*HELLENIC REPUBLIC*

**GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS**

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# Contribution by

# the Greek National Commission for Human Rights (GNCHR)

# to the Office of the High Commissioner for Human Rights (OHCHR) on the

# Implementation of Human Rights with regard to Young People

**7 February 2018**

The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection. It was established by Law 2667/1998 in accordance with the UN Paris Principles. Thirty-two institutions whose activities cover the field of human rights are currently represented in the GNCHR (independent authorities, departments of university-level educational institutions, workers' and disabled persons' confederations, NGOs, political parties and ministries).

The GNCHR, which was established by Law 2667/1998 in accordance with the Principles relating to the Status of National Institutions (The Paris Principles) and is accredited with *A-status* by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI), is the independent advisory body to the State on matters pertaining to human rights protection. The GNCHR mandate covers the whole spectrum of human rights in terms of *ratione materiae* and, since its establishment, the GNCHR has dealt with a broad range of human rights issues, including those concerning the most vulnerable groups, such as children, physically and mentally disabled persons, asylum seekers, refugees or migrants. Therefore, taking into account that safeguarding the rights of young people has always been among the GNCHR priorities, the GNCHR would like to make the following contribution to the Office of the United Nations High Commissioner for Human Rights regarding the identification of cases of discrimination against young people in the exercise of their human rights:

In the framework of its institutional role as the independent advisory body to the State on matters pertaining to human rights protection and given the tremendous financial and social impact of the financial crisis on the fundamental rights of young people, the GNCHR has previously been extensively concerned with the necessity to provide institutional and effective protection to the particularly vulnerable social group of young people and children, formulating, thus, proposals and recommendations[1]. Nonetheless, adopting a pragmatic approach, the GNCHR would like to narrow its focus in the present contribution in three specific areas: child poverty and right to health (I), non- discrimination of young workers (II), young people with disabilities (III), unaccompanied minors (IV) and Human Rights Impact Assessment (HRIA) (V).

[1] GNCHR, "Child protection is not a luxury! – The GNCHR adopts the Principles on Child Protection in Greece", *Report 2016*, "Statement on ensuring the timely start of the school year for children with disabilities and/or special educational needs", *Report 2016*, Observations on the National Action Plan for Children's Rights, *Report 2015*, "Recommendations of the National Commission for Human Rights (NCHR) for Childhood Protection: 'Health and Welfare'", *2014 Report*, "Observations on the Draft Initial Report of Greece concerning the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography", *2011 Report*, "Observations on the Draft Initial Report of Greece concerning the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict", *2009 Report* ,"Proposals for the implementation of Law 3699/2008 *Special Education and Education of people with disability or special educational needs*, *2009 Report*, "Report and Proposals of the GNCHR relating to the criminal record of juveniles and young adults", *2008 Report*, "Observations on the 3rd Periodic Report relating to the implementation of the UN Convention on the rights of the child (CRC)", *2008 Report*, "Proposals relating to the issue of unaccompanied minors", *2006 Report*, "Observations on the draft law for *Addressing Domestic Violence*", *2005 Report*, "Observations and proposals on the draft law for the *Reform of Juvenile Criminal Law*", *2003 Report*. The Annual Reports of the GNCHR are available at its webpage: http://www.nchr.gr/index.php/el/2013-04-03-11-07-36/115-etisies.

## I. Child poverty and Right to health

The increase of child poverty in Greece is not a new phenomenon: the relevant index had started increasing slowly but steadily already since the late 1990s. Nonetheless, as the GNCHR has emphasised, this increase has become more dramatic in recent years due to the pronounced and protracted recession and the subsequent austerity policies which have particularly affected families with children. More specifically, based on the broadly used Eurostat's definition of relative poverty, where the poverty line is set to the 60% of the national median equivalised income, children in Greece face a noticeably much higher poverty risk than adults. The child poverty risk increased from 23% in 2009 to 26.6% in 2014. In absolute terms, it means that half a million children live in poor families[2].

As the GNCHR has observed, the constantly increasing unemployment rates and the difficulty of access to social services financed by the State combined with the important shrinking of state financing exacerbate the already hazardous living conditions for both children and their families and render necessary the evaluation of the results of the financial crisis in children and adolescents' life and development, while aiming at minimising the hazards in their life and development[3]. On the one hand, child poverty creates circumstances that aggravate child health, while on the other, it creates obstacles to the access of children to the necessary health services[4].

Poverty creates additional problems, e.g. the lowering of the education level, which impedes prevention and the timely coping with health problems and results in differentiations in morbidity among income groups. However, holistic health protection is more fully and efficiently achieved through state intervention in other fields as well, apart from securing the child's best possible mental and physical state[5].

Taking into account the aforementioned, the GNCHR has formulated the following recommendations[6]:

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[2] UNICEF, Hellenic National Committee, *The State of the Children in Greece. Report 2017. The children of the crisis*, Report Synopsis, p. 3, available at: https://www.unicef.gr/uploads/filemanager/PDF/2017/children-in-greece-2017-sum-eng.pdf/.

[3] Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece*, *op. cit.*, par. 28-29 and Greek Ombudsman (Ombudsman for Children's Rights), *Recommendations about the content of a National Plan of Action for Children's Rights*, July 2013, par. 11.

[4] GNCHR, "Recommendations of the National Commission for Human Rights (NCHR) for Childhood Protection: 'Health and Welfare'", *2014 Report*, p. 44.

[5] *Ibidem*.

[6] For more details see GNCHR, "Recommendations for Childhood Protection: 'Health and Welfare'", *2014 Report*, " p. 48 et seq.

### A. National Strategy for the Child

The GNCHR highlights the need to protect, prioritise and implement children's rights. To this purpose, it recommends the formulation of a national strategy with distinct components for childhood protection, securing the essential participation of the Ombudsman for Children's Rights as well.

Key pillars of such strategy could be the development of a child-centered fiscal policy in combination with the diffusion of the child's dimension (child mainstreaming) in all fields and policy levels.

As far child-centered fiscal policy is particularly concerned, it will be reflected in "friendly" to childhood protection budgets and the creation of special credits within the National Budget for the funding of all state policies concerning the child[7](child budgeting), monitored for their implementation with specific motivation of the State General Accounting Office.

Towards the same direction, the Ombudsman's for Children's Rights institutional reinforcement is deemed equally important, with legislative safeguarding of what is so far acquired, which secures the Authority's function not only as a monitoring mechanism but also as a body promoting children's rights through initiatives.

### B. Guaranteed level of decent living

The GNCHR proposes the constitutional establishment of a guaranteed level of decent living for children.

The guaranteed level of decent living is a concept much wider than the guaranteed minimum income - which mostly invokes income reinforcement - since it aims at a more comprehensive, more efficient but also very flexible coverage of children's social needs, both in general, though targeted and socially controlled services and goods provision (e.g. for welfare, health, housing, heating etc.) and in particular in the field of education, through certain policies for the vocational guidance and the education of children from poor or disadvantaged families.

The constitutional establishment of a guaranteed level of decent living will enhance the visibility of the compact regulatory core of social rights, as a major institutional guarantee for both the "social acquis" and the redistributory character of social policy, which the legislator can no longer perceive neither as an optional choice, nor as social charity.

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[7] UNICEF, Hellenic National Committee, *The State of the Children in Greece* 2014. *The repercussions of the economic crisis on children*, *op. cit.*

At the same time, such a recommendation aims at assigning particular sense and content, asserting depth and institutional perspective to the principle of welfare state itself as far as child protection is concerned. To mark, hence, on the one hand, a different perception for the socio-political priorities of modern democracy - in which it's unthinkable not to include children's social protection - and on the other hand, a new reading of the equality principle, as restoring equality, which aims, through the State's positive actions, at the root of social disparities in childhood, at the reversal, that is, of the fundamental causes of social inequality, even more so of social exclusion. However, until an explicit provision with the aforementioned content is incorporated into the Constitution, the existent constitutional provisions (and especially those of Articles 21 and 25(1)) can and must be interpreted and applied, under the light of international rules, so as to promote a more effective implementation of human rights.

**C. Ratification by the Greek Authorities of the third Optional Protocol to the UN Convention on the Rights of the Child on a communications procedure**

The GNCHR deems necessary the ratification of the ICRC's third Optional Protocol by Greece.

The Protocol in question recognises the competence of the Committee on the Rights of the Child to examine communications submitted by individuals or group of individuals, within the jurisdiction of a State party, claiming to be victims of a violation by that State party of any of the rights set forth in the Convention on the Rights of the Child or in its two Optional Protocols. In fact, children whose rights have been violated are enabled to directly submit a communication.

The aforementioned Protocol was adopted in New York on 19 December 2011 and entered into international force on 14 April 2014, in accordance with Article 19(1) of the Protocol, which provides that "The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession". By 6 May 2014, ten (10) states had ratified the Protocol, while 45 states had signed it.

**D. Horizontal Coordination of Services**

Taking into account the data proving the lack of coordination and consistency between health and welfare services, the GNCHR deems necessary the collaboration of the competent services through:

a. their consistent horizontal networking and coordination,

b. the obligatory intersectoral collaboration for the timely adoption of the appropriate and necessary measures,

c. the adoption of prevention policies and protocols for the right addressing of cases of abuse/neglect and the realisation of references, when necessary, to psychosocial services for the thorough examination of the cases and the adoption of measures for children's rights protection,

d. the constant and annual monitoring (intermediary and final) of the course and the results of this synergy aiming at the prompt (re)adaptation of the measures and actions in favour of childhood protection.

**E. Structural changes and institutional measures in the sectors of Health and Welfare**

In view of the adoption and implementation of a National Action Plan for Children's Rights, the GNCHR believes that emphasis must be placed on important structural changes and institutional measures that prioritise the Children's Rights protection in the sectors of Health and Welfare securing among others that:

- Access to health services (preventive medicine, examination, treatment, hospitalisation and rehabilitation) is guaranteed to all children without exception, regardless of the social security regime they fall under.

- Children health services and particularly mental health ones are constantly developing on a regional level, covering the children's needs, with special provisions for groups of children which are threatened by social exclusion, like children with disabilities, Roma, minorities, immigrants, refugees and children living in isolated island/mountain areas.

- Social welfare services, especially the ones provided by Local Authorities (OTA) are adequately staffed and specialise in children protection issues, so as to be able to intervene, in collaboration with schools, nurseries and services of Justice where necessary, both in a preventive and a supportive way, in families with children afflicted by the financial crisis which suffer dysfunctions, abuse, neglect or exploitation of their members or which are particularly vulnerable, due to special circumstances (e.g. due to disability).

- Alternative care for children who need to be removed from their families is being modernised, through reinforcing fosterage and adoption, establishing modern standards for the functioning of child protection units and specialised hosting structures for children that need

special care within the community, the certifying, supporting and frequently controlling all units as well as preventing children from staying there for a long period of time.

### F. Collection of statistical data

The UN Committee on the Rights of the Child in its Final Observations, places particular emphasis on the need for the competent Greek Authorities to collect sufficient statistical data, capable of allowing it to evaluate the progress achieved relating to the application of the Convention's provisions[8]. Therefore, taking also into account, among others, the UN Committee's aforementioned recommendation about reinforcing the data collection mechanisms regarding children, the GNCHR considers purposeful the creation of a national central database, in which, with the explicit responsibility of the competent state authorities, all data concerning the implementation of all the rights of the child shall be collected[9]

## II. Right of young workers to fair remuneration

The GNCHR has repeatedly stressed that a series of legislative measures adopted by the Greek State during the four-year period 2010-2014 violate fundamental social rights. In particular, according to Article 74 (9) of Law 3863/2010, workers aged from 15 to 18 years old may conclude special apprenticeship contracts with employers for one-year duration to acquire skills at a 70% rate of the minimum wage/salary under the national general collective agreement. The Law also foresees that these persons do not fall under the scope of the labor law except for the health and safety provisions. Moreover, pursuant to the 2nd MoU, the minimum wages under the National General CA of 15.7.2010 were reduced by 22% for all employees, except for those under the age of 25, for whom the minimum wages were reduced by 32%. Thus, the minimum monthly salary has reached 586.08 Euros and for the workers under the age of 25, 510.95 Euros, while the poverty threshold is 580 Euros. Therefore, not only the age-based reduction of the minimum wage is discriminatory, but the minimum wage itself is extremely low.

Indeed, according to the European Committee of Social Rights (ECSR), a "fair and appropriate" wage is assessed by comparing the remuneration of minor workers with the starting or the minimum salary of adult workers. In any case, the reference/comparison salary (of adults) should be sufficient to cover what is foreseen in Article 4 (1) of the European Social Charter

[8] Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention*, *Concluding observations: Greece*, *op.cit.*, par. 19-20.
[9] See also UNICEF, Hellenic National Committee, *The State of the Children in Greece* 2014 *The repercussions of the economic crisis on children, op.cit.*

(ESC). If the minimum wage falls below the statutory levels for adult workers, the ECSR found, in its decision *Greek General Confederation of Labour (GSEE) v. Greece*, that such level of remuneration is not fair nor in conformity with the interpretation of Article 7(5) of the ESC[10]. Similar violations of the ESC were also found by the ECSR in its previous Decision (GENOP-DEH/ADEDY v. Greece, Complaint no. 66/2011)[11]. Moreover, and besides the age-based reduction of the minimum wage, which is discriminatory, the GNCHR has also emphasised the fact that the minimum wage in itself has drastically declined in the recent years. Indeed, in 2012 the level of minimum wage in Greece was reduced from 751 to 586, a fall of 22%, enacted as part of the government policies to promote downward wage pressure in order to absorb part of the effects of the severe recession on employment[12].

Moreover, Greece belongs to the cluster of European countries with high NEETs' percentages. In fact, by far the highest rates were recorded in Greece[13], where approximately one third of all young people aged 20–34 were neither in employment nor in education and training (30.5 %)[14].

In view of the above-mentioned observations and taking into account that Greece still has the highest unemployment rate in the Eurozone[15], with its effects being particularly severe on those under the age of 25, it cannot be denied that Greece is losing annually a substantial number of actual and potential scientists and other professionals[16]. According to a Study published by Greece's Central Bank, 427.000 Greeks left the country in the 2008-2013 period, depriving Greece of brain power, while at the same time contributing to the aging of the population. The GNCHR is deeply concerned by the status of "brain drain" produced by the economic crisis in Greece and calls upon the Greek authorities to take the necessary action to alleviate the stream of

[10] ECSR 23.3.2017, Complaint No. 111/2014, *Greek General Confederation of Labour (GSEE) v. Greece*.
[11] ECSR 23.05.2012, Complaint No. 66/2011, *General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY)* v. *Greece*.
[12] For more details see GNCHR, "Observations submitted by the Greek National Commission for Human Rights (GNCHR) in view of the examination of the 27th Greek report on the application of the European Social Charter (Articles 3, 11, 12, 13 and 14) and on the 11th Greek report on the application of the Additional Protocol to the European Social Charter (Article 4) (reference period 1.1.2012-31.12.2015)", 30.1.2017, pp. 26-27, available at: http://www.nchr.gr/images/pdf/apofaseis/ygeia/GNCHR_ECSR_Plenary_30_Jan.pdf.
[13] Along with Italy.
[14] See Eurostat, *Statistics on young people neither in employment nor in education or training*, Data extracted in July 2017, available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_young_people_neither_in_employment_nor_in_education_or_training. See also KANEP-GSEE, NEETs in Greece (KANEP-GSEE & KEADIK/UoC researches main findings), available at: http://neets2.soc.uoc.gr/?page_id=87&lang=el.
[15] Eurostat, *Statistics explained*, Data up to December 2017, available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment_statistics.
[16] See S. Lazaretou, "The Flight of Human Capital. The current trend of migration of Greeks in the years of the crisis" (in Greek only). Economic Bulletin, Issue 43, Athens, Bank of Greece, July 2016, p. 40.

"brain drain" and transform it into a stream of "brain gain" or ever better of "brain exchange"[17]. For this to happen, it is crucial to realise that "brainpower" is a vital and indispensable force for addressing the current challenges of the financial crisis.

### III. Young people with disabilities

According to the Research on *Income and Living Conditions* for 2016, which was conducted by the Hellenic Statistic Authority in cooperation with Eurostat and the data provided to the GNCHR by its member, the National Confederation of Disabled People, and in particular its "Disability Issues Observatory", young people with health problems or disability present not only a higher risk of poverty or social exclusion, but also an importantly lower participation degree in education and employment and also in the social and cultural life. More specifically:

#### A. Poverty risk

At poverty or social exclusion risk are:

- 71,5% of the population with disabilities 16-19 years old (while the percentage of the population without disability is 46,6%),
- 57,6% of the population with disabilities 20-24 years old (while the percentage of the population without disability is 49,1%),
- 63,5% of the population with disabilities 25-29 years old (while the percentage of the population without disability is 44,7%)[18].

#### B. Participation in Education

Young people between the age of 20 to 34 years old, who have barely managed to finish high school, constitute the category of young people with serious restriction of activity:

- 16,9% of the age group 20-24, while the percentage of young people without any restriction is 5,6%
- 32% of the age group 24-29, while the percentage of young people without any restriction is 7%

[17] G. Kouvertaris, "Brain drain… and international migration of scientists: the case of Greece", *The Greek Review of Social Research 15/16*, p. 11, available at: https://ejournals.epublishing.ekt.gr/index.php/ekke/article/viewFile/7030/6749.

[18] Source: National Confederation of Disabled People, available at: http://www.esaea.gr/publications/others/3647-1o-deltio-paratiritirioy-thematon-anapirias-tis-e-s-a-mea-atoma-me-anapiria-oi-ftoxoteroi-metaksy-ton-ftoxon

- 44% of the age group 30-34, while the percentage of young people without any restriction is 13,5%

Additionally:

- 31,1% of young people between the age of 25 to 29 years old with serious restriction of activity have finished higher education (degree, master's degree, PhD), while the percentage of young people of the same age group without any restriction who have finished university studies is 44,5%.
- 23,4% of young people between the age of 30 to 34 years old with serious restriction of activity have finished studies in the third highest grade (degree, master degree, PhD), while the percentage of young people of the same age group without any restriction who have finished university studies is almost double, 43,8%.

### C. Participation in Employment

Young people who face serious restriction in the usual activity for the general population, are employed (employees, self-employed, seasonal staff) in a percentage of:

- 15,3% in the age group between 25 to 29 (while the percentage of young people without any restriction is 46,8%).
- 27,3% in the age group between 30 to 34 (while the percentage of young people without any restriction is 64,9%).

With regard to the problems of the implementation of the International Convention on the Rights of Persons with Disabilities (Convention), the GNCHR considers the ratification by Greece of the Convention and its Optional Protocol (Protocol) an important step towards protecting fundamental human rights in our country. However, it deems it necessary to identify on a first, indicative level some serious problems arising from the law which sanctioned this Convention and the implementation of the Convention in practice, with the reservation to readdress the issue at a later date[19].

The Convention and the Protocol were sanctioned on 31 May 2012[20] by Law 4074/2012 they were then ratified and entered into international force for Greece on 31 June 2012, in

[19] GNCHR, "International Convention on the Rights of Persons with Disabilities: Problems regarding its implementation", *Annual Report 2014*, p. 78 et seq.

[20] See OHCHR, Ratification status for Greece, available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=68&Lang=en

accordance with Article 45(2) of the Convention and Article 13(2) of the Protocol. Therefore, since 31 June 2012 Greece is subject to the monitoring of the Convention conducted by the Committee for the Rights of Persons with Disabilities (Committee), which was established under Article 34 of the Convention. Furthermore, ever since 31 June 2012, the Committee's competence to receive and consider "communications" on behalf of individuals or groups of individuals subject to the Greek State's jurisdiction, claiming that they are victims of a violation of the Convention (Article 1 of the Protocol) has entered into force with regard to Greece.

**A. Obligations imposed by the Convention on national implementation and monitoring**

Article 33 of the Convention imposes on States Parties the following obligations regarding national implementation and monitoring:

a) "States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels" (Article 33(1)).

b) "States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights" (Article 33(2)).

c) "Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process" (Article 33(3)).

**B. Inadequate compliance with the obligations imposed by the Convention**

**I. Inadequate legislative compliance**

Article 3 of the sanctioning law reads as follows: "By decision of the Prime Minister, in accordance with Article 33(1) of the United Nations Convention on the Rights of Persons with Disabilities, a focal point is designated in the government for monitoring the implementation of the Convention along with a coordination mechanism for facilitating related action." This provision constitutes inadequate compliance with the obligations undertaken by the Greek State upon ratification of the Convention, since it enables the Prime Minister to only implement Article 33(1) of the Convention and not the remaining paragraphs thereof.

Pursuant to this enabling provision, Prime Minister's decision No. 426/02.20.2014 "Designation of a focal point for monitoring the implementation of the United Nations Convention on the rights of persons with disabilities (Law 4074/2012, OJ A 88) along with a coordination mechanism for facilitating related action" (OJ B 523/02.28.2014). With the Sole Article of this decision, a focal point is designated for monitoring the implementation of the Convention along with a coordination mechanism for facilitating related action. This focal point shall be the Ministry of Labour, Social Security and Welfare and more specifically the Ministry's Directorate of International Relations of the General Directorate of Administrative Support. Moreover, the decision reproduces word for word Article 33(3) of the Convention (above No. 2(c)).

Thus, due to the inadequacy of the enabling statute, independent mechanisms, which shall promote, protect and monitor the implementation of the Convention, have not been established, as required by Article 33(2) of the Convention. A single mechanism of this kind may even be established or this mission may be assigned to an existing independent body ; it is sufficient that this body be independent and dispose of the necessary means (adequate specialised staff and funding) for fulfilling this mission. This omission constitutes a serious violation of the Convention since it considerably reduces its effectiveness. For this purpose, the enabling provision must be completed.

Besides, the word for word reproduction of Article 33(3) of the Convention in the aforementioned Prime Minister's Decision is pointless. A provision enabling an administrative authority to take particular measures which shall grant civil society, in particular persons with disabilities and their representative organizations, the possibility to be involved and to fully participate in the monitoring process of the Convention.

**II. Examples of inadequate compliance in practice**

The substantive provisions of the Convention guarantee the rights of persons with disabilities and impose relevant obligations on States Parties. Among these rights is these persons' right of access, on an equal basis with others, public or private facilities and services which are open or provided to the public; inter alia, roads, transportation, buildings, housing, medical facilities, workplaces, monuments, sites of cultural importance etc. (Articles 9 and 30(1) of the Convention), which is of outmost importance for avoiding social exclusion. It is obvious that, in Greece, many if not most of the facilities and services in question including Court premises are very difficult or impossible to access for persons protected by the Convention.

Consequently, GNCHR addresses the following, first and urgent recommendations to the State regarding compliance with the Convention:

- To promulgate legislative provisions specifically enabling administrative authorities to take measures for the implementation of Article 33(2-3) of the Convention.

To take measures in order to render public or private facilities and services accessible to persons with disabilities, as required by the Convention

**IV. Unaccompanied minors**

The GNCHR acknowledges that the legislation regarding the guardianship of minors, following the amendment of Presidential Decree 220/2007, was improved and now includes all unaccompanied minors irrespective of prior application for asylum. However, the GNCHR shares the UNHCR doubts as to the practical application of this provision, as, according to the findings of the Asylum Service, more often than not no final appointment of a guardian is made, and neither the interim guardian nor any legal representative of the minor appear in Court or during the minor's interview.

For all the above reasons, the GNCHR reiterates its Recommendations:

- Police detention of alien minors for illegal entry in the country should be abolished and replaced by alternative measures of hospitality and/or protective custody in suitable facilities as long as their identification, the inquiry into the conditions and grounds of their entry, the search for their family and the determination of their legal status last.

- Deportation should be replaced by repatriation, when this is feasible and ensures the minor's rights and social re-integration in their country of origin.

- An advisor or a custodian should be appointed to every minor, especially in the field of child welfare, the minor`s best interests prevailing.

- Unaccompanied minors/ asylum seekers constitute a particularly vulnerable group. Therefore, specialized personnel accompanied by an interpreter should be provided free of charge by the State in order to guarantee access to psychological medical and legal assistance.

- In case the minors are victims of abuse, torture, inhuman or degrading treatment or armed conflict, they should have free access to healthcare and housing in accommodation centers under the auspices of the Services of the Ministry of Health. They should also be entitled to education made accessible through courses of Greek language

## V. Human Rights Impact Assessment

In the Greek legal order, Law 4048/2012 (OJ A 34/23.2.2012) provides for the assessment procedures before a legislative draft. The impact analysis as provided for in the aforementioned Law 4048/2012 cannot be considered equivalent to a HRIA, as it consists to a formality without substance. The existing procedure does not guarantee an evidence-based analysis and does not address the impact of the measures in the light of concrete data.

The GNCHR has systematically called upon the EU institutions, the EU member-States as well as the Greek authorities to create a permanent mechanism that would evaluate and assess the impact of austerity measures -primarily but not exclusively- on both the enjoyment of and access to human rights by all those living on EU territory (Human Rights Impact Assessment).

In its *2015 Statement* on the impact of the continuing austerity measures on human rights, the GNCHR enumerated the recommendations addressed to the Greek State on the conducting of human rights impact assessments[21].

After seven years of monitoring the human rights situation in a country facing multiple crisis (i.e. economic, refugees, humanitarian), such as Greece, the GNCHR considers that the "cumulative impact" on human rights of the constant implementation of austerity measures and the "non-compliance with the judgments of the national supreme courts as well as the decisions and recommendations issued by national, European and international human rights tribunals and bodies" should be conceived as fundamental and autonomous parameters of HRIA.

With regard to recent developments, both the UN Independent Expert on the effects of foreign debt (Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Juan Pablo Bohoslavsky, on his mission to Greece (30 November-8 December 2015), A/HRC/31/60/Add.2, 21.4.2016) and the UN Committee on Economic, Social and Cultural Rights (UN, Concluding observations of the Committee on Economic, Social and Cultural Rights on the second periodic report of Greece, E/C.12/GRC/CO/2, 27.10.2015) reiterated the need to conduct HRIA. In 2017, two more international bodies reiterated this very recommendation : a) the ILO, Committee of Experts on the Application of Conventions and Recommendations in its 2017 Report noted the observations from the Greek General

[21] GNCHR, "Statement on the impact of the continuing austerity measures on human rights", 15.7.2015, available at: http://www.nchr.gr/images/English_Site/CRISIS/GNCHR_Statement_%20impact_of_austerity_measures_on_HR_2015_.pdf.

Confederation of Labour (GSEE) received on 1 September 2016 according to which no impact assessment of the austerity measures on the implementation of the Equal Remuneration Convention, 1951 (No. 100) has been carried out. b) In a recently published decision, the European Committee of Social Rights (ECSR) found that Greece's legislation enacted between 2010 and 2014 in response to the economic crisis violated the rights to work, to just conditions of work, to fair pay, to protection for children and young persons against hazards, and to participate in decision making processes on working conditions established in the 1961 European Social Charter (1961 Charter) and the 1988 Additional Protocol (ECSR, ***Greek General Confederation of Labour (GSEE) v. Greece***, Complaint No. 111/2014, Merits, 23 March 2017). The ESCR particularly noted that it "has found no evidence, especially from the side of the Government, that a thorough balancing analysis of the effects of the legislative measures has been conducted by the authorities, notably of their possible impact on the most vulnerable groups in the labour market nor are there any indications that a genuine consultation has been carried out with those most affected by the measures. It follows that there has been no real examination or consideration of possible alternative and less restrictive measures" (par. 90).

In its report on social security[22], the GNCHR has specifically recalled, inter alia, the decision of the Hellenic State Council Plenary (Supreme Administrative Court) decision no 2287/2015 (recital 24), which echoing the GNCHR observations and recommendations, ruled in favor of an impact assessment study prior to the adaptation of social-security specific measures. As adjudicated by the Supreme Administrative Court: "In particular, in the context of such study, the legislator is first and foremost [bound to] proceed to an overall assessment of the factors that provoked the problem being invoked with respect to social security organizations sustainability (making reference to each one of them separately, in view of its administrative and financial autonomy),and in the light of such factors–like the value decrease, through the PSI (Law 4050/2012), the available resources of such organizations, (…) mainly the prolonged recession and the resulting increase of unemployment, being the practical outcome of the falling living standards of large population groups driven by similar measures or tax burdens as the ones under dispute (pension and salary cuts) – to judge the suitability of such contested measures. The legislator should proceed to any judgment taking into consideration that to date similar measures (pension and salary cuts) have not yielded the anticipated outcome and that the economic recession has been intensified at such a pace that all initial forecasts have been disproved. Moreover (…), the legislator [is bound to] further study and reasonably decide on their necessity,

[22] GNCHR, "The right to social security: main axes", 5.5.2016, available at: http://www.nchr.gr/images/pdf/nea_epikairothta/Asfalistiko_ekthesi.pdf.

envisaging the possibility of alternative options and comparing the benefits and disadvantages of each option for the public purposes sought after (fiscal adjustment, sustainability of social security organizations, safeguarding a satisfactory, by virtue of Article 22 (5), Const., living standard for insured persons). Further to the above, if the legislator [chooses] to proceed to specific pension cuts (an option being judicially uncontrolled), he/she [owes] to first examine, in a scientific and judicially authorized way, whether the impact from such cuts on the affected persons living conditions, in combination with the impact from the measures taken already to cope with the crisis (such as consecutive tax burdens) and in the light of the broader socio-economic conditions of the current extraordinary period (cost of goods and services, healthcare cuts, unemployment and its impact on family income, extent and content of borrowing obligations), drive to an unacceptable lowering of retirees' living conditions below the threshold enshrined, as mentioned above, by their social security right".

The HRIA dimension and the close monitoring of the creation of a national HRIA mechanism is explicitly linked with the mandate of the GNCHR after the recent amendment of its founding Law, according to which "*[t]he Commission shall in particular: […] (k) monitor and address recommendations to the State for the permanent and constant impact assessment of policy measures on human rights, as well as the operation of a reliable and effective system for recording incidents of discrimination, racism and intolerance*" (Article 1(6) of Law 2667/1998).