

## GREEK HELSINKI MONITOR (GHM)

Address: P.O. Box 60820, GR-15304 Glyka Nera Tel.: (+30) 2103472259 Fax: (+30) 2106018760

e-mail: [helsinki@otenet.gr](mailto:helsinki@otenet.gr) website: <https://greekhelsinki.wordpress.com>

---

### Submission to the UN Human Rights Committee on the follow-up to the concluding observations on Greece

3 April 2017

The three specific recommendations for which the **HRCttee** requested in 2015 from the authorities of Greece relevant information on their implementation so as to conduct in 2017 a follow-up are:

- 16. 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.
- 32. 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 remain 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 already existing structures, while ensuring adequate conditions for unaccompanied minors in those facilities, including segregation of unaccompanied minors from adults;
  - (c) Pursuing its efforts to redesign the guardian assignment procedure and ensure that each unaccompanied child is provided with a legal guardian; and
  - (d) Ensuring that the age assessment procedure is based on safe and scientific methods, take the children's mental well-being into account and avoid all risks of violating their physical integrity.
- 34. The State party should ensure that all persons seeking international protection have access to fair and personalized assessment procedures, to protection against refoulement without discrimination and to 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, allowing migrants wishing to enter its territory to have access to safe entry points, where their asylum claims can be evaluated. Moreover, the State party should take all necessary measures to ensure that informal returns do not occur and that immigrants are not subjected to ill-treatment during their deportation, expulsion or in pre-removal centres. It should also ensure that ill treatment of refugees and migrants is effectively reported and 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.

#### 1. On unauthorized and disproportionate use of force by law-enforcement officials

In December 2016, the **Hellenic Parliament** adopted law 4443/2016 inter alia designating the **Greek Ombudsperson** additionally as the national mechanism to investigate complaints on arbitrariness by law enforcement and detention facility agents. This new **Ombudsman's** mandate begins on 9 June 2017. The mechanism has the power to conduct its own investigations but its recommendations to the disciplinary bodies of law enforcement agencies, which still have the authority to punish perpetrators, are non-binding. The latter though, if they decide not to follow the

recommendations, have to offer reasons for such decisions. On 25 July 2016, [the Commissioner for Human Rights at the Council of Europe had advised the Greek Government](#) that the scope of that mechanism should not be limited to issuing non-binding recommendations and that there is a need for a regular and public review procedure to assess the functioning of the mechanism; both of his advices were ignored. The HRCttee is requested to make similar recommendations.

In the meantime, widespread impunity on ill-treatment or torture allegations continues, as Greek law enforcement and judicial authorities continue not to consider it necessary to stop the phenomenon or at least sincerely and effectively investigate allegations and punish perpetrators, especially when the latter belong to vulnerable groups, unless they are forced to do so through complaints by victims or NGOs. Two cases litigated by **GHM** are indicative of the prevailing trend and detailed below along with **Amnesty International's** and the **Greek Council for Refugees'** related reports.

*a. Police and prosecutors refuse forensic examination of Roma alleged torture victims*

On 8 October 2016, three young Roma, **Thanasis Panayotopoulos, Yannis Bekos and Vasilis Loukas** complained that they were victims of torture by **Western Attica Hellenic Police Division** officers who had arrested them. They wanted to extort from them confessions that they had committed offenses which the Roma claimed they had not committed; as well as information on their alleged accomplice who had ran away and whom they claimed they did not know. One of the Roma ended up for ten days in the intensive care unit of the cardiology clinic of **Thriassio Hospital** also having wounds on his genital organs. The plaintiffs repeatedly asked interrogating police officers and prosecutors for a forensic examination; so did **GHM** on their behalf, with public appeals and even through [a complaint filed on 11 October 2016](#) with the **Athens Special Prosecutor on Racist Violence** and with the **Greek Ombudsman**. All these requests were ignored and they were never examined by a forensic. On the contrary, [more than two months after the filing of the complaint](#), the Roma were asked to testify about their allegations in the framework of an internal police investigation to a local police station subordinated to the police division where they claimed to have been tortured: on **GHM's** advice, they refused. Finally, three months after the filing of the complaint, the **Athens Special Prosecutor on Racist Violence** assigned the criminal investigation to the **Internal Affairs Division of Hellenic Police (IAD)** which through 1 April 2017 appears to have decided not to carry out the investigation itself but asked a local police station to take the testimony of one of the plaintiffs with questions drafted by the **IAD**. No other investigative action has taken place. It is almost inevitable that this very serious alleged torture case has no chance to be the object of a thorough and prompt investigation and an ensuing appropriate punishment of the perpetrators. **This practice is widespread when Roma are (or allege to be) victims of ill-treatment or torture.**

*b. Ill-treatment of refugee ignored by police, prosecutors and judges*

**Khaled** (real name as well as his statement and full court documentation provided by the NGO [Advocates Abroad](#) on file with **GHM**), a 21-year old Syrian refugee, who entered Greece in January 2017, is confined to stay at the **VIAL hotspot on Chios Island**. On 20 March 2017, he communicated with a police officer there in his effort to seek out information from the **UNHCR** office. **Khaled** stated that there was an argument between him and the police officer who hit him to push him away. This angered **Khaled** who, a little later, reappeared at the police office in **VIAL**, along with a friend as a witness. He held a knife on his throat threatening to kill himself in protest. That angered the three or four police officers present who kicked and hit **Khaled**, dragged him inside the police office where they continue to kick him. They then arrested him and took him to the **Chios Police Station** where he was kicked again, sworn at, made to strip naked to be searched, and then detained in a cell until the next morning. It was only on 21 March 2017 that **Khaled** was given an arrest document in Greek dated 20 March 2017 which he was forced to sign. Then through an

“interpreter” –in fact another refugee living in VIAL who is no certified interpreter and is impossible to have learnt fluent Greek in such a short time- he gave a defense statement in which the above ill-treatment is summarily recorded. Yet, none of the several police officers, the three prosecutors and the two judges who read the statement launched an investigation of these allegations. **This practice is widespread when migrants or refugees are (or allege to be) victims of ill-treatment or torture.**

**Advocates Abroad have additionally provided GHM well-documented cases of police abuse of an additional half-a-dozen refugees or asylum seekers, including minors, in Samos, Lesvos and Chios between November 2016 and March 2017, which have also been the object of complaints to the Greek Ombudsman submitted by AA. For lack of space, they cannot be detailed in this report but are available upon request.**

c. [Amnesty International 2016/2017 report on Greece: Torture and other ill-treatment](#)

*“Allegations of torture or other ill-treatment of individuals, including refugees, asylum-seekers and migrants during arrest or in immigration detention, persisted.*

*On 27 September, five Syrian boys, aged between 12 and 16, were stopped by the police in central Athens while they were carrying toy guns as props on their way to perform in a play. The children said that they were beaten and forced to strip naked during their detention in the Omonoia police station. A criminal and a disciplinary investigation were ordered into the incident.*

*The national NGO Greek Helsinki Monitor (GHM) reported that three Roma men were beaten by the police during their arrest and detention at a western Athens police station in October. One of the men suffered a heart attack and was hospitalized with serious injuries. Despite requests by the victims and GHM, a forensic examination was refused. GHM filed a complaint of torture and breach of duty with the Athens Prosecutor tasked with investigating hate crimes.*

*During the same month, a court in Thessaloniki found 12 prison guards guilty of torturing and causing serious bodily harm to Ilia Karelli, an Albanian national found dead in his cell in Nigrita prison in March 2014. They were given prison sentences ranging between five and seven years.”*

d. [Greek Council for Refugees condemns inhuman and degrading detention in Samos](#)

*“On 24 November 2016 the Greek Council for Refugees (GCR) provided legal assistance in the Samos Island hotspot to a particularly vulnerable 25-year old asylum seeker tortured by ISIS members in Iraq. Injured when he was accidentally present in a clash between police and hotspot residents, protesting conditions there, especially after heavy rains, he was transferred for treatment at the General Hospital of Samos. The next day he was discharged, still wounded in the hand and leg. Immediately after, police took him to the Samos Police Directorate where he is being held for a period of 19 days continuously handcuffed in the first five days and for some hours after that on a bench in the central corridor area, exposed to public view. Throughout the detention period he is forced to ask to be transferred to the bathroom without his request always being satisfied. He sleeps on the floor with his hand tied to the bench. The food administered is inappropriate given the health problems after the operation. Moreover, in the last five days he is not receiving medication for stress because he has ran out of pills. Finally, he is not allowed to bathe and change clothes, despite persistent related requests. In despair and mental and physical collapse due to the detention conditions he informed us that he thinks of resigning from his request for asylum and has been in contact with a representative of the International Organization for Migration (IOM) in order to be informed about the applicability of a voluntary return program. There is no pending criminal proceeding against him and the detention order issued when he entered the country is suspended. In any case, it is recalled that law expressly prohibits the imposition of the measure of administrative*

detention for asylum seekers. Hence, his detention is illegal. The Greek Council for Refugees stressed that his detention under the above conditions constitutes torture and expresses his disgust, but his deep concern about the reception conditions that the Greek State reserved for newly arrived populations.” The effective torture was “successful:” the GCR recently reported to GHM that the victim, to avoid further suffering, gave in and used the IOM program to be repatriated.

## 2. On unaccompanied children

Below are relevant excerpts from the October 2016 report “**Forgotten**” by Aitima, a member of the “**Campaign for the Access to Asylum**” NGO network, to which GHM also belongs. The HRCtee is requested to highlight that its recommendations were largely ignored and urge Greece to promptly implement them.

*“Unaccompanied minors are still being detained due to lack of open accommodation facilities and due to deficiencies in age definition procedures and in identification of unaccompanied minors....*

### *A. Age assessment of minors*

*Serious deficiencies occur in our country regarding the age assessment of minors. Until February 2016, our legislation provided a comprehensive procedure of age assessment of minors only in the context of First Reception Centers. Therefore, the implementation of the aforementioned legislation, concerned the sole First Reception Center that existed in Orestias. In February 2016, such a procedure has also been adopted for the cases of asylum seekers of contested age. However, both before the adoption of the above-mentioned legislative framework and after that, the skeletal age measurement with the use of radiology –a method of contested liability– has been widely used.*

### *B. Detention of minors*

*In regard to the registered minors, the police authorities impose the measure of detention until their transfer to Accommodation Centers for minors. During our visits, we established that the minors that we talked to, were detained for approximately 1,5-2 months until they were transferred to an accommodation facility.*

- Some minors had been detained to Police Stations and Pre-Removal Detention Centers until their transfer to the Special Detention Facility for unaccompanied minors at Amygdaleza*
- During their admission to the Special Detention Facility, no individual evaluation and vulnerability assessment were carried out. During our visits, we found particularly vulnerable children, who were victims of abuse in their countries of origin and were in need of special care*
- Some minors told us that members of their families were residing legally in Greece*
- The minors had not been informed about their legal status, their right to legal representation and the duties of the Juveniles Prosecutor as their provisional guard*

*Furthermore, during our visits to the Pre-Removal Detention Centers and the Police Stations, we found people who claimed to be minors but had been registered as adults. In these cases, the police authorities had not taken measures for their separation from the other detainees until the completion of the age determination procedure. Some of them told us that they had been harassed by adult detainees, as they were all detained in the same cell. Moreover, in most cases, despite the fact that it was obvious that they were minors or they stated to the detention authorities that they were minors, no provision was made for their referral to age determination procedures and their segregation from adult detainees.”*

### 3. On asylum-seekers and refugees

First and foremost, there are no safe entry points to Greece to which asylum seekers may have access, as Greek authorities deliberately ignored this **HRCtee** recommendation, along with so many other recommendations.

Secondly, the situation of asylum seekers and refugees, especially in island “hotspots,” is so grave that the **CPT**, after its regular visit in April 2013, felt it necessary to carry out [three ad hoc visits in April 2015, April 2016 and July 2016](#). The report from the last two visits is not public yet as the Greek government has not given its approval. But [the release on the July 2016 visit](#) is telling: *“One of the primary purposes of the visit was to examine the situation in the “Reception and Identification Centres” (so-called “hotspots”) on the islands of Chios, Lesbos and Samos and to evaluate any developments since the Committee’s April 2016 visit. The delegation also visited a number of police stations and holding facilities for irregular migrants in Athens, Thessaloniki and on the Aegean islands. A further focus of the visit was to look into the treatment of criminal suspects held in police custody and the safeguards afforded to them.”* On the contrary, [the report from the April 2015 visit is public and the related March 2016 summary](#) shows inter alia persistent problems in the areas of the **UN HRCtee** follow-up: *“The CPT’s findings from the 2015 visit illustrate once again the widespread and deep-rooted problem of police ill-treatment in Greece and the report makes specific reference to the excessive use of force employed by the Delta motorcycle police unit in Athens. The CPT urges the authorities to fully acknowledge the phenomenon of police ill-treatment and calls for a comprehensive strategy and determined action to address it. The findings detailed in the report also demonstrate that the current system of investigations into allegations of ill-treatment by law enforcement officials is characterised by a number of systemic failings by the police and judicial authorities. The result is that investigations often remain ineffective and the report is notably critical of the lack of action taken by prosecutorial authorities. Further, there has been no progress as regards the practical implementation of formal safeguards against ill-treatment, notably the rights of notification of custody, access to a lawyer and access to a doctor as from the very outset of deprivation of liberty.”*

The case of **Khaled**, who complained about ill-treatment that was ignored, reported above illustrates the issues raised by **CPT**. Additionally, **Khaled** has stated that when referred to trial on 21 March 2017 he was told by the “interpreter” that his request to be given a lawyer was granted along with a postponement. However, when he appeared again in court on 23 March 2017, there was no lawyer available. As NGO **Advocates Abroad** (AA) reported to **GHM**, the trial lasted for 6,5 minutes. The defendant had no lawyer; the “interpreter” was inappropriate and unlawfully used and just asked him 3-4 very brief questions but did not interpret the proceedings; there was no prosecution witness examined; and the defendant was refused to have his defense witness (the person who was with him during the incident) examined. **Khaled** was thus summarily convicted for resisting arrest, insulting the police officer and illegally carrying a weapon (the knife) and given a suspended sentence of 16 months in prison. Only thanks to **AA** was he able to file an appeal.

Thirdly, on informal returns that continue to occur and on the reception conditions for refugees [Amnesty International](#) reported in early 2017: *“There was evidence that at least eight Syrian refugees were forcibly returned to Turkey. They had registered their intention to claim asylum but were returned from Kos on 20 October 2016 before they could lodge their applications. Reception conditions for refugees, asylum-seekers and migrants stranded on the islands were overcrowded and insanitary; they provided inadequate security and people faced uncertainty about their future. This fuelled tension that occasionally erupted into violence, including riots in the Lesbos, Chios and Leros “hotspots”... Conditions in the majority of official refugee camps around mainland Greece were inadequate for hosting individuals even for a few days. The camps, hosting around 20,000 at the end of 2016, were either tented or established in abandoned warehouses and some were in*

remote areas far from hospitals and other services. By the end of the year, 23,047 relocation applicants, particularly vulnerable asylum-seekers and unaccompanied children, were provided with accommodation through a project run by UNHCR, the UN refugee agency.” Elsewhere, [AI wrote in March 2017](#): “On the Greek islands the harrowing human cost of the deal is laid bare. Not allowed to leave, thousands of asylum-seekers live in a tortuous limbo. Women, men and children languish in inhumane conditions, sleeping in flimsy tents, braving the snow and are sometimes the victims of violent hate crimes. Five refugees on Lesbos, including a child, have died amid such conditions. After the deaths of three men in Moria camp in January 2017, one man living there told Amnesty International: “This is a grave for humans. It is hell.” Another 20-year-old Syrian refugee said: “I escaped Syria to avoid jail but now I am imprisoned.” Over the past 12 months, Amnesty International has documented how some Syrian asylum-seekers have been forcibly returned to Turkey without having access to asylum and without being able to appeal against their return, in breach of international law. Others have ‘voluntarily’ returned to Turkey because of the misery on the Greek islands.”

Fourthly, [Human Rights Watch reported in March 2017](#): “The EU-Turkey deal has trapped thousands of people in abysmal conditions on the Greek islands for the past year, while denying most access to asylum procedures and refugee protection, Human Rights Watch said today. This assessment of conditions is released ahead of the first anniversary of the agreement, signed on March 18, 2016. To carry out the deal, the Greek government has adopted a containment policy, keeping asylum seekers confined to the islands, including in the so-called refugee hotspots and other reception facilities, to facilitate speedy processing and return to Turkey. But continued arrivals, the mismanagement of aid funding, and the slow pace of decision-making, as well as the positive decisions of Greek appeals committees rejecting summary returns to Turkey as unsafe, have led to overcrowded and abysmal conditions on the Greek islands. These factors, combined with the Greek authorities’ failure to properly identify vulnerable asylum seekers for transfer to the mainland, have resulted in deteriorating security conditions, unnecessary suffering, and despair.”

Finally, the [“Campaign for the Access to Asylum”](#) NGO network, to which **GHM** belongs, published in January 2017 a detailed report with the telling title: “No more dead refugees – Immediate transportation of the asylum seekers from the Aegean islands to the mainland for a fair examination of the merits of their asylum applications in a context of freedom and decent living conditions.” The demand that asylum seekers are transferred from the islands to the mainland has also been made by [Amnesty International in March 2017](#): “It is clear that instead of trying to return asylum seekers and refugees to Turkey, the EU should work with the Greek authorities to urgently transfer them to mainland Greece for their cases to be processed.”

The HRCttee is requested to note the improvement in the procedure to evaluate asylum applications but also underlie that its remaining recommendations were largely ignored and urge Greece to promptly implement them as well.