

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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**GNCHR Statement:
Reviewing asylum and immigration policies
and safeguarding human rights at the EU borders ¹**

05.03.2020

I. THE SITUATION AT THE BORDERS

Over the last days, the Greek National Commission for Human Rights (GNCHR) has been monitoring with great concern the recent developments at the Greek-Turkish borders. New challenges and increasing tensions emerge along the borders of Greece -which are also EU borders- due to thousands of refugees and migrants being gathered at the invitation of the Turkish government.

According to the Greek Government, the "sudden, massive, organized and coordinated pressure from population movements on its eastern, land and sea borders constitutes an active, serious, exceptional and disproportionate threat to the country's national security, which justifies, among other measures, the temporary suspension, for one month, of the lodging of asylum applications from persons who enter the country illegally, as well as their immediate return, wherever possible, to the country of origin without registration of persons who enter the country illegally".² At the European level, the Greek Government called for the activation of the procedure provided in Article 78 (3) TFEU, in order for provisional measures to be adopted in the context of European solidarity in favor of the Hellenic Republic, as a response to the emergency caused by the sudden influx of third-country nationals.

At the same time, the situation on the islands is escalating and is often out of control, whereas the increase in incidents of violence, racist attacks, hate speech and xenophobia is most alarming. Last week there were violent clashes between police and residents as a result of the Government's decision to build new closed reception centers by land requisition, despite

¹ The Statement was adopted by the GNCHR Plenary on 04.03.2020. Rapporteurs: Maria Gavouneli, President of the GNCHR and Eva Tzavala, Legal Officer. The observations of the members present at the GNCHR's Plenary as well as the written contributions of Spiros Apergis, President of the Third Section and Alexandros Constantinou, Vice President of the Third Section were taken into consideration.

² See Athens-Macedonian News Agency, «[KYSEA: Upgrading the country's eastern, land and maritime border protection measures to the maximum level](#)», 01.03.2020 [in Greek] and Greek Legislative Act "Suspension of Asylum Applications", Government's Gazette No 45/A/02.03.2020.

strong objections from local authorities and without previously addressing the overcrowded open structures.³ The GNCHR has also recently taken note, through the Racist Violence Recording Network (RVRC), of specific racist and xenophobic attacks against newcomers, refugees and migrants, international organizations' employees, NGOs, CSOs as well as journalists.⁴

The GNCHR, which is the Greek National Human Rights Institution, has been closely monitoring, since its foundation, issues relating to the treatment of foreigners, while stressing the need for unconditional respect for the rights of all those living in the Greek territory as well as the rights of asylum seekers and refugees. The GNCHR has supported the Greek state by providing advice on legislative, administrative or other measures, in line with the country's international and European commitments. The GNCHR has recently published an in-depth analysis of its positions on the refugee issue,⁵ which it has brought to the attention of the competent authorities by all appropriate means, in accordance with its mission based on its statutory law, with the ultimate aim to contribute to the harmonization of the national law and practice with international and European standards regarding the effective protection of the rights of asylum seekers and refugees.

As regards the situation in the eastern Aegean islands, the GNCHR has already recorded since 2016⁶ a number of violations of the rights of international protection applicants, as a result of, inter alia, the closure of borders by European countries of the Western Balkan region, and the signing of the EU- Turkey Joint Statement. One may refer, indicatively, to the illegal practice of mass and indiscriminate *de facto* detention at the borders of international protection applicants, their inappropriate and non-effective access to asylum, the presence of a disproportionate number of asylum seekers in relation to the islands' real housing and accommodation capacities, the serious shortages in hygiene and hygiene services, the inadequate access to education, the security issues affecting both aliens and islanders, incidents of violence and racist attacks etc.

In 2017, having received a number of reports regarding the aggravation of problems facing the international protection seekers on the islands, such as the completely inadequate living conditions in the overcrowded reception centers, the failure to locate vulnerable people, the significant deterioration of their mental health and the worryingly high incidents of sexual violence, the GNCHR reiterated its Statement on the status of the reception and asylum system in the country.⁷

In 2018, following press reports on the situation at the Moria Reception Center in Lesbos, reports from NGOs active in the field, as well as individual complaints regarding alleged criminal offenses and acts that grossly violate human rights, as well as acts that put the health, security and, ultimately, the lives of all those involved in the process of providing international

³ See indicatively, Athens-Macedonian News Agency, «[Machines and police forces in Chios and Lesbos for the closed centers - Tension in ports](#)», 25.02.2020 [in Greek].

⁴ For more information see Press Release of the Racist Violence Recording Network "[Serious concern over attacks against refugees and humanitarian workers](#)", 05.03.2020.

⁵ [GNCHR's Recommendations on Refugee Protection: Annex to GNCHR's Reference Report on Refugees](#), September 2019.

⁶ See [GNCHR Report on living conditions in hotspots and accommodation sites for migrants and refugees](#), November 2016.

⁷ [GNCHR Report on the condition of reception and asylum system in Greece](#), 22.12.2017.

protection in jeopardy on both Lesvos and the rest of the Eastern Aegean islands, the GNCHR stated its readiness to make use of the entire European and international human rights' armory, in cooperation with its counterparts in Europe and the world, in order to ensure the timely and effective respect for the rights of all those seeking international protection in the region, as well as the protection of the human dignity of all people involved in this process, state institutions included.⁸

In 2020, given the extremely critical humanitarian situation in the Eastern Aegean islands and in view of the Common European Asylum System reform, the GNCHR decided to carry out on-site visits in reception and identification centers, accommodation sites, detention centers and other structures providing services to migrants and refugees. Following its first visit to Samos, the GNCHR found that the situation with regard to the reception and living conditions of international protection applicants, in and around the Reception and Identification Center, is out of hand and destroys the human dignity of all persons residing in those sites.⁹

II. GNCHR PROPOSALS

As a result and in view of the critical EU meetings scheduled to take place in the upcoming days with the purpose to plan an external borders management policy, the GNCHR:

- recognizing the sovereign right of states to protect their borders, whether these are national or external EU borders, in full respect of the universal principle of non-refoulement and the obligations that the Greek State has undertaken under the international and regional human rights conventions to which it is a party;
- noting, in particular, that the right to seek asylum and the prohibition of refoulement, explicitly enshrined in many international and European statutory instruments (article 33 of the Geneva Convention of 1951 Relating to the Status of Refugees, articles 18 and 19 of the Charter of Fundamental Rights of the European Union, articles 3 and 4 of the Schengen Borders Code, article 98 of the United Nations Convention on the Law of the Sea etc.), constitute a fundamental pillar of both the refugee law and the universal human rights principles, upon which the international and European community have been built, while, at the same time, there are no clauses allowing for derogation from the application of the aforementioned provisions in the event of an emergency situation, on grounds of national security, public health etc;
- recalling that a necessary condition for the effective exercise of the right to asylum is the access to the territory of the country of destination, through the provision of safe legal passages, possibly also through the providing of an effective and genuine possibility of accessing international protection procedures via diplomatic authorities abroad (see ECtHR, *N.D. and N.T. v. Spain*, Judgment of the Grand Chamber of the 13th of February 2020);
- considering that the EU – Turkey Joint Statement is now a dead letter, since, in practice, it turned out to be unenforceable, ineffective and even the determining factor in curtailing the human rights of both the asylum seekers who remain trapped on the

⁸ GNCHR Statement: The GNCHR expresses its deep concerns about the situation in the Reception Centers of the Eastern Aegean islands and, especially, of Moria in Lesvos, 15.10.2018.

⁹ GNCHR Press Release “The System has collapsed in Samos” 23.01.2020.

Greek islands under inhumane living conditions for a long period of time, and the islanders who bear the disproportionate burden of a deadlocked European policy;

- underlining that the imminent termination of the entrapment of asylum seekers on the islands and their transfer to the mainland emerges as an absolute necessity, not only out of respect for fundamental rights but also for the restoration and safeguarding of the fragile social peace of the reception societies.

Calls upon

the Greek Government: a) to immediately terminate the entrapment of asylum seekers on the Eastern Aegean islands, through their transfer to the mainland, in appropriate long-term accommodation facilities thus offering them a decent standard of living and b) to lift the decision to suspend the lodging of asylum applications as well as the decision to automatically return newcomers to the states of origin or transit, while providing for a legal access route to asylum in a coordinated manner;

the representatives of national and local authorities to exhibit a spirit of prudence and unison by permanently abandoning rhetoric arousing xenophobic reflexes and to contribute positively in combating violence, including racial violence and to explicitly condemn violence wherever it derives;

the Greek police and the Greek justice system to effectively investigate the complaints about excessive use of force by the police, attacks against police officers, especially when off-duty as well as racist attacks from organized or unorganized groups against newcomer refugees and migrants, human rights defenders, staff of international and civil society organizations as well as journalists, while guaranteeing the safety of all persons working in the field;

the EU Member States, to revisit the EU migration and asylum policy, in recognition of the *de facto* abolition of the EU-Turkey Joint Statement, and to abandon policies delegating migration control and asylum procedures to third countries, as the latter have proven in practice not to guarantee the protection of the rights of refugees and migrants;

the EU Institutions, to proceed with the reform the Common European Asylum System, and in particular the Dublin system, by establishing a permanent relocation mechanism and a proportional distribution of international protection applicants among EU Member States, in replacement of the Dublin III Regulation, in accordance with the principles of solidarity and the equitable distribution of burdens among EU Member States, as well as in full compliance with the international human rights' and refugee law

and finally,

the European Union to redesign in a holistic way a new common policy on legal migration to meet the increasing demands for specific skills and talents, taking into count the demographic shrinking of the EU-population and to promote legal, safe, effective and controlled paths for the entry and stay of employees, students and researchers from non-EU countries, through the redesign of the EU Blue Card scheme and the harmonization and simplification of procedures for the employment of seasonal workers, intra-corporate transferees as well as other categories of employees.

The rule of law and the protection of human dignity lie at the core of the shared values upon which the EU has been founded. Their effective protection shields democracy and public

security. **The EU must take on its share of responsibility in order to ensure that the values and principles underlying European civilization will not remain a dead letter.**