



**HELLENIC REPUBLIC**  
**NATIONAL COMMISSION FOR HUMAN RIGHTS**

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**Observations on Draft Law of Ministry of Migration and Asylum "Reform of deportation and return procedures of third country nationals, issues of residence permits and procedures for granting international protection and other provisions within the competence of the Ministry of Migration and Asylum and the Ministry of Citizen Protection"**

**Summary**

The Greek National Commission for Human Rights (GNCHR), as the independent advisory body to the State, was requested to deliver an opinion on the promoted reforms of the Ministry of Migration and Asylum regarding immigration law. The GNCHR, fully aware of its role, responded immediately by making extensive Observations on both the specific provisions of the Draft Law under consultation and related issues within the sphere of competence of the Ministry which need to be revised.

In principle, the GNCHR points out that the State should address the immigration issue in a holistic way, which is unfortunately lacking today. At the same time, given that Greece is the first country of entry into the European Union and the Schengen area, these issues could be addressed effectively only through a genuine common EU policy. The new EU Pact on Migration and Asylum under negotiation represents an opportunity for adopting a human-centred policy and a fair sharing of responsibilities between Member States.

As is also known, from March 2020 onwards no readmission to Turkey takes place. As a result, an increasing number of Syrians whose applications have been rejected, in accordance with the 'safe third country' concept, remain in precarious conditions or/and in detention, in a state of legal uncertainty and without access to the asylum procedure. This legislative initiative which aims to facilitate returns does not take into account the real situation, resulting in the exacerbation of the above phenomenon, with the risk of multiple violations of the rights of third-country nationals to be returned. Furthermore, the recent JMD 42799/2021 on the designation of Turkey as a 'safe third country' for additional nationalities exposes thousands of applicants for international protection to the risks of legal uncertainty, extreme poverty, deprivation of the right of access to healthcare and reception conditions, and/or even generalized detention.

As for the individual provisions of the Draft Law, the GNCHR welcomes the initiative of the Ministry to introduce reforms which address practical issues of the Services' operation, streamline the processes and correct errors appearing in previous legislation, in the light of legal certainty. However, it is apparent from a more careful reading that most of the Draft Law introduces new regulations in national legislation on regular immigration and international protection. What is **positively assessed** is the amendment of Article 24 (1) of Law 3907/2011, which is in line with the provisions of Article 104 of Law 4636/2019; the extension of the residence permit to the cohabiting partners of the beneficiary of international protection for the purpose of maintaining family unity; the exceptional continuation of access to medical services, labour market and social security for unaccompanied minors until their return or coming of age; the introduction of the new form of residence permit for digital nomads .

On the other hand, the abolition of the competence of the Independent Appeals Committee to examine the grounds for postponement of removal, the issuing of a return decision in case the examination of the application for international protection is discontinued, and the tightening of the framework on voluntary departure, **raise concerns**. The Ministry's initiative to incorporate the problematic Article 14 paragraph 5 of Directive 2008/115/EC on non-granting of refugee status from the beginning when the person constitutes a danger to the national security or the society of the



country is regarded by the GNCHR as **misplaced**. This provision did not exist before in the national legislation and is likely to lead to a restriction on foreigners' rights, while the purpose of facilitating the return process might not be served. At the same time, it is worth noting that in the broader context of the tightening of deportation and return procedures, provisions regulating issues of immigration legislation are ultimately swept away. As a result, the relevant procedures tend to be more complicated than simplified or streamlined.

Finally, in light of the promoted Draft Law, the GNCHR proposes that the legislator regulate and resolve some deep-seated and pending issues, specifically the following: i) Immediate acquisition of citizenship for second generation children studying or working outside Greece, ii) Guarantee of access to formal education for refugee and migrant children, iii) Prevention and combating of all forms of forced labour and labour exploitation; and iv) Ensuring transparency and accountability in the work of Monitoring Committee of AMIF-ISF 2014-2020.

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*The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State and the National Institution on matters pertaining to human rights protection. It was established in accordance with the UN "Paris Principles" and is governed by Law 4780/2021. Individuals appointed by forty-two bodies (independent Authorities, universities of law and political science, trade unions, NGOs, political parties and ministries) participate in its operations.*