



**Communication on the assessment of the level of compliance of the
Greek State with GNCHR's recommendations on ECtHR judgment**

Chowdury and Others v. Greece (Manolada-case)

**COMMUNICATION UNDER RULE 9(2) ON THE EXECUTION OF THE JUDGMENT IN
CHOWDHURY v. GREECE (21884/15)
TO THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE**

5 June 2020

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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INTRODUCTORY REMARKS

1. The Greek National Commission for Human Rights (GNCHR) systematically monitoring the compliance of the Greek State with the decisions of the European Court of Human Rights and the adaptation of Greek legislation to the international, European and national law provisions regarding human rights protection, **submits its Communication on the level of compliance of the Greek State with the ECtHR judgment, *Chowdury and others v. Greece*** (known as the "Manolada-case"), in view of the upcoming 1377th Meeting of the Committee of Ministers of the Council of Europe, which will be held in Strasbourg, on September 1-3 2020.

2. With this Communication the GNCHR refers back to the whole content of its previous Recommendations submitted in August 2018 in the framework of the 1324th Meeting of the Committee of Ministers of the Council of Europe, **monitoring its implementation course in light of new developments and evidence**, while taking under serious consideration that the judgment requires enhanced supervision of execution. At this point the GNCHR expresses its regret that Greece has not fundamentally complied with the judgment yet.

3. The GNCHR with its previous recommendations has made a first more focused approach to assess the full compliance of the Greek State with the ECtHR judgment, in order to process and formulate policy advice to the competent State bodies for the full and immediate compliance of the Greek State to the landmark decision of the ECtHR, *Chowdury and Others v. Greece* and, most importantly, to the State's obligations arising out of the international and European commitments that it has undertaken.

4. The GNCHR remains focused on the emblematic character of the ECtHR judgment on the "Manolada-case", a leading case, since it constitutes the first case ever examined by the Strasbourg Court of forced labour and trafficking in the agricultural sector. Following its previous focused approach, the GNCHR underlines today its deep concern that the regulatory and institutional framework on combating trafficking in human beings and forced labour and protecting victims' rights is not substantially implemented in practice.

5. It is essential to state here that the novel pandemic of COVID-19 and the measures taken to respond to the outbreak of the crisis highlighted the challenges reported

with regard to the case *Chowdury and others v Greece*. Despite the fact that emergency measures were taken in order to protect the rights of all people without discrimination, yet they did not tackle the chronic problems faced by migrant workers in the agriculture sector. Thus, during the pandemic, the living and working conditions in the agriculture holdings, the overcrowding and the complete lack of basic human standards exacerbated the increased risk of labour exploitation and forced labour¹.

6. The GNCHR has formulated the present **recommendations under three thematic axes** in accordance with the rationale of the ECtHR judgment in the "Manolada-case": a) the **prevention** of trafficking in human beings for the purpose of labour exploitation or/and forced labour, b) the **promotion** and protection of the rights of victims of trafficking in human beings for the purpose of labour exploitation and forced labour and c) the **prosecution** of human trafficking crimes for the purpose of labour exploitation and forced labour, in the light of the new regulatory and institutional developments.

7. More specifically, the GNCHR through its Communication:

- attempts a **further focused approach** to the phenomenon of trafficking for the purpose of labour exploitation, assessing the implementation in practice of the regulatory and operational measures on matters pertaining to the prevention of human trafficking and forced labour, the promotion and protection of the rights of victims, as well as the effective prosecution of human trafficking and severe labour exploitation cases
- draws attention to the particular **link between human trafficking and forced labour** as well as the connection between trafficking in human beings for the purpose of labour exploitation and undeclared employment in the agricultural sector in Greece, basically in light of the recent legislative modifications in national immigration rules
- monitors **new unfortunate incidents** involving migrant land workers as a direct result of the abusive working conditions in the agricultural sector and the failure of the competent authorities to adopt appropriate prevention and reinforcement measures to this end, such as clearly defined labour inspections in the agricultural sector in accordance with international labour standards guaranteed also by the toolbox of ILO instruments

¹- [Manolada Watch March 2020](#)

- [Immigrants, seasonal work and food crisis, ThePressProject](#), V. Kerasiotis, 30.4.2020

- ["The "invisible" workers of our diet", 3pointmagazine](#), 31.5.2020

▪ calls upon the Greek competent authorities to **reconsider the existing legislative and institutional framework for combating the phenomenon of trafficking in human beings or/and forced labour**, in view of the urgent need to immediately and effectively deal with both trafficking in human beings for the purpose of labour exploitation and forced labour in general.

8. In view of the above, **the GNCHR shares the HIAS Greece Recommendations included in the relevant Communication²** and submitted in view of the upcoming 1377th Meeting of the Committee of Ministers of the Council of Europe and calls upon the State's competent authorities to respond to their positive obligations according to Article 4 ECHR through **reforming domestic national rules on immigration relating to farm workers, where there are concerns that the law facilitates forced labour.**

9. Below there is a **presentation of the relevant recommendations alongside with an evaluation of the implementation course of each recommendation separately with the judgment.**

²[Communication from an NGO \(HIAS Greece\)](#) - 21.04.2020

A. PREVENTION OF TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF LABOUR EXPLOITATION AND/OR FORCED LABOUR

10. The GNCHR recommends to the competent state authorities to take steps to **strengthen the existing regulatory framework and fill gaps where these are found to exist**. More specifically, the GNCHR recommends:

- *the **ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**, adopted by the UN General Assembly in 1990, thus confirming that the State has undertaken to respect, protect and promote all human rights, without discrimination.*

Pending

- *the **ratification of the Protocol of 2014 to the Forced Labour Convention No. 29 of the ILO (P029)**, with the aim inter alia of promoting concrete measures for the education and information of the general public, focusing on the most vulnerable social groups, or the education and information of employers and other relevant actors.*

Pending

11. As far as forced labour is concerned, the GNCHR considers necessary to refer to the recent Observations of the Greek General Confederation of Labour (GSEE) submitted to the CEACR Committee ILO on 30.8.2019 relating to the state of current implementation of the ratified by the Greek State ILO Conventions³. In this respect it should be here noticed that GSEE appoints a member in the GNCHR. In its report, the GSEE has recalled the concluding remarks in its 2016 and 2017 Observations and regretted that no progress has been achieved in general. With regard to the Forced Labour Convention No. 29, the GSEE emphasizes the significance of the non-due implementation of the Convention in light of the current refugee/migrant crisis that the country faces and where the State emerges negligent of its international obligations as far as the abolition of forced labour. Furthermore, the GSEE stresses that in the adverse environment created by the previous extended economic recession, the constant flow of mixed populations, refugees and migrants is not accompanied by substantial policies for their social integration. With respect to, among others, ratified C81, C95 and C111, the GSEE attaches particular importance to the findings of the Strasbourg Court on case *Chowdurry and Others v. Greece*,

³ See Greek General Confederation of Labour (GSEE) - Observations to ILO's *Committee of Experts on the Application of Conventions and Recommendations (CEACR)* 30.8.2019

that applicants had not received effective protection from the Greek State in a situation of human trafficking forced labour and exploitation through labour that is one aspect of trafficking in human beings. In this regard the GSEE reiterates the urgent need for the ratification by the Greek State of the Protocol of 2014 to the Forced Labour Convention No. 29 of the ILO (P029). It should be also added, as reported in its Observations submitted to the CEACR⁴, that the GSEE has strongly supported the ratification of the Protocol to C29 during the first and only meeting of the Ministry of Labour competent tripartite body (Department for the Promotion of Application of International Labour Standards of the Supreme Labour Council), while there was a unanimous support on the ratification of the Protocol. The Confederation's request to hold more meetings for the discussion of the proper executive measures has not been accepted. The under functioning of the tripartite Body related to the application of international labour standards is also an explicit matter of concern and bipartite commitment in the National General Collective Agreement of 2018 where under article 4 it is stated that "*The Contracting Parties agree to jointly submit to the State the request to activate the Tripartite Consultation Council provided for by the International Convention 144 "on tripartite consultations on the promotion of the application of international labor standards"* with a view to enhancing ongoing tripartite consultation and the systematic tripartite social dialogue". The GSEE also mentioned that the Ministry of Labour had sent to the ILO and is invoking in its Reports on C144, as well as other Conventions (ie. C29), the minutes kept during the meetings of this tripartite body, which were never communicated to the Confederation or the employers' organisations – members of this Body. In light of the above agenda, the GNCHR strongly recommends to the competent State authorities to take the necessary steps in order to ensure that the existing regulatory framework is further strengthened through the ratification of the Protocol of 2014 to the Forced Labour Convention No. 29 (P029).

- ***the ratification of the International Labour Convention No. 129 concerning Labour Inspection in Agriculture and the extension of the coverage of labour inspection to all agriculture holdings and workers in order to be compatible with the ILO Convention.***

Pending

⁴ See Footnote 3

12. The GNCHR notes with disappointment that Greece has not ratified the Convention No. 129 (Labour Inspection - Agriculture) yet, although positive steps have been made to this end. The GNCHR has to refer here to the recommendations of the Greek General Confederation of Labour (GSEE) to ILO⁵, which repeatedly requests the ratification of Convention No. 129, while urging the Greek State to benefit from the Confederation's experience on the related issues as well as to ask for ILO's technical assistance to that direction. The ratification of ILO C129 until December 31, 2018 was part of the commitments included in the *Road Map to tackle Undeclared Work*, which despite the fact that was validated with a tripartite procedure in October 25, 2016, has not been properly implemented⁶. Afterwards, the State didn't proceed to an effective follow up dialogue on ILO's "*Assessment report on necessary amendments of the legal framework regarding inspections in agriculture and recommendations for reforms in line with ILO Convention No. 129*" (2018) in the framework of ILO's technical assistance on undeclared work⁷. The GNCHR follows with great interest the progress of implementation of all the actions of the *Road Map to tackle Undeclared Work*. In this context, the GNCHR, taking under consideration the severe impact of the lack of clearly defined inspection competence in agriculture sector as well as the results of the Assessment, according to which there are no major legal obstacles to ratify Convention No. 129, and no significant legal amendments are needed, calls on the Greek State not to hesitate and finally ratify C129⁸, particularly in the light of the *Chowdury and Others v. Greece* judgment.

- ***the coherent transfer and integration into the legislative and institutional framework of the definitions regarding human trafficking for the purpose of labour exploitation and forced labour, in line with international and regional standards on human rights.***

Implemented

13. The GNCHR notes with satisfaction that the definition of trafficking has been gradually extended (Law 3064/2002, Law 3875/2010, Law 3984/2011, Law 4619/2019), in order to

⁵ *Ibidem*

⁶ *Ibidem*

⁷ ILO *Assessment report on necessary amendments of the legal framework regarding inspections in agriculture and Recommendations for reforms in line with ILO Convention No 129*, project funded by the EU

⁸ *Ibidem*

include all possible forms of exploitation of the victim and to cover most cases. Indeed, the recent Law 4619/2019 that amended the Penal Code, has attempted to standardize an autonomous criminal offense of human trafficking placing it under an "umbrella" definition, which criminalizes all possible means and ways of commission of an offence in order to include every possible form of crime. In this regard, the new law intensifies the definition of the offense of trafficking in all forms of exploitation, increases the incrimination and disconnects the specific nature of the offense from the "consent" of the victim to its intended "exploitation", even in cases where the victim's consent to exploitation is not the product of fraud. However, the GNCHR remains skeptical about the effective implementation of the new regulatory framework in practice.

- *the **integration**, where necessary, of the indicators which define the phenomena, identify and facilitate the scope and process of inspections in all sections of employment, with emphasis on areas of high crime and law evasion, such as in the agricultural sector.*

Pending

- *the **legislative recognition of the two aggravating reasons for increasing the penalties imposed by the Hellenic Labour Inspectorate (hereinafter SEPE), included in Law 4052/2012** (trafficking and particularly abusive conditions) as separate reasons with horizontal application, in each case of inspection of the conditions of employment, and not only in the case of employment of illegally staying third country nationals.*

Pending

- *the **assessment of the establishment of a minimum number of staff and relevant objective criteria of inspection, depending on the particular activities of employment**, building upon the model and approach used in the construction sector, due to the delinquency and criminality in cases of trafficking and forced labour.*

Pending

- *the **explicit inclusion in the Criminal Code of "servitude" among the forms of exploitation resulting from human trafficking.***

Implemented

- *the **adaptation of the provisions of the law (Articles 323A(4) and 351(4) CC) regarding the trafficking in children so that they fully reflect the provisions of Article 4(c) of the Council of Europe Convention on actions against human trafficking.***

Implemented

- *the explicit reference in the Criminal Code that the consent of a victim of human trafficking on his or her holding is irrelevant, regardless what means (use of force, threat or other coercive instrument or enforcement or misuse of authority) the perpetrator employs to achieve his purpose.*

Implemented

- *legislative provision for the observance of a unified and coherent system of collecting statistical data and related data on the phenomenon of human trafficking and forced labour in Greece.*

Partly implemented

14. The GNCHR welcomes the establishment of the National Referral Mechanism (hereinafter NRM) for victims of human trafficking on 1.1.2019 supervised and coordinated by the Office of National Rapporteur on Trafficking in Human Beings and closely monitors its first year of operation in order to evaluate its contribution into the effective prevention of trafficking in human beings and identify any legal or factual challenges in the course of its implementation. Among its tasks, is the collection of reliable data and the development of a database with statistics on human trafficking. However, in principal, based on the number of cases reported within 2019⁹ and the feedback received by NGO's working in the field on human trafficking issues, the GNCHR reiterates its concern that the crime of human trafficking remains severely underreported¹⁰.

15. Ensure the existence of an **integrated and effective system of inspections of working conditions** and paying due attention to the factors which increase the risk of exploitation. To this end, it is necessary to ensure:

- *adequate staffing of SEPE with staff trained to conduct targeted and effective inspections and capable of understanding and assessing the factors which increase the risk of severe labour exploitation in practice. For this purpose, the contribution of the ECtHR's judgment on the criteria of "particularly abusive working conditions" is expected to be important, as well as the list of indicators on labour trafficking of*

⁹ For the full text of the Report see: <https://sway.office.com/CZCilH5PWF0bbhQn>

¹⁰ GNCHR-Information relevant to the implementation of the Convention on the Rights of the Child, January 2020. See also [GNCHR Website](#)

the United Nations Office on Narcotic Drugs and Crime (UNODC). The present GNCHR recommendation also applies to the inspection services of EFKA.

Pending

16. The GNCHR notes with serious concerns considering the fact that there are no recent noticeable developments in the legal framework addressing the question of competence of the Hellenic Labour Inspectorate (SEPE) to inspect labour in the agricultural sector especially in open rural areas, the issue remains open. At the same time, open remains the issue of the competence of SEPE inspectors with regard to the identification of particular exploitative working conditions and possible victims, while detecting violations of the labour regulations. The available data of SEPE inspections in the plant and animal production report on the number of inspections held, complaints lodged, number of the administrative penalties and undocumented workers, whereas data regarding trafficking for the purpose of labour exploitation and/or forced labour are not included¹¹. The GNCHR reiterates the urgent need for clearly defined labour inspections in the agricultural sector targeted to the detection of human trafficking and severe labour exploitation in accordance with international labour standards.

- ***coordination between SEPE and the Police, where necessary - to the extent that, as research suggests, the importance of their cooperation is critical for the effectiveness of monitoring and controls - along with a specific delimitation of competences, on the one hand, of the SEPE, on the other hand, of the Police. As ILO points out, coordinating the work of the Labour Inspectorate with law enforcement agencies is crucial to the effectiveness of audits¹². The present GNCHR recommendation also applies to the inspection services of EFKA.***

¹¹ According to the data of the Directorate of Planning and Coordination of Employment Relationship Inspectorate of the Hellenic Labour Inspectorate (SEPE), which are at present **in stage of their final elaboration**, within 2018, out of the one hundred forty-nine (149) inspections that have been conducted in the plant and animal production, twenty-nine (29) proceedings have been brought against and twenty-five (25) fines have been imposed on the employers concerned at an amount of hundred four thousands three hundred twenty-nine (104.329) euro. Among these cases only five (5) undocumented third country national were registered.

Within 2019 out of the one hundred forty-six (146) inspections carried out in the plant and animal production, nineteen (19) proceedings have been brought against and thirty-three (33) fines have been imposed on the employers concerned at an amount of hundred eighty-three thousands eight hundred fifty-four euro. Among cases only four (4) undocumented third country national were registered.

¹² See ILO, Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Conclusions adopted by the Meeting, op.cit.*, par. 7 και 16.

Pending

17. Maintain a single coherent system for collecting statistics and related data on the phenomenon of human trafficking and forced labour in Greece, in which will be included reliable and comprehensive statistics on measures to protect and promote the rights of victims of trafficking and/or forced labour, on the investigation and prosecution of relevant cases concerning both trends in trafficking and forced labour, as well as on the performance of the main stakeholders involved in the fight against the two phenomena¹³. Data are to be collected and maintained with due respect for the protection of personal data of both victims and perpetrators¹⁴.

Partly implemented¹⁵, mainly due to the lack of labour inspections on conditions of forced labour, especially in the agriculture sector. In this respect, the GNCHR would like once again to point out that forced labour and exploitation are not always related to cases of human trafficking, so it needs simultaneously autonomous supervision.

18. Data-collection system on the phenomenon of human trafficking

The GNCHR would like to stress here the significance of a unified data-collection system on the phenomenon of human trafficking and forced labour, recognising at the same time the important work carried out by the NRM, since its establishment, towards the collection of data on victims of trafficking. The need for improving data collection of trafficking is reflected in the first of the five strategic axes of the National Action Plan *for preventing and combating human trafficking, protecting and supporting victims and prosecuting perpetrators* (NAP 2018-23), prepared by the Office of the National Rapporteur in the Ministry of Foreign Affairs. As mentioned in the introductory remarks of the NAP the existing statistics may not reveal the true magnitude of the phenomenon, given that they are collected by many different bodies. The GNCHR shares these positions and expresses its serious concerns particularly regarding the identification of victims and potential victims of trafficking, which remains a challenge, especially in recent years after the dramatic increase of mixed immigration flows into Greece, that leaves a significant number of

¹³ *Idem* par. 9.

¹⁴ CoE, Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, Recommendation CP(2018)3 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece, adopted at the 22nd meeting of the Committee of the Parties, on 9 February 2018, Addendum: *List of GRETA's proposals concerning the implementation of the Convention by Greece*, par. 9.

¹⁵ See next point No.18 of the present Communication

persons vulnerable to exploitation. Moreover, the GNCHR attaches particular importance to the idea contained in the NAP of improving interoperability among the national bodies and agencies involved in data collection, as well as to reviewing the statistical monitoring of human trafficking. The perspective of introducing a common database within the framework of the NRM managed by the National Centre for Social Solidarity of the Ministry of Labor (EKKA), as one of the key competences of the National Rapporteur, provided with the necessary funds, is expected by the GNCHR to address to a certain degree the problematic situation in the field. The GNCHR, taking into account that data collection on human trafficking is complex, considers that developing a reliable and useful framework for information in relation to the nature and extent of human trafficking through a comprehensive national database for trafficking statistics, can be a decisive step for preventing and combating all forms of trafficking in human beings.

19. *Promote targeted measures for the social and economic empowerment of socially vulnerable groups, including irregularly resident third-country nationals, asylum seekers and refugees, unaccompanied children and women*¹⁶.

Pending

20. As far as the **working conditions of migrant workers** are concerned, the GNCHR refers to the Ombudsman's recommendations¹⁷. More specifically, the GNCHR calls upon all competent state Authorities to take all appropriate measures:

- ***control of legality of employment relationship*** *should not be limited to the control of legality of the foreign workers stay in the Country, but should also include the employers who employ irregularly resident third country nationals,*

Pending

- ***the working conditions of migrant workers should meet all the necessary requirements laid down in the relevant legislative framework. Otherwise, the competent inspection mechanisms must impose the provided for by law penalties,***

Pending

¹⁶ See Footnote 14.

¹⁷ Ombudsman, Immediate, coordinated and effective state intervention on the working conditions in the strawberry farms of Nea Manolada is required by the Ombudsman, Press Release, 18.4.2013

- **migrant workers** – including those who without legal documents – **should have adequate insurance coverage for the health services they need** and

Pending

- **migrant workers should be informed of their rights**, in order to avoid cases of loss of earnings and insurance for their working days.

Pending

21. Strengthen their efforts to detect cases of human trafficking in the context of border controls, including through further training of border guards on the identification of victims of human trafficking¹⁸.

Pending

22. Undertake targeted awareness-raising and training initiatives for organisations and services who deal with cases of labour exploitation also in cooperation with local communities and municipalities. Labour inspectors, police officers, law enforcement officers, social workers and other workers in asylum and immigrant reception centers, lawyers and health professionals should be informed and trained to be able to detect labour trafficking indicators and other forms labour exploitation, in order to give priority to the rights of victims of severe labour exploitation before immigration management issues¹⁹.

Pending

23. With regard to the awareness-raising and training initiatives undertaken and implemented by the Office of the National Rapporteur, the GNCHR, stresses the importance of simultaneously autonomous awareness-raising initiatives targeted at organisations and services who deal with cases of forced labour and labour exploitation, reiterating that forced labour and exploitation are not always related to cases of human trafficking.

¹⁸ CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., par. 16 and OSCE, *From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows. A Focus on First Identification and Reception Facilities for Refugees and Migrants in the OSCE Region*, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2017, p. 46.

¹⁹ See CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., FRA, *Severe labour exploitation: workers moving within or into the European Union - States' obligations and victims' rights*, ILO, *Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, Conclusions adopted by the Meeting*, and OSCE, *From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows. A Focus on First Identification and Reception Facilities for Refugees and Migrants in the OSCE Region*.

24. Take awareness-raising initiatives in cooperation with NGOs, trade unions and private sector bodies with regard to the issue of severe labour exploitation of migrant workers and step up efforts to **create a climate of zero tolerance of labour exploitation**. This is expected to make a significant contribution to the efforts of the competent state authorities to correct the failings and shortcomings of official institutions in order to reduce the gap between the State's ethics and citizens' ethics with regard to undeclared employment.

Pending²⁰

- *In this context, state Authorities should take concrete measures to encourage businesses to eliminate human trafficking and forced labour from their supply chains.*

Pending

- *Efforts must also be stepped up for effective cooperation between public and private actors, based on a consensus on the problems caused by labour exploitation, the fundamental rights at stake and the interventions required, with the sole purpose of effectively implementing the policy against human trafficking and forced labour²¹.*

Pending

25. National Action Plan for preventing and combating human trafficking, protecting and supporting victims and prosecuting perpetrators - NAP (2018-23)

The GNCHR notes with satisfaction that the Office of the National Rapporteur on Trafficking in Human Beings has prepared a *National Action Plan for preventing and combating human trafficking, protecting and supporting victims and prosecuting perpetrators - NAP (2018-23)*, which integrates a human rights based approach to addressing and combating trafficking. The National Action Plan (hereinafter NAP) sets six (6) goals that will be met through the implementation of concrete particular actions in the framework of five (5) priority lines of actions aiming at the prevention, awareness raising, education and training, development of the legislative framework, protection, social reintegration of the victims, promotion of synergies and joint actions between national and international actors operating in the field and prosecution. The GNCHR appreciates the fact that the NAP has been developed with the participation of public organizations, NGOs, civil society and grassroots organizations, thus allowing consensus on priorities. However, there is no detailed budgeting of the proposed

²⁰ See point No. 23 of the present Communication.

²¹ See Footnote 18.

actions and no State planning on funding of these actions²². The GNCHR monitors the course of implementation of the relevant actions in order to assess the effectiveness of the NAP and suggest possible necessary adjustments. In this regard, the GNCHR shares the observations made by CEACR - ILO, urging the State to provide more information on the NAP in general and especially in relation to the measures taken to implement it and the results achieved following its approval²³.

The GNCHR encourages the competent State authorities to ensure the implementation of the actions planned under the principles of transparency, accountability and participation in order to prevent and combat trafficking. The development and usage of specific indicators of trafficking in human beings²⁴, among others, indicators of labour trafficking, would facilitate the mapping of the situation, make the work of professionals to identify and communicate with the victim easier as well as enable the monitoring and assessment of the effects and the impact of the NAP.

²² GNCHR-Information relevant to the implementation of the Convention on the Rights of the Child, January 2020.

²³ [Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2020\)](#)

²⁴ UNODC/UN.GIFT, *Human trafficking indicators, Labour exploitation and*
- [Operational indicators of trafficking in human beings - Results from a Delphi survey implemented by the ILO and the European Commission](#)

B. PROMOTION AND PROTECTION OF THE RIGHTS OF VICTIMS OF TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF LABOUR EXPLOITATION OR/AND FORCED LABOUR

26. Regarding the more effective promotion and protection of the rights of victims of human trafficking for the purpose of labour exploitation and/or forced labour, the GNCHR recommends to the competent State authorities to take initiatives to **improve the system for the identification of victims of human trafficking and/or forced labour**, following inter alia the highly targeted recommendations of the Council of Europe and ILO experts on the identification of victims²⁵, according to which the Greek authorities must among other things:

- *ensure that the identification of victims does not depend on the presumed victim's statement and co-operation in the investigation or criminal proceedings,*

Implemented

- *speed up the process of granting the status of victim of trafficking,*

Pending

- *pursue a proactive approach to the identification of victims of human trafficking for the purpose of labour exploitation and/or forced labour, by encouraging regular and coordinated multi-agency inspections in the sectors most at risk,*

Partly implemented

27. The GNCHR acknowledges the significant efforts of the NRM and its coordinated action and partnership building, among all actors involved in combating trafficking in persons as well as the training programmes and campaigns provided on a large scale in this framework. It also brings in additional professionals and stakeholders into the screening and identification process of mixed migratory/refugee flows (migration services, labour inspectors, health providers, local administration authorities). In this regard, the GNCHR, stresses the importance of coordinated proactive actions, notably training initiatives for organisations and services who deal with cases of labour exploitation, so that they are aware of the various forms of severe labour exploitation and their causes, in order to be ready to react appropriately and to give priority to the rights of migrants victims of severe

²⁵ CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., par. 17 and ILO, Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Conclusions adopted by the Meeting*, op.cit., par. 11.

labour exploitation²⁶. Similar conclusions are drawn up by the CEACR's recent Direct Request (CEACR)²⁷ and the US Department of State Report 2019²⁸. According to the latter, it is pointed out that government efforts were largely reactive and reliant on self-identification, while suggesting the adoption of a proactive strategy for identifying victims of trafficking for the purpose of labour exploitation and/or forced labour.

Pending

- *secure a sufficient funding for the National Referral Mechanism for Victims and Potential Victims of Trafficking in Human Beings, in order to build up identification networks and provide training for relevant professionals on identification techniques and procedures,*

Pending

- *pay increased attention to detecting victims of human trafficking among migrants and asylum seekers in first-line reception centers and persons detained as irregular migrants and provide additional training to staff who come into contact with them.*

Pending

28. Ensure that *suitable accommodation is provided for male victims of trafficking and that they can fully benefit from the assistance measures provided for in law*²⁹.

Pending

29. Ensure that *all possible foreign victims of human trafficking and/or forced labour, including EU citizens, are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period. Steps should be taken to alert police officers and other relevant staff of the importance of this period and to issue instructions regarding the procedure for granting it*³⁰.

Pending

²⁶ See CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., par. 8, FRA, *Severe labour exploitation: workers moving within or into the European Union - States' obligations and victims' rights*, op.cit., p. 15, ILO, *Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, Conclusions adopted by the Meeting*, op.cit., par. 7 and OSCE, *From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows. A Focus on First Identification and Reception Facilities for Refugees and Migrants in the OSCE Region*, op.cit., p. 46.

²⁷ [Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2020\)](#)

²⁸ Department of State, USA :[Trafficking in Persons Report 2019](#)

²⁹ CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., par. 19.

³⁰ *Idem*, par. 21.

30. Take initiatives to ensure that all victims of human trafficking and/or forced labour can effectively benefit in practice from the right provided under Greek law to obtain a renewable residence permit³¹. In particular, it is considered effective and necessary to adopt measures to encourage victims and witnesses of human trafficking for the purpose of forced labour or other forms of severe exploitation to report a crime without fear of being expelled, with the possibility of granting a residence permit, on the basis of clear legal terms³².

Partly implemented³³

- In this context, and in view of the strong link between human trafficking and immigration, it is appropriate to take measures to establish and maintain a permanent mechanism for access to a legal residence regime for all foreigners living and working in Greece.

Pending

31. Legal work, illegal residence

As the Strasbourg Court has noted “...there had only been a sporadic reaction on the part of the authorities, which had failed, at least until 2013, to provide a general solution to the problems encountered by migrant workers in Manolada.” (par. 113) and added “...the operational measures taken by the authorities were not sufficient to prevent human trafficking or to protect the applicants from the treatment to which they were subjected.”(par. 115).

Taking into account the above observations of the Strasbourg Court in relation to the measures provided by Article 13A (*on the employment of illegally staying third-country nationals in the agricultural economy*) of Law 4251/2014 “*Migration and Social Integration Code*” and their extension through the Nr. 84/13.4.2020 Act of Legislative Content “*Measures to address the continuing consequences of the COVID-19 pandemic and other urgent provisions*”,³⁴ the GNCHR would like to express its deep disappointment with regard to the failure of the competent State authorities to withdraw the problematic regulation of Article 13A.

³¹ *Idem*, par. 22.

³² FRA, *Severe labour exploitation: workers moving within or into the European Union - States’ obligations and victims’ rights*, op.cit., p. 20.

³³ See points No. 43. and 44. of the present Communication

³⁴ 84/2020 Act of Legislative Content “*Measures to address the continuing consequences of the COVID-19 pandemic and other urgent provisions*”, (OGG 84/A, 13.4.2020)

Moreover, the GNCHR remarks that the State availing itself the right to take emergency measures in response to the pandemic, has introduced measures that review key legislation, such as the Migration and Social Integration Code, what in fact neither responds to the purpose of emergency nor constitutes a substantial protection of the vulnerable group of farm workers.

In particular, Article 13A *on the employment of illegally staying third-country nationals in the agricultural economy* allows the employment of illegally staying third-country nationals in order to meet the urgent needs of the rural economy by granting them a six-month work permit (without residence status), which violates both national law (which connects the right to work to the right of residence) and the EU *acquis* in the field of asylum and migration. According to Article 24 of the above mentioned Act of Legislative Content, the farm workers have the possibility to extend their work permits for another six months, while a new temporary simplified procedure for the inclusion under this category of permits is provided. Justification of the new measures are the obstacles that the employers face to timely conclude new work contracts in order to meet their needs. However, the amendments do not, in any part, restore the extremely problematic provision of Article 13A. On the contrary, they foster this inhumane form of work (six months full-time work without basic guarantees) and increase the hundreds of thousands of farm workers working in an uncontrolled work environment in unfavorable working conditions.

According to the State's view, Article 13A sought to combat undeclared work in the agricultural sector. Nevertheless, in practice, what is achieved by Article 13A to date is creation of the so called category of "para-legal" land workers, who remain in the Country in a *status* of deportation postponement with six-month work permits (without being entitled to a residence permit)³⁵. In addition, these workers are not registered at all, which means that they are not provided with decent accommodation and that their wages and social security are not guaranteed. This practice legitimizes the *de facto* absolute dependence of farm workers on their employers under the tolerance of the police authorities (a situation that led to the country's conviction by the ECtHR), increases its

³⁵- A. Kapsalis, "The development of Greek migration policy and the invention of 'para-legality' in labour relations of immigrants", *Social Policy*, Issue 9, January 2018, p. 74
- [Immigrants, seasonal work and food crisis, ThePressProject](#), V. Kerasiotis, 30.4.2020

vulnerability to extreme labour exploitation, thus reflecting one of the most serious deficits of Greek migration policy.

Following the above, the GNCHR has included in its recent Observations on Draft Law of Ministry for Migration and Asylum “*Improvement of migration legislation, amendments of provisions of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions*”, relevant comments³⁶, suggesting the immediate withdrawal of the provision of Article 24 of Nr. 84/13.4.2020 Act of Legislative Content and at the same time the amendment of the problematic regulation of Article 53 (*Employment*) of Law 4636/2019 “*On international protection and other provisions*”, that requires a 6-month time limit before access to the labour market for asylum applicants, which opposes to the current rules on immediate access to employment. More specifically, the GNCHR has called upon the Greek State **(i)** to address the phenomenon of labour exploitation with a comprehensive and coordinated approach and provide effective protection to the victims, **(ii)** take under serious consideration the relation between the phenomenon of human trafficking for the purposes of labor exploitation and undeclared work in Greece and in particular labor exploitation in the agricultural sector and **(iii)** to undertake coordinated inspections in the agriculture sector, since such arrangements, under no circumstances, would constitute State compliance with the ECtHR judgment in the “Manolada-case”³⁷.

32. Adopt measures to facilitate and guarantee access to compensation for victims of trafficking and/or forced labour, in particular following the recommendations of the Council of Europe and the ILO³⁸, according to which the Greek authorities must inter alia:

- *ensure that victims are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed,*

Pending

³⁶ [GNCHR’s Observations on Draft Law of Ministry for Migration and Asylum “Improvement of migration legislation, amendments of provisions of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions”](#) Summary in English

- [GNCHR’s Observations on Draft Law of Ministry for Migration and Asylum “Improvement of migration legislation, amendments of provisions of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions” full text in Greek](#)

³⁷ *Ibidem*

³⁸ CoE, *List of GRETA’s proposals concerning the implementation of the Convention by Greece*, *op.cit.*, par. 23 and ILO, Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Conclusions adopted by the Meeting*, *op.cit.*, par. 14.

- *enable victims to exercise their right to compensation by ensuring their effective access to legal aid, by building the capacity of legal practitioners to support victims to claim compensation and by including the issue of victim compensation in training programmes for law enforcement officials, prosecution and the judiciary,*

Pending

- *ensure that the state-funded compensation scheme is genuinely accessible to the victims, irrespective of their citizenship and residence status,*

Implemented

- *use assets confiscated from perpetrators to compensate the victims,*

Pending

- *enable victims who are non-EU nationals and who have left Greece to benefit from the possibility to claim compensation.*

Implemented

- *In this context, it is necessary to develop a system for recording compensation claims made by victims or granted to them³⁹, in order to effectively address the complete lack of data on the number and amount of compensation granted to victims of trafficking.*

Pending

33. The GNCHR expresses its satisfaction for the amendment of the rules regarding the compensation for victims of violent crimes with article 54 (*Provisions on compensation for victims of violent crimes*) of Law 4689/2020⁴⁰, aiming at facilitating the respective procedures. Nevertheless, the GNCHR expresses also its concerns regarding the absence of data considering the submission of an application to the Greek Authority of Compensation⁴¹. Similar concerns have been raised by the CEACR ILO Committee⁴² and the US Department of State in its *Trafficking in Persons Report 2019* on the situation of

³⁹CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., par. 24.

⁴⁰ Law 4689/2020 "Transposition in national law of Directives (EU) 2016/800, 2017/1371, 2017/541, 2016/1919, 2014/5, ratification of the Memorandum of Administrative Cooperation between the Ministry of Justice of the Hellenic Republic and the Ministry of Justice and Public Order of the Republic of Cyprus, amendments to Law 3663/2008 (A'99) for the implementation of Regulation (EU) 2018/1727 and other provisions" (OGG 103/A, 27.05.2020).

⁴¹ See National Referral Mechanism, Annual Report 2019: <https://sway.office.com/CZCllh5PWF0bbhQn>

⁴² [Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2020\)](#)

trafficking in human beings worldwide⁴³. The GNCHR requests the competent State authorities to continue its efforts facilitating the access of victims of trafficking both for labour and sexual exploitation to assistance and remedies and to provide statistical information on the number of victims who have been granted protection and assistance⁴⁴. In fact, a centralised database for all criminal and civil courts would allow investigations into the compensation of victims by the perpetrators as noted in report of GRETA Experts⁴⁵, thus contributing to the effective implementation of the law.

- *In addition, reference should be made to the recommendation of the EU Fundamental Rights Agency to extend the system of compensation to victims so that it also affects the victims of severe exploitation. In particular, it is proposed that the EU institutions should consider amending the Employer Sanctions Directive against employers to include a provision similar to Article 17 of the Anti-Trafficking Directive, according to which Member States shall ensure that victims of human trafficking have access to existing schemes of state compensation⁴⁶.*

Pending

34. Adopt measures to assess the return of victims of human trafficking and/or forced labour while respecting their rights, safety and dignity⁴⁷. To this end, it is necessary to ensure **compliance with the non-refoulement obligation**, while taking into account the UNHCR's guidelines on the application of the Geneva Convention relating to the Status of Refugees to trafficked people.

Pending

35. Taking into account the proximity of local authorities to the citizens, to build on cooperation and synergy at a level of Municipalities and local communities, by developing actions to support and reintegrate victims of human trafficking and/or forced labour.

Pending

⁴³ Department of State, USA :[Trafficking in Persons Report 2019](#)

⁴⁴ [Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2020\)](#)

⁴⁵ CoE, GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece*, op.cit., par. 179-180.

⁴⁶ FRA, *Severe labour exploitation: workers moving within or into the European Union - States' obligations and victims' rights*, op.cit., p. 22.

⁴⁷ CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., par. 25.

36. Given that labour related protection provisions, such as payment of wage arrears, are often neglected, appropriate measures should be taken to ensure that these provisions are part of a comprehensive and systematic approach to the protection of victims, in accordance with relevant ILO Recommendations⁴⁸.

Pending

37. Finally, the GNCHR considers it necessary and thus recommends that instruments and mechanisms established to address trafficking – such as referral mechanisms or temporary residence permits – should be reviewed with a view to broadening their scope of application to cases of severe labour exploitation that do not involve trafficking. To this end, the competent Greek authorities should follow the relevant recommendations of the EU Fundamental Rights Agency⁴⁹, in order to:

- *adopt measures to establish mechanisms for referral to support services for victims of all forms of severe labour exploitation,*

Pending

- *ensure that victims of labour exploitation are not excluded from support services due to their irregular residence status.*

Pending

⁴⁸ ILO, Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Conclusions adopted by the Meeting, op.cit.*, par. 13.

⁴⁹ FRA, *Severe labour exploitation: workers moving within or into the European Union - States' obligations and victims' rights, op.cit.*, p. 19.

C. EFFECTIVE INVESTIGATION AND PROSECUTION OF HUMAN TRAFFICKING CRIMES FOR THE PURPOSE OF LABOUR EXPLOITATION OR/AND FORCED LABOUR

38. The GNCHR expresses the wish that **this landmark ECtHR judgment will be a valuable guide for the judicial, prosecutorial and administrative Authorities** and recommends to the competent state Authorities to take initiatives to **ensure compliance with the principle of non-punishment of victims of human trafficking and/or forced labour for their involvement in unlawful activities**, to the extent that they are well compelled to do so. In particular, the following measures are proposed:

- *the abolishment of the requirement of a prior complaint by the victim and the development of guidance for police officers and prosecutors on the scope of the non-punishment provision.*

Pending

- *to refrain from prosecution and punishment of potential victims for their involvement in unlawful activities, to the extent that they are well compelled to do so, while the identification procedure is on-going.*

Pending

39. *To prioritise the **identification of gaps in the investigation procedure and the prosecution of human trafficking and/or forced labour cases**, with a view to ensuring an expeditious trial and effective, proportionate and dissuasive convictions. To this end, it is considered crucial to develop the specialisation of prosecutors and judges to deal with cases of human trafficking and/or forced labour⁵⁰.*

Pending

40. *To **improve the effectiveness of police investigations** by exploring the possibility of setting up specialist police units and establishing close links of cooperation between the Hellenic Police and monitoring Authorities, such as the SEPE or the police units for the prosecution of financial crime. At the same time, the cross-border cooperation of law*

Pending

41. *To seek **further specialisation of prosecutors and judges, allowing them to identify and deal with human trafficking cases in a timely and effective manner**⁵¹.*

⁵⁰CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., par. 27 and ILO, Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Conclusions adopted by the Meeting*, op.cit., par. 19.

⁵¹CoE, *List of GRETA's proposals concerning the implementation of the Convention by Greece*, op.cit., par. 27.

Pending

42. *To intensify actions to protect victims of human trafficking and/or forced labour, preventing them from being intimidated, both during and after their identification process as victims*⁵².

Pending

43. **Bushfire at the main accommodation camp of undocumented farm workers in N. Manolada, Ilia on June 7, 2018 - Communication by the GNCHR of the application-complaint of the 164 workers -victims of the fire to the Prosecutor's Office of the Supreme Court (September 27, 2018), the Department for the Execution of Judgments of the ECtHR (October 12, 2018) and the competent international and european human rights inspection bodies (October 12, 2018)**

The GNCHR reiterates with disappointment that the "Manolada-case" was not an isolated incident as reflected in the Official Action Report of the Greek authorities with regard to the State's compliance with the judgment *Chowdury and others v. Greece*, submitted for discussion at the 1324th Meeting of the Committee of Ministers of the Council of Europe⁵³.

Indeed the pattern recorded in the tragic event of Manolada, in 2013, is being repeated through further incidents up to date. Indicative is the fire that broke out in the basic camp of a strawberry field in N. Manolada in June 2018 under unspecified circumstances.

This incident brought the issue of thousands of undocumented migrant workers' living and working conditions to the fore⁵⁴, raises fear of severe labour exploitation phenomena and proves that the measures taken by the State over the last five years in order to combat serious labour exploitation are unfortunately not efficient.

The 164 farm workers from Bangladesh and Pakistan, who were victims of the fire, submitted through the legal aid of Generation 2.0 RED a report-complaint to the Central Service of the Labor Inspection. The applicants required by the competent authorities: **a)** to carry out all necessary inspections in agriculture sector in order to prevent and/or identify any violations of labour law **b)** to ensure that all victims will receive financial assistance **c)** to provide suitable accommodation facilities with hygiene conditions **d)** to ensure that victims have access to renewable residence permits and **e)** to take all appropriate

⁵² *Idem*, par. 28.

⁵³ See also [Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2020\)](#)

⁵⁴ [Manolada Watch June 2019](#)

measures to prevent and combat the crime of trafficking in human beings or/and forced labour.

The report-complaint was also shared with the Ministry of Migration Policy, the Greek Ombudsman, the National Special Rapporteur for Combating Human Trafficking, the Ministry of Agriculture and the GNCHR. The GNCHR communicated the report-complaint in question, received on September 5, 2018, to the Prosecutor's Office of the Supreme Court, the Department for the Execution of Judgments of the ECtHR and the competent international and European human rights inspection bodies. The GNCHR, by communicating this report-complaint to the Department for the Execution of Judgments of the ECtHR, implemented the Rule no 9.2 of the revised Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, and therefore, the respective procedure of monitoring the execution of the ECtHR Judgments before the Committee of Ministers of the Council of Europe was activated.

The GNCHR, by communicating this report-complaint, also forwarded its Recommendations for the full compliance of the Greek State with the Judgment of the ECtHR in Case *Chowdury and others v. Greece*, requesting for its response⁵⁵.

It should be stated that the above mentioned report-complaint was submitted to the Labor Inspection Central Body of the Ministry of Labor, Social Insurance, and Social Solidarity by the victims' attorneys, and also, it was notified, among others, to the GNCHR. Unfortunately, this report-complaint supported the findings of the GNCHR Recommendations with regard to the meaningful compliance of the Greek State with the ECtHR Judgment on the *Chowdury and others v. Greece* Case. Namely, based on the latest information, it is a growing belief that the case at hand does not consist an "isolated case", as invoked by the competent Greek Authorities in their official Report concerning the compliance with the ECtHR Judgment submitted for discussion during the 1324th Meeting of the Committee of Ministers of the Council of Europe (September 2018).

Further, the GNCHR has communicated the report-complaint to the competent international and European bodies regarding the monitoring of the human rights framework which, among the others, includes the following:

⁵⁵ [GNCHR, *Chowdury and Others v. Greece* Recommendations for the full compliance of the Greek State](#), August 27, 2018

At the international level, the UN Secretary-General, the UN High Commissioner for Human Rights, the Regional Representative for Europe of the UN High Commissioner for Human Rights Office, the UN Special Rapporteur on the Human Rights of Migrants, the UN Special Rapporteur on contemporary forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance, the High Representative for Refugees in Greece, the Director of the UN Office for the Coordination of Humanitarian Affairs, the Director-General of the International Labor Organization (ILO), the Director of the ILO International Labour Standards Department and finally, the Head as well as the Chief of Mission and Regional Response Coordinator of International Organization of Migration (IOM) in Greece.

At the regional level, the Commissioner for Human Rights of Council of Europe, the Committee of Ministers, the Council of Europe Expert Group on Action against Trafficking in Human Beings, the European Commission against Racism and Intolerance, the ECtHR, the European Commission on Social Rights, the President of the Organization for Security and Co-operation in Europe (OSCE) and the National Special Rapporteur for Combating Trafficking in Human Beings.

The GNCHR notes with deep concern, that initially no further effective action was taken by competent State authorities⁵⁶, which proves that there remain, in practice, very significant barriers for undocumented workers to take complaints, participate in proceedings and receive due wages and compensation through the courts. The Labor Inspection Body found no violations of labor law (October 2018)⁵⁷, while the victims were issued deportation orders by the police in December 2018. Subsequently and following the above report-complaint, positive steps have been taken by the authorities. The workers were recognised as presumed victims of particularly exploitative working conditions (February 2019) and due pending criminal proceedings, 220 workers in this area have been granted temporary residence permits⁵⁸. To date the applicants have been in the process of being granted renewable residence permits as victims of particularly exploitative working conditions with access to work according to Article 19A *Residence permit for humanitarian reasons*,

⁵⁶ [Communication from two NGOs \(Advice on Individual Rights in Europe \(AIRE\), Centre and the Platform for Undocumented Migrants \(PICUM\)\)](#) - 21.04.2020

⁵⁷ <https://g2red.org/regarding-the-labor-inspection-s-response-to-the-farm-workers-of-manolada-2/> 18.12.2018

⁵⁸ See also Footnote 54

par. 1 d) of Law 4251/2014, as amended by the recent Law 4686/2020 *Improvement of migration legislation* (article 37)⁵⁹. The recent incident, the reluctance of law-enforcement and judicial authorities to proceed to the necessary actions as well as the delays in the procedures, yet still not completed should be taken under serious consideration from the competent State authorities.

44. Need of adopting a new broad and horizontal regulation concerning the submission of *Residence permits for humanitarian reasons*

With the above mentioned amendment (point No. 43), the legislator has addressed a significant gap in the application of law with respect to the right of work. More specifically these residence permits (for victims of particularly exploitative working conditions) are granted on condition that a complaint has been lodged by the undocumented third country nationals who have been subjected to particularly exploitative working conditions or were illegally employed minors and who cooperated in criminal proceedings against their employer, with the purpose of facilitating the complaint procedures. It is an obligation arising from the Directive 2009/52/EC *providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*. However, the national legislator has included this category of residence permits in national law without providing at the same time access to work for the first year of the permit.

The new rules are fully harmonized with Article 13 (4) of the Directive 2009/52/EU, which explicitly refers to Article 11 of the Directive 2004/81/EU *on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities*, that provides for a residence permit of limited duration linked to the length of the relevant national proceedings, for the third-country nationals involved.

The GNCHR welcomes the new measures as complementary to measures to counter undeclared work and exploitation (see par. 33 of the rationale of the Directive 2009/52/EU), while preventing practices such as in “Manolada-case”.

⁵⁹ Law 4491/2017 “*Improvement of migration legislation, amendments of provisions of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions*” (OGG 96/A, 12.05.2020)

See also: [GNCHR's Observations on Draft Law of Ministry for Migration and Asylum “Improvement of migration legislation, amendments of provisions of Laws 4636/2019, 4375/2016, 4251/2014 and other provisions”](#)

With regard to the above and as far as the whole legal protection system guaranteed by article 19 A (*residence permit for humanitarian reasons in case of victims of trafficking, victims of domestic violence, minor third country nationals in boarding schools who are victims of work accidents etc*), the GNCHR deems it necessary to point out that this provision is restrictive excluding from its scope other vulnerable categories of third country nationals that might need protection for humanitarian reasons. In addition, the GNCHR, considering that the purpose of law is, *inter alia*, not only to cover the protection gap in cases of third country nationals, where there are reasons imposing their residence in the country, but also in cases where there are reasons that render impossible their removal or deportation from the country, suggest that the current provisions should be re-examined. In particular the GNCHR suggests that the legislator proceeds to the adoption of a broad horizontal regulation that includes more vulnerable groups and ensures that it applies also in the event that a removal or a deportation is impeded for humanitarian reasons, such as for the best interest of child, protection of family life and health protection in alignment with Articles 5 and 6 of Directive 2008/115/EU *on common standards and procedures in Member States for returning illegally staying third-country nationals* and as a measure of preventing all forms of exploitation.

CONCLUSIONS

45. In light of all the above mentioned, the GNCHR reiterates the importance of the ECtHR judgment in the "Manolada-case" (leading case) and requires that the priority attention of the Committee of Ministers rests on the case. The compliance of the Greek State with the judgment does not merely concern its legal progress but also its progress in practice, particularly as regards forced labour working conditions i.e. land workers, notably the uncontrolled working environment, worse remuneration, residence settlement conditions as well as lack of provision for basic health and safety. In this respect the GNCHR, taking under serious consideration the additional increased risks in the event of land workers, especially after the outbreak of the pandemic Covid-19, underlines that there is an urgent need for addressing those phenomena.

Accordingly, the GNCHR in view of the upcoming 1377th Meeting of the Committee of Ministers, calls upon the Committee of Ministers, within their jurisdiction to supervise the execution of Greek State with the judgement ECtHR *Chowdury and others v. Greece*, and to follow-up on the recommendations submitted herein to the extent that this will significantly contribute to the prevention and combating of all forms of forced labour and labour exploitation.