



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND  
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

REFERENCE:GH/fup-124

8 November 2018

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 16, 32, and 34 of the concluding observations on the report submitted by Greece ([CCPR/C/GRC/CO/2](#)), adopted by the Committee at its 115th session in November 2015.

On 6 December 2016, the Committee received the reply of the State party. At its 124th session (8 October-2 November 2018), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Report on follow-up to concluding observations (see [CCPR/C/124/2](#)). I hereby attach a copy of the relevant section of the said report (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. The Committee requests the State party to provide this information in the context of its next periodic report due on 6 November 2020.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

Mauro Politi  
Special Rapporteur for Follow-up to Concluding Observations  
Human Rights Committee

Her Excellency Ms. Anna Korka  
Ambassador  
Permanent Representative  
Email: [grdel.gva@mfa.gr](mailto:grdel.gva@mfa.gr)

## **Report on follow-up to concluding observations of the Human Rights Committee, [CCPR/C/124/2](#):**

---

### **Assessment of replies<sup>1</sup>**

- 
- A Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
  - B Reply/action partially satisfactory:** The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.
  - C Reply/action not satisfactory:** A response has been received, but action taken or information provided by the State party is not relevant or does not implement the recommendation.
  - D No cooperation with the Committee:** No follow-up report has been received after the reminder(s).
  - E Information or measures taken are contrary to or reflect rejection of the recommendation**
- 

### *Greece*

---

Concluding observations:	<a href="#">CCPR/C/GRC/CO/2</a> , 3 November 2015
Follow-up paragraphs:	16, 32 and 34
Follow-up reply:	<a href="#">CCPR/C/GRC/CO/2/Add.1</a> , 6 December 2016
Committee's evaluation:	Additional information required on paragraphs 16[B][C], 32[C][B] and 34[C]
Non-governmental organizations:	Greek Helsinki Monitor, 3 April 2017 <sup>2</sup> Médecins du Monde, 19 April 2017 <sup>3</sup>

---

### **Paragraph 16: Excessive use of force and ill-treatment**

**The State party should ensure that all allegations of unauthorized and disproportionate use of force by law enforcement officials are thoroughly and promptly investigated by an independent authority, that the alleged perpetrators are prosecuted, that those found guilty are punished with sentences that are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families. The State party should also ensure that the police receive appropriate professional training that includes full respect for human rights principles.**

### **Summary of State party's reply**

Complaints of misconduct or ill-treatment by police officers against individuals or of disproportionate use of force give rise to investigation procedures. In accordance with Presidential Decree 120/2008, an administrative enquiry is initiated and entrusted to officers of other departments. Acts constituting torture and other violations of human dignity result in dismissal.

---

<sup>1</sup> The full assessment criteria are available at [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/INT\\_CCPR\\_FGD\\_8108\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf).

<sup>2</sup> See [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fGRC%2f27052&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fGRC%2f27052&Lang=en).

<sup>3</sup> See [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fGRC%2f27236&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fGRC%2f27236&Lang=en).

As suggested by the Committee, a draft bill to designate the Ombudsman as the national mechanism for the investigation of incidents of ill-treatment committed by law enforcement and detention facility agents has been issued and recommended for adoption by Parliament in 2016. The mechanism will complement the judiciary. The draft bill provides for the Ombudsman to deal with cases (a) following a complaint, (b) initiated *proprio motu* or (c) upon referral by the competent minister or secretary-general of a ministry. While waiting for an Ombudsman's report, which has to be submitted within three months, the disciplinary bodies of each agency should refrain from issuing decisions. The final decision of a disciplinary body may depart from the operative part of the relevant report of the Ombudsman, provided that specific and detailed justification is given.

National law provides for victims of criminal acts to file civil lawsuits to obtain compensation. Apart from providing legal aid to persons on low incomes, victims of certain crimes are granted free legal aid irrespective of their income.

At the Hellenic Police Academy and the Police Constables' School, police officers are taught a separate module on human rights, as part of the courses on constitutional and administrative law.

### **Information from non-governmental organizations**

#### *Greek Helsinki Monitor*

Several cases referenced in reports by Amnesty International and the Greek Council for Refugees demonstrate the shortcomings in implementing the mechanisms in place and confirm that torture and other ill-treatment persist. They also show the reluctance of the authorities to end impunity and effectively investigate the allegations of such treatment.

The new Ombudsman's mandate to investigate the complaints of arbitrariness by law enforcement and detention facility agents began on 9 June 2017. The enforcement agencies still retain the power to prosecute perpetrators. While the agencies have to justify the reasons for departing from the Ombudsman's recommendations, they are not binding.

Greek Helsinki Monitor describes the cases of three Roma, Thanasis Panayotopoulos, Yannis Bekos and Vasilis Loukas (one of whom was hospitalized as a result), who claim to have been the victims of torture by police officers. While several complaints submitted through the mechanisms in place were left unanswered, the individuals refused to testify in an internal investigation by local police that was subordinated to the division that they claim tortured them. Similarly, a 21-year-old Syrian refugee claims to have been kicked, stripped naked and detained by police. His arrest warrant was issued in Greek only. His defence statement translated into Greek by a translator without certification was read by several police officers, three prosecutors and two judges, yet none of them initiated investigations.

### **Committee's evaluation**

[B]: The Committee welcomes the designation of the Ombudsman as the national mechanism for the investigation of incidents of ill-treatment committed by law enforcement and detention facility agents. It requires additional information on: (a) the mandate and actions taken by the national mechanism for the investigation of incidents of ill-treatment committed by law enforcement and detention facility agents to investigate allegations of unauthorized and disproportionate use of force by such agents; (b) whether the State party envisages rendering the Ombudsman's recommendations binding.

[C]: The Committee regrets the lack of information on concrete measures taken after the adoption of the Committee's concluding observations to ensure that all allegations of unauthorized and disproportionate use of force by law enforcement officials are thoroughly and promptly investigated by an independent authority. It therefore requires information on: (a) the measures taken to punish, as well as the sentences imposed on, law enforcement officials for misconduct, ill-treatment or disproportionate use of force,

after the adoption of the Committee's concluding observations; (b) the progress of investigations made into the cases of Thanasis Panayotopoulos, Yannis Bekos, Vasilis Loukas and similar ones; and (c) the number, regularity, duration and content of professional training for police officers and other law enforcement agents conducted after the Committee's concluding observations. The Committee reiterates its recommendation.

### **Paragraph 32: Unaccompanied minors**

**The State party should ensure that the principle of the best interests of the child is given due consideration in all decisions concerning unaccompanied children, including by:**

- (a) **Ensuring that unaccompanied minors who enter the country in an irregular manner are not detained or are held in detention only as a measure of last resort and for the shortest period of time necessary;**
- (b) **Creating new reception facilities and increasing the number of detention spaces in existing structures, while ensuring adequate conditions for unaccompanied minors in those facilities, including their segregation from adults;**
- (c) **Pursuing its efforts to redesign the guardian assignment procedure to ensure that each unaccompanied child is provided with a legal guardian;**
- (d) **Ensuring that the age assessment procedure is based on safe and scientific methods, taking the children's mental well-being into account and avoiding all risks of violating their physical integrity.**

### **Summary of State party's reply**

Unaccompanied minors are registered and referred to the National Centre for Social Solidarity and the local prosecutor, who acts as their temporary guardian. The minors then stay in reception and identification centres for a maximum of 25 days, with the possibility of an extension in extreme cases of 20 days, until they are referred to safe and appropriate accommodation.

- (a) The State notes that there are less than 20 minors in protective custody, which does not exceed 10 days due to their prioritization for placement in shelters. They were identified by police during routine drug checks and placed under the latter's responsibility to ensure their protection while more appropriate solutions are sought.
- (b) Since the beginning of 2016, the number of shelters was increased from 17 to 41 and an additional 690 places made available compared with the initial number of 420. In the reception and identification centres, unaccompanied minors stay in separate accommodation and are provided with food, shelter, psychological and legal support, and informal education lessons and are allowed outside under supervision. Unaccompanied minors are provided with care at all times during stays in "safe zones" within open accommodation sites.
- (c) A law on guardianship, drafted by the Ministry of Labour, will shortly be submitted to Parliament. The draft law will enhance the protection of children deprived of parental care and will be implemented by the National Centre for Social Solidarity. Similarly, a future amendment to the law on foster care will include special provisions for unaccompanied minors.
- (d) Age assessments are conducted at the reception and identification centres by a doctor and a psychologist and in case of doubt, persons are registered as minors in accordance with the principle of the best interests of the child.

### **Information from non-governmental organizations**

#### *Greek Helsinki Monitor*

- (a) Minors are detained until they are transferred to accommodation centres for minors. Greek Helsinki Monitor established that many were detained for periods between

six and eight weeks prior to their transfer. In addition, some minors were detained in police stations prior to their transfer to the Special Detention Facility. Upon transfer to the latter, no individual evaluation of vulnerability is carried out nor are unaccompanied minors informed of their legal status or right to legal representation. During visits, Greek Helsinki Monitor also identified particularly vulnerable minors who were abused in their countries of origin, while others had family members who were legally resident in Greece.

(d) Since February 2016, an age assessment procedure is applied in all cases in which the age of an asylum seeker is contested. During such a procedure, questionable methods are used to establish the age, including skeletal age measurement through radiology. During visits, Greek Helsinki Monitor found that individuals had not been separated from adults before age assessment procedures had been initiated. In some police stations and detention centres, no age assessment procedures had been initiated in cases in which individuals claimed to be minors.

*Médecins du Monde*

(a) Despite the obligation of the State party under European Union law to only detain minors in exceptional circumstances, national law merely requires authorities to “avoid” such detention but does not expressly prohibit it. While unaccompanied children can only be detained until a place in a special facility for minors is found, authorities continue to detain them on an apparently arbitrary basis for differing periods of time, ranging from a few hours to several months.

(b) Despite the Government’s efforts to increase reception capacity, the 1,382 places in special centres for unaccompanied minors remain insufficient. By the end of March 2017, 951 unaccompanied minors were on the waiting list of the National Centre for Social Solidarity for shelter, among whom 184 were staying in reception and identification centres and 31 in protective custody.

(c) The high numbers of unaccompanied minors and their particular characteristics render the guardianship function of the prosecutor and other appointed guardians ineffective. The draft bill aimed at enhancing the protection of unaccompanied minors has not been submitted to Parliament yet, neither has a procedure been institutionalized for determining the best interests of the child.

(d) An age assessment procedure is in place for refugees as well as asylum seekers. However, most third country nationals apprehended by the police for irregularly entering or living on the mainland do not benefit from a legal procedure to assess their age. The age assessment procedure is applied and in case of doubt, until the procedure is finished, the individual is considered to be a minor. The assessment and decision are based on macroscopic characteristics (height, weight body mass index, voice and hair growth) made by a paediatrician, a method regarded as the least accurate for age assessment. When a paediatrician is not available, a psychologist and social worker carry out the assessment based on an individual’s cognitive, behavioural and emotional characteristics and social background. This assessment may, however, be based on a rather subjective interpretation by the psychologist and the short interview with the individual does not allow for a thorough assessment. Additionally, there is a severe lack of paediatricians and interpreters in centres. Finally, the rejection of most appeals regarding age assessments at reception and identification centres results in the de facto absence of an effective legal remedy.

**Committee’s evaluation**

[C] (a) and (d): The Committee appreciates the information provided by the State party and the data provided on the custody of unaccompanied minors, however, it regrets that the detention may be extended to periods of time that can be considered excessive. In this regard, the Committee requires the State party to provide information on the measures taken to ensure that unaccompanied minors who enter the country in an irregular manner are not detained or are only held in detention as a measure of last resort and for the

shortest period of time necessary. It also requires information on the number of current and previous unaccompanied minors in custody since 2015, the duration of their custody, the vulnerability assessments made, medical assessments undergone, facilities sent to and guarantees provided to ensure that they are informed of their legal status and entitlement to legal aid.

The Committee notes the information provided by the State party on the involvement of doctors and psychologists in the age assessment procedure. However, it regrets reports indicating that the procedure is intrusive and inaccurate and that it is not thoroughly implemented in all cases, particularly with respect to individuals who illegally entered or reside on the mainland. The Committee therefore requires information on whether any steps have been taken to develop a standard protocol for the age assessment procedure, which is applicable to any individual whose age is questioned. The Committee reiterates its recommendation.

[B] (b) and (c): The Committee welcomes the information provided, including the increase in the number of shelters from 17 to 41 and the addition of approximately 690 places to the pre-existing 420, as well as the information provided on the separation of unaccompanied minors from adults and the services and safe zones provided to them. The Committee requires information from the State party on the steps taken to continue its efforts in analysing the current needs and building new shelters with the aim of reducing the number of unaccompanied minors awaiting placement in shelters.

The Committee welcomes the envisaged draft laws on guardianship and foster care, but regrets the lack of specific information on their content. The Committee requires information on: (a) how the aforementioned laws would enhance the protection of children deprived of parental care; (b) which guarantees are included in the special provisions for unaccompanied minors; and (c) what progress has been made in the draft bills' legislative process and implementation.

#### **Paragraph 34: Expulsion of asylum seekers and undocumented immigrants**

**The State party should ensure that all persons seeking international protection have access to fair and personalized assessment procedures, protection against refoulement without discrimination and an independent mechanism with the authority to suspend negative decisions. The State party is encouraged, in consultation with its international and regional partners and neighbours, to allow migrants wishing to enter its territory to have access to safe entry points where their asylum claims can be evaluated. The State party should also take all the measures necessary to ensure that informal returns do not occur and that immigrants are not subjected to ill-treatment during their deportation and expulsion or while in pre-removal centres. The State party should also ensure that ill-treatment of refugees and migrants is effectively reported, undertake, as a matter of priority, prompt, effective and independent investigations into all claims of irregular returns and ill-treatment of migrants, punish the perpetrators, where appropriate, and provide compensation to victims.**

#### **Summary of State party's reply**

The State party reiterates that all asylum requests are examined individually on a case-by-case basis. No collective expulsions are carried out and the principle of non-refoulement is fully observed.

Additionally, the operational plans of the joint Border Management Action refer to the non-refoulement principle in relation to third country nationals who seek international protection. Entry points at the borders ensure safe access to asylum seekers, who are then referred to the relevant authorities assessing their requests.

Moreover, a new European Union regulation, in force since October 2016, established a complaint mechanism for persons whose fundamental rights have been breached or have been directly affected by the actions of staff involved in joint border management

operations. The home member State of the staff member allegedly involved is responsible for taking appropriate measures, including disciplinary proceedings.

### **Information from non-governmental organizations**

#### *Greek Helsinki Monitor*

Greek Helsinki Monitor stresses that there are no safe entry points into Greece to which asylum seekers may have access.

Greek Helsinki Monitor restates the case of Kahled who was not provided with a lawyer during his court appearance on 23 March 2017. According to the non-governmental organization Advocates Abroad, his trial lasted six and a half minutes, the “interpreter” was used inappropriately and unlawfully as he did not interpret the proceedings, the defendant was asked three or four questions, was refused a defence witness and no prosecution witness was examined. Kahled was sentenced to 16 months’ imprisonment for resisting arrest, insulting the police and illegally carrying a knife.

Greek Helsinki Monitor refers to a report from early 2017 by Amnesty International and another from March 2017 by Human Rights Watch, both describing the reception centres on islands as overcrowded, often too remote from hospitals and other services, lacking security safeguards, fomenting riots or hate crimes and leaving individuals uncertain about their futures. The adoption of a containment policy to keep asylum seekers confined to islands contributed to these conditions. Several Syrian refugees were denied appeals and returned to Turkey despite filing asylum applications. Inhuman living conditions caused the death of at least five refugees in Lesbos.

### **Committee’s evaluation**

[C]: The Committee takes note of the information provided by the State party and welcomes the new European Union regulation, which came into force in October 2016, providing for the establishment of a complaint mechanism for persons whose fundamental rights have been breached or have been directly affected by the actions of staff involved in joint border management operations. It regrets, however, the lack of reporting on specific measures taken after the Committee’s concluding observations to fully implement the Committee’s recommendations. In particular, the Committee requires information on: (a) the measures taken to ensure that asylum claims and refugee status are determined on a case-by-case basis in respect of the non-refoulement principle and that a provision for appeal before an independent and impartial authority is guaranteed; (b) the measures taken to ensure effective prevention of ill-treatment of refugees and asylum seekers and to ensure that perpetrators of such treatment are punished; and (c) the implementation of the European Union regulation, which entered into force on 6 October 2016, particularly as regards the mechanisms in place to inform asylum seekers and refugees of their right to resort to the complaint mechanism when their fundamental rights have been breached or affected by the actions of staff involved in joint border management operations. The Committee also invites the State party to comment on the information provided about the containment policy to confine asylum seekers to islands and the reception centres on islands that are overcrowded, often too remote from hospitals and other services, lacking security safeguards, fomenting riots or hate crimes and leaving individuals uncertain about their futures. The Committee reiterates its recommendation.

**Recommended action:** A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be addressed in the State party’s next periodic report.

**Next periodic report:** 6 November 2020.

---