



Human Rights Watch Submission to the United Nations Committee against Torture on Greece April 2012

Introduction

This memorandum, submitted to the United Nations Committee Against Torture (“the Committee”) ahead of its upcoming review of Greece, highlights areas of concern Human Rights Watch hopes will inform the Committee’s consideration of the Greek government’s (“the government”) compliance with the International Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment (“the Convention”). It contains information on Greece’s treatment of migrants and persons with disabilities that are inconsistent with the Convention, and proposes issues that Committee members may wish to raise with the government.

Human Rights Watch has closely monitored the human rights situation in Greece and, in particular, the treatment of migrants over the past four years. As part of this work, we have documented violations against refugees, asylum seekers and migrants in detention centers and have produced reports and other documents describing our research findings. For fuller analyses, please see Human Rights Watch reports [The EU’s Dirty Hands: Frontex Involvement in Ill-Treatment of Migrant Detainees in Greece](#); [No Refuge: Migrants in Greece](#); [Left to Survive: Systematic Failure to Protect Unaccompanied Migrant Children in Greece](#); and [Stuck in a Revolving Door: Iraqis and Other Asylum Seekers and Migrants at the Greece/Turkey Entrance to the European Union](#).

Human Rights Watch has also monitored the treatment of persons with disabilities at the Children’s Care Center (“the center”) of Lechaina over the past year and a half (<http://www.hrw.org/news/2011/06/27/greece-olympic-host-failing-disabilities>) although we have not conducted independent research in the center itself.

We strongly believe that sustained monitoring and pressure on the government by the UN and other rights bodies are crucial to ensure that the rights of vulnerable groups, such as persons with disabilities and migrants, are fully respected.

Treatment of persons with disabilities

Inhuman and degrading living conditions (Convention Article 16)

Through reports from governmental bodies such as the Greek Deputy Ombudsman for the Rights of the Child and the Inspection Body for Health Services and Welfare, the media, and volunteers for the Youth in Action Program, Human Rights Watch has been monitoring the treatment of persons with disabilities at the Children's Care Center ("the center") situated in Lechaina (Ilias Prefecture) over the past year and has raised concerns with the Ministry of Health and the Ombudsman through phone calls and a letter sent in [June 2011](#).

According to reports by the Greek Deputy Ombudsman for the Rights of the Child, Mr. Giorgos Moschos; the Inspection Body for Health Services and Welfare; and volunteers for the Youth in Action Program, the residents in this children's care center, which also hosts adults, are living in dire conditions that Human Rights Watch believes violate their human rights and breach Greece's obligations under international law, including the Convention Against Torture.

At the time of the first visit to the center by the Ombudsman's team, in September 2009, it housed 79 residents with disabilities including cerebral palsy, Down's Syndrome, developmental delays, autism and mobility problems. Residents ranged in age from 6 to 38 years. Fifteen residents were under the age of 18.

In March 2011, the Deputy Ombudsman published an extensive report, the result of ongoing investigations and several visits to the center, on the living and care conditions of the residents hosted there.¹ The Deputy Ombudsman's report noted an insufficient number of doctors and nurses; systematic sedation; and practices such as tying children and adults with developmental disabilities to their beds to reduce self-harm and the use of wooden cage beds. In addition, the Deputy Ombudsman observed that persons with different chronic diseases and disabilities in the Center did not receive regular monitoring of their health status as needed.

In his report, the Deputy Ombudsman described the situation in the Lechaina center:

¹ Greek Ombudsman - Cycle for Children's Rights, Operating Conditions of the Unit for Social Care for children with disabilities "Children's Care Center of Lechaina", March 2011.

The children were alone in their beds, gazing at the white ceiling of the room for several hours a day. According to an informal briefing of staff, sedative medications are administered. Very young children were lying on cots that were surrounded with blankets for protection from self-harm and some, though very young, were tied to their beds with cloth to prevent self-harm. Children with mental disabilities, though able to walk unaided, were living in locked wooden cage beds (approximately 2 meters high) for many hours each day (more on weekends), with the excuse that their use is warranted so as not to risk injuring themselves while moving in the space, given the low level of supervision. Some were calling for attention, physical contact and showed a willingness to leave their beds, while others remained indifferent or were moving in repetitive ways. There were no toys or personal items close to them...because of the potential for self-harm, justified by the lack of continuous supervision due to the lack of staff.²

According to the Deputy Ombudsman's Report, the Inspection Body for Health Services and Welfare issued audit reports in 2007 and 2009, following visits to the center. The reports contained recommendations to the administration of the care center, to the regional health authority and to the Ministry of Health. These recommendations had not been implemented at the time of the Ombudsman's March 2011 report.

In its reports, reproduced by the Deputy Ombudsman, the Inspection Body found that the care center did not have the required qualified personnel, despite the need for continued surveillance of the patients.³ The Inspection Body also found deprivation of care, psychological support and physiotherapy and concluded that the residents did not appear to be given regular medical or rehabilitation services.

Furthermore, most children in the center are deprived of their right to education. After an intervention from the Ombudsman's Office in 2010, two children with developmental disabilities resident in the center started going to the Lechaina elementary school and have successfully integrated with their classmates. However, when these children return from school, they are put into wooden cage beds as are other children in the center. The center staff justify this on the grounds that staff shortages require them to protect the children from harming themselves.

² Greek Ombudsman - Cycle for Children's Rights, Operating Conditions of the Unit for Social Care for children with disabilities "Children's Care Center of Lechaina", March 2011. Unofficial translation by Human Rights Watch.

³ According to the Inspection Body, there are 87 vacant permanent positions, which include positions for doctors, child psychiatrists, psychologists, social workers, special educators, speech therapists, physiotherapists, and occupational therapists.

A lack of available places in other institutions or in community care means that residents remain in the care center when they become adults and in most cases remain there all their lives. The housing of adults in a center meant for children violates Greek law.

According to a January 2012 briefing Human Rights Watch received from the Ombudsman's office after a November 2011 visit to the center, it appears that there have been improvements in staffing and material conditions, including repainting, new furniture, and around 15 new permanent and temporary staff. According to the information we received from the Ombudsman's office, the manager of the center has a pending request with the Ministry of Health for additional permanent staff. Furthermore, a small space has been modified for recreation of two young girls with autism who are physically mobile and who in the past, after school, were usually restricted in cage-beds. However, there are ongoing reports of the use of abusive practices that had been justified by reference to staff shortages, such as tying children to their beds, the use of cage beds for other patients and routine sedation.

Deaths and allegations of abuse (Convention article 16 in conjunction with Article 10)

Human Rights Watch is also deeply concerned about public reports of deaths and alleged abuse in the care center, including news reports of beatings and two deaths in the span of a few days in March 2011: a 35-year-old woman with intellectual disabilities who died of pneumonia and a 28-year-old man who died after taking his medication and feeling discomfort. Media reports assert that there was no doctor at the care center at the time of his death.⁴

Other reports assert that a 15-year-old boy was found dead by asphyxiation in May 2006. The findings of an administrative investigation by the Inspection Body for Health Services and Welfare in 2006 (140/17.8.06) reproduced in the media indicate that although the staff at the center were aware that the child was prone to swallow small objects, they failed to take the necessary measures to prevent his death. Ten months after this tragic incident, a 16-year-old child showed symptoms of bloating and died a few hours later. According to forensic evidence, the cause of death was mechanical obstruction of the small intestine as a result of swallowing foreign objects.

⁴Makis Nodaros, "Second Death in Lechaina", (2ος θάνατος στα Λεχαινά), Eleftherotypia, March 8, 2011.

We are also concerned about allegations that staff members severely beat an adult patient for entering a courtyard of the building without permission, reported by a volunteer at the center to its administration and to the newspaper Eleftherotypia in December 2010.⁵

Human Rights Watch understands that the Health Ministry has opened an investigation on the allegations of abuse and the deaths in the center. The Prosecutor's Office has also opened an investigation, based on complaints by volunteers at the center. Human Rights Watch has no information on the status of these investigations.

We recognize that Greece has limited financial resources to remedy the problems in the center identified above. Nevertheless, the lack of financial resources does not relieve Greece of its obligation to protect vulnerable groups, including its absolute obligation to ensure that no one is subjected to inhuman and degrading treatment, and its duty to ensure that persons with disabilities are treated in a humane manner.

We have noted with interest that the Committee has raised concerns about inadequate living conditions in homes for persons with disabilities, suggesting that such conditions may amount to ill-treatment under article 16 of the Convention.⁶ As noted by the UN Special Rapporteur on Torture, "Poor conditions in institutions are often the result of the failure of the State to live up to its obligations to provide persons in their custody with adequate food, water, medical care and clothing, and may constitute torture and ill-treatment."⁷ Discriminatory practices that inflict severe pain or suffering on persons with disabilities may also constitute torture or other form of ill-treatment.⁸ There is also growing agreement that there is no therapeutic justification for the prolonged use of restraints, and their use may constitute torture or ill-treatment.⁹

⁵ Makis Nodaros, "I saw them beating a child with disabilities", («Είδα να δέρνουν παιδί με ειδικές ανάγκες»), Eleftherotypia, December 18, 2010.

⁶ See Committee against Torture, concluding observations on the fourth periodic report of the Russian Federation (CAT/C/RUS/CO/4), para. 18, the fourth periodic report of Estonia (CAT/C/EST/CO/4), para 24, and the third periodic report of Bulgaria (CAT/C/CR/32/6), paras. 5 (e) and 6 (e).

⁷ Manfred Nowak, Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment to the UN General Assembly, A/63/175, 28 July 2008, para. 52. See Inter-American Court of Human Rights, Ximenes Lopes v. Brasil, judgement of 4 July 2006, paras. 132 and 150.

⁸ Manfred Nowak, Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment to the UN General Assembly, A/63/175, 28 July 2008, para. 53.

⁹ Manfred Nowak, Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment to the UN General Assembly, A/63/175, 28 July 2008, para. 52. See Inter-American Court of Human Rights, Ximenes Lopes v. Brasil, judgement of 4 July 2006, paras. 132 and 150.

Human Rights Watch urges the Committee to use the upcoming review of Greece to raise the following specific points regarding treatment of persons with disabilities:

- Request information on the steps taken by the government to improve the living and care conditions of all residents in the Lechaina center, including ending the use of cage beds, systematic sedation and tying patients to their beds.
- Request information on whether such practices are found in other care institutions in Greece in which persons with disabilities are residents.
- Request information on the progress of the investigations conducted by the Ministry of Health and the Prosecutor's office on the reported deaths and allegations of abuse.
- Request further information on mechanisms in place for monitoring and supervision of the care center and similar institutions.
- Request information on measures taken to:
 - Recruit sufficient qualified staff to fill permanent positions, including doctors and child psychiatrists; and,
 - Separate children and adults by adapting the premises and living environment according to age requirements set forth under Greek and international law.

Treatment of irregular migrants

Human Rights Watch has monitored closely the treatment of irregular migrants in Greece over the past four years. We conducted research on the treatment of irregular migrants in Greece's northern border region with Turkey in late November/early December 2010 and February 2011, and in the port city of Patras in late November/early December 2011, and draw upon our findings gathered there in this submission.

We welcome the government's repeatedly stated intention to overhaul its asylum system and to treat all migrants in a humane manner. We also welcome its efforts to bring its laws in line with international human rights and refugee rights standards, and note with appreciation that it has engaged in a wide consultation process with civil society groups prior to these reforms.

We further welcome the recent legislative change with the adoption of presidential decree 114/2010 that reinstated the appeals procedure for asylum seekers, almost all of whom have been routinely rejected in poorly conducted first-instance interviews. We note that the three new services envisioned in Law 3907 of January 2011—an asylum service independent from the police, an authority to oversee reception centers, and the appeals authority—were officially inaugurated in March 2012. There are ongoing delays in staffing

the new services, however, because of the public sector hiring freeze, among other factors. Only current public servants may be seconded to the new services, raising questions also about whether the most qualified people will be hired. In a joint press release issued in March 2012, the Greek Council for Refugees and other civil society groups in Greece noted that little progress has been made in practice regarding the implementation of the January 2011 law.¹⁰

Indeed, Human Rights Watch's research indicates that the situation for migrants, including for unaccompanied migrant children, remains woeful and in some instances has worsened. The following sections provide an overview of recent and ongoing human rights violations against migrants.

Inhuman and Degrading Detention Conditions (Convention Article 16 in conjunction with Article 11)

Irregular migrants, including vulnerable groups, are held for weeks or months in detention conditions that amount to inhuman and degrading treatment, despite available alternative facilities that would offer adequate conditions. The European Court of Human Rights ruled in the case of *MSS v. Belgium and Greece* in January 2011 that conditions of detention for migrants in Greece amount to inhuman and degrading treatment contrary to article 3 of the European Convention on Human Rights.¹¹

Human Rights Watch documented inhuman and degrading conditions in detention centers in the Evros region in late 2010. Since then, we understand that Greek authorities have taken steps to improve conditions. These steps have included painting some of the centers, fixing toilets, and instituting regular cleaning services.¹² Government proposals to build 30 new detention centers with a total capacity of 30,000 irregular migrants have not been implemented to date. We remain concerned that migrants apprehended as they attempt to enter Greece from Turkey continue to be subjected to deplorable conditions in detention.

During a research mission to the Greece/Turkey border at the end of 2010 we documented that up to 1,000 migrants, who had recently crossed from Turkey into Greece were held in extremely overcrowded detention conditions that failed to provide minimum hygienic standards for detainees. The number of migrants detained exceeded capacity limits in

¹⁰ Greek Council for Refugees, Joint Press Release, "Inauguration of New Asylum Services in Greece – but when will they be operational?" March 16, 2012, <http://www.gcr.gr/node/647> (accessed April 23, 2012).

¹¹ European Court of Human Rights, Grand Chamber, *M.S.S. vs. Belgium*, no. 30696/09, 21 January 2011, available at www.echr.coe.int, paras. 221-402.

¹² Human Rights Watch interview with Doctors without Borders, Athens, December 6, 2011.

some facilities by more than three times. We visited the following places of detention: Venna detention center; Fylakio detention center; Tycherio police station detention cells; Feres police station detention cells; and Soufli police station detention cells.¹³

Detainees in all detention facilities complained about the lack of adequate medical care and access to outdoor areas. One detainee told us that a doctor examined him through bars;¹⁴ a 17-year-old boy from Eritrea said, “For five days I have been asking to see a doctor, but have not been able to see one yet;”¹⁵ and in the Feres police station cell, one detainee showed us his skin rash which he said developed in detention.¹⁶

In one detention cell of the Tycherio police station, migrants had to sleep on cardboard and the concrete floor and remained without access to toilets. They showed us a corner where they urinated and one detainee showed us a bag that showed damage from mice. We further observed how guards escorted a group of migrants from the cells to a near-by field to defecate.

Generally speaking, migrants are detained without regard to their vulnerability. We saw unaccompanied children, families with babies and small children held behind bars in unacceptable conditions as well as migrants who appeared to suffer from mental disorders. In Tycherio, Feres, and Soufli single women and mothers with children were detained in the same space with unrelated adult men in overcrowded conditions, and at great risk to their own safety.

A 50-year-old woman from Georgia who had been detained for 12 days and said she came to Greece for medical treatment told us about her ordeal at Feres police station:

You cannot imagine how dirty and difficult it is for me here. It is not possible to shower; it is really difficult. I don't know what will happen.... All the men smoke inside. There are also younger women. It's not appropriate to be with these men. I don't sleep at night. I just sit on a mattress.¹⁷

¹³ According to police officials, the Fylakio detention center held 450 detainees the day of our visit, and has a capacity for roughly 350 persons. The Venna detention center held 220 persons, which is equal to its maximum capacity. The Feres police station detention place held 97 persons in a place designed for 30; the Soufli police station lock-up held 125 migrants and has an official maximum capacity of 36; at the Tycherio police station lock-up 130 detainees were held in a ware-house type facility that offers capacity for 48.

¹⁴ Human Rights Watch interview (I-14), Soufli police station, November 30, 2010.

¹⁵ Human Rights Watch interview (I-17), Fylakio detention center, December 1, 2010.

¹⁶ Human Rights Watch interview (I-3), Feres police station, November 29, 2010.

¹⁷ Human Rights Watch interview (S-2), Feres police station, November 29, 2010.

In Fylakio, Soufli, and Feres unaccompanied migrant children were commingled with unrelated adults in the same overcrowded detention space. Two 16-year-old unaccompanied boys from Iran and Iraq who had spent 50 days in detention at the time we interviewed them described conditions inside Feres police station as follows:

I am sleeping inside the toilet and I sit on a box. During the day I sleep. The food is bad. I bought the soap [myself]. It costs one Euro. I have no toothpaste, and no clothes to change.¹⁸

For seven days I have been sleeping in the toilet because there is no space. Every night. The rest of the time I sit outside.¹⁹

A 14-year-old Afghan boy who had been detained for 43 days at the time we interviewed him described conditions in the Fylakio detention center:

We don't have any clothes. The toilet is broken. The sewage comes out. There's a very bad smell. If a person comes here, 100 percent he will get sick. There are no adults in our cell. The youngest boy is 12 years old... we're children but we're treated badly.²⁰

Another 16-year-old Afghan boy who had spent two and a half weeks detained in the Fylakio detention center at the time of the interview told us:

The bed here is dirty, really dirty. On two beds four of us are sleeping... In 18 days they took us out only once.²¹

A 14-year-old unaccompanied boy from Eritrea, who had been held for 26 days in Fylakio detention center when we met him, described similar conditions:

For three days in the beginning I was sleeping on the floor. Now I'm sharing a bed with other five persons... we use the bed in shifts. Some use the bed during the day and others at night. We are 83 persons in a room with 30 beds.²²

¹⁸ Human Rights Watch interview (S-3), Feres police station, November 29, 2010.

¹⁹ Human Rights Watch interview (S-5), Feres police station, November 29, 2010.

²⁰ Human Rights Watch interview (S-18), Fylakio, December 1, 2010.

²¹ Human Rights Watch interview (S-19), Fylakio detention center, December 1, 2010.

²² Human Rights Watch interview (I-18), Fylakio detention center, December 1, 2010.

A 17-year-old Eritrean boy, who had been held in Feres police station detention cells, said that the “drinking” water was dirty, that they were not taken to a doctor after requesting one, and that they did not have access to telephones:

There is not enough water. Sometimes we spend hours without water, and then they give us dirty water to drink. For five days I was asking to see a doctor, but was not able to see one yet. Recently we had a strike here, because they did not provide us with access to phones or doctors. Yesterday there were problems again, and again we went on strike. They took everyone outside and did a search on us.²³

An adult migrant from Georgia characterized conditions inside Fylakio detention center as follows:

They are aggressive in Fylakio.... The police don't look at us as humans but as animals. They don't care. They just throw the food inside [the cell] and they don't care if people kill one another over the food. Those who are stronger eat. The others don't.²⁴

An Iraqi man who had been detained for 48 days when we spoke with him described the situation for detainees at Tycherio police station as follows:

I am originally from a land at war, but I never saw suffering like I see here. Unless you faint they will never let you see a doctor.... There is no electricity and no water. We drink from the urinal.²⁵

In the Fylakio detention facility, the largest detention facility for migrants in Greece's northeast region (the facility has a capacity for 350 persons but held 450 detainees on the day of our visit), the floor was flooded with sewage from broken toilets. The atmosphere in the center was tense following a riot the previous day; according to police, riots happen frequently and have led to damage to the center's infrastructure.

These detention centers were clearly overcrowded to the extent that the well-being and safety of detainees were immediately at risk. Yet the government did not consider alternatives to detention, nor did it transfer detainees to other facilities. At the time of our

²³ Human Rights Watch interview (I-3), Feres police station, November 29, 2010.

²⁴ Human Rights Watch interview (S-22), Venna detention center, December 2, 2010.

²⁵ Human Rights Watch interview (I-13), Tycherio police station, November 30, 2010.

visit to these facilities in Greece's northeast, the detention facilities on Samos and Chios Islands remained functioning but empty. The Samos detention facility for migrants, a newly built center which offers space for roughly two hundred persons, stood empty. Given the crisis situation we encountered in detention centers in the northeast, we urged the government to immediately transfer detainees to the Aegean Islands and to consider alternatives to migrants' detention. In early February 2011, a Ministry official told us that no action has been taken on our proposal.

Human Rights Watch visited two detention facilities for migrants at Athens' old airport Ellinikon in April 2010, which held 133 migrants the day of our visit. Migrants kept in the older of the two facilities were mostly deprived of natural light and detainees said they had only once been let into an adjacent courtyard for 15 minutes for the past two months, and were not given any access to the outside yard during the entire winter. Cells in the newer of the two facilities were overcrowded and dirty, and in at least one cell, detainees had to share beds. Both facilities lacked medical personnel, and detainees furthermore complained that they had not been given items for personal hygiene such as toothbrush, soap, shampoo, and washing powder.

We immediately alerted the government that conditions at these two facilities may amount to inhuman and degrading treatment, and called for migrants' release or transfer to appropriate facilities. The Ministry informed us in August 2010 that light bulbs are changed when necessary, the facilities cleaned twice a day, that detainees have access to the outside area once a day, and that a request for medical services has been made to the Ministry of Health.²⁶ We have serious concerns that these measures did not sufficiently address the shortcomings we identified.

In its state report (paragraphs 27 – 29), the government states that only irregular migrants, where repatriation is possible, are transferred to detention centers, while vulnerable groups and groups of irregular migrants whose return is not possible are released. It further claims that migrants subject to deportation are held only for 15-20 days.

Our findings from the December 2010 visit to police station detention cells in northern Greece contradict those assertions. Migrants are being held for months in police station cells, in inhuman and degrading conditions, for the sole reason that they crossed irregularly into Greece. Among them are numerous unaccompanied children who have spent as much as 50 days in squalid conditions, despite their vulnerable situation and asylum seekers who were discouraged by Greek detention guards from lodging asylum

²⁶ Letter from Michalis Chrysochoidis, Minister of Citizen Protection, to Human Rights Watch, August 3, 2010. The letter is on file with Human Rights Watch.

claims. A guard – in our presence, using our interpreter – told a detainee wanting to apply for asylum that he would spend another six months in detention if he applied for asylum.²⁷

In addition, a provision that was voted on April 10, 2012 and amended article 13 of Presidential Decree 114/2010 contradicts what the government states in its state report. The immigration law provision provides for detention of migrants and asylum seekers if they represent a danger to public health. According to the provision, a migrant or asylum seeker can be detained on the grounds that he or she represents a danger to public health, when: he or she suffers from an infectious disease; or belongs to groups vulnerable to infectious diseases, with assessment permissible on the basis of country of origin; is an intravenous drug user or a sex worker; or lives in conditions that do not meet minimum standards of hygiene. There is a 90 day maximum detention time limit, unless the person is already in detention pending deportation in which case a total of 180 days' detention is permitted. Like other grounds of detention, the new public health grounds can be appealed.

This provision is problematic and incompatible with appropriate treatment of migrants on numerous human rights grounds. First, the detention of a person on grounds of nationality or country of origin is arbitrary and unlawful detention, as is detention of a person on a status ground (i.e. that they are a drug user, or a sex worker) as opposed to the commission of any criminal conduct. Moreover in so far as the provision envisages the detention of sex workers, there is no clarity on when or how authorities will, if at all, make a determination as to whether the individual is voluntarily undertaking sex work or is a victim of forced sex work, and therefore a victim of trafficking. In addition, whilst detention on public health grounds is permissible under international law it is subject to certain requirements including that it must be necessary, proportionate; appropriate to achieve a clear public health aim, and non-discriminatory. The Greek provision would not appear to comply with any of the conditions.

Alternatives to detention for unaccompanied children and other vulnerable groups are limited by lack of accommodation space and resources. The Feres police station director explained that unaccompanied children are detained until a place in a reception center becomes available, which as a rule takes at least one week. When we asked him what the maximum length of time children would be held for, he explained that an unaccompanied boy had been held for an extended period because he was ill with hepatitis, and the reception center refused to accept him as it lacked adequate services to care for him.²⁸

²⁷ Human Rights Watch visit to Soufli police station, November 30, 2010.

²⁸ Human Rights Watch interview with Spiridon Daskaris, director, Feres police station, November 29, 2010.

We found that unaccompanied children were often detained for longer periods than adults because of the lack of suitable alternatives. For example, while adult Afghans are released after a few days as they cannot be deported to Turkey under the Greece-Turkey readmission agreement, Human Rights Watch spoke with unaccompanied Afghan children among the 120 children held in the Fylakio detention center at the time of our December 2010 visit who said they had been there for 40 days and longer. Children are detained because they can only be released once they are assigned a place in a care center. And because the government has failed to create more open places in care centers, children remain detained for prolonged periods.

III-Treatment and Lack of Accountability (Convention Article 16 in conjunction with Article 12)

Human Rights Watch has documented abuse by law enforcement officers against migrants and asylum seekers in the Evros region through which they enter Greece from Turkey, and Patras, a port city from which migrants attempt to travel onward to Italy.

Patras

In a research mission in Patras in late November/early December 2011, Human Rights Watch spoke with seventeen migrants, including ten unaccompanied Afghan migrant children, who told us of police and Coast Guard abuse. These abuses occurred on the streets, during sweeps in the abandoned factory where they lived during our visit, and in the port area during attempts to hide under or inside trucks heading to Italy.

An asylum seeker and activist who has been living in Patras for five years told Human Rights Watch that violence against migrants had intensified since the opening of the new port in June 2011. Both police and Coast Guard officers patrol the port. The migrants we interviewed could not differentiate between the two forces, referring to the forces operating in the port as “commandos.”

A 38-year-old Eritrean man described how a police officer abused him during a sweep operation in the abandoned factory where he lives with other migrants, a few days before our visit, in late November 2011:

They asked for my papers. I said I don't have papers and then they beat me and told me to not come here again. They beat me on the hand with kicks. I was down. I had fallen on the prone position on the ground and they were hitting me on the

hands with kicks. I was crying and when I was crying they were hitting me much more.²⁹

In early December 2011, Human Rights Watch researchers visited a large abandoned factory in front of the port of Patras where hundreds of migrants live in deplorable conditions. During our visit, migrants showed us a fire-damaged room and claimed that a week earlier the police had set fire to the room after detaining the Eritreans living there. Migrants living there told us about numerous attacks they experienced during police visits to the factory. A 27-year-old Sudanese man, who had been living in the factory for two months when we spoke, told us that “the police have come many times, more than ten times...”³⁰ A 16-year-old unaccompanied Afghan boy said just that day the police had come during the night: “They beat my friends with sticks. They beat me in the legs. I don’t know why. All the police were hitting with sticks and hands.”³¹

Irregular migrants also allege that they have experienced police abuse on the streets of Patras. A 17-year-old unaccompanied Afghan boy, told us he was beaten by the police on his way back from the supermarket around a week before the interview:

The police came...They were 4 persons in the van and one came with a motorcycle. I told them that I went to Lidl [supermarket] and showed them the shopping bags but they didn’t listen. They beat me without saying anything. It happened on the street on the way to the factory. They beat me on the belly and legs with punches. My phone fell down and they kicked it and it broke. I was in pain for two days.³²

He told us he didn’t report the incident to the police because “nothing comes from it. Sometimes, people have gone to complain and nothing happened.”³³

A 16-year-old Afghan boy told us he and four others were apprehended by the police as they attempted to sneak into the port area at the end of October/beginning of November 2011.

We were near the fence near the ships, the police caught us trying to get in. I showed my paper, I said I’m 15 in English. They put me in the car and took me out

²⁹ Human Rights Watch interview (P-1), Patras, November 29, 2011.

³⁰ Human Rights Watch interview (P-4), Patras, November 29, 2011.

³¹ Human Rights Watch interview (P-2), Patras, November 29, 2011.

³² Human Rights Watch interview (P-3), Patras, November 29, 2011.

³³ Ibid.

of the city, near the mountains. They beat me with a cable, like a big electric cable. They beat the others too. One of the others went to the police station to complain, and the police told him they didn't believe him, 'maybe you did this to yourself.'³⁴

A 25-year-old man from Afghanistan said a policeman on a motorcycle stopped him on the road near the port, in mid-November 2011. He didn't understand what the police officer said to him. The officer then hit him in the chest and legs.³⁵

Other interviewees told us about abuse by law enforcement officials in the port area during attempts to hide under or inside trucks heading to Italy.

A 16-year-old Afghan boy we interviewed had been separated from the rest of his family at the border. He had been living in Patras for roughly six months when we spoke. He was caught hiding in a truck on September 23, 2011.

The police found me. One [of them] twisted my hand behind my back and the other let the chain off the dog and said something to the dog, and he attacked. While the other officer held me. I was crying, the commandos took me behind the tracks so no one could see me and they left me there.³⁶

The boy had stitches on his arm consistent with a dog bite. When he reported the violence to the Alien's Police office in Patras, he was told it was "not their job", and that he would have to go to the port to complain.³⁷

A 19-year-old Afghan told Human Rights Watch he had been beaten by officers inside the port five or six days before we spoke in late November 2011: "We went to the port with a lot of other people. The police caught me inside [the others ran away]. They beat me with their legs, their hands, with their sticks, and told me to go away." He said it was the third time he had been beaten during the month he had been in Patras.³⁸

³⁴ Human Rights Watch interview (P-8), Patras, December 1, 2011.

³⁵ Human Rights Watch interview (P-5), Patras, November 2011.

³⁶ Human Rights Watch interview (P-9), Patras, December 1, 2011.

³⁷ Ibid.

³⁸ Human Rights Watch interview (P-7), Patras, November 30, 2011.

A 27-year-old Sudanese man was caught hiding under a truck inside the port area in late November 2011. He said the officers forced him out, and broke his thumb twisting his arm behind his back.³⁹

The Patras police chief and representatives of the Hellenic Coast Guard assured Human Rights Watch in separate meetings that all reports of abuse would be duly investigated but minimized the extent of the problem, insisting that they had very few reports of law enforcement abuse, none of which had been verified.⁴⁰

An asylum seeker and activist in Patras told us his attempts in September 2011 to report a series of cases, including the incident in which a dog bit an 16-year-old boy, directly to Coast Guard officials in both the new and old ports had been rebuffed.⁴¹

Evros region

During our research mission in Greece's northern border region with Turkey in late November/early December 2010 and February 2011, we gathered credible testimonies from migrants who told us they had been ill-treated at the hands of Greek law enforcement officers. Those who reported ill-treatment included unaccompanied children.

A 16-year-old unaccompanied boy was caught after a foiled escape attempt in late October 2010, and described the stress position and ill-treatment he suffered at the hands of Greek police officers at Soufli border police station:

Once I tried to run away. They caught me after five minutes. They beat me after that. They beat me a lot on my neck, legs, and head. They kicked me.... For four hours they tied up my hands. They tied my hands to the bars; for four hours. And they threw water on me. It was in Soufli. Then they took me to the place where the other detainees were. I was beaten for 30 minutes or one hour.... I was not taken to the doctor.... For two weeks I could not sleep I was in such pain.⁴²

Another 16-year-old unaccompanied Afghan boy described the ill-treatment he experienced in 2010 in Fylakio detention center:

³⁹ Human Rights Watch interview (P-10), December 1, 2011.

⁴⁰ Human Rights Watch interview with Brigadier Dimitrios Drivilas, Patras, December 1, 2011; Human Rights Watch interview with NAMES, Hellenic Coast Guard, Athens, January 12, 2012.

⁴¹ Human Rights Watch interview with asylum seeker and activist (identity withheld upon request), Patras, December 1, 2011.

⁴² Human Rights Watch interview (S-3), Feres police station, November 29, 2010.

One night they took me out and beat me. I don't know why. They took us into the room where the telephones are. In the small room and they beat us. First they were two, then two others joined. It happened at night. We were four or five [detainees] who made noise. We were shouting because all people became crazy and we were in bad conditions. They took us out because of that.... They hit me with a stick. Three or four police officers hit me on my upper leg two or three times. They didn't punch me but slapped me with their hands... for two to three hours they locked us into the telephone room. Then they poured alcohol [on the floor] and lit it. It was under the door. It was a lot [of alcohol]. The door was locked. We were scared and we tried to put out the fire but couldn't - then it went out by itself.⁴³

Others told us that guards beat or kicked detainees for random reasons, including because they asked for water, or were late for the headcount.⁴⁴ These testimonies are consistent with findings during previous research missions by Human Rights Watch. They are also in line with findings published by the Council of Europe's Committee for the Prevention of Torture (CPT).⁴⁵

Although the government has pledged to hold perpetrators of violence accountable, in practice we have seen little evidence of meaningful steps towards this goal. We have instead found a continuing climate of impunity and widespread reluctance by victims to file complaints due to an absence of a safe complaints mechanism, insufficient numbers of interpreters, and a lack of trust in authorities.

The case of Mohammed Zadar, 17-year-old unaccompanied Iraqi who was hospitalized on October 22, 2009 and alleged that police severely beat him in the Lesvos detention center showcases the lack of accountability for perpetrators of violence against migrants.⁴⁶

The government informed us that an internal disciplinary investigation was launched into the incident, but concluded that there was no evidence to support the allegation of abuse.⁴⁷ We have not been informed of the outcome of the criminal investigation but were

⁴³ Human Rights Watch interview (S-19), Fylakio detention center, December 1, 2010.

⁴⁴ Human Rights Watch interviews (I-7, I-9, I-12), Tichero police station, November 30, 2010.

⁴⁵ The Committee's reports on Greece can be found here: <http://www.cpt.coe.int/en/states/grc.htm>.

⁴⁶ The incident has also been reported by the BBC news service, <http://news.bbc.co.uk/2/hi/europe/8328746.stm>.

⁴⁷ Letter from Michalis Chrysochoidis, Minister of Citizen Protection, to Human Rights Watch, August 3 2010. The letter is on file with Human Rights Watch.

told by the Prosecutor General that the same Lesvos police body whose member was the alleged perpetrator carried out the investigation.⁴⁸

Concluding remarks

We are concerned that the government, despite its repeated assurances, still has not set up an independent complaints mechanism that would allow victims of police abuse, including migrants, to submit a complaint prompting an immediate and impartial investigation.

Although the establishment of an office responsible for addressing misconduct within the Ministry of Citizen's Protection is a positive measure, the office is not yet operational and we are concerned that its mandate is limited to ruling on the admissibility of complaints. Cases will be transferred to the relevant disciplinary bodies of the security forces for further investigation. We are furthermore concerned that the government in its submission to the Committee considers the complaints of ill-treatment received from migrants between 2005-2009 as isolated cases (paragraph 182), despite repeated and consistent reports of ill-treatment gathered by Human Rights Watch and others, notably the CPT.

The fact that Greece faces an economic crisis, an unfair and inadequate EU system (Dublin II Regulation) for allocating responsibilities for examining asylum claims, and a significant burden due to the continued influx of migrants and asylum seekers do not relieve Greece of its obligation to protect vulnerable groups and to ensure that migrants in the country are treated in a humane way.

Our findings show that Greece's efforts remain insufficient across the board. The government continues to keep migrants in appalling and inhuman conditions despite available alternative places that offer acceptable conditions. And it is not meeting minimum requirements for protecting unaccompanied children, who by any standards, should be among the first to benefit from protection and care.

We urge the Committee to take these findings into account when discussing Greece's report. In particular, we recommend that the Committee request the government to provide information that demonstrates how its legal and policy reforms will contribute to concrete

⁴⁸ Human Rights Watch meeting with Ioannis Tentes, Prosecutor General, April 13, 2010. Mr. Tentes informed us that his office had issued an instruction to ensure investigations into allegations of ill-treatment by police are carried by an independent body, and not by the concerned police unit.

improvements in the treatment of migrants generally, as well as asylum seekers, unaccompanied migrant children, and other vulnerable groups.

In particular, we urge the Committee to raise the following specific points regarding the treatment of migrants:

- Request specific information on the number of disciplinary and/or criminal investigations into law enforcement officials for allegations of ill-treatment of migrants in 2010 and 2011, and the number of cases in which sanctions have been imposed as well as the nature of these sanctions.
- Urge the government to create an independent and confidential complaints mechanism, in conformity with international standards, to allow victims of police abuse, including migrants, to report cases of ill-treatment.
- Request information on the number of available care places for unaccompanied migrant children in the country, the number of unaccompanied migrant children present in Greece, and the number and timeframe for establishment of planned places for unaccompanied migrant children.
- Urge the government to amend its legislation to prohibit the detention of migrant children for the sole reason that they have crossed irregularly into Greece.
- Urge the government to adopt immediately a policy of not detaining migrant children, until such time as legislative reform is enacted.
- Urge the government to limit the detention of migrants by considering alternatives, create open reception centers for asylum seekers and members of vulnerable groups, such as children, and refrain from detaining asylum seekers and members of particularly vulnerable groups, such as migrants with disabilities and victims of trafficking.
- Urge the government to repeal the provision permitting detention of migrants on public health grounds on the basis that it is incompatible with human rights law and lacks adequate safeguards against arbitrary detention.
- Urge the government to urgently improve detention conditions, and immediately reduce overcrowding by using alternative facilities as well as, whenever possible, to use alternatives to detention.
- Urge the government to ensure that all operations to identify and detain irregular migrants are conducted in a manner consistent with its international human rights obligations. The use of force during such operations should be strictly limited to that which is necessary and proportionate, with excessive use of force subject to disciplinary and, as appropriate, criminal, investigation.