



NATIONAL PREVENTIVE
MECHANISM AGAINST
TORTURE AND
ILL-TREATMENT

OPCAT



ANNUAL SPECIAL REPORT

2020 - 2021



REPORT

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Annual Special Report 2020-2021, in accordance with 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 (OPCAT)*, ratified by Law 4228/2014.

This report presents the Greek Ombudsman's activities in 2020-2021 within its mandate to act as the *National Preventive Mechanism against Torture (NPM)*, in the context of its responsibilities as provisioned in article 2 of Law 4228/2014. The material presented herein is based on documents possessed by the Authority and on visits or on-site inspections of scientific officers of the Authority in detention facilities, under the supervision of the Deputy Ombudsman who was responsible for exercising the competence of the National Preventive Mechanism (until 10.1.2022), Mr. George P. Nikolopoulos. The final editing of the publication was completed under the supervision of the Deputy Ombudsman responsible for exercising the competence of the National Preventive Mechanism (since 1.3.2022), Mr. Giannis Moschos.

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PREFACE

PREFACE

The outbreak and rapid spread of the COVID-19 pandemic had a decisive impact on all developments during the last two years (2020-2021). Strict measures that put limitations on fundamental freedoms were introduced during the first phase of the pandemic and were only gradually lifted with the start of the vaccination schemes. The same applied for places of deprivation or restriction of freedom, involving the suspension of certain rights of detainees and guests in those places, namely visits or temporary releases. The provision of other important services like healthcare, education, entertainment was limited or, in some cases, unavailable for significant periods of time.

Needless to say, that the above-mentioned limitations have had their impact on the operation of the National Preventive Mechanism (NMP).

Following, in fact, the relevant recommendations of the Committee for the Prevention of Torture of the Council of Europe (CPT) for the absolute prioritization of the safety of both detainees and guests in places of deprivation or restriction of freedom as well as the recommendations of executive members of the National Preventive Mechanisms, and without special instructions and health safety protocols, despite the relevant applications for their granting to the competent authorities, the NPM was forced to review its operational planning and adapt its actions to the new pandemic circumstances. Consequently, the initial planning for periodic, but also targeted and systematic on-site inspections and reviews to achieve a more intensive monitoring of conditions in areas, where previous visits by NPM teams had highlighted the most problematic findings, had to be replaced with a focus on the study and analysis of systemic malfunctions, problems and distortions.

Thus, the NPM collected and evaluated data and studied cases of death or injury of detainees that highlighted general issues concerning the operation of prisons and other places of detention with direct effects on the detention conditions, including safety measures, understaffing, timely handling of special requests or behaviours, and crisis management.

At the same time, in order to assess the conditions within those premises. the NPM made use of a series of interventions of the Greek Ombudsman, following relevant complaints from detainees in detention facilities. The main issues identified in this report revealed problems regarding the approval of requests for transfer due to studies, access to transfer decisions, transfer for medical examinations and hospitalisation, access to healthcare services, namely the medical and pharmaceutical coverage of detainees without Social Security Registration Number (AMKA) / Temporary Number of Insurance and Healthcare for Foreigners (PAAYPA), or certification of disabilities etc.

The Mechanism's primary concern was to ensure that when the Administration implemented restriction measures for the spread of the pandemic in detention facilities, it took into account the need for proportionality, between the safeguarding of public health and the protection of the rights of detainees. Furthermore, since the early days of the pandemic, the Mechanism had intervened by submitting specific proposals and recommendations depending on the particularities of each facility.

From the early stages of the spread of the pandemic, the NPM made sure it received updated data on the observance and effectiveness of the relevant health protocols in detention facilities, namely regarding the detection and management of COVID-19 cases. From the evaluation of the data, it appears that the failure to implement decongestion measures in prisons had a crucial impact on the effectiveness of measures and protocols aimed at safeguarding public health. The total isolation of detainees from the rest of the population (suspension of temporary releases and visits, prohibition of transfers to hospitals with the exception of medical emergencies) contributed significantly to the creation of a high-risk environment.

With regard to police station cells, the Ombudsman reiterated its constant position, that such cells are by definition unsuitable for administrative pre-departure detention.

Both in psychiatric and detention facilities, the preventive measures taken in order to fight the pandemic mainly concerned the suspension of exit and overnight stay permits for hospitalised patients, the suspension of face-to-face visits, the controlled entry of people into the clinics, the intensification of cleaning and hygiene measures, the suspension of scheduled and outpatient medical services, the suspension of educational and voluntary activities and the isolation of suspected cases.

In addition to detention facilities, pre-removal detention centres and border guard


stations, police cells, psychiatric clinics, the limited program of on-site inspections and reviews carried out in 2020–21 included for the first time an inspection to a Greek navy landing ship, where the Authority's team was denied access. Needless to say, that the only legal basis available for denying access to a NPM team to any area of deprivation or restriction of freedom requires a hierarchical decision that must provide legal justification. It is noted, in any case, that this particular incident marks the first time that the Administration has denied access to the Authority's staff to any area of restriction or deprivation of freedom or detention facility, since the Ombudsman assumed its special competencies provided under Law 3907/2011 and Law 4228/2014.

The situation in the country's confinement facilities is still not satisfactory, and the main weaknesses are chronic and persistent, including frequent ascertainment of overcrowding, understaffing, deficits in necessary services, limited activities regarding the leisure, education, occupation and training of detainees, unsuitable premises and persistent implementation of protocols that are ill-suited for the treatment of mental patients. Emergency measures taken to limit the spread of the pandemic and ensure public health made a bad situation even worse, focusing on limiting the rights and the provision of services for detainees and guests in places of restriction or deprivation of freedom, rejecting measures that could decisively address the problem of overpopulation in those facilities.

Moving gradually into the post-pandemic era, the NPM reassumes its operational plan, with the assistance of a significant number of members of its scientific staff, with expanded inspection teams, an upgraded methodology for conducting on-site inspections, close and ongoing cooperation with his European homologues and with competent bodies of international organisations, the UN and the Council of Europe, putting to best use all available tools, the institutional framework, the expertise of its staff and all available logistical infrastructure.

A non-negotiable and long-standing goal of the National Preventive Mechanism of the Greek Ombudsman remains to provide an accurate, complete and well-documented report regarding the detention conditions in Greece and to issue suitable recommendations aiming at their improvement and their full compliance with the rule-of-law requirements of the 21st century legal and political civilization.

Andreas I. Pottakis
The Greek Ombudsman
July 2022



1. INSTITUTIONAL
FRAMEWORK OF THE
NATIONAL PREVENTIVE
MECHANISM AND
REVIEW OF THE PERIOD
2020-21

1. INSTITUTIONAL FRAMEWORK OF THE NATIONAL PREVENTIVE MECHANISM AND REVIEW OF THE PERIOD 2020-2021

1.1. Institutional Framework

The Optional Protocol of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international human rights treaty that was adopted in 2002 by the UN General Assembly and entered into force in 2006. It reflects the consensus and common belief of States Parties within the international community regarding the fact that efforts to fight the ill-treatment of persons deprived of their freedom, who, because of their situation, are especially vulnerable, should focus on prevention. In that light, States parties have adopted a broad definition of "torture", which includes not only the systematic infliction of pain but also any inhumane and degrading treatment which undermines the human existence itself. The use of torture offends human dignity and aims at annihilating the personality of the victim. Apart from constituting a criminal act according to national and international legislation, torture is attacking the very core of human civilisation. Detention facilities, such as prisons, detention facilities for migrants, mental hospitals and police stations, to name a few, pose potential threats to human dignity.

Greece ratified the aforementioned Optional Protocol with Law 4228/2014, making this Convention an integral part of its domestic law which prevails over any contrary provision of the national legislation (based on Article 28, par. 1 of the Greek Constitution). Article 2 of Law 4228/2014 stipulates that the Greek Om-

budsman is designated as the National Preventive Mechanism against Torture and Ill-Treatment. The National Preventive Mechanism (henceforth NPM) mission includes the regular examination of the treatment of persons deprived of their freedom and the submission of relevant recommendations and remarks regarding the existing legislation in force or any proposed draft laws. Article 4 of Law 4228/2014 stipulates that the NPM may conduct visits in all public or private detention facilities, with or without prior notification of the competent authorities. Such facilities may include prisons, cells in police stations, psychiatric hospitals, administrative detention facilities for third-country nationals, care institutions, etc. Following international practices, these visits may also be conducted during non-working days or even night-time hours. During the visits, the NPM may collect evidence using any available means, including, among others, inspection of all detention premises, interviews with detainees and photographs. Moreover, the Greek Ombudsman has access to any archives, documents, evidence or files, based on the general jurisdiction, as provisioned in article 103, par. 9 of the Greek Constitution and Law 3094/2003.

Starting from the above action areas, the NPM proceeds to the planning of its operations regarding the monitoring of issues related to freedom restriction, embarking from the solid conviction that, as the heaviest form of freedom restriction, detention must constitute an exceptional measure to be imposed only when it's impossible to avoid it or when alternative measures cannot be implemented.

1.2. NPM operation during the pandemic

In 2020 and 2021, the Greek Ombudsman exercised its special competence of the National Preventive Mechanism (NPM) for the seventh and eighth year respectively, in accordance with Law 4228/2014, by which Greece ratified the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

The exceptional conditions caused by the spreading of the COVID-19 pandemic, in particular the imposition of restrictive measures on the general population as well as on detention facilities, created undoubtedly an unprecedented context for the operation of the Mechanism, which forced the latter to search for alternative ways to implement its mission. Therefore, it suspended its main action method (namely on-site inspections in detention facilities) to a great extent and favoured primarily remote controls of the living conditions and of the way the rights of persons subject to freedom deprivation or restriction are secured, in particular via the exchange of correspondence with the administration, the investigation of de-

tainees' complaints and the participation of Mechanism members in international meetings with counterpart institutions in order to exchange their experience and know-how based on the new data. The Mechanism restarted its full operation in November 2021, after assessing the new data and informing the competent authorities.

1.3. Collaborations and international presence

The NPM participated in country consultations as well as in the online opening meeting of the *“Association for the Creation of an International Training Centre for Visits to Places of Deprivation of Liberty”* (June 2021) for the creation, in collaboration with the Council of Europe, of an international training centre for institutions in charge of controlling the detention conditions as well as the protection of detainees' rights.

A working meeting with the NPM was held in November 2021 in the framework of a visit conducted by a CPT team (Committee for the Prevention of Torture) of the Council of Europe in order to exchange information, estimates and views with regard to detention conditions.

The Greek NPM participated and presented its views and actions in (online or in-person) meetings of the South-East European NPM Network (SEE NPM Network).



2. INSTITUTIONAL DEVELOPMENTS AND INTERVENTIONS

2. INSTITUTIONAL DEVELOPMENTS AND INTERVENTIONS

2.1. Comments on draft laws

2.1.1. Law 4686/2020

Remarks about the draft law of the Ministry of Migration and Asylum on the *“Improvement of immigration legislation, amendment of provisions of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions”*¹.

Article 50 (detention prior to return)

According to the explanatory memorandum of this draft law, article 50 modifies par. 1 of article 30 of Law 907/2011, *“so that the removal of third-country nationals subject to a return procedure is made more efficient”*. However, in the proposed provisions, the Greek Ombudsman detected a crucial change in the regulation’s formulation and content. This change could affect the rights of third-country nationals but also the adaptation of Greek legislation to the provisions of the Return Directive (Directive 2008/115/EC on *“common standards and procedures in Member States for returning illegally staying third-country nationals”*). More specifically: Article 30 of Law 3907/2011, which is currently in force, stipulates that *“third-country nationals who are subject to a return procedure, in line with par. 1 of article 21, are detained in order to prepare their return and complete their removal, only if no other sufficient and less onerous measures, as those provisioned in par. 3 of article 22, can be effectively im-*

1. The full text is available in <https://www.synigoros.gr/api/files/download/66> (Greek).

plemented in that specific situation". The provision in force allows our internal law to align with article 15 of the Return Directive. On the contrary, article 50 of the current draft law introduces a full reversal of the rule and its exception, whereby the detention becomes a rule in violation of EU law and fundamental rights, and only by exception is it possible to enforce alternative measures. Moreover, the Greek Ombudsman brings attention to the preamble of the Directive (par. 16), which stipulates that *"The use of detention for the purpose of removal should be limited and subject to the principle of proportionality with regard to the means used and objectives pursued. Detention is justified only to prepare the return or carry out the removal process and if the application of less coercive measures would not be sufficient."* The Greek Ombudsman recommends abolishing the proposed amendment of par. 1 of article 30 of Law 3907/2011 by article 50, as it contradicts EU law and the principle of proportionality with regard to the restriction of personal freedom.

2.1.2. Law 4760/2020

Comments and remarks about the draft law on *"Provisions of penitentiary legislation, provisions concerning the Provident Fund for Security Forces Employees and other provisions of the Ministry of Citizen Protection"*².

In the context of its general competence, but also in its role as a National Preventive Mechanism against torture and ill-treatment, the Greek Ombudsman, responded to the legislative initiative titled *"Provisions of prison legislation and other provisions of the Ministry of Citizen Protection"*³, by sending its general remarks regarding the spirit of this legislative proposal, but also more specific comments and recommendations regarding issues included or deemed appropriate to be included therein, based on the Authority's multiannual experience arising from the investigation of relevant complaints and the systematic monitoring of developments in the scope of correctional policy. More specifically, the aforementioned draft law regulates, i.a., five specific correctional policy issues that are related to the conditions of those serving custodial sentences. Three of these issues correspond to detainees' rights which are recognised by the national, European and international prison legislation and their protection falls into the core of the Ombudsman's mission, based on the above institutional framework (precisely: articles 1, par. 2-3, and 13, regulating issues related to the implementation of the right

2. The full text is available in <https://www.synigoros.gr/api/files/download/4> (Greek).

3. Uploaded for public consultation here: <http://www.opengov.gr/ytp/?p=2915>

to health, article 1, par. 4-5, regulating the right to temporary release and article 9, regulating organisational issues concerning the exercise of the right to social reintegration for detainees and ex-prisoners). As far as the other two correctional provisions are concerned, one of them (article 3) regulates the conditions of transfer to rural prisons, while the other one (article 2) regulates organisational and operational issues of the Detention Facilities Inspection and Control Unit, as an internal control body for detention facilities. Provisions of organisational and operational nature for the General Secretariat for Anti-Crime Policy (articles 4-8) are provisioned as well. The starting point for the Ombudsman's remarks and recommendations has been its solid position that any initiative to revise the rules governing the organisation and operation of the criminal justice administration system should be implemented *"in the light of a holistic review of its operation, in terms of individual aspects, namely the legislative (sentencing system), the judicial (determination of sentences) and the correctional (detention conditions) aspect, as well as in terms of the overall interactions among these aspects, in the framework of a mid-term, structured, penal and correctional policy"*⁴. In this context, given that the aforementioned draft law introduces important changes in crucial provisions of the Penitentiary Code (Law 2776/1999), which is in force for more than 20 years, the Greek Ombudsman wishes, first of all, to point out that our correctional system should be re-examined as to all its individual aspects, by adopting a holistic approach and a long-term perspective, instead of short-term, piecemeal and fragmentary interventions. In this respect, we should highlight the need for an overall revision of the Penitentiary Code, which will follow and align with recent reforms in other fundamental codes of Greek criminal legislation (namely in the Penal Code as well as the Code of Criminal Procedure), in order to incorporate the European and international developments in our legal order⁵ and take into account relevant experiences at national and international level, as well as any recommendations submitted, among others, by our Authority as well. In line with this perspective and in view of the submission of the aforementioned draft law to

4. The Greek Ombudsman, *Special Reports of the National Preventive Mechanism for 2014* https://old.synigoros.gr/resources/docs/eng_web.pdf, 2015 https://old.synigoros.gr/resources/docs/npm_2015_en.pdf (page 137) and 2017 https://old.synigoros.gr/resources/opcat_2017_en.pdf (page 27).

5. Like, for example, the recently (2020) revised *"European Prison Rules"* of the Council of Europe and the older (2015) publication of the *"United Nations Standard Minimum Rules for the Treatment of Prisoners"* (*"the Nelson Mandela Rules"*), as well as modern trends in the case law of the European Court of Human Rights on issues related to correctional policy and the treatment of detainees.

the Parliament for vote, the Greek Ombudsman wishes to make some remarks on certain provisions, as well as some recommendations about related issues.

Provisions pertaining to the right to health

a) Article 1, par. 2

This provision of the draft law amends the third subparagraph of par. 3 of article 27 of the Penitentiary Code (Law 2776/1999), by ensuring that detention facilities enable detainees to access healthcare services, and provide them with nurse as well as doctor visits. This serves to further promote the detainees' health and, at least partly, to compensate for the significant staff shortages in clinics and infirmaries, caused by several statutory posts remaining vacant. In fact, since the relevant cost is normally to be covered by the detention facility, all detainees can benefit from the provision. Therefore, the aforementioned amendment is undoubtedly in the right direction. However, based on the experience of on-site inspections conducted in detention facilities by the Authority's teams in charge, as well as on their communication with detainees, it should be pointed out that in certain cases where medical care is necessary (usually in the case of dental treatment), the detainee may bear the burden of the relevant cost, when the detention facility cannot ensure a specific medical specialty that is required and the detainee has to personally choose a doctor himself/herself. This often discourages the majority of detainees from seeking medical assistance and has a negative impact on their health. Therefore, it is recommended to extend the scope of proposed provision so as to include those cases, by rephrasing subparagraph 3 of par. 2 of article 27 of the Penitentiary Code as follows: *"The detainee shall cover the fee of the doctor of his/her choice, except for the cases involving necessary medical actions, for which the administration of the detention facility cannot provide a doctor of the required specialty"*.

b) Article 1, par. 3

This provision is in the right direction, as it aims, based on the explanatory memorandum, to decongest therapeutic detention facilities from ill detainees remaining there for examination or hospitalisation purposes and favours their referral to *"local public hospitals in charge which are situated near the detention place or in a neighbouring regional unit"*. On the one hand, this allows detainees to have direct access to healthcare services of the same level to those used by the rest of the community and, on the other hand, it ensures the sustainable operation of the therapeutic detention facilities. To that

end, article 30, par. 1-2 of the Penitentiary Code⁶ are amended to introduce a graded way for dealing with medical incidents and provide⁷ for their transfer to *“a special therapeutic or psychiatric unit at the nearest hospital of the regional unit, where the detention facility is headquartered, or to a similar unit of a neighbouring hospital”* following a *“recommendation and opinion by the doctor in charge at the detention facility”*. Another step in the right direction was the addition made to the third subparagraph of par. 1, that the admission of ill detainees *“to a special therapeutic detention facility”* is conditional on *“a relevant decision being made by the Director of the therapeutic or psychiatric unit in question”* and on the relevant order being issued. However, it is still deemed necessary to issue circular instructions covering the cases of detention facilities with only a medical doctor in charge and a visiting psychiatrist; this would ensure that the recommendations and opinions for detainees with mental health problems are aligned with an adequate and timely approach to handling emergencies. Moreover, taking into account the use of terms like *“neighbouring hospital”* or *“nearest public hospital of the regional unit featuring a detention facility in function”*, it is important to refer detainees for medical examinations or hospitalisation to public hospitals in accordance with the specialties offered and the hospital distance from the headquarters of the detention facility or in accordance with the existence of a detention facility near the premises of the hospital featuring the required specialty⁸. More specifically, the seven Regional Health Authorities (RHA) of the country and their local boundaries are determined by article 1 of Law 3329/2005, as in force. Decision No. Γ3α/οικ.3579/14.1.2015 of the Minister of Health determined the interconnection, from a medical, scientific, and training perspective, of all schemes providing Primary Healthcare Services, which consist of the National Primary Health Care Network (PEDY) along with the hospitals of the Regional Health Authority Directorate. Based on the same decision, the

6. In particular the second and third subparagraph of paragraph 1.

7. More specifically in the second subparagraph.

8. Based on the provisions about regional health authorities currently in force, a detainee at the detention facility of Malandrino - Fokida who is in need of a maxillofacial surgeon (a specialty that is not available in the Hospital of Lamia), will be referred to the distant city of Larisa, instead of the nearest city of Patras (this is a real example that led to the detainee's death, as the disease evolved with the passing of time); see The Greek Ombudsman, *Special Report 2018 of the National Preventive Mechanism* <https://old.synigoros.gr/resources/annual-special-report-2018-national-preventive-mechanism-against-torture-and-ill-treatment.pdf> (page 18) and *Special Report 2019 of the National Preventive Mechanism* https://old.synigoros.gr/resources/docs/eee_opcat_2019_en.pdf (page 30).

special regional clinics of detention facilities were also included in the public schemes of Primary Healthcare (PHC). The ministerial decision typically stipulates that *“when incidents requiring nursing and medical care by clinics and specialties, which do not exist in Referral Hospitals, need to be handled, the public schemes offering Primary Healthcare services are interconnected with any hospital of the Regional Health Authority in question, which provides the respective clinics and specialties. This hospital is considered in this case as an ad hoc Referral Hospital”*. Therefore, the referral of detainees and the interconnection of hospitals should not depend on the administrative structure of Regional Health Authorities, but on the distance in kilometres as well as on the Penitentiary Code criterion (as par. 2 of article 30 is amended by the aforementioned draft law) providing for *“the nearest public hospital of a regional unit featuring another detention facility”*. A third subparagraph could be added in par. 2, specifying that *“the decision for the referral of ill detainees in the case of the previous subparagraph, as well as the third subparagraph of par. 1, should rely solely on the immediate availability of the necessary clinic and specialty as well as its distance in kilometres from the detention facility, and not on the territorial competence and structure of the Regional Health Authorities”*.

c) Article 13

The suggested amendment of article 16 of Law 4509/2017, providing for the transfer of detainees receiving treatment by specially trained nurses, with a suitable vehicle, accompanied by the attending doctor, is undoubtedly assessed in a highly positive way and marks a substantial change of the current understanding and practices regarding the involvement of the police in therapeutic activities of criminal justice, by discharging officers of this public force from relevant responsibilities, apart from exceptional cases. However, the suggested amendment should be extended over to the relevant field of involuntary psychiatric hospitalisation, by enforcing, respectively, the correct interpretation and application of the provision of article 96, par. 5 of Law 2071/1992, which regulates the involuntary transfer, by Public Prosecutor's order, of the alleged mentally ill person to a psychiatric clinic in order to undergo examination and get an expert opinion⁹, so that the transfer can be

9. In particular, the article in question stipulates that *“In case the procedure is initiated proprio motu by the Public Prosecutor or the application mentions that it was impossible to examine the patient due to the latter's refusal, the Public Prosecutor of the First Instance Court is entitled to order the patient's transfer to a public psychiatric clinic, in order for the latter to*

done with an ambulance or a conventional vehicle and the person is escorted by nurses. The Authority's long-standing experience from the investigation of a large number of complaints has showed that, based on the practices consistently followed until today, the execution of the Public Prosecutor's order is assigned to police officers; however, there is no relevant explicit provision in the general legislation pertaining to the responsibilities of police staff (presidential decree 141/91, presidential decree 254/2004). Meanwhile, the alleged mentally ill persons are transferred in police cars, with their hands cuffed, often behind their back, (in compliance with article 147 of the presidential decree 141/1991, which stipulates that transferred persons should be in any case restrained with handcuffs), even when the sight of uniformed personnel exacerbates the patients' nervousness and potential health issues. To protect the rights of the alleged mentally ill persons, the Greek Ombudsman has contacted the Public Prosecutor's Office of Areios Pagos (the Supreme Civil and Criminal Court of Greece) in writing, recommending actions to be taken by local Prosecutor's Offices and the Hellenic Police. An older special report on the same issue¹⁰, proposed that it should be mandatory to transfer the persons to be examined in suitable vehicles provided by the National Centre for Emergency Care (EKAV), and that the respective crews should be properly trained in order to ensure the patients' safety. The intervention of specially trained police officers must only be sought in exceptional cases, such as when the safety of the patient or third parties is compromised. This would safeguard the personal dignity of transferred persons.

Provisions pertaining to the right to temporary release: article 1, par. 4-5

The suggested provision amends the limits required to grant temporary releases on a regular basis. More specifically, it amends the first two cases of those provisioned in article 55, par. 1 of the Penitentiary Code and their respective prerequisites for the granting of temporary releases. The suggested amendment of the case mentioned in paragraph 1 of article 55 of the Penitentiary Code modifies the first formal requirement for granting a regular tempo-

be examined and for the relevant expert opinions to be prepared. The transfer shall be carried out under conditions that safeguard the respect of the patient's personality and dignity, while the duration of the patient's stay in the clinic for the necessary examinations should not exceed 48 hours".

10. The Greek Ombudsman, Special Report concerning the "Involuntary hospitalisation of mentally ill patients", 2007 <https://old.synigoros.gr/resources/docs/specialreport2007may--2.pdf> (pages 30-32).

rary release. More specifically, it changes the minimum part of the sentence a convict is required to have served in order to be granted a temporary release from one fifth of his/her sentence, which is the general limit currently in force, to a different limit depending on the duration of the sentence imposed. This proposal may establish a smaller percentage/limit for the first category (sub-indent aa), where the imposed sentence amounts up to five years, and the same percentage/limit for the second category, where the imposed imprisonment term is up to 10 years (sub-paragraph ab). However, for the next two categories (sub-paragraph ac and ad), where the imposed sentence is more than ten years and life imprisonment, respectively, the required limit of the sentence that needs to be served is increased compared to the provision of article 55, par. 1 of the Penitentiary Code which is currently in force. Furthermore, considering the limits provisioned in article 105, par. 1 of the Penal Code and in particular case c of this provision, it is ascertained that the part of the sentence that is required to be served for a temporary release to be granted in subparagraph ad of the suggested regulation exceeds the half limit provisioned for the granting of a conditional release in this category. Therefore, the amendments do not seem to serve the purpose of correctional temporary releases, namely the moderation of the negative effects of incarceration and the promotion of the social reintegration of detainees. As far as the limits increase is concerned, the provision of article 1, par. 5 is also consistent with article 1, par. 4 of the draft law in question, as it increases the limits/percentages of the sentence required to be served in order to increase/extend the temporary release days. On the contrary, compared to article 56, par. 1 of the Penitentiary Code in force, it decreases these days, as well as the duration in days of the regular temporary release. Moreover, the provision concerning those convicted to life imprisonment, which increases the number of years required to be actually served in order for a temporary release to be granted to 12, is also deemed onerous and unjustifiable, compared to the provision currently in force which only requires 8 years to be actually served. In the aforementioned case, a detainee must serve 14 years in any way, instead of the 12 years which are currently required, so that his/her temporary release days can be increased by one day, instead of the possibility to increase his/her temporary release days up to 3 according to the provision currently in force. Finally, the absence of an explicit reference to an amendment of article 55, par.1, case 1, subparagraph 4 of the Penitentiary Code, pertaining to the temporary releases of minors or post-adolescents convicted to criminal correction, should not be, in any event, interpreted in the sense that their treatment shall be subject to the same rules that apply for adult detainees. Based on the

recommendations of the Council of Europe and the views supported by the legal theory and case-law, the Greek Ombudsman, has already highlighted in a special report¹¹ that *“In the last years, it is generally acknowledged that temporary releases that are granted on a regular basis during the (custodial) sentence contribute in the detainees’ social reintegration, and moderate the overall negative consequences of detention. [...] The temporary release constitutes a detainee’s right and at the same time serves the purpose of sentencing. [...] “Every regular temporary release request must be examined correctly and fairly.”* Given that the specific positive condition, as it has been in force until today, means that the legislator applied a general provision horizontally, and only resorted to special provisions in exceptional explicit cases, the suggested provisions amend the legislator’s current choice by providing for a specific limit/percentage of the sentence that must have been served, depending on sentence category. However, as the Greek Ombudsman has already specified, *“the size of the sentence already served and, respectively, the part that remains to be served are not assessed in favour or at the expense of the convict, not even from the perspective of the time left until the permanent release and, therefore, the social reintegration”*¹². Following that ascertainment and taking into account the legislator’s purpose, as expressed in the explanatory memorandum *“to further regulate the system of granting temporary releases to detainees, taking into account the increasing violations of temporary release terms which have been observed”*, the Authority believes that the part of the sentence that has been already served and is taken into account for the granting of a temporary release, does not constitute a safe criterion and control measure for the violation of the temporary release terms. Furthermore, the explanatory memorandum offers no evidence, that can be subjected to an objective evaluation by the Authority, as to whether there is a causal link between the increase of the time actually served or the decrease of the temporary release days and the desirable effect of limiting temporary release violations, which appears to be the reason for the legislative amendment.

The abovementioned explanatory memorandum does not even present empirical evidence, which could support the questionable hypothesis that the number of the temporary release days has a positive correlation with the pos-

11. The Greek Ombudsman, Special Report *“Regular Temporary Releases of Prisoners”*, 2008 https://old.synigoros.gr/resources/6982_5_1-.pdf (page 5).

12. The Greek Ombudsman, Special Report *“Regular Temporary Releases of Prisoners”*, https://old.synigoros.gr/resources/6982_5_1-.pdf (page 7).

sibility that the detainee will not return to the facility or that a longer detention period shall further contribute to the good use of a temporary release. In any case, the case law has accepted¹³ that the very concept of temporary releases implies the legislator's acceptance of the possibility to violate it, as priority is given to the beneficial effects for detainees, such as the maintenance of family ties and their mental discharge. In conclusion, it is noteworthy that the particularly strict provisions of the relevant draft law regarding temporary releases are not accompanied by survey findings that confirm the increased violation percentages invoked in the explanatory memorandum, nor is there any reference to the relation between the number of the temporary releases granted and their violations in specific time periods, so that the aforementioned ascertainment can be substantiated from a quantitative point of view. In order to get a more accurate overview of the extent of violation of the terms for granting temporary releases or the detainees' non-return after the end of the release (article 54, par. 7-8 of the Penitentiary Code), so that the suggested amendment that tightens granting conditions can be justified, the Authority posed pertinent questions to all detention facilities in the country. The analysis of the responses showed that the vast majority (98%) of the granting terms of temporary releases was observed during the period 2015-2020¹⁴. A noteworthy fact is that the biggest violation percentage per detention facility is only 4% and is observed only in 6% of the total detention facilities that responded to our request (33 out of 34 facilities). It is, therefore, an extremely low and justified percentage, that cannot be deemed, in any event, enough to substantiate the arbitrary assertion of the explanatory memorandum that *"a rising incidence of violations has "allegedly" been observed with regard to the temporary release terms"* (page 2), so that the suggested amendment that provides stricter conditions for granting temporary releases can be sufficiently justified. Moreover, the consequences of the introduced provisions for the quality of detention conditions (in relation to international standards)

13. Indicatively: Decision No. 132/2001 of the Council of Misdemeanours Judges of Patras, Decision No. 37/2019 of the Council of Misdemeanours Judges of Volos.

14. For all years between 2015 and 2019 the whole period from 1/1 until 31/12 was taken into account, while for 2020 only the period from 1/1 to 31/7 was considered. It should be noted that it was prohibited to grant temporary releases for a long time within 2020, as special measures to prevent the spread of the COVID-19 pandemic applied in detention facilities. See document no. 7017/4/24303γ'/18.9.2020 of the Ministry of Citizens' Protection <https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11377005.pdf>

will unavoidably lead to a further increase of overcrowding in Greek prisons, thus amplifying the repressive aspect of confinement against its correctional nature and its contribution to social reintegration. In addition to the above and in view of the suggested amendments in the system of correctional releases, the Greek Ombudsman finds it suitable to reiterate its older recommendation concerning the need to introduce a time grading scheme to article 54, par. 8 of the Penitentiary Code, with regard to the detainee's right to submit a new temporary release application, when the latter does not return after the completion of the previously granted release (without notifying the facility in time prior to that and without providing sufficient justification for the delay). More precisely, the Authority, following investigations of pertinent complaints, deems it necessary and more suitable from a legal-political perspective to introduce a grading system depending on whether the detainee will voluntarily return or not, as well as depending on the amount of delay and the possible objective difficulty to timely notify the facility, so that detainees, who voluntarily return to their facility within just a few hours after their temporary release has ended, are not treated in the same way and do not lose the right to resubmit a release application sooner than those who do not return at all and get arrested at a later stage. Following the aforementioned remarks, it is recommended to reformulate par. 8 of article 54 of the Penitentiary Code as follows: *“Detainees who do not return to the detention facility after their temporary release has ended or has been revoked, without notifying the facility in a timely and accurate manner by providing an admissible justification, are referred to the Council of temporary releases and disciplinary control and are not allowed to receive any new regular or educational leave: (a) in case they voluntarily return within the next 24 hours, before the expiration of six months following their return, (b) in case they voluntarily return after the whole next day has elapsed, before the expiration of twelve months following their return and (c) in all other cases, before the expiration of two years following their arrest”*. Moreover, regarding the procedure for granting temporary releases on a regular basis, the Greek Ombudsman has pointed out that¹⁵ the current provision of article 55, par. 2 of the Penitentiary Code (following the addition that was introduced with article 20, par. 3 of Law 3772/2009, stipulating that “In case the magistrate presiding over the Council disagrees with the granting of a temporary release, he/she appeals within five days before the Sentences

15. The Greek Ombudsman, Special Report 2015 of the National Preventive Mechanism https://old.synigoros.gr/resources/docs/npm_2015_en.pdf (page 137).

Enforcement Court, in the formation of a Council, which decides irrevocably”) appears not to comply in principle with fundamental procedural rules of administrative bodies, as it is rather similar to an exemption, which in this case is introduced by law, from the principle that administrative authorities cannot appeal against acts of other administrative authorities. Additionally, there is a visible, almost certain risk, that the request, which had been initially accepted by majority, will generally be rejected, based on the Ombudsman’s experience from the investigation of pertinent complaints as well as from its discussions with detainees and administrative members of detention facilities. The Greek Ombudsman does not dispute the guarantees of the judicial judgement, which eventually encloses the decision with regard to the granting of a regular leave in this case and understands the grounds for assuring the protection of an overriding public interest, which seem to have dictated the legal provision in question. However, it believes that the aforementioned provision needs to be reviewed, highlighting especially that the legality of criminal containment should take into account the aspect of rule of law, liberalism and humanitarianism.

Provisions pertaining to rural prisons: article 3

The specific provision amends article 41 of Law 4356/2015 and subjects the transfer to rural detention facilities and the Central Prison Material Storage Facility to the “*granting of a regular temporary release at least once*” and the “*compliance with the granting terms of the regular temporary release*”. The Greek Ombudsman has referred extensively to the provision in force and the rural detention facilities¹⁶. The proposed amendment brings the part of the sentence that has been served in line with the limits for the granting of a regular temporary release provided for by article 1 par. 4 of this draft law (amending article 55 par. 1 of the Penitentiary Code). The second subparagraph of Article 41 par. 1 of Law 4356/2015 under amendment provides for the cases of re-transfer of a prisoner to the detention facility from which he/she was initially transferred and among other things it provides that “from the time of transfer to a rural prison or to the Central Prison Material Storage Facility the prisoner must have stopped meeting the conditions for the granting of a temporary release or the reason for this granting must have ceased to exist”. Given the regulation of article 54 par. 7 & 8 of the Penitentiary Code and the

16. The Greek Ombudsman, Special Report 2015 of the National Preventive Mechanism https://old.synigoros.gr/resources/docs/npm_2015_en.pdf (pp. 135-136).

fact that there is no relevant reference in the Explanatory Memorandum, the purpose and regulatory scope of the specific cases is not perceived. With the proposed amendment of par 1, a proper reference must be made by par. 2 of article 41 of Law 4356/2015, as in force, to the new cases of the former in order to include case number four. Moreover, the aforementioned cases in which the prisoner “*has stopped meeting the conditions for the granting of a temporary release or the reason for this granting must have ceased to exist*” cannot be extended to reasons which are not related to the prisoner but are provided for by a relevant provision, for instance article 54 par. 4 of the Penitentiary Code. In general, however, the Authority expresses its concern as regards the proper operation of rural prisons. It is common knowledge that, to be fully operational, the facilities in question require personnel with specific knowledge of livestock farming, cheese making, etc., as well as several workers to carry out the agricultural and livestock farming works (ploughing, sowing, herding etc.). When considering these special characteristics and the severity of the new conditions for the transfer of prisoners, questions are raised as regards the future operation of the facilities in question. The fact that the proposed conditions for the granting of regular temporary releases reduce the number of prisoners who will be eligible for such a release, combined with the fact that the transfer to a rural prison will require that the prisoner has previously received at least one temporary release, could lead to the downgrade of rural prisons. On the one hand, in order for a prisoner to be transferred to a rural prison he/she must have not committed any disciplinary offense, on the other hand, the overcrowding conditions of other detention facilities foster conflicts between prisoners and multiply disciplinary cases. Perhaps, in an effort to rationalize the provision in question, the legislator could designate specific disciplinary offenses that forbid the transfer to a rural prison. In any case, it is commonly accepted that rural prisons provide relief to prisoners as well as training which will be useful for their smooth reintegration into society. Moreover, their products cover the supply needs of other detention facilities or are sold in the market. This constitutes an important financial aid that should not be overlooked. Thus, in any case, before any relevant reform is introduced, a study of the population of the country’s detention facilities must be carried out in order to identify the number of people who meet the formal requirements to be transferred to rural prisons, and in particular to assess whether this number allows the full operation of rural prisons. Otherwise, there is a risk that rural prisons will be *de facto* abolished, in the absence of eligible prisoners. In conclusion - as it is shown by the latest penitentiary system statistics (16.10.2020) that were published by the General Secretariat for

Anti-Crime Policy¹⁷ - the population of Greece's four rural detention facilities has remained constantly lower than their maximum capacity level. Thus, the use of rural detention facilities could help decongest the overcrowded closed facilities. In this respect, as the stricter terms and conditions for the transfer of prisoners to rural prisons that are proposed lack justification and documentation in terms of necessity and expediency, we argue that the relevant provisions of the draft law should be withdrawn.

Provisions pertaining to the right to social reintegration: article 9

The Authority unreservedly applauds the State's interest in supporting social reintegration of detainees and those released from prison, as designated in the provisions of the draft law for regional development and the increase of the personnel of the private law entity "Epanodos", which is the exclusive official body for social reintegration. It also aims at the immediate allocation of the appropriations that are necessary for their implementation but also, more generally, at increasing the resources sent to the competent body, so that it can smoothly carry out its important mission. It is pointed out, however, that the creation of a new and modern support network for the social reintegration of detainees and those released from prison - as announced in the explanatory memorandum of the draft law in question - cannot be limited to provisions regarding the management role of "Epanodos" nor relate solely to the stage after the release of a prisoner - the so-called "after care". In principle, the development of social reintegration policies is not only aimed at reducing crime rates but forms part of the overall obligation of every democratic State to integrate all its members as free and equal citizens and to equally provide them with the enjoyment of all individual, political and social rights. This is also supported by the provisions of article 25 of the Greek Constitution and by piecemeal provisions of the Penitentiary Code (i.a., article 51 par. 1 which sets the goal of "the adjustment to social life after release from prison" and, mainly, chapter 12, entitled "After care", articles 81-82). With this in mind, the Authority has repeatedly indicated that the Greek criminal legislation on subsequent sentences and criminal records has had an inhibiting effect on the promotion of the concept of reintegration¹⁸. In addition, the

17. http://www.minocp.gov.gr/index.php?option=ozo_content&perform=view&id=7055&Itemid=696&lang=GR/

18. See Karydis V. & Fytrakis E. (edit.), *Penal Detention and Rights: The Ombudsman's Perspective*, Nomiki Vivliothiki, Athens, especially pp.157-169.

Authority has repeatedly indicated the extensive number of impediments introduced by piecemeal provisions regarding employment after criminal conviction. These issues have been the subject of numerous complaints to the Authority, which has repeatedly stressed the imperative need to reconcile the current legislation with the vocational and social integration prospect of detainees and ex-prisoners, and has proposed to review and rationalise all negative legislative requirements currently in force regarding the vocational rehabilitation of this part of the population, and to abolish those that are considered excessive and unjustified while establishing compensations in those cases where it is deemed that such legislative requirements should remain¹⁹. On the above-mentioned matter regarding the private sector, you can also refer to the special edition of the General Secretariat for Anti-Crime Policy titled *“Invisible Punishments: European dimension - Greek perspective”*²⁰, which includes the findings of a working group, which was established for *“the recording, classification, assessment and rationalisation of the obstacles and general institutional hindrances to the vocational reintegration of ex-prisoners and those who have been criminally prosecuted”*. Thus, it only remains to proceed to their implementation through the reform of the relevant legislation. Moreover and towards the same end, namely the strengthening of institutions and measures that support the goal of social reintegration, the Authority considers that the indefinite suspension of the measure of providing community service for adults, provided for in article 98 par. 1 of Law 4623/2019, in the one hand, constitutes a step backwards as regards an important institution that has been in force for thirty years and has greatly favoured social reintegration (despite some problems in its implementation) and, on the other hand, causes an additional burden on the Greek penitentiary system. In this context, the Authority considers that it is necessary to proceed with the reinforcement of the existing community service institutions and the establishment of new ones while focusing on their proper staffing and the adoption of the necessary provisions.

19. The Greek Ombudsman, Annual Report 2015 <https://old.synigoros.gr/resources/docs/ee2015-06-ergasia.pdf> (p. 56) [available in Greek].

20. Ministry of Justice, Transparency and Human Rights / General Secretariat for Anti-Crime Policy, *“Invisible Punishments: European dimension - Greek perspective”*, National Printing House, Athens 2018, pp.213-364.

Issues of organisation and operation of the Detention Facilities Inspection and Control Unit: article 2

The proposed provision brings about changes in the Detention Facilities Inspection and Control Unit as it is a “*special service and an institution of key importance for the orderly operation and adequate control of the Detention Facilities of Greece*” (according to the Explanatory Memorandum) and for this reason paragraph 2 provides for the appointment, as the head of the aforementioned institution, of “*a person of proven merit and experience*”. However, the wording of the proposed provision limits the eligible persons to “*retired judicial officers, without prejudice to Article 27 of Law 4670/2020*” (which was already provided for) or “*retired officers of the military or security forces*”. Moreover, apart from the aforementioned qualities, the legislator does not consider that the criteria of proven experience and merit can be met by other persons. On the contrary, according to the legislator, upon the establishment of the Detention Facilities Inspection and Control Unit and as regards its staffing “*it hereby creates a flexible body of experienced and expert employees, whose professional background will not be limited to the penitentiary sector, but ... also from other employees of the public sector or of public law entities*”²¹. In addition, the amendments to article 2 par. 1 of Law 3090/2002 introduced by article 2 par. 1 of the said draft law extend the competence of the Detention Facilities Inspection and Control Unit to already existing competences (such as that of the second case) or add new ones, such as those of cases three to eight. Undoubtedly, and as regards the newly established competences of the Detention Facilities Inspection and Control Unit, what is of interest is not the competence of the third case per se but its second subparagraph on the power of the health inspector to decide on the completion of a detainee’s hospitalization in a Therapeutic Detention Facility and his/her return to the Detention Facility from which he/she had been transferred. However, the provision fails to specify how the health inspector will be able to judge whether the detainee has completed his/her hospitalization without any prior supervision. The only case in which someone other than the doctor of the detainee’s choice and the doctor of the detention facility intervenes, is the one provided for in article 27 par. 5 of the Penitentiary Code. Therefore, in order to ensure that the health inspector will make the correct decision, it is safer to set conditions for his/her judgement, such as, for instance, expiration of the initially proposed hospital-

21. Explanatory Memorandum of Law 3090/2002 <https://www.hellenicparliament.gr/UserFiles/s/2f026f42-950c-4efc-b950-340c4fb76a24/S-EPITHER-eisig.pdf> (p. 1).

ization period or receiving the opinion of a physician of the therapeutic detention facility or public hospital who decided to refer the prisoner to the aforementioned facility. In the same context, the competence introduced by the proposed regulation in case seven, par. 1, article 2 of Law 3090/2002 on the *“review of old cases in search of evidence that can be used for further research”* does not set, apart from age and the purpose of identifying evidence, any other determining parameter. As a result, the whole wording is vague. Finally, the competence introduced in case five includes *“the submission of a proposal to the General Secretary for Anti-Crime Policy on reported disciplinary offences of the heads of the External Guard Departments and of police personnel in general who serve on secondment to the Detention Facilities”*. However, given that police personnel are subject to the provisions of the Presidential Decree number 120/2008 and reporting of disciplinary offenses is provided for in article 23 thereof, while prosecution is provided for in article 21 thereof, perhaps a provision is needed as regards the transmission of the reports of disciplinary offences to the competent bodies. Alternatively, perhaps a special provision is needed to regulate the disciplinary competence of the General Secretary for Anti-Crime Policy over the aforementioned personnel.

Issues of organisation and operation of the General Secretariat for Anti-Crime Policy: article 8

This provision increases the number of statutory posts for permanent personnel of specific branches for the staffing of the two new General Directorates that have been established in the General Secretariat for Anti-Crime Policy [Article 18 (3)(c and d) of Law 4625/2019], the General Directorate for Crisis Management and the Management of Detention Facilities - consisting of the Directorate for the Management of Detention Facilities and the Directorate for Crisis Management. The other one, namely the General Directorate for Anti-Crime and Penitentiary Policy, is already operating and comprises the Directorate for the Organisation and Operation of Detention Facilities and the Directorate for Anti-Crime Policy. It is pointed out, however, that the introduced specialised posts do not include any expert scientific personnel positions in disciplines that would be completely relevant with the competences of the aforementioned two General Directorates and who can, without a doubt, efficiently assist to their work by providing scientific documentation to the planning of the anti-crime and penitentiary policy. Specifically, article 1 of the Presidential Decree number 159/2009 titled *“Professional qualification of the graduates of the Departments of Sociology”* provides that: *“The graduates of the Department of Sociology of the Panteion University of Social and Political*

Sciences, the Department of Sociology of the University of the Aegean and the Department of Sociology of the University of Crete, due to the general and specialised knowledge they acquired during their studies, can be employed both as freelancers and as employees under any employment relationship: ... xiii. in Greek correctional institutions, public and private, as consultants, analysts and animators in subjects related to their degree and specialised knowledge. xiv. in public, private and social institutions of a related scope of action, as consultants and animators as regards the social reintegration of ex-prisoners". Therefore, in view of the announced upgrade of the work of the General Secretariat for Anti-Crime Policy, it is proposed to establish statutory posts for the aforementioned specialties, in order for its Directorates and services or the ones supervised by it (such as detention facilities and the private law entity "Epanodos") to recruit permanent personnel of "specialised knowledge" which is directly related to the scope and competences of the said Directorates and services, namely, the knowledge acquired in postgraduate study programs of Greek and foreign universities in relevant disciplines (Criminology, Correctional Law, Sociology of the Penal System, etc.).

2.1.3. Law 4825/2021

Comments and remarks on the draft law *"Reform of the procedures for expulsions and returns of citizens of third countries, attracting investors and digital nomads, issues of residence permits and procedures for the granting of international protection and other provisions that fall under the competence of the Ministry of Migration and Asylum and the Ministry of Citizen Protection"*²².

Article 34: Detention and expulsion procedure

With the amendment of Article 81 par.1 of Law 3386/2005, the provision of detention in police stations remains in force. It is positive that the expulsion procedures of Law 3386/2005 stipulate that administrative detention is carried out in the Pre-Removal Centres of Law 3907/2011. However, in reality, the "special facilities" of the Returns Directive (Article 16) are not sufficient and a large number of foreigners are held in police stations. As the Greek Ombudsman has pointed out in more than one occasions²³, the mass detention of

22. The full text is available in: <https://www.synigoros.gr/api/files/download/144>

23. Latest mention in Return of Third-Country Nationals Special Report 2020 (p. 33): *"The Greek Ombudsman has frequently noted the importance of using alternatives to detention, such as regularly appearing before the authorities, paying a financial guarantee, the requirement*

foreigners in police stations does not comply with the legislative obligations of the administration to ensure decent living conditions for administratively detained foreigners. At the same time, there is evidence that indicate the violation of a series of fundamental rights enshrined in Greek and European legislation, especially in Article 3 of the ECHR.

Finally, in view of the many amendments to Law 3907/2011 introduced by this draft law, the Greek Ombudsman considers it appropriate to reiterate its remarks²⁴ during the voting of Law 4686/2020, that the amendment of Article 30 par. 1 of Law 3907/2011, which introduces detention as the rule and alternative measures as the exception, diverges from the Returns Directive which introduces the exact opposite rule, in accordance with the principle of proportionality which should govern the imposition of restrictions on personal freedom.

2.2. NPM surveys on criminal detention

2.2.1. Temporary releases of prisoners: survey with the use of questionnaires in detention facilities as regards rates of violation/ “misuse” of temporary release conditions

The Authority submitted detailed remarks (see above) on the draft law which introduced stricter formal requirements for granting a regular temporary release. In particular, Article 1 par. 4 of Law 4760/2020 (Official Government Gazette of the Hellenic Republic 247/11.12.2020/Issue A), which replaced Article 55 par. 1 first and second paragraph of Law 2776/1999 (Penitentiary Code), increased the minimum limits of the time actually served of a custodial sentence (first case) and added more offenses to the second formal requirement (second case, on the absence of pending criminal cases) by including misdemeanours involving acts of violence or threats of violence against people and property. Commenting on the Explanatory Memorandum of this draft law, the Authority has remarked, i.a., that *“the particularly strict provisions of the relevant draft law regarding temporary releases are not accompanied by survey findings that confirm the increased violation percentages invoked in the explanatory memorandum, nor is there any reference*

to remain in one place, etc., as consistently emphasised by the Council of Europe and the European Commission, since living conditions, the unsuitability and capacity of detention facilities and the suspension of return operations – resulting in long-term detention – make it imperative to evaluate individual cases” <https://www.synigoros.gr/en/category/eidikis-ek8eseis/post/returns-of-third-country-nationals-special-report-2020>

24. <https://www.synigoros.gr/api/files/download/66>

to the relation between the number of the temporary releases granted and their violations in specific time periods, so that the aforementioned ascertainment can be substantiated from a quantitative point of view”.

The Authority addressed relevant questionnaires to all detention facilities in the country²⁵, to obtain an accurate picture of the situation regarding the scale of the violation of the conditions for granting temporary releases or failure on behalf of prisoners to return to the detention facilities after the expiration of the temporary release period (Article 54, par. 7- 8 Penitentiary Code). The processing of the relevant data for the 2015-2020 period, revealed an overwhelming percentage (98%) of compliance with the conditions of the temporary releases that had been granted, as detention facilities reported violations or misuse of the conditions in just 316 out of 18525 cases. As pointed out by the Authority, this is *“an extremely low and statistically justified percentage, that cannot be deemed, in any event, enough to substantiate the arbitrary assertion of the Explanatory Memorandum that “a rising incidence of violation has been observed with regard to the temporary release terms” (page 2), so that the suggested amendment that tightens conditions for granting temporary correctional releases can be sufficiently founded. Moreover, the impact of the introduced provisions on the quality of detention conditions (in relation to international standards) will unavoidably lead to a further increase of overcrowding in Greek prisons, thus amplifying the repressive aspect of confinement against its correctional nature as well as against the preparation for social reintegration”.*

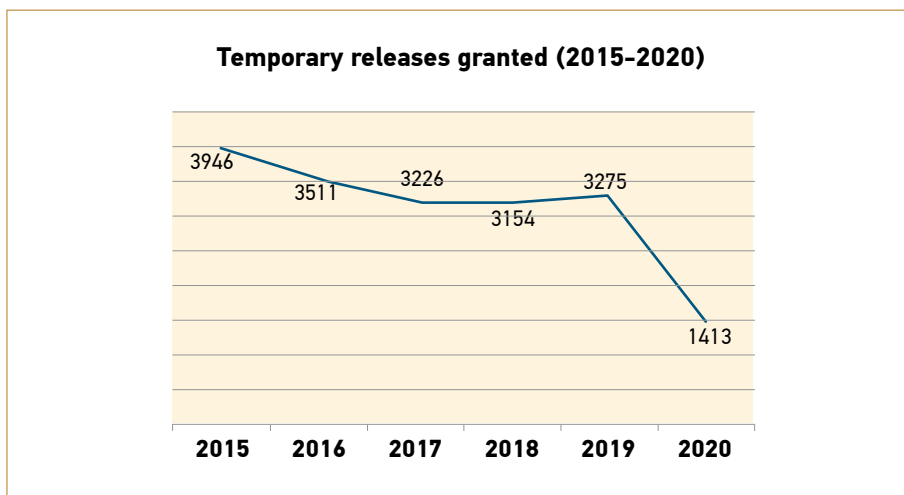
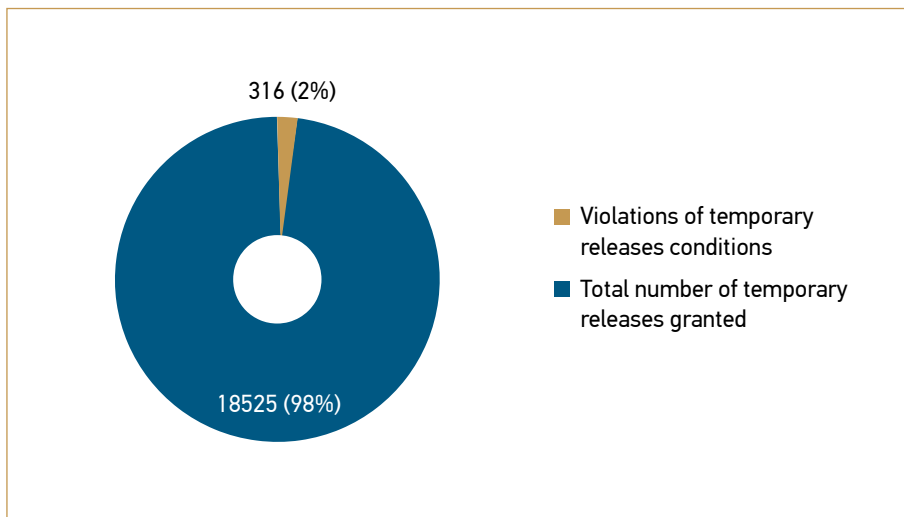
25. The Authority received feedback from 33 out of the 34 detention facilities to which it had addressed the relevant questionnaires. It is pointed out that during the survey, the Detention Facility of Drama was still not operational.

The data received by the Authority, in the context of the aforementioned survey for the years²⁶ 2015 to 2020, is presented in detail in the following tables.

TABLES OF TEMPORARY RELEASES GRANTED IN ALL DETENTION FACILITIES OF GREECE

YEAR	REQUESTED	GRANTED	VIOLATIONS OF TERMS / MISUSE
2015	5482	3946	49
2016	4714	3511	56
2017	4387	3226	69
2018	4267	3154	58
2019	4508	3275	58
2020	2113	1413	26
TOTAL	25471	18525	316

26. For all years between 2015 and 2019 the whole period from 1/1 until 31/12 was taken into account, while for 2020 only the period from 1/1 to 31/7 was considered. It should be noted that it was prohibited to grant temporary releases for a long time within 2020, as special measures to prevent the spread of the COVID-19 pandemic applied in detention facilities. See document under reference number 7017/4/24303γ' /18.9.2020 by the Ministry of Citizen Protection <https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11377005.pdf>



Source: Processing of data collected by the Authority through questionnaires sent to the detention facilities in Greece.

2.2.2. Healthcare services: survey with the use of questionnaires in detention facilities as regards provision of healthcare services

In the same context, in the beginning of 2022, the Greek Ombudsman investigated the safeguarding of the right of detainees to have access to healthcare services in accordance with the relevant provisions (articles 27-30) of the Penitentiary Code (Law 2776/2019). The Authority drafted and sent questionnaires with 28 relevant questions to the heads of all Greek Detention Facilities, to obtain information on the healthcare services that had been provided to prisoners until 31.12.2021. The NPM is currently waiting to receive the answers from all detention facilities to process them and publish its findings within 2022.

2.3. Detention in psychiatric facilities: transfer of mentally ill prisoners by the Hellenic Police

Having examined relevant cases, the Greek Ombudsman, addressed the Hellenic Police Headquarters and the Prosecutor's Office of Areios Pagos (Supreme Court) regarding the way in which the mentally ill are treated by police officers during their transfer for the execution of involuntary hospitalisation orders. The Authority pointed out that the alleged mentally ill persons must be treated differently than other prosecuted persons and approached in a different way, and, in particular, that the use of handcuffs and the detention of those persons (especially overnight) in a police station or transfer station must be avoided. The Greek Ombudsman has already proposed the introduction of an institutional framework for the mandatory transfer of patients with specially designed vehicles of the National Centre for Emergency Care, the training of the crew in order to guarantee the safe and dignified transfer of patients and, in exceptional cases, the assistance of specially trained Hellenic Police personnel to ensure the safety of patients and/or third parties²⁷.

27. <https://old.synigoros.gr/resources/docs/206391.pdf>



3. SPECIAL INTERVENTIONS

3. SPECIAL INTERVENTIONS

3.1. Restrictive measures against the pandemic

3.1.1. Prisons

The Mechanism's primary concern with regard to the administration's implementation of restrictive measures against the pandemic in detention facilities was to observe the proportionality between the safeguarding of public health and the advocacy of the rights of detainees. The Mechanism also intervened by submitting specific proposals and recommendations depending on the particularities of each facility. Specifically, the Ombudsman sent the letters under the Ombudsman Secretariat reference number 38/27.3.2020²⁸ and 70/27.4.2020²⁹ to the co-competent ministries, setting out its views on protecting vulnerable population groups from the spread of the coronavirus pandemic and proposing the strengthening of the implemented measures for their relief, considering it necessary to decongest all areas of freedom deprivation or restriction to the maximum extent possible - after weighing the need to protect both public safety and public health. In particular, with regard to detention facilities, the Ombudsman once more highlighted the general problem of overcrowding, which, at the present time, needs to be urgently addressed in view of the particularly serious risk posed by the intermingling and close contact of the detainees, both with each other and with the staff. Among other things, the Authority proposed examining the possibility of implementing alternative measures, in particular regarding the imposition of the measure of temporary detention, the replacement and suspension of the execution of custodial sentences, early release or the replacement, where appropriate, of freedom deprivation or restriction measures with other out-of-prison alternatives.

Addressing the General Secretariat for Anti-Crime Policy and the detention fa-

28. <https://www.synigoros.gr/api/files/download/85>

29. <https://www.synigoros.gr/api/files/download/67>

cilities, the NPM made sure it received updated data on the observance and effectiveness of the relevant health protocols, mainly regarding the detection and management of COVID-19 cases. Evaluating the responses as well as the developments of the epidemiological parameters, the NPM pointed out that - as seen from the analysis of data regarding the detection of COVID-19 cases in detention facilities and respective data regarding the overcrowding of those facilities, - the lack of implementation of decongestion measures demonstrated the limit of the effectiveness of the measures, which from the outset are ineffective in cases of overcrowding, while the exclusion of detainees from any contact with the rest of community (suspension of temporary releases and visits, prohibition of transfers to hospitals except for emergencies), contributed significantly to the establishment of a high-risk environment.

In September 2021, after the gradual de-escalation of the restrictive measures and in order to plan its on-site inspections, the NPM requested and received from the General Secretariat for Anti-Crime Policy detailed information on the implemented measures and the current decisions governing the vaccination of detainees and prison staff, as well as regarding the resumption of those activities that had been interrupted (educational, agricultural, recreational or other).

3.1.1.1. Correspondence with the General Secretariat for Anti-Crime Policy about general measures and cases

Since the beginning of the COVID-19 pandemic and throughout its duration, the Greek Ombudsman, in the context of its general competence but also as the National Mechanism for the Prevention of Torture and Ill-treatment according to article two of Law 4228/2014 “*Ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*”, had a series of exploratory contacts with the General Secretariat for Anti-Crime Policy in order to be informed about the preventive measures taken in freedom restriction areas that fell under the competence of the above General Secretariat. In particular, the Greek Ombudsman with its letter with reference number 1102/13457/13.3.2020 to the General Secretariat for Anti-Crime Policy and its reminder on 11.5.2020, requested information on the preventive measures taken in the areas of freedom restriction, which fell under the competence of the General Secretariat, due to the COVID-19 pandemic. Accordingly, in July 2020, the Authority requested information anew on any maintained restrictions and mandatory or recommended security measures with regard to the contact of detained persons or staff with persons outside the specific premises, that were applied to personal contacts, lawyers or doctors visitations, to the access of pris-

oners to goods provided by their relatives, to free trade goods, visits, on-site inspections or inspections by international or domestic audit bodies, cultural or other events hosted by organizations or entities other than the prison administration, transfers or procedures involving the movement of detainees and permits for their temporary release. In addition, the NPM has also pointed out the need for special state care for the health and safety of those under a regime of deprivation of freedom, but also the need for a gradual return to normal operating conditions of the respective places and enjoyment of the rights of the confined persons.

Due to non-response to the first letter, but also on the occasion of publications and announcements by organizations regarding the reinstatement of restrictions and prohibitions in the country's detention facilities, which had been taken during the first phase of the pandemic, the NPM came back with a new letter in September 2020. With this letter it asked the General Secretariat for Anti-Crime Policy to provide the Authority with any relevant document regarding the re-imposition of restrictive measures and prohibitions in the country's detention facilities, as well as the manner of their implementation. At the same time, it pointed out that the imposition of horizontal and generalised restrictive measures at the expense of criminal detainees can be considered as discrimination against them, which imposes particularly burdensome conditions during their detention to the extent, in particular, that they suspend the exercise of their basic rights. The NPM also reiterated its proposal to make use of alternatives regarding the serve time of custodial sentences or home detention, in accordance with the provisions of the Penal Code provisions applicable at the time, such as, e.g. of article 105 (offering the alternative to those over 70 years old who have been sentenced up to 15 years to serve their sentence or their remaining sentence time at home), of article 110a (release under the condition of serving the sentence at home with electronic monitoring) etc.

The General Secretariat for Anti-Crime Policy responded in October 2020 to the above two letters from the NPM, announcing that the existing preventive measures in the country's detention facilities are being updated through the issuance of relevant circulars in accordance with the current epidemiological data. Those included: the mandatory use of masks, the use of antiseptics and the remote temperature measurement of those entering detention facilities (newly arriving detainees, advocates, visitors, etc.), the treatment of all newly arriving detainees, as well as those detainees returning from temporary release as suspected cases and their placement in special areas for a period of 14 days in order to avoid the possible spread of the virus, the temporary suspension of open visits and the

drastic limitation of closed visits with the parallel expansion of electronic visits via Skype, the temporary suspension of temporary releases to detainees, the prohibition of transferring any type of food and clothing from visitors to detainees, the prohibition to transfer detainees to public hospitals for medical examinations except for emergency and serious cases, the provision of prevention instructions to correctional officers returning from leave, the intensification of cleaning and disinfection in areas of detention centres and finally the realisation of live educational activities and other events under the strict observance of health protection measures (temperature measurement, ventilation of the area, use of masks and disinfectants and observance of distances).

Given the vaccination of a large part of the population, the gradual de-escalation of the restrictive measures and the consequent resumption of a series of public activities, the NPM with its letter of 24.9.2021 and with the reminder of 13.10.2021 informed the General Secretariat for Anti-Crime Policy about the resumption of on-site inspections by its teams in detention places and requested the cooperation of the General Secretariat for informing all detention facilities of the country about the imminent resumption of on-site inspections/visits in the context of avoiding possible hesitations by their directors. It also pointed out the need to be informed about any existing special protocols that have been drawn up and entered into force regarding the conditions and health security measures that currently govern on-site inspections or organized visits of individuals or collective bodies and teams in detention facilities, as well as regarding the circulars and decisions in force about the implementation vaccination program targeted at detainees and prison staff, the provision of individual protection measures, the conditions for temporary releases and visits, the regulation of communication between detainees common areas, the transfer procedures, the care for sick detainees and the terms and schedule of resuming any educational, rural, recreational or other activities that had been suspended. In its response letter, the General Secretariat for Anti-Crime Policy sent all the circulars regarding the preventive measures taken against the COVID-19 pandemic in the country's detention facilities and the instructions in the context of informing the staff. Furthermore, it informed the NPM about the implementation of timely carrying out sample tests for the detection of coronavirus on staff and detainees and about the preparation and publication of a *"Guide for Mental management of COVID-19 for Detention Facilities in Greece"* with the aim of providing mental support to detainees in dealing with the effects of the pandemic. As far as the vaccination program is concerned, it shall be pointed out that the vaccination procedure was carried out following a written declaration of the detainees' interest to participate in it, while by the end of September 2021 the consent and vaccination of

54.3% of all detainees had been secured. It should also be noted that all necessary procedures were carried out to issue a Temporary Social Security Number (PAMKA) for detainees who did not have a Social Security Number (AMKA) or a Temporary Social Security and Healthcare Number for Foreigners (PAAYPA) in order for them to be able to participate in the vaccination program against the COVID-19 pandemic. Regarding measures to prevent the spread of the virus, it is noted that first-time entrants and transferred detainees are isolated upon their entry or re-entry to the detention facilities and are tested with a rapid test for COVID-19 antigens on the first and fifth day. Regarding the visits of third parties to detainees, it is stated that each visitor, in case they do not have a vaccination or illness certificate, must have done a diagnostic test for the detection of coronavirus within the last 48 hours before the day of the visit. Regarding the educational and leisure programmes, prison activities and the reduction of the adverse effects of incarceration, the General Secretariat for Anti-Crime Policy points out the operation of educational structures in 20 of the country's 34 detention facilities during the school year 2020-2021, which, however, was suspended from March 2020, while a relevant circular issued under Ref. No. 4637/26.5.2020 lifted the prohibition imposed on educational activities and other events. Then, in November 2020, in-person educational and therapeutic activities were once more forbidden until January 2021.

In addition, the NPM with its document dated 26.11.2021 to the General Secretariat for Anti-Crime Policy requested information on the number of cases and deaths per detention facility, from the start of the pandemic until 31.11.2021. In its response, the General Secretariat for Anti-Crime Policy pointed out that based on the data that were collected data until December 31, 2021, 2443 cases involved detainees and 713 employees of detention facilities of all branches. Furthermore, there have been 10 deaths of detainees and 3 deaths of prison employees of all of branches. Based on the data provided by the General Secretariat for Anti-Crime Policy, a detailed table of data has been completed on the number of cases and deaths of detainees and staff per detention facility in the country from 1.2.2020 to 31.12.2021 and is presented below. It should be noted that in the first half of 2020, at the beginning of the pandemic, the cases and deaths appear as zero, because the collection of data involving COVID-19 cases in the Greek detention facilities began in June 2020.

Total cases in the country's detention facilities (2020-2021)

YEAR	DETAINEES				STAFF			
	Number of cases		Number of deaths		Number of cases		Number of deaths	
2020	A' SEMESTER (1/1/2020 – 26/6/2020)	B' SEMESTER (27/6/2020- 31/12/2020)	A' SEMESTER 1/1/2020 – 26/6/2020)	B' SEMESTER (27/6/2020- 31/12/2020)	A' SEMESTER 1/1/2020 – 26/6/2020)	B' SEMESTER (27/6/2020- 31/12/2020)	A' SEMESTER 1/1/2020 – 26/6/2020)	B' SEMESTER (27/6/2020- 31/12/2020)
	0	395	0	4	0	122	0	1
2021	A' SEMESTER (1/1/2021 – 25/6/2021)	B' SEMESTER (26/6/2021- 26/11/2021)	A' SEMESTER (1/1/2021 – 25/6/2021)	B' SEMESTER (26/6/2021- 26/11/2021)	A' SEMESTER (1/1/2021- 25/6/2021)	B' SEMESTER (26/6/2021- 26/11/2021)	A' SEMESTER (1/1/2021 – 25/6/2021)	B' SEMESTER (26/6/2021- 26/11/2021)
	501	1547	1	5	210	381	0	2
TOTAL	2443		10		713		3	

Source: Processing of data collected by the Authority from the response documents of the General Secretariat for Anti-Crime Policy

3.1.1.2. *Special cases*

Responding to relevant complaints, the Authority addressed in writing the Special Juvenile Detention Facility of Avlonas and the Nafplio Detention Facility, regarding the issue of overcrowding and sanitary conditions in the light of COVID-19 prevention measures involving prison population. Furthermore, it requested information on any compensatory measures that have been taken to protect the rights of detainees (such as using remote communication for personal contacts and video conference to ensure that the educational activities of detainees are not interrupted during the pandemic). The facilities responded that they made every effort to implement precautionary measures against the COVID-19 pandemic and to further enhance the healthcare of the detainees. However, they acknowledged that overcrowding is a problem given the existing infrastructure. It is telling that, because of the overcrowding in the Nafplio Detention Facility, detainees are forced to sleep permanently on mattresses on the floor. In addition, to make up for the suspension of open visits, the telephone communication of detainees with their next of kin was strengthened through the increased provision of free phonecards. The educational process had been suspended due to the preventive measures against the pandemic and, while it was requested to consider the possibility of remote teaching, in the end this was not possible.

A detainee at the Larissa Detention Facility reported that, three days after the detection of the first case of coronavirus (November 2020) and the subsequent 24-hour confinement of all detainees in their cells, tests were carried out by a team from the National Public Health Organisation (EODY) and 54 detainees were found positive to the virus, including the client of the lawyer that had filed the complaint to the Authority, while a week later another 34 detainees were tested positive. Since then, the detainees who had been tested positive amounting to 84 by the time of filing the complaint, remained isolated from the rest, in a cell with a capacity of 50 people. The aforementioned detainee asked for the intervention of the Ombudsman in order *“to establish whether the measures proposed by the EODY are implemented inside the prisons and whether they are sufficient for the protection of all detainees”*. Having been informed of all relevant preventive measures³⁰, relevant circulars³¹ and EODY’s “Instructions for Detention Facilities” dated 7.5.2020, the Ombudsman pointed out that the horizontal and generalised

30. Following the detailed response document of the General Secretariat for Anti-Crime Policy under Ref. No. 12898/9.10.2020.

31. Reference numbers 6062/30.7.2020, 6166/3.8.2020, 6347/13.8.2020, 6405/18.8.2020, 6130/31.8.2020.

restrictive measures must be constantly reviewed taking into account the principle of proportionality, applying appropriate compensation measures and verifying their epidemiological necessity and effectiveness. Especially in relation to the above-mentioned facility, the Authority highlighted that the findings based on the epidemiological data seem to justify the concern that the exclusion of the detainees from any form of contact with the rest of the community, as the main, if not the only, preventive measure, has not only failed expectations, but on the contrary contributed to a high-risk environment for the spread of the virus. In response to the Ombudsman's question as to whether it has in fact become possible to implement the directives of the EODY at the specific detention facility, as well as for the upcoming related actions of the General Secretariat for Anti-Crime Policy and the Administration of the Facility, the General Secretariat for Anti-Crime Policy provided detailed information on the measures that had been taken. However, the Ombudsman's observation that the *"implementation of the directives of the EODY ... which impose physical distancing ... depends on the density and size of the detainee population"*, remained unaddressed, considering the fact that the afore-mentioned facility housed 690 detainees whereas it had a 554-bed capacity³².

3.1.2. Police station cells and Pre-removal Detention Centres

The Ombudsman intervened on the occasion of press coverage, according to which cases were diagnosed among detainees in three police stations in Athens. Addressing the headquarters of Hellenic Police, the Ombudsman reiterated its solid position that police cells are by definition unsuitable for the administrative detention of foreigners waiting for their deportation, adding that the use of cells for their original purpose would contribute to their decongestion and the safer dealing with health risks.

Between 11 and 12.3.2020, one of the Authority's inspection teams visited the island of Lesbos, having planned an on-site inspection on the tank landing ship "RODOS", as well as a review of the detention conditions of four foreigners, in view of their deportation, following relevant complaints from their lawyers. After this on-site inspection was obstructed (see below in chapter 4.5), the Ombudsman suggested that, in case there is an exceptional need in the future to use tank landing ships for the emergency accommodation of irregular immigrants, any detention in the interior space should, on the one hand, last only a few days, and, on the other hand, ensure that men and women are accommodated separately, just

32. Case File No. 290072.

like families and unaccompanied minors, taking into account that the Authority has repeatedly pointed out that detention is not an appropriate measure for such cases.³³ It also pointed out that an additional reason to review the accommodation conditions of a large number of people in closed facilities was the prevention of the spread of the pandemic.

3.1.3. Passenger ship “Venizelos”

The Ombudsman brought to the attention of the Minister for Maritime Affairs and Insular Policy and the Attica Region the issue that arose after the arrival of the passenger ship-ferry “*Eleftherios Venizelos*” in Piraeus and the mandatory stay (quarantine) of its passengers. Invoking its special competence as the “*National Preventive Mechanism*” (Law 4228/2014) which involves, i.a., the inspection of conditions of preventive restriction of freedom for health reasons, in all types of facilities and on watercraft, the Ombudsman requested information on the number of persons in quarantine, the number of those who are hospitalised or have been released in any way and the exact places of accommodation of those under confinement. From the responses of the competent authorities, it was clear that in this particular case the relevant security measures had been adequately observed, and the persons involved returned to their countries after the expiry of the expected period.

3.1.4. Psychiatric hospitals: correspondence with the Ministry of Health for general measures

On 3.4.2020 the Greek Ombudsman sent a letter to the Directorate of Mental Health of the Ministry of Health, in which it requested information on the preventive measures taken for the pandemic in psychiatric hospitals and psychiatric clinics. The letter was forwarded to all regional health authorities of the country. According to the answers of some of them, the measures taken concerned: the suspension of exit and overnight stay permits for hospitalised patients, the suspension of in-person visits, the controlled entry of people into the clinics, the intensification of cleaning and hygiene measures, the suspension of regular and outpatient medical practices, the suspension of educational and voluntary activities and the isolation of suspected cases.

33. <https://old.synigoros.gr/resources/30102019-paratiriseis.pdf>

3.2. Investigation of deaths and incidents of violence

As part of its special competence, the NPM has initiated a series of investigative contacts with the Ministry of Citizen Protection, Detention Facilities and Police headquarters, in order to examine cases, in particular deaths or injuries of detainees, which highlight more general issues regarding the operation of prisons and other places of detention with a direct impact on the shaping of detention conditions, such as security measures, staffing adequacy, ensuring timely response to particular requests or behaviours and emergency management, and could trigger ex officio interventions.

The main goal of these interventions is to identify systemic problems, which are evidently highlighted by the frequency and common stereotypical characteristics of these incidents. In particular:

In cases involving suicides or self-injury of detainees, the NPM, through letters it sends to the competent authorities, requests the provision of information regarding the detention conditions of the alleged suicide victim or self-injured person, such as the place of detention, the possible presence of fellow detainees, the guarding and supervision of the specific space. Information is also requested regarding the circumstances of the incident, the manner and time of informing the service and the immediate measures taken by it, while the possibility to have specific time limits for intervention to prevent the death of the detainee or any irreversible damage to his health is also being investigated. The NPM also requests information regarding any previous special requests of the suicide victim, indications of psychological problems or manifestations of particular behaviour issues that had come to the attention of the authorities, as well as any measures taken to deal with them. In this context, the services are also invited to provide answers regarding the provisioned measures of psychological support for the detainees during their entry and stay and the compliance to these measures in the relevant case. Information is also requested regarding the provisioned security measures of the specific detention places to prevent detainees from suicide or self-harm, the adequacy of guarding staff, the supervision and care of the detainees. Finally, the NPM asks for data on the frequency of controls in detention places, the instructions given to the staff for the immediate response to emergencies (e.g. timely transfer to a hospital), as well as their observance in the relevant case. In the event that the suicide victim was a foreigner, information is requested regarding communication with the consular post of their country of origin and their next of kin.

In cases of death from pathological causes due to insufficient or untimely medical treatment, the NPM requests information about the detention conditions of the victim, such as the place of detention, the circumstances under which the incident

occurred, the place where the deceased was found, the presence of third parties at the time of death, the guarding and supervision of the specific place; the provisioned medical control measures for detainees during their entry and stay in the place of detention, in particular regarding the maintenance and transfer (if it is a case of transfer) of their medical file, as well as their observance in the relevant case; the manner and time of informing the service and the immediate measures taken by it, as well as whether there was time to intervene in order to prevent the death of the detainee or any irreversible damage to his health; any previous special requests of the detainee regarding their health, as well as whether any such request had been dealt with, or if particular behaviour issues on the victim's part had come to the attention of the staff and the corresponding measures that may have been taken; the adequacy of the staff guarding, supervising and caring for the detainees, the frequency of controls in the places of detention, the instructions given to the staff for the immediate response to emergencies (e.g. timely transport to a hospital), as well as their observance in the relevant case, the actions taken by the service to investigate the incident and/or attribute any responsibilities and the content of relevant findings.

Finally, in cases of violence between detainees, the NPM's intervention focuses on providing information about the conditions of the alleged victim's detention, such as the place of detention, the possible presence of fellow detainees at the time of the incident, the guarding and supervision of the specific place; the conditions under which the incident happened, the manner and time of informing the service and the immediate measures taken by it, as well as whether there was time to intervene in order to prevent the death of the victim or any irreversible damage to their health; any previous special requests of the detainee, as well as if particular behaviour issues on the victim's part had come to the attention of the staff, manifestations of disputes with other detainees or information about possible disputes with other detainees and the corresponding measures that may have been taken; the provisioned security measures of the specific detention area to prevent disputes between detainees or for the special protection of specific detainees, as well as their observance in the relevant case; the adequacy of the staff guarding, supervising and caring for the detainees, the frequency of controls in the places of detention, the instructions given to the staff for the immediate response to emergencies (e.g. timely transport to a hospital), as well as their observance in the relevant case. Apart from the above, in all the aforementioned categories of incidents, the NPM as a rule requests to be notified of the findings of the forensic report and the administrative investigation of the incident, once these are completed, as well as any of other element that could be considered critical for the correct assessment of the event.

During the years 2020 and 2021, the NPM exercised the above initiative in fifteen cases:

1. Deaths of two detainees from COVID-19 (Trikala Detention Facility) (23.11.2021)
2. Suicide of a detainee at Agios Panteleimon police station (20.10.2021)
3. Death of a foreigner at the Chios hotspot (6.6.2021)
4. Suicide of a detainee at the Nafplio Detention Facility (12.12.2021)
5. Suicide of a detainee at the Thessaloniki Metagogon (Transfer) Centre (23.11.2021)
6. Suicide of a detainee at the General Police Headquarters of Thessaloniki (12.9.2021)
7. Suicide of a detainee at the Police Headquarters of Heraklion (6.6.2021)
8. Death of a detainee from pathological causes at the Korydallos I Detention Facility (14.7.2020)
9. Death of a detainee from cerebral anoxia at the Chania Detention Facility (14.7.2020)
10. Suicide of a detainee at the General Police Headquarters of Attica (15.6.2020)
11. Death of a detainee from pathological causes at the Korydallos I Detention Facility (14.7.2020)
12. Homicide of a detainee at the Larissa Detention Facility (19.5.2020)
13. Suicide of a detainee at the Alexandroupolis police station (1.6.2020)
14. Death of a detainee from pulmonary oedema at the Malandrino Detention Facility (4.5.2020)
15. Suicide of a detainee at the Komotini Police Station (30.4.20)

However, the practice of addressing separately the administrations of the detention facilities involved, has not led to useful conclusions so far. An explanation is that the provided answers from the interviewed administrations of the detention facilities involved, are brief, descriptive and either repeat the formal assurance that they had taken every preventive measure humanly possible or pledge to provide further information only when the administrative and/or criminal investigations are completed. It is, therefore, obvious that the common and general findings of individual cases require not only the absolutely necessary investigation into the afore-mentioned incidents but primarily the implementation of preventive measures. Finally, given the absence of specialised staff and the consequent inability of the NPM to perform a comprehensive evaluation and utilisation of

forensic and medical examinations, the Authority highlights the need to proceed to external collaborations, especially with university medical schools.

3.3. Conditions and rights of detainees in prisons

Examining complaints acting upon its general competence, the Ombudsman has had the opportunity to intervene in cases involving the exercise of fundamental rights of detainees, pointing out to the administration its obligations under national and European legislation.

3.3.1. Transfer due to studies

After sitting the Panhellenic examinations, a detainee was admitted to a University Department and took up remote studies, as the university was based in a different city, away from his detention facility, and there was no other similar University Department of Study Programme there to which he could transfer. Following a letter from the Ministry of Education and Religious Affairs, he was informed that the transfer application for the corresponding Department in Athens that he had submitted *“cannot be executed because it is not covered by the current legislative framework since the Transfer Department is not based in the prefecture of detention”*. Due to the difficulties he faced in remotely attending his courses and participating in exams, in view of the lack of the special infrastructure required for his studies in the detention facility, and the compulsory attendance of laboratory courses provided for in the curriculum of his Department, in June 2020, he submitted a request to be transferred to the Detention Facility of the area where the University Department was located. With his complaint to the Ombudsman, the detained student had pointed out the increased demands on infrastructure that the continuation of his studies required due to the subject matter (in particular the need for longer access to a PC, as well as the installation and use of special software), which the Ombudsman mentioned to the competent Directorates of the General Secretariat for Anti-Crime Policy and the Ministry of Education and Religious Affairs. Taking into account the provisions of the current legislation and in particular article 4 of the Penitentiary Code (Law 2776/1999)³⁴ as well as the relevant case-law of the European Court of Human Rights³⁵, the

34. The said article stipulates that, during the execution of the sentence, no other individual right of the detainee is restricted except the right to personal freedom, while detention must in no way deter them from freely developing their personality.

35. See indicatively recital 96 of the Decision of 18.1.2018 on the case of Koureas etc. versus Greece (appeal no. 30030/15): *“in general, detainees continue to enjoy all the rights and basic*

Ombudsman requested from the General Secretariat for Anti-Crime Policy, its Directorates and, through them, the Central Transfer Committee: a) to investigate immediately the specific transfer request, to enable the detainee to attend obligatory (laboratory) courses in the following academic year, and b) to equip the Detention facility where he was kept with the necessary hardware and software that will allow him to participate to meet the requirements of his studies. With its document, the General Secretariat for Anti-Crime Policy informed the Ombudsman that the detainee's transfer request had been sent without delay to the Central Transfer Committee and of the latter's decision to transfer him to the detention facility of the area where his University Department is located. Furthermore, according to the same document, the Administration of the said Detention Facility was ordered to provide the detainee with the equipment necessary for his studies. The Ombudsman expressed its satisfaction for the immediate response, the efforts and the cooperation of the competent Ministry and the General Secretariat for Anti-Crime Policy to ensure the participation of the aforementioned detainee in the educational process³⁶.

3.3.2. Access to transfer decisions

A detainee who was transferred from the Special Rural Youth Detention Facility of Kassavetia to the Domokos Detention Facility, requested a copy of his transfer decision in order to appeal it. The General Secretariat for Anti-Crime Policy replied to him in writing that in fact two consecutive transfers had taken place, the first from the Special Rural Youth Detention Facility of Kassavetia to the Korydallos Detention Facility by decision of the Central Transfer Committee pursuant to Article 3 of Law 4760/2020 (because the conditions of his stay in rural prisons ceased to be fulfilled) and the second from Korydallos Detention Facility to Domokos Detention Facility by decision of the General Secretary pursuant to Article 9 § 3 of the Penitentiary Code in the context of measures for dealing with the coronavirus.

freedoms defended by the Convention, except the right to freedom. Regarding the right to education, Article 2 of the First Additional Protocol to the Convention does not impose on the contracting States the obligation to provide for the possibility to educate detainees, if it does not yet exist. Although this article does not impose a positive obligation to provide for an education within the prison under any circumstances, when this possibility already exists, it should not be subject to arbitrary and unjustified restrictions. Any limitation of this right must therefore be provisioned and pursue a legitimate aim with which it must be proportionate”.

36. Case File No. 270361, <https://www.synigoros.gr/el/category/astynomia-fylakes/post/metagwgh-kratoymenoy-foithth-se-katasthma-krathshs-ths-edras-toy-tmhmatos-foithshs>

His request for copies was rejected on the basis of the General Data Protection Regulation, because the decisions also contained details of other transferred detainees. Addressing the General Secretariat for Anti-Crime Policy and the Detention Facilities involved, the Ombudsman pointed out the legitimate interest of the transferee for full information regarding the exact reasoning and documentation of the transfer decisions as well as their implementation. Furthermore, the Authority has already claimed 12 years ago³⁷ that it is the right of every detainee to access the administrative acts that regulate the conditions of his detention, namely transfer decisions, and also that the Central Transfer Committee, as a collective administrative body, is subject to an obligation to justify its actions. If, due to the content of the transfer decisions, an issue of personal data protection arises, this can easily be dealt with either by granting an exact extract (instead of a full copy) of the request decision, in which case the personal data of third parties could be deleted or covered (Article 3 § 2 of Law 3448/2006 *“For the further use of information of the public sector”*³⁸, decision 401/2010 of the Hellenic Data Protection Authority³⁹), or by exact reproduction, in a separate answering document, of the sections of the relevant decisions which refer to the applicants themselves (opinion 491/ 2003 State Legal Council⁴⁰). Following the intervention of the Ombudsman, the General Secretariat revised its previous document and clarified that there were two separate decisions, but in practice their execution was combined with a direct transfer from the Special Rural Youth Detention Facility of Kassavetia to the Domokos Detention Facility, a fact which was also confirmed by the detention facilities involved. The detainee’s request for copies was granted⁴¹.

37. Document 12858/09/1/15.7.2009 published in: The Greek Ombudsman, Penal Detention and Rights. The Ombudsman’s Perspective, Nomiki Vivliothiki, Athens 2011, pages 38-39.

38. *“the further use of documents is always subject to compliance with the provisions for the protection of the individual from the processing of personal data ... and, in any case, after special processing in order to delete the above data”*.

39. *“the deletion of information concerning personal data is an appropriate action in cases where the law ... prohibits the granting of personal data for further processing, such as in the case of documents containing sensitive personal data which are not allowed to be granted for further use”*.

40. *“if other persons are mentioned, the authority must deny access ... in accordance with the legislation on the protection of personal data. If only parts of the requested document are covered by any of the above exceptions, the authority must notify the interested party of the remaining parts that concern him”*.

41. Case File No. 291630.

3.3.3. Access to healthcare services

3.3.3.1. Transfers for medical exams and hospitalisation

A detainee at the Domokos Detention Facility requested to be transferred to a hospital for urgent medical examinations and follow-up due to a chronic orthopaedic problem and symptoms of recurrence of a tumorous disease. Despite his persistent complaints from the first day of his arrival and despite the assent of the Detention Facility doctors, it had not been possible to transfer him for four months. In fact, while he was informed by the Facility's Administration that an examination appointment had been scheduled but it was constantly postponed, when his wife contacted the Hospital of Lamia she was informed that such a appointment had never been scheduled. Immediately after the Ombudsman's intervention, the detainee was transferred to the Hospital of Lamia, where the necessary medical procedures were performed⁴².

3.3.3.2. Detainees without Social Security Registration Number (AMKA) / Temporary Number of Insurance and Healthcare for Foreigners (PAAYPA)

The Ombudsman examined complaints of foreign detainees, who did not have a Social Security Registration Number or a Temporary Number of Insurance and Healthcare for Foreigners and consequently did not have access to the required pharmaceutical care services but also to the beneficial sentence calculation linked to their classification as persons with disabilities, in accordance with the provisions of article 33 of Law 4368/2016, and with article 105B § 4 subpar. 2 of the Penal Code respectively.

In particular, from the investigation of related cases, the following emerge:

A) Cases of detainees diagnosed with Hepatitis C (HCV+), requiring medication with high-cost drugs

From the correspondence with the detention facilities, it appears that the National Organization for Health Care Services Provision (Drug Department) and the Committee for High Cost Medicines as well as the Hepatology Department of the competent public Hospital confirmed that there is no procedure for covering the cost of the recommended medication to those lacking a Social Security Registration Number/Temporary Number of Insurance and Healthcare for Foreigners,

42. Case File No. 294215.

which is required by the electronic prescription system of IDIKA SA and which the person in question neither possesses nor is entitled to issue. Furthermore, according to the data submitted to the Ombudsman by the “Prometheus” Liver Patients Association, which had carried out relevant research over the last two years in 8 detention facilities, it appears that out of 464 people positive for Hepatitis C (HCV+) in those facilities, 203 of them lacked a Social Security Registration Number, and did not have access to medication for the above disease. Finally, the extent of the problem is also confirmed by the on-site inspection/visit to the Alikarnassos Detention Facility (see below).

In line with article 33 of Law 4368/2016: *“1. Uninsured and vulnerable social groups, as defined in paragraph 2 hereof, have the right of free access to Public Healthcare Structures and are entitled to nursing and medical care... Pharmaceutical care is provided by private pharmacies who have a contract with the National Organisation for Health Care Services Provision. High-cost drugs, which fall within the scope of par. 2 of article 12 of Law 3816/2010, are provided exclusively by the pharmacies of Hospitals and the National Organisation for Health Care Services Provision ... In order to provide the services of this provision to the beneficiaries, it is required that they possess a Social Security Registration Number (AMKA), with the exception of the categories of case b of paragraph 2 of this article, for which the way of ensuring access to public healthcare structures is determined by the joint ministerial decision of paragraph 5 of this article... 4. The costs of this provision are covered by the National Organization for Health Care Services Provision ... 5. A joint decision of the Ministers of Health, Labour, Social Security and Social Solidarity, Finance and any other competent Minister, as per case, specifies: the terms and conditions for accessing nursing and medical care in the institutions of paragraph 1, any financial participation in the pharmaceutical expenditure on the basis of financial criteria, the required administrative procedure, the maintenance of electronic records, as well as any other relevant matter and necessary detail for the implementation of this article. The determination of the insurance capacity of the beneficiaries hereof is carried out through the IDIKA’s SA electronic system”.* The provisions of Article 33 of Law 4368/2016 include, inter alia, detainees regardless of their legal status and whether they possess residence permits in Greece or not, as confirmed by a relevant document of the Ministry of Health. According to the Joint Ministerial Decision No. A3(γ)/ΓΠ/οικ.25132/4.4.2016 (article 3 § 1), the issuance of a Foreigner Healthcare Card (KYPA) would give the possibility to persons in the categories of case c, paragraph 2, article 33 of Law 4368/2016, who do not have and are unable to issue AMKA or PAAYPE, to have access to all the benefits of the above circular, by holding and showing the card. However, as appears from relevant correspondence with the Ministry of Health

(Γ25/Γ.Π 5304 CONFIDENTIAL/2021), the implementation of the KYPA system was not completed and as a result the persons in the above categories, who cannot issue AMKA/PAAYPA, cannot have access to all the benefits provided for in article 33 of Law 4368/2016. Furthermore, although, according to article 27 of the Penitentiary Code, *“The Prison administration ensures to detainees medical and pharmaceutical care of a similar level to that of the rest of the population”*, especially in the case of high-cost drugs and due to the large number of detainees who fall into these categories, detention facilities are unable to meet the relevant costs and provide detainees with the proper medication.

B) Certification of detainees’ disability without AMKA/PAAYPA

According to a complaint submitted to the Ombudsman⁴³, an issue also arises regarding the disability certification of detainees who do not meet the conditions for issuing AMKA/PAAYPA and, consequently, cannot be certified as persons with disabilities in accordance with the conditions set by the Ministerial Decision Φ.80320 /οικ.28107/1857 in combination with the provisions of articles 1 and 2 of the Ministerial Decision 84045/2.11.2021 *“Provisions for the Operation of the Disability Certification Centre (KE.P.A.) of the Electronic National Social Security Fund (e-E.F.K.A.)”*. As follows, the healthcare committees of the KE.PA are responsible for the certification of persons as persons with disabilities (Article 1 of Ministerial Decision no. 84045/2.11.2021), while a prerequisite for the evaluation of the relevant application is the certificate of Social Security Number (A.M.K.A.) or Temporary Number of Insurance and Healthcare for Foreigners (P.A.A.Y.P.A.). Furthermore, according to Ministerial Decision Φ.80320/οικ.28107/1857, for the issuance of AMKA to third-country citizens, a residence permit or a document certifying that the person has filed a request for a residence permit is required, either the so-called *“blue paper”* or the simple white paper regarding the category of residence permits for exceptional reasons.

The inability to issue AMKA/PAAYPA results to inability to certify the disability, in those cases that the law requires an opinion from KE.PA for the beneficial calculation of the sentence according to article 105B § 4 subpar. 2 of the Penal Code, which stipulates, i.a., the following: *“Each day of detention served by detainees who suffer from hemiplegia or paraplegia, multiple sclerosis or have undergone heart, liver, kidney or bone marrow transplantation or are carriers of acquired immune deficiency syndrome or suffer from malignant neoplasms or renal failure for which they undergo regular haemodialysis or from tuberculosis during the*

43. Case File No. 309035.

corresponding treatment,, is beneficially counted as two (2) days of sentence. The same applies to: a) detainees with a disability rate of fifty percent (50%) or more, who cannot work, if it is judged that their stay in the detention facility becomes particularly burdensome due to the inability to care for themselves, b) detainees with a disability rate of sixty-seven percent (67%) or more, c) detainees who are prohibited, after an opinion from a Disability Certification Centre (KE.P.A.), from taking up work or employment that can reasonably cause serious and permanent damage to their health (...)". As seen from the above, the categories of detainees who do not have AMKA/PAAYPA cannot have access to the necessary treatment with high-cost drugs (as typically happens in the case of treatment for Hepatitis C), as they are entitled to according to article 33 of Law 4368/2016, but also not even to the beneficial sentence calculation, in some cases, according to article 105B § 4 subpar. 2 of the Penal Code.

In order to resolve the above issue, the Ombudsman has contacted the co-competent Ministries (Citizen Protection, Health and Labour), requesting for detainees, who are unable to issue AMKA/PAAYPA, to be provided with the possibility of electronic prescription and disability certification through KE.PA without completing the field in question. Alternatively, it proposed that the system could enable the use of Temporary AMKA numbers to ensure detainees are provided with the required treatment, with a relevant provision in the e-prescription system; the same solution was applied in order to complete the vaccination against COVID-19 of those detainees who did not possess AMKA/PAAYPA. It is noteworthy that in 2017 the Ministry of Health presented the National Action Plan for Hepatitis C, according to which viral Hepatitis C posed a major public health concern both globally and nationally, with social and financial implications, and constituted one of the priorities of Healthcare Policies. In fact, equality of patients regarding healthcare is one of the core values of the National Plan. Finally, the Ombudsman has already sent questionnaires (see above) in detention facilities in order to form a more informed opinion regarding health care conditions.

3.4. Conditions and rights of detainees in Pre-Removal Detention Centres: care & psychological support

The Ombudsman intervened by proposing the release of an overage Syrian, under administrative detention for six months at the Kos Pre-Removal Detention Centre, invoking medical opinions on his impaired health (advanced stage of dementia, great difficulty with eyesight, hearing and movement) and the suspension of

re-admissions during the specific period. The Syrian was released⁴⁴.

A Syrian woman, under administrative detention for more than a year at Kos Pre-Removal Detention Centre, reported that she was a victim of gender-based violence but has not been referred for specialised examination despite the relevant recommendation of the competent psychologist of the Health Units S.A. (AEMY). Responding to the Ombudsman, the competent Police Headquarters said that the above claim as well as the reference to unfavourable conditions of detention had not been proven. The Police did not even respond to the Ombudsman's argument about the need to relieve congestion due to the pandemic, given the vulnerability of the detainee⁴⁵.

The Ombudsman intervened on the conditions of detention of a Syrian, who was an applicant for international protection, at Kos Pre-Removal Detention Centre. In the relevant complaint filed by an NGO, there was reference to inhumane and degrading conditions, as, among other things, the detainee allegedly did not receive the special diet required by his health problem, had rashes on his body due to poor hygiene conditions, did not have the right to participate in any activity and was deprived of direct access to medical and psychosocial monitoring, since, at the time when the complaint was filed, the Pre-Removal Detention Centre did not have a doctor but only nursing staff. The Ombudsman addressed the competent Police Headquarters, referring also to earlier on-site inspections by the NMP, during which the following issues had been identified as permanent problems in the specific Pre-Removal Detention Centre: inability to effectively provide medical services, insufficient maintenance of infrastructure, overcrowding and lack of sufficient available space for the detainees, lack of social service or the possibility of psychological support for the detainees and lack of a psychiatrist in the local hospital. The Police Headquarters contented itself with a simple denial of the complaints, claiming that in the meantime the Pre-Removal Detention Centre had secured nursing staff, a psychologist and an interpreter as well as that immediate medical care could be provided and spaces for physical activity are available. The Hellenic Police did not provide answers to the complaints regarding the hygiene and sanitary conditions, as well as to the questions regarding the presence of a doctor and the possibility of assessing the need for referral to a hospital⁴⁶.

44. Case File No. 292235.

45. Case File No. 304201.

46. Case File No. 302619.



4. ON-SITE INSPECTIONS

4. ON-SITE INSPECTIONS

4.1. Inspection methodology

Each year, the inspection methodology⁴⁷ is complemented, revised and enriched based on the in-house assessment of past activities, but also on the know-how acquired from personnel training and exchange of expertise at an international level, and in compliance with international standards and practices. In 2021, the inspection methodology had no substantial differences from those of the previous years, other than the addition of measures to prevent the spread of the pandemic among detainees and staff.

4.2. Prisons

Alikarnassos detention facility

On November 16 and 17, 2021, an NPM team of 4 senior in-house investigators visited the detention facility in Alikarnassos. The inspection took place without prior notice, while the one before had been performed in February 2018.

The facility is a category B closed prison. According to the information available, the standard openings amount to 105 cells, with a maximum capacity of 210 detainees. On the day of the inspection, 278 individuals of 30 different nationalities were being detained in the facility. The vast majority were facing temporary detention of at least five years, which confirms the significant differences in the percentages of the imposed sentences, also pointed out in a relevant observation

47. The Greek Ombudsman, NPM's Annual Special Report 2017, p. 16-17 https://old.synigoros.gr/resources/opcat_2017_en.pdf, NPM's Annual Special Report 2018, p. 13-15 <https://old.synigoros.gr/resources/annual-special-report-2018-national-preventive-mechanism-against-torture-and-ill-treatment.pdf> and NPM's Special Report 2019, p 30-33 https://old.synigoros.gr/resources/docs/eee_opcat_2019_en.pdf

in the Report of the Council of Europe⁴⁸. The facility's organization chart foresees 123 statutory posts, none of which involves occupational therapists, psychologists or educators, nor is there any provision for doctors specialising in pathology, psychiatry or dentistry.

The visit to the specific facility was prompted by: complaints submitted on overcrowding, poor infrastructure, detention conditions during the pandemic, and access to healthcare services, but also by the press coverage of the death of an inmate following a fire in October 2021, the decision of the European Court of Human Rights *Nikolaos Athanasiou and Others v. Greece* concerning detention conditions, and the 4th CPT Report addressed to the Greek government (2016). In relation to the findings of the previous inspection, it is underlined that the use of the northern staircase is still prohibited, until the administration proceeds to its structural reinforcement and restoration, given that part of the outer wall had collapsed in November 2011. According to the facility's Operations Report, the administration has taken the necessary actions with regard to the competent Ministry, in cooperation with the Division of Technical Services of the Region of Crete, in order to achieve the approval of the required amounts for designing and budgeting the works mentioned above. During the inspection, it was pointed out that what delays the start and completion of construction works is the fact that the facility's premises were built without a building permit. The common rooms were found in very poor shape (inadequate maintenance, damages, bad odour), as the building is very old and has suffered extensive damage, while the issue of intermittent water supply seemed to have been resolved. Also, although the size of cells (2.10m x 4.10m) did not allow for comfortable accommodation of more than two detainees per cell, this condition was not met because the facility was overcrowded. In fact, there are also four-bed cells, usually hosting Roma.

The yard area is spacious (total area of 6,137 sm) but does not allow to separate detainees when the need arises, as the use of one of its two subdivisions (northern staircase) has been banned due to the risks it poses. There is a pharmacy-infirmiry co-hosting a fully organised dental office. The psychiatrist and dentist specialties are covered by visiting doctors. A General Practitioner visits the facility on a daily basis (except when he is on duty) from the Venizeleio General Hospital of Heraklion, where he holds his statutory post, as the facility's infirmiry con-

48. See Council of Europe, Report of the Directorate General of Human Rights and Rule of Law, Action against Crime Department, Criminal Law Co-operation Unit, «Reducing Prison Overcrowding in Greece», March 2019, p. 4, <https://theartofcrime.gr/wp-content/uploads/2019/05/REDUCING-PRISON-OVERCROWDING-IN-GREECE.pdf>



Alikarnassos detention facility - on-site inspection 16 & 17/11/21

stitutes a regional branch of the aforementioned hospital. The Record of Injuries kept at the infirmary of the detention facility included, for the year in question and up to the day of the inspection, 17 entries, all of which entailed transfer to hospital. Six of the entries concerned cases of self-harm. A great number of detainees are under psychiatric treatment (105 on the day of the visit, out of a total of 278), and there are 22 detainees with no Social Security Registration Number (AMKA) suffering from hepatitis C (HCV) and unable to receive the necessary medication, because the facility cannot cover the respective high cost per detainee. The hepatology department of the PAGNI (General University Hospital of Heraklion) confirmed that such patients cannot have access to medication regimens because they do not have a Social Security Registration Number (AMKA) or Temporary Number of Insurance and Healthcare for Foreigners (PAAYPA). The facility also has a visiting dentist and psychiatrist available, and hosts a fully organised dental office. The approved pharmaceutical expenditure amounted to EUR 6,000, spent on medication from the regular budget, which amount was almost expended in its entirety, while the medication needs are also covered by the Venizeleio General Hospital, under whose formal responsibility the facility's infirmary is operating.

There is no school operating in the facility, due to lack of space. According to the administration, the Municipality of Heraklion has been asked to grant permission to install a prefabricated building in the yard area, which will function as a school; however, urban planning procedures make this request difficult to grant. The facility's library ranks among the richest and most organised prison libraries in the country. The pandemic has suspended all Programmes of Education and Training. The outdoor gym equipment was old and damaged, and there was no supervision by Physical Education teachers, again because of the pandemic. There was an operating workshop manufacturing soap, a plant nursery, a carpentry shop and a pottery division, with many vacant positions because most detainees did not meet the criteria for handling the machinery.

In the current year, up to the day of the inspection, there were 103 disciplinary rulings issued by the competent Board, all of which were unanimous. Twenty three of those concerned merging imposed disciplinary penalties. The team was informed that, of the remaining 80 rulings, only 15 were favourable. The record of temporary releases was inspected, and copies of rejection decisions were obtained. Approximately 2/3 of the temporary release requests were granted and 1/3 rejected. Namely, in the current year 94 temporary release requests were filed, out of which 55 were granted and 39 rejected. The social worker participating in the five-member council granting temporary releases informed us that she cooperates with the prison director, aiming to present a unified front with him in the opinion put forward to the Prosecution Office. Most common reasons for rejection include the foreign detainees' failure to prove the existence of family or friends, as well as the instances of disciplinary misconduct (in particular alcohol production). Very few of the temporary releases granted are violated.

The facility's Director raised issues related mainly to building suitability, overcrowding and the difficulty of handling fights breaking out between detainees because there are no separate wards in the detention facility. The Head Sergeant discussed the problem of lack of staff and inadequate staff training, as very often prison staff are not educated or trained until several years after they take up their duties. The delegates of the BOD of the Greek Federation of Employees of Correctional Facilities highlighted the adverse working conditions.

We communicated with detainees via interviews held outdoors, and handed out questionnaires for them to fill in on the first day of our visit, to retrieve them on the following day. All in all, we distributed 260 questionnaires with both closed-ended and open-ended questions. Indicatively, the issues raised were: overcrowding and the co-existence of people of various nationalities, the old and poorly maintained building premises, living conditions inside the cells (odours,



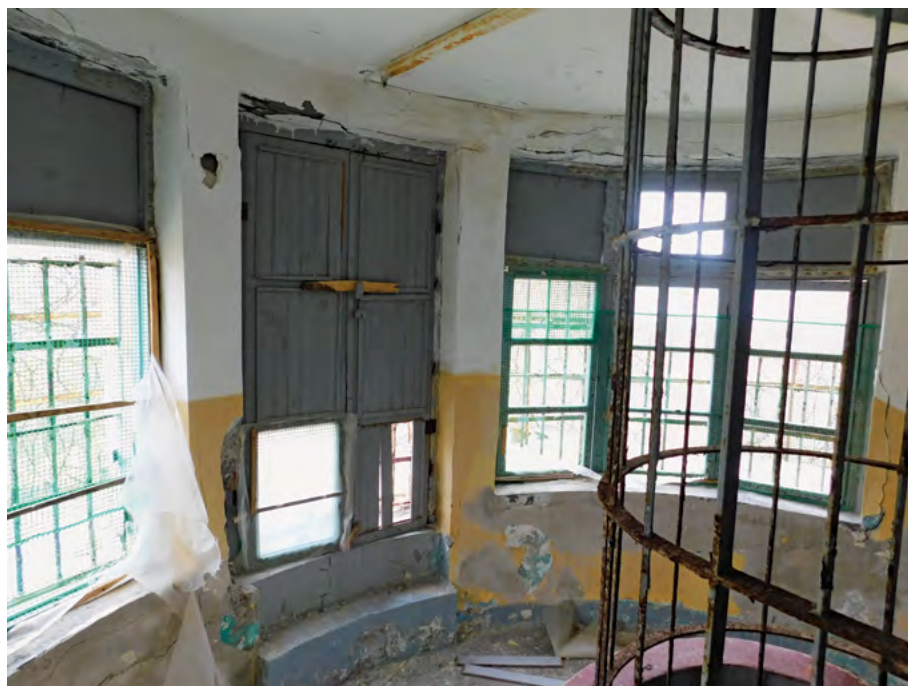
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bedbugs, overcrowded cells), the lack of employment vacancies, the suspension of visiting hours due to the pandemic. This time it was not possible for our team members to assist the detainees in filling out the questionnaires because of the protection measures against the pandemic. On the second day of the inspection, the Ombudsman's team witnessed the prison wards' efforts to handle an arson incident, when a foreign detainee set fire to the confinement area: he had only recently been transferred and was allegedly protesting his prolonged stay in the confinement area, as this is how detainees are quarantined upon entering the facility, although it is clear that these areas are not suitable for such use.

Late in September 2021, 25 active cases of COVID-19 were found in the specific facility. One death was also reported, with a detainee passing away after being transferred to the Venizeleio General Hospital of Heraklion. The COVID-19 cases and their close contacts were isolated in their cells. During our visit, 230 of the 275 detainees were vaccinated, which is quite a high percentage.

General conclusions

The already acute problem of building infrastructure, which had been detected three years ago, is becoming even worse, despite the well-meaning efforts of the personnel. The extremely old and poorly maintained premises, whose unsuita-



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bility has also been officially documented, on the one hand make it impossible to manage overcrowding (capacity exceeded by 40%, unused cells in derelict state), to ensure decent living conditions (water supply, avoiding contact with COVID-19 cases) and to continue or to initiate educational or other activities, and on the other hand pose an immediate threat to the safety of detainees and personnel in the event of an earthquake or fire. Another major problem is lack of access to healthcare for those detainees without an AMKA/PAAYPA, especially when they need high-cost treatment or medication.

Remarks and recommendations

Problems of infrastructure and overcrowding: The Ombudsman's approach to the issue of prison overcrowding, as it has been outlined in the first NPM annual report of 2014, as well as in the ones after that, is still relevant⁴⁹. The issue of

49. 2016: https://old.synigoros.gr/resources/docs/opcat_2016_en.pdf p. 10-11, 2018: <https://>

building infrastructure needs to be resolved by means of coordinated actions on the part of the Ministry, the Administration of the detention facility and the Municipal and Regional Authorities. Failure to resolve it, coupled with the overcrowding noted and the particular type of prison (use of padlocks) raises grave concern about the detainees' everyday living conditions, and jeopardises the potential of organising a proper and prompt evacuation in case of an emergency.

Shortcomings in education, training and recreational activities: The suspension of training and educational programmes during the pandemic, combined with overcrowding and limited visiting hours, deprived detainees of creative outlets. It is recommended that the suspension of such programmes should follow the principle of proportionality, and that alternative ways of performing such activities should be explored, either remotely or in person, while taking all necessary precautions. It is believed that a fully operational school, along with occupational therapy sessions and psychological support services, would greatly benefit detainees, especially considering the soaring percentages of detainees who are on mental health medication (105 of the 278, according to the infirmary records on the day of the inspection). It is further highlighted that the “*total abstinence programme*” of self-help and counselling held by “Ariadni” (Treatment Centre for Dependent Individuals) in Heraklion was not made available until March 2020, only to be subsequently suspended due to precautionary measures in view of the COVID-19 pandemic. Given that a “*total abstinence programme*” is in place in the specific detention facility, and that the visiting psychiatrist follows a conservative prescription policy for mental health medication, it is clear that alternative support services ought to be made available to those detainees facing addiction and mental health problems. The absence of a school must be resolved by joint efforts of the competent Municipal authorities, as the Administration has already suggested installing a prefabricated classroom in a suitable area of the premises. A programme teaching Greek to foreign detainees would also be highly beneficial, as the specific facility currently accommodates more than 30 different nationalities. We were informed that several detainees rely on their fellow prisoners to assist them in communicating with the authorities, or dealing with healthcare services. The co-competent Ministries of Citizen Protection and Education shall

old.synigoros.gr/resources/annual-special-report-2018-national-preventive-mechanism-against-torture-and-ill-treatment.pdf p. 19-20, 2019: https://old.synigoros.gr/resources/docs/eee_opcat_2019_en.pdf, with relevant comments also made by the Ombudsman <https://www.synigoros.gr/api/files/download/4> in relation to the draft law amending the standard conditions to be met for a temporary release to be regularly granted (Law 4760/2020).



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have to find ways of implementing such programmes. The hardware used in the workshop needs to be duly replaced so as not to pose risks to the detainees' safety. It is advisable to post all information on open job vacancies, details of the relevant requirements, and on the credits that correspond to each position in an easy-to-spot area and in languages understood by all detainees, to encourage their participation and the transparency of the whole procedure. Rejection decisions must have a specific and clear justification and provide detainees with clear information of the competent authority and the procedure they must follow to lodge an appeal.

Healthcare: Detainees without an AMKA/PAAYPA face serious problems accessing healthcare, especially in regard to high-cost medication, such as the treatment for Hepatitis C. Failure to work around the absence of AMKA/PAAYPA when using e-prescription leads to the provisions of Article 27 of the Penitentiary Code not being applied, although it clearly stipulates that *"the administration ensures the*

detainees' access to healthcare and medication at a comparable level to the general population"; likewise, Article 33 of Law 4368/2016 is not applied, according to which prison detainees are eligible to free healthcare (see also Article 6, par. 8 of Joint Ministerial Decision Α3(ς)/ΓΠ/οικ.25132/4-4-2016). The issue needs to be resolved by means of coordinated efforts between the co-competent Ministries of Citizen Protection, Health and Labour, to enable detainees without an AMKA/PAAYPA to make use of e-prescription without having to fill in the specific field. Alternatively, the system could enable the use of Temporary AMKA numbers to ensure detainees are provided with the required treatment via e-prescription; this is how the vaccination against COVID-19 was completed for detainees without an AMKA/PAAYPA. It is worth noting that the Ministry of Health presented in 2017 the National Action Plan for Hepatitis C, according to which viral Hepatitis C is a major public health concern, both globally and nationally, with social and financial implications, and ranks among the highest priorities of Health Policies. In fact, the core values of the National Plan include the equality of patients in terms of receiving fundamental healthcare. Detainees need to be facilitated in accessing not only medication but also mental healthcare services. It is recommended that the personnel be reinforced by adding a statutory psychologist post and ensuring an interface between the detention facility's infirmary and the mental health services of the Venizeleio General Hospital of Heraklion and the PAGNI.

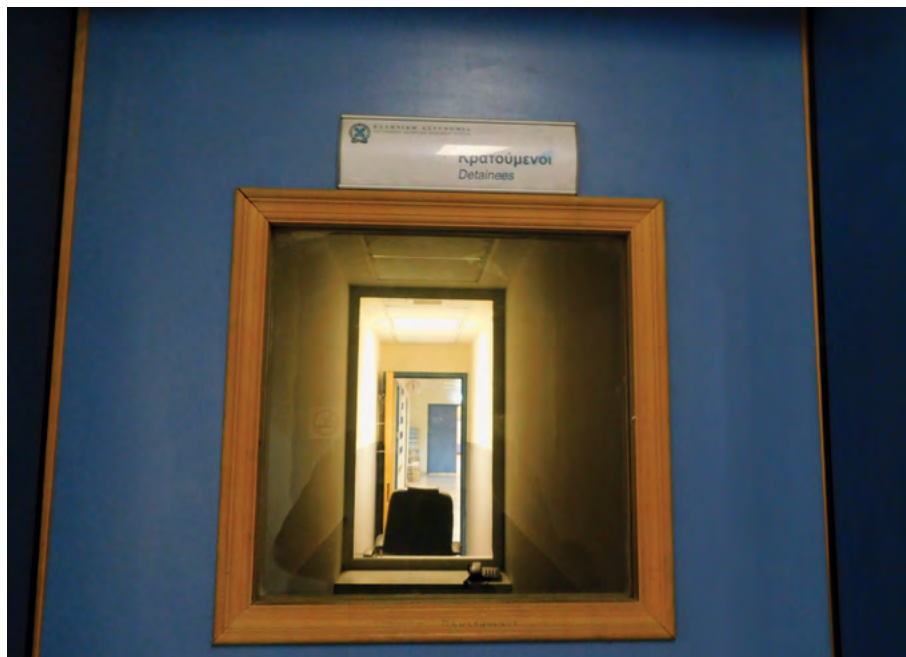
4.3. Police station cells

4.3.1. Heraklion Police Headquarters

On November 17, 2021, an NPM team performed an inspection of the police station cells of the Police Headquarters in Heraklion. There, out of a total capacity of 68 detainees, there were 28 cases of administrative detention. The conditions were found to be relatively decent, with the significant additional burden of the great percentage of administrative detention cases efficiently managed. It seems that the overcrowding or long-term detention phenomena have been eliminated. Certain improvement interventions are recommended, such as optimising space to ensure the existence of a yard area.

4.3.2. Thermi Migration Management Department

On December 7, 2021, an NPM official carried out an inspection of the Migration Management Department in Thermi, which on that day held 2 detainees. Cells are housed in the premises of a factory for the maintenance and repair of Hellenic Police vehicles, 1 km northeast of Nea Raidestos, Thessaloniki.



Police station cells of the Police Headquarters in Heraklion – on-site inspection 17/11/21

There are two detention areas of a total capacity of 12 individuals (one of five and one of seven). Significant damage is noted in the premises, which need renovation and painting. The beds are built-in, with foam mattresses placed on top. The mattresses seem quite old. Bedding consists only of blankets provided by the authority, while the use of sheets and pillows is prohibited. The premises are cleaned on a daily basis by a private cleaning crew. Likewise, a private company disinfects the premises every 15 days. Detainees are provided with washing powder to wash their clothes, but no personal cleaning means and products.

Although a garbage bag is available in every cell, the area between the outer wall at the back of the premises and the cell bars was full of disposable cups and other litter. The premises are in dire need of cleaning, while a detainee reported insects biting them and leaving marks, and that the toilet had been clogged for the past hour, and the blanket he had been provided with as bedding was not sufficient. There is hot water and air-conditioning throughout the year. The meals are provided by a local establishment. No provisions have been made for a yard area, which renders the premises totally inappropriate for detentions lasting longer than a few days. There is ample natural light coming in from the windows of each

cell. A payphone is available outside the cells. There is a small stock of clothing available to detainees if the need arises. Any structural or plumbing damage is promptly fixed by private crews.

Detainees are subjected to rapid tests to detect COVID-19 as soon as they are admitted. There is no pharmacy or nurse in the premises; if the need arises, pain-killers are given to detainees by any police officer who happens to have them handy. If in need of medical care, detainees are transferred to the nearest on-duty hospital.

In conclusion, there are still many problems despite the improvements made in the overall conditions. The problems mainly relate to the building infrastructure which is totally inappropriate for detentions lasting more than a few days, and to the organisational framework of operation which does not provide for, indicatively, sufficient bedding and personal hygiene products for each detainee. This specific inspection also made it clear that the detention area needs to be cleaned more often and more thoroughly.



Police station cells of the Police Headquarters in Heraklion – on-site inspection 17/11/21

4.3.3. Thessaloniki Metagon (Transfer) Centre

On December 9, 2021, an Ombudsman delegate carried out an inspection in the police station cells of the Thessaloniki Metagon (Transfer) Centre.

There were no built-in beds in the cells; the detainees were sleeping on mattresses spread out on the floor. The hallway floor was clean, while the floor of the cells where detainees were still sleeping was not as clean. The police officer in charge informed us that this year they had a new ventilation system installed, which was equipped with large vents, and as a result the odour typical of prison cells had been eliminated. They also had solar water heaters installed, one per cell, for hot running water. The premises were centrally heated by radiators using an oil burner. Cleaning was performed by a cleaning crew that attended to the hallway, toilets and showers every day, whereas the cells were cleaned by the detainees themselves. Guards were responsible for providing detainees with personal hygiene items; according to the officer in charge, the relevant stock was quite sufficient.

The detainees' meals are provided by a catering company (lunch) and by the in-house canteen (breakfast and early dinner). The premises also comprise a custom office-infirmery containing basic equipment (examination bed, a cardiograph, Internet connection to enable e-referrals and e-prescriptions, pressure gauge, oximeter, among other things). There is, however, a lack of over-the-counter medication, such as plain painkillers, and, most importantly, there are no doctors. Given the lack of yard area, the premises still remain unsuitable for detention longer than a few days.

Special measures in light of the COVID-19 pandemic include performing rapid tests on all foreign nationals before they are admitted, and subsequently placing them for 10-14 days in a separate cell, grouped according to their arrival dates. The officer in charge claimed that thanks to these measures only one COVID-19 case had been identified throughout the duration of the pandemic crisis, when two detainees housed in a cell of 5 tested positive for COVID-19; they were isolated from the group for as long as required and no other detainee has tested positive ever since.

4.4. Pre-Removal Detention Centres and Border Guard Stations

Visiting the Border Guard Stations of Soufli and Ferres in Evros, and the Pre-Removal Detention Centres of Tavros and Amygdaleza in Attica, and of the Border Station of Orestiada, the NPM saw that efforts had been made to improve living conditions, but also detected certain problems, like the lack of interpreters and phone cards.

There is no overcrowding, but at the same time the recommendations to proactively decongest the facilities have not been heeded. Vaccinations only began in October 2021 among a small percentage of detainees in the pre-removal detention centres of Attica, while the detainees in the border station of Orestiada do not have temporary AMKA numbers, which prevents them from being vaccinated. The NPM reiterates its initial recommendation to take measures alternatively to detention, and suggests that the vaccination programme promptly be extended to all detainees.

The practice of detaining newcomers crossing the Evros river still holds strong (all of whom are brought to the pre-removal centre of the Orestiada border station, except whole families), and the same applies for immigrants arriving by sea (those rescued from shipwrecks in September and October 2021 were transferred to Amygdaleza). This practice circumvents the provisions for First Reception Service (operating under the auspices of the Ministry of Migration Policy and not of the Hellenic Police), and connotes the stereotype of viewing immigrants and/or asylum seekers as detainees; in other words, immigrants are most commonly deprived of personal liberties in violation of the principle of proportionality.

4.4.1. Tavros

On November 1, 2021, an inspection was carried out at the Pre-removal Detention Centre (PROKEKA) in Tavros, of a total capacity of 200 individuals, where 98 foreign nationals are being held (adult males). 48 foreign nationals have been detained for more than three months, while 15 others have exceeded the six-month detention period, i.e. a non-negligible 15%. Vaccinations have only recently started.

Living conditions appeared to have improved in comparison to previous visits (early in 2020). This is largely due to a 50% reduction in detainees (98 individuals). In particular: On the 2nd floor, wings D2 and D5 are used, each with a capacity of 55, with the former currently housing 26 and the latter 24 individuals. Wing D4 (capacity of 49) is used for new arrivals, which amounted to 19 on the day of the inspection; these remain quarantined for 14 days. The wing that had burned down (D3) remains vacant at present. On the 3rd floor, there are 26 individuals housed in the wing formerly used only for women, while a specially formed area houses a detainee with hepatitis, an HIV-positive individual, and another with mental health issues. Due to COVID-19 measures, the team only visited the wing whose occupants were in the yard area at the time. The hallway, the wing inspected, and the yard were found to be clean. The beds used at the time had mattresses and bedding. The toilets were in a relatively good state.

Meals are prepared at the Hellenic Police Officers club located on the ground floor. In the hallway there were two food trolleys, where the food to be served for lunch was kept in containers. The bread loaves were stacked in large garbage bags on the floor. In each ward there are two card phones. Recently there have been added three more phones in the yard area of the 2nd floor. We inspected the two areas where personal items of detainees are kept (bags, clothing, shoes). We could see the place was tidier and cleaner than during previous visits, probably because at the time there were fewer detainees, but there was still room for improvement. Cleaning was more efficient, as the crews also cleaned inside the detention wings. The two wings took turns using the yard area, either in the morning or in the evening, for 1 hour and 15 minutes at a time.

Overall, the centre occupies 3 nurses, a health visitor, a psychologist, a social worker and an administrator. The doctor's contract has expired and, until its renewal, the doctor of the Amygdaleza Centre visits the facility twice a week in the morning. After meeting with two of the nurses, the psychologist and the social worker, we found that the centre has already started, if unofficially, working with OKANA (Organization against Drugs), to cater for those detainees who are addicted to substances.

Positive signs: reduction in the centre's population, standard presence of interpreters disposed by FRONTEX, medico-social care with adequate personnel, satisfactory hygiene conditions, vaccination has started but still remains at very low percentages, a Memorandum of Cooperation with OKANA is being planned by the Directorate of Foreigners and Immigration of Attica.

Suggestions for improvement: Allow longer time periods to be spent in the yard area, given the small total number of detainees. Optimise the use of all available wings for even greater decongestion. Improve meal transport and preparation conditions. Have a doctor available on a daily basis. Have the Hellenic Police constantly provide phone cards to those who cannot get hold of them. Ensure essential medical examinations/ background checks for all detainees coming to the PROKEKA before their return. Explore the possibility of removing, within reason, nationals like Afghans who are still under administrative detention.

4.4.2. Amygdaleza

On November 4, 2021, NPM carried out an inspection of the Pre-Removal Detention Centre (PROKEKA) of Amygdaleza, which houses a total of 584 detainees. One hundred forty two of those have been detained for longer than the foreseen

six-month period, i.e. 1 in 4 detainees. Sector A⁵⁰ houses 521 men (capacity of 650) and 34 women (capacity of 50). Sector B houses 28 unaccompanied minors (capacity of 50) and families (a total of 9 men, 11 women, 13 boys and 5 girls, with a capacity of 50). Sector C (reserved for COVID-19 cases) is unoccupied. Centre's total capacity: 1.100.

We met with the Director of the facility and discussed the Centre's operation, the changes that have been made since the Ombudsman's last inspection in July 2019 and the way of handling emergencies. All in all, the specific PROKEKA is equipped with 200 containers and, according to the Director, there is no room to install more so as to decongest the ones currently occupied. Each container houses 8 individuals, with no sufficient space, as the minimum requirement of 4 square metres per detainee is obviously not met, let alone the social distancing required as a precaution against the spread of the coronavirus cannot possibly be applied. External cables have been installed in each container, thus minimising the damage caused to electric appliances.

The yard area of the wings remains uncovered/without a roof and no sports field/activity area has been added, except for a makeshift football field. Each wing, however, is equipped with a worship space (mosque and/or small chapel). There is Wi-Fi connection available and the use of cell phones is permitted, which has contributed to social peace. The problem of garbage collection has not yet been permanently solved due to the refusal of the Municipality of Acharnes to deal with it. As a tentative solution, the garbage trucks of the Municipality of Athens are used twice a week, while the Centre's premises are cleaned by private cleaning crews. There are shortages in basic commodities (soap, shampoo etc.), while bedding is washed within Hellenic Police premises. Other needs for clothing/shoes are catered for by social workers, through sponsorships which are often inadequate. The meals are provided by the Police on a daily basis, either by the Hellenic Police Officers club or by the GADA (General Police Directorate of Attica). It is considered crucial to accommodate specific nutritional needs for certain groups of detainees (e.g. diabetics).

The Centre has a COVID-19 designated wing, as well as a wing for COVID-19 contacts, i.e. for those individuals who came into close contact with a COVID-19 case but are not visibly sick. The PROKEKA of Amygdaleza serves as a COVID-19

50. Information provided by the Directorate of Foreigners and Immigration of Attica as of 01.11.2021. A total of 621 detainees in Amygdaleza. 530 men, 45 women, 46 minors of whom 28 are unaccompanied.

centre for all of Attica, which means that the COVID-19 cases detected either in police stations or in other PROKEKA centres are transferred here. Upon entering the Centre, each individual is subjected to a rapid test and proactively quarantined for one week. On October 25, 2021 the first vaccinations were carried out on 43 individuals by an EODY (National Public Health Organisation) team. The detainees proved not to have been properly informed about this, which is why not many individuals signed up. A crucial obstacle to the completion of vaccination is the failure to provide detainees with a Temporary AMKA (PAMKA), mainly because of the inability to verify their official identity information. In any case, provisions must be made to ensure that the identification issue is duly resolved so that the vaccination programme can proceed within the detention premises.

Health services, psychosocial support and interpreting services are provided Monday through Friday by the AEMY (Health Units SA), with a total workforce of 15 people, among whom 2 doctors (1 general surgeon and alternatively 1 cardiologist), 2 psychologists, 3 nurses, 2 social workers, 1 health visitor, 1 administrator and 3 intercultural mediators for the languages of Urdu, Farsi and Pashto, while telephone interpreting is available by the FRONTEx interpreters for Arabic, through the PROKEKA of Tavros. The Ombudsman's team noted that the AEMY personnel are not familiar with the vulnerability screening performed by the Reception and Identification Centres (especially in terms of recording trafficking victims), which stands to reason, as AEMY assists the Hellenic Police in dealing with foreign nationals to be returned to the Pre-Removal Detention Centres, and therefore has no experience handling newcomers entering the borders, which, according to Law 4375/2016 (Article 14) is the scope of the First Reception Service of the Ministry of Migration and Asylum and not of the Hellenic Police.

An average of 40 beneficiaries are served every day, and more than 40 types of medication are administered (either psychiatric or pathological treatment) by the nurses on a daily basis. However, the facility is facing medication shortages (although special funding is foreseen), while medical services are offered every day from 15.00 and the other types of services from 16.00, which means that the rest of the day there is no medical care provided. Take a typical example of a detainee who spoke with the Ombudsman's team. This detainee had a cardiac arrest episode in the Centre premises and was given first aid by the nursing staff on duty while waiting for the ambulance. Upon returning from hospital, this case needed special treatment immediately, which eventually was provided by the Social Pharmacy. It is therefore deemed necessary to ensure 24/7 medical coverage within the Centre, and to provide a wide enough range and sufficient quantities of medication.

The existent specialties do not cover all medical conditions. A paediatrician shall have to be recruited, since there are minors in the facility (on the day of the inspection, there were 18 minors with their families and 28 unaccompanied ones), along with a psychiatrist to cater for those detainees on psychiatric treatment (35 individuals per day on average), while the needs for psychiatric evaluation are covered by the psychiatrist of the Hellenic Police Group Medical Practice. A fully equipped and staffed dental office operates at the Centre, visited by detainees from this and other Pre-Removal Centres.

In terms of leisure activities, there are none foreseen for outdoors, other than makeshift football games. This is especially difficult for younger minors, as the playground is no longer available for use and they remain indoors most of the time. Clothing, shoes, toys, and hygiene products are provided by sponsors under the supervision of social workers. A library operated in the facility was warmly welcomed by the detainees, and soon it is expected to be enriched with books in Arabic.

Conclusions and suggestions:

Living and operating conditions in the Centre appear improved compared to the Ombudsman's previous inspection conducted in July 2019, especially with regard to garbage collection and the state of the containers. There are, however, several shortcomings noted in the services rendered and in the materials provided to its occupants, while it is also common practice to host shipwrecked newcomers (men, women, families, children) straightaway in this Centre, who have not gone through the procedure of first reception in a Reception and Identification Center. The availability of a dental office is positive. The NPM has made the following recommendations: 24/7 presence of medical and nursing staff, recruitment of a paediatrician and a psychiatrist, among other medical specialties, provision of medication adequate for regular medical treatments and emergencies, full restoration of damage and wear-and-tear in containers, replacement of containers that are fully destroyed (burned down), reopening of closed wards in order to decongest containers, so that there are no more than 4 detainees per container (instead of 8 on the day of the inspection), fully educating detainees on the COVID-19 vaccination programme and speeding up the vaccination of as many detainees as possible, while taking into account their medical history in order to avoid jeopardising their health, relocating the offices of the Asylum Service to new containers, creating sports/recreation areas, especially for younger detainees.

4.4.3. Police and Border Guard Stations of Soufli and Feres

On November 9, 2021 we conducted an inspection of the Police and Border Guard

Station in Soufli. The detention areas consist of four (4) cells of a total capacity of 32 individuals (8 individuals/cell). On the day of the inspection there were no detainees in the facility. Detention areas were centrally heated (by oil burners) and had hot running water (by means of solar water heaters and oil burners). Cleaning was outsourced to a private cleaning service. There is a yard area in the outdoor space of the detention facility. There was no doctor or nurse in the Police and Border Guard Station of Soufli. Meals were prepared by a catering company under the supervision of the Police Headquarters of Alexandroupolis. There was no psychologist, social worker or nursing staff available. The absence of interpreters created significant problems in the communication with detainees. Card phones were available, and phone cards were provided to those who needed them. The premises were relatively clean, which was an improvement compared to previous inspections.

On November 9, 2021 we conducted an inspection of the Police and Border Guard Station in Feres, Evros. The detention facility consisted of two wings, the north one with 7 cells and the south one with 8 cells. The total capacity of each wing amounted to 32 individuals. On the day of the inspection there were 31 detainees in the facility (all men). 26 of those were administrative detainees and 5 were detained on criminal grounds. As the Director of the facility informed us, efforts were made to transfer vulnerable individuals (patients, pregnant women, or families with little children) as fast as possible to the PROKEKA of the Orestiada Police and Border Guard Station, or even directly for identification to the hotspot of the Orestiada Guard Station (e.g. unaccompanied minors). With regard to detention time, we were informed that detainees remained in the facility for an average of 5-10 days. Detention time seems to depend on available spots of the PROKEKA and the hotspot of the Orestiada Police and Border Guard Station. The yard area was not being used to prevent social proximity between detainees in implementation of the prevention measures against COVID-19 (the detainees had not undergone the required testing). Detention areas were centrally heated (by oil burners) and had hot running water (by means of solar water heaters and oil burners). Lighting was found to be sufficient. Cleaning of living quarters has been outsourced to a private cleaning crew. The detention areas, toilets and common rooms were found to be moderately clean. There was no doctor or nursing staff available in the facility. In case of medical emergencies or required medical care, detainees were transferred to the Health Centre of Ferres or to the Hospital of Alexandroupolis. Meals were prepared by a catering company under the supervision of the Police Headquarters of Alexandroupolis. There were no psychologists, social workers or nurses. The absence of interpreters created significant problems in communication with detainees. The premises were relatively clean, which was an improvement compared to previous inspections.

4.4.4. Police and Border Guard Station of Orestiada

On November 8, 2021 we conducted an inspection of the Pre-Removal Detention Centre at the Police and Border Guard Station of Orestiada. The Centre had remained closed from September 2020 to May 2021 due to repair works and was reopened on May 20, 2021. It comprised of six wings (with a yard area). Each wing could house 25 individuals (this number could increase to 40 with the use of bunk beds). The total capacity of the facility amounted to 149 detainees (before its renovation and the reconstruction of its premises, its capacity amounted to 347 detainees). On the day of the inspection, it accommodated 91 foreign detainees. 80 of whom were men and 9 were women, including 2 minors (1 boy and 1 girl). On the day of the inspection, an individual had tested positive for COVID-19 and been quarantined.

Unaccompanied minors were separated from the general population., They were housed in a separate wing, if unaccompanied, or with family members, and were given priority in being led to the hotspot to expedite their identification and registration. Healthcare services were provided by personnel hired by AEMY (Health Units SA). At the time of the inspection, the facility had 1 doctor and 3 nurses who were recruited by AEMY. In the Pre-Removal Centre there are also one (1) psychologist and one (1) social worker, also hired by AEMY. The absence of interpreters creates significant problems in communication with detainees.

The Centre is centrally heated (by means of oil burners and air heaters). Running water is heated by means of solar water heater and oil burners. Lighting was found to be sufficient. Cleaning of living quarters has been outsourced to a private cleaning crew. The common rooms were found to be sufficiently clean. Bedding and hygiene products were provided to detainees. Detainees were allowed in the outdoor areas between 9 am and 1 pm. Detainees from two different wings took turns using the same yard area. Following the repair works, an anteroom had been formed within the premises, with a specially designated worship space. Television sets had been placed in the hallway in front of the wings. Meals were prepared by a catering company under the supervision of the Police Headquarters of Orestiada. The premises were relatively clean, which was an improvement compared to previous inspections.

4.5. Landing ship “Rodos”

Following the Decision to Conduct an Inspection published in the Official Government Gazette of the Hellenic Republic 1101/12567/2020 on March 23, 2020, NPM scientific officers attempted a visit/inspection and data collection by all available

means in a detention area of irregular immigrants on the landing ship RODOS, which was anchored in the port of Mytilini, so as to contact the detainees and receive information from the Police Headquarters of Lesvos and any other competent entity. However, the port police officer guarding the gates informed the NPM team that they could not be allowed to enter because the ship premises were under the jurisdiction of the Port Police, which meant a special license was required to be issued. Moreover, he refused to contact his superiors to seek relevant instructions.

Subsequently, the NPM team proceeded to the offices of the Mytilini Port Police, where the Officer in charge immediately took steps to resolve the issue, making it clear to his subordinates and to the gate officer that they should allow the team to enter without further ado. Indeed, the team went back to the port where the ship was anchored. The hatch was open and there were guardrails blocking the entrance and exit. Outside the ship and in the fenced-off area, there were several foreign nationals, including little children, wandering about. There was also a lowered gangway on the left side, leading to the bridge of the ship. Outside the guardrails there were policemen and naval officers, as well as foreign members of the press and photographers from foreign news agencies. The officer in charge, to whom the NPM team explained the reason for their visit and handed over the Ombudsman's inspection decision, began to make the necessary phone calls to allow the team to enter. While waiting, it was noted that the immigrants were using the public water taps outside the guardrails to bathe and wash their clothes; chemical toilets were installed both in the area right outside the ship and outside the fenced-off area. People were using their cell phones and wandering about.

Eventually, the team was denied entrance by the ship's officer in charge, without any justification. The team finally departed, informing the Ombudsman that they had been denied access.

After this, the Ombudsman sent a document to the co-competent Ministers, pointing out that, already since 2014, by virtue of Law 3907/2011 incorporating the Directive 2008/115/EC in the internal legal order, the Authority has been systematically visiting areas where immigrants were detained before being returned to their countries, and that its relevant reports were not addressed to the general public but instead submitted to the competent authority, while its conclusions and recommendations were included in the relevant Special Report on Return of Third Country Nationals⁵¹. Meanwhile, by virtue of Law 4228/2014, the Ombuds-

51. Special Report on Return of Third Country Nationals 2018 <https://old.synigoros.gr/re->

man reserved the right and duty to visit and inspect every area of detention and freedom deprivation, while such responsibility also extended to any detention area (penal, administrative, or even military). The specific incident was the first time, since undertaking the special competencies based on Laws 3907/2011 and 4228/2014, that the Public Administration had denied access to the Ombudsman or its officials to any area of confinement, freedom deprivation, or detention.

Subsequently, the Ombudsman pointed out that the legal basis for denying access was based on Article 4⁵² of Law 4228/2014⁵³, which required a hierarchical decision, in case of denial, and introduced an obligation for a legitimate justification. The ship's Authorities did not provide any such legitimate justification, as they should have, at the time access was denied; we can only assume it was under the pretext of urgent and crucial reasons of national defence and security, based on the Legislative Act of March 2, 2020. Administrative detention of third country nationals in this case is performed via decisions of the police authority and by invoking the corpus of decisions, of the relevant provision of Law 3386/2005 on illegal entry and of the above Legislative Act on deporting third country nationals having illegally entered the country as of March 1, 2020. The Act, as a measure of executive authority taken under the conditions of Article 44 par. 1 of the Constitution⁵⁴, foresees the deportation, via the standard procedures, of third country nationals having illegally entered the country as of March 1, 2020 without being recorded, and it does not allow any appeals for international protection to be submitted. Hence, the above administrative procedure is followed, based on the legislation in force, i.e. deportation and detention by police authorities (Laws 3386/2005 and 3907/2011).

[sources/docs/english-final.pdf](#)

52. Par. 1 of Article 4 of Law 4228/2014: *"1 During the exercise of its duties, the National Preventive Mechanism conducts visits to all the detention areas, with or without prior notice to the authorities in charge of such areas. A justified objection to its visit to a specific detention area can only be raised, conditional on its approval by the immediately superior authority within twenty-four hours, in case of urgent and crucial reasons of national defence, public security, natural disasters or serious unrest in the area to be visited, which temporarily prevent such a visit".*
53. Whose eventual visit exceptions are specific to the Subcommittee on Prevention of Torture (SPT) according to Article 14 par. 2 of the Additional Optional Protocol (OPCAT) which was ratified by Law 4228/2014, and not to the National Prevention Mechanism according to Article 20 of said Protocol.
54. And not as measure of last resort on the part of the Parliament following a proposal of the Government for reasons of imminent threat to national security according to Article 48 par. 1 of the Constitution.

With regard to detention conditions, denied access means that the Ombudsman cannot confirm or refute whether the claims that are made hold true. In any case, according to the information listed in detail in the inspection report, it can be concluded that in the ship sufficient care was taken for the meals of detainees, basic medical care was provided if the need arose, and there was a total lack of interpreting services. The 70 detainees who were present on the day of the attempted inspection were exceeding the ship's capacity, were held in 2 buses outside the ship, and were allowed to roam the specific area of the port freely, using their cell phones and the chemical toilets. Following the denied access, the Ombudsman could only rely on information submitted by the foreign detainees themselves, and on information and photographs leaked to the digital press in order to form an opinion regarding detention conditions on board. The only official piece of information was that 450 individuals were accommodated on board on March 11, 2020, by far exceeding the ship's full capacity.

In light of the above, and given that, according to press reports, the landing ship "RODOS" departed on March 12, 2020 to relocate the detainees to the hot spot of Malakasa, and possibly to other hot spots as well, the Ombudsman recommends that: if in the future the need arises of using landing ships to urgently accommodate irregular immigrants, any indoor detention should not last more than a few days, but instead have the shortest possible duration, so as to ensure access to outdoor spaces, natural light, clean air, satisfactory hygiene conditions, and that the space used should allow for separating women from men, but also families or any unaccompanied minors, especially since the latter should not normally be detained at all, just like all individuals belonging to vulnerable population groups, as the Ombudsman has already pointed out repeatedly in the past⁵⁵. Also, the conditions of accommodating a large number of people in an indoor space, even if the above separation is possible, shall have to be re-examined, especially in light of the current emergency situation and the necessary strict precaution measures taken across the country against the spread of the COVID-19 virus.

4.6. Psychiatric hospitals

Psychiatric Clinic of the University General Hospital of Heraklion

On November 18th, 2021, an NPM team visited the psychiatric clinic of the University General Hospital of Heraklion (PAGNI). The hospital was found in a good state and new wards have been added. The Psychiatric Clinic for Adults, which

55. <https://old.synigoros.gr/resources/30102019-paratiriseis.pdf>

includes a Short-Stay In-Patient Department and an Acute Cases Department, is located away from the out-patient clinics and the doctors' offices, which impedes communication between them. The Clinic's capacity is 23 beds in the Short Stay department and 10 beds in the Acute Cases department. At the time of our visit, patients in the two departments amounted to 26 and 8 respectively. The auxiliary beds do not exceed the maximum numbers of 8 and 3 respectively, according to the estimations of the Clinic's Administration. Based on the information available for 2019, the average occupancy in the Short-Stay department amounted to 107,6% and in the Acute Cases department to 81%. Wards in both departments are closed and no visitors are allowed. The wards contain three beds each, with en suite bathrooms, and wardrobes/cupboards for storing the patients' personal items. Average hospitalisation time, according to the Clinical Director's estimates, is 20 days, with the maximum not exceeding one month, except in the cases of patients staying on for social reasons, until they can be transferred to a suitable aftercare establishment.

The personnel employed in the Clinic at the time of our visit included: 3 consultant psychiatrists, 4 psychologists (among whom a family therapist), 2 social workers, 1 health visitor, 13 nurses of Technological Education (2 of whom specialising in psychiatry) and 10 nurse assistants. In addition, the Clinic employed 10 interns and medical trainees. The personnel occupied in the clinic also covers the needs of out-patient departments, the Depot Clinic, the Mobile Mental Health Unit, the aftercare hostel (capacity of 10), and the two supervised housing apartments (capacity of 6), which means that the clinic is understaffed.

The Psychiatric Clinic admits adult patients (underage patients are hospitalised in the Child and Adolescent Psychiatric Clinic of PAGNI), with or without their consent, but does not admit individuals deemed not guilty on insanity grounds according to Article 69 of the Penal Code. The Clinic is on-call every other day, but the hospital admits patients on a daily basis following Public Prosecutor's orders, as it disposes of the only psychiatric clinic that caters for the prefectures of both Heraklion and Lasithi. In the out-patients department there is a Depot Clinic operating, which was foreseen, according to the Clinical Director, to stem the exponential growth in hospitalisations during the years 2014-2015. According to the protocol implemented at the Depot Clinic, the personnel inform families when patients skip part of their injectable treatment. In the past few years, the out-patients department has also been receiving several refugees who have settled in the area, and who are often escorted by a UNHCR interpreter. According to the Clinical Director, the operation of the Depot Clinic, in combination with the Mobile Mental Health Unit reaching out to faraway villages and hard-to-reach areas, and

the networking with local Mental Health Centres, has resulted in involuntary psychiatric placements being reduced by half. The psychiatric clinic provides services of liaison-consultation psychiatry to the hospital's clinics.

In the Clinic's premises, and especially in the Acute Cases department, there is a CCTV system installed, which enables the monitoring of patients from the nurses' station. The cameras are installed in outdoor areas, in the hallways and in the common rooms, in the ward that has been formed in the Short-Stay department for treating patients' with SARS-CoV-2, as well as in all the wards (including the "quiet room") of the Acute Cases department. Patients in both departments, even if voluntarily hospitalised, have no access to outdoor areas and do not go outside, although both departments have a yard with a tall fence, adjacent to the patients' common rooms. The door remains locked and the patients are not allowed outside lest they should wander away from the clinic. In a relevant question raised by the NPM team, it was claimed that patients are not allowed outdoors because there are not enough security personnel, who should normally be called upon and be present in every case. Consequently, patients remain exclusively in the common rooms, where the air is stuffy and there is no means of recreation except for a television set. Patients do not partake in any kind of organised therapeutic activity. The personnel mentioned that in the past there used to be certain initiatives from time to time (e.g. music events) or recreational activities (like watching movies). There is no occupational therapy room, nor is there any required equipment available, no group meetings or sessions are held, no organised outings or outdoor exercise take place. Seeing as there is no permit to leave the premises foreseen for patients, nor any visits from outsiders allowed, and given the special restrictive measures against the spread of the pandemic, the options of their creative and therapeutic engagement during their stay in the clinic are practically non-existent. The briefing of relatives by the doctors, as a result of the limited visits among other things, is mostly done by phone, just like patients' communication with their next of kin, while social workers assist them in using alternative ways of communicating via digital means (e.g. tablets) and the clinic's Wi-Fi network.

When patients are committed involuntarily, they are not informed in writing of the procedure to be followed, or of their legal rights or ways of lodging an appeal, nor is there any relevant information posted prominently. They only receive a plain form, same as the one handed over to people committed voluntarily. According to the Clinical Director, patients do not even receive information of when their court hearing is to be held, because as a rule they have already been released by the time the subpoena is served. All of the above made it impossible to collect ev-

idence regarding how often patients appear in court during the non-contentious proceedings. Likewise, it was not made clear whether the personal records of patients are updated with the relevant court decisions.

Despite involuntary hospitalisation legislation expressly stating (Article 96 par. 2 of Law 2071/1992) that “*there need to be reasoned written opinions by two psychiatrists*”, the clinic only issues, after examining the patient being transferred, a joint opinion signed by two psychiatrists. This is issued as a standardised form filled in with the patient’s personal information and gender, already containing the two reasons for imposing involuntary commitment according to Article 95 (i.e. the risked exclusion of the patient’s treatment which will lead to their health deteriorating if they are not hospitalised, and the need to prevent them from committing acts of violence against themselves or others). In this sense, the involuntarily committed patient is de facto deemed “dangerous” as being prone to acts of violence, without allowing for an individualised, justified judgment of the reasons for his/her forced commitment, which may be exclusively grounded on the need to minimise the deterioration of his/her health state. During a random check of individual medical files, the NPM team found that the Psychiatric Clinic, in response to the documents of the Police Headquarters -which are drafted following a verbal order by the Public Prosecutor- requesting the patient’s transfer for examination, dispatches the psychiatric opinions to the Police instead of the Prosecutor’s Office. In fact, in certain cases, the form issued by the Police Headquarters includes the request that the pertinent opinions be delivered to the police officer accompanying the patient to be examined, in blatant violation of the provisions of Article 96 par. 5 of Law 2071/1992, which sets 48 hours as a maximum time of retaining a patient in the public psychiatric clinic in order to perform the necessary tests and issue the relevant opinions. As it turned out, the relevant documents from the Police Headquarters contain stereotypical and stigmatising expressions about the patient, such as “a threat to public order”, and other similar phrases. In those cases where the opinion is not handed over directly to the police officer accompanying the patient, the correspondence between the Psychiatric Clinic and the Police Headquarters is conducted via email or fax, with whatever repercussions this may have on the protection of medical privilege and the patients’ sensitive information.

According to the Clinical Director, the citizens who are transferred to PAGNI escorted by police officers are sometimes handcuffed, but after they are admitted by the Emergency Departments the handcuffs are removed, which means that their admission to the Psychiatric Clinic is in any case performed without any restraints. The personnel aim to convince the patients to consent to being treat-

ed and therefore to turn involuntary commitments into voluntary ones, and they often succeed in doing so, in the Clinical Director's opinion.

The Clinic disposes of a ward of intensive care/seclusion ("quiet room") in the of Acute Cases department. The Director stated that the "quiet room" is used for various cases of patients who need to be restrained or in need of special treatment (e.g. patients with dementia, disabled people, etc.).

In these cases, mechanical restraints are used, in the form of magnetic belts/buckles. The Clinic is not bound by official Rules of Operation but, according to the Director, in cases of restraint, the personnel follow the special protocol, which comprises the following stages: drug treatment, verbal de-escalation, injection with the patient's consent, restraint and forced treatment. During our inspection visit, it proved particularly hard to glean information concerning the frequency and exact manner of imposing the measure of bed restraint, thus it was impossible to judge whether or not restraints were abused. No separate record of restraints is kept at the Clinic, thus relevant information can only be collected by reviewing each individual medical file separately. Furthermore, the Clinic does not draft, nor dispatch to the Ministry of Health, monthly statements referring to the imposed restraints, where the foreseen special information would have to be recorded (special justification, attempted methods of de-escalation that failed, ratio of restrained patients to general patient population, among others)⁵⁶. In addition, the medical personnel present were unwilling to share information on the recently performed restraints, on the grounds that these are only resorted to in exceptional cases and therefore the personnel fail to recall a relevant incident having occurred recently. However, since the NPM team persisted in being shown a record of a patient who had been restrained, in the frame of the random check, it turned out that there was a case of a female patient who had been restrained for consecutive days on end, and whose restraints were removed on the morning of our planned visit to the premises. No special justification for the continuing nature of this measure could be derived from the information in her file, as, according to the entries made every half-hour by the nurses, the patient was either asleep or calm for the most part. In any case, because the NPM team did not include a psychiatrist, it was not possible to evaluate the chemical restraints of the patients.

While reviewing the patients' medical files, it was noted that nurses visit them every half-hour to check their vital signs. The signatures of doctors issuing the order to start and continue/cease applying this measure are not always accom-

56. Document from the General Secretary of the Ministry of Health nr. οικ.43798/7.6.2018.

panied by due justification or a mention of any de-escalation methods used. Finally, it was not ascertained from the individual medical files or records kept at the clinic that patients and/or their next of kin are somehow informed of the imposed measures of increased psychiatric care.

The NPM team then visited the premises of the Healthcare Recipient Rights Protection office and spoke with one of its two employees. Judging from the way it operates, the Office seems totally oblivious of the competencies assigned to it in terms of involuntary commitment procedures and protecting the rights of mental health patients. In particular, patients committed involuntarily to the psychiatric clinic are not provided with a printed document informing them of their rights, although it is expressly foreseen⁵⁷ that care should be taken to inform patients of their rights as soon as they enter a health service facility, and to provide them with the respective printed material. Other causes for concern are, in the same context, the interface of the Rights Protection Office with the competent authorities, both in-house and outside the hospital. The Office does not work jointly with the Psychiatric Clinic, despite the obvious relevance between the clinic's specialty and the many issues of patient rights protection that this may entail. It is worth noting that the Rights Protection Office must take special care to protect mental health patients and, after receiving relevant information from the admissions office, it is to thoroughly monitor the conditions of admission, examination, treatment and hospitalisation of this group of patients⁵⁸.

Finally, the Rights Protection Office was supposed to have been receiving from the mental health clinic the records of restraints, so as to process them and subsequently derive quantitative indicators on a monthly and yearly basis, all the while informing the Hospital Administrator, the Mental Health Directorate of the Ministry of Health and the Minister himself, the Special Committee for the Protection of the Rights of Persons with Mental Health Disorders, and the Greek Ombudsman⁵⁹.

Conclusion - recommendations

The Greek Ombudsman, in its capacity as National Preventive Mechanism and taking into consideration the remarks of the European Convention for the Pre-

57. Article 3 par 1 and 4 of Ministerial Decision A36/Γ.Π.οικ.10976/10.2.2017.

58. Article 4 par 2 of Ministerial Decision A36/Γ.Π.οικ.10976/10.2.2017.

59. Document of the General Secretariat of the Ministry of Health οικ.43798/7.6.2018 "*Framework of recording and monitoring restraints used by exception in psychiatric treatment*".

vention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) at the time of its visit to our country [CPT/Inf (2019)4], as well as the Statement of Principles it published concerning the treatment of persons deprived of their freedom in the frame of the COVID-19 pandemic [CPT/Inf (2020)13], once again notes that:

a) The use of restraints on psychiatric patients should on no occasion be considered a treatment method rather than a mere safety measure, and can only be justified for the purpose of preventing immediate harm or injury caused to self or others, after de-escalation attempts have failed. In this sense, this measure is to be imposed for the shortest time required, under constant supervision and recorded in a special register. In any case, restraining patients for days on end constitutes inhuman treatment.

b) The involuntary psychiatric placement procedure must be implemented under the respective legal guarantees, be grounded on two distinct, reasoned psychiatric opinions, and ensure that the patient be provided with sufficient information regarding patient rights and the appeal options at his/her disposal.

c) Especially during the pandemic, it may be deemed legitimate to suspend certain activities, but the same does not apply for the fundamental rights of persons deprived of their freedom. Thus, the right of daily access to the open air of at least one hour needs to be ensured, while any restrictions on contact and communication with family and friends should be compensated for by increased access to alternative means of communication.

Taking the above into consideration, the NPM team found, during the inspection carried out at the PAGNI Psychiatric Clinic for Adults (Short-Stay department and Acute Cases department), that the prevalent attitude in this clinic is focused on guarding patients, often in the name of security, at the expense of any therapeutic approach. The NPM deems the prohibition of Short-Stay patients from going outdoors in the fenced off green area, where they would have exclusive access, incompatible with the principles of proportionality and necessity. Besides, it is worth noting that, according to the updated preventive measures for the protection of public health in the country's Mental Health establishments⁶⁰, the Psychiatric Wards of General Hospitals are requested to plan their patients' daily access to such outdoor areas. In any case, the patients' stay in a room with no stimuli, no therapeutic activities (occupational therapy, outdoor exercise, group sessions,

60. Document Γ3α,β/Γ.Π.οικ.36353/09.06.2021 of the Mental Health Directorate of the Ministry of Health.

home leaves, organised outings, etc.), without a daily routine and no possibility of contacting their family or friends, can under no circumstances be considered conducive to the anticipated therapeutic effect.

The NPM also points out that every Mental Health establishment should keep a special record of the applied restraints filed separately from the patients' individuals medical records. The Greek Ombudsman expects the PAGNI to meet its obligations concerning the implementation of the procedures of fully recording and monitoring the restraints imposed on patients during their psychiatric treatment⁶¹. In this context, the PAGNI is requested to properly reinforce the Healthcare Recipient Rights Protection Office, so that it is better equipped to respond to its legal obligations. Meanwhile, the Clinic's personnel shall have to ensure that a record of restraints is kept, thoroughly monitoring information like the exact time the measure was started and ended, the full name of the doctor who gave the order to start/continue/cease the measure, clear and precise justification, account of any injuries caused to the patient or personnel, de-escalation attempts that failed, name of the officer on-call.

As concerns the patients' medical files, these have to include the individualised treatment plan of each patient (goals of treatment, the therapeutic means used, the staff members involved, etc.), which will need to be decided upon with the patient's informed consent, to the extent possible. Especially in the cases of involuntary placement, it is important that copies be kept, with due diligence, of all items of the medical and administrative file, such as, indicatively, Public Prosecutor's order for examination or commitment, medical opinions of two distinct psychiatrists, subpoena for the patient to attend the court hearing, court decision of involuntary placement, any referrals etc. The patient shall receive, properly documented, full and clear information of the above, particularly of the subpoena to attend the court hearing, which, if not duly effected, may cause the debate to be declared inadmissible⁶².

In any case, the National Preventive Mechanism finds it is totally improper, if not unlawful, to hand over the psychiatric opinions to the police officers being ordered to transfer the alleged patient for examination, even more so since correspondence is carried out in a way that does not in the least protect medical privilege or the patients' sensitive information. The process of involuntary placement, as an

61. Document οικ.43798/7.6.2018 Γ.Γ. of the Ministry of Health.

62. Circular 10/2021 of the Prosecution Office of the Supreme Civil and Criminal Court of Justice (Areios Pagos).

action involving the restriction of personal freedom, is subject, according to Law 2071/1992, to the judicial guarantees, and therefore psychiatric opinions should only be handed over to officials from the prosecution.

Finally, we recommend the reform of common rooms of both Departments of the Psychiatric Clinic and the provision of suitable infrastructure, which will enable the patients' stay and treatment to be carried out in a therapeutic environment that is less impersonal and inhospitable.



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