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经济、社会及文化权利，包括发展权

访问希腊

任意拘留问题工作组的报告* **

概要

任意拘留问题工作组应希腊政府邀请，于2019年12月2日至13日访问了希腊。工作组查明了积极的发展，包括批准《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚公约任择议定书》，指定希腊监察员为国家防范机制，以及使用拘留替代办法和关于提前释放的规定等。同时，刑事司法系统中也存在挑战，如普遍存在审前拘留、对获得法律援助的权利认识不足以及审判时间短的情况。在移民方面，工作组注意到，除其他问题外，被拘留者对申请国际保护的权利和程序要求缺乏认识，孤身儿童收容所负担沉重，在年龄和脆弱性评估程序方面有适用不准确的情况，以及在质疑拘留和遣送决定方面的法律援助不充分。最后，工作组发现，关于非自愿接纳心理社会残疾人的程序仍然存在问题，并发现法院在审议非自愿接纳方面有拖延，而且在对精神健康评估提出质疑方面得不到律师的帮助。工作组在建议中鼓励希腊加入若干项人权文书，并采取具体做法，为防止任意拘留提供更大的保护。

* 报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。附件未经正式编辑，原文照发。

** 因提交方无法控制的情况，经协议，本报告迟于标准发布日期发布。

Annex

Report of the Working Group on Arbitrary Detention on its visit to Greece

Contents

I. Introduction

1. At the invitation of the Government, the Working Group on Arbitrary Detention conducted an official visit to Greece from 2 to 13 December 2019. The Working Group was represented by José Antonio Guevara Bermúdez (Mexico, Chair-Rapporteur), Leigh Toomey (Australia, Vice-Chair) and Sètondji Roland Adjovi (Benin) and accompanied by staff from the Office of the United Nations High Commissioner for Human Rights. This was the second official visit of the Working Group to Greece, the first visit having been conducted in 2013 (see A/HRC/27/48/Add.2). The Working Group would like to thank the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund for the support provided prior to and during the visit.

2. The Working Group extends its gratitude to the Government for inviting it to undertake this visit and for its fullest cooperation. This includes securing all requested meetings with stakeholders, providing relevant data and information and ensuring unimpeded access to all places of detention. This is a strong foundation for the Working Group to continue to provide advice and assistance to the authorities on detention practices.

3. The Working Group met with officials from the Ministry of Foreign Affairs, the Ministry of Citizen Protection, the Ministry of Health, the Ministry of Labour and Social Affairs, the Ministry of Shipping and Island Policy, the Hellenic Supreme Court of Civil and Criminal Justice, the Supreme Court's Public Prosecutor's Office, the Public Prosecutor's Office in Thessaloniki, members of the Athens and Thessaloniki Bar Associations, the National Centre for Social Solidarity, the National Coordinator for Unaccompanied Minors, the Greek National Commission for Human Rights and the Greek Ombudsman.

4. The Working Group visited 21 places of deprivation of liberty in Attica (including Athens), the Peloponnese, the island of Kos in the south Aegean, Thessaloniki and eastern Macedonia and Thrace (see appendix). It was able to confidentially interview over 150 persons deprived of their liberty.

5. The Working Group also recognizes various stakeholders within the country who shared their perspectives on the arbitrary deprivation of liberty, including representatives of civil society, lawyers and individuals currently deprived of liberty. The Working Group thanks them for the information and assistance provided.

6. The Working Group shared its preliminary findings on 13 December 2019. It intends to continue its constructive dialogue with the Government on the issues presented in the present report. This report takes into account information provided by the Government on progress made since the Working Group's previous visit, in 2013.

II. Overview of the institutional and legal framework

A. International human rights obligations

7. Greece is party to most major international human rights instruments, including the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the Convention on the Rights of the Child and two of its Optional Protocols; the Convention on the Rights of Persons with Disabilities and its Optional Protocol; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol.

8. Furthermore, the State has ratified or acceded to the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention relating to the Status of Refugees and the Protocol thereto, the Convention relating to the Status of Stateless

Persons, the Geneva Conventions of 12 August 1949 and the Protocols additional thereto, the fundamental conventions of the International Labour Organization, the Rome Statute of the International Criminal Court, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

9. The State is not party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure or the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

10. Greece has been subject to the universal periodic review, having participated in two cycles, in 2011 and 2016. Its third-cycle review is scheduled for 2021.

B. National legal framework

1. Constitutional protections

11. The current Constitution was adopted in 1975 and revised most recently in 2019. According to article 28 (1), international treaties ratified by Greece are an integral part of domestic Greek law and prevail over any contrary provision of the law.

12. The Constitution guarantees respect for and protection of the value of the human being (art. 2); full protection of life, honour and liberty, irrespective of nationality, race, language, or religious or political beliefs, for all persons living within the Greek territory (art. 5 (2)); and the inviolability of personal liberty (art. 5 (3)). Furthermore, the Constitution provides for freedom of opinion, expression, speech and the press (art. 14).

13. The Constitution prohibits arrest or imprisonment without a reasoned judicial warrant which must be served at the moment of the arrest or detention pending trial, except when a person is caught in the act of committing a crime (art. 6 (1)). Article 7.4 provides for compensation for unjust or unlawful deprivation of liberty.

14. According to the Constitution, all persons are entitled to receive legal protection by the courts and may plead their views concerning personal rights or interests, as specified by law (art. 20 (1)). The right of a person to a prior hearing also applies in any administrative action or measure adopted at the expense of the person’s rights or interests (art. 20 (2)).

2. Penal Code and Criminal Procedure Code

15. Defendants have the right to counsel and enjoy the presumption of innocence. Depending on the seriousness of the offence, a detainee may be held in remand for up to one year. According to article 87 of the Penal Code and article 371 (4) of the Criminal Procedure Code, the term of pretrial detention and the time between the arrest and the order of pretrial detention is deducted from the sentence.

16. Rules of evidence apply in court, and witnesses are subject to cross-examination. Detainees have unlimited access to their defence lawyer. Defendants may present witnesses and evidence on their behalf, and question witnesses testifying against them. They have access to evidence held by the authorities. They may appeal a court decision to a higher court. Persons who have been detained on remand and subsequently acquitted are entitled to request compensation if it has been established in the proceedings that they did not commit the criminal offence for which they were detained.

3. Laws concerning migration

17. The new Law No. 4636/2019 on international protection codifies the legislation on international protection and aims to reinforce legal certainty and efficiency.[1] The law features more restrictive provisions in regard to the detention of applicants compared to previous legislation.

[1] Certain provisions of Law No. 4636/2019 were amended by Law No. 4686/2020.

18. More specifically, article 46 (2) introduces the possibility of detention even for applicants who have not been in detention in view of return and deportation procedures before becoming asylum seekers. Previous legislation provided that a detention order may be issued only upon the recommendation of the Asylum Service, unless detention is ordered on the basis that the applicant constitutes a danger for national security or public order.[2] However, article 46 (4) of the new law provides that the Asylum Service is merely informed about the detention order, which is now issued by the competent police director in all cases without the prior requirement for a recommendation by the Asylum Service.

19. Article 46 (5) (b) of the new law removes the automatic judicial review of initial detention orders and retains the remedy only for the prolongation of detention orders. Article 46 also provides for an increase in the maximum initial detention period for which asylum seekers may be held, from 45 to 50 days. The same change applies to orders to extend the initial period of detention. It also extends the total maximum detention period from 3 months to 18 months. Furthermore, the law explicitly provides that pre-removal and asylum detention is counted separately for the purposes of calculating the maximum detention period (art. 46 (5) (b)).

4. Laws concerning psychiatric institutions

20. Law No. 2071/1992 governs involuntary hospitalization in psychiatric institutions (arts. 96–99). This legislation provides that patients may be hospitalized involuntarily only when they have a psychiatric disorder and are incapable of taking decisions affecting their health, and when failure to hospitalize them would be detrimental to their state of health. Persons with a psychosocial condition may be hospitalized to prevent them from self-harming or harming others (ibid., art. 95).

21. A district prosecutor may authorize placement upon the request of a spouse, parent, relative or guardian and, in emergency cases, the placement procedure may be launched ex officio, to be supported by medical opinions from two psychiatrists.[3]

22. Patients admitted on an involuntary basis have the right to be heard in person by the court during the placement or appeal (ibid., arts. 96 (6) and 97). Patients are entitled to legal assistance in placement proceedings. They may be represented by someone acting in their interests.

23. A reform of the law governing involuntary hospitalization was launched in late 2017 and is ongoing.

III. Positive measures and initiatives

A. Ratification of international human rights instruments

24. The Working Group welcomes the State's ratification of the Optional Protocol to the Convention against Torture on 11 February 2014 and the designation of the Greek Ombudsman as the national preventive mechanism. Regular independent oversight over all places of deprivation of liberty has a significant role in reducing the incidence of arbitrary detention. The Working Group calls upon the national preventive mechanism to strengthen its efforts to visit in a more regular manner all places of deprivation of liberty. The Working Group also urges the Government to increase its efforts to engage constructively with the national preventive mechanism, especially on the implementation of its recommendations.

[2] Law No. 4375/2016, article 46 (3).

[3] If a second psychiatrist's opinion cannot be obtained, the second opinion may be supplied by a doctor with another related specialization (Law No. 2071/1992, art. 96).

B. Alternatives to detention

25. The Government has underlined that it applies alternative forms of detention, such as the obligation to report regularly to the authorities.

26. Under the amended Penal Code (Law No. 4619/2019), penalties have been reduced and the use of non-custodial measures is encouraged. Article 52 reduces the maximum penalty to 15 years for all offences, with the exception of life sentences. Sentences in youth detention facilities range from six months to five years if the normal sentence applicable is up to 10 years' imprisonment, and from two to eight years for a life sentence or other sentence (art. 54). Article 55 provides for community service alternatives, while minor offences punishable by fines only are no longer prosecuted.

27. While the Working Group acknowledges that these provisions are positive steps forward, it emphasizes that there is still considerable scope for their implementation and encourages the Government to expand the use of non-custodial measures.

C. Provisions for early release

28. The Working Group was informed that prisoners who had served a percentage of their sentence were eligible for early release from detention. Under article 105B of the Penal Code, convicts may be released when they have served two fifths of the required time to be served in the case of a sentence up to five years, and three fifths of the required time in the case of a sentence of between 5 and 20 years.

29. In addition, according to article 105B of the Penal Code, convicts who work, attend school or participate in vocational training are eligible for a reduction in their sentence to reflect the time spent working or attending these programmes. Up to two days are deducted from the sentence for every day of occupational or educational activity undertaken. Prisoners working in agricultural detention establishments and the Central Warehouse of Prison Material are paid for their work (art. 43 of the Penitentiary Code).

30. Furthermore, certain categories of prisoners are eligible for early release. According to article 105 (1) of the Penal Code, persons over the age of 70 years who have been sentenced to up to 15 years' imprisonment serve the sentence or the remainder of the sentence at home. In addition, under article 105B (4) of the Code, each day of detention spent working by prisoners suffering from a number of serious health conditions is considered to count as two days of their sentence. The same applies to prisoners with a disability rate of 50 per cent or more, who cannot work or who require assistance; prisoners with a disability rate of 67 per cent or more; detainees who are prohibited by the opinion of a disability certification centre from taking up work or employment; prisoners who are being treated in medical institutions and whose treatment has lasted for at least four months; detained mothers with minor children; prisoners participating in a treatment programme for drug addiction; and prisoners detained in police stations or police division offices. However, the Working Group met with one detainee aged 70 who had not benefited from these provisions, and therefore encourages the Government to ensure that they are uniformly applied in practice.

31. The Working Group was informed that early release was implemented and was able to confirm that assertion during its visits to detention facilities. For example, the Working Group observed that, despite the challenging conditions at Korydallos Prison in Athens, the authorities delivered educational programmes, including for the purposes of finishing high school and studying at university, and various vocational projects that could be used to reduce sentences.

32. The reduction of sentences under these provisions is commendable as it provides convicted persons with the ability to undertake work and gain new vocational and other skills, and contributes to reintegrating them into society more quickly. These provisions are also an important means of addressing the serious problem of overcrowding in detention facilities. The Working Group urges the Government to continue to extend this practice as much as possible.

IV. Main findings concerning the right to personal liberty

33. In determining whether the information provided, including from persons interviewed during the visit, raised issues regarding the arbitrary deprivation of liberty, the Working Group referred to the five categories of arbitrary deprivation of liberty outlined in paragraph 8 of its methods of work (A/HRC/36/38).

A. Deprivation of liberty in the context of the criminal justice system

1. Presentation before a judicial authority

34. The Working Group recalls that anyone arrested or detained on a criminal charge has the right to be brought promptly before a judicial authority. According to article 87 of Law No. 1756/88, the Public Prosecutor is a judicial authority independent of the courts and the executive power. In the case of a crime or an arrest made by order of the investigator, the Prosecutor refers the arrested person to the investigator. If it is a misdemeanour, the Prosecutor may refer the accused immediately to the competent court that is in session on that day, without a written preliminary hearing, and the court hears the case on the same day. Exceptionally, when the court is unable to convene on the same day, detention may be ordered for a maximum of 24 hours.

35. During its visit, the Working Group ascertained that individuals are normally presented before the Public Prosecutor within 24 hours of arrest. While this is commendable, it considers that presentation before the prosecutorial authorities, whose role is to prosecute rather than adjudicate each case, cannot be equated with presentation before a judge as required under article 9 (3) of the International Covenant on Civil and Political Rights. Given their role and interest in prosecuting cases, the Working Group considers that prosecutorial authorities do not possess the requisite degree of independence to assess the necessity and proportionality of detention.[4] The Working Group recommends that Greece complies with its obligations under the Covenant.

2. Pretrial detention

36. Pretrial detention, according to Greek legislation, should be imposed only when release under restrictive measures is deemed insufficient for the purposes of the criminal proceedings. The Working Group notes, however, that the imposition of pretrial detention is in practice automatic, as there is no individual assessment of whether detention is necessary and proportionate, contrary to article 9 (3) of the Covenant. Pretrial detention may also be imposed, exceptionally, for up to 18 months, contrary to article 6 (4) of the Constitution, which stipulates that detention pending trial may not exceed one year in the case of felonies or six months in the case of misdemeanours, and that these periods may be extended for up to six months in exceptional cases only.

37. The placement of pretrial detainees and their separation from convicted persons is provided for in article 11 of the Penitentiary Code and in article 10 of the internal regulations for the operation of detention centres. However, that separation was not in place in any of the facilities visited. Failure to separate pretrial detainees and convicted prisoners is contrary to article 10 (2) (a) of the Covenant and rule 11 (b) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Pretrial detainees are also subject to the same treatment as those who have been convicted, contrary to the presumption of innocence to which all persons are entitled prior to conviction. Such a practice may amount to de facto punishment without conviction (A/HRC/39/45/Add.1, para. 33).

38. The Working Group recalls the concluding observations of the Committee against Torture (CAT/C/GRC/CO/7, para. 37) and urges Greece to abide by its international obligations to ensure that pretrial detention is exceptional, and that persons detained

[4] Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 32.

pending trial are separated from convicted persons and are not treated as though they were convicted persons.

3. Presumption of innocence

39. The Working Group recalls that everyone charged with a criminal offence has the right to be presumed innocent under article 14 (2) of the Covenant. The Working Group received credible information concerning non-nationals in pretrial detention who had been detained exclusively on the basis of police testimony, including when there was other evidence that did not support their guilt. Similar instances were reported in cases of drug-related crime and organized crime.

40. The presumption of innocence imposes a burden on the prosecution of proving charges beyond reasonable doubt. The Working Group urges the judicial authorities to ensure that they afford accused persons the presumption of innocence and fair consideration of all available evidence when making decisions to detain, regardless of the nationality of the accused.

4. Right to legal counsel

41. Under article 33 of the internal regulations for the operation of detention centres, detainees are entitled to legal support and assistance under specific conditions, including if detainees declare that they are financially unable to exercise their defence rights. The Working Group, however, was informed of cases in which detainees accused of misdemeanours were not informed of their right to legal assistance, including legal aid. In most instances, the detainees were brought before the Public Prosecutor without a lawyer when pretrial detention was ordered. As a result, the detainees could not effectively defend themselves and were not given a fair opportunity to contest their detention.

42. The Working Group received information that detainees who were accused of felonies, particularly in relation to serious drug offences, were informed of their right of access to a lawyer of their choice or at no cost if they did not have sufficient means to afford legal assistance. It recommends that the right to legal assistance be extended to all persons who are accused of any type of crime, particularly misdemeanours.

43. The Working Group encourages the Government to ensure that all persons are promptly informed upon apprehension of their right to legal assistance, including immediately after the moment of apprehension, by counsel of their choice or at no cost if they cannot afford a lawyer.[5] The authorities must also ensure that all persons deprived of their liberty benefit from this right at any time during their detention (CAT/C/GRC/CO/7, paras. 14–15).

5. Provision of information in other languages

44. According to articles 9 (2) and 14 (3) (a) of the Covenant, anyone who is arrested has the right to be informed in a language that he or she understands of the reasons for the arrest, and to be promptly informed of any charges. The authorities are required to inform detained persons of their rights in a language that they understand, including the right to legal counsel and to request a court to consider the legality of the detention.

45. The authorities informed the Working Group that all detainees are informed of the reasons for their detention, either orally or in writing. If the detained person is a foreign national who does not understand the Greek language, care is taken to explain his or her rights through an interpreter or consular authority. Individual informative sessions are provided when necessary. Information bulletins in the language of the detainee are also available, but were not visible in most of the sites visited. The Ministry of Citizen Protection demonstrated printed materials with the rights of detainees explained in various languages, but these materials do not appear to be consistently provided to detainees.

[5] United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37), principle 9 and guideline 8.

46. The Government also informed the Working Group that the list of interpreters is compiled by the Misdemeanours Judges Council, following a recommendation by the Public Prosecutor. There has been an effort to populate that list with interpreters for all required languages, based on statistics and on the predetermined court session days of each year. However, the Working Group received numerous reports that, despite efforts by the authorities to expand the list of interpreters, there was a lack of interpreters and, as a result, detainees were not informed in a language that they understood of the reasons for their arrest, or their rights as detainees. According to article 14 (3) (f) of the Covenant, anyone charged with a criminal offence has the right to the free assistance of an interpreter if he or she cannot understand or speak the language used in court. While the challenges of providing interpretation are considerable in a context in which persons of many different nationalities and languages are in contact with the law, the Working Group urges the Government to provide interpretation services to all persons who have been deprived of their liberty.

6. Short trials

47. A fair trial requires time for the parties to present their evidence and, in particular, for the accused person to be given adequate time to be heard pursuant to article 14 (1) and (3) (b) and (d) of the Covenant. According to several credible reports, some criminal trials have been short, ranging from a few minutes to a few hours, and have been concluded in a single day. There is often no opportunity for the accused to address the court, while law enforcement agents are extensively heard. This practice is in direct violation of the right to a fair trial, including the principle of equality of arms. The Working Group calls upon the Government to ensure that the accused is given adequate time to present a defence and to address the court.

7. Overcrowding of detention facilities

48. The Working Group notes that severe overcrowding remains an issue in most detention facilities.

49. It welcomes the Government’s efforts to address the problem of overcrowding, such as the construction of new facilities and the priority examination of detainee requests for transfer to agricultural detention establishments and the Central Warehouse of Prison Material.

50. The Working Group invites the Government to continue its efforts and considers that overcrowding could be further addressed by reducing the use of pretrial detention, establishing new, separate facilities for pretrial detainees and implementing alternative measures to detention.

8. Conditions of detention

51. During its visits to detention facilities, the Working Group noted that the conditions were in some instances better for Greek nationals than for foreign nationals. At some prison facilities, the wards in which Greek nationals were detained appeared to be significantly less crowded than wards housing non-European nationals. In addition, several non-Greek detainees reported serious health issues requiring urgent medical attention that had not been granted by the authorities.

52. The Working Group was also informed, however, of other cases of vulnerable individuals and groups who had received appropriate individualized treatment from the authorities, including persons who had been accused of or had committed serious sexual offences that required protective measures, and lesbian, gay, bisexual, transgender and intersex persons. The Working Group invites the Government to ensure consistent application of individualized treatment in all places of detention.

53. Furthermore, the Working Group is concerned that, in general, and despite current efforts by the authorities to meet the staffing needs of the special regional clinics in detention facilities, the medical services located in prisons are understaffed, which could result in a higher risk of deaths in custody. According to rule 24 of the Nelson Mandela Rules, prisoners should enjoy the same standards of health care that are available in the

community, and should have access to necessary health-care services free of charge without discrimination.

54. Having visited detention facilities related to the criminal justice system, including police stations and prisons, the Working Group concludes that, currently, they do not generally meet international standards, particularly the Nelson Mandela Rules, owing to overcrowding, lack of adequate cleaning and sanitary services, and inadequate or non-existent health services. The lack of satisfactory conditions of detention often affects a detainee's ability to participate in the criminal proceedings and to present an effective defence and appeal.[6] It is therefore important for the Government to address the conditions within detention facilities as a matter of priority.

9. Monitoring of places of detention

55. In accordance with article 6 of the Penitentiary Code, all detainees are being informed on their admission to the detention facility about their rights and the possible ways to address any violation. The Working Group identified, however, a general lack of awareness among detainees as to how to submit a complaint in relation to their detention and the conditions in which they were held. There is no visible mechanism in places of deprivation of liberty, such as a telephone number or relevant contact details, to present claims to the Greek Ombudsman on violations of human rights. Many detainees also reported that there were few visits, if any, to their places of detention by relevant monitoring mechanisms. The Working Group urges Greece to consider establishing a hotline for reporting in the prisons, taking into account the need for confidentiality of complaints; to display information about the hotline throughout the prisons; and to provide sufficient funding for regular and independent monitoring and oversight of places of detention.

B. Detention of persons in the context of migration

56. The Working Group recognizes the challenges involved in respecting international human rights standards in the current context of mass migration into the country and the arrival of large numbers of people seeking international protection. Following the closure of the borders along the Balkan corridor and the adoption of the statement by the European Union and Turkey in March 2016, the administrative detention of migrants has significantly increased. In 2017, 68,112 persons were arrested for illegal entry or stay in Greece, 93,367 persons in 2018, and 123,710 persons in 2019. On 1 May 2020, 3,250 persons were in detention in pre-removal detention centres, while 2,329 of them were under asylum procedures. In addition, the total number of persons detained in facilities under the competence of the Hellenic Police was 1,085.

57. The Working Group visited 11 facilities in which asylum seekers could be deprived of their liberty, including police stations, border guard stations and cells maintained by the Hellenic Coast Guard, reception and identification centres and pre-removal detention centres. It identified problems that could lead to arbitrary and prolonged deprivation of liberty, including inadequate individual assessment of the appropriateness and necessity of detention, and detention in inappropriate facilities such as police stations. Equally, the Working Group identified gaps in the provision of interpretation and legal aid, resulting in lack of access to judicial remedies against detention decisions. It notes with particular concern the policy of geographical restriction on the movement of asylum seekers from the islands and the lack of awareness among asylum seekers of the consequences of breaching this restriction, namely placement in detention.

1. Right to seek asylum

58. According to the Government, the Hellenic Police has been given clear orders to respect the right of detainees to submit an application for international protection and to

[6] Opinion No. 52/2018, para. 79 (j), and E/CN.4/2004/3/Add.3, para. 33.

exercise legal remedies. The authorities claim that no foreign citizen in detention who has applied for international protection may be returned until the examination of the application, since Greece fully respects the Convention relating to the Status of Refugees, and the procedures in Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, which have been incorporated into national law.

59. The Hellenic Coast Guard and UNHCR signed a memorandum of understanding in September 2014, which was renewed in 2018. The memorandum is aimed at protecting and safeguarding the fundamental rights of migrants and refugees, in accordance with international, European and national law. Furthermore, representatives of civil society and UNHCR have access to detention areas and access is not generally hindered in practice.

60. According to the authorities, foreign citizens in detention are provided with information notes, and booklets and other resources are available online, so that they are informed in a language that they understand of their rights regarding detention and the asylum procedure. The presence of an interpreter is also standard, with interpreters appointed by the Government or provided by non-governmental organizations (NGOs).

61. During its on-site visits and interviews, the Working Group observed that many detainees did not understand their right to apply for asylum and the corresponding procedure, with some individuals incorrectly believing that the process was initiated when they were fingerprinted. There was no established scheme for providing legal aid during the first-instance asylum application, and interpretation was not consistently provided, with asylum seekers relying on second-hand information from fellow applicants.

62. The Working Group was informed that no information was provided by the police to detainees on their right to apply for international protection or on the procedural stages, and that such information was provided by non-governmental actors only. No further information appears to be provided regarding the time limits for detention. In addition, both the original detention decisions and their reviews, following ex officio review by the judicial authorities, are drafted in Greek only. Most pre-removal detention centres do not have interpretation services, and when interpreters are available, they do not provide interpretation throughout all procedural steps and everyday issues or translate all documents involved, especially given the high number of detainees in many pre-removal detention centres.

63. Furthermore, some persons who had been detained on separate criminal charges but were also applying for asylum informed the Working Group that they experienced significant barriers to pursuing their claims when they were unable to attend their interviews with the Asylum Service owing to their detention. The Working Group was informed that such criminal charges could affect the determination of the asylum claim.

64. The right to seek asylum is recognized under article 14 (1) of the Universal Declaration of Human Rights. In addition, as the Working Group recognized in its revised deliberation No. 5 on deprivation of liberty of migrants, the right to personal liberty extends to all persons at all times, including migrants and asylum seekers, irrespective of their citizenship, nationality or migratory status (A/HRC/39/45, annex, para. 7). All detained migrants must have access to legal representation and interpreters.

2. Protective custody

65. Article 19 of Presidential Decree No. 220/2007 obliges the competent authorities to undertake all the necessary measures for the representation of unaccompanied minors. This entails informing the prosecutor for minors or, when there is no such prosecutor, the prosecutor at the local first-instance court, who acts as a temporary guardian. Moreover, Law No. 4554/2018, which entered into force on 1 March 2020, foresees that all unaccompanied minors in Greece are assigned a professional guardian. The process of hiring such guardians is ongoing. Interim arrangements include the participation of authorized representatives from NGOs as guardians. The Working Group encourages the relevant authorities to ensure that this process is completed as a matter of priority.

66. According to article 118 of Presidential Decree No. 141/1991, children can be placed under protective custody until they are referred to appropriate reception facilities or until they are reunited with the persons responsible for them. Protective custody does not always amount to detention but, in practice, it has mostly been implemented through the detention of children in pre-removal detention facilities or police stations. In some cases, children have been reportedly placed under protective custody in hospitals, also under the care or supervision of the police.

67. The number of children in protective custody remains high. According to data from the National Centre for Social Solidarity, as at 30 April 2020, there were 276 minors in protective custody. The Centre prioritizes unaccompanied minors in administrative detention for placement in alternative emergency accommodation or proper shelters. However, the Government points to the considerable lack of such accommodation for the purposes of covering the needs of all unaccompanied minors. The Working Group welcomes the recent increase in total capacity for the long-term accommodation of unaccompanied minors. By May 2020, while there was a total of 5,009 unaccompanied minors in the country, there were 1,699 places in long-term accommodation and 659 in short-term accommodation.

68. The Working Group confirmed the existing substantial burden on shelter facilities, which resulted in many unaccompanied children being held in protective custody, in unacceptable conditions, in facilities that were not appropriate for the detention of children, such as police stations and pre-removal facilities on the mainland. Although officials appeared to be providing the best support available in the circumstances, the Working Group noted that some children were held for prolonged periods, of more than two months, in conditions similar to those of criminal detention, especially in police stations. These children were held with adults, in dark cells, with no access to recreational or educational activities, and no information on what would happen to them, which appeared contrary to article 37 (c) of the Convention on the Rights of the Child. There is no maximum time limit on the period for which a child may be held in protective custody.

69. Furthermore, the Working Group was informed that the Public Prosecutor, as the authority responsible for the care and security of the children under protective custody, did not visit the children in the detention facilities.

70. The Working Group was also informed of the appointment of the National Coordinator for Unaccompanied Minors and was able to meet with her. The Coordinator was in a newly created position for which she was still developing a plan. The Working Group urges the authorities to ensure that the Coordinator has sufficient authority and resources to take effective action to protect children.

71. In February 2019, the European Court of Human Rights found that the automatic placement of unaccompanied asylum-seeking children under protective custody in police facilities, without taking into consideration the best interests of the child, violated article 5 (1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights).[7] The Working Group urges the Government to uphold its obligations under the Convention on the Rights of the Child and the European Convention on Human Rights by putting an end to the detention of children under protective custody in police stations or other facilities related to the criminal or immigration systems.

72. The Working Group invites the Government to prioritize the best interests of each child, and ensure that children who enter the country in an irregular manner are not detained and are placed in facilities appropriate to their age. As the Greek Ombudsman has observed, this could be achieved by transitioning to community-based care, foster care, supported independent living, and the gradual reduction of institutional structures. The Working Group welcomes the recent European Union initiative for the relocation of

[7] European Court of Human Rights, *Affaire H.A. et autres c. Grèce*, Application No. 19951/16, Judgment, 28 February 2019.

unaccompanied children from Greece, which led to the relocation of 59 children in April 2020.

3. Age assessment

73. According to article 14 (9) of Law No. 4375/2016, whenever there is doubt as to whether a third-country national or stateless person is a minor, an age assessment is undertaken and, until the assessment ruling is issued, the person is presumed to be a minor. According to article 6 of Joint Ministerial Decision No. 92490/2013, age assessment is to be conducted in three consecutive stages: clinical examination by a paediatrician; psychological and social expert evaluation; and medical examination of skeletal age. Article 6 (8) of the decision provides for procedural guarantees, including ensuring that the person is represented throughout the procedure, obtaining consent and ensuring that the primary consideration is the best interests of the child.

74. The Working Group notes that these provisions are not being applied in practice. At present, the police reportedly rely primarily on X-ray and dental examinations under the third step of the age-assessment procedure. Persons claiming to be children are not generally represented or informed of their rights in a language that they understand during the assessment. In order to challenge the outcome of the assessment, the person must submit an appeal to the secretariat of the reception and identification centre within 10 days of notification of the decision, which poses difficulties for persons who cannot access the relevant documentary proof of their age within such a short time frame.

75. Joint Ministerial Decision 1982/2016 on the age-assessment procedures initiated by the Asylum Service applies when there are serious doubts about the age of a person lodging an application for international protection, with similar provisions and procedural guarantees. A new joint decision is planned to be issued by the Minister of Migration and Asylum and the Minister of Health in order to adopt a common approach for age assessment in both the identification and the asylum procedures.

76. Minors are thus being detained unnecessarily owing to inaccurate assessment procedures, and are treated as and detained with adults. The Working Group recommends that the authorities consistently apply the guarantees outlined above, particularly the presumption that a person is a child unless the contrary can be proven. The Working Group reiterates the Greek Ombudsman's call to the Government in 2018 to put a complete end to all administrative detention of migrants under the age of 18 years.

4. Vulnerability assessment

77. Greek law does not prevent the detention of vulnerable individuals or groups. However, the law contains guarantees for such individuals. Under article 20 of Law No. 4636/2019 (as amended), vulnerable persons include minors, family members of victims of shipwrecks, persons with disabilities, older persons, pregnant women, single-parent families with minors, victims of trafficking, persons with severe health conditions, persons with intellectual or psychosocial disabilities or mental health conditions, victims of torture, rape or other severe forms of psychological, physical or sexual violence. The vulnerability of an individual must be assessed by the Reception and Identification Service prior to registration of an asylum application or during the asylum process, and is a factor in determining whether to detain or prolong detention.

78. According to article 46 (4) of Law No. 4636/2019, any relevant decision on a person's detention must be justified for each person.

79. The determination of vulnerability has been critical to the immigration and asylum procedures, at least until the entry into force of the new law on international protection, under which the vulnerability assessment is no longer associated with the type of asylum procedure to be followed. Before November 2019, if a person was determined to be part of a vulnerable group specified in the legislation, the geographical restriction to remain on the island at which he or she arrived or was registered was lifted, and the person could travel freely within Greece without risk of arrest. The consideration of asylum applications was also partially prioritized, for the most vulnerable groups.

80. Some of the vulnerable persons were detained in practice, however, and the Working Group was informed of cases in which individuals did not undergo proper identification of vulnerability and an individualized assessment prior to the issuance of a detention order. There were also delays after the time of arrival in conducting the vulnerability assessments, owing to understaffing and a lack of medical and psychosocial experts.

81. Under Law No. 4636/2019, individuals identified as belonging to a vulnerable group, as specified in the amended provision, are now subject to highly accelerated asylum procedures and their geographical restriction on the islands is not lifted before this is completed. The authorities are urged to ensure the prompt examination of applications from vulnerable individuals in practice.

5. Opportunity to challenge detention and removal decision

82. The authorities have pointed out that the right of foreign citizens to challenge detention in case of expulsion is provided for in article 76 of Law No. 3386/2005, a right that may be exercised at any time during detention.

83. Asylum applications are submitted to the Asylum Service in the first instance. If the application is rejected, the applicant may appeal the decision in the second instance before an independent appeals committee. An appeal must be lodged within five days, during border procedures. Legal aid is provided on appeal only and, if a person did not have his or her own lawyer during the initial first-instance hearing and given that the Asylum Service lawyers are unable to meet all demands, it is practically impossible to find a lawyer within the prescribed time in order to prepare for the appeal. Under article 92 (1) (c) of Law No. 4636/2019, the deadline for applications examined through the border procedures is 10 days after the notification of the first-instance decision.

84. The Working Group urges the Government to expand the availability of publicly-funded legal aid so that persons seeking international protection have access to legal advice at all stages of the process, from the moment of filing their application until a final determination is made.

85. Before the entry into force of Law No. 4636/2019, asylum seekers could lodge an application for annulment of the second-instance decision before the administrative court of appeal within 60 days of notification of the decision. However, the effectiveness of that legal remedy was undermined by a number of obstacles, including the fact that only a lawyer could file the application. Inadequate legal aid is provided for challenging a second-instance negative decision on an asylum application, and the capacity of NGOs to file this application is very limited given the number of persons in need of international protection. In addition, the application for annulment would not automatically suspend deportation, and there was no guarantee that the applicant would not be removed during lengthy delays in the court hearing the matter.

86. According to article 104 (4) of Law No. 4636/2019, any negative decision must not lead directly or indirectly to refoulement. The independent appeals committee examines the conditions for non-refoulement as specified in article 3 of the Convention against Torture, article 7 of the International Covenant on Civil and Political Rights, and articles 31 and 33 of the Convention relating to the Status of Refugees. In such a case, the independent appeals committee provides the individual with an attestation for non-removal on humanitarian grounds.

6. Pushbacks at the border between Greece and Turkey

87. The Working Group was informed that a number of persons newly arrived in the Evros region had been arrested, detained and summarily returned across the land border between Greece and Turkey without being given the opportunity to apply for international protection in Greece. In some cases, it was alleged that individuals had made previous attempts to cross the border, but had been forcibly removed to Turkey in each case. Pushback practices are not permitted under Greek law and are contrary to the right to seek asylum. The Working Group is therefore of the view that detention for this purpose has no legal basis. The Working Group urges the Government to promptly and fully investigate all

allegations of such pushbacks, including any acts of violence or ill-treatment that may have occurred during such incidents, and to ensure that such practices do not occur in future.

88. The Working Group was informed that the European Border and Coast Guard Agency offered an anonymous complaints mechanism. While the Government indicates that no complaints were made through this mechanism in 2019 for irregular pushbacks, the Working Group considers that it may be a useful means of ensuring that any allegations of pushbacks are received and investigated by the appropriate authorities.

7. Legislative amendments and the announced policy on migration

89. The Working Group notes the entry into force of Law No. 4636/2019 on 1 January 2020. The new provisions appear to introduce more restrictive procedures that may compromise the general legal principle that detention of asylum seekers is exceptional and should be resorted to only where provided for by law and where necessary to achieve a legitimate purpose.

90. According to article 46 of Law No. 4636/2019, persons applying for international protection may be detained, if necessary, regardless of whether they apply for asylum while in detention or not. In addition, as outlined above, the Asylum Service will no longer provide a recommendation regarding the detention to the police.

91. The Working Group also notes that the extension of the maximum detention period for asylum seekers from 3 months to 18 months, which may reach 36 months if added to immigration detention, appears to treat the detention of migrants and asylum seekers as the rule and not the exception. The Working Group is concerned that these provisions are not in accordance with the principles of proportionality, necessity and reasonableness, which should govern measures of deprivation of liberty in the context of migration to ensure that such detention is a measure of last resort.[8]

92. The Working Group is aware of the Government's plans to establish five new centres on the islands of the northern Aegean at the sea borders with Turkey to create more space to accommodate asylum seekers. It is unclear whether and to what extent these centres will be closed centres, meaning that residents are in effect deprived of their liberty. The Working Group received numerous allegations that the facilities, as created by the new law and in accordance with the Government's policy, will indeed be closed, as opposed to de facto open centres such as the existing reception and identification centres. The authorities have argued that the term "closed" means only that the entrance and exit of the centre will be controlled.

93. It is important to ensure that any new centres are open centres and do not reinforce the practice of detaining asylum seekers. However, the plans also reportedly include the creation of centres for unaccompanied minors staffed by doctors and psychologists, which may be a positive development if they are not closed centres.

C. Deprivation of liberty in the context of psychosocial disability and social care

94. The Working Group was informed that psychosocial disabilities are increasingly common as a result of the economic crisis in recent years. The Ministry of Health is prioritizing the deinstitutionalization of persons with psychosocial disabilities whenever possible, which is commendable and has resulted in community-based care being made available to more individuals. For example, Dromokaiteio Psychiatric Hospital in Attica provides hospices, boarding houses and supported-living apartments to allow persons to live independently in the community.

95. With regard to the care institution for children and young adults with disabilities in Lechaina, the Working Group encourages the Government to continue with the deinstitutionalization process and to provide it with sufficient resources and personnel to

[8] Revised deliberation No. 5, paras. 12–13.

enable the institution to fully comply with the Convention on the Rights of Persons with Disabilities.

96. However, psychiatric clinics and units within hospitals continue to receive many involuntary admissions; indeed, approximately 60 per cent of admissions to Dromokaiteio Psychiatric Hospital are involuntary. According to the Ministry of Health, out of a total 21,500 cases of psychiatric hospitalization in 2018, 8,300 were involuntary commitments.

97. The procedure for involuntary admission is problematic in several respects, including the fact that police officers are frequently required, by order of the Public Prosecutor, to arrest persons who have been reported by relatives or neighbours to have a psychosocial disability, rather than the detention being carried out by appropriately qualified medical personnel. Additionally, according to Law No. 2071/1992, following an assessment of the mental health of such individuals, a court must consider the involuntary admission within 10 days. However, lengthy delays are reportedly common, and when the matter is heard, the proceedings are usually not conducted in the presence of the individual concerned or of his or her legal counsel. Lastly, while involuntarily admitted individuals are given a statement of their rights upon admission, they frequently do not have access to a lawyer to challenge their mental health assessment, either because they do not have the capacity to contact legal counsel themselves or because they are unaware of or unable to understand this right.

98. A draft law is currently being developed in relation to the deprivation of liberty of persons with psychosocial disabilities, and the Working Group urges the Government to address these issues as part of the development of that legislation. Such reforms could include the automatic release of involuntarily admitted individuals if their case cannot be reviewed by the courts within the statutory deadline of 10 days, and ensuring that a guardian is appointed in cases where the individual does not have the capacity to represent him or herself or is unable to seek the assistance of a lawyer.

99. Reportedly, some individuals are detained involuntarily for prolonged periods, in some cases for years. This is often because the individuals have no family or other community support. While this can be a means of providing care, such cases must remain under regular review by the courts so that involuntary admission does not become indefinite deprivation of liberty against the will of the individual concerned.

100. Lastly, the Working Group was informed that the legal basis for the involuntary admission of persons with psychosocial disabilities to private clinics was unclear owing to the absence of a ministerial decision covering private facilities. It is important that this gap in the law is addressed promptly, given the increasing use of private clinics. The Ministry of Health should also conduct regular visits to all places where persons with psychosocial disabilities are held to monitor the length and conditions of involuntary admission and to bring cases that may amount to arbitrary deprivation of liberty to the attention of the Public Prosecutor and the courts. In this regard, the Working Group urges the authorities to visit the Athina Vrilissia Psychiatric Clinic as a matter of priority to ensure that the conditions in which persons are housed are significantly improved, and that the length of time of all admissions is closely monitored.

V. Conclusions

101. **The Working Group commends the Government for its willingness to submit itself to scrutiny through the visit, and considers that the findings in the present report will support the Government in addressing situations of arbitrary deprivation of liberty.**

102. **Positive changes are being made across Greece in relation to the deprivation of liberty, including the ratification of the Optional Protocol to the Convention against Torture, the designation of the Greek Ombudsman as the national preventive mechanism, the introduction of alternatives to detention into legislation, and the use of provisions allowing for early release.**

103. **However, problems within the criminal justice system place defendants at risk of arbitrary detention, namely:**

(a) **While individuals are normally presented before the Public Prosecutor within 24 hours of arrest, such presentation before the prosecutorial authorities cannot be equated with presentation before a judge as required under article 9 (3) of the International Covenant on Civil and Political Rights;**

(b) **The use of pretrial detention is widespread, as individual assessment of whether detention is necessary and proportionate does not take place in practice. Pretrial detainees and convicted persons are not held separately, contrary to article 10 (2) (a) of the Covenant and rule 11 (b) of the Nelson Mandela Rules;**

(c) **There have been instances of failure to respect the right to the presumption of innocence, contrary to article 14 (2) of the Covenant, in which non-nationals in pretrial detention were detained exclusively on the basis of police testimony, including when other evidence was available;**

(d) **There has been an inability to universally guarantee the right to legal assistance, including legal aid, as detainees accused of misdemeanours have not always been informed of this right;**

(e) **There have been significant challenges in providing interpretation to foreign nationals, resulting in difficulty guaranteeing that anyone who is arrested is informed in a language that he or she understands of the reasons for the arrest, and is promptly informed of any charges, in accordance with articles 9 (2) and 14 (3) (a) of the Covenant;**

(f) **Short trials have been held, giving rise to potential breaches of article 14 (1) and (3) (b) and (d) of the Covenant, under which the accused person should be given adequate time to be heard;**

(g) **Conditions of detention, including overcrowding, at facilities related to the criminal justice system do not generally meet international standards, which may affect a detainee's ability to participate in criminal proceedings and to present an effective defence. In some facilities, the conditions of detention appeared to be better for Greek nationals than for foreign nationals;**

(h) **There is a general lack of awareness among detainees as to how to submit a complaint in relation to their detention and the conditions in which they are held, and few visits, if any, are conducted by relevant monitoring mechanisms.**

104. **Challenges with regard to respecting international human rights standards in the current context of mass migration include lack of information for detainees on their right to apply for international protection or on the procedural stages involved in seeking asylum, unaccompanied minors being held in protective custody in inappropriate facilities, deficiencies in the practical application of age- and vulnerability-assessment procedures, obstacles to the remedy of challenging detention and removal decisions, and allegations of pushbacks in the Evros region.**

105. **In relation to the full entry into force on 1 January 2020 of Law No. 4636/2019, the Working Group notes that the new provisions appear to introduce more restrictive procedures that may compromise the general legal principle that detention of asylum seekers is exceptional.**

106. **While there is an ongoing commitment to prioritizing the deinstitutionalization of persons with psychosocial disabilities, the procedure for involuntary admission is problematic, as the arrest is frequently carried out by the police rather than by qualified medical personnel. Frequent delays in consideration of involuntary admissions by the courts and lack of access to a lawyer to challenge mental health assessments were also identified. The legal basis for the involuntary admission of persons with psychosocial disabilities to private clinics is unclear owing to the absence of a ministerial decision covering private facilities.**

VI. Recommendations

107. **The Working Group recommends that the State become a State party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

108. **The Working Group recommends that the Government take the following measures in building upon its positive initiatives to address the arbitrary deprivation of liberty:**

(a) **Support the Greek Ombudsman – the national preventive mechanism – to enable visits in a more regular manner to all places of deprivation of liberty across the country, and engage with it on the implementation of its recommendations;**

(b) **Implement provisions allowing for alternatives to detention and non-custodial measures, including Law No. 4619/2019;**

(c) **Continue to extend the provisions for early release as much as possible, ensuring that all those who work as part of such schemes are paid for their labour.**

109. **The Working Group recommends that the Government take the following measures in relation to the criminal justice system:**

(a) **Ensure that all persons arrested or detained on a criminal charge are brought before a judicial authority, rather than the Public Prosecutor, within 48 hours, in compliance with article 9 (3) of the International Covenant on Civil and Political Rights;**

(b) **Seek non-custodial measures whenever possible and ensure that persons detained pending trial are separated from convicted persons and are not treated as though they were convicted persons;**

(c) **Ensure the presumption of innocence and fair consideration of all available evidence when making decisions to detain, regardless of the nationality of the accused;**

(d) **Extend the right to legal assistance to all detainees, including those accused of misdemeanours, and promptly inform them upon apprehension about the right to legal assistance, including immediately after the moment of apprehension;**

(e) **Provide interpretation services to all persons deprived of their liberty;**

(f) **Provide the accused with adequate time to present a defence and to address the court, taking into account the nature and complexity of the alleged criminal offence;**

(g) **Address overcrowding in detention facilities by reducing the use of pretrial detention, establishing new, separate facilities for pretrial detainees and implementing alternative measures to detention;**

(h) **Address unsatisfactory conditions of detention and health services, and the reportedly unequal treatment of Greek and other nationals;**

(i) **Provide information to detainees on how to lodge complaints, including by establishing a reporting hotline and publicly displaying information on the complaints procedure while taking into account the confidentiality of complaints, and by providing sufficient funding for regular and independent monitoring of places of detention.**

110. **The Working Group recommends that the Government take the following measures in relation to the deprivation of liberty in the context of migration:**

(a) **Ensure that detention of asylum seekers is applied exceptionally and as provided for by law, and that alternatives to detention are considered; that asylum**

applications are registered and examined on time; and that persons are not detained in cases in which there is no reasonable prospect of return;

(b) **Give full effect to the right to seek asylum by:**

(i) **Ensuring that no foreign citizen in detention who has applied for international protection may be returned until the application has been examined;**

(ii) **In consultation with civil society and other organizations (for example, bar associations), providing legal aid during the first-instance asylum application, as well as interpretation services;**

(iii) **Ensuring that representatives from the Asylum Service visit detention centres to assist those detained on criminal charges who are also applying for asylum; in addition, ensuring that criminal charges do not affect the determination of an asylum claim, consistent with the presumption of innocence;**

(c) **Address, as a matter of urgency, the situation of unaccompanied minors who enter Greece in an irregular manner by:**

(i) **Assigning a professional guardian to every unaccompanied minor, in accordance with Law No. 4554/2018;**

(ii) **Ending the detention of children under the protective custody scheme in police stations or other facilities and ensuring that unaccompanied minors are transitioned to community-based care, foster care, supported independent living, and the gradual reduction of institutional structures;**

(iii) **Until the situation can be completely addressed, continuing to prioritize the placement of unaccompanied minors in emergency accommodation or shelters, which must be regularly visited by the Public Prosecutor;**

(iv) **Uniformly applying the provisions of Law No. 4375/2016 and Joint Ministerial Decision No. 92490/2013 regarding age-assessment procedures, particularly the presumption that a person is a child unless the contrary can be proven;**

(v) **Ceasing all administrative detention of migrants under the age of 18 years;**

(d) **Conduct a thorough assessment of vulnerability prior to the issuance of a detention order during immigration and asylum procedures, prioritizing the hiring of staff to minimize delays after the time of arrival in conducting such assessment;**

(e) **Provide sufficient opportunities to challenge detention and removal decisions, including by expanding access to legal representation during the first-instance hearing of asylum applications, extending the deadline for appealing first-instance rejection of asylum applications, and ensuring that all avenues for such challenges suspend the possibility of deportation until a final determination is made;**

(f) **Promptly and fully investigate all allegations of pushbacks, including any acts of violence or ill-treatment that may have occurred during such incidents, and ensure that such practices do not occur in future.**

111. **The Working Group recommends that the Government take the following measures in relation to the deprivation of liberty in the context of psychosocial disability and social care:**

(a) **Continue to prioritize deinstitutionalization whenever possible, making greater use, in appropriate cases, of community-based care;**

(b) **With regard to the care institution for children and young adults with disabilities in Lechaina, continue with the deinstitutionalization process and provide it with sufficient resources and personnel, in compliance with the Convention on the Rights of Persons with Disabilities;**

(c) **Ensure that draft legislation addresses the problems identified in the involuntary admission of persons, including introducing a requirement for the automatic release of involuntarily admitted individuals if their case cannot be reviewed by the courts within 10 days, and ensuring that a guardian is appointed in cases where an individual does not have the capacity to represent him- or herself or is unable to seek the assistance of a lawyer;**

(d) **Ensure that admissions to all psychiatric institutions remain under regular review by the Public Prosecutor and the courts to avoid indefinite deprivation of liberty against the will of the individual concerned;**

(e) **Introduce legislation to provide a legal basis for the involuntary admission of persons with psychosocial disabilities to private clinics, and ensure that the Ministry of Health conducts regular visits to all places where persons with psychosocial disabilities are held in order to monitor the length and conditions of involuntary admission.**

Appendix

Detention facilities visited

The Working Group visited 21 places of deprivation of liberty, including prisons and a prison hospital, police stations; pre-removal detention centres; Hellenic Coast Guard detention centres; a special detention establishment for youth; psychiatric hospitals.

Attica, including Athens, and Peloponnese regions

Amygdaleza pre-removal centre

Drapetsona police station

Dromokaiteio Psychiatric Hospital

Tavros pre-removal detention centre

Korydallos Prison I and II

Korydallos Prison Hospital

"Athina Vrilissia" Psychiatric Clinic

Lechaina care institution for children and young adults with disabilities

Hellenic Coast Guard detention centre in Piraeus

Island of Kos

Pili pre-removal detention centre

Kos detention establishment

Police station in Kos

Hellenic Coast Guard detention centre

Thessalonniki

Thessaloniki Sub-Directorate for Transit Detention of Criminal Cases & Guard Department of Aliens' Police

Diavata Prison

Police Station of White Tower

Police Directorate of Thessaloniki – Aliens' Department/Migration Department of Mygdonia

Eastern Macedonia and Thrace

Xanthi pre-removal detention facility

Paranesti (Drama) Pre-Removal Centre

Iasmos border police station

Ferres border police station