, *Housein v. Greece* [No 71825/11], 24.10.2013.

¹⁷⁴ Report of the Greek Ombudsman, [The issue of age assessment for unaccompanied minors](#), 6.10.2014.

¹⁷⁵ Apart from the procedure provided to UAM subject to First Reception Services, see Ministerial Decision 92490/4.10.2013 (OGG 2745/B/29.10.2013).

that in case of a dispute concerning the exact age of the minor, the best interest of the child should be respected.

The GNCHR acknowledges that the legislation regarding the guardianship of minors, following the amendment of Presidential Decree 220/2007, was improved and now includes all unaccompanied minors irrespective of prior application for asylum. However, the GNCHR shares the UNHCR doubts as to the practical application of this provision, as, according to the findings of the new Asylum Service, more often than not no final appointment of a guardian is made, and neither the interim guardian nor any legal representative of the minor appear in Court or during the minor's interview.

For all the above reasons, the GNCHR reiterates its Recommendations¹⁷⁶:

- Police detention of alien minors for illegal entry in the country should be abolished and replaced by alternative measures of hospitality and/or protective custody in suitable facilities as long as their identification, the inquiry into the conditions and grounds of their entry, the search for their family and the determination of their legal status last.
- Deportation should be replaced by repatriation, when this is feasible and ensures the minor's rights and social re-integration in their country of origin.
- An advisor or a custodian should be appointed to every minor, especially in the field of child welfare, the minor's best interests prevailing.
- Unaccompanied minors/ asylum seekers constitute a particularly vulnerable group. Therefore, specialised personnel accompanied by an interpreter should be provided free of charge by the State in order to guarantee access to psychological medical and legal assistance.
- In case the minors are victims of abuse, torture, inhuman or degrading treatment or armed conflict, they should have free access to healthcare and housing in accommodation centers under the auspices of the Services of the Ministry of Health. They should also be entitled to education made accessible through courses of Greek language.

Detention conditions

From the moment the GNCHR was established, it has dealt many times with detention conditions of asylum seekers and illegal immigrants in Greece. The GNCHR acknowledges the strong migration pressure on the country. However, calls on the Greek authorities to take into account, and comply with, the continuous recommendations of the CPT¹⁷⁷ and the other

¹⁷⁶ 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). See also, GNCHR, *Recommendations regarding Unaccompanied Minors* (2007), [*Annual Report 2007*](#), pp. 39 et seq.

¹⁷⁷ CoE, Committee for the Prevention of Torture, [*Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 4 to 16 April 2013*](#), 16 October 2014, CPT/Inf (2014)26, par. 57 – 92.

international bodies, but also with the GNCHR Observations, in order to guarantee that detention conditions are in line with the right to human dignity and the right to health.

For this reason, the GNCHR recalls its Observations issued after an inspection of alien detention centres made together with the Ombudsman in the Department of Evros and Rodopi, from 18 to 20 March 2011¹⁷⁸. This inspection demonstrated that in recent years the situation in Evros amounts to a humanitarian crisis. The GNCHR acknowledges that there has been a rapid reduction in the migration flow through the land borders between Greece and Turkey since 2012. However, it emphasises that the pressure has been shifted towards the east sea borders between Greece and Turkey, where there has been a rise in the number of arrivals: between 1st January 2016 and 19th June 2016 the estimated number of arrivals by land is 1.638, while by sea is – by far most significant – 157.801¹⁷⁹.

More specifically, the main problems found during the inspection in the detention centres or derived from information provided by the competent bodies can be summarised in the following:

- Administrative deportation and detention of illegal immigrants still appears to be applied.
- Overpopulation in detention centres often leads to the detention of criminal detainees in the same centres as illegal immigrants.
- The GNCHR emphasises that the issue of asylum seekers' detention merits special attention. The GNCHR stresses that illegal entry and stay cannot be considered *per se* a ground for detention. Detention of an immigrant is an extraordinary measure which should be applied in exceptional cases and only as an *ultimum refugium* after all possible alternative measures have been examined. Anyone deprived of liberty due to detention must be duly informed about the duration of his detention, which cannot exceed the reasonable time that is necessary in order to achieve the aim pursued.
- Although the GNCHR acknowledges that the Greek authorities are making serious efforts to tackle illegal immigration, it must note that there is a great number of judgments and decisions delivered by international bodies finding Greece in violation of the right to human dignity of detainees as guaranteed by Articles 10 of the International Covenant on Civil and Political Rights (hereinafter ICCPR) and 3 of the European Convention on Human Rights¹⁸⁰. Furthermore, the GNCHR notes that there is no effective remedy in the Greek legal

¹⁷⁸ GNCHR, [*Findings of the in situ visit undertaken by the GNCHR and the Greek Ombudsman in detention facilities for aliens in the Evros Region*](#) (2011).

¹⁷⁹ Source: [IOM and National Authorities](#).

¹⁸⁰ See *inter alia* ECtHR, *Horshill v. Greece* [No 70427/11], 1.8.2013; *Chkhartishvili v. Greece* [No 22910/10], 22.5.2013; *Ahmade v. Greece* [No 50520/09], 25.9.2012; *Mahmundi v. Greece* [No 14902/10], 31.7.2012; *M.S.S v. Belgium and Greece* [No 30696/09], 21.6.2011; *A.A. v. Greece* [No 12186/08], 22.10.2010; *S.D. v. Greece* [No 53541/07], 11.6.2009; *Dougoz v. Greece* [No 40907/98], 6.3.2001.

order for challenging detention conditions. In the same vein¹⁸¹, a Greek court acquitted migrants who had escaped a detention centre, holding that their escape was justified by the serious and otherwise unavoidable danger to their health¹⁸².

At this point, the GNCHR would like to highlight that according to International Human Rights Law, the right to health belongs to every person, without discrimination, and is not a privilege of the nationals of a country. It is a fundamental and universal right. It consists of the right to quality of medical care, food, physical exercise and social activities. Inevitably, inadequate infrastructure, overpopulation and prolonged detention lead to serious repercussions on the health and the quality of the detainees' life. Several ECtHR judgments¹⁸³ have found a violation of Article 3 ECHR due to inadequate conditions of detention and systemic deficiencies in the asylum procedure. The repeated convictions of the Greek authorities by the ECtHR for detention conditions and failure to provide access to the asylum procedure are also mentioned by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, in his Report on Greece¹⁸⁴. The UN Special Rapporteur focused on the "particularly problematic conditions" under which extensive use of administrative detention is being applied to migrants and asylum seekers – including those from vulnerable groups, such as unaccompanied minors not properly registered as adults upon arrest and victims of torture – without individual assessments¹⁸⁵.

The GNCHR Recommendations are cited in a large number of ECtHR judgments regarding detention conditions in Greece. Both the applicants and the ECtHR in the merits invoke the GNCHR's reports. It is a common fact, moreover, that the GNCHR's reports are presented thoroughly in the relevant domestic law part of the ECtHR's judgments¹⁸⁶.

¹⁸¹ See *inter alia* ECtHR, *Ahmade v. Greece* [No 50520/09], 25.9.2012; *S.D. v. Greece* [No 53541/07], 11.6.2009; *Rahimi v. Greece* [No 8687/08], 5.4.2011; *A.A. v. Greece* [No 12186/08], 22.10.2010.

¹⁸² Single-member Court of First Instance of Igoumenitsa No 682/2012, 2.10.2012.

¹⁸³ ECtHR, *E.A. v. Greece* [No 74308/10], 30 July 2015 ; *Mahammad and others v. Greece* [No 48352/12], 15 January 2015; *Al. K. v. Greece* [No 63542/11], 11 December 2014; *Mohamad v. Greece* [No 70586/11], 11 December 2014; *A.E. v. Greece* [No 46673/10], 27 November 2014; *MD v. Greece* [No 60622/11], 13 November 2014; *H.H. v. Greece* [No 63493/11], 9 October 2014; *F.H. v. Greece* [No 78456/11], 31 July 2014; *Tatishvili v. Greece* [No 26452/11], 31 July 2014; *Los Santos and de la Cruz v. Greece* [No 2134/12], 21.6.12, 27 June 2014; see also *Tabesch v. Greece* [No 8256/07], 26.11.2009; *S.D. v. Greece* [No 53541/07], 11.6.2009; *Rahimi v. Greece* [No 8687/08], 1.04.2011; *M.S.S. v. Belgium and Greece* [No 30696/09], 21.01.2011. See also, CJEU Judgments: Joined Cases C-411/10 and C-493/10 N.S. [2011] ECR I-13905, where the CJEU agreed with the ECtHR regarding systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in Greece.

¹⁸⁴ HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 59.

¹⁸⁵ *Idem*, par. 58.

¹⁸⁶ See GNCHR, [The GNCHR in the case-law of the ECtHR](#).

Victims of trafficking in human beings

With regard to human trafficking, the GNCHR welcomes the ratification of the UN Convention against Transnational Organised Crime and the Protocols thereto, after their sanctioning by Law 3875/2010, which improved witness protection, an issue previously highlighted by the GNCHR.

Moreover, Greece has already signed, since 2005, the CoE Convention on Action against Trafficking in Human Beings and issued a law sanctioning it¹⁸⁷. Furthermore, it has transposed Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (Law 4198/2013).

Of course, any improvement to the legal framework is not in itself sufficient to effectively combat human trafficking. There is further need for the effective implementation of the legal provisions. The GNCHR has expressed its concern for the lack, on the one hand, of an effective protection framework for trafficking victims – mostly women and children¹⁸⁸ – and of protection mechanisms for witnesses, on the other. Furthermore, data should be recorded in order to demonstrate the effective prevention of trafficking and the protection of its victims, the prosecution of perpetrators and the assistance to victims¹⁸⁹.

The GNCHR welcomes the protection measures mentioned in the Report concerning trafficking victims. However, it highlights the need for a multilingual helpline which will support victims and for a protection scheme that will promote social integration.

The GNCHR has also noted the lack of special measures for combating trafficking of Roma adults and children which presents particularities and should be handled on a specific basis. In fact, the GNCHR, sharing the concern of the CPT¹⁹⁰, stresses the need to investigate the disappearance case of 502 Roma children from an Aghia Varvara establishment.

Finally, keeping in mind the spirit of the concluding observations made by the CEDAW Committee¹⁹¹, the GNCHR highlights the need to record and continuously update any data relevant to the effective implementation of the National Action Plan against human trafficking for 2010-2012.

¹⁸⁷ Sanctioned by Law 4216/2013 (OGG 266/A/10.12.2013).

¹⁸⁸ See this way ECtHR, *Rantsev v. Cyprus and Russia* [No 25965/04], 7.1.2010.

¹⁸⁹ GNCHR, Observations on the 7th Greek Report (2005-2008) to the Committee on the Elimination of the Discrimination Against Women (CEDAW), *Annual Report 2010*, p. 64 et seq.; [Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights \(ICCPR\)](#) (2013).

¹⁹⁰ UN, Committee against Torture, [Conclusions and Recommendations: Greece](#), CAT/C/GRC/CO/5-6, 27.6.2012, par. 27.

¹⁹¹ UN, Committee on the Elimination of Discrimination against Women, [Concluding Observations: Greece](#), CEDAW/C/GRC/CO/7, 1 March 2013, par. 22.

ARTICLE 4 (PAR. 10, 11 OF THE COMMITTEE’S CONCLUDING OBSERVATIONS)

Departments and Offices against Racist Violence

Presidential Decree 132/2012 provided for the *Establishment of Departments and Offices against Racist Violence*¹⁹². The GNCHR welcomed the initiative taken by the Ministry of Public Order and Citizen Protection, as well as the creation of a new helpline (11414) which receives reports of incidents of racist violence, assuring anonymity and privacy.

Cases recorded by the competent Police Offices relate only to a small sample of racist violence assaults, since only holders of legal residence documents could have access in order to lodge a complaint before the police authorities (apart from the telephone complaints). It is indicative that, at the same period (2015), out 273 incidents recorded by the RVRN only 28 were actually reported to the police¹⁹³.

According to the data communicated to the RVRN by the Hellenic Police, during the course of 2015, 80 potentially racially motivated incidents were recorded and investigated nationwide by the competent Hellenic Police Services (Departments and Offices against Racist Violence). The 11414 call center received 1526 phone calls, among which 27 calls were related to potentially racially motivated incidents. On the electronic form, available at www.astynomia.gr, 100 complaints were recorded, among which 98 potentially racially motivated incidents (out of the 98 complaints, 86 concerned the same incident). These complaints were investigated and case-files were formed¹⁹⁴.

The RVRN noted that the two-day training for persons serving in these Departments at the beginning of their operations is considered insufficient for the increased training needs on such sensitive and complex issue. For this reason, the RVRN has called upon the Ministry of Interior and Administrative Reconstruction to conduct a training program, with the assistance of international and European organisations with expertise and experience in the training of security and justice forces, for the employees serving in the Departments and Offices against Racist Violence, as well as the entire personnel of the Hellenic Police¹⁹⁵.

In a letter addressed to the Head of the Directorate of the Greek Police, dated 24 July 2014, the President of the GNCHR has proposed that the GNCHR and the UNHCR Office in Greece organise a Training Session for the personnel of the Offices of the Greek Police against Racist Violence¹⁹⁶.

In the same wavelength, the ECRI recommends that the hotline be staffed with interpreters and that staff be instructed to provide detailed information on the procedure for reporting

¹⁹² OGG 239/A/11.12.2012.

¹⁹³ RVRN, [2015 Annual Report](#), p. 24.

¹⁹⁴ *Idem*, p. 26.

¹⁹⁵ RVRN, [2013 Annual Report](#), p. 10; [2014 Annual Report](#), p. 16; [2015 Annual Report](#), p. 24.

¹⁹⁶ See *Letter of the President of the GNCHR to the Head of the Directorate of the Greek Police* (2014).

racist violence, as well as information on any assistance available to victims. ECRI also recommends further training for the new anti-racism police units¹⁹⁷.

The ECRI recommendations are also shared by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, who, in his Report on Greece, recommends that “new competences should be given to the specialised units on racism regarding victims of hate crimes based on sexual orientation and gender identity, and the police hotline should be staffed with interpreters (at least in Arabic, Farsi and English)”¹⁹⁸.

The GNCHR highlights that the State should take up initiatives and prove that society cannot tolerate violence and racism. At this point, it is also important to note that Nils Muižnieks, the CoE Commissioner for Human Rights, in his report on the escalation of racist violence in Greece, called on the authorities to develop further and implement initiatives aimed at combating racism and extremism in all sections of society¹⁹⁹.

Criminal anti-racism legislation

The GNCHR has welcomed, through the *RVRN 2014 Annual Report*²⁰⁰, the adoption of Law 4285/2014 (“Antiracism law”)²⁰¹, following many years of institutional regression, while affirming that it moves in the direction of combating hate crimes. In fact, Law 4285/2014 amended certain provisions of Law 927/1979 in order to bring national legislation in line with Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law and added a new provision to the Criminal Code. Article 1(1) of Law 927/1979, as amended, makes the intentional public incitement to acts or activities that may result in discrimination, hatred or violence against individuals or groups based on their racial, national or ethnic origin, colour, religion, sexual orientation or gender identity a criminal act. Article 1(4) prohibits the creation or leadership of, or participation in, a group that promotes racism, while Article 4 provides for the criminal liability of legal entities. Besides, a new provision was added to the Criminal Code (Article 81A), which makes racist motivation a general aggravating circumstance for all offences. Until this amendment the racist motive was taken into account only in the sentencing stage and was effectively precluded from the initial stages of investigation and prosecution.

¹⁹⁷ CoE, ECRI, [Report on Greece \(fifth monitoring cycle\)](#), 24 February 2015, CRI(2015)1, par. 78 and 82.

¹⁹⁸ HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 73(e).

¹⁹⁹ CoE, Commissioner for Human Rights, [Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe Following his visit to Greece from 28 January to 1 February 2013](#), 16 April 2013, CommDH(2013)6, par. 41.

²⁰⁰ RVRN, [2014 Annual Report](#), p. 14.

²⁰¹ Law 4285/2014 (OGG 191/A/10.9.2014) *Amendment of Law 927/1979 (139/A) and compliance with the 2008/913/JHA framework-decision dated 28.11.2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law (L 328) and other provisions*.

These legislative regulations (a) facilitate the victims and essential witnesses to report racist incidents and (b) broaden the ability of prosecuting authorities to investigate the racist motive. It is noted that, after a period of decline, there are signs of resumption in crimes committed due to racial or ethnic origin, religion, colour, sexual orientation, gender identity and/or disability²⁰².

Thus, the RVRN has put forth specific additional proposals, given that the most important parameter in a legislative amendment is its effective and unhindered implementation, which is not always evident. More specifically:

A. Investigation of racist motive:

Until recently, the racist motive was taken into account in the sentencing stage. Thus, both the law enforcement and the prosecuting authorities did not take into account the racist motive at the initial stage of investigation and prosecution, considering that it is related only to the stage of the decision on the sentence, thus after the guilt of the offender has been established. The criminal investigation and prosecution for the murder of Shehzad Luqman is a significant, but not unique, example.

Therefore, the establishment of a general aggravating circumstance for crimes with bias motivation (81A of the Criminal Code) is a clear message to organised groups of racist violence perpetrators and therefore constitutes a positive development. According to the recent legislative amendment, it is now necessary to prosecute hate crimes on the basis of the specific criminal offence as regulated in the Criminal Code, in conjunction with the general aggravating circumstance regulated in Article 81A of the Criminal Code. Consequently, the investigation of bias motivation both at the stage of preliminary investigation ordered by the Public Prosecutor and at the stage of *ex proprio* initial investigation by the police becomes even more necessary.

Given the above, the RVRN points out the need to ensure the implementation of Circular No 7100/4/3 dated 24.5.2006 on the obligation of the law enforcement personnel to investigate racial motivation, to collect relevant data, to record and/or report on a specific form each incident against a person due to national or ethnic origin, colour, religion, disability, sexual orientation and gender identity, independently of whether a complaint has been lodged or not. In fact, the RVRN proposes the updating of the above Circular, in the light of the aforementioned legislative amendments.

Additionally, the RVRN considers necessary the adoption of a legislative provision which ensures the *ex proprio motu* prosecution of all offenses committed with bias motivation and the victims' exemption from fees when filing a complaint according to criminal law and/or a civil action.

²⁰² RVRN, [2014 Annual Report](#), p. 14.

Moreover, with regard to article 81A, the ECRI recommended ‘language’ and ‘citizenship’ to be included in the list of grounds of Article of Law 927/1979 and Article 81A of the Criminal Code. It also recommended that Law 3304/2005 is amended in order to include the grounds of colour, citizenship and language. The ECRI’s concern is also shared by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, who, in his Report on Greece, recommends not only to “[a]mend Law 4285/2014 to include language and citizenship among the existing list of grounds of discrimination in articles 1 and 81A [...and] criminalise the public expression, with a racist aim, of ideologies with a claim of superiority, defamation and the public dissemination or production and storage of racist material”, but also to “[a]mend Law 3304/2005 to include the grounds of colour, citizenship and language, extend the scope of chapter III of that Law to include social protection, education and access to goods and services, and include a direct obligation on all public authorities to prevent discrimination in the carrying out of their functions”²⁰³.

B. Mandate of the Offices and Departments combating racist violence within the Greek Police:

The RVRN marks as positive the inclusion of sexual orientation and gender identity in Law 4285/2014. Since the main challenge remains the fight against hate crimes and given the emerging increase in hate crimes against LGBT persons, the RVRN emphasises once more the need for explicit inclusion of sexual orientation and gender identity within the mandate of the Offices and Departments against Racist Violence.

Furthermore, the GNCHR has welcomed the adoption of Law 4356/2015 on *Civil partnership, exercise of rights, criminal and other provisions*²⁰⁴ as a very positive first step towards combating racism and intolerance. According to Articles 15 et seq. of Law 4356/2015 and following ECRI’s recommendation²⁰⁵, a consultative body on issues of racism and intolerance, the “National Board against Racism and Intolerance” is established, with the participation inter alia of the GNCHR, the UNHCR, the RVRN and the Ombudsman, in order – among others – to develop a comprehensive anti-racist strategy, elaborate a National Action Plan against Racism and Intolerance and set up a monitoring mechanism of hate speech.

Combating racist violence

At this point, the GNCHR reports that it took a very long time for the three powers – legislative, executive and judicial – to acknowledge that there is organised criminal racist violence in Greece. The GNCHR, sharing the grave concern expressed by the CoE

²⁰³ HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 69(b) and (c).

²⁰⁴ OGG 181/A/24.12.2015.

²⁰⁵ CoE, ECRI, [Report on Greece \(fifth monitoring cycle\)](#), 24 February 2015, CRI(2015)1, par. 74.

Commissioner for Human Rights, that a neo-Nazi, racist and xenophobic political party that is now represented in parliament, emphasises the fact that this situation needs to be reversed by sustained and concerted efforts of all competent authorities²⁰⁶.

Even though the GNCHR considers the State responsible for tolerating the Nazi criminal acts of Golden Dawn, it nevertheless applauds the efforts made for investigating the criminal acts of this political party. In this direction, the GNCHR expresses its satisfaction over the suspension of the State funding of Golden Dawn, as a political party whose leader and several members and officials are charged with the crime of membership of a “criminal organisation”, according to the provisions of Article 2 of Law 4202/2013.

Sharing the GNCHR’s serious concerns, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, in his Report on Greece, stresses the need for substantial verification of pledges of constitutionality and the banning of racist parties. Such a step should be taken, according to the UN Special Rapporteur, as a clear signal that organisations advocating racial hatred cannot be considered as a legitimate political force²⁰⁷.

Acknowledging the necessity to combat racism and xenophobia, the GNCHR has extensively dealt with this phenomenon, which is exacerbated in times of immense social tension. The GNCHR has adopted two special reports:

In its first report “*Police and the Judiciary: Combating racist violence*”, the GNCHR focused on how the Police and Judiciary systems should deal with racist violence. ECtHR jurisprudence, the recommendations of international organisations and relevant research prove that the Greek legislation, the monitoring system of incidents of racist violence and their treatment are ineffective or even inexistent.

In its second report “*Extremist Groups, Public Discourse and Racism in Sports*”, the GNCHR highlights the concerns and recommendations of international and European bodies dealing with the protection of human rights regarding the acts of extremist groups which target aliens.

Given the extent of the issue and the limited amount of space, the GNCHR refers to its 2011 Annual Report²⁰⁸.

Racist Violence Recording Network (RVRN)

The initiative for the establishment of the RVRN was taken in mid-2011 by the GNCHR and the UNHCR, following two major findings: a) the absence of an official and effective data

²⁰⁶ CoE, Commissioner for Human Rights, [Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe Following his visit to Greece from 28 January to 1 February 2013](#), 16 April 2013, CommDH(2013)6, par. 37.

²⁰⁷ HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 74.

²⁰⁸ GNCHR, [2011 Annual Report](#), pp. 75 et seq.

collection system and b) the need for coordination among organisations which recorded, on their own initiative, incidents of racist violence against persons who recourse to their services.

The RVRN is comprised of actors offering medical, social and legal services or/and come in direct contact with victims of racist violence or victims of other hate-motivated violent attacks as well as of organisations established by members of the groups usually targeted by racist violence. In order to join the RVRN, a necessary precondition is respect for human rights, diversity, multiculturalism and freedom of religion as well as action in tackling discrimination and intolerance. Apart from the coordinators, the UNHCR and the GNCHR, the RVRN is comprised of 36 Non-Governmental Organisations and civil society actors, as well as the Ombudsman and the Migrants' Integration Council of the Municipality of Athens as observers²⁰⁹. The participating actors acknowledge and jointly pursue combating racist violence as well as all racially motivated acts on the grounds of race, colour, religion, descent, national or ethnic origin, sexual orientation, gender identity, and disability.

With a view to pursuing the common goal, the RVRN: (a) formulates recommendations to the Greek authorities in compliance with the Greek and international legislation in human rights' protection, (b) promotes the public's information and awareness raising as regards to combating racist violence, (c) undertakes consultation with various actors on issues concerning racist violence, (d) strengthens collaboration with other actors in pursuit of combating racist violence, (e) organises and participates in training programs held by civil society and other competent institutional bodies regarding issues that refer to the identification, recording, and combating of hate crimes.

As the RVRN states in its 2013 Report, "most of its observations are now considered as common ground. Data published by the Network constitutes a reference point for national and international human rights institutions. However, the responsibility to systematically record hate crimes is primarily a state one"²¹⁰.

In 2012, the RVRN registered two racially motivated murders and 154 incidents of racist violence. In 25 incidents, police and racist violence were interlinked (7 of the incidents

²⁰⁹ RVRN Membership during 2015: Act Up Hellas, Aitima, Amnesty International, Antigoni – Information and Documentation Centre on Racism, Arsis, Asante, Association of Afghans United In Greece, Association of Social Workers of Greece, "Babel" Day Center, Center for the Support of Repatriated and Migrants - Ecumenical Refugee Program, Colour Youth – LGBTQ Youth Community of Athens, Doctors of the World (MdM), Forum of Migrants in Crete, Generation 2.0 Red, Greek Council for Refugees, Greek Forum of Migrants, Greek Forum of Refugees, Greek Helsinki Monitor, Greek Transgender Support Association, Group of Lawyers for the Rights of Refugees and Migrants, Group of Lawyers for the Support of Refugee and Migrant Rights (Thessaloniki), Hellenic Action for Human Rights – Pleiades, Hellenic League for Human Rights, Hellenic Red Cross, Homosexual and Lesbian Community of Greece, Human Rights Commission of the Bar Association of Rhodes, Initiative for the Rights of Prisoners, LATHRA? – Solidarity Committee for Chios refugees, Medical Intervention, METAction, Action for Migration and Development, Network for the Support of Refugee and Migrant Rights (Patras), Network for the Social Support of Refugees and Migrants, Positive Voice, PRAKSIS, Rainbow Families, World Without War and Violence.

²¹⁰ RVRN, [2013 Annual Report](#), p. 2.

occurred in detention facilities for migrants). Only 24 victims have addressed the competent authorities to file an official complaint and initiate judicial procedures, while 23 would like to do so. The rest do not wish to take further actions, most of the times because they lack legal documents and are therefore afraid that they will be arrested and deported²¹¹.

In 2013, the RVRN documented 166 incidents of racist violence with at least 320 victims. 213 of the above mentioned victims held no legal documents. Among 44 incidents of violence by uniformed officers recorded in 2013, 23 took place in detention facilities. At the time of the recording, only 33 among 166 incidents were reported to the police, thus initiating criminal proceedings. The vast majority of victims did not wish to take any further action, mainly because of fear associated with the lack of legal documents²¹².

In 2014, the RVRN documented 81 incidents of racist violence with at least 100 victims: 46 incidents were committed against immigrants or refugees due to their ethnic origin or skin color; 32 were committed against LGBTIQI persons (in 3 of these cases the victims were foreigners who were targeted because of their sexual orientation and ethnic origin or skin color); in 3 anti-Semitic attacks, sacred places and symbols were desecrated (two attacks occurred against the Holocaust monument in Athens and one against the Jewish cemetery in Larissa). At the time of the recording, 25 among 81 incidents were reported to the police²¹³.

In 2015, the RVRN documented 273 incidents of racist violence with more than 300 victims. In 75 incidents immigrants or refugees were targeted due to their national or ethnic origin, religion or colour. In 185 incidents LGBTIQI persons were targeted. In 4 of these incidents the victims were foreigners, who were targeted due to their sexual orientation and their national or ethnic origin; in 2 of these incidents at least one of the victims was targeted also due to his disability, while in 1 incident the victim was targeted because of his sexual orientation and his religion. From the 185 incidents against LGBTIQI people, in 10 incidents, the victims have been targeted as activists. These incidents should be evaluated in combination with 5 incidents in which human rights defenders were targeted either because of their action in favour of refugees or/and immigrants, or because of their anti-Semitic action. In 5 incidents sacred or symbolic spaces or spaces used by collectivities were targeted. Finally, for the first time 1 incident against a member of the Muslim community and 2 incidents against Roma children were documented. In 185 incidents the perpetrators have targeted one person and in 83 incidents more than one person was targeted. At the time of the recording, 28 cases among 273 were reported to the police²¹⁴.

Today, with the establishment and operation of the RVRN, the gap caused by the absence of a formal and effective system for recording incidents and trends of racism and racist violence in

²¹¹ RVRN, [2012 Annual Report](#).

²¹² RVRN, [2013 Annual Report](#), pp. 5 and 9.

²¹³ RVRN, [2014 Annual Report](#), pp. 5 and 15.

²¹⁴ RVRN, [2015 Annual Report](#), pp. 6 and 24.

Greece may have been filled²¹⁵, however the deficiencies of the system have not been fully remedied. For these reasons, the GNCHR urges the Greek authorities to encourage the ongoing cooperation between the Offices and Departments against Racist Violence, on the one hand, and the RVRN, NGOs and migrant communities, on the other hand, who come into contact with victims, with a view to identify proper solutions and plan specific measures against racist violence²¹⁶. “Civil society and Greek institutions that fight against racism can play an important role in the reduction of hate speech as well”, as affirms the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, in his Report on Greece²¹⁷. Moreover, the GNCHR stresses the need to formulate special guidelines on police investigation procedures related to racist crimes, the fight against police indifference towards such behaviour and the assurance that perpetrators are brought to justice, under current laws²¹⁸.

Prohibition of hate speech in the media

The GNCHR welcomes the efforts made by the judiciary in order to combat and prohibit discriminatory treatment. However, it stresses that more measures should be adopted for combating more effectively discrimination and xenophobia in general, as well as hate speech in the media in particular.

The GNCHR has addressed this issue and has submitted comments on the draft law of the Ministry of Justice, Transparency and Human Rights on *Combating certain forms and expressions of racism and xenophobia by means of criminal law*²¹⁹. The GNCHR has *inter alia* affirmed that States should strike a fair balance between combating certain forms and expressions of racism and xenophobia, on the one hand, and freedom of expression on the other. Therefore, every expression or opinion questioning certain crimes (i.e. the holocaust) should not be prohibited in an absolute way. Otherwise it would lead to an interference with the freedom of expression which is contrary to the principles of a democratic society²²⁰.

Considering the rise in the number of attacks against refugees, migrants and other groups of people by extremists, the GNCHR concludes that the framework is ineffective as concerns the investigation of racist motives during criminal prosecution. For all these reasons, the GNCHR recommends that (a) an offence having a racist motive be made a special offence, or (b) racist

²¹⁵ This absence besides constitutes one of the most significant findings leading to the creation of the RVRN. See RVRN, [Pilot phase conclusions 1.10.2011 – 31.12.2011](#).

²¹⁶ *Ibidem*.

²¹⁷ HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 72.

²¹⁸ *Ibidem*.

²¹⁹ GNCHR, *Comments on the bill by the Ministry of Justice, Transparency and Human Rights on “Combating certain forms and expressions of racism and xenophobia by means of criminal law”*, [2011 Annual Report](#), pp. 34 et seq.

²²⁰ 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).

motivation be made an aggravating circumstance, a specific penalty frame being provided, or (c) the above be combined in some circumstances.

The GNCHR highlights that the State should take up initiatives and prove that society cannot tolerate violence and racism. The clear, explicit and without any differentiation or reserve condemnation of racially motivated violent crimes and hate speech are of primary importance for the Greek State, democracy and the Rule of Law. This concern is also shared by the CoE Commissioner for Human Rights, Mr Nils Muižnieks, who in his report on the escalation of racist violence in Greece, stated that the Greek authorities should undertake initiatives in order to combat racism and extremism²²¹.

ARTICLE 5

Right to security of person and protection by the State against violence or bodily harm (par. 13 of the Committee's concluding observations)

National Preventive Mechanism under the OPCAT

The GNCHR welcomes the ratification of the UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter OPCAT) as a very significant step towards preventing torture and other inhuman and degrading treatment. In fact, the ratification of the OPCAT has been one of the GNCHR recommendations since 2008²²².

The OPCAT was ratified by Law 4228/2014 regarding the Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the UN General Assembly²²³. Paragraph 1 of Article Second of the abovementioned law designates the Ombudsman as the national preventive mechanism, according to Articles 3 and 17 of the OPCAT, while according to Paragraph 3 of the same article the national preventive mechanism may, in the exercise of its mission, cooperate with other human rights bodies, in particular the GNCHR, the Special committee for the protection of the rights of persons with mental disabilities (Article 2 of Law 2716/1999), the Office Combating Arbitrariness Cases of the Ministry of Public Order and Citizen Protection (Law 3938/2011) and the Inspectorate of Detention Facilities (Law 3090/ 2002). This mission includes conducting visits to all places of deprivation of liberty, including prisons, police stations and detention centres, in order to prevent and monitor any insults on human dignity and contribute to the improvement of prison conditions.

²²¹ CoE, Commissioner for Human Rights, [Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe Following his visit to Greece from 28 January to 1 February 2013](#), 16 April 2013, CommDH(2013)6, par. 41.

²²² GNCHR, [Decision regarding Detainees' Rights and Detention Conditions in Greek Prisons](#) (2008).

²²³ OGG 7/A/10.1.2014.

Arbitrary conduct of law enforcement personnel

The GNCHR has repeatedly expressed its serious concerns regarding the frequency, the intensity and the nature of the incidents of police arbitrariness, as they are also reported by international human rights monitoring bodies²²⁴.

Acknowledging the necessity to combat this phenomenon, which is exacerbated in times of immense social tension, the GNCHR has extensively dealt with it. In particular, in a 2011 Report, the GNCHR highlighted *inter alia* that incidents of violence involving police officers are rarely investigated and are unlikely to reach a fair punishment and that direct or indirect involvement of the police – by tolerating acts perpetrated by racist groups and by refraining from any in-depth investigation – amounts to the acceptance and approval of those facts by the state²²⁵. Another connecting link between the law enforcement act and the arbitrariness is the racist crime. The investigation of racist motivation should not be left to the discretion of police officers, but should be a clear obligation and part of the basic police training. Police and investigative bodies should include in the standard procedure all steps that help establish the racist motivation.

The GNCHR welcomed Law 3938/2011 providing for the establishment of an inquiry mechanism into reports of police maltreatment (Office for the Combating of Arbitrariness Cases). However and despite the repeated convictions of the Greek authorities by the ECtHR for violating Articles 2²²⁶ and 3²²⁷ of the ECHR and the criticism by International human rights bodies²²⁸ for not acknowledging that police ill-treatment is a serious problem, the Office established in 2011 by the Ministry of Public Order and Citizen Protection in order to address complaints of police misconduct is not yet operational and has a limited mandate, able to rule only on the admissibility of the complaints. Admissible cases are being transferred to

²²⁴ See in particular UN, Committee against Torture, [Conclusions and Recommendations: Greece](#), CAT/C/GRC/CO/5-6, 27.6.2012, par.11 and UN, Committee on the Elimination of Racial Discrimination, [Concluding Observations: Greece, op. cit.](#), par. 13.

²²⁵ GNCHR, Racist Violence, [Annual Report 2011](#), pp. 75 et seq.

²²⁶ ECtHR, [Makaratzis v. Greece](#) [No 50385/99], 20.12.2004; [Karagiannopoulos v. Greece](#) [No 2785003], 21.6.2007; [Celniku v. Greece](#) [No 21449/04], 5.7.2007 and [Leonidis v. Greece](#) [No 43326/05], 8.1.2009.

²²⁷ ECtHR, [Bekos and Koutropoulos v. Greece](#) [No 15250/02], 13.12.2005; [Zelilof v. Greece](#) [No 17060/03], 24.5.2007; [Galotskin v. Greece](#) [No 2945/07], 14.1.2010 and [Stefanou v. Greece](#) [No 2954/07], 22.4.2010.

²²⁸ In particular the CoE Committee for the Prevention of Torture. See this way CoE, Committee for the Prevention of Torture, [Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 23 September to 5 October 2001](#), CPT/Inf (2002) 31, 20.11.2002, par. 11-22; [Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 27 August to 9 September 2005](#), CPT/Inf (2006) 41, 20.12.2006, par.12-21; [Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 20 to 27 February 2007](#), CPT/Inf (2008) 3, 8.2.2008, par. 11-20; [Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 23 to 29 September 2008](#), CPT/Inf (2009) 20, 30.6. 2009, par. 10-18; [Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 17 to 29 September 2009](#), CPT/Inf (2010)33, 17.11.2010, par. 16.

the relevant disciplinary bodies of the security forces for further investigation, raising concerns about the independence of such investigations.

Furthermore, in his press statement, after completing his visit to Greece, on May 2015, the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mr Mutuma Ruteere, affirmed the need for setting up a credible, independent and effective police complaints mechanism to investigate allegations of abuse²²⁹. The same recommendations were also made by the CPT in its Report to the Greek Government on the visit to Greece from 4 to 16 April 2013²³⁰.

For all the above mentioned reasons, the GNCHR calls for the immediate functioning of the Office and for its re-establishment, in accordance to the recommendations of international monitoring bodies, such as the Opinion of the CoE Commissioner for Human Rights which draws the standards concerning the independent and effective determination of complaints against the police (also derived from ECtHR jurisprudence)²³¹.

Political rights

Notwithstanding the multiple and intersectional discrimination faced in all areas of their life, the Roma population is still waiting to become part of priorities both at national and local level. Despite notable progress in the promotion of their political rights, the GNCHR expresses its concern for the exclusion of Roma from most policy making processes at local and national level. The discourse with respect to the Roma rights promotion has yet to be accompanied by elements of real empowerment. Policies and measures should aim at providing substantive support to the Roma population, but the ultimate aim is mainstreaming of the policies concerning Roma. Participation of the Roma in the decision-making is essential²³².

To this end and in order to ensure a most proactive approach regarding Roma rights issues and in particular their meaningful participation at all levels of public and political life, the GNCHR facilitates the dialogue between members of the Roma community and State authorities. For this reason, as already mentioned, the GNCHR, in its capacity as an “OPRE (Operational Platform on Roma Equality)” member, invited representatives of the Panhellenic Federation of Greek Roma Associations (PFGRA) to exchange with the other OPRE members during the Platform’s 3rd meeting which was hosted by the GNCHR. Furthermore, the

²²⁹ [Press Statement](#) delivered by the United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance M. Mutuma Ruteere on 8 May 2015 in Athens, Greece.

²³⁰ CoE, Committee for the Prevention of Torture, [Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 4 to 16 April 2013](#), 16 October 2014, CPT/Inf (2014)26, par. 23.

²³¹ CoE, Commissioner for Human Rights, [Opinion concerning Independent and Effective Determination of Complaints against the Police](#), CommDH(2009)4, 12.3.2009.

²³² GNCHR, *Report and recommendations on issues concerning the situation and rights of the Roma population in Greece* (2009), [Annual Report 2008](#), pp. 50 et seq.

GNCHR is planning to host a meeting between members of the Panhellenic Federation of Greek Roma Associations (PFGRA) and representatives of Ministries.

Other civil rights

Freedom of association (par. 15 of the Committee's concluding observations)

The GNCHR applauds judgment No 24/2012 (Fourth Section) of the Greek Supreme Court for civil and criminal law, which recognises that the restrictions applied to applications for the establishment of minority associations leading to the refusal of their registration in the registry of associations, violates the Constitution, the Civil Code and the ECHR, as affirmed both by the ECtHR²³³ and the CoE Commissioner for Human Rights²³⁴. Such a recognition by the Country's Supreme Court constitutes a very significant step towards the most effective exercise of the freedom of association. The GNCHR expresses the wish that the approach adopted in the present case may be consolidated.

Freedom of religion (par. 14 of the Committee's concluding observations)

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 their parents, as implemented by the Greek authorities, constitutes an initiative which does not address in depth the issue of religious education in schools, nor does it propose a long-term and effective solution. The compulsory character of the course of Religious instruction does not seem to be compatible with a generalised exemption from it, to the extent that such a measure renders automatically a general education course optional. By adopting an alternative approach, the GNCHR considers that, in a pluralistic and democratic school, which respects religious diversity, a course with catechetical content, which teaches in a compulsory manner the Orthodox Christian tradition²³⁵ does not meet the needs of the students. The GNCHR underlines that religious education should include an introduction to the history and the main principles of each religion, so as to comply with constitutional and international law requirements and modern European cultural reality.

Religious oath

²³³ ECtHR, *Bekir Ousta and others v. Greece* [No 35151/05], 11.1.2008; *Tourkiki Enosi Xanthis and others v. Greece* [No 26698/05], 29.9.2008; *Emin and others v. Greece* [No 34144/05], 1.12.2008.

²³⁴ CoE, Commissioner for Human Rights, [Report on Human rights of minorities](#), CommDH(2009)9, 19.2.2009, par. 17-20.

²³⁵ According to Article 1(1a) of Law 1566/1985 regarding the Structure and function of the primary and secondary education.

According to the amendments to the Greek Criminal Procedure Code, following the ECtHR judgments convicting Greece for violation of Article 9 ECHR²³⁶, the witnesses can indeed choose either to take a religious or a political oath before providing his/her testimony. However, the GNCHR is not fully satisfied with this solution. Firstly, choosing a political oath instead of a religious one may be viewed as a sign that the witness is not a Christian Orthodox. This may lead to bias as to the integrity of the witness, due to the predominance of the Greek Orthodox Religion in Greek society. Secondly, witnesses are often not asked whether they would like to choose between a religious and a political oath. Consequently, the witness must request it his/herself, thus revealing that he/she is most probably not a Greek Orthodox.

In the light of the above, the GNCHR repeats that the religious oath should be fully replaced by a political oath, so that the negative religious freedom is protected²³⁷. In support of this position, the GNCHR notes that, according to the previous case-law of the Greek Supreme Administrative Court, both the religious and the political oath entail the same legal consequences²³⁸.

Law 4301/2014 on Organisation of the Legal Form of Religious Communities and their organisations in Greece

The GNCHR welcomes Law 4301/2014 on *Organisation of the Legal Form of Religious Communities and their organisations in Greece*²³⁹. It feels however the need to stress that, despite the fact that as the independent advisory body to the Greek State on matters pertaining to human rights protection it is the competent institutional body for formulating policy recommendations, the draft law was never transmitted to the GNCHR Plenum so that it can deliver its opinion. Moreover, it is highlighted that the Ministry of Education and Religious Affairs did not take into consideration previous Recommendations of the GNCHR regarding the State-Church relations as well as a proposal for a draft law on the above mentioned issue drafted by the Greek League for Human Rights and approved by the GNCHR²⁴⁰. The aforementioned proposal aimed both at safeguarding religious freedom and equality and creating the necessary conditions for the Church Institutions to develop independently of the State.

²³⁶ ECtHR, *Dimitras and others v. Greece* [Nos 44077/09 15369/10 41345/10], 8.4.2013; *Alexandridis v. Greece* [No 19516/06], 21.5.2008; *Dimitras and others v. Greece* [Nos 42837/06, 3237/07, 3269/07, 35793/07 et 6099/08], 3.9.2010; *Dimitras and others v. Greece (N° 2)* [Nos 34207/08 6365/09], 3.2.2012.

²³⁷ GNCHR, [Decision on the Replacement of Religious Oath by Civil Oath](#) (2008). The GNCHR dealt with the issue of the religious oath before 2008 as well: [Proposals on State-Church Relations](#) (2006). See also 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).

²³⁸ Greek Supreme Administrative Court (Sixth Section) 2601/1998, par. 7.

²³⁹ OGG 223/A/7.10.2004.

²⁴⁰ GNCHR, [Proposals on State-Church Relations](#) (2006).

In this regard, the GNCHR has underlined in the past the need to harmonise the constitutional and legal, in general, order with the constitutional traditions of our European partners. And this, in the perspective of a mild regime of distinct roles of the State and the Church respectively, with respect to freedom of religion as guaranteed by international Human Rights instruments, such as the ECHR (Article 9) and the ICCPR (Article 18)²⁴¹.

Acquisition of Greek citizenship

In its 2010 Observations on the draft law by the Ministry of Internal Affairs, Decentralisation and E-Government on *Political participation of non-citizens of Greek origin and third-country nationals who reside legally and long-term in Greece* (successively Law 3838/2010 on *Current provisions for Greek citizenship and political participation of repatriated Greeks and legally resident immigrants and other regulations*)²⁴², the GNCHR has welcomed the aforementioned legislative initiative as a particularly important step towards effective integration of immigrants residing legally in the country and working in Greece for a long time and in particular regarding the effective integration of their children born or raised in Greece²⁴³. The GNCHR has held that this initiative was in the right direction and based on two fundamental pillars as far as immigration issues are concerned: respecting and promoting human rights of every person residing in the territory, while ensuring social cohesion and border security. It was attempting to ensure the full enjoyment of the rights of people legally and for a long time participating of the Greek society and contributing to the general well-being, while it was making clear the Greek State's position on irregular immigration²⁴⁴.

By Article 1 of Law 3838/2010, the new Article 1(A) was added to the Greek Citizenship Code (hereinafter GCC) on acquiring Greek citizenship “*Upon declaration and application, due to birth or school attendance in Greece*”. According to this provision, the children of third-country nationals born in Greece, the so-called “second generation” immigrants, could acquire Greek citizenship under certain conditions. The GNCHR has stressed that this development constituted a significant step. It was the first time that the right of soil (*jus soli*) was introduced in the Greek citizenship law, based up to then only on the right of the blood (*jus sanguinis*). The right of soil (*jus soli*) is found as *per se* or in conjunction with *jus sanguinis* in many legal systems²⁴⁵.

²⁴¹ GNCHR, *Positions regarding the Constitutional Revision in Greece* (2001), [Annual Report 2002](#), p. 13.

²⁴² OGG 49/A/3.24.2010.

²⁴³ GNCHR, *Comments on the Draft by the Ministry of Internal Affairs, Decentralisation and e-Government entitled: Political participation of non-citizens of Greek origin and third-country nationals who reside legally and long-term in Greece*, [2010 Annual Report](#), pp. 33 et seq. See also GNCHR, *Observations concerning Law 3386/2005 (OGG 212/A/23.8.2005) Entering and residing of third-country nationals in the Greek State*, [Annual Report 2005](#), p. 92.

²⁴⁴ See also GNCHR, [Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant of Civil and Political Rights \(ICCPR\)](#) (2013).

²⁴⁵ GNCHR, *Comments on the Draft by the Ministry of Internal Affairs, Decentralisation and e-Government entitled: Political participation of non-citizens of Greek origin and third-country nationals who reside legally and long-term in Greece*, [2010 Annual Report](#), pp. 33 et seq.

By judgment 460/2013, the Greek Supreme Administrative Court's Plenary declared unconstitutional the provision of Articles 1(A) GCC and 24 of Law 3838/2010²⁴⁶. Respectively, the decisions of the Ministry of Internal Affairs on granting citizenship to aliens born in Greece by an alien parent residing in the country upon at least 5 years or due to school attendance in Greece were also cancelled.

While, it is about time the issue of aliens participating in municipal elections be addressed in the framework of a constitutional reform²⁴⁷, a legislative intervention is required to address the legal vacuum created following the aforementioned judgment of the Supreme Administrative Court.

The GNCHR welcomed the fact that, according to Article 108 of Law 4251/2014 on the *Code of Migration and Social Inclusion and other provisions*²⁴⁸, a residence permit for 5 years is offered to second-generation immigrants, provided that they have completed six years of schooling in a Greek school before they reach 21 and that they are legal residents in the Greek territory at the time of the relevant request²⁴⁹. The GNCHR has also welcomed the long-term residency permit for second generation immigrants, noting however that for their full and effective integration the possibility of acquisition of the greek citizenship constitutes a fundamental precondition²⁵⁰. In the same vein, it is worth mentioning that the ECRI recalled, in its *Report on Greece*, that “although not necessarily a requirement, citizenship can be a major tool for the integration of migrants. It is, therefore, regrettable that a progressive political initiative seems to have been stopped”²⁵¹.

The GNCHR deemed absolutely necessary the regulation, without any further delay, of issues regarding citizenship of second generation immigrants and called once again upon the State to sign and ratify the UN Convention on the Reduction of Statelessness (1961, in force since 1975), as well as the Convention of the CoE on Nationality (1997, in force since 2000), which Greece has already signed since 11 June 1997.

The right to education and training

With respect to the right to education, the GNCHR would like to focus on the very important issue of school violence and bullying. For this reason, the GNCHR recalls that the CRC

²⁴⁶ See 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).

²⁴⁷ *Idem*.

²⁴⁸ OGG 80/A/1.4.2014.

²⁴⁹ GNCHR, [Observations on the draft law by the Ministry of Internal Affairs entitled “Transposition in the Greek legal order of Directives 2011/98/EC on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EC on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, provisions regarding citizenship issues and other provisions”](#) (2014).

²⁵⁰ GNCHR, *Observations concerning Law 3386/2005 (OGG 212/A/23.8.2005) Entering and residing of third-country nationals in the Greek State, Annual Report 2005*, p. 92.

²⁵¹ CoE, ECRI, [Report on Greece \(fifth monitoring cycle\)](#), 24 February 2015, CRI(2015)1, par. 91.

Committee recognises 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 violence²⁵².

Furthermore, reference should be made to the Specialised Committee on Researching and Combating Bullying in School, established in June 2006 under the auspices of the GNCHR²⁵³. The work of this Committee culminated in the publication of the booklet titled *Group Violence and Aggression in Schools*, aiming at formulating a series of appropriate measures for preventing and addressing the phenomenon of school violence. This publication is both addressed to the competent State actors, as well as to teachers, parents and even children²⁵⁴.

Furthermore, the GNCHR applauds the establishment of the Observatory for the Prevention of School Violence and Bullying under the auspices of the Ministry of Education and Religion, which focuses on recording and researching incidents of school violence and disseminating its findings to specialised bodies, responsible for combating school violence and bullying²⁵⁵.

ARTICLE 6 (PAR. 18 OF THE COMMITTEE'S CONCLUDING OBSERVATIONS)

The GNCHR considers appropriate a separate reference to its work as a national mechanism of human rights protection.

The GNCHR was established by Law 2667/1998 and is the independent advisory body to the Greek State on matters pertaining to human rights protection (Article 1(1)). The main *rationale* behind the establishment of the GNCHR was to ensure the constant monitoring of the developments concerning human rights and the information of both the administration and the public opinion on the dangers posed to human rights. The GNCHR aims at highlighting to all State authorities the need for effective human rights protection of all individuals residing in Greece. The reference point for the law establishing the GNCHR has been the Paris

²⁵² 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.

²⁵³ EEMOEV included representatives from the Greek Federation of Secondary State School Teachers, the Greek Teachers' Federation, the Greek Supreme Confederation of Students' Parents, the Greek Society of Criminology, the Section of Criminology of Panteion University, the Centre for Penal and Criminological Research of Athens University, the Greek Ombudsman (Children's Rights Programme), the Marangopoulos Foundation for Human Rights as well as distinguished teachers, psychologists, psychiatrists, sociologists and social workers. The Presidency of EEMOEV was held by Emerita Professor Alice Yotopoulos – Marangopoulos, former President of the GNCHR.

²⁵⁴ The book is structured in four parts: the phenomenology of collective school violence, the empirical approach of the phenomenon, the theoretical and practical approaches of violence and aggressiveness and the legal regulations-”good practices” and includes opinions, concerns and suggestions by experts and representatives of actors occupied with the issue of violence among minors.

²⁵⁵ 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).

Principles adopted by the United Nations²⁵⁶ and the Recommendation of the Committee of Ministers of the CoE on the establishment of independent national institutions for the promotion and protection of human rights.

For almost 20 years the GNCHR has retained its A status, with an immaculate record of independence and impartiality while providing effective and efficient support for human rights both domestically and internationally in close cooperation with its partners within the ENNHRI and the Global Alliance of National Human Rights Institutions (GANHRI).

During that period, the GNCHR has fully and competently carried out its consultative functions within the domestic context. It has become the indispensable arbiter for human rights issues in the country, raising awareness and proposing specific regulatory solutions to human rights concerns; offering authoritative comments to draft laws presented to Parliament; promoting human rights issues during frequent and regular discussions in the parliamentary committees, national consultative bodies and the civil society at large. As a direct result of its unquestionable expertise and impeccable reputation, the GNCHR has been often asked to be involved in selection processes, for example in the formation of the independent 3-member asylum appeal committees, which include a member appointed by the GNCHR and are called upon to decide definitively and with no further administrative recourse as to whether an asylum seeker may be granted protected status or not. The importance of this function alone is evident during the present migratory flow crisis in the country and Europe in general.

In addition, the GNCHR has played an active and visible role among its peers within the context of our European and international networks. In 2016, the GNCHR was elected as member to the European Coordinating Committee, the organ equivalent to a bureau in ENNHRI. It also serves as co-chair to the Working Group on Asylum and Migration, coordinating a major coordination and verification exercise along the European migratory route with a view to guaranteeing full and effective compliance with human rights standards during the whole process from asylum seeking to the final integration of protected persons to their receiving societies and the safe return of those refused to their country of origin. The GNCHR continues to remain active in its interaction with international organisations, including the International Labour Organisation (ILO), the CoE and the FRA²⁵⁷.

An essential part of the GNCHR's work is the preparation and presentation of independent parallel reports during the evaluation of Greece by international human rights institutions, including the UN treaty bodies and the Human Rights Council. During 2015, the GNCHR

²⁵⁶ UN, General Assembly, [*National institutions for the promotion and protection of human rights*](#), A/RES/48/134, 20.12.1993.

²⁵⁷ Hosting the 3rd meeting of the Operational Platform on Roma Equality (OPRE), a joint initiative of the Council of Europe, FRA, Equinet and ENNHRI, is an illustrative example of its cooperation with international human rights organisations and bodies. For more information see the COE-FRA-EQUINET-ENNHRI "OPRE Platform, available at: http://a.cs.coe.int/team81/opre_platform/SitePages/Home.aspx.

intervened before the Human Rights Committee (in the course of Greece's evaluation under the International Covenant for Civil and Political Rights) and the Committee on Social, Economic and Cultural Rights (in the course of Greece's evaluation under the corresponding International Covenant). During 2016, the GNCHR prepares its reports for the evaluation of the country under the ICERD, as well as the CEDAW. The GNCHR also works very closely with UN Special Rapporteurs and other mandate holders, welcoming them to our premises while visiting Greece and offering effective support to their missions in the country. During 2015-2016, the GNCHR had the honour to work with, among others, Mr Jan Jarab, Regional Representative for Europe, Office of the UN High Commissioner for Human Rights; Mr Mutuma Ruteere, UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Professor Juan Pablo Bohoslavsky, UN Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; Professor François Crépeau, UN Special Rapporteur on the human rights of migrants; Mr Andrea Rigoni, Rapporteur of the CoE Parliamentary Assembly and Mr Nils Muižnieks, CoE Commissioner for Human Rights.

Furthermore, the GNCHR's work is being recognised and appreciated. In particular, it is worth mentioning that the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, notes, in his Report on Greece, that he is pleased to know that there are credible institutions active in the fight against racism and discrimination in Greece, such as the GNCHR, while emphasising that UN experts, as well as several entities of the Council of Europe, had quoted excerpts of the recommendations of the GNCHR in their reports on Greece²⁵⁸. In the same vein, the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Prof. Juan Pablo Bohoslavsky, in his report on Greece, expresses his regret that the concerns and recommendations of the GNCHR have not been taken into account by European and national stakeholders in the design and implementation of the economic adjustment programmes. In his view, the GNCHR needs to be further strengthened in order to fulfil its mandate. In particular, the Independent Expert highlights the fact that the GNCHR needs to be adequately staffed to carry out its important functions²⁵⁹. He concludes by recommending that the Government of Greece takes fully into account the GNCHR recommendations²⁶⁰.

²⁵⁸ HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 21 and 23.

²⁵⁹ UN, HRC, [Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights on his mission to Greece](#), 21 April 2016, A/HRC/31/60/Add.2, par. 54.

²⁶⁰ *Idem*, par. 82(a).

ARTICLE 7

Education and non-discrimination

Human rights education

With respect to Human rights education in schools, the GNCHR welcomes the measures and actions implemented in schools of both primary and secondary education by the Greek authorities with the aim of promoting human rights.

However, 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.

The GNCHR has repeatedly affirmed in the past the need to free society from deep-rooted prejudices and stereotypes, which help to perpetuate inequalities and abusive attitudes and behaviours. The role of education to this effort is crucial. From the very early age, every person should get used to the idea of diversity and of being different. Such a change requires time, mobilisation and sensitisation of every relevant stakeholder and, above all, political will in order to integrate the relevant information to all levels and types of education. Towards this direction, the GNCHR deems necessary to raise public awareness with regard to the rights and specific needs of vulnerable groups, such as for instance transgender people, with a special focus on respect for diversity and equal access to human rights²⁶¹.

The GNCHR's concern is also shared by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, who, in his Report on Greece, recommends to revise the school curriculum "in order to raise awareness and further promote acceptance of diversity and the contribution of migrants to Greek society from an early age"²⁶².

Human rights education for police officers

The GNCHR has stressed that the effective response to arbitrary cases involving security forces includes the correct – initial and periodic – education and training of the security forces mainly on human rights, but also on inquiry methods, especially for the Police²⁶³.

In 2009, a GNCHR initiative for a human rights program for the education of police officers to be carried out and established did not materialise, as after one year, in 2010, the Ministry of

²⁶¹ See GNCHR, [Recommendations on Transgender persons and legal gender recognition](#) (2015).

²⁶² HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 73(b).

²⁶³ GNCHR, [Detention Conditions in Police Stations and Detention Facilities for Aliens](#), 29.4.2010.

Citizen's Protection disregarded the GNCHR proposal and dismantled the working group. A new working group was put together consisting only of department officials²⁶⁴.

The GNCHR is still willing to assist and cooperate with the Ministry in order to facilitate any educational initiative in this regard.

Following the same line as the GNCHR, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Mutuma Ruteere, in his Report on Greece, recommends that “[a]ll police officers should be trained on the respect and promotion of human rights”²⁶⁵.

²⁶⁴ 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). See as well, GNCHR, [2008 Annual Report](#), pp. 145 et seq.; [2009 Annual Report](#), p. 56.

²⁶⁵ HRC, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to Greece](#), 4 May 2016, A/HRC/32/50/Add.1, par. 73(e).