

REPORT

NATIONAL PREVENTIVE  
MECHANISM  
AGAINST TORTURE  
AND ILL-TREATMENT  
ANNUAL SPECIAL REPORT 2017



# OPCAT

## NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE AND ILL-TREATMENT

ANNUAL SPECIAL REPORT 2017



In memory of Vassilis Karydis

## ANNUAL SPECIAL REPORT 2017

*(Article 23 of the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment of the General Assembly of the United Nations (OPCAT), ratified by Law 4228/2014)*



This report reflects the activities of the Greek Ombudsman in 2017, in its capacity as the National Torture Preventive Mechanism, in accordance with its competence under Article 2, Law 4228/2014.

The report is the product of visits to and on-site inspections of detention spaces by the Authority's experts. Final editing by special investigators **Vicky Vasilantonopoulou, Ioanna Kouvaritaki, Olga Lysandropoulou, Alexandra Moschopoulou, Aimilia Panagou, Fotini Pantelidou, Stergios Preventis** and **Michalis Tsapogas**, under the supervision of Deputy Ombudsman responsible for exercising the competence of the National Preventive Mechanism, Prof. **George Nikolopoulos**.

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# Foreword by the Greek Ombudsman

The Optional Protocol to the UN Convention “Against torture and other cruel, inhuman or degrading treatment or punishment” provided for the establishment of a system of monitoring -by international and independent national bodies- of conditions in a state of deprivation of liberty in order to avoid acts of torture or cruel, inhuman or degrading treatment degrading treatment or punishment. Its ratification by the national assembly in 2014 created new challenges and increased the responsibilities for the Ombudsman: The Independent Authority, having years of experience and extended expertise in the protection of fundamental human rights, assumed the role of the National Prevention Mechanism foreseen in Protocol, the independent, that is, national body for monitoring the conditions in conditions of deprivation of liberty.

Throughout 2017, significant progress has been made in ensuring the basic prerequisites for the effective implementation of the Ombudsman’s mission as a National Prevention Mechanism: Both the human as well as the financial resources of the Mechanism have been upgraded, thus allowing, for the first time, for the development and implementation of an integrated strategic planning and programming. At the same time, international collaborations were intensified, with a view to promoting the exchange of best practices and know-how in conducting inspections in places of detention.

Indeed, in 2017, the Ombudsman’s National Prevention Mechanism put in place a plan of mapping detention facilities throughout the country, setting out the conditions in all areas of deprivation of liberty falling within its sphere of competence. Systematic visits and inspections took place in prisons, police and coast guard detention facilities, detention centers for third country nationals pending deportation, inpatient hospitals, welfare institutions throughout the country. The key findings of the work of the team of special investigators of the Ombudsman that took over the implementation of the Authority’s specific competence as a Preventive Mechanism are set out in this report. It is expected that a full mapping will be completed by 2018, so that the Prevention Mechanism will henceforth enter into a new phase of operation -alongside the regular overview of all detention facilities; that of more targeted and systematic monitoring of detention conditions, with particular emphasis and insistence on places where initial registries and indications highlighted the most problematic findings.

The unwavering objective of the Ombudsman's National Prevention Mechanism is the complete, thorough and comprehensive recording of detention conditions in the country and the provision of appropriate recommendations for their improvement in order to meet the requirements of a state governed by the rule of law, fully in line with the imperatives of the legal-political civilisation of the 21st century.

The preparation of the compilation and publicity of this report was marked by the early loss of Professor Vasilis Karydis, a former deputy Ombudsman and member of the Council of Europe Committee for the Prevention of Torture (CPT); the first coordinator of the Ombudsman's National Prevention Mechanism, the man who, through his action in the Independent Authority, in the academic community, in international organizations and as a practicing lawyer, fought as much as anyone else to protect the fundamental rights of all those in deprivation of their freedoms; a personality that deeply affected everyone who had the privilege of working with him. This report is dedicated to his memory, as a token of appreciation and recognition of his unsurpassed contribution to the defense and protection of fundamental rights in our country. ●

—Andreas I. Pottakis  
**The Greek Ombudsman**

# Introduction

## *by the Deputy Ombudsman – responsible for executing the competence of the National Preventive Mechanism*

The year 2017 - being the fourth mandate in which the Greek Ombudsman has acted in its special competence as the National Preventive Mechanism under Law 4228/2014 - has been a year of programmed regrouping, operational relaunching and effective intervention of the Mechanism towards protecting human rights in all forms of detention regimes (criminal, administrative, psychiatric or welfare). This development has been facilitated by several economic, programming and organizational measures, namely:

The allocation - for the first time - of State funds for the Mechanism (albeit during the second half of the year), which has helped overcome functional obstacles and limitations in mission-related actions, thus stimulating its operational relaunching;

The Authority's central planning for regular monthly visits of its teams in every Region of the country, which has allowed a systematic approach to inspections of detention sites in every Region, by organizing either initial or follow-up visits and ensuring at least one visit per year to each detention site;

The reinforcement of the Authority's experts team with new members, distributed in 4 sub-groups, according to the subject-matter of the monitoring duties of the Mechanism (Prisons, Spaces of administrative detention: police / coastguard detention spaces and pre-removal Centers for third country nationals, Involuntary psychiatric treatment units, Welfare institutions). This has facilitated both the thorough monitoring of different detention regimes, and the exchange of feedback between sub-groups, allowing the comprehensive perception of the challenges related to the implementation of deprivation of liberty measures in our country, as well as to the protection of the subjects' rights.

In this context, the National Preventive Mechanism has gradually consolidated its mandate as an external monitoring body of detention conditions nationally and has at the same time been established as a valid counterpart of the administration concerning prevention of breaches to prisoners' rights.

Moreover, the Authority's extensive experience in exercising its general and

special competences guarantees its prestige and reliability in the protection of prisoners' rights and adhering to international standards concerning detention conditions. The expertise created is reflected in several of the Authority's reports and is available to all policy implementing agencies, while we are pleased to see an increasing number of our proposals being adopted by the administration and incorporated in national legislation.

This report reflects the NPM's operation in 2017, regarding visits to and inspections of detention sites, as well as interventions on the institutional level, and includes its networking and collaborations with corresponding social entities. Apart from the development of the NPM's operational actions nationally, 2017 marked the reinforcement of the Mechanism's international presence (especially at the European level), through participation in European or regional meetings and accession to fora and networks, which enhanced the sharing of expertise and experience with peer entities.

The findings of the inspections the Mechanism conducted in each detention site, as well as specific recommendations to the administration are cited in detail in the relevant chapters of this report. On a general note, however, ensuring policy terms and rising to international standards of detention conditions requires thorough planning and intervention in other areas, that precede or follow detention in itself - such as, mainly, strategic planning, operational objectives and programmatic actions in the relevant policy areas (criminal, penitentiary, immigration, refugee, psychiatric, welfare), which decisively affect the terms and conditions of detention in each detention site (prisons, pre-removal centers, police and coastguard cells, psychiatric hospitals and units, welfare institutions).

The Greek Ombudsman will continue to serve its legal policy mandate, exercising its special competence as NPM in the context of restraint institutions themselves. Indeed, entrusting the State's external monitoring of detention conditions to a constitutionally designated Independent Authority serves not only the typical lawfulness of handling deprivation of liberty, but also the essential core of limiting restraint policy vis-à-vis human rights.

In this respect, any detention regime (be it criminal, administrative, psychiatric or welfare) should ensure both the fulfillment of legality standards and the accountability of its operators, so that it operates in a context of transparency, compatible with legal policy considerations. ●

—George P. Nikolopoulos  
**Deputy Ombudsman for Human Rights**

# I. Legal framework and operation of the National Preventive Mechanism

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international convention on human rights, which was adopted by the General Assembly of the United Nations in 2002 and entered into force in 2006. The common denominator was the consensus and the common understanding of the member states of the international community, that the efforts against the ill-treatment of persons who are deprived of their liberty, and are therefore in an especially vulnerable position, should focus on prevention.

In this context, a broad definition of torture was adopted, including not only the systematic infliction of pain, but any inhuman and degrading treatment downgrading human existence. The use of torture offends human dignity and aims at annihilating the victim's personality. Not only does it constitute a criminal act, under both national and international law, it is also an act against human civilization itself. Facilities such as prisons, immigrant detention centers, psychiatric wards, police cells etc. often pose a threat to human dignity.

Greece ratified the Optional Protocol with Law 4228/2014, transposing it into national law with increased formal power. Article 2 of the above law nominated the Ombudsman as the National Preventive Mechanism against Torture. The mission of the National Preventive Mechanism comprises of the regular review of the treatment of persons deprived of liberty, the delivery of recommendations for improvement to the competent authorities and the submission of proposals and observations regarding the applicable legislation or drafting of legislation.

Article 4 of L. 4228/2014 stipulates that the National Preventive Mechanism visits all places of deprivation of liberty -either public or private- with or without prior notification of the relevant authorities. Such facilities include prisons, police cells, psychiatric wards, administrative detention spaces of third-country nationals, welfare institutions, etc. These visits may be carried out, in line with international practice, on non-working days or even during the night. NPM inspections include the collection of data by all means available, such as, indicatively, visiting all detention areas, interviewing persons and taking photographs. Furthermore, under the general competence of

Article 103(9) of the Constitution and Law 3094/2003, the Ombudsman has access to all files, documents, data or archives.

Based on the above lines of action, the NPM implements its operational planning on monitoring issues related to deprivation of liberty, with the conviction that detention, as the most severe limitation of liberty, should be an exception, one inflicted only when it is unavoidable or when no alternative measures can be taken. ●

## II. Annual Special Report of 2017

### **1. - INSPECTIONS AND INSTITUTIONAL INTERVENTIONS**

#### • BRIEF REVIEW OF INSPECTIONS

During 2017, in the context of the programmed monthly visits of the Authority's teams to all Regions of the country -but also outside the scope of this schedule- the National Preventive Mechanism has carried out visits and on-site inspections in:

- 9 Detention Facilities, namely in: Ioannina, Corfu, Kassandra, Nigrita, Diavata, Chios, Komotini, Corinth, as well as Korydallos Prison Hospital and the branch for HIV-positive prisoners,
- 10 Police Headquarters cells or Police Stations cells (in Chios, Petroupoli, Ioannina, Igoumenitsa, Samos, Kos, the Immigration Management Department of Mygdonia / Liti, the Sub-directorate of Transits of Thessaloniki, the Transits Department of Ioannina) and 1 under the Hellenic Coastguard's jurisdiction (Igoumenitsa),
- 8 Pre-removal Centres (Tavros / P. Rallis St., Corinth, Moria in Lesbos, Amygdaleza / Minors Detention Centre, Paranestion, Xanthi, Orestiada, Thessaloniki / Aliens D),
- 3 psychiatric facilities (Psychiatric clinic of University General Hospital of Ioannina, Psychiatric Ward of General Hospital "G. Hatzikosta" in Ioannina, Psychiatric Hospital of Thessaloniki), as well as follow-up visits to those made in the previous year at the Psychiatric Hospital of Athens (Dafni),
- 3 housing units of Social Welfare Centres (the Lechaina Branch for Persons with Disabilities of the Social Welfare Centre of the Region of Western Greece, the Skaramagkas Unit of the Voula Branch for Treatment and Rehabilitation of Children with Disabilities (former Hospice for Chronic Children's Disease of Skaramagkas) of the Social Welfare Centre of the Region of Attica, the Branch for People with Disabilities of Western Attica), while a NPM team for the first time carried out an inspection of a private elderly care unit.

- GENERAL DETENTION FACILITIES

### **Methodology of inspections**

A NPM team consisting of at least two of the Authority's experts visits the Detention Facilities without previously notifying the prisons. The visit takes place preferably on working days and in the morning hours, so that all members of the staff are present, it is normally completed in one day and it lasts for several hours –at least five- depending on the size of the Facility.

Firstly, the team meets with the Administration, the Chief Warden, as well as with the social service, psychologist and doctor (if any), in order to grasp a first impression of the situation and identify problems, shortages or disruptions, but also “good practices”, according to staff evaluation.

Secondly, the team visits the facility's area accompanied by administration representatives and communicates with the prisoners in groups –or, in some cases, individually. During this communication, wardens remain outside of the room or cell if requested to. During the visit, the team may take pictures of the facility, it engages in conversations with the inmates with no staff present and it visits all areas of the facility (cells, dormitories, disciplinary cells, new-entrants hall, doctor's offices, cooking areas, recreation areas, library, workshops, management offices etc.), it examines the record of injuries and, on occasion, the prisoners' medical files, decisions that grant or refuse leaves of absence, the minutes of disciplinary boards etc. It also asks for samples of the above documents and of food rations. The team also examines work placement lists, in order to determine if all interested prisoners have access to working positions and that they alternate in them. Lastly, the inmates' sense of personal security is investigated. The prisoners are informed of the NPM and the Ombudsman's authorities and they are encouraged to submit a complaint to the Ombudsman on any matter within its competence. In fact, those complaints are often received by the team members during their visit or they are sent by mail immediately after.

Throughout the visit, the team's specialized scientists record their observations in writing or electronically, take photographs of anything notable in the areas visited and generally collect the material that will be used for drafting their report and their suggestions or observations towards the administration.

After the visit in the facility's areas has been completed, the team meets with the Director once again, in order to set out the problems that the team may have observed or any complaints made by the prisoners. Whenever possible, the team also meets a representative of the wardens' union and the external Guard.

Immediately after the inspection, team members share their views with each other and within the next days the report is drafted, filed in the special “OP-CAT archive” and sent to the facility inspected, along with any suggestions and observations, while also communicated to the General Directorate of Crime and Penitentiary Policy of the Ministry of Justice, Transparency and Human Rights. The report constitutes the basis for preparing the follow-up visit to the facility and for monitoring the implementation of the suggested recommendations.

### **General annual findings**

- Based on all NPM inspections of Penitentiary Facilities (Diavata, Corinth, Chios, Ioannina, Corfu, Nigrita, Kassandra, Komotini), no overcrowding is observed in 2017, which has significantly improved detention conditions. However, the Mechanism repeats its earlier recommendation for a holistic approach to the improvement of incarceration conditions. Occasional measures to address prison congestion are but one aspect of the care that the State should take regarding criminal detention. Legislation should be centrally oriented towards the rationalisation of prison terms imposed, the protection of human dignity and the reduction of incarceration time through the implementation of alternative detention measures. However, the penitentiary issue cannot be addressed solely on a legislative basis, without the necessary funds and qualified staff. The quality of infrastructure and the adequacy of human resources are essential in guaranteeing safety and respect of human dignity during detention.
- Despite the positive initiatives on the part of the administration, the lack of creative activities for the inmates, as well as shortages in permanent specialized medical and nursing personnel, Social Service staff and psychologists, remain critical issues in most Detention Facilities. It should be noted that, even though required by law, there is no criminologist in any Detention Facility.
- It is in this direction that efforts should be intensified towards motivating the hiring of permanent medical and nursing staff in every Detention Facility, ensuring 24 hour availability. The common practice of penitentiary staff being charged with nursing duties can only be used to serve administrative functions, e.g. sorting medicines or inserting data in files, and under no circumstances is it appropriate for required medical actions. Furthermore, it is deemed necessary that every Facility has a defibrillator and cardiograph. Ultimately, closeness of a Facility to a hospital or health centre does not guarantee the prisoners' sound health, as the transfer procedure is complicated and time consuming, having even a deterrent effect.
- It is generally acknowledged that inactivity further burdens the already poor psychological state of prisoners. Organising seminars and workshops would help “decompress” inmates and handle tensions within the

- Facility. It would also contribute to maintaining their self-esteem and smooth reintegration insofar as training is a professional qualification.
- Social Services within Detention Facilities play, pursuant to the Internal Regulation of Operation of Type A and B General Detention Facilities (Ministerial Decision 58819/2003), an especially important role, as they contribute to the improvement of prisoners' lives within the Facilities, but also act as a liaison with the social environment on the outside. Apart from that, Social Service reports, which are regarded as an objective evaluation tool, protect the implementation of the procedure of leave. Psychologist service is deemed equally important.
  - The National Preventive Mechanism welcomes the establishment of the first Rural Prison Facility in Eleonas in Thebes and expects that the conditions will soon be appropriate to extend those installations. Deputy Ombudsman Giorgos P. Nikolopoulos, head of the National Mechanism, was present at the inauguration of the Facility.
  - We consider especially useful the publication by the Ministry of Justice of a Practical Guide on Preventing Suicides, titled "Suicide in Prison: How to prevent it?" which was distributed to prison staff having direct contact with inmates and was aimed at early detection of suicides and other self-destructive actions of prisoners.
  - The cooperation agreement between the General Secretariat for Crime Policy and the Hellenic Open University, for 20 scholarships annually to prisoners enrolling in undergraduate courses, is also marked as positive.
  - Finally, we note with satisfaction that the disciplinary cells in the Corfu Facility were abolished and turned into a museum, while disciplinary cells in the Patra Facility were also taken down, pursuant to criticism by the CPT and the Ombudsman.

### **Individual inspections and observations**

#### Korydallos Prison Hospital and the branch for HIV-positive prisoners

The Mechanism visited Korydallos Prison Hospital and the branch for HIV-positive prisoners, which has been in operation for the last three years. The Hospital consists of dormitories, not organized in clinics, as is the case in general hospitals, since its operation resembles more that of health centres. Hospitalisation for those able to move takes place in out-patient offices. Prisoners in the newcomers chamber have no contact with other inmates, until their test results for infectious diseases come out, which may take up to more than one week. The hall is divided in two separate spaces, one totally empty and one with only two double bunk beds. At the time of inspection, four people were put in this space, which resulted in a suffocating feeling inside the dormitory. Cancer patients are treated by doctors in public hospitals, such as Metaxa Hospital, to which they are transferred for radiation

treatment and chemotherapy. Patients may not choose a private practice for those treatments.

#### Ioannina Detention Facility

At the time of the inspection, it was observed that there were a hundred and ten (110) inmates, with the facility's capacity coming up to sixty six (66) people. There were thirty four (34) wardens, one (1) social worker, two (2) psychologists, two (2) general physicians, one serving in a permanent position and the other on a five-year tenure, and one (1) dentist on a non-regular basis. The wardens complained of the shortage of security personnel, which deterred them from taking their normal days off, over 1000 of which remain overdue.

There was no Second Chance School at the Facility, nor any KETHEA program. The visiting team was informed that there was a specific amount of drug addicted prisoners suffering from withdrawal, who distress over the lack of a KETHEA program. Furthermore, Social Service informed the visiting team that there was a high percentage of financially deprived prisoners. As a result, there is an imperative need for clothing, sanitary items, telephone cards and cigarettes. Efforts are made to cover those needs through donations, as the Facility's financial resources are insufficient.

#### Corfu Detention Facility

The Ombudsman once again states its consistent position that use of this Facility should be abolished, due to its age and spatial structure. The facilities' architecture reflects the penitentiary policy of 1836, when it was built, during English occupation. It is therefore unfit for use according to modern penitentiary policy standards, according to which prisoners are subjects of rights, deprived only of the right to free movement; if it is continued to be used, the kitchen area should be immediately reconstructed. We were informed that the Ministry has issued a decision as to this matter, albeit it has not been implemented yet. Moreover, the Facility lacks Social Service staff, workshops and educational seminars. There is a doctor and a dentist, but four (4) wardens are also charged with nursing duties. The library is currently being adapted for a second chance school planned to start operating.

#### Rural Prison of Kassandra

The Facility spans across 4.200 acres, of which 1.000 are the property of TAIPED. At the time of inspection, (20.11.2017) there were two hundred and eighty (280) prisoners in total, in both the "closed part" and the "day-release part". The Facility has a capacity of three hundred and eight (308) prisoners.

The building infrastructure is especially old, since the Facility was established

in 1930. In the “closed part” prisoners’ dormitories walls have ventilation openings with no frames, making it impossible to close during winter. It is noted that the area often has low temperatures and snowfall.

Although the Facility is designated as a special regional medical centre, the doctor and nurse are in leave of absence, and a member of the security personnel is charged with nursing duties. A dentist visits the Facility and provides dental care once a week. There is also a weekly counselling KETHEA, attended by ten (10) prisoners. Finally, there is no social worker or psychologist, and social worker duties are performed by an administrative employee. There is no second chance school, there is however a vocational training institute for cheese making. Attending the vocational training institute requires a high school diploma, as well as a prison term of minimum 2.5 years. Those requirements make it practically impossible for inmates to attend the vocational training program, as there are enough prisoners with the necessary requirements. Nonetheless, the Director has proposed that the vocational training institute can be turned into a technical school, for which there are no such requirements. It is considered that this alteration will allow the training of more inmates, thus contributing to production and consequently income increase. The Authority considers prisoners’ creative activities to be invaluable and believes that acquiring a diploma will improve their chances of employment; therefore it applauds practical solutions that will ameliorate prisoners’ access to the craft of cheese making.

#### Nigrita Detention Facility

This facility started operating in 2010. The Facility has five (5) wings, each one comprising of two two-storey wards, which are supervised in pairs by camera and one guard. Every ward has a separate yard. Wing A is however closed due to shortage of security personnel. At the time of inspection there were three hundred and eighty four (384) inmates, while the facility has a capacity of four hundred and eighty (480) inmates. There is no doctor, dentist or psychologist on a permanent basis, but doctors from the local health centre visit the facility occasionally. A dentist from the local health centre visits the Facility weekly and provides dental care. Psychiatric cases are transferred to the psychiatric clinic of Serres Hospital, while KETHEA runs a counselling program.

#### Diavata Detention Facility

At the time of inspection, there were five hundred and forty (540) prisoners, of which nineteen (19) were women, with the capacity of the Facility being three hundred and fifty eight (358) inmates. The Facility only has one permanent doctor (a psychiatrist), who is however on a long-term leave of absence, while there are weekly visits of a general physician, a pathologist and a psychiatrist (all of them on a short term tenure). There

are two (2) nurses and two (2) inmates act as nurse's assistants. The Facility also has three (3) social workers and two (2) psychologists. There is a second chance school operating, while an afternoon school shift and high school are in the immediate plans.

A visit was also made at the therapeutic community KETHEA PROMETHEUS, operating inside the General Detention Facility of Thessaloniki (Diavata Prison), which was inaugurated, on 2.11.2015. This is the first rehabilitation unit operating in a Greek prison and it occupies a separate ward of the Facility, providing members with the opportunity to attend the program daily, without returning to the cells with the rest of the inmates. For this reason, prisoners remain in their cells only during morning count and during the night. The two-storey ward where the unit is accommodated has been appropriately modelled by KETHEA and has a ground floor kitchen area, dining room, meeting halls and a separate yard and sports area. On the first floor there are three-person cells. The inmates themselves are responsible for cleaning the ward and meal preparation.

Although the unit has a capacity of 84 persons, only 22 inmates attend the program currently, while KETHEA has not been able to identify the cause of this limited appeal. Prisoners who complete the program successfully may become therapists themselves, which can be used as a motive to others, while, as a therapist participating to the program highlighted, attendance should not be interrupted even in the case of a relapse, as it is essential for treatment. Of course, this has to be specially stipulated by law. The program has two shifts and 4 therapists, aided by volunteers and attendance is counted in the beneficial calculation of the penalty, with every day of incarceration being calculated as two. Finally, there are exercising, computer, Greek language and literature classes offered participants may join a KETHEA reintegration structure after their release.

The program is highly appreciated by the Ombudsman. In addition, extension of its operation to its full capacity is highly recommended so that many more addicted prisoners may have this benefit.

#### Chios Detention Facility

At the time of inspection, there were a hundred and twenty nine (129) prisoners, with the capacity of the Facility being eighty two (82) inmates. As observed in previous reports, we once again stress the problems caused by the building's age. Nonetheless, we should note the renovation of the kitchen area and the expansion of the total area by the creation of a shelter. Improvements include the fact that there are no more underage inmates and no prisoner is forced to sleep on the floor. However, mattresses are still in bad condition and need to be replaced, while bed-bugs are still a major issue.

Inmates' complaints are mainly focused on the infrastructure being old and the financial inability for renovation. Serious distress was also expressed concerning their reintegration, as they would face unemployment upon release, while some had no family or relatives at all. Lack of scientific personnel also continues to be an issue, especially that of a social worker, whose duties are performed by an administrative employee. Prisoners either submit their requests to the complaint box in the premises or ask for a hearing with the administrative personnel. Furthermore, it is essential that medical services are reinforced, both with visitations of different doctors and with the employment of nursing staff.

Development of educational and recreational activities is crucial, for which we suggest that the administration takes the initiative of co-operation with local community agents, such as cultural and athletic associations, municipal theatres etc. The inmates' vividly expressed anxiety for their life after release calls for a closer cooperation with «Epanodos - Released Prisoners' Reintegration Centre»

### Komotini Detention Facility

The Facility has a capacity of a hundred and sixty (160) prisoners and there were two hundred and twenty one (221) inmates at the time of inspection. There is an organized doctor's office and a doctor from the Komotini Hospital serves daily. A psychiatrist visits the Facility upon request and the administration awaits the placement of a dentist, having made a request beforehand. A second chance school is, also, in operation.

## **Institutional interventions**

### Issues concerning the serving and duration of sentences

#### **a. - Delay in transmitting parole requests**

A prisoner at Chania Detention Facility complained that the prison administration did not complete his parole procedure on time, resulting in it being granted with a ten-month delay. The administration reiterated that the necessary documents had not been submitted due to the prisoner's refusal to sign the request. The prisoner had opted, at the time, to request an aggregate sentence, combining the sentences he was serving with future ones, since there had been an arrest warrant issued for him on further charges. The Ombudsman has stressed that parole does not depend on the prisoners' will or request. It also underlined that deviations from the time limits prescribed constitute failure to act when legally bound to.

The General Secretary on Crime Policy expressly accepted this point and issued written instructions to all Detention Facilities administrations, on handling cases of prisoners stating that they don't wish the initiation of parole procedure.

#### **b. - Calculation of sentence served**

A female prisoner, whose sentence, already partially served, was overturned by the court of appeal, requested that the term served has to be taken into account for calculating a sentence imposed on different charges. The court found that the time served on the first sentence may not be taken into account for the calculation of the second sentence, as article 87 of the Criminal Code only allows it for concurrent offenses tried jointly. It was considered that the prisoner only had the option to claim compensation for the time served on the basis of the first sentence, under article 533 etc. of the Criminal Procedure Code.

The Ombudsman considers the mere option for compensation inadequate. Undeniably, from a legal policy point of view, the time served by the prisoner has to be taken into account, under a decision that was subsequently overturned, for the calculation of subsequently imposed sentences, if the incarceration was not interrupted. The Ministry of Justice has forwarded the Ombudsman's proposal for the addition of a relevant paragraph to article 87 of the Criminal Code, which is currently under revision, to the Special Drafting Committee.

### Welfare and insurance benefits for prisoners

#### **a. - Severe disability benefit for prisoners**

A former prisoner complained of discontinuance of a benefit received since 2014, for 67% invalidity. As noted above, the severe disability benefit aims at ensuring the resources necessary to cover increased living cost due to the disability, given that hospitals or welfare institutions provide treatment with regard to the disability. Even if assumed that the Detention Facility is able to cover the basic living and treatment needs, it is not within its mission to hold the necessary infrastructure for the personalized treatment needs of prisoners. The mission of Detention Facilities, in conclusion, does not coincide with that of welfare institutions or hospitals.

Furthermore, discontinuance of the severe disability benefit during incarceration is an conflicting administrative act and, as such, it should be expressly provided by law. In any case, inconsistent behaviour of the administrative agencies involved should be eradicated, and a common practice established. The Ministry of Labour has informed the Ombudsman that it will "bring once

again before the State legal Counsel the issue of whether prisoners are eligible for the severe disability financial aid program”.

#### **b. - Payment of pensions to prisoners**

Payments of a prisoner’s pension during his incarceration were declared as disproportionate with an interest of 5%, after payment of the pension was retrospectively suspended for the duration of the detention. Social Security Service (IKA-ETAM) held that the payment of pensions is suspended for the duration of a detention sentence of more than 6 months, under Law 1846/1951. In addition, circular 128/1973 introduces a non-rebuttable presumption that the pensioner was aware of the fact that the payment was undue during the sentence. The Ombudsman invoked case law according to which the above provision is contrary to articles 25(1) and 22(5) of the Greek Constitution (Judgments no 3180/2007 Athens Administrative Court and 2527/2008 Athens Administrative Court of Appeal), given that “pensioners’ criminal offences are not directly linked to their pensioner status, nor are they reason for the loss of the status thereof”. The Ombudsman argued that payments of pensions may not be retrospectively declared as undue, if the social security service has not suspended payment by its own accord. Moreover, the non-rebuttable presumption of being aware of undue payments is discriminatory against prisoners on pension.

The Ministry of Labour advised that the issue will be uniformly addressed in the context of the new Social Security Regulation of EFKA, taking into account the Ombudsman’s observations. In addition, article 27 of Law 4488/2017 provides for the suspension of pension payment to pensioners serving a sentence of more than a year, if the offense they were charged with was committed against the social security service

A similar complaint was lodged by another pensioner who was paroled for home detention. His request for reinstatement of his pension was refused, on the ground that “parole following a public prosecutor’s order merely alters the place or manner of serving the sentence imposed ... and therefore constitutes no reason to terminate the suspension of pension payment”. Given the unfavourable nature of Law 1846/1951, the Ombudsman argued that, until the suspension of pension payment is uniformly addressed by EFKA, care should be taken to limit the repercussions of its implementation. The terms “service of sentence” and “conviction” should be narrowly interpreted as meaning exclusively detention inside a detention facility and no other forms of service should be included, such as release on parole, which lacks the element of deprivation of liberty. Furthermore, the justification of payment suspension, being that the State covers the pensioner’s living cost for the duration of detention, does not apply in the case of parole; therefore the suspension serves no legal purpose.

The abolishment of this provision is imperative also due to the high number of prisoners released on parole, since parole is granted with no further procedural requirements under article 105 of the Criminal Code. Prisoners on parole should enjoy their pensioners' rights, if the parole cannot be revoked or for as long as it is not revoked, on the basis that this measure greatly serves the purpose of social reintegration.

Observations on the Strategic Planning of the Ministry  
of Justice on the Penitentiary System (2018-2020)

The Ombudsman, responding to the invitation of the Ministry of Justice commented on its draft of its Strategic Planning on the Penitentiary System and submitted the following detailed observations:

**A. – General Observations**

a. – By an overall assessment, the draft incorporates an abundance of ideas and suggestions, categorized by objectives and actions, in a manner that makes easier the subsequent detailed processing and analysis. It is nevertheless noted that setting specific time frames for achieving those objectives, as well as laying down provisions for the necessary financial resources, would facilitate further monitoring of implementation.

b. – Correlation of this strategic planning with corresponding interventions in different aspects of criminal justice, preceding or following criminal reform although organically intertwined with it and affecting its operation and effectiveness –such as legislating and post-punitive care- should be taken under serious consideration. In this regard, it would be useful in many aspects to develop a national long-term strategic plan on criminal policy, one that would organically include the abovementioned strategic planning on the serving of sentences and on the overall treatment of criminally charged persons, either institutional or not. This would help limit “side-effects” and “undesirable effects” arising from the operation of the penitentiary system, such as overcrowding of prisoners or inadequate post-punitive care.

The Ombudsman has repeatedly stated that «the penitential issue in the country should be considered in the light of an “holistic” reevaluation of the criminal justice system, covering its various aspects, namely, legislative (penalty system), judicial (sentencing) and punitive (detention conditions), as well as the interaction between them, all in the context of a cohesive medium-term criminal and penitentiary policy (see indicatively Annual Report 2014, p. 159 and Annual Report 2015, p. 137). In this regard, the strategic planning in question would extend to more than individual and occasional interventions limited at the stage of serving prison sentences; it would extend beyond the penitentiary, thus

addressing more effectively the factors that shape inward and outward prison flows.

c. - Regarding inward prison flows in particular, attention should be drawn to quantification of the current status, as, according to the figures recently published by the Ministry of Justice (see Ministry of Justice document no 1178/10.5.2017), total number of prisoners may be marginally under 10,000, but nearly half of the Detention Facilities nationally operate on more than 100% of their capacity, with the danger of overcrowding being imminent. On the other hand, extending the duration of the “decongestive” provisions of Law 4411/2016 may temporarily take some load off Detention Facilities, but at the same time it brings in the spotlight several issues, which will presumably be analysed by the Ministry, such as, for example, the severity degree of judicial decisions as regards the sentences imposed, the prospect of released prisoners returning to free social life (concerning, mostly, monitoring their needs and providing solutions for basic survival: housing, sustenance etc.). Finally, special care should be taken regarding the reintegration of prisoners of foreign nationality, who, according to the Ministry of Justice data, on 1.2.2017 amounted to 54% of the total number of prisoners.

## **B. - Observations on individual chapters**

### **1. - Regarding objective 4.1 *“Improvement of detention conditions - modernization of infrastructure”*:**

a. - Whereas reference to a “National plan for prisoner distribution - determining each facility’s operation and progress” abides, of course, by an essential rule of managing detention facilities, there is no proposal of specific criteria for the implementation of this distribution, matching the distribution of prisons across the country (“which prisoners for which facilities?”). The importance of spatial closeness of the prison to the place holding prisoners’ familial and social bonds, for their successful social reintegration after release is also highlighted, as is the need for special care of imprisoned foreign nationals.

b. - As far as serving in rural prisons is concerned, prisoners’ fitness for work is determined by the facility doctor, whose decision may not be challenged, while rejection results in obligatory transfer to a closed-type prison. It is therefore suggested that such rejecting diagnoses are further screened, through diagnostic examinations and a second opinion by a public hospital doctor. Certification of work experience acquired in detention is also suggested, so that it may be taken into account during the prisoners’ professional reintegration after release.

c. - The issue of informing incoming prisoners should not be regarded as a separate operative objective of objective 4.1. It is advised, instead, that

a new strategic objective is developed, covering a broader spectrum of ensuring and reinforcing prisoners' rights. In this context, ensuring the conditions necessary for information and exercising of prisoners' rights is suggested, as provided for in the Penitentiary Code and in articles 31 and 32 of the Internal Regulation for the Operation of General Detention Facilities Type A and B (Ministerial Decree 58819/7.4.2003, Official Gazette B'463/ 17.4.2003), as well as offering legal aid under article 33 of the abovementioned Regulation. In addition, prisoners should be informed of the possibility of a recommendation by the Disciplinary Council to replace a prison sentence with community service (article 29(6) of the Regulation). It is specifically suggested that a very important informative leaflet issued by the General Directorate of Criminal Policy, titled "Prisoner's alphabet", is distributed to all incoming prisoners (awaiting trial or convicted).

d. - The Ombudsman proposes, that all prisoners' requests to the Facility's administration should be taken into serious consideration and the administration's response should be subject to evaluation, e.g. the number of requests for transfer to a safe location could be indicative of the quality of prisoners' relationships, as well as of their sense of security in detention. Concerning the content of prisoners' mail addressed to the Ombudsman or the Inspectors Body or other control mechanisms, parallel to security, unhindered access to those institutions should be ensured, guaranteeing the free submission of complaints and investigation requests.

## 2. - Regarding objective 4.2 ***"Development of human resources - staff training - management"***:

a. - There is a reference to "regular 6monthly meetings with Prison Directors", to "determining and defining roles/synergies", to "creation of a Security Council in prisons" etc., in a totally vague and unclear manner, as neither the participants of those "meetings" and "synergies" nor their content is specified or in any way described. Specifically regarding the intention of creating "a Security Council in prisons" (repeated in objective 4.5), the Ombudsman considers it necessary to include justification of the purpose of such a body, a definition of its mission and a description of its competence and authority. Moreover, apart from prison Directors' meetings with central administration, setting weekly or bi-weekly staff meetings (per function and/or in total) within each Detention Facility, is of equal importance.

b. - The establishment of a School for Penitentiary Staff is deemed absolutely essential, so that security personnel training takes on a permanent and regular character, both before assumption of their duties and during its exercise (initial / further training) and is not limited to the occasional

seminar. Similarly, external guard must also be trained, their weapons and their operational capability maintained. Regular psychological examination of security staff and external guards is also advised, in addition to measures for managing their psychological burnout.

c. - It is essential that detention facilities nationally are staffed with the necessary scientific personnel (criminologists, sociologists, psychologists, social workers), so that individual prisoners' problems and broader issues connected to each facility's operation are effectively and comprehensively handled.

3. - Regarding objective 4.3 ***“Elimination of overcrowding - alternative measures and reliable implementation - prevention and handling of juvenile delinquency”***:

a. - In response to the reference on “participation of judges as much as possible” in the drafting of the report in question regarding the reasons of prison overcrowding, the Ombudsman recommends a general reform of the National Judicial Academy curriculum and the inclusion of non-legal subjects of a general education nature, which are considered to enhance the formation of the judges' personality in general, allowing them to formulate a valid and reliable judgement when handling specialized cases (e.g. criminology, penitentiary sociology, judicial psychology, pedagogics etc.).

b. - In response to the reference on “Study for the evaluation of the implementation of EU agreements and framework decisions on prisoner transfer and adopting measures for effectively transferring prisoners to their countries of origin”, we suggest that the Ministry of Justice participates in the European network «EuroPris» (European Organisation of Prisons and Correctional Services), in which an Expert Group operates, with a view to mutual information and exchange of “good practices” on the implementation of Council framework decision 2008/909/JHA on transferring detained European citizens to their country of origin (transposed into national law with L. 4307/2014).

c. - As to the reference on the penal treatment of minors, the planning is considered to be in the right direction, given that, pursuant to measures taken thus far (such as legislation reform and limiting the number of minors imprisoned), it includes a number of necessary further actions which have been pointed out by the Ombudsman as well as by other public entities and NGOs for protecting the rights of children. These include:

- Developing Minors and Youth Care Units, by expediting the consultation and voting of the draft Law.
- Increasing the number of Minors' Guardians and Social Relief officers through posting and transfer of staff.

- Upgrading the implementation regime of corrective measures and defining the relevant framework.
- Revising the framework for implementation of community service.
- Revising the operation of Companies of Minors' Protection and their Hostels.
- Revising the operation of the Minor Males' Treatment Institute of Volos.
- Re-opening the Special Premises of Young Persons' Detention at Volos.
- Examining measures towards establishing minor-friendly justice system.

In this context, the Ombudsman has also submitted the following observations and recommendations:

- The draft Law on Minors and Youth Care Units must be submitted to consultation as soon as possible and subsequently implemented, given that, after L. 4322/2015, a large number of adolescent offenders who, according to Minors Guardians, should be placed in alternative living and support environments, remain with their families, in living conditions that are often inappropriate or harmful. The Strategic Planning does not address this gap adequately, and makes no mention of the Ministry seeking collaboration with public benefit organisations operating under private law for the creation of increased care hostels and shelters – even if as a pilot project.
- Despite the positive reference on the intention to increase the number of Minors' Guardians and Social Relief officers, no specific objectives are mentioned, e.g. covering existing openings and ensuring the Guardians' presence in all district courts, according to needs, etc. It should be highlighted that the envisaged in a different Ministry of Justice draft Law creation of working positions within the Guardians' Service at the five largest district courts nationally may not be considered as a real increase of the number of Minors' Guardians, because new staff will be required to serve in a different capacity, providing support and investigative services to underage victims, whose cases are under judicial scrutiny. It is therefore preferable that the Strategic Planning holds covering of the gaps in Minors' Guardians Service as a priority of the Ministry, in respect of the actual needs at the country's district courts for handling juvenile delinquent cases and cases of minors in danger.
- Upgrading the implementation of the corrective measures requires clarification, specifying the promotion of collaboration between Minors' Guard-

ians and various public or non-governmental institutions for education, professional training, counseling, mental health, addiction management, adolescent support and encouragement, creative activity and artistic expression. The Ministry could initiate registration of those entities, bound to collaboration by means of contract with Minors' Guardians Services and it could also seek the creation of a certification system thereof, as the Ombudsman has already suggested.

- There is no mention of promoting foster family placing as a corrective measure. Despite the obstacles in the implementation of this measure, it is important to note that the Ministry will examine its reinforcement, given that this has also been an intention of K.E.S.A.TH.E.A. (Central Scientific Council for the prevention and confrontation of the victimization and the criminality of minors).
- In respect of Companies of Minors' Protection, it is not clear where the Ministry stands regarding their mission. Two issues in specific call for answers:
  - Whether Social Services of Companies of Minors' Protection nationally shall actually operate and undertake their mission, as provided for by law (see, especially, art. 53 of L. 2447/1996)
  - Whether Companies of Minors' Protection, will be reinforced by the State in order to operate Minors and Youth Care Units, not in the form of children protection units (of a welfare nature), as is the case today, but in the form of modern structures, specialised in adolescent behavioural disorders. For this mission to be accomplished, the Ministry shall have to ensure the Companies' staffing with educators and scientists, in contrast to unskilled employees, as is the case today.
- Finally, concerning the measures towards establishing minor-friendly justice system, it would be useful if the Strategic Planning included specific objectives, such as raising awareness nationally among prosecutors and judges who participate in handling minors' cases of the principles of minor-friendly justice, expediting trying of juvenile delinquent cases, offering legal aid to underage offenders and victims, ensuring the use of interpreters in all cases involving minors who do not speak Greek, establishing bureaus for interdisciplinary examination of underage victims, using audiovisual recording devices, in order to avoid repeated testimonies.

4. - Regarding objective 4.4 ***“Reintegration preparation – post-punitive care”***:

a. - The Ombudsman absolutely shares the Ministry’s view of prioritizing prisoners’ social reintegration and always emphasizes on the importance of this objective – both in the annual and special reports it publishes and in focused publications, such as the book “Criminal detention and rights”. In achieving this objective, however, it is crucial – as recognized by international organisations and relevant scientific bibliography- that all detention facilities have an activity space (for athletic, cultural activities, etc.), as well as various creative activity programs for prisoners.

In addition, with regard to the detainees’ education, the Ombudsman had suggested examining the possibility of operating high school programs within the existing infrastructure of the Second Chance School, in collaboration with the Ministry of Education. This would allow the acquiring of high school diplomas within the prison or in collaboration with a High School nearby, whereas prisoners who wish to attend high school currently have only the option of acquiring the books, and participating in the examinations with self-study, which is, in practice, discouraging.

b. - It is necessary that the Ministry of Justice is connected with Municipal Authorities and other entities, so that every prisoner cooperates with a social worker (and, ideally, also a psychologist) at the Municipality where he resides after release and for a specific time. This could constitute a condition of parole, pursuant the relevant amendment of the Penal Code. Similarly, we suggest the interconnection of Facilities to Labour Office, in order to provide employment opportunities or further professional training through special programs for professional reintegration.

c. - It is common knowledge that spatial closeness of the detention facility to the residence of prisoners’ families and social connections constitutes an essential factor for their social reintegration. In this respect, transfers and prior knowledge thereof on the part of prisoners and their families are crucial. We suggest striving to strike a balance between security of Detention Facilities on the one hand and preserving the prisoners’ social bonds and, where appropriate, their access to a hospital, on the other.

5. - Regarding objective 4.5 ***“Security of staff / prisoners, transparency - accountability”***:

a. - Security of staff / prisoners is considered a matter of different order compared to transparency - accountability. The latter is of paramount importance itself and it should constitute a separate strategic objective, requiring special measures for the suppression of organized crime within prisons and bringing any arbitrary behavior on the part of security personnel before the Ombudsman for examination within its



competence as National Mechanism for the investigation of arbitrary behaviour (L. 4443/2016).

b. - On several occasions, especially after escaping or violation of of leave of absence, there have been significantly more severe decisions of this prison's Board resulting in the limitation and, utterly, circumvention of the rights of other prisoners, e.g. refusal of leave granting en masse, non-transfer to a hospital etc. It is recommended that the staff is advised of the appropriate behavior for ensuring facility security, in such a way that prisoners' rights are not compromised.

6. - Regarding objective 4.6: ***“Health services during detention, in cooperation with the Ministry of Health”***:

a. - The Ombudsman has often observed and recorded in its reports the inadequacy of health care provided to prisoners, as well as the total lack of doctor or psychiatrist in some Detention Facilities. The proclamations of the strategic planning, that no Detention Facility should lack a permanent doctor with daily presence are in the right track. In this context, we recommend that special care is taken for the prisoners' dental health, ensuring a properly staffed dentist's office in every facility, as well as for their mental health, by ensuring either a permanent psychiatrist position or regular psychiatrist visits in every facility. Alternatively, it would be useful to ensure that there is a number of appointments reserved for prisoners at public hospitals monthly, at least in certain “popular” medical specialties.

b. - It would also be useful -in the context of the operational objective “Regular cooperation with the Ombudsman”- if prison doctors were obligated to report to the National Mechanism for the investigation of arbitrary behavior any severe injuries, to be investigated for violation of L. 4443/2016.

## • DETENTION CELLS UNDER THE JURISDICTION OF THE HELLENIC POLICE AND THE PORT POLICE - HELLENIC COASTGUARD

### General annual findings

The NPM's visits to detention cells of Police Stations and Headquarters and to Prot Police - Coastguard detention cells, which were carried out almost completely with no prior notice, have once again highlighted the premises' unsuitability for long term detention.

The Ombudsman inspected cells designated solely for the administrative detention of aliens, operating as de facto pre-removal centres, which will be presented in detail in the relevant chapter on aliens' administrative detention, as well as cells serving for holding both criminal and administrative detainees (Police Stations of Petroupoli, Samos, Kos, Chios, Ioannina, Igoumenitsa, Port Police of Igoumenitsa cells).

- It was observed that criminal inmates were detained in the same space (cell) as administrative detainees. It was found, however, that administrative detainees remain under custody for a long time, while criminal detainees remain for shorter periods, as transferees for a court hearing or for court appearance in the procedure for offenders caught in the act. All facilities are small, with no yard access, except the detention cells in Chios Police Station, and lacking natural light and ventilation. Detainees remain constantly inside the cells, without access to any kind of activity. Despite efforts by the personnel and the detainees themselves, hygiene is poor, which further deteriorates the already adverse conditions due to limited space and long term detention. Lack of medical and nursing personnel makes handling of medical incidents particularly difficult, given the already complicated procedure required for transferring a detainee to a hospital.
- Severe problems are observed regarding meals and dispensing sanitary products to alien administrative detainees, in conjunction with the long duration of their detention in these Stations. The amount allocated for each police station detainee is insufficient for covering all of their needs, as detainees bear all personal expenses, including food, coffee, snacks, shampoo, soap etc.
- Personnel working and living areas are also considered unsuitable for the staff and reflecting on the quality of their work.
- Transfer Centres inspected by the NPM also face severe issues concerning their premises, insufficient natural lighting, ventilation and heating, as well as lack of yard space.

## Individual inspections and observations

### Police Station cells of Chios (29th August 2017)

At the time of inspection, 11 persons were detained (10 men and one young woman), in two separate spaces. More specifically, men were held in the typical cells with a common entrance space, while the woman (a Syrian national) in a room designated as space (1 cell) for short term detention. All inspections were held for illegal stay and most were at pre-removal stage. Several were being held for more than one month, as return procedures delay and there is no Pre-removal center on the island. No criminal detainees were present at the time of inspection, but we were informed that in such cases (usually due to transfer to the detention facility) the cell for short term detention is used.

At the time of inspection, most detainees were agitated and reported several problems. They reported specifically that the place is usually especially dirty, but had been cleaned hastily at the day of our visit. They also reported suffering from parasites a few exhibited bug bites on their hands and body.

The cells have a capacity of 18 persons. Beds are built-in out of concrete, narrow, with slim mattresses and very close to each other. Many mattresses and bed linen were of poor condition and extremely dirty. Other mattresses, sheets, blankets and linen were stacked on the ground in various spots for no apparent reason. Cells are on the ground floor, neighboring a fenced yard of a few square metres, which is used for yard time. This small space is limited even more by stacking of various objects, probably by Way of a storeroom. The alternative for yard space is the public waiting room, which is also a closed space, much like the cells, but has large opaque windows that allow more natural light.

Despite high temperatures on the day of the inspection, the cells' temperature was good, as there is air conditioning, but there was a strong odor of closed space. Some of the toilets (1 toilet and 1 shower in each cell) were in mediocre state and some of them in poor state. At the time of inspection no hot water was available, as the solar heater provides hot water for a few hours daily.

The detainees mentioned that the food rations were small and that they did not like the food. Police officials claimed that meals are provided by catering companies, which alternate every month and that the sum of EUR 5,87 amounts to each detainee for daily meals. An NGO whose name was not mentioned provides a croissant, while breakfast offered daily is the same as the one given at the VIAL camp.

Finally, the detainees reported that they are not provided with adequate

medical care and that access to health care is given at the request of detainees', who are transferred to the island's hospital, if it is deemed necessary. In specific, we were informed that there were new requests for out-patient doctor's appointments with a gastroenterologist and a psychiatrist, which can be serviced by local health care providers after one week.

*In conclusion:*

- The usual practice of using the police station cells of the island's capital as a gathering point for persons awaiting return or readmission to Turkey was observed in this case as well.
- Detention spaces are neglected, disorganized and relatively dirty, in sum unsuitable for long term detention. Disinfections do not appear to suffice, which aggravates detainees' reaction. The toilet condition is generally poor and repair is required. It is accentuated that several of the detainees held at the day of the inspection were being held for over on month (since 25.7.17).
- Care should be taken in order to satisfy medical examination requests sooner, while the quality the meals provided should be examined as well. The yard space function should be restored, as the waiting room does not cover the yard time requirements, being a closed space. Finally, prolonged detention with no access to recreation or other activity creates strong psychological pressure for detainees.

#### Police Station cells of Petroupoli (12th December 2017)

The detention space is located in the basement of the Police Station, which is on a main street inside the city. Stairs to the basement end to a locked iron door, from which extends a corridor with lockers for prisoners' personal items. At the end of the corridor there is a toilet on the left and a vertical smaller corridor, along which there are two halls facing the staircase. At the ceiling of the small corridor there is a small hatch (skylight) which, as we were explained, has been characterized as a potential escape way. For this reason, the halls remain under constant lock and access to the toilet is not unhindered. Besides this small hatch, there is no other natural lighting or ventilation. Halls lack electric power and all light comes from a small bulb at the small corridor, resulting in halls being especially dark. Every hall holds three (3) built-in beds. Heat is provided by a small stove in the small corridor. Smoking is prohibited for safety reasons.

*In conclusion:*

The space is judged as unsuitable for detention for more than a few hours. Lack of free access to the toilet, lack of yard space, natural ventilation and lighting, insufficient hygiene, infringes detainees' fundamental rights. Holding detainees in this space violates article 3 of ECHR and constitutes inhuman

and degrading treatment. Therefore, detainees should be removed from this space.

Transits Department of Ioannina (19th October 2017)

At the time of inspection there were no prisoners at the department, which had recently been painted and disinfected. The Transits Department is located in the basement of the court house of Ioannina and its troops serve detention cells as well as the court house guard. The Department's troops also carry out returns of Albanian nationals detained in Kakavia. The space has been lent to Hellenic Police by the Public Prosecutor's Office free of charge.

The cells have a capacity of fifteen (15) persons. There are 3 cells, one with a capacity of six (6) persons and two with a capacity of five (5) persons each. We were informed that the Department will not take in more than fifteen detainees. If there are more detainees, excessive ones are detained at Ioannina Police Station. The cells have built-in beds with foam mattresses. Cells and toilets are adequately cleaned by a private cleaning service. Sanitation products are brought in by detainees themselves and the Department provides only toilet paper. As general rule, each detainee is allocated EUR 5.87 daily and this sum covers needs for nourishment, telephone cards and coffee, which is individually supplied by stores. The Detention Facility where each prisoner originates from takes care of any pharmaceutical treatment required and medication follows the prisoner. Each detainee's medical file is transferred at transit. If the case is of detention at a police station cell, the file remains at the Detention Facility.

Natural light and ventilation is inadequate. Inside every cell, there are two light bulbs, but only one of them is being used, at the detainees' request, as we were informed. One air conditioning unit at the corridor covers all three cells, but does not appear to provide enough heat for the whole space. Hot water is provided using heaters. Maximum detention time is 5 days.

*In conclusion:*

The space is deemed suitable for a few days detention.

Security Department of Ioannina detention cells  
(19th October 2017)

At the time of inspection, twelve (12) male prisoners were at the Department, of which three in-the-act criminal offenders, one foreign national fugitive and eight foreign nationals administratively detained for return. The less recent of the administrative detainees had entered the Department on

5.10.2017 and the most recent one on 17.10.2017. The total capacity of the Department is eighteen (18) persons.

The cell area is on the ground floor of the Police Headquarters and comprises of a small corridor and three cells in a “Г” formation, of which one is used for detention of women and vulnerable groups. The cells have built-in beds. The two cells designated for male detainees have a capacity of seven (7) and five (5) persons respectively, while the third cell used for women has a capacity of six (6) persons. The two cells for men have doors with bars, covered by a metallic mesh up to a height of approximately 1.60 m, so direct visual contact with the guard is impossible for someone not tall enough. The cells are small with very little free space, so that there can be no chairs or tables. As a result, during daytime, detainees have to either stand or lay down. There is insufficient natural light and ventilation. Each room has only one small window placed high near the ceiling. Two of the rooms have one toilet with a shower each.

The third room does not have a toilet. When female detainees wish to use the toilet, the men cell is locked, so that there is free access to the toilet. We were informed that there is hot water supply and detainees did not express any complaint thereof. A small air conditioning unit is used for heating and does not appear to be adequate. The detainees present at the time of inspection had no experience of extreme heat or cold at the space, due to the time of the visit. No sanitary products are provided by the Department. The space is not sufficiently clean. Part of the detainees complained strongly about food quality and asked that they are given the sum allocated so that they buy their meals themselves. The detainees have no yard time. However, there is a yard, used only occasionally, for persons remaining in custody for long. The Department has no medication supply, except for tablets, bought by Police Officers at their own expense. Medical incidents are transferred to the Hospital.

Discussion with the staff has revealed shortages of personnel, equipment and items such as toilet paper and soap. The staff’s challenges in cases of protective custody were also highlighted. In such cases, persons out of control due to drug use or alcohol consumption have to remain in custody overnight for the sake of their own or other’s safety. In some cases, they remain handcuffed.

*In conclusion:*

Detention conditions are highly unsuitable because of the state of the premises. Detention should not last more than a short period of a few days.

Police Station cells of Igoumenitsa (20th October 2017)

The Police Station cells comprise of 2 cells with two built-in beds (of a width 1.5 times a regular bed). The space has little natural light, through high windows (skylights) and there is no yard access. At the day of inspection, one cell was occupied by a foreign national awaiting a hearing with the local public prosecutor. In the second cell 4 foreign nationals were detained, awaiting return. Two of them slept on the same bed and one on a dirty mattress on the floor. Similarly, the other cell had a dirty mattress as well. The space was dirty. We were informed that cleaning the spaces including toilets is assigned exclusively to detainees, and cleaning products provided. The cell is cleaned by cleaning staff only when completely empty of prisoners, which seldom happens. The toilets were also dirty and their plumbing worn out.

We were informed that there had been an effort for maintenance of the cells about one year ago, consisting of painting and plumbing repairs, however, due to the continuous flow of prisoners, damages were quick to appear.

Women are rarely held at the Police Station and only for a short time, while we were assured that minors are never detained there. The average time of detention for foreign nationals awaiting return is 4-5 days. However, at earlier times there had been larger flows of administratively detained foreign nationals whose detention at the Police Station lasted up to 15 days. Among detainees present at the day of inspection, the longest detention time was of 6 days. During that period, there was a small flow of administratively detained foreign nationals. They usually remain in detention at the Station for one week.

Two meals are provided daily and they appear sufficient. There is a water heater and hot water supply. When there is need for medication, a notebook is kept and officers are aware of the medication required for each detainee and the time of administering it. We were informed that usually prisoners on special medication have it with them and the Police Station has an expenditure provision for medication 2 or 3 times a year. If a detainee feels poorly, they are transferred to the Hospital. Blankets are provided, but they are passed on to other detainees without having been washed. The police officers noted that there is an important security issue.

*In conclusion:*

- The Police Station cells are only suitable for detention of a few hours, or of one or two days at the most. Detention conditions are poor, and lack of cleanliness is a serious issue. The cells are seldom cleaned, and only if they happen to be empty, and blankets are given to detainees soiled and used by other prisoners. It is a good practice and the Ombudsman

has persistently recommended for all police stations that the inside of the cells is cleaned by the Station's sanitary service, isolating one cell at a time, instead of the practice of assigning cleaning to prisoners.

- The Police Station cells, lacking any yard access, are not suitable for administrative detention of aliens awaiting return. Under L. 3907/2011 administrative detention in principle requires special premises, in accordance with the standards set in article 31 thereof.
- Regarding guarding, the Ombudsman observes that assigning this duty to the building's gate guard is ineffective. With a view to better safeguarding detainees' rights, as well as to ensuring security, we recommend that a different guard is placed for the detention cells.

#### Port Police cells of Igoumenitsa (20th October 2017)

The Port Police's cells are located away from the Agency's office space, outside of the urban fabric. The premises were problematic in whole and basic fundamental shortages apparent. There were three separate fenced parts (separate premises) on an open outdoor field: a) a building for adult men, b) a building for minors and c) a container for women. At the time of the inspection, there were 11 adult male detainees and 3 minors.

#### **i. - Detention spaces for adults, male and female**

There were two cells, in a very bad shape, due to damages, inadequate cleaning, malodor and overcrowding. Cells allowed full visual contact of detainees and no privacy, as one side of them (the one next to the corridor and facing the opposite cell) had floor-to-ceiling bars for its full length. The space was quite dark, with insufficient natural light. Two small windows placed high in one of the outer walls had been rendered useless by addition of a foreign object (one of them is used for the heating pipeline). There was central air conditioning installed.

Inside each cell there was a toilet, in very bad shape at the time of inspection, completely lacking in hygiene. As confirmed by the security staff, toilets are never cleaned by a sanitation service, nor are any cleaning products provided to the detainees themselves (lest they are used for different purposes, e.g. self-harm). The cell itself was in similar shape, malodorous and dirty, as it is never cleaned. It is worth noting that, despite the harbourmaster's assurance of regular cleaning of the premises by an outsource cleaning service, this cleaning was in fact limited to the corridor area, as was obvious by the inspection, but also confirmed by the staff. The cells had no showers. Inside each cell there were built-in beds, without mattresses, insufficient in number. Detainees slept on the floor, which was almost fully covered by linen, substituting the mattresses. For this reason, lack of blankets was declared.

At the time of inspection, in the space designated for women (a container),

there were no detainees. There were sofa-beds, in bad condition, and the overall impression was that of neglect. There was however a chemical toilet (outside of the container), but no shower.

## **ii. - Minors' detention space**

The detention space designated for minors had one room with windows, therefore there was natural light. The beds are built-in here as well. Obviously, as there were less detainees, conditions were better, as far as overcrowding was concerned. However, this space also was dirty, while for the period immediately prior to inspection there had been shortage of bed linen, which was just covered with sleeping bags provided by an international organisation.

Outside the detention space, a very small yard had been formed, surrounded by a barbed wire fence. Minors had access to outdoor showering by a water hose. It is obvious that this water supply could not cover the minors' needs for personal hygiene, as it was placed outdoors, fully visible and with cold water. There was a (chemical) toilet outside.

Since the minors had not been recorded and their identity verified at entering the country, the administration had initiated the procedure for age verification, the detainees had been subjected to an x-ray and examination by a forensic doctor was pending. More examinations were to be performed before being admitted to camps (mantoux examination, pneumologist and dermatologist). It is, however, noted that this procedure takes several days, which results in minors being detained for a long time at the completely unsuitable space of port police cells.

## **iii. - The overall impression**

As already mentioned, at the Port Police cells personal hygiene was inexistent, with the exception –a highly problematic one- of an outdoor (cold) water supply at the yard, for minors. As the Ombudsman's team was informed, if there were prisoners' requests to wash themselves (not often, mostly in prolonged detention), they were transferred at the Port Police central Station.

General Hygiene was absolutely problematic. Despite assurances of daily cleaning, communication (with security personnel and detainees) as well as the teams on-site inspection revealed that only open common spaces were cleaned daily, the service being virtually non-existent. Detainees complained of bug bites, with visible marks on their body. The Port Police staff informed us, however, that there is regular disinfection under the Port Authority's responsibility.

Adult male detainees never had yard time, while minors were given access to yard time, albeit in a very small, rudimentary space, in no case suitable

for recreation or other activities. This was assessed as especially cumbersome and its direct consequences on minors having to remain in complete inactivity for hours were apparent.

The spaces had no equipment other than the built-in beds (and the beds in the women cell). At the entry, detainees were given no other bed linen but blankets, which –according to the harbourmaster’s assurance, were cleaned at a dry cleaner after detention was terminated for each person (unlike police cells, for which the official statement was that blankets are not washed)

Meals were provided by contracting local professionals, who alternated. Adult detainees complained of insufficiency and poor quality of food. This allegation was not confirmed by the Ombudsman’s team, judging from the appearance of the food distributed at the time of inspection. No problems were reported concerning medical treatment.

The detainees stated having difficulties with communication. It was also obvious that they were not informed of procedures and the timing thereof, which deteriorated their frustration. In any case, at the time of inspection, a UNCHR employee, accompanied by an interpreter, was present, being briefed and providing information.

*In conclusion:*

- Detention conditions were far from suitable, even for a few days detention. There were shortages and deficiencies on many levels, especially concerning the premises. Lack of cleaning service, problematic buildings with insufficient natural light, lack of access to yard time, as well as the complete unavailability of personal hygiene access (showering) are deemed especially problematic, given that detention de facto lasts for several days.
- Specific recommendations were made even at the time of the on-site inspection, concerning immediately feasible (and inexpensive) improvements. It was observed that lack of natural light in one of the cells was due to the air conditioning unit’s pipeline and it was suggested that it is moved.
- Furthermore, it was considered that creation of yard space at the exit of the adult men detention space, similar to the minors’ space, was feasible and in any case necessary. It is noted that there was no objective obstacle of creating such a space, even if a makeshift one (for instance, by putting a fence around the corridor’s exit), as the detention cells comprise of autonomous buildings on an open outdoor field. The Ombudsman’s team also noted that any escape risk could be avoided, by providing yard time on rotation, considering the relatively few detainees.
- Further recommendations by the Ombudsman include the self-evident need for regular and systematic cleaning of detention spaces by a

- cleaning service and better maintenance of the premises.
- It is absolutely essential and crucial to public health that spaces for the detainees' personal hygiene are created, even with using mobile structures (containers).
- Finally, creation of an extra space is considered necessary, in order to avoid over-crowding and the consequences thereof.

Transits Department of Thessaloniki  
(7th February 2017)

This detention facility is housed in a privately owned building, designed as a factory storage space. As a result, any intervention or maintenance is subject to the provisions of the lease agreement, with any obstacle this may entail. The space comprises of six large cells along a corridor, and there is also a room for inspection of new entrants, where they only remain, as the officers assured us for a few minutes. Apart from that, at the end of the corridor there is also a quite larger hall, which was initially designated as an indoor yard and recreation space. However, shortage of security personnel and the increased number of detainees have caused this to be used as a cell as well. Detainees have no visual contact with the outdoor environment, as cells lack windows. There are only some skylights close to the ceiling in the outer wall. As a result, natural ventilation is not possible and natural light is insufficient. This is a quite high-ceilinged space with no central heating system. Three large air conditioning ground units aimed at the cells are used for heating and cooling. It is however questionable whether those units suffice in cold weather conditions, given the high ceiling and the humidity marks observed.

A built-in long “Π” shaped bench along the cells' walls is used as a bed, with individual foam mattresses. When detainees lay down each one's head is by the next one's feet. Cells have no tables or chairs. Each cell has 2 and 1 shower. There is no yard and detainees remain constantly inside the cells. A cleaning service contract has expired and there is no cleaning service provided, but detainees, in cooperation with the security staff, make efforts to keep the space clean. Outside each cell there are large garbage bags.

On the day of the on-site inspection 54 persons were held, while the officers in charge informed us that the number of detainees periodically rises to 100, and there were instances it rose up to 140 persons. We were also informed that 60-70 persons on average are held daily.

Medical incidents are treated by on-duty hospitals, as there is no doctor or nurse serving. Officers encounter difficulties in distributing medicine, since they report that Detention Facilities do not clearly regroup medication for each prisoner. Moreover, as we were informed, the fact that the Department is responsible for all kinds of transit within the Region makes execution of their duties more burdensome.

*In conclusion:*

The space is considered unsuitable both as a detention place and as working environment for police staff, as the conditions are especially hard for everyone. Lack of yard space, natural ventilation and light, inadequate cleaning and lack of medical or nursing staff violate the detainees' fundamental rights. Holding detainees in this space violates article 3 of the ECHR and constitutes inhuman and degrading treatment, detainees must therefore be removed.

Police Headquarters cells in Samos  
(28th August 2017)

The inspection was carried out one month after the fire that burnt down a large portion of the Police Station, in which 40-60 persons were held a few months before. The Police Station (offices) and detention cells afflicted by fire are located on the ground floor of the Police Headquarters building. On the day of inspection, 5 detainees were held in the back of the Port Police premises, 3 more at the Police Station in Karlovasi and 3 more at the Police Station in Pythagoreio.

The temporarily used space at the Port Police station had natural light and space adequate for 5 persons, but no yard. It may not therefore be considered suitable for aliens' administrative detention; nevertheless it is much better than the cells at the Police Station in Samos, which were not in use due to the fire that happened in the beginning of July. At the Port Police station, there was no pay-phone, but we were assured that one was to be installed.

The cells of the Police Station in Samos (a 70 square metres space with a capacity of 17 persons) had been inspected by an Ombudsman's team one year before, when inadequate cleaning, insufficient natural light and total lack of yard time for the (then) 13 detainees had been observed.

*In conclusion:*

Lack of interpreters continues to be the main problem concerning detainees' communication and information at the Police Station in Samos, in addition to the lack of medical/nursing staff and social workers. It should be highlighted that the lack of a psychiatrist on an island with a Camp constitutes a grave danger to human rights, especially considering that, as reported, there are frequent instances where the Police Station is used for "protective custody" of patients awaiting transit by public prosecutor's order, who remain at the Police Station for several days, with police officers being unable to offer them suitable treatment.

### Police Headquarters cells in Kos (28th February 2017)

It is an old two-storey building with a large outdoor space, once used by the Italian command. The cells are located on the ground floor, and are comprised of two cells with built-in beds along the walls, many dirty mattresses on the floor and a toilet. The two cells, of a total capacity of 24 persons, are separated from the outdoor space with bars and a narrow corridor, which serves as a hallway.

On the day of inspection, a number of people almost twice the capacity of the premises was held, namely 42 persons. Most of them were detained awaiting return, some of them awaiting their transfer to a Detention Facility and others awaiting administrative expulsion. Some of the prisoners had been held there for months.

Detention conditions, due also to the large number of detainees, were appalling. The space was extremely dirty and neither a cleaning crew nor police officers themselves entered the cells. The hallway to the cells was squalid as well. The detainees complained of food quality. It was also observed that there was a total lack of information and of interpreters.

#### *In conclusion:*

The cells are considered to be totally unsuitable for holding even a small number of detainees. However, after communication with the Head of Aliens and Border Security Division, the Ombudsman was assured that the cells will be renovated. Current detention conditions are, by mere visual observation, inhuman and degrading, constituting a violation of article 3 of the ECHR.

#### **In specific: Administrative Detention and protective custody of minors at police station cells in Northern Greece**

In facilities under the jurisdiction of the Police Headquarters of Thessaloniki, where unaccompanied minors were held under protective custody (Immigration Management Department of Mygdonia / Liti, and Sub-directorate of Transits), it was observed, at the time of inspection (17-19.7.2017), that the number of unaccompanied minors under protective custody was especially increased, as no spots in hosting facilities were available. As a result, children remained deprived of liberty for long periods of time, in especially hard conditions, with no yard access. The Police Headquarters reported, indicatively, that from the beginning of June 2017 until the time of inspection, that is, in less than 20 days' time, 77 minors had been placed under protective custody and only 12 of them were able to be moved into suitable care structures. This resulted in children being overcrowded in Police cells for long periods of time. The situation in a cell at the Department of Mygdonia / Liti, where 17 minors, most of about 15 years of age, remained in a

25 square metres space, with the floor almost fully covered by mattresses without sheets, was indicative.

Apart from specialized hostels, in Northern Greece there already are “safe spaces” for unaccompanied minors within camps at Diavata, Kavala and Alexandreia, with a total capacity of 90 spots. It is considered necessary that similar spaces are created in other camps as well, in order to ensure those children’s rights more effectively, until they can be placed in hostels.

Some crucial issues arose during inspection, such as the need to initiate appropriate procedures for age evaluation, so that minors are not detained together with adults, as well as measures for covering the needs of adolescents with mental disorders and children on the verge of adulthood.

As a follow-up of this inspection, the Greek Ombudsman issued a press-release<sup>1</sup> in which it pointed out once more that holding unaccompanied minors in detention spaces such as police stations and pre-removal centres constitutes a major violation of their rights and poses their sound development under direct danger. The Authority has repeatedly and consistently stressed the position – arising from the Convention on the Rights of the Child (L. 2101/1992), as well as from the general legal frame on children’s protection – that protection of unaccompanied minors is a legally binding obligation for the State and detention may in no way be a valid and lawful choice of fulfilling this obligation.

The position that detention of children solely on the basis of their migration status constitutes a violation of their rights, and always contravenes the principle of the best interest of the child, was pointed out once more by the European Network of Ombudspersons for Children (ENOC) in its Regional Meeting which took place in Athens (13.11.2017). The recommendations prepared included that children must be protected, including through non-custodial solutions established by law, safeguarding their right to liberty at all times.

## ● PRE-REMOVAL CENTRES FOR THIRD COUNTRY NATIONALS

### **General annual findings**

The Greek Ombudsman’s on-site inspections of Pre-removal Centres for Third Country Nationals are carried out under two of its concurring competencies, namely the one as a National Preventive Mechanism against Torture (L. 4228/2014) and the one of external monitoring of forced returns of third country nationals (L. 3907/2011). Findings and observations pursuant the

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1. <https://www.synigoros.gr/?i=childrens-rights.el.dpnews.445808>

on-site inspections thereof are depicted in the relevant reports, with the present report focusing on detention conditions themselves, while the report on returns examines issues regarding reception and asylum procedures, as well as the lawfulness (justification, duration, alternative measures) of aliens' administrative detention.

In 2017, the Authority's teams visited Pre-removal Centres that operate formally under the existing legal frame (Tavros on 26th January, Amygdaleza in Attiki on 13th February, Corinth on 3d July, Moria in Lesvos on 31st August, Paranestion in Drama on 28th November, Xanthi on 29th November, Fylakio in Orestiada on 1st December), as well as one that formally constitutes a police station detention space, but in fact operates as a Pre-removal Centre (Nea Menemeni in Thessaloniki on 7th February & 20th November). Apart from the above full on-site inspections, there have been occasional observations from successive visits throughout the year at detention spaces (Tavros, Moria in Lesvos, Thessaloniki), that are starting points for return monitoring convoys.

Those visits confirmed some of the problems highlighted in the previous report, such as detention in spaces stretched to their limits or unsuitable according to European standards (article 16 of Returns Directive and article 3 of the ECHR). However, in certain Pre-removal Centres living conditions have definitely improved compared to previous visits. The number of detainees has been significantly reduced and the duration of detention usually does not extend to over six months, as was the case in the past. Furthermore, there are now very few cases of persons detained after having lived in the country for years with a legitimate residence permit and only forfeited legitimate status due to failure to renew the permit or the asylum-seeker pass on time.

Total lack of medical staff is a common problem in almost all Pre-removal Centres, and it appears only partially resolved when there are local hospitals nearby. Another common problem is the lack of interpreters, psychologist and social workers. Finally, it appears that the problem in Pre-removal Centres co-existing with reception and identification services has not been adequately understood, given that, instead of efforts to separate the two, in 2017 two new Pre-removal Centres were created in Kos and Samos (the latter not yet operating).

The basic problems of Pre-removal Centres, particularly overcrowding, short or no yard time and fragmented healthcare due to termination of the contract with the Hellenic Centre for Disease Control and Prevention (KEELPNO), have been highlighted in the Special Report<sup>2</sup> titled "Migration flows and refugee protection - administrative challenges and human rights", published in April 2017 based on findings up until the beginning of that year.

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2. [www.synigoros.gr/resources/docs/greek\\_ombudsman\\_migrants\\_refugees\\_2017-el.pdf](http://www.synigoros.gr/resources/docs/greek_ombudsman_migrants_refugees_2017-el.pdf)

The Greek Ombudsman also carried out an ex-officio investigation on the death of an alien in the Pre-removal Centre in Tavros in February 2017, while, since June 2017, under its new competence as National Mechanism for the investigation of arbitrary behaviour (L. 4443/2016), it investigates police brutality complaints in any space under the jurisdiction of The Hellenic Police, including Pre-removal Centres.

### **Individual inspections and observations**

The type of detention facilities varies for mass detention dormitories (Tavros, Corinth) or wings consisting of containers (Amygdalea, Paranestion) to typical detention cells, which are the most unsuitable ones, since they comply with the Returns Directive standards, especially given the duration of detainment. Depending on the facility, living conditions vary as well, while the strongest differentiation is observed on yard access.

#### Spaces and distribution of detainees

- In Tavros, there are 4 wings for men, 1 wing for women and 1 wing for patients with communicable diseases, with 5-7 person cells and a total capacity of 200 men and 170 women. On the day of inspection, 182 men and 21 women were held, as well as 1 accompanied toddler and 13 patients held separately.
- In Amygdaleza, there were containers distributed in 3 sectors, separated by barbed wire fences, each container consisting of two living quarters of 4 person capacity each, and two toilets with showers. Total capacity is 928 persons in theory, however functional expenditure available shrinks the actual capacity to 660 persons. On the day of inspection, 375 adults and 2 minors were held.
- In Corinth, there are 3 buildings, each one with a yard surrounded by a double fence. Each two-storey building has 4 large dormitories with bunk beds. There are 2 showers, 4 toilets and a 4-taps lavatory on each floor. On the day of inspection, 700 persons, of which 3 minors, were held, obviously overcrowded.
- In Moria in Lesvos, the Pre-removal Centre has a capacity of 210 persons. There are 15 containers, aligned on both sides of a 3 metre wide road. The open space between them serves as yard space. Each container has 14 beds, in the form of bunk beds. The containers are relatively spacious, at the current rate of detainees. Every container has 2 toilets and 2 showers. On the day of inspection a total of 80 men were held.
- In Paranestion there are containers distributed in wings (7 in each wing), with a capacity of 12 persons each, with 2 toilets and lavatories. Total capacity of 450 persons. On the day of inspection a total of 416 persons were held.
- In Xanthi, there are two separate detention buildings with dormitories, with a total capacity of 480 persons distributed in dormitories of 30

square metres area, hosting up to 8 persons each. On the day of inspection a total of 214 persons were held.

- In Orestiada, there are dormitories in 4 halls: women with children, men, minors and families' hall, each one with a capacity of 10-20 persons, equipped with bunk beds. On the day of inspection a total of 193 were held (150 men and 43 women) of which 26 minors. All the halls were full and patients were not separated from other detainees.
- In Thessaloniki, detention spaces have been formed to accept 10 persons each, a total of 100 persons. On the day of the first inspection, a total of 96 persons were held while at the second inspection there were 89 persons. Cells have only mattresses placed on the floor. Each cell has 2 toilets and 1 shower.

#### Duration of detention

- In Tavros, people are held for 6 months on average, however 2/5 of detainees had been there for over 6 months.
- In Amygdaleza, people are held for 3-4 months on average, and very few are held for over 6 months.
- In Moria at the time of inspection there were no foreign nationals held over 2 months.
- In Paranestion and Xanthi, the average duration of detention reported is 6 months, while in Orestiada the average is 3 months
- In Thessaloniki, all detainees had been held for less than 3 months, except for one detainee, held over 6 months.

#### Yard Access

- In Amygdaleza, yard space is considered adequate, although it could be improved in order to offer detainees more activities.
- In Paranestion and Xanthi Yard time is adequate, but the space is insufficient.
- In Tavros and Corinth, yard time is also insufficient (one hour in the morning and one hour in the afternoon), invoking security reasons which appear unfounded, at least in the case of Corinth, as the barbed fenced yard seems secure.
- In Orestiada, yard access is given only when there is an officer available to oversee foreign nationals, which is not feasible for all the detainees daily.
- In Thessaloniki, no yard is available and detainees remain inside the cells constantly.

#### Medical treatment

- In Tavros, there is 1 doctor and 2 nurses, on 8-months contracts by KEELPNO, working at one shift of 9 am to 3 pm. For the rest of the

day, transfers to hospitals are carried out at the responsibility of the Hellenic Police. On Tuesdays and Thursdays a psychiatrist makes visits. As the detainees' population is constantly renewed, no cohesive medical monitoring is possible for all of them, while there is a pilot project for creation a digital health card. The doctor reported lack of regular disinsectisation, an outbreak of tuberculosis and shortage of medicine.

- In Amygdaleza, medical treatment is provided by KEELPNO with the aid of NGOs and Athens Medical Association. A pathologist-pneumologist serves on a daily basis, a psychiatrist twice a week; there is a dentist who can also be substituted for and 2 nurses.
- In Corinth every medical incident is transferred to the hospital, awaiting a doctor's contract by KEELPNO. A psychiatrist visits once a week and medicines are dispensed under the guards' care. The Corinth Hospital lacks a dermatologist position, which is especially problematic, as there are outbreaks of scabies.
- In Moria the Regional Command provides healthcare, with irregular visits by a doctor, who further refers patients to the local hospital, depending on availability, sometimes after several days. Severe cases are transferred to Mytilene Hospital and on occasion requests for private medical treatment are satisfied, with the expenses covered by the UN-HCR. However, detainees have often complained of insufficient or delayed treatment of specialized medical issues,
- In Paranestion, Xanthi and Thessaloniki, no medical treatment is available whatsoever, so that all incidents are transferred to hospitals.
- In Orestiada, there is 1 doctor and 1 nurse, on 8-months contracts by KEELPNO, while shortage of medication is reported.

#### Living conditions and elementary services

- Heating was considered adequate in Tavros, Amygdaleza, Moria, Paranestion, Xanthi and Thessaloniki, but inadequate in Orestiada.
- The overall level of cleaning was deemed adequate in Tavros, Amygdaleza and Paranestion, inadequate in Orestiada and poor in Corinth and Xanthi. In Thessaloniki, the problem arose especially from the fact that the contract with the cleaning service had expired.
- The cleaning of sanitary spaces was deemed adequate in Tavros, Amygdaleza and Paranestion, inadequate in Orestiada and poor in Corinth and Xanthi.
- Natural light and ventilation was deemed adequate in Paranestion and Xanthi, inadequate in Tavros, AMygdaleza and Orestiada.
- Bed linen was deemed adequate in Tavros, Amygdaleza, Paranestion and Xanthi, inadequate in Thessaloniki.
- Meals under the care of the Hellenic Police (3 meals daily) in Tavros, Amygdaleza, Paranestion, Xanthi and Orestiada, external private catering with the amount quoted by the Hellenic Police (2 meals) in Corinth and Thessaloniki, under the care of the army in Moria.

- Television sets in Xanthi and Thessaloniki, lending library and table games in Xanthi, recreation space with no set activities in Moria.
- Communication through pay phones in Tavros and Thessaloniki, right to use a cell phone in Moria (only from 5 to 8 pm), Corinth, Paranestion, Xanthi and Orestiada, pay phones and cell phones in Amygdaleza.
- Psychologists, social workers, interpreters unavailable in Tavros, Amygdaleza, Corinth, Paranestion, Xanthi and Orestiada.
- Information on detainees' rights and legal aid unavailable in Tavros, Amygdaleza, Corinth and Orestiada.
- Lawyers' access possible everywhere, usually with no time limitations.
- Visiting hours in Tavros 2 hours daily and 4 days a week, in Amygdaleza 3 hours daily, In Thessaloniki, 2 hours daily and 3 days a week, in Moria, Paranestion and Xanthi with no time limitations, usually in separate guarded spaces.

#### More specific observations per detention space

- **Tavros:** The space has reached its full capacity; as a result superfluous detainees continue to be distributed to police station cells around Attica, amounting to a total of 124 persons on the day of inspection. Months long detention, in addition to poor conditions, as the old cells are stretched to the limits of their capacity, as well as to the lack of information and interpreters, forms a poor overall impression. The Greek Ombudsman has recommended, among other things, the increase of yard time, the distribution of pay phone cards and the formation of a separate space for patients and mothers with toddlers.
- **Amygdaleza:** Living conditions appear clearly improved compared to the past, especially thanks to the decrease in the number of detainees. However, the number of 8 persons per container should be cut in half, for hygiene reasons, as the space is insufficiently ventilated. This could happen perhaps if all wings were put to use, this of course resulting in a need for more security staff and increased maintenance and cleaning cost. In the operating wings, it was found that the effort to improve building and material infrastructure was successful.
- **Moria:** After repeated observations on the security issues created by the camps proximity to the hotspot, a separate gateway was created for the Pre-removal Centre, which appears to be the main aim of recent rioting. Co-existence of detention and hosting spaces burdens Moria with a constant danger of tensions. The Greek Ombudsman has recommended removing the Pre-removal Centre from the hotspot or, as a short term solution, improving the security conditions, ensuring basic health care needs through the KEELPNO, as well as providing equipment for the recreation spaces and their actual use as such.
- **Paranestion:** The inadequate yard space and the abolishment of recreation or sports options, resulting from the inability to utilize the whole area of the former camp, due to decrease in security personnel, is a ma-

major problem here. If the vast area were to be re-utilized, this could provide the opportunity for sharp improvement of the living conditions, especially where recreation is concerned. Moreover, the complete lack of medical staff does not appear to be adequately covered, as the Health center facilities are not sufficient and the Hospital in Drama is not close enough.

- **Xanthi:** Innovative initiatives are noted, such as the health care bureau, recording medical issues, programming vaccination and hospital visits and keeping a stash of medicines for emergencies, or the computerised information system for the refugees held.
- **Orestiada:** Months long detention, in addition to poor conditions, as the old cells are stretched to the limits of their capacity, as well as to the lack of information and interpreters, result in a negative overall impression.
- **Thessaloniki:** The facility has reached its full capacity; as a result superfluous detainees continue to be distributed to police station cells around Thessaloniki, amounting to a total of 131 persons on the day of the first inspection and 131 persons on the day of the second one. The central detention space of the Aliens Department of Thessaloniki (Nea Menemeni), is completely unsuitable for continuous detention, as basic infrastructure is in bad shape and no yard access or any creative activity is available. The Greek Ombudsman has repeatedly recommended relocation to more suitable premises.

### Conclusions and institutional interventions

Administrative detention conditions at Pre-removal Centres demonstrate the State's inability to adequately address the specified procedural and substantive guarantees, resulting in violation of the detainees' fundamental rights. The Hellenic Police has failed to meet its commitment for stopping the use of common detention cells, despite the fact that detention conditions in them objectively constitute inhuman or degrading treatment by article 3 of the ECHR standards.

In normal Pre-removal Centres themselves, living conditions vary depending on the space. Shortcomings are mostly detected in cleaning, heating, quality and quantity of meals and shortage of personal hygiene products. Yard access and recreational activities, are short in duration, if any, while basic medical, psychologist, social worker and interpreter services are laid out but not provided, as they depend on tenders entailing large time gaps.

In the Special Report<sup>3</sup> *"Migration flows and refugee protection – administrative challenges and human rights"*, published in April 2017, the Greek Ombudsman has noted (p. 83) that it *"considers an imperative need the stable*

3. [www.synigoros.gr/resources/docs/greek\\_ombudsman\\_migrants\\_refugees\\_2017-el.pdf](http://www.synigoros.gr/resources/docs/greek_ombudsman_migrants_refugees_2017-el.pdf)

*flow of financing for the Pre-removal Centers from the regular funds of the relevant European fund with the required completion of the relevant internal procedures of the Administration and the central managing authority. The detention conditions in the Pre-removal Centers, at least in some of them, must change immediately. Under the weight of the rapid developments, the spotlight of the media and the criticism turned towards other areas of the management of the refugee/migrant issue, leaving the Pre-removal Centers, at least for now, in the shadows. A modern state governed by the rule of law must however manage rights issues regardless of the constantly changing media coverage or criticism”.*

In the same report, expanding and substantiating the impression of neglect of right, the Greek Ombudsman noted (page 88) that there is none more cynical admission to the disregard of fundamental rights than the belief that the “construction of detention facilities will serve as a deterrent to the creation of new migrant flows”. Thus, the deprivation of personal liberty is no longer an exceptional and necessary measure to achieve the purpose of forced removal, as imposed by domestic law and the Returns Directive, but a policy instrument, part of which appears to be the artificial maintaining of poor conditions, as a tool for deterring the flow of new refugees. However, as the Greek Ombudsman constantly reminds, the policy of the extended administrative detention has reached its limits and already constitutes part of the problem and not the solution, given that there is no infrastructure and expertise to ensure adequate guarantees for the deprivation of personal liberty in mass spaces.

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- PSYCHIATRIC COMMITMENT

### **Individual inspections and observations**

#### Psychiatric clinic of University General Hospital of Ioannina

The inspection was carried out on 19.10.2017 with no prior notification of the administration. The Psychiatric clinic of University General Hospital of Ioannina admits a large number of patients and makes commendable effort to provide efficient services. There are involuntary commitment admissions of patients coming from various remote places, without respect to sectorialisation and to the basic rule of closeness to the patient's residence, and often with no evidence on the patient's identity or their medical history. The clinic informs the National Health Operations Center (EKEPY) of the clinic's availability, so that it manages admission of involuntary commitment cases. This results in overcrowding and is quite possibly the reason behind many and long lasting restraint cases. This issue could be resolved if the clinic were to cooperate with a social worker and the bureau for the rights of health care services recipients, concerning the collection of data on the patients' medical and social records.

The above operating conditions of the clinic mark the necessity of the creation of an acute incidents department with fully deployed capacity. The increased care unit ("quiet room") should not be used until its infrastructure is improved and security conditions are ensured.

The Greek Ombudsman highlights emphasizes the need for change in the unit's organizational structure and its culture, with a view to decreasing the number and the duration of restraints, a point concerning both the hospital's staff and its administration. To achieve this, it is recommended that the nursing staff specializes in psychiatric service. This kind of training has been proven to facilitate focused intervention in crises and in alternative interventions in case of agitated patients, departing from the traumatizing practice of restraint.

The Greek Ombudsman is deeply concerned about the way the National Health Operations Center (EKEPY) manages cases without respect to any of the basic principles of organizing mental health care, namely those of sectorialisation and of respect to the personality and rights of patients, who are carried by a police vehicle on the basis of availability, away from their families and residence. EKEPY should, even if its intervention is deemed necessary in organizing health care services, take into account and keep the principles of community psychiatry and safeguard the mental patients' rights, if its intervention is to be legitimate.

Psychiatric Ward of General Hospital  
“G. Hatzikosta” in Ioannina

On 19.10.2017 a visite - on-site inspection was carried out at the two hostels (Psychargos A & B) of the General Hospital “G. Hatzikosta” in Ioannina, as well as in a protected apartment within the community. Hostels aim at the gradual de-institutionalisation of chronic mental patients, the gradual decrease in hospitalization time in psychiatric wards, at safeguarding the patients’ rights, gradual acceptance of mental disorders by the community and the integration of mental patients, in order to fight stigma and their exclusion from employment. At the Psychargos A Hostel, patients are trained and employed in the wax workshop and at the Psychargos B Hostel in silversmithery.

Furthermore, under the Hostel’s responsibility, there are two protected apartments leased by the Hospital within the city, which can accommodate up to 4 persons each. Total capacity of the Hostels is 19 persons and on the day of inspection 18 persons hosted in them, in double rooms. In addition, 3 men hosted at the Centre of Pre-professional Training and 2 more in a protected apartment.

Hostels were staffed with 6 Nurses and one social worker for both of them, also responsible for managing the patients’ money.

On the day of the visit, patients were attending a creative activity program including singing and presentations by the social worker, to which they actively participated. All spaces were presentable and clean. A depot therapy program is applied and there is a medication chart for each patient, as well as an accountability record for the staff, recording each patient. No restraint is applied, since, as the visiting team was informed, patients do not usually relapse.

The Hostels started operating in 2000, after the Psychiatric Hospital in Corfu was permanently shut down. They were designed as middle-terms hostels, but ended up being long-term, given that patients lack the necessary support and family environment in order to independently stay within the community. Unfortunately, this turns the Hostels into an alternative “institution”, which can only be altered by the implementation of a comprehensive action plan to support reinforcement and social reintegration programs for the mentally ill after they exit the Hostels.

Psychiatric Hospital of Thessaloniki

A visit was carried out in four (4) acute incidents departments, the University Clinic for middle-term and acute incidents, the Prolonged Hospitalisation Department, the Psychoforensics Department (article 69 of the Criminal Code),

the Reintegration Department; we interviewed the Deputy Commander of the Hospital, the Heads and the Supervisors of the Administration Division and the Patients' Admission Office, the President of the Limited Liability Social Cooperative (L.L.S.C.-KoiSPE). The visiting team information on patients' restraint, meals, heating and personal hygiene products.

### **Institutional interventions**

The Greek Ombudsman's recommendations on the security measure of holding non-sane offenders in psychiatric hospitals included in the relevant provisions of L. 4509/2017 "Therapeutic measures for persons exempt from sentence due to psychiatric or mental disorder etc.".

The new law amends articles 69 and 70 of the Criminal Code regarding the imposition and duration of the security measure of therapeutic internment, which had been considered a sentence in disguise and criticized strongly, with a view to aligning it with the Constitution, as well as with UN, Council of Europe and ECHR decisions. By the same law, obsolete articles 38-41 of the Criminal Code, regarding the extraordinary sentence of psychiatric commitment for reduced accountability offenders considered a threat to public safety were abolished, and the Criminal Procedure Code was amended accordingly.

Specifically, the Greek Ombudsman's observations on the contradiction between guarding and therapeutic approach to mentally ill offenders were particularly taken into account -as depicted in the explanatory memorandum as well as in the discussion in Parliament. In article 9 of L. 4509/2017, describing the basic principles for implementing the measure, it is now formally stated that the amended articles serve a therapeutic purpose, that they must be implemented taking into account the internationally recognized rules on human rights protection and that all relevant acts must comply with safeguarding personal dignity and the principle of proportionality.

The patient's treatment needs must be taken into account, so as for therapeutic measures to be legally imposed and extended instead of eliminating danger in the sense of public safety. In addition, courts may now impose many more alternative sentences -apart from commitment- such as treatment in a non-hospital Mental Health Unit or out-patient office. There are also more means to achieve personalised therapeutic treatment, with mandatory multiple psychiatric diagnoses, in order to ensure control over diagnosing the mental disorder at the time the measure is imposed or extended.

Patients enjoy more procedural guarantees, especially the right to appear in court in person -with legal counsel- at every stage of the procedure, the

right to appeal and challenge the decision, as well as the right to request lifting or replacement of the therapeutic measures themselves. L. 4509/2017 also covers regular monitoring of the maximum time of commitment, which so far had been mostly unmonitored and extremely long, according to the Authority's findings.

Article 16 defines the boundaries of extreme psychiatric care and security measures (such as protective isolation and physical restraint), with a direct reference to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) guidelines, on the condition that all techniques for de-escalation of violent behavior have failed. Finally, article 19 designates the Greek Ombudsman as a monitoring authority for patients' rights violation. Pursuant to the above, the NPM once more states its consistent position that ensuring quality treatment must take priority over penitentiary guard and will, in this context, monitor the implementation of the new legal framework.



- WELFARE INSTITUTIONS

Social Welfare Centres hosting facilities

- **The Lechaina Branch for People with Disabilities of the Social Welfare Centre of the Region of Western Greece**

Following up on the NPM's investigation of living conditions at the Lechaina Branch for People with Disabilities of the Social Welfare Centre of the Region of Western Greece (see Annual Reports 2015 & 2016), documents numbered 122373/37764/22.10.2015 and 122373/37764/7.7.2017 were sent to the Secretary - General for Welfare of the Ministry of Labour, Social Security and Solidarity, which remained unanswered. The NPM will continue monitoring the living conditions of people with severe physical and mental disabilities in the above context, even though conditions have improved after the interventions by Children Health Institute, in collaboration with Lumos (see Annual Report of 2016). The Ministry has not yet sent its written position on the administration's intentions the Centre, and whether it will cease or continue to operate on adequate funding and organizational planning.

- **The Skaramagkas Unit of the Voula Branch for Treatment and Rehabilitation of Children with Disabilities (former Hospice for Chronic Children's Disease of Skaramagkas) of the Social Welfare Centre of the Region of Attica (KKPPA)**

The Greek Ombudsman carried on 12.12.2016 out an inspection of the living conditions of minors and adults with severe mental disorders and/or disorders of the autistic spectrum at the Skaramagkas Unit of the Voula Branch for Treatment and Rehabilitation of Children with Disabilities (former Hospice for Chronic Children's Disease of Skaramagkas) of the Social Welfare Centre of the Region of Attica (KKPPA). The Authority considered that the living conditions and care provided to the facility's guests must be improved, that it must be gradually abolished and that all guests must gradually be transferred to a more suitable facility within the community. A member of the NPM also cooperated with a team from the Welfare Directorate of the Ministry of Labour, which was carrying out an inspection pursuant to complaints, under an order by the public prosecutor concerning the Skaramagkas Unit, and information was regularly exchanged on the issue.

- **The Branch for People with Disabilities of Western Attica**

On 31.5.2017 a team visited the Branch for People with Disabilities of Western Attica in order to monitor the transferring procedure for people with disabilities of this facility and interview every involved party about the challenges of the attempt. The Skaramagkas Unit ceased operating, as its relocation was completed in October 2017, with 6 persons being transferred to the Branch for People with Disabilities of Eastern Attica, 20 persons transferred to the Branch for People with Disabilities of Western Attica and one person being transferred to a mental health unit. The NPM will continue monitoring the living conditions of people with severe mental/developmental disorders in the new facilities they were placed.

Private elderly care unit

Under the European Charter of Rights and Responsibilities of Older People in need of Long-term care and Assistance, older people have a right to dignity, physical and mental integrity, freedom and security, as they are obliged to rely on others to support and take care of them. In this context, a NPM team for the first time carried out an inspection of a private elderly care unit. It will be followed by more visits to geriatric hosting structures for the elderly, in order to monitor the living conditions of this especially vulnerable group.

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## 2 - WORKING MEETINGS AND INTERNATIONAL PRESENCE

### • NETWORKING OF NATIONAL PREVENTIVE MECHANISMS

- The Head of the NPM Deputy Ombudsman responsible for Human Rights participated in the inaugural and the second working meeting of the network of National Preventive Mechanisms of the Council of Europe in Strasbourg (4-6.4.2017 and 30.5-1.6.2017 respectively).
- **He also participated:**
  - in a working meeting** in Belgrade (25-26.5.2017) on “Treatment of the mentally-impaired individuals in detention”, within the South-Eastern European Network of National Preventive Mechanisms,
  - in a meeting** of the Network of National preventive Mechanisms organized by ODIHR in Vienna (2-3.10.2017) on “Detention Conditions – national and international standards and practices. A comparative review of the basic elements”.,
  - in a meeting** (4-5.12.2017) of experts organized by ODIHR on “prevention and control of Violent Extremism and Radicalisation leading to Terrorism”.
- NPM representatives participated in an educational and training program for Ombudspersons for the Armed Forces organized by ODIHR in Warsaw (20-22.3.2017), as well as in a meeting of the South-Eastern European Network of National Preventive Mechanisms in Belgrade (12-13.12.2017) on Methodology of Preventive Visits in detention spaces.

### • EUROPEAN TWINNING PROJECT WITH THE OMBUDSMAN OF AZERBAIJAN

Representatives of the Ombudsman participated in the European Twinning Project *“Support to the Strengthening of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan” in the framework of implementing the more specific action “Strengthening of the Capacity of the Ombudsman Institution to act as National Preventive Mechanism under OPCAT”.*

The action’s objective was, in line with the mandates of OPCAT, to promote in-depth cooperation between two peer institutions, to generate proposals and to produce a supporting document for a more effective NPM. In this context, a strategic and an action plan were devised for the Ombudsman of Azerbaijan and joint visits/on-site inspections were carried out to detention sites in Azerbaijan and in Greece, such as Detention Facilities, Psychiatric Institutions and detention facilities of

third-country nationals. In 2017 the project was completed and a three-year strategy plan, with a relevant action plan and application – data base from NPM visits were delivered to the Ombudsman of Azerbaijan.

#### ● INTERNATIONAL PRESENCE OF THE NPM

- The Head of the NPM Deputy Ombudsman responsible for Human Rights made a presentation in a working meeting (14.12.2017) at the Criminology Centre of the University of Oxford Law School, titled *“Human Rights and Detention of Third Country Nationals”*, in the context of an on-going collaboration with the peer NPM, envisaging a series of reciprocal visits within 2018 and exchange of experiences on best practices.
- The Deputy Ombudsman for children’s rights and one of the Authority’s experts participated in the educational seminar *“Monitoring places where children are deprived of their liberty as a result of immigration procedures”* in Strasbourg (11-12.4.2017), organized by the Council of Europe (Children’s Rights Division) and the Council of Europe Parliamentary Assembly (PACE), in the context of the campaign against administrative detention of minors foreign nationals (*“End Immigration Detention of Children”*) in collaboration with Belgium NGO *«Defence for Children International»* (DCI).

#### ● PRESENTATIONS

- The Head of the NPM Deputy Ombudsman responsible for Human Rights made a presentation on *“The Greek Ombudsman’s positions and interventions on the professional reintegration of released prisoners”* in the context of a discussion during the 32nd National Exhibition of works of Prisoners and Prison Products, organized by the Ministry of Justice in Athens (27.9.2017).
- The Authority’s expert and member of the NPM Ms F. Pantelidou made a presentation on *“HIV-positive Prisoners and Human Rights – The Greek Ombudsman’s view”* at the workshop *“Detention spaces and HIV: Prevention, Treatment and Support”*, organized by the NGO *“Kentro Zois”* in Athens (15.3.2017). ●

