

**Submission by the United Nations High Commissioner for Refugees**

**For the Office of the High Commissioner for Human Rights' Compilation Report**

**Universal Periodic Review:**

*2nd Cycle, 25th Session*

**GREECE**

**I. BACKGROUND INFORMATION**

Greece became a State party to the *1951 Convention relating to the Status of Refugees* in 1960 and acceded to its *1967 Protocol* in 1968 (hereinafter jointly referred to as the *1951 Convention*). Greece acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) in 1975, but is not a State party to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

Since the *M.S.S. v. Greece and Belgium*<sup>1</sup> judgment in 2011, following which most States suspended Dublin transfers to Greece, Greece has been implementing an in-depth reform of its asylum system, in order to address the deficiencies highlighted in the *M.S.S.* judgment, and to ensure a fair and efficient asylum procedure is in place. This reform has notably resulted in the establishment of the new Asylum Service, Appeals Authority and First Reception Service.<sup>2</sup> In 2013, Greece transposed the recast *Qualification Directive (QD)* but has not yet transposed the recast *Asylum Procedures Directive (APD)* or the recast *Reception Conditions Directive (RCD)*. Following the elections of January 2015 and the establishment of a new Government in Greece, a distinct position of an Alternate Minister of Migration Policy, under the Minister of Interior, was created, covering the previously dispersed portfolios related to regular migration, first reception of new arrivals and asylum.

Since 2013, Greece has been experiencing a large increase in the number of refugees and migrants arriving by sea, many seeking to move on to other European Union Member States. During 2015 (as of the end of August), a record number of 205,000 refugees and migrants arrived by sea to Greece, marking an unprecedented increase in comparison to the previous years. According to statistical data from the Asylum Service, asylum applications in 2015 (as of July) amounted to 7,469. The vast majority (close to 95 per cent) of those arriving come

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<sup>1</sup> *M.S.S. v. Belgium and Greece*, Application no. 30696/09, Council of Europe: European Court of Human Rights, 21 January 2011, available at: <http://www.refworld.org/docid/4d39bc7f2.html>.

<sup>2</sup> UN High Commissioner for Refugees (UNHCR), *UNHCR observations on the current asylum system in Greece*, December 2014, available at: <http://www.refworld.org/docid/54cb3af34.html>.

from regions where conflict and human rights violations prevail, notably from Syria (around 60 per cent), Afghanistan, Iraq, Somalia and Eritrea.

Furthermore, significant numbers of unaccompanied and separated children (UASC) continue to arrive in Greece. However, there is no national database with comprehensive relevant data. Official data are limited to those reported by the Asylum Service (447 asylum-seeking children in 2014) or by the National Centre for Social Solidarity (EKKA), the responsible authority for referrals to reception facilities (2,390 applications by UASC in 2014).

This situation is evidently challenging for the Greek State, which needs to uphold its international and regional obligations *vis-à-vis* the protection of refugees and other groups, and to effectively manage mixed migration flows as an external country to the EU. While the establishment of appropriate asylum and migration management procedures at the borders, in accordance with national and EC law, is still falling short, the sharp increase in refugee arrivals, prompted by the ongoing Syrian crisis, has resulted in a very critical situation, which may be characterized as a humanitarian crisis. Some of the most pressing ongoing challenges relate to access to territory; first reception; alternatives to detention; fair and efficient refugee status determination; special protection for UASC; and second-line reception and integration of asylum-seekers and beneficiaries of international protection, as well as the protection of stateless persons.

According to official data shared by the Greek authorities in the last years, it is estimated that by the end of 2014, there were 199 stateless persons in the country. However, in the absence of a statelessness determination procedure, stateless persons often remain unidentified and official data on stateless persons in Greece are quite limited (see Issue 6 below for further information).

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

### **Positive developments linked to 1st cycle UPR recommendations**

**Linked to 1st cycle UPR recommendation no. 83.66:** “Continue giving priority to introducing legislative amendments and implementing actions aiming at respecting human rights of all migrants and speeding asylum procedures (Lebanon)” **and no. 83.68:** “Ensure that asylum-seekers and irregular migrants are treated according to Greece’s human rights obligations and strengthen all efforts to implement the national action plan on asylum reform and migration management (Austria).”

#### *Asylum system reform*

Since 2010, and in order to address serious deficiencies in refugee protection in the country, Greece has been implementing a complex reform of its asylum system, based on the Greek *Action Plan for Migration Management and Asylum* developed by the Greek authorities and supported by a number of actors, including the European Commission (EC), the European Asylum Support Office (EASO) and UNHCR. A comprehensive law (*L. 3907/2011*) was issued providing for the establishment of a new Asylum Service responsible for the State procedures to determine international protection status (refugee and subsidiary protection status). In early 2015, the Greek Government submitted a *Roadmap for 2015 for Migration and Asylum*.

### *Refugee status determination*

Since the beginning of the operation of the Asylum Service in June 2013, significant improvements have taken place in the quality of the adjudication of asylum claims and of decisions. These include the reduced timeframe under the new procedure for completing the examination of cases at first instance and appeal, the improved quality of interviews and decisions, and the observance of procedural guarantees. Some of the limited resources of the Asylum Service have also been used to prioritize the processing of asylum applications of persons in pre-removal detention. Moreover, given the high protection rate for Syrians, the registration of asylum applications of Syrians holding an identity document and the decision-making in their cases have been fast-tracked since August 2014. Nevertheless, challenges still remain (see Issue 2 below for further information).

### *First reception and alternatives to detention*

A First Reception Service was established in 2011, in accordance with national *Law 3907/2011*, with the objective of receiving third country nationals who arrive irregularly in Greece, standardizing first reception procedures (including administrative processing) and facilitating identification and referral of individuals with specific needs. It was expected that the first reception set-up would gradually replace the systematic use of detention as the default response when third country nationals arrive in an irregular manner in Greece. However, current first reception structures fall short of the actual needs.

Administrative detention previously played a significant role in Greece's policy to address irregular migration. Detention policies and practices were, until recently, very restrictive, and affected many persons in need of international protection, mainly through significant prolongation of the maximum detention period, the routine exhaustion and even the excess of this period and the non-implementation of alternatives to detention. Following the new Government's policy regarding administrative detention, combined with the Asylum Service's less restrictive policy, risks of arbitrary detention have been significantly reduced. The majority of new arrivals arrested at the sea borders, regardless of nationality, are promptly released due to the limited capacity of the detention facilities. Moreover, the maximum detention period has been significantly reduced from 18 months to 6 months in practice for the vast majority of the detainees. Since the end of 2014, the practice of detaining considerable numbers of undocumented third country nationals for long periods of time in detention facilities operated by the Police Directorates, Border Guards, and Port Police and in police stations, has been minimized. Following the new Government's policy, the pre-removal detention centres are not overcrowded anymore.

However, as a result of the insufficiency of first reception procedures; the lack of Regional Asylum Offices at the entry points; the lack of specific guidelines regarding further administrative processing of third country nationals and administrative detention; and the lack of a reliable system of alternatives to detention combined with a thorough individual assessment, persons in need of international protection, including asylum-seekers with specific needs, may still face prolonged detention. The conditions of administrative detention are also still seriously problematic (see Issues 1 and 3 below for further information).

**Linked to 1st cycle UPR recommendations no. 83.76:** “Continue to implement measures within the framework of the presidential decree that set the framework for addressing the situation of unaccompanied minors (Chile);” **no. 83.78:** “When reforming the asylum system and migration management, pay special attention to the needs of unaccompanied minors in all

processes that pertain to solving their cases, and prevent administrative detention from being a standard practice for new irregular migrants (Slovenia);” and no. 83.79: “Take immediate measures to make sure that all unaccompanied children are given a guardian and a safe residence when they arrive in Greece (Norway).”

### *Protection of UASC*

A *Ministerial Decision* of the Ministry of Health was issued in October 2013 introducing a multidisciplinary age assessment procedure in the context of first reception, thus improving the current protection framework for unaccompanied children and particularly their identification and correct registration. A special Working Group was established in the Ministry of Justice focused on UASC protection issues, being operational since September 2013. In 2015, following renewed commitment by the Ministry of Justice and the new Alternate Ministry of Migration Policy, the Working Group’s work is expected to be intensified in order to come up with a concrete proposal on actions needed, in law and practice, for an effective institution of guardianship for UASC (see Issue 5 below for further information).

### **Additional achievements and positive developments**

The Ombudsperson’s Office, in association with international organizations and NGOs, has been established as the external monitoring system regarding the procedures for removal of third country nationals under the *Return Directive*. It has also been established as the National Preventive Mechanism under the *OPCAT*, which Greece ratified in 2014. Thus, the Ombudsperson’s Office monitors the detention facilities used for administrative detention.

On 9 July 2015, *Law 4332/2015* was published, including new provisions about the acquisition of Greek citizenship, similar to those previously established by *Law 3838/2010* that were ‘frozen’ as having been considered as unconstitutional. The new provisions partly adopt the *jus soli* principle in addition to the existing *jus sanguinis* principle, particularly for children born in Greece, who have been enrolled and continue to attend Greek schools and whose parents were legal residents for at least 5 years before her/his birth or for 10 years afterwards (Article 1A). The new provisions also provide the right to acquire Greek citizenship for children who have successfully attended Greek schools (9 grades of elementary and secondary education or 6 grades of secondary education), or adults, holders of secondary education certificate (“*apolytirion*”), who have graduated from Greek universities (Article 1B). Beneficiaries of international protection and stateless persons are explicitly mentioned in both articles. However, UNHCR expresses its concerns about the efficiency of these provisions for stateless persons, who may remain unidentified as such and therefore may not substantially benefit from the above provisions, while stateless children born in the country should in any case fall under the provisions of Article 1(2)(b) of *Law 3838/2010*<sup>3</sup> that do not impose residence or other requirements (see Issue 6 below for further information).

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<sup>3</sup> Article 1(2)(b) of *Law 3838/2010 (O.G. A’ 49/24-03-2010)*, having amended the citizenship code, stipulates that: “Any person who is born on Greek territory acquires Greek citizenship provided that: ...b. the person does not acquire foreign citizenship at birth, nor can s/he acquire such citizenship following official statement of the parents before the relevant foreign authorities, if such statement is required by the Law of the parents’ country.”

### III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

#### Challenges linked to outstanding 1st cycle UPR recommendations

##### Issue 1: Safe access to territory and dignified and timely first reception procedures

Linked to 1st cycle UPR recommendations no. 83.68: “Ensure that asylum-seekers and irregular migrants are treated according to Greece’s human rights obligations and strengthen all efforts to implement the national action plan on asylum reform and migration management (Austria);” no. 83.72: “Take steps to protect asylum-seekers and ensure respect for the principle of non-refoulement in accordance with international refugee law and international human rights law (Canada);” no. 83.87: “Work for amelioration of the situation of migrants, particularly in regards to access to and quality of the asylum procedure, the conditions in detention centres and to ensure that protection is granted to refugees in line with its international obligations, by implementing the National Action Plan for Migration Management and taking necessary further actions (Sweden);” and no. 83.88: “Continue efforts aimed at improving the administrative and legal services and the living conditions of irregular migrants and asylum-seekers, especially vulnerable categories, such as women and children (Qatar).”<sup>4</sup>

Greece continues to experience an unprecedented increase in incoming flows of refugees, prompted to a large extent by the ongoing Syrian crisis. Thousands of people risk their lives crossing the Aegean Sea in small, unseaworthy boats trying to make it to Greece and ultimately, to other European States. While ongoing search and rescue efforts of the Hellenic Coast Guard, particularly in the last half of 2014 and throughout 2015, have allowed thousands of people to reach shore safely, it is imperative that ongoing efforts for protection of life at sea are strengthened and maintained. UNHCR has received and documented, in 2014, testimonies of people who claimed they have been violently pushed back to Turkey, either by land or by sea, at great risk to their lives and safety. These allegations were promptly raised by UNHCR to the Greek authorities for corrective measures.

Once people arrive on Greek territory, penal and administrative procedures are applied in accordance with Greek and EU law. However, in the absence of appropriate first reception and screening procedures at the entry points, access to the asylum procedure for refugees and the identification of vulnerable groups, including unaccompanied children, remain highly problematic. Since 2013, the First Reception Service has operated three regional structures (one First Reception Centre in Orestiada/Evros and two mobile units on two islands), which cover only a very small percentage of the newly arriving population (below 10 per cent).

Consequently, most arrivals are still managed and administratively processed by the Police, without appropriate screening procedures. Thousands of refugees remain stranded at entry locations (islands) awaiting administrative processing, which is severely delayed due to lack of resources and the rising numbers. Additionally, first reception structures fall short of the actual needs; in most entry locations, newly arriving refugees and migrants are

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<sup>4</sup> All recommendations made to Greece during its 1st cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review: Greece,” A/HRC/18/13, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/GRSession11.aspx>. Additional 1st cycle UPR recommendations made to Greece relating to *non-refoulement* include no. 83.71, no.83.73, no. 83.74, and no. 83.92 (see Annex below for the text of these recommendations).

accommodated at improvised facilities, or are not accommodated at all, while their immediate needs remain largely unaddressed. Persons of concern to UNHCR, including extremely vulnerable individuals, remain for a considerable amount of time in substandard conditions, until registration procedures are completed, without basic assistance as regards their immediate and protection needs. Referral of groups with specific needs to protection or assistance structures falls dramatically short of the actual needs. Consequently the obligation to provide an adequate first reception response that enables immediate access of asylum-seekers to the asylum procedure and proper identification and support of individuals with specific needs is far from met.

### **Recommendations:**

UNHCR recommends that the Government of Greece:

- a. Adopt internal rules and an action plan on procedures at borders by the competent Ministries of Interior and of Economy, Infrastructures, Marine and Tourism, in order to ensure timely registration of all irregular entrants and full respect for international, European and national norms concerning the protection of human life and dignity and the principle of *non-refoulement*;
- b. Ensure that informal returns ('push-backs') of persons who cross the Greek border in an irregular manner, at land or at sea, do not occur, and effectively investigate all reported incidents of such nature;
- c. Ensure, by *inter alia* covering its funding and staffing needs, that the First Reception Service increases its operational presence in order for it to effectively respond to the needs of all new arrivals;
- d. Ensure that appropriate first reception structures, including First Reception Centres, are immediately established in order to respond to the current and future challenges;
- e. Establish clear rules for the training and capacitation of all civil workers and law enforcement officers involved in dealing with the needs of newly arriving refugees and migrants;
- f. Adopt a comprehensive plan and increase inter-ministerial coordination to address the current humanitarian crisis at the entry points and ensure that the immediate needs of refugees, in particular basic survival and medical needs, are met; and
- g. Enhance structures and human and material resources to ensure that refugees are promptly registered and referred to procedures, while groups with specific needs are identified and referred to further assistance.

### **Issue 2: Fair and efficient asylum procedures**

**Linked to 1st cycle UPR recommendation no. 83.67:** "Consider establishing and implementing a comprehensive asylum system consistent with international and regional standards on protection and reception of asylum-seekers and irregular migrants, with an allocation of adequate resources (Poland)" **and no. 83.70:** "Commit to speedily implement an effective asylum system consistent with EU standards (United Kingdom)."

Despite improvements as a result of the asylum reform, access to the asylum procedure still remains challenging. Less than half of the number of Regional Asylum Offices prescribed by law have been created (six out of thirteen). Moreover, the Asylum Service was, as of September 2014, staffed at only 75 per cent.

There are currently two parallel asylum procedures in Greece: the ‘old’ asylum procedure applied for asylum applications registered up until 5 June 2013 and the ‘new’ asylum procedure applicable for asylum applications registered from 6 June 2013 onward. The difference between the two procedures lies in the administrative bodies tasked to implement them. In the ‘old’ procedure, the first instance determination is carried out by the Police and the second instance (administrative review in substance and law) by ‘Backlog Committees,’ supported by Police secretariats and a Coordinator. In the ‘new’ asylum procedure, the Asylum Service is mandated with registering and examining asylum applications on first instance, while the second instance (administrative review in substance and law) is implemented by Appeals Committees under an Appeals Authority. According to official statistics provided by both the Asylum Service and Hellenic Police, in 2014, 2,076 persons were recognized as refugees and 886 as subsidiary protection beneficiaries. In the first 7 months of 2015, data is available only from the Asylum Service, which recognized 695 persons as refugees and 127 as subsidiary protection beneficiaries.

The ‘old’ asylum system is characterized by serious deficiencies and delays in the processing of asylum applications, as well as significant shortcomings in the observance of first instance procedural guarantees for asylum-seekers. While the authorities have made efforts to process the more than 24,163 appeals cases pending as of June 2015 under the second instance of the ‘old’ procedure (awaiting a hearing and a decision by ‘Backlog Committees’), the backlog still remains.

The ‘new’ asylum procedure is characterized by a very high level of quality in all aspects of case adjudication (registration, interview, decision, information provided to applicants), as well as significant improvements in the time frames for issuing first and second instance decisions and in notifying applicants of the outcome of their application. In addition to the transposition of the EU recast *Asylum Procedures Directive* that is currently pending, the two most important challenges that still need to be resolved by the Asylum Service are: (i) expanding its registration capacity so that access to the asylum procedure can be significantly enhanced and (ii) making available predictable and long-term funding so that crucial operational targets, including the filling of all vacant positions and the operationalization of all 13 Asylum Offices in the locations prescribed by *Law 3907/2011*, can be achieved.

### **Recommendations:**

UNHCR recommends that the Government of Greece:

- a. Take all appropriate measures to clear the existing backlog of pending cases on the second instance of the ‘old’ asylum procedure including through initiatives allowing for the automatic granting of residence permits on humanitarian grounds to those asylum applicants whose appeals have been pending for long periods of time;
- b. Ensure that the Asylum Service is fully funded and staffed and becomes operational in all 13 locations prescribed by *Law 3907/2011* and its subsequent amendments;
- c. Transpose *Directive 2013/32/EU* of the European Parliament and the Council as soon as possible, with special emphasis on full compliance with Article 6 (access to the asylum procedure);
- d. Pending the transposition of the above mentioned *Asylum Procedures Directive*, significantly enhance the registration capacity of the Asylum Service so that asylum-seekers have a chance to enter the asylum procedure within a reasonable and predictable period of time; and
- e. Organize and put into effect the provision of legal and procedural information free of charge in procedures at first instance and review the existing mechanism for the

provision of free legal assistance and representation in appeals procedures so that it becomes more accessible for asylum-seekers concerned.

### **Issue 3: Fair detention procedures and dignified conditions**

**Linked to 1st cycle UPR recommendation no. 83.69:** “Undertake a review of detention conditions for asylum-seekers to ensure they are fully in line with international and European standards (Canada);” and no. 83.86: “Ensure detention conditions for irregular migrants are in conformity with EU human rights standards (United Kingdom).”

Although risks of arbitrary detention have been significantly reduced, the use of detention in Greece is still characterized by a lack of individual assessment on the elements of necessity and proportionality. Nationals other than Syrians may face detention upon arrest without a proper individual assessment or consideration of alternatives to detention. UNHCR is concerned that pre-removal detention is still used for categories of individuals who should not be subject to administrative detention. The absence of a proper judicial review and the routine prolongation of the detention is also concerning. Moreover, individuals who seek international protection while in detention for pre-removal purposes remain detained until their application is registered by the Asylum Service, which may take several months due to the limited capacity of the Asylum Service to register and process applications for international protection, combined with the high number of applications of third country nationals who are detained under pre-removal orders.

Finally, although there have been some improvements in the material conditions of detention, they still remain largely substandard. A major concern is the limits on, or absence of access to, medical services, including lack of access to medication and inadequate psychosocial support.

#### **Recommendations:**

UNHCR recommends that the Government of Greece:

- a. Design and establish a sustainable and effective system of alternatives to detention in order to gradually reduce the use of detention;
- b. Continue efforts to reform its detention policy, building on recent positive changes in practices relating to the treatment of administrative detainees in pre-removal detention;
- c. Ensure that the detention of persons seeking asylum is only applied exceptionally, as foreseen by law, for the minimum possible period of time and only following exhaustion of alternative measures, in accordance with UNHCR’s *Detention Guidelines*;<sup>5</sup>
- d. Avoid the detention of children;
- e. Promptly register and process asylum applications of persons who are being held in pre-removal detention in order to limit undue detention;
- f. Review the maximum time limit during which an asylum-seeker can be subject to administrative detention in law as well as in practice, to avoid arbitrariness of detention;

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<sup>5</sup> UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.refworld.org/docid/503489533b8.html>.



- g. Review detention orders against asylum-seekers in relation to necessity and appropriateness within 24 to 48 hours of their imposition, and thereafter on a weekly and monthly period until the maximum detention period is reached;
- h. Provide detained asylum-seekers with information, access to counselling and legal aid services;
- i. Ensure the substantial review of the legality of detention through the identification of relevant experts and reinforce the resources of the competent courts;
- j. Ensure that the implementation of administrative detention to enforce deportations/returns is subject to an individual assessment and justification of its grounds and duration, taking into account whether this is appropriate and necessary to execute a return, and whether alternatives to detention can be implemented;
- k. Revoke the *Ministerial Decision endorsing the Opinion of the Legal Council of the State (No 44/2014)*,<sup>6</sup> at least in relation to certain elements, which deviate from EU legislation, notably the prolongation of administrative detention in pre-removal centres beyond 18 months;
- l. Discontinue administrative detention for persons for whom UNHCR has issued a non-return advisory or who originate from countries to which removal is not implementable and issue such persons with either a decision on their status or a suspension of the execution of their removal;
- m. Terminate the administrative practice according to which reasons of public order or public security are evoked as grounds for detention in view of return/deportation of a third country national whose return/deportation is otherwise not feasible and ensure that where such reasons of public order are evoked, they are specified and duly justified; and
- n. Take into account the existence of appropriate detention facilities and the ability to guarantee decent living conditions when imposing and reviewing detention orders, as provided by law, and in the absence of adequate conditions, refrain from imposing detention.

#### **Issue 4: Reception conditions and integration**

**Linked to 1st cycle UPR recommendation no. 83.80:** “Take further steps to enhance the number and quality of available accommodation facilities and other services offered to minors and vulnerable groups arriving in Greece (Denmark);” no. 83.88: “Continue efforts aimed at improving the administrative and legal services and the living conditions of irregular migrants and asylum-seekers, especially vulnerable categories, such as women and children (Qatar)” and no. 83.93: “Improve the space and sanitary conditions of shelters for migrants, refugees and asylum-seekers, so that they comply with international and regional standards (Ecuador).”

##### *Reception conditions for asylum-seekers*

Reception conditions for asylum-seekers in Greece have been identified as a major shortcoming in the Greek asylum procedure and no significant progress has been achieved in this area to date. Reception arrangements in the country continue to be inadequate and, if provided, considerably below the standards set out by EU and national law, as accommodation remains scarce and services insufficient.

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<sup>6</sup> Through the said *Ministerial Decision*, the prolongation beyond 18 months of the duration of detention for pre-removal purposes, has been authorized.

Reception for asylum-seekers and UASC is regulated by national legislation, including legislation aiming to ensure compliance with relevant EU instruments. Greece has not yet transposed the recast *Reception Conditions Directive. P.D. 220/2007* transposed the previous *RCD*, regulating the content and obligations for the reception of asylum-seekers in Greece. The Directorate of Social Solidarity, within the Ministry of Labour, oversees existing reception centres and is the entity also designated to develop policies on benefits for asylum-seekers. However, the First Reception Service, under the Ministry of Migration Policy, has also been assigned the competency to establish second-line reception centres for asylum-seekers, UASC and individuals with specific needs.

As of July 2015, the number of spaces for accommodation of asylum-seekers, including UASC, in second-line reception centres and apartments was completely insufficient in comparison to the needs (with a capacity of only 1,100 spaces). In December 2013, the Greek Authorities made the commitment to the EU that Greece would create new reception spaces so as to reach the total number of 2,500 by the end of 2014. This commitment has not yet been met, as of August 2015. In the *Roadmap for 2015 for Migration and Asylum*, submitted by the Greek Authorities to the Justice and Home Affairs (JHA) Council in March 2015, the target for 2,500 places has been set for the end of 2015.

While second-line reception conditions are generally insufficient, they are particularly so for individuals with specific needs, such as UASC and single women, resulting in homelessness of asylum-seekers. While national legislation stipulates that special consideration and priority should be given to the identification, assistance, and protection of these groups, this has been difficult in practice.

The majority of the few existing reception centres (or apartments) for asylum-seekers are run by NGOs. However, these NGOs are underfunded and the services they provide to a small percentage of asylum-seekers with specific needs are at risk of being unsustainable in the absence of sufficient funding. Until February 2015, funding was secured for 43 per cent of the spaces by the European Refugee Fund (ERF); for 24 per cent by European Economic Area (EEA) Grants; and for 33 per cent by the State budget. The largest component of reception places, funded under the ERF, is now covered until the end of 2015 by the State budget, which was used as a bridge until funding from the new JHA Funds (Asylum, Migration and Integration Fund) or other EU funds comes in. NGOs running reception centres have gone through very severe financial problems due to the delays and serious shortcomings in the financial management of the ERF.

The inadequate accommodation system, together with the lack of employment opportunities, frequently leads to destitution and homelessness of asylum-seekers and persons in need of international protection. Institutions providing services to homeless persons report significant numbers of homeless asylum-seekers and of individuals who have not submitted applications for international protection. Many homeless asylum-seekers are sleeping rough on streets or in parks; others live in abandoned buildings or in squalid and overcrowded apartments with limited or no access to sanitary facilities, sometimes without electricity or even access to running water.

#### *Integration prospects for refugees and beneficiaries of subsidiary protection*

Integration prospects for recognized refugees and subsidiary protection holders also remain of serious concern. Refugees are unable to integrate successfully in the country for a variety

of reasons, including, importantly, the considerable difficulties they face in initiating family reunification, a right that is denied altogether to beneficiaries of subsidiary protection.

Despite the fact that recognized refugees are included in the *2014 National Integration Plan (NIP)*, they are often marginalized or excluded because integration policies are not accompanied by targeted integration measures and post-recognition support. Finding accommodation is particularly difficult, as there are no provisions for social housing or other alternative arrangements from which refugees can benefit. As a result, many of those granted international protection face the risk of homelessness and destitution. Furthermore, the inability of refugees to produce the required documentation and lack of recognition of their qualifications hampers their participation in the already limited employment programmes.

Effective security and integration of beneficiaries of international protection is further impeded by high levels of xenophobia and racist violence against migrants and refugees. While the Greek authorities have adopted a series of reforms and actions to record, prosecute and prevent such crimes more effectively, persons of concern to UNHCR continue to be subjected to verbal and physical abuse that remains unaddressed.

### **Recommendations:**

UNHCR recommends that the Government of Greece:

- a. Ensure oversight and ownership by streamlining the currently dispersed competencies for reception (currently under the Ministry of Labour and the First Reception Service) under the overall responsibility and authority of one administrative entity;
- b. Increase the number of reception spaces to address the basic needs of asylum-seekers entitled to be admitted to a reception system and implement the earlier commitment by the Greek Government to increase capacity to 2,500 spaces without delay;
- c. Draft a ‘National Action Plan for the Reception of Asylum-Seekers’ that takes into account newly revised EU legislation, as well as the standards set by the relevant jurisprudence of the European Court of Human Rights, and ensure that the plan is based on current capacities and gaps, realistic numbers of applications, available and required resources and stakeholders and that it defines actions and indicators within a specified timeframe;
- d. Ensure that no reception centres and facilities are operated unless they meet adequate standards, which include certification and standard operating procedures for their operation, to ensure harmonized quality features in the services provided; and
- e. Transpose the provisions of the recast *Reception Conditions Directive* into Greek legislation.

### **Issue 5: Special protection and care for UASC**

**Linked to 1st cycle UPR recommendation no. 83.79:** “Take immediate measures to make sure that all unaccompanied children are given a guardian and a safe residence when they arrive in Greece (Norway)” and no. 83.81: “Pay special attention to the position of unaccompanied minor immigrants (Netherlands).”<sup>7</sup>

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<sup>7</sup> See also: 1st cycle UPR recommendations no. 83.76; 83.77, 83.78, and 83.80 (for the text of these recommendations, see Annex).

Notwithstanding improvements in the context of first entry procedures, challenges still remain in the identification process, in particular regarding the identification and registration of UASC due to limited age assessment mechanisms and lack of capacity. Further steps are needed to effectively implement age assessment procedures and to expand the scope of the aforementioned 2013 *Ministerial Decision* on age assessment by the First Reception Service to UASC-related procedures implemented by other competent authorities, such as the Police and the Asylum Service, in order to ensure that UASC are treated in accordance with their age. Standard operating procedures and special training for the professionals conducting age assessment are also required. Collection and systematization of disaggregated data on UASC in Greece, so as to develop appropriate responses catered to the size and status of the population is highly recommended.

Following identification and registration, UASC, whether asylum-seekers or not, are referred to accommodation structures. UNHCR is concerned that the reception capacity in Greece remains very low compared to the needs. In 2014, a total of 2,390 UASC were referred for accommodation while the national capacity was 313 places. Moreover, conditions in the reception centres and the quality of services are seriously affected by the non-sustainability of funding. There is an urgent need to increase the number of reception structures and significantly enhance reception services, in order to ensure appropriate accommodation and enjoyment of socio-economic rights for UASC.

In addition, guardianship and representation of children continue to be one of the competencies of Public Prosecutors, appointed by law as temporary guardians. However, this task cannot be effectively assumed in practice, as each Public Prosecutor is responsible for a large number of UASC and does not have the support of a pool of professionals to whom representation actions could be assigned. UNHCR strongly urges the authorities to expedite the work of the Ministry of Justice Working Group, so as to create a support mechanism for Public Prosecutors and generally to reinforce, by law and in practice, the national guardianship system and convert it to a functional, substantial and effective system.

Moreover, while asylum-seeking unaccompanied children are provided access to basic rights such as care, education and employment, a number of minors staying irregularly in the country enjoy limited rights, as there is no legal residence status directly regulated for non-asylum-seeking unaccompanied children and they may be further exposed to heightened risks of exploitation and violence due to their irregular status.

The protection of unaccompanied children in Greece remains severely defective particularly because no authority has been assigned full competency for the oversight of issues related to UASC and for coordination between authorities. Core challenges, such as strategic planning for strengthening the protection framework for UASC and the establishment of a formal Best Interest Determination (BID) procedure, remain largely unaddressed.

### **Recommendations:**

UNHCR recommends that the Government of Greece:

- a. Assign to a single State authority the competency to oversee all areas related to UASC, responsible, in principle, to ensure full respect of children's rights in conformity with the *Convention on the Rights of the Child*;
- b. Establish a national Best Interest Determination (BID) procedure based on a compulsory Best Interest Assessment (BIA) in order to effectively implement legal

- provisions ensuring that the best interests of the child are a primary consideration in all actions concerning children undertaken by public or private institutions; and
- c. Ensure the necessary structural, legislative and operational improvements in order to enhance the special protection and care for UASC, including by respecting the best interest of the child principle, which renders imperative, *inter alia*, the review and improvement of the guardianship institution.

## **Issue 6: Effective protection of stateless persons**

**Linked to 1st cycle UPR recommendation no. 84.8:** “Ratify the 1961 Convention on the Reduction of Statelessness (Slovakia).”<sup>8</sup>

The identification and protection of stateless persons in Greece is not ensured as there is no national statelessness determination procedure. Furthermore, data on the stateless population are quite limited; although there are three sources of relevant data, including the number of Identity Documents and Travel Documents issued to stateless persons by the Ministry of Citizens’ Protection and the number of residence permits issued by the Ministry of Interior to persons who specifically and demonstrably claimed objective inability to produce a valid passport or other travel document due to special circumstances or situations. However, there is no complete picture of the scope of statelessness in the country because stateless persons are not identified as such and the above documents are provided to quite limited cases; for instance, Identity Documents are mostly provided to the Muslim minority in Thrace.

UNHCR’s research on mapping statelessness in Greece in 2011 outlined the fact that in the absence of specific procedures, stateless persons remain unidentified and do not enjoy their rights under the *1954 Convention relating to the Status of Stateless Persons*. They cannot benefit from the provisions of national laws that attribute rights to stateless populations, such as *Law 3838/2010 on Citizenship*, which includes favourable provisions for stateless persons aiming at facilitating their naturalization, as well as the recent *Law 4332/2015*, which includes new provisions for the acquisition of Greek citizenship by birth or enrolment and successful attendance of Greek schools.

Thus, stateless persons in Greece are either directed into the asylum procedure, during the course of which they may not substantiate any fear of persecution and so they may not be granted international protection; or they may be holders of a residence permit in accordance with the provisions of the *Migration Law*; or they may stay in the country without any legal status. Greece should ensure that stateless persons are acknowledged and identified as a distinct category with specific protection needs.

UNHCR encourages Greece to adopt specific legislation establishing a statelessness determination procedure to be conducted on an individual basis and encompassing procedural safeguards. It is implicit in the *1954 Convention* that States must identify stateless persons within their jurisdictions in order to provide them appropriate treatment in compliance with

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<sup>8</sup> According to Greece’s response in the Addendum, “Greece accepts this recommendation and will consider accession to the 1961 Convention on the Reduction of Statelessness in due course. Greece has already ratified the 1954 Convention relating to the Status of Stateless Persons. Furthermore, Greece has introduced in its domestic legislation guarantees and legislative regulations in order to reduce statelessness and facilitate the access of stateless persons to Greek citizenship.”

their commitments under the *Convention*. Recognition of statelessness plays an important role in enhancing respect for the human rights of stateless persons, including children, particularly through access to a secure legal status and enjoyment of rights afforded to stateless persons under the *1954 Convention*.

Concerning prevention and reduction of statelessness, existing safeguards against statelessness at birth, i.e. Article 1(2)(b) of the Greek *Nationality Code*, provide for the acquisition of Greek citizenship for children born in the country who do not acquire foreign citizenship at birth, nor can they acquire such citizenship following an official statement by their parents before the relevant foreign authorities. UNHCR encourages Greek authorities to ensure the provision of information, legal counselling and assistance for persons who fall under these provisions. Moreover, a positive step was the amendment of the Greek *Nationality Code* by Law 4332/2015. The new provisions establish the right to acquire Greek citizenship for:

- a) children born in Greece, having been enrolled and continuously attending Greek schools, whose parents are legal residents;
- b) children who have successfully attended Greek schools; and
- c) adults, holders of secondary education certificate (“apolytirion”), who have graduated from Greek universities.

Stateless persons are explicitly mentioned. However, they may not substantially benefit from relevant provisions, if their identification and issuance of stateless documents is not ensured.

States are responsible for conferring nationality and ensuring the right of every child to acquire a nationality. Discharging this responsibility requires the establishment of safeguards against statelessness in nationality law. The *1961 Convention on the Reduction of Statelessness* establishes a range of standards to prevent statelessness at birth and later in life, in particular that States shall grant their nationality to children who would otherwise be stateless who have ties with them through either birth on the territory or descent. *The 1961 Convention* is therefore of central importance to full enjoyment of every child’s right to acquire nationality. In Greece’s *Nationality Code*, there is a safeguard against statelessness at birth, but some other gaps remain, such as the lack of a safeguard against statelessness in case of renunciation (Article 18).

### **Recommendations:**

UNHCR recommends that the Government of Greece:

- a. Establish a national statelessness determination procedure so as to ensure effective identification and protection of stateless persons; and
- b. Accede to the *1961 Convention on the Reduction of Statelessness* and amend the *Greek Nationality Code* accordingly.
- c. Facilitate access to documentation proving nationality for children who are born in Greece and may automatically acquire Greek citizenship on the basis of existing legislation, in particular through the provision of information, legal counselling and assistance.

**Human Rights Liaison Unit**  
**Division of International Protection**  
**UNHCR**  
**September 2015**

## ANNEX

### Excerpts of Recommendations from the 1st cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedure mandate holders

#### GREECE

We would like to bring your attention to the following excerpts from the 1st cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations and recommendations from Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Greece.

#### I. Universal Periodic Review

Recommendation <sup>9</sup>	Recommending State/s	Position <sup>10</sup>
<b>Accession to the 1961 Convention on the Reduction of Statelessness</b>		
84.8. Ratify the <i>1961 Convention on the Reduction of Statelessness</i> .	Slovakia	Supported <sup>11</sup>
<b>Asylum procedures and refugee protection</b>		
83.10. Accelerate the implementation of the National Action Plan for Migration Management;	Canada	Supported
83.11. Continue to implement the National Action Plan on Asylum Reform and Migration Management to address legal and institutional shortcomings.	Australia	Supported
83.12. Give priority to the implementation of the National Action Plan for the reform of the asylum system and migration management.	Netherlands	Supported
83.66. Continue giving priority to introducing legislative amendments and implementing actions aiming at respecting human rights of all migrants and speeding asylum procedures.	Lebanon	Supported
83.67. Consider establishing and implementing a comprehensive asylum system consistent with international and regional standards on protection and reception of asylum-seekers and irregular migrants, with an allocation of adequate resources.	Poland	Supported
83.68. Ensure that asylum-seekers and irregular migrants are treated according to Greece's human rights obligations and strengthen all efforts to implement the national action plan on asylum reform and migration management.	Austria	Supported
83.70. Commit to speedily implement an effective asylum system consistent with EU standards;	United Kingdom	Supported
83.82. Continue addressing irregular migration as a matter of priority,	Slovakia	Supported

<sup>9</sup> All recommendations made to Greece during its 1st cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review: Greece," A/HRC/18/13, 11 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/GRSession11.aspx>.

<sup>10</sup> Greece's views and replies can be found in the Addendum, A/HRC/18/13/Add.1, 28 July 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/GRSession11.aspx>.

<sup>11</sup> Addendum: 84.8: "Greece accepts this recommendation and will consider accession to the 1961 Convention on the Reduction of Statelessness in due course. Greece has already ratified the 1954 Convention relating to the Status of Stateless Persons. Furthermore, Greece has introduced in its domestic legislation guarantees and legislative regulations in order to reduce statelessness and facilitate the access of stateless persons to Greek citizenship."

reinforcing further its efforts, such as the recently adopted National Action Plan for Migration Management.		
83.87. Work for amelioration of the situation of migrants, particularly in regards to access to and quality of the asylum procedure, the conditions in detention centres and to ensure that protection is granted to refugees in line with its international obligations, by implementing the National Action Plan for Migration Management and taking necessary further actions.	Sweden	Supported
83.88. Continue efforts aimed at improving the administrative and legal services and the living conditions of irregular migrants and asylum-seekers, especially vulnerable categories, such as women and children.	Qatar	Supported
83.89. Establish a new unit in the Ministry for Citizen Protection, and continue the reform aimed at training police officers in order to deal with asylum-seekers and migrants in accordance with international criteria for human rights.	Qatar	Supported
83.90. Design and implement a comprehensive policy on care and protection to migrants, refugees and asylum-seekers in Greece.	Ecuador	Supported
83.91. Implement measures to curb abuses against refugees and migrants, including minors, regardless of their immigration status, perpetrated by police authorities, and punish adequately those responsible, so to avoid impunity.	Ecuador	Supported
83.93. Improve the space and sanitary conditions of shelters for migrants, refugees and asylum-seekers, so that they comply with international and regional standards.	Ecuador	Supported
83.94. Strengthen, in close cooperation with relevant stakeholders, the capacity to process, treat and shelter asylum-seekers and irregular migrants, in accordance with relevant regional and international standards.	Mexico	Supported
83.95. Improve the treatment of migrants, asylum-seekers and refugees.	Iraq	Supported
84.18. On the one hand, constantly reflect on human rights when	Senegal	Supported <sup>12</sup>

<sup>12</sup>Addendum 84.18: “Greece accepts this recommendation and is already implementing it.

Asylum requests are examined with full respect for the rights of asylum seekers. The individual situation of each asylum seeker is thoroughly considered, as prescribed by the 1951 Convention relating to the Status of Refugees. As explained in the oral presentation of Greece’s UPR Report, a National Action Plan on Migration Management is currently being implemented. A Presidential Decree issued in November 2010 provides for the creation of a flexible and decentralized mechanism, for a transitional period, which will allow, among others, a rapid review of requests for asylum, with the participation of the UNHCR. Moreover, a law adopted in January 2011 provides for the establishment of an Asylum Agency and of a First Reception Service for Immigrants. In the Reception Centers to be created, a new screening process will allow the identification, among those entering Greece irregularly, of persons belonging to vulnerable groups and asylum seekers, as well as support and guidance to persons entitled to international protection. The conditions of reception will ensure decent living conditions, in terms of medical care, housing, protection of family life, possibility to communicate with the UNHCR, etc.

It has been recognised by all stakeholders that the Greek national asylum and migration management system is under unprecedented pressure<sup>19</sup>, that the existing capacity and resources have been under a severe strain and that this problem needs a common approach in EU level in order to be tackled. Greece implements the above mentioned National Action Plan with the support of the European Commission, the European Asylum Support Office and the contribution and participation of the EU Member States and International Organisations (UNHCR, IOM etc).

The European Asylum Support Office has already deployed, as of end of May 2011, an Asylum Support Team (56 experts) to work in close collaboration with the Greek Authorities in the implementation of the Action Plan for the period 2011–2012 to build up the registration and screening processes, the management of backlog cases (some 47.000 cases), to address training needs and to raise the quality of the asylum procedure. In this spectrum, an emergency fund of € 9.8 million has been allocated for the year 2010 from the “European Refugee Fund



processing the request of asylum-seekers and refugees, specifically focusing on their individual situation, their detention conditions and the eventual organization of their repatriation and, on the other hand, solicit the necessary support of the European Union in this regard.		
85.9. Implement effectively the National Action Plan for migrants and protect the rights and interests of migrants without prejudice to their status, and minorities including Muslims and Roma population.	Bangladesh	Noted
<b>Non-refoulement</b>		
83.71. Resort to forced expulsions only within the strict respect of regional and international norms.	Switzerland	Supported
83.72. Take steps to protect asylum-seekers and ensure respect for the principle of <i>non-refoulement</i> in accordance with international refugee law and international human rights law.	Canada	Supported
83.73. Ensure that no individual is directly or indirectly “refouled” to their country of origin, or any other country where they may face persecution;	Poland	Supported
83.74. Take further measures to improve the treatment of asylum-seekers and to ensure that deportation processes are carried out after exhaustion of legal remedies.	Brazil	Supported
83.92. Take the necessary measures to ensure that no asylum-seeker is sent back immediately to its country of origin or any other country where his/her life is in danger, in accordance with applicable international norms.	Ecuador	Supported
<b>Detention</b>		
83.69. Undertake a review of detention conditions for asylum-seekers to ensure they are fully in line with international and European standards.	Canada	Supported
83.85. Increase its budget for migration detention centres and migrant care through intensified cooperation with EU partners;	United States	Supported
83.86. Ensure detention conditions for irregular migrants are in conformity with EU human rights standards.	United Kingdom	Supported
<b>Trafficking in persons</b>		
83.13. Strengthen further the effective implementation of the National Plan of Action against Trafficking in Human Beings, in line with suggestions made by CEDAW;	Chile	Supported
83.33. Take necessary steps to implement the relevant plan of action adopted by the National Coordination Mechanism, as a part of its ongoing fight against trafficking in human beings.	Russian Federation	Supported
83.34. Increase efforts to prevent trafficking in women and girls and provide support to victims effectively by implementing the integrated National Plan of Action against Trafficking in Human Beings and fully enforcing the legislation on trafficking.	Moldova	Supported

(ERF)” to improve the reception conditions especially for the vulnerable groups, the quality of the offered services, medical and legal treatment in respect of the fundamental human rights of the asylum seekers in cooperation with UNHCR, the Red Cross and NGOs. This is an additional package to the 2010 annual allocation of the ERF for Greece (€ 5.9 million).

Furthermore, Greece implements under the 2009 annual programme of the European Return Fund (€ 1.75 million), in close cooperation with the IOM Athens, assisted voluntary returns. In total the programme aims at facilitating the assisted voluntary return of 1.000 migrants. In the framework of the completion of the Common European Asylum System (by 2012), Greece supports policies and initiatives based on the principle of fair sharing of responsibilities and solidarity, in accordance with the Lisbon Treaty the European Pact on Immigration and Asylum. For this reason, Greece strives at enhancing its cooperation on migration governance with international organizations, namely the UNHCR and the IOM for the migrants’ human rights, and echoes their concern and interest for amending the Dublin II regulation.”

83.35. Intensify its efforts to combat trafficking in human beings with a special attention to the needs of the victims.	Algeria	Supported
83.36. Take additional measures to prevent and combat trafficking in human beings, and to protect victims and prosecute traffickers.	United States of America	Supported
83.37. Continue its efforts to combat transnational child trafficking and exploitation.	Moldova	Supported
83.83. Reinforce implementation of the relevant legal and policy framework with a view to combating efficiently trafficking in women, providing victims with all necessary assistance including legal redress, rehabilitation and social Integration.	Slovakia	Supported
84.12. Take supplementary measures to remedy the situation reported by the NGO ARSIS which would suggest that efforts to reinforce by legislation the fight against exploitation and sexual abuse have not eliminated the problem of child exploitation, in particular for “street children.”	France	Supported <sup>13</sup>
84.13. Include information about Greece being a country of destination and transit for human trafficking in school curriculums at secondary and university levels.	Iraq	Supported <sup>14</sup>
<b>Unaccompanied and separated children</b>		
83.76. Continue to implement measures within the framework of the presidential decree that set the framework for addressing the situation of unaccompanied minors.	Chile	Supported
83.77. Continue its efforts to ensure the observance of fundamental rights and international standards in the context of asylum procedures, particularly with regard to the treatment of unaccompanied minors.	Argentina	Supported
83.78. When reforming the asylum system and migration management, pay special attention to the needs of unaccompanied minors in all processes that pertain to solving their cases, and prevent administrative detention from being a standard practice for new irregular migrants.	Slovenia	Supported
83.79. Take immediate measures to make sure that all unaccompanied children are given a guardian and a safe residence when they arrive in Greece.	Norway	Supported

<sup>13</sup>Addendum 84.12: “Greece accepts this recommendation. The competent authorities will further strengthen their efforts to tackle the issue of “street children”, as well as to combat any form of sexual and other exploitation. It is also to be noted that the NGO ARSIS, mentioned in the above recommendation, was among the signatories, in 2005, of a Memorandum of Understanding with the General Secretaries of the competent Ministries and closely cooperates, along with a number of NGOs, with the relevant authorities, including the Hellenic Police.”

<sup>14</sup>Addendum 84.13: “Greece accepts this recommendation. It is to be noted that the new cross thematic school curricula include the key concepts and principles of human rights education. Civic Education has always been entrenched within the Greek legislative framework. Within this framework, issues related to trafficking in human beings may be discussed in the classroom, so as to raise the awareness of pupils on the scourge of trafficking. At the university level, information about trafficking in human beings has already been included and could further be delivered and discussed in the context of courses on human rights. It has to be clarified, however, that such matter falls primarily within the responsibilities of the competent, and self-governed, academic institutions.”

83.80. Take further steps to enhance the number and quality of available accommodation facilities and other services offered to minors and vulnerable groups arriving in Greece.	Denmark	Supported
83.81. Pay special attention to the position of unaccompanied minor immigrants.	Netherlands	Supported
<b>Nationality</b>		
85.7. Speed up the process of reinstating the citizenship of approximately 60,000 Greek citizens who were deprived of Greek citizenship, because of the later repealed article 19 of the Greek Citizenship Law. Create a mechanism to compensate their losses in terms of ownership rights that occurred as a result of the process.	Turkey	Noted
<b>Racism and xenophobia</b>		
83.23. Take measures to strengthen legal and institutional mechanisms aimed at preventing, punishing and eliminating all forms of discrimination, including discrimination based on gender, racial and national origin, and religion.	Argentina	Supported
83.24. Pursue its efforts to combat racism, racial discrimination, xenophobia and related intolerance;	Algeria	Supported
83.25. Effectively implement legal provisions aimed at eliminating racial discrimination;	Bangladesh	Supported
83.26. Take effective measures to combat the persistence of stereotypes based on racial discrimination and intolerance;	Senegal	Supported
83.27. Contribute to the effective investigation, prosecution and punishment of incitement to hatred and hate speech;	Egypt	Supported
83.28. Further ensure that racially motivated crimes are effectively prosecuted and punished and that research to evaluate the incidence of racial discrimination is conducted with the aim of adopting targeted measures to eliminate such discrimination;	Brazil	Supported
83.39. Take steps to prevent attacks against immigrants and hate speech;	Turkey	Supported
84.14. Collect disaggregated data on the dissemination of hate speech against minorities	Egypt	Supported <sup>15</sup>

## II. Treaty Bodies

### Committee against Torture

Concluding Observations, 48th session (27 June 2012) [CAT/C/GRC/CO/5-6](#)

#### **Access to a fair and impartial individual asylum determination procedure**

18. The Committee recognizes the challenges and burdens that the State party faces as the main entry point into Europe for many migrants and asylum seekers due to its geographic

<sup>15</sup> Addendum 84.14: "Greece accepts this recommendation. As explained in our UPR report, Law 927/1979 punishes, inter alia, incitement to acts or activities which may result in discrimination, hatred or violence against individuals or groups of individuals on the sole grounds of the latter's racial or national origin or religion, as well as the expression in public, either orally or by the press or by written texts or through depictions or any other means, offensive ideas against any individual or group of individuals. The relevant legislative framework will soon be updated and strengthened (see supra, under recommendation 84.10). Within this framework, relevant data on cases of hate speech, including on victims and perpetrators, will be collected, with full respect for the legislation on the protection of personal data. It is to be noted that, in the context of the OSCE, Greece collects, maintains and makes public in an annual report, reliable data and statistics in sufficient detail on hate crimes and violent manifestations of intolerance, including the number of cases reported to law enforcement, the number of those prosecuted and the sentences imposed."

location, and it welcomes the efforts made to improve the asylum procedure in terms of quality and promptness. However, the Committee notes with concern that asylum seekers face serious obstacles in accessing the asylum procedure due to structural deficiencies and non-functioning screening mechanisms at the Greek border areas and at the Attika Aliens' Police Directorate (Petrou Ralli). Such obstacles include the absence of procedural guarantees, including free legal aid, interpretation and sufficient information, as well as the requirement of a fixed address. The Committee notes that the State party has cleared some of the backlog of pending asylum cases and appeals, including through the establishment of the second instance Appeals Committees, but it regrets that thousands of cases are still pending. It also remains concerned at the low refugee recognition rates (art. 2).

**The State party should fully guarantee and facilitate access to a fair and impartial individual asylum determination procedure. To this end, the State party should ensure that the important safeguards for quality and fairness of its asylum procedure as included in the recent asylum legislation be implemented in practice and supported with appropriate infrastructure, including through the prompt operationalization of the Asylum Service and the initial Reception Service. The State party should also ensure the provision of adequate information in relevant languages, legal aid and interpretative services to facilitate such access. In addition, the State party should dedicate the necessary human and financial resources to address the considerable backlog of cases of appeal of decisions on asylum.**

#### *Non-refoulement*

19. The Committee notes with serious concern that individuals have frequently not been able to enjoy full protection under the relevant articles of the Convention in relation to expulsion, return or deportation to another country. The Committee reiterates its concern at the State party's implementation of its forced return procedures, including through means of direct deportation and application of its readmission agreement with Turkey. It is also concerned that persons who are subjected to forced return do not enjoy effective procedural guarantees to access legal remedies or access to the asylum procedure and that they do not have free legal aid or effective information provided through interpretation services. Consequently, they are not able to effectively appeal against orders of deportation and/or consequent detention. The Committee is concerned that these individuals are at a heightened risk of refoulement, including chain refoulement (art. 3).

**The State party should ensure full protection from refoulement by establishing the necessary safeguards in forced return procedures and thereby guarantee at all times that no person in need of international protection is returned to a country where he or she fears persecution or is in danger of being subjected to acts of torture or cruel, inhuman or degrading treatment or punishment, as well as chain refoulement. To this end, the State party should review the content of its readmission agreement with Turkey to ensure that it complies with the State party's international law obligations. It should also ensure that appeals against return or expulsion orders have an automatic and immediate suspensive effect.**

#### **Administrative detention of asylum seekers and migrants**

20. The Committee expresses its concern at the current detention policy applied to asylum seekers and migrants in an irregular situation, including reports that asylum seekers at border locations are routinely subjected to long periods of administrative detention. The length of detention, in combination with the deplorable conditions of detention, amounts to inhuman or degrading treatment and constitutes a serious hindrance for asylum seekers to apply for

asylum. Furthermore, the Committee is seriously concerned at the appalling conditions in the detention facilities, including regular police and border guard stations throughout the country, and particularly in the Evros region, in terms of severe overcrowding, insufficient staff levels, lack of basic supplies, as well as inadequate medical, psychological, social and legal support (arts. 2, 11 and 16).

**The State party should ensure that administrative detention on the grounds of irregular entry is not applied to asylum seekers. In particular, detention of asylum seekers should be used only in exceptional circumstances or as a measure of last resort, on grounds specifically prescribed by law, and then only for the shortest possible time. To this end, alternatives to detention should be duly examined and exhausted, especially with regard to vulnerable groups.**

**The State party should also take urgent and effective measures to improve conditions of administrative detention through alleviation of overcrowding, appointment of a sufficient number of trained staff, and provision of basic supplies, such as medical care and treatment, adequate food, water and personal hygiene items in any facility used for the detention of foreign nationals.**

### **Detention on public health grounds**

21. The Committee expresses its concern at a recent legislative amendment whereby a migrant or asylum-seeker can be detained if 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 (arts. 2 and 16).

**The Committee urges the State party to repeal the provision permitting detention of migrants and asylum seekers on public health grounds and replace detention on such grounds with the appropriate medical measures.**

### **Unaccompanied asylum seeking minors**

22. The Committee is particularly concerned that unaccompanied or separated asylum seeking minors are often not properly registered and are systematically detained, often in mixed immigration facilities with adults. The Committee is also concerned that the transitional Presidential Decree 114/2010 did not introduce a statutory prohibition regarding the detention of these minors and that the limited number of special reception centres for unaccompanied minors contributes to their prolonged detention. It is further concerned that many unaccompanied minors end up homeless and living in the streets where they are often exposed to heightened risks of exploitation and violence (arts. 2, 11 and 16).

### **Trafficking in persons**

24. The Committee recognizes the efforts made by the State party to address trafficking in persons. However, it expresses its concern at persistent reports of trafficking in women and children for sexual and other exploitative purposes and is concerned at the very few prosecutions and convictions of the offenders of such crimes. The Committee is also concerned that obstacles to the access to justice of the victims of such crimes include the insufficient knowledge by judges and prosecutors of the Palermo Protocol and that no interpretation services are reportedly available to the victims in trafficking trials. The Committee regrets that the support services provided to victims of trafficking with respect to health as part of their possible rehabilitation are inadequate (arts. 2, 10, 12 and 16).

**The State party should ensure that all allegations concerning trafficking of persons are investigated promptly, impartially and effectively and that the offenders are prosecuted and punished for such crimes. The State party should also ensure that the victims are provided effective legal and social assistance as well as access to interpretation in the context of trials. The State party should continue to conduct nationwide awareness-raising campaigns and provide adequate programmes of assistance, recovery and reintegration for victims of trafficking. Furthermore, the State party should offer training to law enforcement officers, judges, prosecutors, migration officials and border police on the causes, consequences and repercussions of trafficking and other forms of exploitation, as well as on the Palermo Protocol.**

### **Committee on the Elimination of Discrimination against Women**

Concluding Observations, 54th session (26 March 2013) [CEDAW/C/GRC/CO/7](#)

#### **Trafficking and exploitation of prostitution**

22. While noting the adoption of the National Action Plan to combat trafficking for 2010 – 2012, the Committee is, however, concerned at the lack of information on its effective implementation and on whether it has been extended beyond 2012. The Committee is also concerned about the stigmatization of prostitutes suffering from HIV/AIDS by public blaming campaigns pointing out individuals. The Committee is further concerned at the lack of statistical data, disaggregated by sex and geographical location, on trafficking and exploitation of prostitution in the State party. The Committee is also concerned about the limited efforts of the State party to prevent the exploitation of prostitution and to address its root causes, as well as the lack of protection and assistance available to victims of trafficking and exploitation.

23. **The Committee calls upon the State party to fully implement article 6 of the Convention and:**

- (a) Ensure effective implementation of the national anti-trafficking legislation;**
- (b) Conduct studies and surveys including on the prevalence of prostitution and seek international assistance as required and include in its next periodic report updated information and data on the prevalence of exploitation of prostitution and trafficking in women and girls;**
- (c) Increase efforts aimed at international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and harmonizing legal procedures to prosecute traffickers;**
- (d) Address the root causes of trafficking and prostitution, including poverty, in order to reduce the vulnerability of women and girls to sexual exploitation and trafficking, and to ensure the rehabilitation and social integration of victims, including by providing them with shelter and assistance.**

#### **Refugee, asylum-seeker and migrant women**

34. While noting the creation of a new Asylum Service Department independent from the police and the establishment of the First Reception Service responsible for screening procedures, the Committee is concerned at the difficult situation faced by women in prison,

particularly with regard to severe overcrowding of cells, non-separation of pretrial and convicted detainees, as well as administrative detainees together with criminal detainees, detention of irregular migrants and refugee and asylum seekers and women's limited access to adequate health facilities and services, free legal aid, as well as the lack of effective judicial review and prolonged arbitrary detention.

35. **The Committee urges the State party to:**

(a) **Take measures to reduce the number of women in detention, including through targeted prevention programmes aimed at addressing the causes of women's criminality;**

(b) **Address the situation of women and girls in detention through the development of comprehensive gender-sensitive policies, strategies and programmes aimed at facilitating their access to justice and ensuring compliance with their fair trial guarantees; and providing educational, rehabilitative and resettlement programmes for women and girls;**

(c) **Improve the conditions of women's detention facilities in accordance with international standards, to solve the problem of overcrowding in prisons, guarantee separate accommodation for different categories of detainees; and ensure the provision of adequate health facilities and services, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).**

### **Committee on the Rights of the Child**

Concluding Observations, 60th session (13 August 2012) [CRC/C/GRC/CO/2-3](#)

#### **Data collection**

19. The Committee is concerned at the lack of a national database with comprehensive and disaggregated data on children. In particular, the Committee is concerned at the lack of statistics on children at risk of domestic violence and/or other forms of abuse and ill-treatment, child victims of sexual exploitation and abuse, and other children in need of special protection, including children with disabilities, unaccompanied children, and refugee and asylum-seeking children.

20. **Recalling its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child, and reiterating its previous recommendation (CRC/C/15/Add.170, para. 24), the Committee recommends that the State party strengthen its mechanisms for data collection by establishing a national central database on children and developing indicators consistent with the Convention, in order to ensure that data is collected on all areas covered by the Convention, particularly on violence, trafficking and sexual exploitation of children, disaggregated by, inter alia, age, sex, ethnic and socioeconomic background, and by groups of children in need of special protection.**

#### **Non-discrimination**

26. While noting some measures taken to address the discrimination against Roma children, such as the adoption of the New National Roma Integration Strategy in 2010, which focuses on education, health, employment and housing, the Committee expresses concern at the persistent discrimination against Roma children, children of Turkish origin, children

belonging to the Muslim community of Thrace, and children from groups identifying themselves as belonging to the Macedonian minority, particularly in their access to education and essential services. It is also concerned at the existence of discrimination towards children with disabilities, children in street situations and children of undocumented migrant parents. The Committee is further concerned at the local disparities in different regions of the State party.

**27. In the light of article 2 of the Convention, the Committee urges the State party to ensure that all children in the State party enjoy equal rights without discrimination on any ground, and to this end:**

**(a) Review domestic laws and expeditiously take all measures necessary to ensure that all children in the State party's territory be treated equally and as individuals;**

**(b) Ensure that children of Roma origin, children belonging to the Muslim community of Thrace, children of Turkish origin, children from groups identifying themselves as belonging to Macedonian minority, as well as children with disabilities and children of undocumented migrant parents, have equal access to health and social services and to quality education, and that the relevant services used by these children are allocated sufficient financial and human resources; and**

**(c) Enhance monitoring of programmes and services implemented by local authorities with a view to identifying and eliminating disparities.**

#### **Asylum-seeking and refugee children**

62. The Committee notes that, according to article 19 of Presidential Decree No. 220/2007, transposing the European Union directive on reception conditions, the Public Prosecutor for minors or, where not present, the competent First Instance Public Prosecutor, will act as a temporary guardian and will take all actions necessary for the appointment of a guardian for each asylum-seeking or refugee child, and that the State party's legislation (Presidential decree No. 114/2010 on the Greek Asylum Procedure) provides for the possibility of determining an individual's age, when it is disputed, through medical examinations. The Committee also notes the programme initiated by the State party in cooperation with Frontex, on screening and briefing, aimed at the determination of age and nationality of asylum-seeking and refugee children. However the Committee expresses its concern that the public prosecutors either are unable to assign the guardianship to a responsible person or agency, or transfer the guardianship to directors of the reception centres for minors, and that the duties of the temporary guardian are vague and unclear.

**63. The Committee calls upon the State party to:**

**(a) Introduce appropriate legislative amendments to the national legislation, to enable the establishment of a functional, substantial and effective guardianship system for unaccompanied and separated minors;**

**(b) Ensure that unaccompanied asylum-seeking children are promptly appointed a legal representative in order to effectively gain access to the asylum procedure, as well as to assistance and protection, including access to free interpretation; and**

**(c) Create a national best-interests determination procedure that is complemented by procedural safeguards, in order to guide public and private**



**institutions and administrative authorities in their actions affecting third-country national children.**

64. While noting the efforts made by the State party since the consideration of the previous report in 2002, regarding the increase of reception facilities for unaccompanied and/or separated children, as well as the new Law No. 3928/2011 on the establishment of new initial reception centres, which is supposed to be fully operational in autumn 2012 and will provide screening and accommodation for migrant and unaccompanied children, the Committee reiterates its previous concern at the substandard conditions of reception of unaccompanied and/or separated children.

65. **The Committee recommends that the State party:**

- (a) **Ensure that children, either separated or together with their families, who enter the country in an irregular manner, are not detained, or remain in detention only in very exceptional circumstances and for the shortest period of time necessary;**
- (b) **Create new reception facilities and increase the number of spaces in already existing structures, while ensuring adequate conditions in those facilities; and**
- (c) **Sign the planned memorandum of understanding with the International Committee of the Red Cross to provide assistance to unaccompanied alien minors.**

#### **H. Ratification of international human rights instruments**

73. **The Committee recommends that the State party ratify the core United Nations human rights treaties and the Optional Protocols thereto to which it is not yet a party, namely, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the 1961 Convention on the Reduction of Statelessness and International Labour Organization Convention No. 189 (2011) concerning Decent Work for Domestic Workers.**

#### **Committee on the Rights of the Child**

*Concluding Observations, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (the OPSC) (20 July 2012)*  
[CRC/C/OPSC/GRC/CO/1](#)

#### **Measures adopted to prevent offences prohibited under the Optional Protocol**

21. The Committee notes the efforts undertaken by the State party aimed at preventing offences under the Optional Protocol. However, the Committee is concerned that targeted preventive measures against the exploitation of children, as well as measures to identify the root causes and extent, remain limited. The Committee is further concerned that prevention

measures are limited and that the social-work centres may not be adequately equipped to carry out activities for prevention and identification as mandated. In this regard, the Committee is especially concerned about:

- (a) The persistent discrimination against Roma children, particularly in their access to education, health services and birth registration;
- (b) The persistent discrimination against children belonging to the Muslim community of Thrace, with regard to their access to education and health services, as well as the application of sharia law regarding the practice of early marriages, which in many cases amounts to sale of children;
- (c) The great number of migrant and asylum-seeking children, including unaccompanied children, arriving daily to the State party's borders, and the lack of reception facilities and the poor quality of the existing ones;
- (d) The limited availability and accessibility of services for children in street situations, children with disabilities, and child victims of domestic violence; and
- (e) The growing availability of child pornography on the Internet and other evolving technologies, and that a certain degree of impunity continues to exist for crimes covered by the Optional Protocol committed through the Internet, especially child pornography.

**22. The Committee encourages the State party to undertake research on the extent and root causes of the exploitation of children, including prostitution and pornography, in order to identify children at risk and to assess the extent of the problem, and recommends that the State party:**

- (a) Take all the necessary measures to ensure that all children, including Roma children, are registered at birth and have access to education and to essential services;**
- (b) Combat harmful practices that amount to the sale of children, paying particular attention to groups of children who are in the most vulnerable situations, including children belonging to the Muslim community of Thrace, and ensure that they have access to health, social services and quality education;**
- (c) Establish reception facilities and increase the capacity of the existing structures for unaccompanied minors, migrant, refugee and asylum-seeking children;**
- (d) Ensure that the children belonging to the most vulnerable groups, in particular children in street situations, child victims of domestic violence and children with disabilities, are provided with holistic reintegration programmes.**

### **Recovery and reintegration of victims**

35. The Committee notes the State party's Law 3727/2008 containing provisions relating to assistance for the physical and psychosocial rehabilitation of child victims and psychological support to their relatives, and the establishment of a shelter in Thessaloniki for women and children victims of trafficking. Notwithstanding these efforts, the Committee is seriously concerned that the State party's recovery and reintegration measures are limited to victims of trafficking and victims of sexual exploitation, and do not adequately take into account the needs of victims of sale of children under the Optional Protocol. The Committee

is further concerned at the inadequacy of State-run shelters for child victims and that not all identified child victims have access to appropriate care, assistance and remedies.

**36. The Committee urges the State party:**

**(a) To establish a mechanism for providing recovery and rehabilitation support to child victims of all offences under the Optional Protocol;**

**(b) To take all necessary measures, including by considering the provision of training courses to medical professionals on recognizing and treating victims of offences under the Optional Protocol, to ensure that child victims of the offences under the Optional Protocol are provided with appropriate assistance, including specifically for their full social reintegration and physical and psychological recovery; and**

**(c) To seek technical assistance from UNICEF and the International Organization for Migration in the implementation of these recommendations.**

### **III. Special Procedures**

#### **Report of the Special Rapporteur on the human rights of migrants – Mission to Greece (25 November to 3 December 2012), 17 April 2013, [A/HRC/23/46/Add.4](#)**

68. During his visit, the Special Rapporteur took due note of the large number of asylum seekers entering Greece and the considerable challenges this imposes on the Greek asylum system, particularly as the Dublin II Regulation provides for asylum applications, as a general rule, to be examined in the first European Union member state where the asylum seeker arrived. This general rule is maintained in the recast Dublin Regulation. The situation is further complicated by the fact that the new civilian Asylum Service is yet to be put in place. The present system, whereby the Hellenic Police is responsible for asylum claims, is largely dysfunctional and the process takes several years.

69. The Special Rapporteur encourages the speedy operationalization of the Asylum Service and Appeals Authority provided for in Law 3907/2011, which he hopes will ensure full access to the asylum system and proper, timely treatment of all asylum claims. Specifically, all migrants, including those in detention, must be able to submit their asylum claims without undue delay.

70. In 2011, the European Court of Human Rights ruled that the return of an asylum seeker from Belgium to Greece under the Dublin II Regulation constituted a violation of article 3 of the European Convention on Human Rights . Since then, most European Union member states have suspended returns of asylum seekers to Greece under the Dublin II Regulation. However, the Special Rapporteur was informed that there are still some Dublin Regulation returns to Greece. The Regulation exacerbates the challenges for managing an already dysfunctional asylum system. The Special Rapporteur believes that some form of responsibility sharing should be agreed upon by the European Union member states, as provided for in article 80 of the Treaty on the Functioning of the European Union. Making the country of the first point of entry responsible for processing all asylum claims may not be sustainable in the long run for countries at the external borders of the European Union, such

as Greece, which has seen a very large number of arrivals of asylum seekers over a long period of time.

## **IX. Conclusions and recommendations**

### **D. Asylum seekers**

**103. Ensure speedy operationalization of the new Asylum Service and Appeals Authority, as well as full access to the asylum procedure in all parts of the country and proper, timely treatment of all asylum claims.**

**104. Ensure that all detained persons claiming protection concerns are adequately informed of their right to seek asylum and able to file an asylum application and communicate with UNHCR, lawyers and civil society organizations.**

**Report of the Working Group on Arbitrary Detention – Mission to Greece (21 to 31 January 2013), 30 June 2014, [A/HRC/27/48/Add.2](#)**

## **VI. Recommendations**

118. In the light of the information received and the concerns expressed, the Working Group make recommends that the Government of Greece:

(c) End the policy of systematic detention of all migrants in an irregular situation, and instead explore alternatives to detention. Detention should be a measure of last resort, limited to cases where there is a risk of the person absconding or when the person poses a threat to her or his own security or public security. The duration of detention should be limited to the minimum time necessary to carry out removal or other proceedings. Less coercive measures should always be considered before resorting to detention, in accordance with Law No. 3907/2011;

(d) Significantly improve detention conditions and procedural safeguards, and develop appropriate regulations for all detention facilities, in accordance with international human rights standards. In particular, it should:

- (i) Systematically inform detained migrants in writing, in a language that they understand, of the reason for their detention, its duration, their right to have access to a lawyer, the right to promptly challenge their detention, and to seek asylum;
- (ii) Ensure that all migrants deprived of their liberty are able to contact promptly their family, consular services and a lawyer, free of charge;
- (iii) Ensure that all detained migrants have access to proper medical care, an interpreter, adequate food and clothes, hygienic conditions, adequate space to move around and access to outdoor exercise.

119. The Working Group also recommends that:

- (a) At the time of detention, detainees be provided in writing, in a language they understand, with the grounds for their detention, clearly and exhaustively defined;
- (b) Detainees be provided with a written explanation of their rights and how to exercise them.

120. The legality of detention must be open for challenge before a court, and a regular review should be conducted within a fixed time limit. Each decision to detain should be reviewed to confirm its necessity and compliance with international legal standards by means of a prompt oral hearing by a court or similar competent independent and impartial review, accompanied by appropriate legal aid. In the event that continued detention is authorized, detainees should be able to initiate further challenges against their detention.

121. Detainees should be held in special immigration detention centres in conditions appropriate for their status, and not together with persons charged with or convicted of criminal offences (unless so charged or convicted themselves).

122. Detainees should be given adequate access to their legal representatives, relatives and officials of UNHCR.

123. The Government should limit the use of detention to appropriate cases, such as of asylum seekers whose application has been rejected after the asylum determination process (namely, when the incentive to abscond has increased) or where removal is imminent and there are reasons to believe it cannot be effected unless the individual is detained. The power to detain should not be exercised if the person concerned is, on the basis of substantiated evidence, fully integrated into the society from which that person's removal is sought.

124. Alternative and non-custodial measures, such as reporting requirements, should always be considered before resorting to detention.

125. Detaining authorities should be required to establish a compelling need to detain that is based on the personal history of each individual asylum seeker.

126. Any review body should be independent of the detaining authority.

127. Specialized non-governmental organizations, UNHCR and legal representatives should have access to all places of detention.

128. All staff members of detention facilities should receive training on the special situation and needs of asylum seekers in detention.

129. Effective measures should be taken to ensure that migrants have full access to lawyers and interpreters to appeal deportation decisions, and to prevent the refoulement of persons in need of international protection.

130. The Government should refrain from detaining unaccompanied minors and families with children, in conformity with the principles of the best interests of the child and of family unity.

131. The Government should continue to facilitate, where possible, the voluntary return of migrants who are willing to return to their countries, as opposed to deportation proceedings, in full accordance with international human rights law.

132. Lawyers and civil society organizations should be ensured full access to all detention facilities, and a systematic, independent monitoring system should be established for them.

133. All detained persons claiming protection concerns should be adequately informed of their right to seek asylum and be able to file an asylum application and communicate with UNHCR, lawyers and civil society organizations.

134. The Government should strengthen, through the provision of competent staff and resources, the Office of the Ombudsman and the National Commission for Human Rights in order to allow them to effectively accomplish their mission of human rights protection and promotion for all, including migrants, regardless of their administrative status, including by undertaking regular unannounced visits to detention facilities throughout national territory.