



HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

Neofytou Vamva 6 (3rd floor), GR 106 74 Athens, Greece, Tel: +30 210 7233221-2;
Fax: +30 210 7233217; E-mail: info@nchr.gr, Website: www.nchr.gr

REPORT

on the EU-Turkey Agreement of the 18th of March 2016

regarding the refugee/migration issue in Europe in light of Greek Law No. 4375/2016

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

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**Report by the Greek National Commission on Human Rights (GNCHR)
on the EU-Turkey Agreement of the 18th of March 2016 regarding the refugee/migration
issue in Europe in light of Greek Law No. 4375/2016¹**

I. Introduction

The Greek National Commission for Human Rights (hereinafter “GNCHR”), the independent advisory body to the Greek State specialised in human rights issues, in accordance with the powers conferred to it by its founding law, has a mandate to monitor the protection of human rights in the Greek legal order; raise public awareness; take initiatives; examine the compliance of Greek legislation with international human rights standards and submit advisory opinions to the competent organs of the Greek State. Moreover, there has been a clear commitment on the occasion of the recent Belgrade Declaration of 25.11.2015 among National Human Rights Institutions to condemn and publicly oppose the violation of the rights of migrants and refugees.²

The GNCHR attaches great importance to the protection of refugees and asylum seekers and has adopted a number of relevant decisions and recommendations, while closely monitoring the level of international protection in Greece. On March 16, 2016, the GNCHR issued a Statement on the serious dimensions that the refugee/migration issue has taken in Greece.³ In this Statement, the GNCHR pointed out some very important issues that should have been taken into account before the conclusion of the EU-Turkey Agreement. In particular, the GNCHR reiterated the need for immediate coordination for the best possible management of the refugee and migration crisis while calling the Greek State, the UN, all the EU Member States, the EU institutions and all international organizations concerned to take all necessary measures for the protection of human

¹ Rapporteurs: Angeliki Chrysochoidou – Argyropoulou, First Vice-President of the GNCHR and Anna Eirini Baka, PhD, Legal Officer at the GNCHR.

² Ombudsman/National Human Rights Institutions Declaration on the Protection and Promotion of the Rights of Refugees and Migrants, “5. Condemn and oppose publicly the violation of migrants’ or refugees’ rights and encourage the spirit of tolerance and compassion for refugees and migrants, including ensuring their protection in reception centres and other accommodation facilities.”
http://www.nchr.gr/images/pdf/nea_epikairohta/belgrade_declaration_en.pdf

³ The GNCHR Statement regarding the serious dimensions that the refugee/migration problem has taken in Greece, 16.3.2016, http://nchr.gr/images/English_Site/PROSFYGES/GNCHR_Statement_Refugee_Crisis.pdf

life, health and safety of *all* people living in Greece, and the effective management, in conditions of dignity, of the migratory flows towards the EU.

II. The content of the Agreement

On March 18, 2016 the EU finally concluded an Agreement with Turkey (hereinafter “the Agreement”),⁴ which, among others, includes the following key-points:

- All “irregular migrants”⁵ arriving from Turkey to Greece after March 20, 2016 will be returned to Turkey on the basis of a bilateral agreement to be concluded between Greece and Turkey; Persons not submitting an asylum application or whose application is considered unfounded or inadmissible will be returned to Turkey;
- Greece and Turkey, with the assistance of the European Institutions, will conclude all necessary bilateral agreements, including the one providing for the presence of Turkish officers on Greek islands and Greek officers in Turkey from March 20 onwards, in order to facilitate the implementation of all these agreements;
- For every Syrian who will return to Turkey from the Greek islands, a Syrian will be relocated from Turkey to the EU. For the implementation of the “one-for-one” principle a relevant mechanism will be set up in cooperation with the European Commission, European agencies and the Member States and will enter into force on the first day of returns;
- Priority for resettlement in the EU have Syrians from Turkey and not from Greece, since the EU gives priority to migrants who have not previously entered, or attempted to enter, the EU;⁶
- Under the resettlement mechanism it should be recalled that 18,000 places in EU Member states remain to be allocated under the Agreement of the European Council of July 20, 2015.⁷

⁴ European Council, Foreign Affairs & International Relations, 18.3.2016, <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>

⁵ The Report uses the terminology of the Agreement.

⁶ “For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria. A mechanism will be established, with the assistance of the Commission, EU agencies and other Member States, as well as the UNHCR, to ensure that this principle will be implemented as from the same day the returns start. *Priority will be given to migrants who have not previously entered or tried to enter the EU irregularly.*”

⁷ Βλ. Justice and Home Affairs Council, 20.7.2015, <http://www.consilium.europa.eu/en/meetings/jha/2015/07/20/> και http://europa.eu/rapid/press-release_STATEMENT-15-5697_en.htm

The new Agreement provides for additional 54,000 places (at maximum) throughout the European territory. It is therefore foreseen that a maximum of 72,000 Syrian refugees will resettle from Turkey to the EU. The European Commission proposes an offsetting of this figure with previously unallocated resettlement places under the Agreement of 22 September 2015 (i.e. 120,000 resettlement places from Greece, Italy and Hungary within a period of two years).⁸ Should these arrangements not meet the objective of ending the irregular migration and the number of returns come close to the numbers provided for above, this mechanism will be reviewed. Should the number of returns exceed the numbers provided for above, this mechanism will be discontinued;

- Turkey will take any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU, and will cooperate with neighbouring states as well as the EU to this effect;
- Once irregular crossings between Turkey and the EU end or at least are substantially and sustainably reduced, a Voluntary Humanitarian Admission Scheme will be activated. EU Member States will contribute on a voluntary basis to this scheme;
- The EU, in close cooperation with Turkey, will further speed up the disbursement of the initially allocated 3 billion Euros for the management of the refugee problem in Turkey. Once these resources are about to be used to the full, and provided the above commitments are met, the EU will mobilize an additional 3 billion Euros up to the end of 2018 if needed.
- The EU and its Member States will work with Turkey in any joint endeavour to improve the humanitarian conditions inside Syria, in particular in certain areas near the Turkish borders, which would allow for the local population and refugees to live in areas which will be safer. It is therefore a clearly expressed intention of the EU and Turkey to formulate, eventually, a policy of return of refugees to Syria.⁹

A supplementary note (Fact Sheet) to the Agreement of March 18 between EU and Turkey has been released by the European Commission.¹⁰ The note, which is of questionable

⁸ Justice and Home Affairs Council, 22.9.2015, <http://www.consilium.europa.eu/en/meetings/jha/2015/09/22/>

⁹ “The EU and its Member States will work with Turkey in any joint endeavour to improve humanitarian conditions inside Syria, in particular in certain areas near the Turkish border which would allow for the local population and refugees to live in areas which will be more safe.”

¹⁰ European Commission, Factsheet on the EU-Turkey Agreement, 19.3.2016, http://europa.eu/rapid/press-release_MEMO-16-963_en.htm.

bindingness and legal value, contains the following additional information regarding the implementation of the Agreement:

- There is an indirect but clearly expressed possibility that Turkey be declared a safe third country, in which case the asylum applications in Greece will be considered inadmissible and asylum seekers will be subsequently returned to Turkey.¹¹ This is further supported by the recent Communication from the Commission to the European Parliament and the Council on the State of Play of Implementation of the Priority Actions under the European Agenda on Migration, which expressly states that the concept of safe third country, as defined by the Directive on asylum procedures, does not imply the absence of reservations and geographical limitations regarding the implementation of the Geneva Convention, but merely the *ability* to receive protection in accordance with the Geneva Convention.¹²

- All “irregular migrants” will be held in closed detention centers. Asylum seekers will be accommodated in open reception centers.

- Member States agreed to assist Greece in dealing with asylum matters, particularly the staffing of the first instance and the appeals committees. Regarding the first instance there is a provision for 200 staff from Greece, 400 experts from other EU Member States and 400 interpreters, while for the appeals process 10 Appeals Committees are foreseen, made up of 30 members from Greece as well as 30 judges with expertise in asylum law from other Member States and 30 interpreters.

- There is provision for the creation of 20,000 temporary shelters on the Greek islands.

¹¹“On what legal basis will asylum seekers be returned from the Greek islands of Turkey? People who apply for asylum in Greece will have their applications treated on a case by case basis, in line with EU and international law requirements and the principle of non-refoulement. There will be individual interviews, individual assessments and rights of appeal. There will be no blanket and no automatic returns of asylum seekers. The EU asylum rules allow Member States in certain clearly defined circumstances to declare an application “inadmissible”, that is to say, to reject the application without examining the substance. There are two legal possibilities that could be envisaged for declaring asylum applications inadmissible, in relation to Turkey:1) first country of asylum (Article 35 of the Asylum Procedures Directive): where the person has been already recognised as a refugee in that country or otherwise enjoys sufficient protection there; 2) safe third country (Article 38 of the Asylum Procedures Directive): where the person has not already received protection in the third country but the third country can guarantee effective access to protection to the readmitted person. ”

¹² “In this context, the Commission underlines that the concept of safe third country as defined in the Asylum Procedures Directive³⁹ requires that the possibility exists to receive protection in accordance with the Geneva Convention, but does not require that the safe third country has ratified that Convention without geographical reservation. Moreover, as regards the question whether there is a connection with the third country in question, and whether it is therefore reasonable for the applicant to go to that country, it can also be taken into account whether the applicant has transited through the safe third country in question, or whether the third country is geographically close to the country of origin of the applicant. ” Communication from the Commission to the European Parliament and the Council on the State of Play of Implementation of the Priority Actions under the European Agenda on Migration, 10.2.2016, COM (2016) 85 final, p. 18.

- By decision of Jean Claude Juncker, Mr Maarten Verwey will work to the EU coordinator for the implementation of the Agreement with Turkey. Mr Verwey has been in Greece since October 2015 and will cooperate with the Greek authorities.

III. Legal framework and concerns of the GNCHR regarding the implementation of the Agreement in the light of Greek Law No. 4375/2016

According to the Agreement, the implementation will be in harmony with European and international law and particularly the principle of non-refoulement and the individual assessment of asylum claims. There is, furthermore, the assurance that there will be individual interviews and individual assessment of asylum applications while all asylum seekers will have a right to appeal. It is stated that the Agreement constitutes an exceptional measure for the protection of the European public order and that, in any case, special attention shall be given to applications of irregular migrants/asylum seekers having family members in other EU Member States, in which case the Dublin system still applies.

That said, the GNCHR cautions that that the Agreement contains several ambiguities and gaps that can cause interpretative as well as practical problems. The GNCHR expresses its deep concern regarding the content of the Agreement and particularly the manner in which the latter will be implemented. In particular, the GNCHR wishes to draw attention to the following points:

1. The provision that only Syrians will be treated as refugees by the EU as well as the agreement on a maximum number of refugees who will be able to resettle in the EU constitutes a direct violation of the 1951 Geneva Convention.

2. The principle "one-for-one" is equally problematic, despite the formal declaration that the latter will respect the principle of non-refoulement and the individual assessment of asylum claims. In this regard, one must recall that according to the agreed resettlement terms, Turkey is bound to accept a particular number of Syrians as refugees. The question, therefore, immediately arises as to how Greece could possibly consider Turkey to be a safe third country, since it is known that the latter applies such qualitative and quantitative limitations, and also given the fact that the number of refugees in Turkey counts millions. It is notable that the Agreement also

creates an ‘atypical competition’ among Syrians whose chances for resettlement increase when their compatriots fail to enter the EU.

3. Possible characterization of Turkey as safe third country also collides with the Turkish geographical limitation to the ratification of the 1951 Geneva Convention (under which Turkey grants asylum only to people coming from Europe),¹³ as well as the European *acquis* and in particular Article 38 of 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 reads that “Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking international protection will be treated in accordance with the following principles in the third country concerned...(e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.”¹⁴

4. The supplementary note of the European Commission states that Member States will contribute to the recruitment and staffing of the asylum service and the Appeals Committees. It is worth noting, in this respect, that new Greek Law No. 4375/2016 (Government Gazette A51/04.03.2016) on the “Organization and Operation of the Asylum Service, the Office of the Appeals Committees, the Office of Reception and Identification; Creation of a General Secretariat of Reception; adaptation of Greek legislation to the provisions of 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 (recast)” does not provide for

¹³ The Turkish reservation (geographical limitation) to the 1951 Geneva Convention and particularly the Protocol Relating to the Status of Refugees of 31 January 1967 reads: “The instrument of accession stipulates that the Government of Turkey maintains the provisions of the declaration made under section B of article 1 of the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, according to which it applies the Convention only to persons who have become refugees as a result of events occurring in Europe, and also the reservation clause made upon ratification of the Convention to the effect that no provision of this Convention may be interpreted as granting to refugees greater rights than those accorded to Turkish citizens in Turkey.” https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-5&chapter=5&lang=en#EndDec

¹⁴ 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, OJ L 180, 29.6.2013, p. 60–95. In particular, Article 38 on the Concept of safe third country reads: “1. Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking international protection will be treated in accordance with the following principles in the third country concerned: (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion; (b) there is no risk of serious harm as defined in Directive 2011/95/EU; (c) the principle of non-refoulement in accordance with the Geneva Convention is respected; (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and (e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.”

the participation of European experts and magistrates in the new Asylum Service and the Appeals Committees, a scenario which would, in any case, have raised serious constitutional questions (the exercise of public authority by Non-Greeks is forbidden under the Greek Constitution).¹⁵ In particular, article 72, para 5, of Law No. 4375/2016 dictates that “in order to meet exceptional and urgent needs... and notwithstanding any contrary provision in Greek legislation, it is possible to place or employ citizens of Member States of the European Union and citizens working in international or European organizations under short-term private contracts. *The tasks entrusted to the staff of the previous section, may not include the exercise of public authority, such as the issuing of administrative acts.* In any case, the staff of this paragraph shall be obliged to follow and execute the instructions of the competent service.”

5. Several questions arise as regards the involvement of the UNHCR and non-governmental organizations (NGOs) in the hotspots and the return procedures to the extent that the latter have already begun to partly withdraw from the hotspots, due to the living conditions therein as well as their objections to the Agreement –particularly the *de facto* conversion of certain hotspots into detention centres. It is essential to clarify the contribution and involvement, from this moment on, of both the UNHCR and the NGOs. In this regard, it is recalled that Law No. 4375/2016 “institutionalizes” the involvement of the UNHCR and the NGOs in the reception and identification processes. The Law specifically states that “in order to ensure the effective operation of the Reception and Identification Office and the Temporary Hospitality Structures, the handling of certain responsibilities, except for those involving the exercise of public authority such as the issuing administrative acts, may be assigned for a defined period of time to Civil Society Organizations meeting the required quality standards, or public bodies such as publicly supervised private entities. The above assignment shall be made by means of program contracts signed between the Reception and Identification Office and interested stakeholders. The concrete process; criteria; specific terms; content and all other related details referring to the selection of the implementing agency will be identified in the relevant call for expression which will issued by the Director of the Reception and Identification Office.” For reasons of

¹⁵ The implementation of the agreement will require huge operational efforts from all involved, and most of all from Greece. EU Member States agreed to provide Greece at short notice with the necessary means, including border guards, asylum experts and interpreters. The Commission estimates that Greece will need: Around 4,000 staff from Greece, Member States, the European Asylum Support Office (EASO) and FRONTEX; For the asylum process: 200 Greek asylum service case workers, 400 asylum experts from other Member States deployed by EASO and 400 interpreters; For the appeals process: 10 Appeals Committees made up of 30 members from Greece as well as 30 judges with expertise in asylum law from other Member States and 30 interpreters; For the return process: 25 Greek readmission officers, 250 Greek police officers as well as 50 return experts deployed by Frontex. 1,500 police officers seconded on the basis of bilateral police cooperation arrangements (costs covered by FRONTEX).

transparency and in view of the critical importance of the said project-contracts, the technical specifications and standards as well as the particular selection criteria must be made public. In addition, the competent Greek authorities must set up and ensure the effective and continuous operation of a supervising mechanism, monitoring the effective implementation of the said project-contracts.

6. There are huge problems as regard the living conditions of refugees/migrants/asylum seekers who are already in Greece. The Government appears to be absent and any special care provided to them, especially to vulnerable groups, comes from NGOs and volunteers. In this regard, it should be recalled that Greece has already been condemned by the ECtHR for violating Article 3 of the ECHR (prohibition of torture, inhuman and degrading treatment) in the *M.S.S. vs Belgium and Greece*.¹⁶

7. Moreover, it is not yet clear how the mechanism and asylum procedure, as described in the Agreement and the European Commission's supplementary note, will be implemented. The GNCHR is also concerned about the application of Law No. 4375/2016 which provides for extremely short deadlines for the process of asylum applications at the Greek borders (first and second instance).¹⁷ Operationally, the Law provides for complex and lengthy procedures, which require special coordination among the various stakeholders. Besides, the large number of Ministerial Decisions and Presidential Decrees that are provided in the Law for the finalization, at some later point, of the foreseen structures and procedures (Article 7 of the Law No.

¹⁶ *M.S.S. v. Belgium and Greece* [GC], No. 30696/09, 01/09/2012, particularly paras 233-4 και 263-4. "In the contrary, in the light of the available information on the conditions at the holding centre next to Athens International Airport, the Court considers that the conditions of detention experienced by the applicant were unacceptable. It considers that, taken together, the feeling of arbitrariness and the feeling of inferiority and anxiety often associated with it, as well as the profound effect such conditions of detention indubitably have on a person's dignity, constitute degrading treatment contrary to Article 3 of the Convention. In addition, the applicant's distress was accentuated by the vulnerability inherent in his situation as an asylumseeker. 234. There has therefore been a violation of Article 3 of the Convention. ... In the light of the above and in view of the obligations incumbent on the Greek authorities under the Reception Directive... the Court considers that the Greek authorities have not had due regard to the applicant's vulnerability as an asylum-seeker and must be held responsible, **because of their inaction, for the situation in which he has found himself for several months, living on the street, with no resources or access to sanitary facilities, and without any means of providing for his essential needs. The Court considers that the applicant has been the victim of humiliating treatment showing a lack of respect for his dignity and that this situation has, without doubt, aroused in him feelings of fear, anguish or inferiority capable of inducing desperation. It considers that such living conditions, combined with the prolonged uncertainty in which he has remained and the total lack of any prospects of his situation improving, have attained the level of severity required to fall within the scope of Article 3 of the Convention. 264. It follows that, through the fault of the authorities, the applicant has found himself in a situation incompatible with Article 3 of the Convention. Accordingly, there has been a violation of that provision.** "

¹⁷ Article 60 entitled "Procedures at the Borders".

4375/2016) appears to be incompatible with the social and humanitarian emergency to which the Law is called to respond. For as long as these Ministerial Decisions and Presidential Decrees are pending, the GNCHR is of the view that jurisdictional conflicts and practical obstacles to the rapid and smooth functioning of the Asylum Service are likely to arise.

8. There are several gaps in the mandate and activity in Greece of the European coordinator, Mr. Maarten Verwey. For reasons of transparency, the concrete mandate, activity and operational context within which Mr Verwey cooperates with the Greek authorities should become clearly defined and made known. The Greek law No. 4375/2016 stipulates that “European agencies such as the European Asylum Support Office and the European Agency for the Management of Operational Cooperation at the External Borders of the EU may provide assistance to the reception and identification procedures in accordance with their competences...The United Nations High Commissioner for Refugees and the International Organization for Migration may monitor the above procedures, provide information during the reception and identification processes and, generally, provide any other assistance needed, depending on the mandate and responsibilities of each organization. *The concrete cooperation terms of the preceding paragraphs are regulated by Memoranda of Understanding which are concluded between the Reception and Identification Office and the aforementioned entities.*” The GNCHR stresses that the content of these Memoranda must be made known. The extent and purpose of the presence of Turkish officers in the hotspots of Greek islands should also be clarified.

IV. Concluding observations and recommendations to the EU and the Greek State

To conclude, the GNCHR has some very serious reservations about the content of the EU-Turkey Agreement; we are in fact witnessing an outright reversal of values at the European level in the field of human rights.¹⁸ The GNCHR evokes for the umpteenth time fundamental international and European human rights instruments, in particular the EU Charter of Fundamental Rights and most notably Article 18 thereof; the 1951 Geneva Convention; the

¹⁸ See also Report to the Committee on Migration, Refugees and Displaced Persons “The situation of refugees and migrants under the EU-Turkey Agreement of 18 March 2016, Rapporteur: Ms Tineke STRIK, Doc. 14028/ 19.04.2016 <http://semanticpace.net/tools/pdf.aspx?doc=aHR0cDovL2Fzc2VtYmx5LmNvZS5pbmQvbnVlG1sL1hSZWYvWDJILURXLWV4dHIuYXNwP2ZpbGVpZD0yMjYxMiZsYW5nPUVO&xsl=aHR0cDovL3NlbWFudGljcGFjZS5uZXQvWHNsdC9QZGYvWFJZi1XRC1BVC1YTUwyUERGLnhzbA==&xsltparams=ZmlsZWlkPTIyNjEy>

Protocol Relating to the Status of Refugees of 31 January 1967; Resolution 1821 (2011) of the Parliamentary Assembly of the Council of Europe on the interception and rescue at sea of asylum seekers, refugees and irregular migrants, and recalls that the right of access to asylum and the prohibition of refoulement constitute fundamental pillars of the Refugee Law and the Universal Principles of human rights' protection upon which the international and European communities have been built.

Moreover, there are serious doubts about the way in which the Agreement will be implemented in the Greek legal order. In particular, the GNCHR expresses the fear that the Agreement creates a legal *fait accompli* and Greece will be held responsible for any implementation problems that might arise, while there is also a pending case before the Grand Chamber of ECtHR regarding the interpretation of the level of protection provided under Article 3 of the ECHR.¹⁹ The verdict of the Grand Chamber will have direct and very serious consequences for Greece, should the argument be attained that the protection of Article 3 cannot be restricted due to exceptional circumstances created either by the increased refugee and migration flows, or the special conditions on the islands.

The questions raised are therefore many and multifaceted. The new Greek Law No. 4375/2016 is considered a positive step forward to the extent that a) it enhances the institutional and functional capacity of the Reception and Identification Office through the creation of a central office, several regional offices as well as various open reception and accommodation structures, b) adds a new and very important competence to the Reception and Identification Office, i.e. the identification of vulnerable groups, c) recognizes, for the first time in the Greek legal order, the status of stateless persons (the absence of this provision constituted a serious legal shortcoming for this vulnerable category), d) transposes fully 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, and e) recognizes to asylum seekers, beneficiaries of

¹⁹ 127. La Cour ne sous-estime pas les problèmes que rencontrent les États contractants lors de vagues d'immigration exceptionnelles comme celle à l'origine de la présente affaire. Elle est également consciente de la multitude d'obligations qui pesaient sur les autorités italiennes, contraintes de prendre des mesures pour garantir, à la fois, le sauvetage en mer, la santé et l'accueil des migrants et le maintien de l'ordre public sur une île habitée par une communauté de population restreinte. 128. Ces facteurs ne peuvent cependant pas exonérer l'État défendeur de son obligation de garantir que toute personne qui, comme les requérants, vient à être privée de sa liberté puisse jouir de conditions compatibles avec le respect de sa dignité humaine. [...] *Khlaifia and others v. Italy* [referred to the GC], No. 16483/12, 01/02/2016.

international protection and holders of a residence permit for humanitarian reasons, the right of access to the labor market. However, the Law also raises some issues of feasibility and compatibility with the Agreement of the 18th of March between EU and Turkey.

For all the above reasons, the GNCHR calls upon the Greek State, the UN, the EU institutions, all EU Member States and all the international organizations involved, in a spirit of responsibility, solidarity and sincere cooperation, to take all appropriate measures with a view to ensuring:

- the observance of the principle of non-refoulement;
- the unhindered, timely and effective access of asylum seekers to the international protection processes;
- the unhindered and immediately effective operation of both the first instance asylum process and the second instance process before the Appeals Committees;
- the direct financing and effective functioning of the necessary structures and procedures, particularly through the creation of new and decent reception and hospitality centers in Greece with particular attention to vulnerable groups and unaccompanied minors;
- the full implementation in Greece of the EU legislation on alternate to detention measures;
- the integration and full application in Greece, the soonest possible, of the Directive 2013/33/EU of the European Parliament and of the Council laying down standards for the reception of applicants for international protection;
- the immediate modification of the EU migration policy and particularly of the Dublin system, which now results in human stockpiling in particular countries and has proven inconsistent with the needs of reality as well as incompatible with the principles of respect for human rights, solidarity and fair burden-sharing between Member States;
- the extension and mandatory implementation of the relocation of refugees and asylum seekers from Greece to other EU Member States, in the context of a more equitable numerical distribution among the EU Member States, as dictated by the EU Charter of Fundamental Rights and the EU Treaties.

As regards the application of the Greek Law No. 4367/2016, in particular, the GNCHR deems necessary the communication and public disclosure for reasons of transparency a) of the specific terms of cooperation between all stakeholders, especially among the Reception and Identification Service; the UN High Commissioner for Refugees; the European Asylum Support Office; the European Agency for the Management of Operational Cooperation at the External Borders of the EU; the International Organization for Migration and the European coordinator in Greece Mr. Maarten Verwey and b) the content and course of implementation of all project-contracts between the Reception and Identification Service and Civil Society Organisations.

Finally, the GNCHR calls upon the Greek authorities to be particularly attentive to the implementation of the 18th of March Agreement between EU and Turkey, in order to make sure that the latter will not infringe fundamental rights of refugees, migrants and asylum seekers –as these are guaranteed under European and international law and interpreted by the international and European judicial bodies. Furthermore, the GNCHR calls upon the EU, which is after all the party to the Agreement with Turkey, not to pass the legal and moral responsibility of the refugee and migration crisis on to Greece. The EU must assume her own share of liability and responsibility and take all necessary measures so that the Agreement with Turkey will not be to the detriment of the rights of refugees and migrants.