



# Prevention of torture and ill-treatment

Special Report 2015

(Article 23 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of the General Assembly of the United Nations)

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This Report reflects the activities of the Greek Ombudsman in 2015, as the National Torture Preventive Mechanism, in accordance with its special competence under Article 2, Law 4228/2014.

## **LEGAL FRAMEWORK AND OPERATION OF THE NATIONAL PREVENTIVE MECHANISM (NPM)**

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) is an international convention on human rights, which was adopted by the General Assembly of the United Nations in 2002. The common denominator was the consensus and the common understanding of the member states of the international community, that the efforts against the ill-treatment of persons who are deprived of their liberty, and are therefore in an especially vulnerable position, should focus on prevention. Greece ratified this Optional Protocol with Law 4228/2014, transposing this Convention into national law with increased formal power. Article 2 of the above-mentioned law nominated the Ombudsman as the "National Preventive Mechanism against Torture".

The mission of the National Preventive Mechanism (hereinafter NPM) includes investigation of the treatment of persons deprived of their liberty on a regular basis, submission of respective improvement recommendations to the competent authorities, and, finally submission of proposals and observations regarding the applicable legislation or drafting of legislation. The Ombudsman, since taking on its new duties, noted that it will fulfil its mission in a fair and constructive manner. Article 4 of L. 4228/2014 stipulates that the National Preventive Mechanism visits all, public or private, places of detention, with or without previously informing the competent authorities. Such places are prisons, police station cells, psychiatric institutions, places of administrative detention of third-country nationals, welfare institutions, etc. In fact, in line with international practices, these visits may be carried out on non-working days or even during night hours. The inspection by the National Preventive Mechanism includes the collection of evidence using any available means, such as, indicatively visiting all detention places, interviewing persons and taking photographs. Furthermore, according to the general competence of Article 103(9) of the Constitution and Law 3094/2003, the Ombudsman has access to all files, documents, data or archives. To implement the mission assigned to the Ombudsman, a working group was set up regarding the activities of the "National Preventive Mechanism" (NPM), under the responsibility of a Deputy Ombudsman, also appointing a Group coordinator and his substitute. The group started operating in October 2014 and continued its work during 2015 on three key areas:

- Analysing the scope and extent of its competence, good practices and search for collaborations, in the direction of the efficient exercise of the competences.
- Defining the methodology of the investigation, collection of data, processing and presentation of findings and recommendations.
- Establishing the criteria for prioritising the selection of the detention facilities to be visited.

## **WORKSHOPS, INTERNATIONAL PRESENCE AND OTHER ACTIVITIES OF THE NPM**

In the context of the cooperation between the Ministry of Justice with the Greek Ombudsman as an NPM, a meeting was held on 20 November between the Deputy Ombudsman Mr. Vassilis Karydis and the Minister of Justice, Mr. Nikos Paraskevopoulos. The Secretary General of Crime Policy and Ministry and Ombudsman officers also took part in the discussion. The subject of the meeting was the crime and correctional policy, in the light of the respect for human dignity, the improvement of the detention conditions and the prevention of any form of ill-treatment, while there was thorough briefing on the legislative and organisational initiatives taken, as well as a detailed discussion on the Ombudsman's recommendations to the Ministry. Finally, an effort was made to find the common ground and the convergences on the issues that affect both sides. Of a similar nature was the preceding attendance by the Ombudsman at the time, Ms Calliope Spanou, together with Deputy Ombudsmen, Mr. Vassilis Karydis and Mr. George Moschos, on 8 April, at the Standing Parliamentary Committee on Public Administration, Public Order and Justice during the discussion of the bill "Reforms of criminal provisions, elimination of Type C detention facilities and other provisions". The transparency and accountability of the Hellenic Police, in the context of the disciplinary investigation of complaints about arbitrary police behaviour, were, among other things, the main subject of the working meeting that took place on 19 May with the Deputy Minister of Interior, Mr. Giannis Panousis, the Secretary General of Public Order, the Greek Ombudsman and the above Deputy Ombudsmen.

In the context of the cooperation established between the Ombudsman, as an NPM, and the Subcommittee on Prevention of Torture (SPT) of the UN, the Chair of the SPT, professor Malcolm Evans, visited the NPM offices on 8 January where he met with the Ombudsman, the Deputy Ombudsman, head of the NPM, and experts of the working group on NPM issues. Opinions were exchanged during the visit on issues related to the establishment of the mechanisms, the good operation, good practices and the general challenges faced by the National Preventive Mechanisms, while both parties confirmed their willingness to set up a framework for ongoing dialogue and possible forms of cooperation. A team from the Committee for the Prevention of Torture (CPT) of the Council of Europe met on 20 April with the Ombudsman, the Deputy Ombudsmen Vassilis Karydis and George Moschos, and officers of the Authority, and they discussed issues mainly pertaining to police detention conditions, the disciplinary investigation of cases of arbitrary police behaviour, as well as the investigation of cases of racist violence.

On 2 March, Deputy Ombudsman Mr. George Moschos participated in the conference of The CTP at 25: taking stock and moving forward, at the opportunity of the 25 years of the Committee for the Prevention of Torture of the Council of Europe, where he coordinated a discussion on the subject of "The detention of minors". On 4 June, Deputy Ombudsman Mr. Vassilis Karydis, represented the NPM in a Workshop on Ombudsinstitutions as NPMs which was organised in Warsaw by the Association for the Prevention of Torture (APT). On 16-19 June, the expert - coordinator of the working group of the NPM participated in a training workshop on the subject of "Implementing a preventive mandate", which was organised in Riga, by the International Ombudsman Institute (IOI) in cooperation with the Ombudsman of Latvia and the Association for the Prevention of Torture (APT). On 29 September, Deputy Ombudsman Mr. Vassilis Karydis participated in a round table titled "Roundtable discussion on pre-trial detention" which was organised in Bristol by the Human Rights Implementation Centre of the University of Bristol (HRIC) and the Open Society Justice Initiative (OSJI). The NPM is a member of the European Network of National Preventive Mechanisms against Torture and more recently in the Network of National Preventive Mechanisms of South-Europe.

## REALITY OF THE PENITENTIARY SYSTEM - INSPECTION OF DETENTION FACILITIES

### Legislative developments and challenges

Within 2015 there were significant developments towards addressing the urgent nature of important parameters of the country's penitentiary system, which were the start for a more global approach to the penitentiary issue and the structural, systemic and chronic problems it presents (see *Annual Report 2014*, pp. 156-159). The provisions of Law 4322/2015 "Reforms of penal provisions, abolishment of type C detention facilities and other provisions" attempted to address in a direct way serious issues of the penitentiary system, which has "legalised" a distorted perception and practice regarding the correct penal and correctional treatment (e.g. the issue of the penal and correctional treatment of drug addicts, minors, patients, disabled people, etc.), issues which the Ombudsman had repeatedly highlighted in its documents and Annual Reports of previous years (for example see *Annual Report 2013*, pp. 136-137). The letter and the spirit of the new provision focus on the end goal, which has been highlighted by the NPM: "less prisoners, less time of incarceration, particular attention to special cases, implementation of alternative detention measures". After the implementation of the provisions at issue and in the context of a first assessment, the prospects look promising, as presented in detail in the reply document with ref. no. 86847/26.11.2015 of the Secretary General of Crime Policy to the Ombudsman. For example, there is reference to the decrease of the population of the criminal prisoners in the detention facilities as well as the population of third-country nationals who are under judicial deportation, and to the cease of the detention of criminal prisoners in police station cells. According to this document, up to 30 September 2015, 3459 people had been released. However, until full implementation of the provisions at issue, and until the following overall evaluation of their effectiveness, the NPM underlines that the overcrowding of the Greek prisons remains a critical issue for ensuring the hard core of the fundamental rights, in particular with regard to the unsuitability of the largest part of the building infrastructures, the insufficiency of medical care and the lack of specialised staff. This issue must be addressed not only with emergency measures for the immediate decongestion of the detention facilities but also with the adoption of corrective - remedial mechanisms for the beneficial calculation of the penalty.

**An urgent priority, as the Ombudsman has stressed repeatedly, and is noted in the explanatory report of Law 4322/2015, is to evaluate the penitentiary issue in the light of the overall operation of the penal system with its separate aspects, i.e. legislative, judicial and correctional, in the framework of a mid-term penal and correctional policy, a priority which the Administration seems to grasp in principle.**

In any case, the separate regulations regarding the penitentiary system and the prison facilities included in the very recently published Law 4356/2015, are evaluated as positive. Examples are:

- The sale of seized and confiscated products in detention facilities (Article 38), an issue which the Ombudsman had underlined in the past.
- Separate regulations for the support of rural prisons (Article 41, see also below).
- The establishment of a legislative committee, which will process the existing draft of the penitentiary code (Article 40).
- The elimination of the obligation to pay an amount up to 10,000 euro to a charity institution as a term which may be ordered, among others, for prisoners conditionally released (Article 12(6) of Law 4322/2015 and Article 100(3)(i) of the Criminal Code), an issue which the NPM focused on, with regard to the usefulness of the measure in relation to the purpose of conditional release (even when it is an emergency measure to decongest the facilities, as is the case here), but also in relation to the large number of indigent prisoners.
- The mandatory suspension of the trial for 30 days during the mandatory appointment of an attorney by the court for the purpose of the effective defence of the defendant (Article 33).

### Rural Prisons for Adults

Within 2015, the NPM completed a round of visits to the Rural Prisons for Adults, in the context of a broader action started back in 2014 (see *Annual Report 2014*, pp. 158), for the case of the Rural Prison of Kassandra, and related findings and proposals submitted by the NPM), after visiting the Rural Prison of Agia, on 3 and 4 December and the Rural Prison of Tirintha, on 18 December.

**Despite the particularities of each detention facility, and with the special note that in each one the number of prisoners was lower than the respective capacity of each facility, the findings are common, that despite having large areas of land, they face problems in their operation, staffing and logistics infrastructure.**

Therefore, they appear to move away from an alternative sentence serving model, based on humanitarian criteria of reintegration, while there is a risk that they will be used exclusively for the practical purpose of decongesting the other prisons, by channelling prisoners to the rural prisons which serve as a place of transit prior to release.

The signs of abandonment are visible, partially due to the fatigue of the prisoners, who are called upon to put in several hours of work into maintenance, to the extent that is absolutely necessary, and the minimum operation of the prison's units (the case of the Rural Prison of Agia).

The apparent absence of central planning for the management and development of all capabilities of cultivation and production offered by this land can completely negate the justification behind the institution of Rural Prisons, and establish in the collective social consciousness the expressed distorted and disorienting view that these are 'ghost' detention facilities, for the privileged prisoners. An exception to the smooth, in principle, operation and the living conditions of the prisoners appears to be the case of the Rural Prison of Tirintha.

**Following the findings of the NPM during the above visits in 2015, a new recommendation is made that the decline of the Rural Prisons must be stopped, by conceding part of their land for other purposes, and there must be strategic planning and modernisation of their logistics infrastructure while their regulations of operation must be drawn up promptly (with clarification, inter alia, of the criteria for the transition from the "closed part" status, to the day-release status, as well as the procedures for the assignment of work). All of the above issues remain an imperative and indisputable priority.**

There is also need to:

- Ensure the immediate (as regards drawing up the Regulations of Operation) and in general the regular convocation of meetings and the smooth functioning of the Central Scientific Council of Prisons, according to Article 8 of the Penitentiary Code, a need which of course is encountered in all the issues that fall under the competence of this body.
- Display particular attention to the application and compliance with the requirements for transfer to the Rural Prisons by the competent bodies, on terms of transparency, in the direction of supporting the Rural Prison institution in the long-term.
- Provide sufficient information to all prisoners about the legal requirements for transfer and the detention status in the Rural prisons.
- Search for collaborations, e.g. with universities, aiming at the healthy development and performance of the land of the Rural Prisons, and all the production capabilities, through the effective contribution of the prisoners, which, hopefully, would be combined with attending related educations and vocational programmes that would be organised in the prisons on a permanent basis or in a potential collaboration with the Manpower Employment Organisation (OAED).
- Investigate the possibility for disconnecting the sale prices of the products and goods produced by the rural prisons from the market prices, to facilitate the sale of these products at a lower price.
- Extend the regulation of Art. 1(1)(c) of Presidential Decree 60/2015 to employees in bakeries and the (existing) pastry workshops of all rural detention facilities.
- Extend the regulation of Art. 1(1)(c) of Presidential Decree 60/2015 to prisoner employees, in any position, that are over the age of 70.

The recent regulations of Article 41 of Law 4356/2015 are found to be especially positive, to the extent that the requirements for transfer to rural prisons are broadened, but also to the extent that public sector agencies are given the opportunity of direct assignment, following negotiation, for the supply of goods or products, to detention facilities that have rural or craft work units.

#### **Detention of minors – Special Detention Facility for Juveniles of Corinth**

The Ombudsman once more this year repeated its firm positions and proposals to restrict the detention of minors, in combination with taking legislative steps for a more mild penal treatment of minors for specific crimes, and also to establish structures with a welfare/educational character and the possibility of a differentiated treatment of minors depending on their personality and progress (especially with the promotion of the regulations for the Juvenile Care Facilities and the practical support of the role of juveniles' monitors) . Finally, in the cases of drug addict juveniles that commit crimes related to the use and trafficking of substances, the view was expressed that there should be provision for their placement in therapeutic facilities (see "Legislative and organisational proposals"). The new law 4322/2015 restricted the imposition of penal correction to minors only to cases of crimes where there is provision for a life sentence penalty or of article 336 of the Criminal Code (rape) against a person younger than 15, repealed the provisional detention for all crimes except the above, while a legislative committee was also established in the Ministry of justice to draft a bill for Juvenile Care Units, regulations which the NPM estimates are a step in the right direction.

During the visit to the Special Detention Facility for Juveniles of Corinth (15-18 years old) in February 2015, we found, among other things, that remand and sentenced prisoners were detained together, there were no vocational training programmes and legal consultation programs being implemented, there was no recreational area, worn mattresses, etc. It is also noted that the lack of any isolation of the toilet from the rest of the cell is assessed as a particularly problematic fact, from the aspect of human dignity. The existence and use of isolation cells in the Facility is also deemed to be problematic, especially as regards the suitability of these spaces for minors, as well as the functional link between the measure and the intended purpose.

**The Ombudsman recommended a number of improvements for the Facility, such as suitable design and equipment of the existing spaces, creation of recreational halls and library, organisation and systematic implementation of programmes in**

**connection with the community, support and staffing of the school that was underfunctioning, and implementation of vocational training programmes in cooperation with the relevant bar association.**

### **General Detention Facilities**

The NPM, in 2015, made a series of visits / on-site inspections in General Detention Facilities. In particular, except for the three Rural Prisons (Kassandra, Tirintha and Agia, see above), teams from the NPM visited the Detention Facilities of Komotini on 25 June, Nafplio on 28 April, Kos on 24 June and Chania (Crete) on 3 December.

**The problems identified again are, among other things, the overcrowding of the prisoners, shortages in infrastructures and the age of the facilities, problems with the heating of the facilities and the supply of hot water, worn and dirty mattresses with parasitic insects (bedbugs), the lack of any educational or creative activity programme whatsoever, the lack of a rehab programme, shortages in specialised staff, such as medical/nursing personnel, and the deficient or even non-existent in some cases staff in of the Social Service of the Facilities.**

Even though the situation, in relation to the overcrowding of the prisons, appears to be improved compared to previous years, however, in specific Facilities it is still particularly problematic. A typical example is the Nafplio Detention Facility, where 212 people are forced to sleep on the floor on mattresses, which during the day are placed in an elevated area, in order not to obstruct circulation. The same situation is found in the Kos Detention Facility, where prisoners, in addition to the floor and under the beds, are also sleeping on the roof of the bathrooms inside the cells, something which the Ombudsman has never encountered in the Greek prisons, and which is revealing, in the most dramatic manner, of the problem with the living conditions of the people who are deprived of their liberty. The NPM requested, with a document to the Ministry of Justice, that special attention be demonstrated. With the document of reply with ref. no. 86847/26.11.2015 of the Secretary General for Crime Policy, it emerges that on 16.11.2015 the number of the prisoners had dropped to 137 persons, while on 1 December, according to the official statistics of the Ministry of Justice posted on the internet, their number was 113. Note that the capacity of this facility is 45. Also, in the Komotini Detention Facility, the disciplinary cells which lack natural lighting and ventilation, are used out of necessity as the place of regular and usual stay of the prisoners (in fact according to their wish), due to the overcrowding of the prisoners in the other cells. The Chania (Crete) Detention Facility is new, with much better conditions and infrastructure for a large number of prisoners, there are problems however with staffing, and some wings remain closed to this date. Special concern finally, is caused by the lack of any provision for spaces for sports and related sporting equipment, work positions/spaces (e.g. workshops for iron - wood, etc.) and other areas where the prisoners can be employed and be entertained.

### **Specific issues of a penitentiary interest**

#### **Conditional release**

The overcrowding problem of Greek prisons in recent years, in combination with the state's apparent inability to financially meet its obligations and ensure decent living conditions for the prisoners, appears to be the main parameter which has determined and continues to determine the development, interpretation and extent of the institution of conditional release in our country and is essentially interpreted, by all involved parties, as a quasi "pardon", stripping it to a significant degree of its correctional intent. A typical example is the provision introduced for the beneficial calculation of the penalty of criminal prisoners in police station cells with the provisions of Law 4322/2015. This provision may have decisively contributed to eliminating this adverse consequence, however its legislative existence in Article 105 of the Penal Code entails a risk that the phenomenon will be legalised if it reappears, considering that it is now supported by a legislative basis.

The Ombudsman's experience has highlighted the chronic problems regarding the deficit in the educational and employment opportunities provided, and the general preparation for the introduction of the prisoners, after their release, in the employment market, a phenomenon which grew especially in recent years. This fact, in combination with the shortages recorded by the Ombudsman, or even the complete absence of a social service and other specialised staff and the existence of an adequate number of repeat offenders, shows that the main goals of the institution regarding conditional release cannot be achieved under the standard terms that are provided for and imposed by the courts, such as the simple prohibition on leaving the country or the appearance at a police station.

**The NPM has emphatically stressed the need to put as a first priority the reinforcement of the social service of the prisons, as regards staff adequacy and organisation, technical and logistics support aiming at the provision substantial assistance, during the stage shortly before the granting of the conditional release, as well as after it, in cooperation with specific state agencies responsible for this task.**

#### **Granting of regular leave to cases of repeat offenders**

As regards the issue of granting regular leave in cases of repeat offenders, it is considered advisable that the possibility of adopting a previous opinion of the committee of experts is examined, as well as the provision on the special terms for granting regular leave, in the direction of the prisoner's supervision, always aiming at a smooth reintegration. This proposal has already been submitted to the competent legislative committee, in the framework of the processing a new draft Penitentiary Code.

#### **Possibility of appeal to members of the Prison Board against a leave granting decision (Article 55(3) of the Penitentiary Code)**

Law 3772/2009 established the possibility for the Public Prosecutor participating as a member in the Prison Board to exercise the legal remedy of appeal within a 5 day deadline (from the issue of the relevant decision, which was taken with his participation), to the competent first-instance judicial council, in case he is in the minority, with regard to the satisfaction of a request for leave. This provision appears to be incompatible in principle with fundamental regulations of operation of the administrative bodies, since it rather suits the character of a legally imposed "introverted trial". In this case there is a clear and almost certain risk, which is the final, as a rule, and irrevocable rejection of the request that had initially been accepted by the majority, according to the Ombudsman's experience in investigating similar reports, and also from discussions with prisoners and members of the Prison Administrations. The Ombudsman does not dispute the guarantees of the judicial judgement which in the end support, in this case, the decision on granting regular leave and also realises any reasons there are for ensuring that the overriding public interest is protected, which seemed to have imposed this legal provision.

**However, and with the special note that the content of the legality of the criminal enforcement must be interpreted under a rule of law, liberal and humanitarian light, it considers that this provision must be reviewed.**

At this point it emerges that the possibility of activating the legally provided function of the Penalty Enforcement Courts must be studied and evaluated.

#### **Drug addicted persons deprived of their liberty**

The correct implementation of alternative penalty measures in these cases is of paramount importance, with the goal of effectively implementing all new relevant provisions of Law 4322/2015, as well as supporting consulting and promptly launching therapeutic programmes for the physical and psychological rehabilitation in all Detention Facilities of the country, aiming at the exclusive operation of therapeutic or detention facilities specific for this purpose. An important related development is the operation, within the year, of a Rehabilitation Unit in the Diavata Detention Facility. To this end, of the rational and decent treatment of the country's drug addicted prisoners, the NPM underlines that among other things, there is urgent need for the prompt completion of the rehabilitation unit at the Kassandra Rural Detention Facility.

#### **Tripoli Detention Facility**

The NPM continues to stress (see Annual Report 2014, pp. 158) the vital necessity of significantly improving the living conditions of the prisoners in the Tripoli Detention Facility, while it intends to monitor the implementation of the Ministry of Justice's assurances for the transfer of a significant number of prisoners in a wing of the Grevena Detention Facility as well as the measure's usefulness in substantially improving the current situation.

### **ADMINISTRATIVE DETENTION OF THIRD-COUNTRY NATIONALS**

The administrative detention of third-country nationals issue has specifically and repeatedly been of particular interest to the Ombudsman in the past as regards its lawfulness and the detention conditions. In 2015 the State appeared to be willing to adopt an approach that is in line with the mandates of national and international law, as regards e.g. the duration of the detention. Characteristic is the case of Art. 18 of L. 4332/2015, as specialised with order No. 1604/15/1423412/10.8.2015 of the Hellenic Police Headquarters, which adopted the Ombudsman's recommendation regarding a clear, protective and realistic framework for postponing the removal of persons whose removal is impossible. Specifically, these are third-country nationals who are coming from not only Syria, but also from Eritrea, Somalia, Palestine, Myanmar and Mauritania. The State reserved the same treatment in 2015 for citizens from Iraq, by virtue of Hellenic Police order No. 1604/15/2189144/30.11.2015 (see "Returns of third-country nationals"), since order No. 71778/14/482251/22.3.2014, issued in implementation of Ministerial Decision 4000/4/5-62/28.2.2014 and Opinion 44/2014 of the Legal Council of State on general detention for 18 months ceased to apply, even though it was not expressly revoked. This new policy seem to initially lead to a significant decrease in the number of administrative detained third-country nationals, both in detention centres and in police station cells.

However, the administrative detention of third-country nationals remains a critical subject, its non-negotiable goal being the legality of the detention (considering that any lack of a legal basis for the deprivation of liberty is a direct violation of the prohibition of torture without further explanation and in irrefutable manner), the assurance of dignified conditions, the necessity for the broad adoption of measures alternative to detention and the individualised decision on the imposition of the measure and its duration. This issue was of particular concern to the Ombudsman, in the light of the recent developments as regards the management of the particularly high number of mixed (refugee and migration) flows, and with the goal of completely eliminating the repeated phenomenon of using detention as an haphazard tool for managing mixed flows and as a counterbalance for the

ascertained inability to implement the legal framework on First Reception up to now (see "Refugee issue and migration" and "Returns of third-country nationals). In this context, the NPM continues to stress the need for putting a complete stop to the practice of the administrative detention of third-country nationals in police station premises, also according to the Hellenic Police's commitment made with a document to the Ombudsman (see *Annual Report 2014*, pp. 185).

Of particular concern is the phenomenon a large number of irregularly entering third-country nationals staying, in order to be recorded, in premises which were hastily designated for this purpose and which in some cases are not supervised by any state authority (e.g. hotel "Captain Elias" Kos, Kara Tepe in Lesvos, "Villa Artemis" in Leros). This phenomenon peaked with the mass entry into the country of mixed flows of third-country nationals during the summer and which remains a matter of concern up to now. This situation led to the phenomenon of a new category of third-country nationals, of persons "in limbo", more similar to a de facto hostage situation rather than a First Reception of Third-country nationals and which must be given priority in order to protect human dignity.

Emphasis was also given in 2015 to cases of ill third-country nationals under administrative detention.

**In a related intervention, the Ombudsman underlined that detention, as the most serious deprivation of liberty, must be the exception when no alternatives can be imposed. He also stressed that the administrative detention of persons with serious health problems in conditions of complete absence of any health care and treatment whatsoever, is incompatible with the provisions of international and national law, and is contrary to the principle of proportionality of liberty depriving measures (Article 5(3) of the Constitution, Article 5 ECHR). In any case, the ceasing of the detention of third-country nationals should be accompanied with a reference to a suitable structure, in order to effectively treat the respective health problem.**

### **Places of Detention of Third-country Nationals**

On 3 March, 29 April and 23 June 2015, teams of the NPM visited the Pre-removal Centres of Petrou Ralli Str., Corinth and Paranesti, Drama, respectively. After taking note of the significant decrease in the number of prisoners, the common findings were the absence of medical/pharmaceutical care and the imminent at the time expiration of the contracts of social workers, psychologists and interpreters. In the case of Corinth and Petrou Ralli, the insufficient cleanliness, lack of information to the prisoners regarding the duration of their detention and the general course of their cases, as well as the shortage in clothing and personal hygiene products, were the key issues that emerged.

On 16 June a team from the NPM visited Lesvos and the places where third-country nationals were detained in order for the Hellenic Police to finish their recording. During the same period a team from the NPM made a related visit to Kos and Leros. In particular, the team visited the Pre-removal Detention Centre of Moria Lesvos, which is in fact operating as a Citizenship Identification Centre by the Hellenic Police. This facility is facing a series of technical problems due to its poor construction. There are also significant shortages in cleaning staff, beds, bedlinen and cleaning products, resulting in deficient hygiene conditions and the apparent decline of the living conditions. Also on 24 June and in the above context, a team from the NPM visited the detention facilities of the Leros Police Station, which are presenting major problems and require immediate repairs and cleaning, rendering them unsuitable even for temporary accommodation. There are also risks for the health and safety of the third-country nationals and the police officers themselves.

On 29 May, 21 October and 16 November, teams from the NPM visited the Police Station of Nafplio, the Transfers Department of the Transfers Subdivision of the Courts of Thessaloniki and the Aliens Division of Thessaloniki, as well as the "Illegal immigration" Prosecution Department of Thessaloniki (where women third-country nationals are detained) and the "Illegal immigration Prosecution Department" of Mygdonia (where minor third-country nationals are located, under "protective guard"), respectively. A common finding is that the capacity is no longer exceeded, while the stay in these facilities did not last long (a few days in most cases).

**The detention conditions however remain problematic and do not meet the tolerable limits of dignified living in a detention facility. The non-existent yard areas, no access to fresh air and the open sky, lack of natural light inside the facilities, inadequate cleanliness, lack of sanitary appliances and deficient medical and pharmaceutical care observed nearly in all these facilities, continue to materially affect fundamental rights of the detainees (especially the minors), even in cases short stays.**

### **PSYCHIATRIC COMMITMENT**

The many levels of the crisis and the continuing recession have serious consequences that affect both the increase of mental disorders in the general population, in particular depression and suicidal tendencies, and the increase of the request for psychiatric and psychological assistance, while at the same time the public system of mental health services is being degraded due to insufficient funding. As a result, the major challenges which the mental health partners and the pending psychiatric reform face, must be addressed in a spirit of "prevention" against:

- the exclusion from or lower prioritisation of mental health in the social policy and the general policy on health
- the further fragmentation and weakening of the network of mental health structures
- the burn-out of mental health professionals.

The Ombudsman has repeatedly reviewed reports which raise issues of violation of the rights of the mentally ill, and has presented in detail the social and legal dimensions of these issues, considering that the rights to the protection of health and social reintegration are at risk, while the interested parties are legally and truly unable to defend their rights.

**The Ombudsman has stressed that the conviction of Greece by the European Court of Human Rights (case Venios v. Greece, 2011), regarding the forced commitment of a patient in a psychiatric clinic, imposes that immediate measures are taken to protect the human rights of the mentally ill. Moreover, the conviction due to violation of Article 5 of the ECHR is a challenge for the country's judicial and prosecution authorities.**

The Court expressly refers to texts of the Ombudsman in order to record the situation prevailing in Greece. The Ombudsman has repeatedly encountered similar cases, such as cases of involuntary examination and hospitalisation in a psychiatric hospital (2004), while in 2007 there was an investigation ordered into the involuntary hospitalisation of mentally-ill patients.. With these interventions, the Ombudsman tried to highlight the violations of the rights of the mentally-ill and mobilise the competent agencies. Unfortunately, the response was not satisfactory. According to a report by the Ombudsman regarding the detention of persons of unsound mind in psychiatric hospitals (2005), the hospitalisation of the patients is impeded by the detention work.

**This contradiction between the detention and the treatment of the patients of unsound mind is inherent in cases where the security measure of Articles 69 and 70 of the Penal Code applies. Assigning to psychiatric units the imprisonment of "criminals" of unsound mind is a legal paradox and renders imperative a special framework for the hospitalisation of persons of unsound mind by the co-competent Ministry of Health and Justice.**

### **Visits - On-site inspections**

On 11 December, the Ombudsman carried out a visit - on-site inspection at the Psychiatric Hospital of Attica (PHA - Dafni), following up on to the Authority's related reports, as well as in the context of the NPM competences. The 6 deaths of patients during 2014-2015 (suicide 19.6.2014, homicide by a restrained patient of another patient restrained on the bed 17.5.2015, arson and death of 3 patients 4.9.2015, involuntary death of a patient who attempted suicide, escaped the hospital grounds and was found dead outside of them 24.9.2015), as well as the repeated reports to the Ombudsman and the Special Committee for the Control and Protection of the Rights of the Mentally-ill of the Ministry of Health for violation of rights of the mentally-ill patients in the PHA demonstrate that the measures taken to manage the crisis are clearly inadequate. The Ombudsman will evaluate the recommendations by the Administration of the PHA and will correspondingly intervene towards the Ministries of Health and Justice, in order for measures to be taken promptly. Finally, a team from the Ombudsman carried out, on 22-24 September 2014, an on-site inspection of all hospital and non-hospital structures of the State Hospital - Health Centre of Leros, completed the evaluation of the finding and presented its conclusions in 2015. While during the visit we recorded serious damages to the building infrastructures, shortages in the patients' food and the supply of quality care, we note that after the Ombudsman's visit, the Administration decided to close down and transfer the departments that were operating under unacceptable conditions to new buildings with better infrastructures, while improving the quality of the care to the extent possible.

### **INSTITUTIONS**

On 17 July, the NPM visited the Lechaina Branch for People with Disabilities, in order to investigate the living conditions and the protection of the rights of the guests, following up on the 2011 report by the Ombudsman. During this visits, the NPM discovered that the problems have grown, on the one hand due to the amendment of the legislative framework and the merger, at regional level, of the social care units, and on the other hand due to the fiscal commitments of the country and the inability to hire staff in them. In particular, there is a shortage of liquidity required to cover basic needs for food, clothing, diapers, gas, and general shortage of funds for hiring subsidiary staff, setting up activity, education and recreation programmes, purchasing equipment, such as wheelchairs, etc. The staff is not sufficient for the elementary operation of the unit, and certain patients are restrained at all times, while children and adults are still being placed in wooden beds that are enclosed on all sides (cages), in violation of the recommendations of the European Committee for the Prevention of Torture (CPT/ Inf/E Rev 2009 "The CPT Standards"). The existing staff, which seems to be making superhuman efforts, are showing signs of health problems and burn-out, while the complete lack of social workers renders impossible any possibility for the promotion of adoption, fostering, management of voluntary support programmes, etc.

The NPM underlines, thus repeating the positions expressed by the Ombudsman in the past, that the planning and scheduling of the gradual closing down of welfare units with an asylum character, such as this centre, is advisable, with simultaneous replacement by foster programmes and small family-type units, which will operate inside residential areas in order to ensure a link with the local communities, according to the principles of the deinstitutionalisation policy promoted in the EU (for other facilities where minors are accommodated, see "Social insurance and solidarity").