THE GREEK OMBUDSMAN
INDEPENDENT AUTHORITY

ANNUAL SPECIAL REPORT 2018

NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE AND ILL-TREATMENT

OPCAT


THE GREEK
OMBUDSMAN
INDEPENDENT AUTHORITY

OPCAT

NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE AND ILL-TREATMENT

ANNUAL SPECIAL REPORT 2018

THE GREEK OMBUDSMAN
INDEPENDENT AUTHORITY

NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE AND ILL-TREATMENT | ANNUAL SPECIAL REPORT 2018

The report is the product of visits to and on-site inspections of detention facilities by the Authority's senior investigators, under the supervision of Deputy Ombudsman responsible for exercising the competence of the National Preventive Mechanism, **George P. Nikolopoulos**.

Editing: **Michalis Tsapogas**

Coordination: **Alexandra Politostathi**

Artistic design and layout: **John Pandis** | jpandis@hotmail.com

English language editing: **ELIT Language Services Ltd**

Please forward any enquiries regarding this publication to the following e-mail address: **press@synigoros.gr**

The Special Report was printed in 2019 by the National Printing House, in 1,000 copies and is available at
https://www.synigoros.gr/?i=stp.en.reports

Facebook: THE GREEK OMBUDSMAN

Twitter: @Synigoros

ISSN: 2654-1637

Table of Contents

Foreword by the Greek Ombudsman

Places of detention are operating at their absolute limits. This is a long-standing conclusion reflected in every report of the Greek Ombudsman's National Preventive Mechanism since its inception in 2014. The year 2018 was no exception.

One of the most fundamental and ongoing problems recorded is the exceeding of capacity limits in detention centres. Given that total prison capacity has long been maintained at the same level, and given the temporary and extraordinary character of recent legislation aiming at decongestion, the warnings of the Ombudsman's National Preventive Mechanism were emphatically borne out in 2018. At the same time, there are shortfalls with regard to securing the necessary resources and the appropriate staff, with a detrimental impact on the quality of infrastructure and support for creative activity programmes, for psychological support and for the safety of prisoners. Especially as regards the adequacy of security measures, the recording of a significant number of deaths and incidents of violence has raised considerable concern.

The situation in the detention centres of the Greek Police and the Coast Guard has not exhibited real signs of improvement. The Mechanism's report for 2018 records, once again, phenomena of long-term detention – for periods of up to several months – of detainees facing criminal charges as well as instances of detention of unaccompanied minors, in the context of 'protective custody'.

Pre-Departure Centres (ProKeKA) are also operating at their limits and are failing to meet European standards in terms of both infrastructure and staffing. Certain inconsistent improvements recorded in the report are mainly due to transient reductions in migratory flows, and are therefore considered to be temporary and precarious.

Finally, with respect to the involuntary hospitalisation of individuals suffering from mental illnesses, it is a commonplace that provisions aiming to safeguard the rights of those individuals are in essence not fully implemented.

The commitment to faithfully upholding rigorous, and sometimes inflexible, fiscal adjustment rules can no longer be an excuse for a failure to ensure

detention conditions that meet the standards provided for by international conventions and Greek law. The Ombudsman's National Preventive Mechanism will continue to be present, documenting developments, highlighting shortfalls, dysfunction, distortions and making key recommendations, with a view to safeguarding the fundamental rights, the security and basic human dignity of all who are in detention in Greece.

—Andreas I. Pottakis

The Greek Ombudsman

Introduction

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

2018 marked the fifth year of the Greek NPM's activities, as operated by the Ombudsman, and it has now been acknowledged – by both the administrations of the detention facilities and the detainees themselves – as an effective external control body monitoring the conditions of detention and the protection of rights of those deprived of their freedom. 2018 was a year of reorganisation and operational capacity improvement, while at the same time it was also a year marked by systematic interventions to protect rights in places of detention: criminal, administrative, psychiatric, welfare. The main plan of the Ombudsman for regular monthly visits throughout all the regions of the country gave the NPM the opportunity to conclude a mapping of the current state of affairs and systemise its findings on the places of detention, while it also strengthened the presence of the Mechanism internationally through involvement in European or regional meetings and peer networks.

At the operational level, the NPM completed a first round of visits (initial and/or follow-up) to prisons, detention facilities (police and coast guard detention facilities, Pre-departure centres for foreigners), involuntary hospitalisation facilities and welfare institutions, which allowed the NPM to gain a general overview of matters and to issue recommendations to the competent administrations and make interventions relating to the entire modus operandi of facilities.

Furthermore, apart from the regular visits and the collection of data from the reports made by the prisoners to the Ombudsman, the NPM observes the everyday developments taking place in these areas of detention and has instigated a series of contacts with the competent ministries, the administration of detention centres and other civil bodies in order to identify cases, especially in relation to reported deaths or traumas, that could cause the ex officio intervention of the Ombudsman concerning conditions of detention, security measures, staff sufficiency, immediate response to special requests or behaviours and the handling of emergency cases.

At an organisational level – and in view of the lack of guaranteed financial resources, which are reviewed annually, and adequate, dedicated and specialist staff – the emphasis was placed on training courses on research methods and techniques and on the international presence and networking of the Mechanism.

The specific actions developed at the organisational and operational levels, as well as the findings of the individual inspections carried out by the members of the Mechanism, are presented below and are supplemented by institutional interventions of the Ombudsman on matters of protection of the rights of detainees, while the relevant legislative and case-law developments, wherever applicable, are also presented.

In particular, in conjunction with the enrichment of the NPM's inspection methodology, it is worth mentioning, in the course of 2018, the establishment of new tools and practices, such as extending the visit time to two days, the preparation and distribution of anonymous questionnaires to prisoners with targeted questions, with the aim of expanding the NPM's sources of information on detention conditions.

Moreover, in addition to regular visits and the extraction of material from detainees' questionnaires, the NPM initiated a series of regular and informative contacts with the relevant ministries, detention facilities and civil society bodies, in order to identify cases – in particular deaths or injuries of detainees – which show operational dysfunctions in general and to further identify some systemic problems, which are obviously highlighted by the frequency and the common characteristics that these incidents tend to have.

On assessing the results and experiences so far since the ratification of the OPCAT and the setting up of the Greek NPM, we look forward to enhancing and intensifying our supervision of the administration and to establishing a more constructive dialogue with it concerning the implementation of the NPM's recommendations, in the interest of the rights of the detainees. ●

—George P. Nikolopoulos

Deputy Ombudsman for Human Rights

1. Legal Framework, Resources and Recent Developments

1.a. Legal Framework and Resources

Greece ratified the Optional Protocol with Law 4228/2014, transposing it into national legislation (with, in fact, enhanced formal weight, as an international convention, according to art. 28 of the Constitution). Article 2 of the above law designated the Ombudsman as the National Preventive Mechanism against Torture (NPM). This designation recognised the Ombudsman's long experience in the protection of rights of persons deprived of their liberty by constantly highlighting arising problems and submitting respective proposals. In this context, the Ombudsman has often undertaken a wider action in the field, by making use of its capacity to investigate cases on its own initiative. Thus, via its new competency as NPM, the Ombudsman goes far beyond its traditional intermediary role, in the context of which it usually investigates cases, after the submission of a complaint, regarding detention conditions of the detainees, tracing structural problems and submitting remarks and suggestions. Furthermore, under the general competence of the Constitution and Law 3094/2003, the Ombudsman has access to all files, documents, data and 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, inflicted only when it is unavoidable or when no alternative measures can be taken.

1.b. Recent Developments

As prescribed by the OPCAT (art. 18§3), national law (art. 6, Law 4228/2014) and SPT guidelines (para. 32, CAT/OP/12/5 of 9-12-2010), the effective functioning of the NPM requires both human and financial resources, i.e. appropriate staffing and financial support:

- As far as the appropriate staffing is concerned, it has to be noted that the granting of the NPM mandate to the Greek Ombudsman was not accompanied by a provision for recruiting the requisite staff that would undertake the work on a full-time basis.

  Hence, the Greek Ombudsman set up a working group ("OPCAT team"), under the responsibility of the Deputy Ombudsman for Human Rights, composed of 1 administrator and 15 special investigators of the Greek Ombudsman's office, who also have parallel duties in different departments of the Independent Authority including those of Human Rights, Social Protection, Children's Rights, Equal Treatment and Public Administration. The affiliation of the members of the NPM team with different areas of competence of the Ombudsman ensures appropriate specialisation and experience, as well as the capacity to respond adequately to the multifaceted scope of the NPM's mission.

- Concerning financial support, it was only in mid-2017 that the Mechanism was granted a subsidy by the Ministry of Administrative Reform, notwithstanding the fact that support was envisaged as early as 2014 in the law that ratified the Optional Protocol. From 2014 until mid-2017, the work of the NPM was carried out with resources redistributed from the Authority's meagre budget. It should also be noted that, even though additional funding for the NPM mandate has been granted since 2017, this is done on an annual basis and only after the submission of a request by the Ombudsman. As a consequence, funding is normally made available sometime in the course of the fiscal year (i.e. not from January 1st), while at the same time the strategic planning and priority-setting of the Mechanism, although designed for a period of 3 years since 2017, can be confirmed only on an annual basis, as it depends on the availability of the financial resources requested. ●

2. Prisons

2.a. General annual findings

The reappearance of overcrowding lends new currency to the earlier proposal from the National Preventive Mechanism (NPM), which is that improvement of prison conditions requires a holistic approach to managing overcrowding. Taking isolated measures to decongest prisons is but one aspect of the actions the State needs to take in the criminal detention sector. In this direction, legislation must be passed to rationalise penalties, protect human dignity and reduce the length of sentences via the adoption of alternative measures.

Clearly, of course, correctional issues cannot be resolved through legislation alone: the necessary resources and appropriate staff must also be made available. The quality of infrastructure and a full complement of human resources – along with provision of all necessary health and welfare services – should guarantee conditions of security and respect for human dignity during detention.

Although the Administration has taken some positive initiatives, the lack of creative activities offered to prisoners and the failure to staff facilities adequately with permanent medical and nursing personnel, sociologists and psychologists are still major problems at most prisons. The report also reiterates that inactivity further exacerbates the already poor psychological state of prisoners. The organisation of seminars and workshops will help manage tensions and facilitate the smooth reintegration of prisoners.

2.b. Inspections and other investigative actions

i. Inspections during 2018

The detention centres inspected by the NPM in 2018 are listed below, in chronological order:

- Detention Facility in Patras (30 January)
- Detention Facility in Nea Alikarnassos (Heraklion, Crete) (28 February)
- Detention Facility in Neapolis (Lasithi) (1 March)
- Detention Facility in Hania ("Crete 1") (1 March)
- Rural Adult Detention Facility in Agia, Chania (2 March)
- Detention Facility for women in Eleonas (Thebes) (6 March)
- Therapeutic Centre for drug-addicted prisoners ("The Choice") in Eleonas (Thebes) (6 March)
- Detention Facility in Larisa (27 March)
- Juvenile Detention Facility in Volos (27 March)
- Special Juvenile Detention Facility in Kassaveteia (Volos) (28 March)
- Detention Facility in Corfu (26 April)
- Detention Facility in Kos (4 June)
- Detention Facility in Grevena (28 June)
- Detention Facility in Trikala (29 June)
- Detention Facility in Domokos (19-20 September)
- Detention Facility in Chalkis (21 September)
- Detention Facility in Nafplio (12-13 November)
- Rural Adult Detention Facility in Tiryntha (12-13 November)
- Detention Facility in Corinth (14 November)
- Detention Facility in Tripolis (15 November)

ii. Methodology of inspections

The methodology of inspections[1] is revised and enriched every year. An 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, the staff of the social services, the psychologist and doctor (if these positions are filled), in order to gain a first impression of the situation and identify problems, shortages or disruptions, as well as "good practices", according to staff evaluation.

1 The Greek Ombudsman, Annual Special Report NPM 2017, pp. 16-17 *https://www.synigoros.gr/resources/opcat_2017_gr.pdf*

The team then visits the facility's spaces, accompanied by administration representatives, conferring with the prisoners in groups or, if practicable, individually. During this communication, wardens remain outside of the room or cell if requested to do so. 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 temporary release etc. It also asks for samples of the above documents and of food portions. The team also examines work placement lists in order to determine if all interested prisoners have access to working positions and that these alternate amongst them. Lastly, the inmates' sense of personal security is investigated. The prisoners are informed about the competencies of the NPM and the Ombudsman 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 that.

Throughout the visit, the team's specialised 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 for the administration. After the visit to the facility's spaces 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 in the following days the report is drafted, filed in the special "OPCAT archive" and sent to the facility inspected, along with any suggestions and observations, and is also forwarded 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.

During 2018, the methodology of inspections was enriched by the implementation of new tools and practices that, from the start, have proven to be successful. More particularly:

- The timing of certain inspections was expanded over a period of two (2) days (detention facilities in Domokos and Nafplio, Rural adult Detention Facility in Tiryntha).

- Questionnaires, based on international standards, were prepared, distributed, anonymously completed and collected for further processing (Nafplio and Tripolis detention facilities, Rural adult Detention Facility in Tiryntha) In addition to a series of specific questions on detention conditions – concerning the sense of security, the potential for incidents of violence and access to specific benefits, services or activities, and post-release prospects – there is a space where a prisoner can add anything he or she wants. The response of the detainees has been rather positive. Thus, the NPM's sources of information on the conditions of detention were expanded, and the material collected was used in the framework of targeted interventions, while at the same time it helped in the constant re-evaluation of the form itself, in order to make it more targeted, focused, optimal.

- In addition to open discussions with detainees, private interviews on separate spaces were organised (Detention Facility in Domokos, Rural adult Detention Facility in Tiryntha).

- At schools in the special Juvenile rural Detention Facility in Kassaveteia Volos and in the Detention Facility in Corinth, the experts of the NPM talked to both students and teachers.

iii. Investigations of deaths and incidences of violence

Within the framework of its specific competence, the NPM has embarked on a series of contacts with the Ministry of Justice and the Detention Facilities in order to identify cases of deaths or injuries of detainees that reveal general prison matters with immediate implications for the detention conditions –such as security measures, staff adequacy, timely handling of special requests and emergency management– that could trigger ex officio interventions. The main objective of these interventions is the identification of systemic problems, which are obviously highlighted by the frequency and common, stereotypical characteristics of these incidents. In particular:

Firstly, in cases of *suicides or self-injuries of detainees*, the NPM asks for the relevant documents of the conditions of detention of the particular person, including the location of detention, any presence of a fellow prisoner, the guard and the surveillance of this specific location and the conditions under which the incident occurred, the location and the time the service was alerted and the immediate measures adopted, whether there was sufficient time to act to prevent death or of injuries, any special requests made by the detainee, and whether there was an uncharacteristic change in his/her behaviour that was noticed by the staff and what eventual measures were taken. Moreover, the NPM takes into consideration the psychological care given to detainees on their arrival at the facility and during their stay,

and whether these measures are being respected and applied; the security measures envisaged by the specific detention facility for the prevention of suicides or self-injuries of the prisoners, and whether these measures are being respected and applied; the adequacy of surveillance staff, the frequency of inspections of the detention facilities, the instructions given to staff for immediate response to emergencies (for instance, timely transfer to hospital), and whether these measures are being respected and applied.

Secondly, in cases of *death by pathological causes due to lack of or inappropriate medical treatment*, the NPM requests information on the conditions of detention of the victim, such as the place of detention, the presence of other detained persons, the guarding and supervision of the place; the medical check-ups provided for prisoners upon their entry into and stay at the detention facility, in particular with regard to the observance and transfer (if a transfer occurs) of their medical records and their observance in this case; the circumstances under which the incident occurred, how and when the service was notified and the immediate measures taken, as well as whether there was time for appropriate intervention that could have prevented the death of the prisoner or any injury, any previous special requests from the prisoner regarding his/her health and whether such a request could have been dealt with, or if uncharacteristic behaviour had been noticed by the staff and whether appropriate measures were taken, the sufficiency of guarding and surveillance staff, the frequency of inspections of the detention facilities, the instructions given to the staff for immediate response to emergencies (for instance, timely transfer to hospital), and as to whether these measures are being respected and applied.

Thirdly, in cases of *incidents of violence among detainees*, the NPM requests information on the conditions of detention of the alleged victim, such as the place of detention, the presence of any other detainees, the guarding and supervision of the place; the circumstances in which the incident occurred, how and how much of a delay the prison service intervened and what measures were taken, as well as whether there was time for appropriate intervention that could have prevented the death of the victim or any injury; any previous special requests of the prisoner regarding his/her health and whether such a request could have been dealt with, or if uncharacteristic behaviour had been noticed by the staff and if appropriate measures were taken, the sufficiency of guarding and surveillance staff, the frequency of inspections of the detention facilities, the instructions given to the staff for immediate response to emergencies (for instance, timely transfer to hospital), and as to whether these measures are being respected and applied.

Apart from the aforementioned, in all the above-mentioned categories of incidents, the NPM normally asks to be notified of the findings of the forensic report and the administrative investigation of the incident, upon their completion, as well as of any other evidence that could be considered relevant

for the accurate assessment of the incident. In addition, especially in cases of prisoner violence and based on reports of detainees, the NPM in 2018 sought special information on how incidents of violence among detainees were dealt with, in terms of both medical treatment and further disciplinary and criminal management, focusing on the increased responsibility of the State and on the need to encourage victims to exercise their rights. In this context, during the inspections, the NPM examines the entries in the Injury Logs, their correlation with the hospital transits, and certification of timely notification of the prosecuting authorities.

It has to be noted, however, that the answers of the competent administrations of detention centres are usually confined to the constant and formal assurance that the service has taken every possible preventive measure and that the provision of further information will only be possible after the completion of the administrative inquiries and/or criminal investigations.

In this context, during the inspections, there was a thorough control carried out on the entries in the Injury Logs. In 2018, this initiative was carried out in seven cases:

- Death from drug use at the Korydallos Prison Mental Health Hospital (January 1st)
- Death from complication from a dental condition at Larissa Detention Facility, to which the prisoner had just been transferred from the Malandrino Detention Facility (February 4th)
- Suicide at the Korydallos Detention Facility (26th June),
- Suicide at the Nea Alikarnassos Detention Facility (August 28th),
- Suicide at the Chania Detention Facility "Crete 1" (8th September),
- Suicide at the Tripolis Detention Facility (October 10th),
- Injury of a detainee in an attack by a fellow prisoner in the Avlona Special Juvenile Detention Facility (December 10th).

However, to date the practice of making specific inquiries has not led to useful conclusions, since the competent administrations of detention centres, in their generally succinct and descriptive responses, confine themselves to the constant and formal assurance that the service has taken every humanly possible preventive measure, with the reservation that the provision of further information will only be possible after the completion of the administrative inquiries and/or criminal investigations. It is therefore obvious that the common and rather general features of individual cases necessitate not only the

vital ex-post investigation of incidents such as those mentioned above, but, above all, that care be taken to prevent them.

Finally, because of the lack of experts amongst its staff members and, as a consequence, the NPM's inability to fully understand and use the coroner and medical reports, there is a need for external collaborators, especially from University medical schools.

2.c. Special issues emerging in 2018

i. Risk of recurrence of overcrowding

In previous reports, the NPM underlined the fact that, on the one hand, phenomena of extreme overcrowding were starting to fade away and that the total number of detainees in the country did not exceed the previewed capacity, but, on the other hand, that legislative solutions to the urgent decongestion of prisons cannot be efficient if they are not accompanied by a more general intervention in the system of criminal justice and especially in the field of imposing and implementing criminal penalties.

The 2018 findings seem to verify that warning, as in the vast majority of the detention facilities the overcrowding phenomenon has reappeared. Significant overpopulation on inspection day was recorded at the Corfu Detention Facility (138 places, 194 prisoners), Tripolis (64 places, 118 prisoners), Nafplio (273 places, 351 prisoners), Kos (56 places, 105 prisoners) and Chalkis (127 places, 179 detainees), as well as relatively manageable overcrowding at the Patra Detention Facility (446 places, 504 prisoners) and Larissa (554 places, 567 prisoners). The actual consequences of overcrowding are particularly visible in small prisons with no supplementary spaces available for use, as in the cases of the Chalkis and Tripolis detention facilities, where stifling living conditions on the blocks exclude all forms of privacy and deviate from the minimum space per prisoner according to European specifications.

In general, the NPM realises that while the consequences of the decongestion policies that were implemented by L. 4322/2015 and subsequently extended by L. 4356/2015, 4411/2016, 4489/2017 and 4571/2018 led, initially, to a remarkable decrease in the total number of detainees, significantly lower than the maximum capacity number (In particular: from 11,798 people on 1.1.2015 to 9,611 on 1.1.2016 and 9,560 on 1.1.2017 for 9,815 positions), after three years, there was a steady increase in detention numbers, which exceeded the available number places (namely: 10,011 people on 1.1.2018 and 10,654 on 1.1.2019 for 9,935 positions)[2]. In addition, it is worth noting that, for the 9,935 places available in the 33 detention facilities in the country, the total number of prisoners may come to 10,654 on 1.1.2019 (in other words, the total number of prisoners exceeds capacity by 801), but half of the country's penitentiaries are full, at more than 100% of their capacity, with the obvious risk of further increases[3].

From this perspective, the problem of overcrowding in prisons in our country

2 Ministry of Justice, "General Statistical Board of Detainees and penalties (2003-2019)" *http://www.ministryofjustice.gr/site/el/ΣΩΦΡΟΝΙΣΤΙΚΟΣΥΣΤΗΜΑ/Στατιστικάστοιχείακρατουμένων.aspx*

3 Ministry of Justice, "Capacity of Detention Facilities" *http://www.ministryofjustice.gr/site/el/ΣΩΦΡΟΝΙΣΤΙΚΟΣΥΣΤΗΜΑ/Στατιστικάστοιχείακρατουμένων.aspx*

appears mainly as a result of the uneven distribution of prisoners in detention facilities, thus keeping the total number of detainees close to the "psychological limit" of 10,000, but, on the other hand, some detention centres have a worrying degree of overcrowding – without, of course, taking into account the required minimum space per prisoner.

We therefore see that the initial significant decongestion of detention facilities was gradually reversed, mainly due to the stringency of court rulings in relation to both the extensive use of temporary detention and the severity of the penalties imposed on certain categories of crimes. In particular, out of the total of 10,654 detainees on 1.1.2019, 3,317, i.e. about 31%, were not yet convicted, while the remaining 7,337, i.e. about 69%, were convicted, of whom 2,372, or about 32 %, for drug law offences, while the remaining 4,965, or 68%, for other offences. However, in relation to the sentences imposed, there is a significant disparity among the convicts: 6,524 persons, that is, approximately 89% of convicts, have been sentenced to imprisonment from 5 to 15 years and over (namely, 5,564 or 76% of convicts) up to life imprisonment (960, i.e. 13%). The remaining 763 convicted prisoners, i.e. only 11% of the total, serve prison sentences of up to 5 years – while there are of course some who have been unable to convert and/or pay off sentences of up to 6 months, from 6 months to 1 year, and from 1 to 2 years[4].

Therefore, the Ombudsman's approach to overcrowding is still necessary, as it is consistent with the position the NPM has made since its first report[5] in 2014 that *"it is a primary issue for securing the hard core of the fundamental rights" of prisoners, while its approach is geared towards a "total" review of the functioning of the criminal system, both in its individual aspects – i.e. the legislative (penal system), the judicial (penalty) and the prison (conditions of detention) – and overall, the interactions between them, in the context of a coherent, criminal and punitive policy."*[6]

ii. Inadequate handling of incidents of violence amongst detainees

On the occasion of reports of detainees within the framework of the Ombudsman's general competence, the NPM in 2018 sought special information on how incidents of violence among detainees are being dealt with in terms of collecting medical files and through further disciplinary and criminal investigations, focusing on the increased responsibility of the State for ensuring the life, physical integrity and dignity of the detainees, and

4 Ministry of Justice, "General Statistical Board of Detainees and penalties (2003-2019)" *http://www.ministryofjustice.gr/site/el/ΣΩΦΡΟΝΙΣΤΙΚΟΣΥΣΤΗΜΑ/Στατιστικάστοιχείακρατουμένων.aspx*

5 The Greek Ombudsman, Annual Special Report NPM 2014, p. 5 *https://www.synigoros.gr/resources/docs/greek_web.pdf*

6 The Greek Ombudsman, Annual Special Report NPM 2015, p. 134 *https://www.synigoros.gr/resources/docs/ee2015-15-basanistiria--2.pdf*

on the other hand the need to encourage victims to exercise their rights via complaints.

The problem was highlighted in the Domokos Detention Facility, where the complaints of at least two detainees were fully confirmed, but the entries in the Injury Book were incomplete and inconsistent with the hospital transits, and the prosecuting authorities were informed by the Administration only when the victim wanted to file an allegation, which the prisoner was de facto discouraged from doing.

In contrast, at the Nafplio Detention Facility, in spite of staff claims of difficulty in finding proof because witnesses are reluctant and the cameras are not working adequately, it seems that the prison disciplinary council tries to investigate incidents of violence thoroughly.

iii. Infrastructure damages and inability to repair

It is now a generalised phenomenon that infrastructure cannot be maintained or repaired in a timely manner. These situations are typically due to the ageing of the facilities, the lack of funds, the lack of budgetary flexibility and due to the possible oversights in the execution or completion of construction works. However, sometimes there are more specific reasons, such as at the Neapolis Detention Facility, where major interventions are forbidden because the whole building does not seem to have any construction permit, a problem that is also observed in a large number of detention facilities, including the Adult Detention Facility of Tiryntha which is located within an archaeological zone.

In any event, these phenomena are becoming more pronounced every year and are resulting in the gradual degradation of detention conditions. Particularly:

- At the Chania Detention Facility (“Crete I”), one of the five wings is closed due to damage to one of the five wings, with the rest of the buildings exhibiting a number of shortcomings in design/construction, mainly with regard to plumbing, which are certainly unjustified for a building that was constructed only six years ago.

- At the Detention Facility of Nea Alikarnassos, 18 cells of the old building remain unused due to the collapse of a staircase and roof.

- At the Kassaveteia Juvenile Detention Facility, despite constant repairs and reconstruction, the cells of the working prisoners remain totally inadequate, especially during the summer months.

- In the Special Juvenile Detention Facility of Volos there are disman-

tled electrical installations, leakage of plumbing installations, odours and inadequate ventilation, while the Administration blames the inmates for some of the damage.

- In the Chalkis Detention Facility the electrical installations face acute problems and a high fire risk.

- At the Corfu Detention Facility, a wing is closed for safety reasons due to poor connection of power and water supply during its recent refurbishment.

iv. Progress and difficulties in prison visits

Recent innovative initiatives by the Ministry of Justice to organise visits have already begun to produce visible results. In particular, at the Detention Facility of Grevena, the NPM had the opportunity to see the properly designed and decorated children's visiting area, where even the video surveillance system is camouflaged so that the young visitors (children related to detainees) feel comfortable. There is also a family guest room suitable for private meetings of prisoners with their partners, while the prisoners already allowed 'Skype visits'. Electronic visits are also available at the Trikala Detention Facility.

However, in many cases, there are dysfunctions, mainly due to delays in the relevant infrastructure and problematic spatial arrangements. In particular:

» At the Special Rural Juvenile Detention Centre in Kassaveteia, it is reported that young inmates cannot meet with their spouses and children in open visits because, due to a lack of appropriate mechanical equipment for checking visitors, such visits are approved sparingly and mainly for persons who have been in the prison for a significant amount of time so that their personalities can be assessed.

» At the Nafplio Detention Centre, the guard station in the room for open visits is situated so close to the persons involved in the visit that lawyer-client confidentiality is violated.

» In the Corinth Detention Facility (juveniles), in the absence of a special room, open visits are held in a place near the reception booth, which may be inspected by a guard and the receptionist, without obstructing visual contact at all, and after visits, in order to prevent contraband from being brought into the prison, prisoners undergo a strip search, which is not carried out on the basis of indications or information in a given case, but in all cases and after all open visits (relatives, advocates). These searches are carried out in a specially designed room with a medical examination bed, and involve the removal of clothing and undergarments, especially after the end of visits and upon the return of minors from excursions. In 2018 the Ombudsman received and investigated a report of strip searches of detainees after visits from relatives and is awaiting a response from the competent Ministry in order to determine whether there is a need for such searches – in order to avoid forms of searches that may compromise the dignity of prisoners and visitors – and to amend the current legislation on body searches in the direction of recording and proving, using nationally practised instruments, the specific reasons why such searches are carried out by staff.

v. Insufficient grounds for refusal of temporary release

In the context of the continuing interest of the Ombudsman[7] in the protection of the right of prisoners to a reasoned examination by the prison council of applications for temporary release, as required by the Penitentiary Code (L. 2776/1999, article 54), the NPM, in its inspections, studied a sample of the relevant decisions. Regrettably, the incomplete, vague, routine and non-personalised rejection decisions still remain a common practice, making a stereotypical reference to the legislative framework without informing the prisoners of their right to appeal the decision.

In particular, such practices are observed especially in large prisons such as Patra and Grevena detention facilities, but sometimes in smaller ones as well, such as the Special Rural Juvenile Detention Facilities of Kassaveteia.

A particularly extreme example of the denial of temporary release occurred in the Tripolis Detention Facility, where there appears to be a bias against the prisoners convicted of sexual offences, mainly in connection with their predisposition to commit new crimes, without, however, individualising each

7 The Greek Ombudsman, Special Report "Prison Leaves" *https://www.synigoros.gr/?i=human-rights.el.fulakes.28882*

case by investigating the needs and the personality of each detainee, and without looking for alternatives to the place of residence of the prisoner if there are reasonable suspicions of retaliation against him.

vi. Employment

Generally speaking, access to employment opportunities seems to be fairly balanced, with rather few individual complaints about discriminatory actions.

However, at the Rural Juvenile Detention Centre in Tiryntha, it was observed that disruption resulted from the lack of employment positions and differentiation between internal and external positions, impacting the favourable calculation of time served. There and at the Chalkis Detention Centre, there is general dissatisfaction with the irrational calculation of time served for those holding work positions or participating in educational and professional training programmes, as well as with the less favourable handling in comparison with the Central Prison Equipment Warehouse.

The complexity of the conditions and criteria for the allocation of employment results in some prisoners' believing that the selection procedures provided are not properly implemented. Given that calculation of time served depends on the type of position and the length of time for which the prisoner is be employed, everyone has the expectation that they will be employed directly and selected as soon as possible to work in positions that optimise the calculation of time served. In the case of the Tiryntha Juvenile Detention Centre, the administrators of the prison point to the problem of differentiation between jobs based on how they affect calculation of time served, with bakery work counting for 30 days' work per month while the same amount of work at the Prison Supply Central Warehouse counting for 60 days' work per month.

Based on the above observations, the NPM proposes to provide for a correspondingly beneficial calculation of time served for the same work in all types of detention facilities, while also clarifying the criteria and conditions for the allocation of employment and the precise provision of specific controls and reviews once the requests are submitted.

Given the protest made by inmates of the Nafplio Detention Centre, it is also worth noting the general problem of inmates who have work positions but cannot enter a training/educational programme – even unofficially – as these programmes count as work positions. Inmates – and mainly young inmates – are thus deprived of the potential to take advantage of these programmes.

vii. Schools

Members of the NPM team had the opportunity to ascertain the good functioning of Second Chance Schools, whose beneficial effects are not limited to the use of the prisoners' time, but also contribute to their rehabilitation after release. Many schools have been able to attract institution donations and constructive cooperation with local bodies.

Of particular note are the following activities:

- At the Corfu Detention Facility, a Digital Library has been developed in collaboration with the Ionian University.
- At the Larissa Detention Facility, a gallery of works by inmates has been established.
- At the Trikala Detention Facility, an exemplary computer room has been set up and prizes have been won in international student film contests.
- The Corinth and Patras detention facilities and Special Juvenile Rural Detention Facility of Kassaveteia (Volos) also have multiple activities.

Equally important is the ability of detainees to continue their studies at local Evening Lyceums, as well as in the Greek Open University.

However, it is noted that some schools do not have educational material adapted to the needs of adults and young people who attend the early classes of primary school or for students who are not familiar with or have little knowledge of the Greek language. This complicates the educational process and reduces its effectiveness, despite the efforts of the teachers to cover the above gaps on their own initiative, as in the case of the Corinth Detention Facility. At the junior high school level, similar problems result in inadequate coverage of teaching needs, with a small number of educators teaching all of the classes.

The satisfactory impression from some detention facilities is countered by the existing inequality in providing such educational benefits, as some detention facilities have not yet been able to establish a school. A major issue in the uninterrupted development of the educational process in detention is the provision to prisoners of continuous and uninterrupted monitoring. The NPM is often the recipient of protests from detainees whose transfer to a detention facility without schooling services has resulted in an abrupt break in their educational progress and has thus resulted in an aggravation of their psychological condition. Until the full development of schools is

achieved in all detention facilities in the country, the NPM considers that it is imperative to take individual educational needs into account in any decision to transfer a prisoner.

viii. Availability of entertainment, employment and training

Like schools, opportunities for leisure, employment and vocational training are challenging gaps that need to be bridged between detention facilities that provide impressive opportunities and other that provide fewer ones.

Among other things, the NPM points out:

- In the Trikala Detention Facility, the Mental Health Seminars and the vocational training programmes.
- At the Nea Alikarnassos Detention Facility, the operation of a nursery, a soap factory and a woodworking workshop, as well as cooking courses.
- In the Nafplio Detention Facility and the Adult Rural Detention Facility of Tiryntha, the collaboration with the Department of Theatre Studies of the University of Peloponnese.
- At the Patras Detention Facility, the operation of a theatre group in collaboration with the Municipal Regional Theatre.
- In the Corinth Detention Facility, educational excursions to museums and other cultural sites, but only for juvenile detainees.

In contrast, in spite of availability or lack of suitable facilities, the Chania and Grevena detention facilities, the Rural Prison of Agias and the Special Juvenile Detention Facility of Volos lack entertainment and training programmes or workshops and are limited to gymnastics and sports activities, improvised or organised in cooperation with local operators, while elsewhere, as in the Tripolis Detention Facility, no systematic activity is offered.

ix. Transfer to rural detention facilities

The changes made during the last five years to the conditions for transferring to rural detention facilities were primarily aimed at tackling the overcrowding of prisoners in other detention facilities. The consequence, however, of the new regulation was the management of "two-tier" detainees in rural detention facilities and the confusion that this caused to prisoners with regard to the institution, since this type of prison demonstrates a greater degree of trust in those being detained in a semi-free living situation, but this does not necessarily apply to the entire body of prisoners. However, in order to

make it possible for the prisoners in rural detention facilities to benefit as much as possible from this alternative means of punishment, the new data should be assessed, and appropriate adjustments should be made to the way in which these facilities operate.

The control carried out to decide the transfer of a detainee to a detention facility is often inadequate, as in most cases it is found that the prisoner is not qualified to be transferred, but only after the transfer has already taken place. Additionally, special care is not taken in the case of drug addicts, even when there are no relevant programmes, as in the Adult Rural Detention Facility in Tiryntha, or even a permanent psychologist, so it is necessary to take all the appropriate supporting measures when the relevant transfers are made.

With respect to the above remarks, the NPM has suggested the establishment of a new code[8] for the regulation of the rural detention facilities in order to enhance them, as a means of an alternative detention policy and not just a means of avoiding the overcrowding of other prisons.

2.d. Specific observations on some detention facilities

This section includes observations not on all prisons visited by the NPM in 2018, but only on those that have given rise to remarkable findings or proposals that are so specific to individual facilities that they cannot be included in the general categories of the above section.

i. Volos Special Juvenile Detention Facility

In this prison we observed signs of neglect and deterioration as well as a general negative environment, which are confirmed by the frequent self-injuries of the detainees as well as by their (usually rejected) requests to move to other facilities. Another matter of concern is the fact that, during our visit, the prison's population consisted almost exclusively of foreigners (with the exceptional case of two Roma), reminiscent of a ghetto situation. It is also estimated that the Administration directly handles matters that should fall within the competence of the social service.

The NPM's proposals are based on a more practical orientation, in the light of its findings. In particular, we recommend the establishment of a more stable and closer connection with the local Hospital to meet the needs of the detainees promptly and adequately, as well as with a mental health institution or service, in order to properly evaluate and systematically support detainees' mental health and to avoid fragmentary treatment limited to

8 Already adopted before the conclusion of this Report: Ministerial Decision 14088/5.3.2019

provision of medication, long waits and self-injuries. Closer cooperation with the local Bar Association or Non-Governmental Organisations with related activity is also proposed, with the aim of ensuring the regular provision of legal notification and counselling, as well as investigation, in cooperation with the public prosecutor, of the temporary release system, safeguarding of visits in terms of persons entitled to visits by law, and the frequency of injuries and self-injuries.

It would also be useful to promote actions such as the creation of friendly and stimulating public spaces, enhancement and systematisation of leisure activities, enrichment of prison libraries with books suitable for young inmates and in languages understandable by them, while also guaranteeing access to the library.

Finally, we propose the introduction of training programmes that would improve the daily life of detainees and facilitate their reintegration after release, as well as their involvement in building maintenance and improvement of the premises, with their views and proposals regarding potential improvements to facilities taken into consideration.

ii. Kos Detention Facility

This prison was designed as a low-capacity detention facility to meet the needs of the Dodecanese Islands. However, during our visit the number of detainees far exceeded capacity. It consists of three dormitories (multi occupancy cells), accommodating about 30 persons per dormitory in a very dense bed layout of two-levels, resulting in a very small living space, while inmates who did not have a bed slept on mattresses in the loft of the dormitory or on the floor.

There is also a total lack of social service and psychological support for the detainees. The duties of physician, psychologist and social services seem to have been taken on personally by the prison's director. More indicative of the quasi-abandonment of the Kos detention facility is that the recent vacancy notice for prison personnel of the Supreme Council for Civil Personnel Selection (ASEP) provides posts exclusively for guard staff and not for other specialisations.

In addition, due to the geographical location of the facility, important needs of prisoners, such as communication with their relatives, are becoming more difficult, so that the possibility of providing equipment or funds for the operation of an electronic visit via skype should be considered.

iii. Grevena Detention Facility

In this prison there is a specially designed children's play area. The space is

decorated and furnished for toddlers, painted with cartoon characters, has a playground sign, and even the video surveillance system is camouflaged to make children feel comfortable. Even the inmate entrance is camouflaged and the guarding is not visible. There are tables for more than one family with children, but the number of applications and scheduling allows for only one family or two to be placed so as to ensure comfort and safety. However, since the necessary subsidy has not been paid for this area, toys for young children are collected by staff.

The most alarming problem of the facility is the lack of a permanent doctor, despite its ten years' of operation, the presence of elderly prisoners and the administration of psychiatric medication and treatment. The existence of a special room serving as a dispensary for prisoners' psychiatric medicines is evidence of their widespread use. For this reason, a psychiatrist from a public hospital should visit to provide care for sick detainees, or otherwise a psychiatrist should visit the detainees on public pay and not burden the detainees or other financial resources.

Besides the high rate of rejection of inmate requests for temporary release, the sample of the relevant decisions that we examined outlines, moreover, issues concerning the personalisation and legality of the reasoning, as there are grounds for rejection that are either vague (necessity for further monitoring) or are generally referred to with the stereotypical repetition of reasoning provided in the Correctional Code. In addition, the reasoning that *"the detainee was informed and was advised of actions he might take"* does not ensure that the detainee is informed of his right to appeal to the Court of Penalty Enforcement.

The location of the Detention facility and the lack of public transport make it difficult for relatives to get to the prison.; In order to facilitate them it may be advisable to establish a connection with the city of Grevena, at least on visiting days.

The various wings and annexes of the prison accommodate about 300 detainees, sentenced for crimes against sexual freedom and the economic exploitation of sexual life. It would therefore be appropriate to consider the operation of a psychosocial treatment programme for interested inmates, and provided that the court has ordered it, as provided for by Article 352A of the Penal Code.

iv. Trikala Detention Facility

Considering the capacity of this prison, the number of the accommodated detainees and the sentence lengths they serve, the most important problem is the lack of a permanent doctor. Moreover, it also lacks a permanent social worker, so that, since June 2016, one on secondment from the Volos

Special Juvenile Detention Facility has been assigned to assume this duty on a rotating basis.

The detainees here with drug addiction problems cannot receive the necessary treatment, so the administration promotes their requests for transfer in the appropriate therapeutic facilities. Given the number of detainees experiencing this kind of problem, equipping this prison with specialised personnel and setting up adequate therapeutic programmes should be considered.

The yard areas are "bare" and no attempt has been made to create a more human environment. More specifically, the lack of a shelter makes access to the courtyard impossible in case of rain or intense sunshine. The whole facility is heated by a central oil-burning system and, due to the reduction of funding, the heating is rudimentary, according to the prison annual report on economic and correctional performance for 2017. The administration's proposals include connection to the natural gas network.

Also proposed is the establishment of training and sport activities for the detainees and the setting up of specialised workshops, as well as the construction of an appropriate children's visiting area.

v. Chalkis Detention Facility

The premises of this prison are clean and freshly painted, which greatly improves the image of the building in relation to its old age. The dormitories (multiple occupancy cells), however, accommodate a large number of detainees and the space left indoors is minimal, given that four people are provided with small tables, personal storage areas and televisions. In cells where there are no tables, prisoners eat on their beds. Apart from the suffocating conditions created in such a context - given that, clearly, the capacity provisions of the law are not respected - the very fact of the existence of multiple occupancy cells deprives prisoners of the minimal requirements for privacy. In addition, the old age of the building limits the effectiveness of insecticides, while more dynamic solutions require building interventions, such as the replacement of the wooden roof.

There is no organised feeding area; the food is distributed in the courtyard shed and the food is consumed in the cells, in plastic containers carried by the detainees themselves. The courtyards are small in relation to the population accommodated in the prison and the facility also lacks equipment for sport and leisure activities; there are no benches or green spaces and the courtyards are fully exposed to the weather conditions. There is no special area for recreation or school.

Regarding the infrastructure, the most important problem is the electrical installations, which need immediate replacement due to the frequency of

breakdowns, power cuts and fire hazards. The problem of power supply also affects the heating conditions during the winter months, making it impossible to operate the pottery workshop.

There are long gaps of time between the entries in the Prisoner Injury Registry, which may be indicative of a lack of scrupulous compliance.

vi. Special Rural Detention Facility for Juveniles in Kassaveteia Volos

In the Male Juvenile Prisoners' wing the main problem for the detainees is the lack of possibility to meet with their spouses and children in an open visit. This option is provided only after a period of *"probation"* and, according to the detention staff, it is not possible to provide this facility from the very start of the detention due to lack of proper mechanical equipment for guest inspection. In this particular case, however, account must be taken of the detainees' young age and the right to communicate with their relatives through visits (article 52 of the Correctional Code).

In the Adult Prisoners' wing, the main concerns are the probation time and the selection criteria for employment in outside work. With regard to infrastructure, there is the need to replace the boiler to save resources, the delay in approval of projects by the Ministry of Justice, and the difficulty of issuing a planning permit for water supply.

vii. Rural Detention Facility for Adults in Tiryntha

The age of the buildings, combined with the inability to carry out infrastructure and/or maintenance works, leads to major practical difficulties in improving the facility because, on the one hand, the whole area occupied by it is located in the 1st Archaeological Zone and, on the other, contracting companies fail to bid on low-cost projects.

The population of detainees in the dormitories (multiple occupancy cells) is large (12-20 people), so that they are deprived of any sense of privacy, while the requirements regarding the space-per-detainee are not respected. During our visit, the issue of lack of hot water was raised by a significant number of detainees as one of the most important issues at the facilities, and there were also complaints about the temperature in the dormitories (very cold in the winter, very hot during the summer). There were also significant inequalities with regard to the living conditions among the inmates, given that the same number of square metres may house one inmate in the huts and multiple inmates in the closed section of the prison, and at the same time the appliances and appointment in some huts and cells may create a sense of inequality among the inmates.. Lastly, the detention facility has no sporting equipment or organised sport programmes, while the courtyard areas, which do not have benches or

green areas, are fully exposed to the weather conditions (rainfall, intense sunshine).

An issue that concerns both the detainees and the staff is employment and allocation of jobs. More specifically, in the *"closed"* section there are 50 *"in-house"* jobs (kitchen, bakery, housekeeping), which are rotated quarterly to detainees on the basis of a number of criteria (remaining sentence to be served, prior authorisation for temporary release, special skills), in agreement with the prosecutor-supervisor of the prison. Outside jobs are also allocated ('teams' for agricultural work, 'workshops' for technical work – mainly building maintenance). Job placement, the type of job, and the length of employment are among the issues that cause the most disruption, given that all these factors are directly related to the beneficial calculation of time served in prison.

Although the meal schedule seems balanced and complete, during days of our inspection we recorded several objections to the diet, as it contained red meat only once a week. As the prisoners explained, this ratio is not sufficient, as most of them are occupied in demanding in-house and outside jobs. One positive thing, of course, is the fact that most of the raw materials used to feed the prisoners come from the production of the Detention Facility itself. However, as the cooking of these products is handled by inmates (who often lack relevant knowledge), optimal use is not always made of the products provided. In any case, the fact that the detainees consume largely their own agricultural products should not result in reduced frequency or quantities of red meat in the food programme.

Despite producing agricultural and animal products, the Detention facility is not permitted to sell these products, as the relevant conditions (bakery operation licence, product packaging licence) have not been met.

On the basis of the above observations, the NPM proposes the setting up of school and Greek language programmes within the facility, as well as encouragement of the detainees to attend the training programmes organised by the Hellenic Manpower Employment Organisation (OAED) and the local Institute of Vocational Training (IEK), particularly in specialisations that are either deemed necessary for the functioning of the facility or are in heavy demand in the labour market.

We also propose the promotion of better use of vegetable and animal production in relation to a more integrated development of natural resources; exploitation of new technologies; cooperation with competent institutions; and a gradual turn towards forms of craft industry development for the improvement of processing, certification and marketing of the agricultural products coming from the facility.

2.e. Institutional interventions

In this section, as in the context of the Special Report of the NPM[9] of 2017, there are interventions which, according to the letter of the law, do not refer to the specific competence of the NPM but to the general responsibility of the Ombudsman, since these interventions resulted from reports from citizens rather than from the NPM's control initiatives, and their handling was carried out not with the legal instruments of Law 4228/2004 but with those of Law 3094/2003, i.e. through mediation and intervention at the relevant ministries and development of legal arguments for a change in the attitude of such ministries to specific individual cases. Nonetheless, it is vital to include this report in a summary form as the subject matter of the Ombudsman's general concern for the rights of detained persons in detention facilities, and is therefore related to the subject matter of the NPM.

i. Welfare Allowance for Disabled Detainees

The long-standing position of the Ombudsman[10] that a custodial sentence is not a negative condition for the granting of welfare benefits to people with disabilities, if the other legitimate conditions are met, was ultimately justified by the issuing of a relevant report. The competent Social Protection Administrations of some municipalities have excluded prisoners from receiving a severe disability allowance, on the grounds that their allowance is not justified since their living expenses have already been borne by the State. The Ombudsman, addressing the Ministry of Labour and referring to Opinion 60/1999 of the Legal Council of the State, asked for a resolution of the issue in the light of the principles of legality, fairness and legitimate trust. Prisoners are not inpatients or inmates of a public nursing or welfare institution, which might be preclude them from receiving a severe disability allowance. In addition, even if detention facilities are to meet basic subsistence and care needs, they do not have the necessary infrastructure to meet the individualised needs arising from disability, nor do they aim to do this.[11]

In response to this, the Ministry clarified to all municipalities that they must grant preferential disability benefits to persons serving a custodial sentence.

---

9 The Greek Ombudsman, Annual Special Report NPM 2017, pp. 23-25 *https://www.synigoros.gr/resources/opcat_2017_gr.pdf*

10 The Greek Ombudsman, Report "Welfare Allowance for Disabled Detainees" *https://www.synigoros.gr/?i=human-rights.el.fulakes.530716*

11 The Greek Ombudsman, Annual Report 2017, p. 168 *https://www.synigoros.gr/resources/ee2017-p00.pdf*

ii. Implications of criminal conviction

The Centre for Social Welfare of the Region of Central Macedonia rejected a request from a former detainee for care in the Chronic Disease Sector, on the grounds of his criminal record, which the Office had sought out of its own internally. The Ombudsman pointed out that the ex officio search for this purpose is not based on law and that the registration of a conviction in the criminal record is not a legitimate reason for rejection of the request, especially when it is stated that all the legal consequences of that conviction have been removed. Restricting access to health services due to a criminal record is discriminatory, and any risk concerns should be accompanied by an individualised assessment of his/her personality along with his/her health problems. In response, the above service undertook to re-examine the application.

2.f. Legislative and organisational developments

a. - During 2018, three further decisions were added to the lengthy European Court of Human Rights case-law referring to the Ombudsman's inspection reports. These are the following:

- "Koureas and others v. Greece" (18 January) on the conditions of detention at the Detention Facility of Grevena[12],
- "Zambelos and others v. Greece" (17 May) on detention conditions at the Korydallos Prison Health Centre[13], and
- "Constantinopoulos and others against Greece" (November 22nd) again for the Grevena Detention Facility[14].

b. - In the field of institutional developments,

- The publication of Law 4521/2018, article 31 of which stipulates that *"Every detention facility ... shall see the establishment of primary and secondary school establishments ... Public Vocational Training Institutes, DIEKs, for adult graduates of compulsory education of vulnerable social groups, and Greek Language Teaching Departments. A joint ministerial decision shall determine the opening of school units and DIEKs, as well as their facilities. ... At every detention facility*

12 European Court of Human Rights, "Koureas and others against Greece" *http://hudoc.echr.coe.int/eng?i=001-188593*

13 European Court of Human Rights, "Zambelos and others against Greece" *http://hudoc.echr.coe.int/eng?i=001-188896*

14 European Court of Human Rights, "Constantinopoulos and others against Greece" *http://hudoc.echr.coe.int/eng?i=001-187690*

an Educational Advisor/Coordinator shall be chosen for a three-year term. The Educational Advisor/Coordinator investigates the educational needs of inmates, … participates in the Working Council of the detention facility … in cases where education-related issues are considered, … ensures implementation of the programmes …, submits and annual activity report …"

- The publication of Presidential Decree 100/2018 on the inclusion of the Korydallos Prison Health Centre in the National Health System, a regulation which the Ombudsman proposed in 2014, immediately after assuming its NPM competence[15]. However, both of the executive acts to assist the new regulation and the introduction of similar arrangements for the prison psychiatrist are pending.

Finally, the working group on reform of the various provisions creating barriers in our legal system to occupational rehabilitation of persons under conviction or even pre-trial detention or under prosecution, which was established by the Ministry of Justice following successive interventions of the Ombudsman[16], completed and published its work in a special edition under the title *"Invisible punishments. European dimension – Greek perspective"*. The NPM observes a positive development in identifying all relevant obstacles and expects the continuation and achievement of the reform of the relevant legislation. ●

15 The Greek Ombudsman, Press Release *https://www.synigoros.gr/resources/docs/deltio-typou.pdf*

16 The Greek Ombudsman, Annual Report 2015, p. 56 *https://www.synigoros.gr/resources/docs/ee2015-00-stp.pdf*

3. Hellenic Police and Coast Guard Detention Facilities

3.a. General annual findings

The situation in cells worsens every year. During the years of spectacular increase in migratory flows, the State tried, under the pressure of circumstances, to create special spaces such as Pre-Detention Centres, in conjunction with Reception Centres and Identification Centres. However, the lack of space has led to the use, or rather the abuse, of conventional detention facilities.

Police cells, designated by law for custody of prisoners for up to a few days, were and remain unsuitable for long-term detention. The phenomenon of changing their use resurfaced[17], with the serving of sentences in police detention facilities, prior to the last law enforcement operation of decongestion of prisons.

Establishments that have common standards but are solely used for administrative detention are mainly those of Taurus and Thessaloniki. Particular mention should be made of the detention facilities of the Aliens Division of Thessaloniki, where ELAS simply changed the legal status and is currently using one of the two floors of the detention facilities of the Sub-Directorate of Transfers and of certain regional departments (Mygdonia, Thermi, Agios Athanasios) without making any kind of change. In fact, unaccompanied minors are also kept in protective custody until places in other establishments are found, which puts at risk their normal development and violates rules on the international protection of the rights of minors.

17 The Greek Ombudsman, Report "Penal Detention in Police Detention Facilities", *https://www.synigoros.gr/resources/docs/201700.pdf*

3.b. Inspections and other exploratory actions

i. Inspections carried out in 2018

In 2018, the NPM inspected the following 33 ELAS or Hellenic Coast Guard (HCG) detention facilities, listed in chronological order of inspection:

- Pangrati Athens Police Department (11 January),
- Police Headquarters of Achaia, Patras Transfer Department and Zarouchleika Police Station (31 January),
- Patras Central Port Authority (Coast Guard) (1 February),
- Police Station of Kissamos, Chania (2 March),
- Transfer Department of Heraklion, Crete (2 March),
- Police Headquarters and Transit Department of Larissa (29 March),
- Police Department of Trikala and the Police Department of Kalampaka (30 March),
- Police Department of Corfu (27 April),
- Police Station of Kallithea, Attica (15 May),
- Police Headquarters of the Cyclades and the Police Department of Ermoupolis (4 June),

- 2nd Police Headquarters of the Dodecanese and Police Department of Kos (6 June),
- 1st Police Headquarters of the Dodecanese and the Police Department of Rhodes (7 June),
- Kypseli Athens Police Department (13 June),
- Sub-administration Thessaloniki Transfer Centre (24 June, 31 August, 2 September, 18 October)
- Migration Management Department of Agios Athanassios in Thessaloniki (25 June, 31 August, 9 November),
- Kozani Police Headquarters (28 June),
- Police Headquarters and Transit Department of Grevena (28 June),
- Serres Police Headquarters (4 July),
- Migration Management Department, Mygdonia, Thessaloniki (5 July),
- Migration Management Department, Thermi, Thessaloniki (5 July, 19 October),
- Mytilini Police Department and Mytilini Traffic Police Department (22 August),
- Phthiotis Police Headquarters (19 September),
- Athens Airport Police Headquarters (26 September),
- Samos Police Department (20 November).

ii. Investigation of deaths and incidents of violence

Within the framework of its specific competence, the NPM has launched a series of exploratory contacts with the Ministry of Citizen Protection and Police Departments in order to identify cases, particularly deaths or injuries, that could trigger ex officio interventions on issues such as detention conditions, security, staff adequacy, delay of immediate response to particular requests or conduct, and emergency management.

Where appropriate, specific questions are raised about the development and the possibility of preventing the incidents in question, supervision at the specific time and place, assistance provided, and the general instructions

given to the staff. The main objective of these interventions is to identify more general systemic problems, which are obviously highlighted by the frequency and the common characteristics of these incidents.

During 2018, this initiative was launched in four cases.

- suicide of a pre-trial detainee at the Police Department of Trikala (11 February),
- Suicide of an administrative prisoner at Kissamos Police Station in Chania (15 February),
- Suicide at the Penteli Police Station (3 September),
- death, due to pathological causes, of an administrative detainee at the Omonoia Police Station (5 September).

Conclusions so far cannot be considered complete or satisfactory, as in most cases the Administration invokes criminal or administrative inquiries and reserves the right to communicate the relevant findings after they have been completed. Therefore, the same comments apply as in the case of the detention facilities mentioned above (under 2.b.3) for the corresponding initiatives of the NPM concerning the investigation of deaths and incidents of violence in detention facilities.

3.c. Special issues that emerged in 2018

i. Lack of outside spaces and inappropriateness for long-term detention

The Ombudsman, both as an NPM and as part of its general responsibility, has repeatedly pointed out and documented[18] the abuse of police detention facilities for purposes unrelated to their original purposes and unrelated to their design. This problem also emerged in 2018, as joint detention facilities, particularly in Athens and Thessaloniki, are now mainly used for administrative detention and secondarily for detention of people arrested in criminal proceedings, resulting in overcrowding, which ultimately worsens detention conditions.

The inadequacy of detention facilities for an administrative detention of several days or even several months is particularly striking with regard to the issue of lack of open-air spaces. In most cases, a courtyard is either un-

18 The Greek Ombudsman, Special Report "Migration flows and refugee protection – administrative challenges and human rights", pp. 55-59, 75-76 *https://www.synigoros.gr/resources/docs/greek_ombudsman_migrants_refugees_2017-el.pdf*

available (Heraklion Transfer Department, Corfu Police Department, Thermi, Mygdonia and Agios Athanasios Immigration Management Departments) or exists but is not used for safety reasons (Pangrati and Kypseli Police Departments), mainly due to insufficient number of guards.

ii. Guarding and separation of detainees

The insufficient number of guards affects not only the limited use of yards, but also, and crucially, the security of detainees, as has been observed in the Kissamos Police Department, which is not designed to be a detention facility, and on 15 February, a detainee was hanged at a point not visible to the cameras. Almost everywhere, in violation of the law, administrative and criminal prisoners are detained in the absence of the possibility of practical separation (Heraklion Transfer Department, Trikala, Kos, Pangrati and Kipseli Police Departments).

iii. Capacity and cleanness

By constantly redistributing the administrative prisoners, ELAS tries to keep their number per department within the prescribed capacity limits. However, as the NPM's inspection numbers have identified in certain cases, even the officially declared capacity is nominal and does not correspond to the actual situation, as there are not enough built-in beds, and most detainees sleep on the floor (Migration Management Departments of Thermi and Mygdonia).

Finally, overcrowding inevitably causes a lack of effective care and maintenance of the premises, resulting in a lack of cleanliness and failure to repair the prisons (Police Departments of Kissamos, Kos, Rhodes, Kypseli). Sometimes, conditions are absolutely suffocating, dangerous to health and beyond limit of human endurance and dignity (Department of Patras). However, given that under these conditions, criminal detainees are being transferred, the consequences of these problematic health conditions are transferred to other prisons. ●

4. Pre-Removal Detention Centres for Third Country Nationals

4.a. General annual findings

The general finding emerging from the NPM's analysis is that Pre-removal Detention Centres have reached their limits and do not meet European specifications (Article 16 of the Return Directive). In some cases, conditions appear to have improved in relation to the past, as the number of detainees has decreased and, as a rule, the period of detention does not exceed six months; however, improvements are temporary and precarious as they depend on the fluctuation of migratory flows.

A common problem in almost all these centres is the shortage of interpreters, psychologists and social workers. Spaces vary, ranging from mass detention dormitories or container wards to conventional detention facilities. Living conditions vary depending on the facilities, with stark differences in terms of outdoor spaces. The usual deficiencies are found in cleanliness, heating, quality and quantity of food, and the lack of personal hygiene. The provision of an outdoor space and entertainment activities, wherever they exist, are of short duration, while basic services of a physician, psychologist, social worker and interpreter are available but are often not provided because of the competition for their services.

The Ombudsman has pointed out[19] that it is imperative that a steady flow of funding from the regular funds of the European Fund for Asylum, Migration and Integration (AMIF) be secured for the Pre-departure Centres through the necessary timely completion of internal administrative procedures and the Central Managing Authority. In the same context, the Ombudsman noted that there is no more cynical confession of disregard of fundamental rights than the statement, in official texts, of the view that "the construction of detention structures will act as a deterrent to new migratory flows"[20].

19 The Greek Ombudsman, Special Report "Migration flows and refugee protection – administrative challenges and human rights", pp. 86-89 *https://www.synigoros.gr/resources/docs/greek_ombudsman_migrants_refugees_2017-el.pdf*

20 Special Report "Migration flows and refugee protection – administrative challenges and human rights", p. 88

Thus, deprivation of personal liberty is no longer an exceptional measure to achieve the purpose of forced expulsion, as required by Law 3907/2011 and the Return Directive. However, the policy of extended administrative detention has exhausted its limits and is already part of the problem and not the solution, as there is a lack of structures and expertise for ensuring adequate guarantees for the majority of those deprived of personal liberties in such large places.

It should be pointed out, nonetheless, that ELAS is not exclusively or perhaps even mainly at fault for the present situation. Most problems stem from shared responsibility or combined inertia of many services, and are interconnected due to the weaknesses along the chain of responsibilities. Thus, for example, deficiencies in reception, recording and identification procedures - especially in identifying a so-called vulnerability - aggravate the overcrowding and the need for additional medical services in detention facilities.

It is down to the Greek police (ELAS), falling within its exclusive sphere of powers, to opt for the choice of releasing a foreigner under administrative detention when the conditions of detention are deemed substandard, instead of looking for alternatives characterised by questionable suitability and legitimacy (articles 30.1 and 31.1 of Law 3907/2011)[21].

4.b. Inspections

In 2018, the NPM carried out inspections in the following six Pre-removal Detention Centres for third country nationals:

- Amygdaleza, Attica (7 March, 14 June),
- Moria, Lesvos (30 March, 26 April, 13 June, 25 July, 22 August, 21 November),
- Kos (5 June),
- Thessaloniki (detention facilities for foreigners that are wrongly acting as pre-removal detention centres, 24 June, 31 August, 2 September, 18 October),
- Tavros (27 September),
- Corinth (12 November).

21 In a single case, a penal court of Igoumenitsa (682/2012) decided that improper detention conditions can even reduce the liability of an escaped detainee.

Occasionally, incidental conclusions from repeated visits of the Ombudsman are added throughout the year to detention facilities (Tavros, Moria, Thessaloniki), which are the starting point for external controls of forced returns of foreigners under Law 3907/2011.

4.c. Provision of medical services, detection and treatment of contagious diseases

The lack of continuous and effective provision of medical services has as a direct result the impossibility of identifying and treating infectious or contagious diseases. In at least two cases (Pre-Departure Centres of Thessaloniki and Kos) there were severe problems of male detainees, which were exacerbated by inadequate cleanliness and were treated only by nursing staff, whereas at the Corinth Centre the symptoms were treated by a doctor, but there was also a problem of cleanliness.

At the Moria Centre, Health Units SA only took on healthcare services as of August 2018 but did not provide medical staff, so the needs of the prisoners are covered either by examining them at the Hellenic Centre for Disease Control and Prevention (HCDCP) that provides services at the Reception and Identification Centre, or through referral to the General Hospital of Mytilene. However, both alternatives faced difficulty in responding to these needs.

Additionally, as the Ombudsman has consistently found, the files of deportees do not include comprehensive medical history records, while people with serious health problems are not identified during the registration and identification process. Hence, they need to be referred to medical services in order to receive appropriate medical care or to be identified as being vulnerable in order to lift their detention.

4.d. Specific observations on some Pre-removal Detention Centres for Third Country Nationals (Pro.Ke.K.A.)

i. Moria Pre-removal Detention Centre (Lesvos)

As the staff of the pre-removal centre affirm, due to the long unjustified detention, most detainees develop psychological conditions or disorders and need medication. Even during the last relevant inspection in 2018, it emerged that only a psychologist and social workers have been placed in the centre, as the calls for medical staff recruitment remained unproductive through November 2018. Detainees' medical needs are met by their examination at the Hellenic Centre for Disease Control and Prevention (HCDCP) facility, which is intended to serve the Moria Reception and Identification Centre (K.Y.T) and by their referral to the Mytilene General Hospital. In addition, since the end of October, no doctors have been provided by the HCDCP, as these doctors have resigned to protest the way public health services are provided there. So, since then, the new detainees have been transferred to the pre-removal centre's facility without medical examination, with the risk of spreading communicable diseases as they reside with the other prisoners (there is no quarantine space). In case of emergencies, regular problems and even regular prescriptions are treated only by transferring the detainees to the Mytilene General Hospital, but less frequently than necessary,, with an average of two inmates per day, while medication and regular treatment within the detention facility are administered by the Pre-removal centre's deputy governor and the social worker.

Deficiencies in staffing and inadequate infrastructure were also identified. More specifically, the 49 persons who were prescribed to be recruited at the pre-removal centres were inadequate, as, in particular, more people are required for transfers, whereas only for this specific pre-removal centre, staff secondment under a three-month contract is not permitted. In particular, the lack of interpreters makes it more difficult to communicate with detainees, both on health issues and on effectively informing detainees about the reason for their detention and its duration. In terms of infrastructure, it is noted that the spaces and the surroundings of the pre-removal centre have not been designed based on the standards of long-term detention facilities, making the structures used for their design easy to damage (light, fragile doors) and unsuitable (glass windows). As a result, there is a great risk of injuries or escapes of prisoners, and such incidents have occurred repeatedly.

Also noted was a lack of funding for regular washing of bed sheets and rugs, non-issuing of free calling cards for contacting relatives and seeking legal assistance (as cell phones are held by the service and detainees have access to cell phones only a few hours during the weekend, even though this is done irregularly) and, finally, poor food-service management is noted,

as the special needs of detainees are not met. In conclusion, the structure is not being used in accordance with its original design, but as a place of long-term detention, with inadequate specifications and modes of operation that do not guarantee the dignity of prisoners.

ii. Thessaloniki Pre-Removal Detention Centre

This centre is, in fact, the common detention facilities of the Directorate of Aliens, which is being improperly used as a pre-departure centre. It has been pointed out in the past by the NPM[22] that the layout of the building does not allow the detainees to use a courtyard. Also, the provision of built-in beds in detention rooms seems not to be supported by the structure of the particular building, so all prisoners are forced to sleep on mattresses on the floor.

There is no medical care in the detention facilities and the cases are transferred to public health facilities by appointment or, exceptionally, in case of an emergency. On average, two medical transfers per day were reported, depending on the availability of police personnel. Having a doctor visit for preventive exams some days of the week would to a great extent eliminate the difficulties in serving sick detainees.

The detention centre does not have supporting staff such as social workers, psychologists and interpreters. In particular, the lack of interpreters, com-

22 The Greek Ombudsman, Annual Special Report NPM 2017, page. 56-57 *https://www.synigoros.gr/resources/opcat_2017_gr.pdf*

bined with the existence of a population with mixed migrant profiles, creates severe communication problems. The problem of informing detainees about the length of their detention is highlighted by various discussions with detainees, a problem that tends to be more intense in cases of unaccompanied minors whose detention often exceeds one month.

iii. Corinth Pre-Removal Detention Centre

During the inspection of this pre-removal centre, one of the premises of the facility remained closed due to a decrease in the number of detainees as compared to the past. However, the 12-person dormitories with 2-level bunk beds were found to be below the 4 m. specifications. per detainee in public places of detention.

Positive signs, compared with previous observations, include the installation of solar water heaters, the normalisation of the Autonomous Asylum Scale procedures (an average of 471 applicants per month for registration and two weeks for the interview), an increase in pre-hospitalisation hours and recruitment, through AEMY, of nursing staff and a physician who has treated the existing scabies problem.

There are also two social workers and a psychologist, who the detainees visit only escorted by police, whenever this is possible in terms of the adequacy of the staff at the Pre-removal centre. An Arabic interpreter covers only a small number of the languages spoken by the detainees. Cleaning has also been found to be inadequate, and a total lack of recreational activities remains a major problem. ●

5. Involuntary Psychiatric Treatment

5.a. General annual findings

After the experience of more than 25 years of application of the provisions of Law 2071/1992 on involuntary hospitalisation, a commonplace problem is the inappropriate implementation in practice of the provisions set up to safeguard the rights of the allegedly mentally ill. The provisions of Law 2071/1992 have repeatedly led the Supreme Court Prosecutor's Office to issue reports and opinions[23] and the European Court of Human Rights to issue rulings against our country[24].

Moreover, it is widely acknowledged that the only provision of the law on psychiatric care is through involuntary hospitalisation, without any substantial capacity to provide and develop psychiatric care in the community, has increased the number of involuntary hospitalisations in closed-type structures.

The key findings from the NPM's data are rather disappointing as far as the effectiveness of law enforcement is concerned: the overwhelming majority of cases are tried without the presence of the person concerned, in most cases the person has not been summoned as a patient, and legal remedy is very rarely exercised against the decision ordering involuntary hospitalization. The above should be considered in combination with the everyday life experiences in public prosecution offices and psychiatric hospitals, especially in large urban centres: relatives request the prosecutor to deal with and initiate involuntary hospitalisation, he then issues a public prosecutor's order for examination, the police take over, the alleged patient is taken by patrol to a psychiatric clinic for examination. Involuntary hospitalisation prolongs the use of restrictive measures (protective bedlinen/bed restraint primarily) on patients due to staff shortages, lack of proper staff training and lack of strict criteria for the use of patient-restraint methods following international standards.

23 Areopag Prosecutor: Opinion 12/2006, Order 1421/19.9.2004, Circular 504/13.2.1996
24 Decisions “Venios vs Greece” (5.7.2011), “Karamanof vs Greece” (26.7.2011)

5.b. Inspections

During 2018, in chronological order, the NPM carried out the following inspections:

- at the Psychiatric Department of the University General Hospital of Patras (1 February)
- at the Psychiatric Clinic of the University General Hospital of Larissa (30 March),
- at the Psychiatric Department of the General Hospital of Corfu (26 April),
- at Post-Hospital Psychosocial Rehabilitation Facilities ("Ipsos", "Cleo" and "Erato" hostels, "N. Moros" and "Alkiona" hostels, 27 April)
- and at the Psychiatric Clinics of Argos and Tripolis General Hospitals (14 November).

5.c. Special issues that emerged in 2018

i. Frequency and distribution of admissions for involuntary hospitalisation

At the General Hospital of Tripolis, patients admitted involuntarily account for at least 90% of inmates. Similarly, at Patras University Hospital, the number of involuntary commitments that should be transferred to other structures but are referred to the National Centre of Healthcare Operations, without respecting the general principles of services of mental health at the place of residence and in appropriate units in the community, is very high and is constantly increasing.

In the Patras University Hospital, cases of adolescents of 16-17 years old were noticed, despite the fact that the Psychiatric Department for Children at the Karamandaneion Children's Hospital was on duty. The Ombudsman considers that the commitment of underage patients to a psychiatric clinic for adults is illegal and underlines the fact that there are certainly other safer measures for treatment.

ii. Restrictive measures

At the University General Hospital of Patras no one was found bed-ridden during the visit, while the average hospitalisation did not exceed 21-22 days. Nurses are trained in psychiatry and this positively affects the average hospitalisation and the avoidance of restrictive measures.

In contrast, at the University General Hospital of Larissa there is widespread use of restrictive measures (protective bedlinen/bed restraint primarily) and not always with suitable straps; no records are kept for re-checking the measure every half hour; and it is not always clear when and by whom instructions are issued to put an end to these restrictions.

At the General Hospital of Corfu, the restraints in the Acute Incident Department are long-term, but the re-check of these occurs every half hour.

At the General Hospital of Tripolis, after the death of a restrained patient in 2013, mostly chemical restraint is used.

iii. Informing patients about their rights

At the University General Hospital of Larissa, patients who enter the psychiatric clinic voluntarily or involuntarily are not given a printed list of their rights or legal remedies. Moreover, there is no visible information material on display and no oral information is provided to patients or their relatives. Overall, at the hospital level, the operation of the Office for the Protection of Health Care Rights, whose presence and operation do not appear to be in line with the requirements of the current legislation, in particular with regard to the mandatory monitoring of the conditions for the admission, examination, treatment and hospitalisation of mentally ill patients, is considered to be problematic.

iv. Staffing and infrastructure problems

At the General Hospital of Argos, although the Psychiatric Department was inaugurated in 2015 and has a suitable and modern 15-bed infrastructure, it has not yet functioned as a Psychiatric Clinic for the hospitalisation of patients, with the result that only the remaining services are provided (Outpatient Units, Psychosocial Rehabilitation Unit, Mental Health Unit, Occupational Therapy programmes). The delay is attributed to lack of staff.

At the General Hospital of Tripolis there is a lack of staffing of the Departments and unacceptable infrastructure, as the facilities were built in 1945 and are systematically neglected in view of relocation to the Panarkadikon Hospital. It is important to note that the alleged relocation was first announced 10 years ago, but to this day no further action has been taken.

At the University General Hospital of Larissa, the premises are generally considered suitable and guarantee decent access and living conditions.

v. Post-hospitalization psychosocial rehabilitation centres

In Corfu, most post-hospitalisation centres do not seem to have been reno-

vated since the closure of the psychiatric hospital in 2005. While areas are generally kept clean and decent, they seem to have turned into geriatric clinics, with poor medical records and no individual therapeutic plan. It is necessary to redesign the organisation of psychosocial rehabilitation.

It should be noted that the buildings are very old, with damage to the infrastructure and problems with cooling and heating. In some of these cases, the need for repairs is urgent, as humidity has caused extensive damage.

All in all, it is necessary to make a complete technical record and assessment of the situation in which the hostels and boarding houses are situated in terms of facilities and infrastructure, as living conditions in many cases are considered unhealthy or even dangerous for the residents, and to immediately start a new tender procedure for renting buildings to house these services, based on criteria of social reintegration, work in Social Cooperative Ltd. and the general life in the community, but also new financial data that may arise.

At the University General Hospital of Larissa, there is an initiative to develop a home help programme in cooperation with the municipality and using the staff of the clinic.

5.d. Specific observations on some psychiatric hospitals

i. Psychiatric Clinic of the University General Hospital of Larissa

The clinic has, because of its location, access to large green areas with kiosks, which favour patients' spending time outside of the building's wards. Access to the green areas is unobstructed, since this section is of an open type and it is not foreseen to lock the outer doors or to isolate a hospital wing. The areas are well maintained and clean. The clinic has a spacious common area

for patients, with natural light from windows, tables and chairs and TV. The room for patient occupational therapy is nicely designed and well-equipped with handicrafts and board games.

The clinic receives admissions for involuntary hospitalisation on a permanent basis. The average hospitalisation, according to the assessment of the nursing staff, varies between 20-25 days. There is no specially designed care/isolation chamber. As physical constraints with straps are used, protective measures are taken to ensure that patients to whom the restraint measure is applied are in a room adjacent to the nursing office, in order to facilitate frequent monitoring in the absence of relevant electronic equipment. No records were found of constant controls every half hour for confinement, but generally the intervals at which the continuation or the end of the measure was confirmed appear to be reasonable. An similar assessment was made regarding to the registration of the drugs administered.

As the clinic does not have a section for acute cases, a significant number of prosecutor's orders for involuntary hospitalisation from adjacent prefectures are not performed at Larissa Hospital but at the psychiatric clinics of Katerini and Thessaloniki, resulting in lengthy transfers and difficulty for relatives who wish to visit.

ii. Psychiatric Clinic of the General Hospital of Tripolis

The Psychiatric Hospital of Tripolis, according to the relevant announcements and the amendment of the Operation Regulation as early as 2007, is to close down and be transferred to the Psychiatric Clinic of the Panarkadikon General Hospital. While construction of the new building has been completed, studies on patient and staff safety standards are pending. However, the fact that many years have passed since the announced relocation –which has been pending for at least a decade– and the relative inactivity regarding the staffing and operation of the psychiatric hospital have created conditions of obvious abandonment in a place that is totally inappropriate for patient hospitalisation. The building is obviously neglected, with damage that has not been repaired because no funds are being given ahead of relocation.

The wings of the building that are no longer operating and are in the immediate vicinity of the patients' chambers are collapsing. Rooms do not have spaces for patient's personal effects, wash basins do not work, sanitary facilities are in extremely poor condition and heating is inadequate despite the exposure of the building to very low temperatures.

The rate of hospitalisation by involuntary admission is at least 90% of the total, and the average hospitalisation is in the range of 1-1.5 months, while most chronic patients have been transferred to post-hospitalisation hostels and boarding houses in recent years because of the impending relocation of the psychiatric hospital.

In conclusion, the NPM considers that it is imperative to expedite the termination of operation of the Psychiatric Hospital of Tripolis and its transfer to the Psychiatric Clinic of the Panarkadikon General Hospital, as the living and hospitalisation conditions in the existing structures are not only an insult to the dignity of patients, but also endanger their security. Having this in mind, the staff of the clinic should be bolstered with properly-skilled personnel, mainly psychiatrists, psychologists and social workers, as well as nursing staff. The NPM is committed to monitoring and assisting developments in this direction.

5.e. Findings about the procedure of involuntary medical examination

Law 2071/1992 states that, during the forced examination procedure *"the transfer shall be carried out under conditions ensuring respect for the personality and dignity of the patient"*. However, as pointed out[25] since 2007, as a general rule, the execution of the public prosecutor's decision is entrusted to local police stations. The examination of relevant petitions revealed that several times the transferees were restrained with handcuffs, a measure that is disproportionate even for persons arrested without resisting, and much more so for patients who allegedly require medical attention. The Ombudsman notes that those transferred for examination must be treated with respect for their human dignity.

5.f. Legislative developments

In June 2018, the Working Group established by decision A1b / MD31142 / 9.5.2017 of the Minister of Health for the *"drafting of a law to update the institutional framework of involuntary hospitalisation (Article 95 of Law 2071/1992) and to develop the necessary safeguards to reduce involuntary hospitalisation"*, with the participation of a representative of the Ombudsman, completed and delivered its work. The draft law[26] included, *inter alia*, the following:

- the notion of risk is eliminated as a condition for the imposition of involuntary psychiatric hospitalisation,
- for the first time, special provision is made for minors allegedly in need of involuntary psychiatric care, as well as for home psychiatric examination by the Community Mental Health Unit,

25 The Greek Ombudsman, Special Report *"Involuntarily Psychiatric Treatment" https://www.synigoros.gr/resources/docs/206391.pdf*

26 Already under public consultation: *http://www.opengov.gr/yyka/?p=2832*

- transferring the patient to the Mental Health Unit is technically treated like the transfer of any other patient to a hospital and is conducted under conditions that ensure full respect for the personality and dignity of the alleged patient by establishing a Mental Health Support Office at the Medical Division Services and Immediate Intervention of EKAB,

- exercising of the alleged patient's rights is strengthened through substantive information about the involuntary treatment process and the appointment of an advocate from the start of the procedure and at all stages,

- for the effective exercising of patients' rights, their personal presence at the hearing for involuntary hospitalisation and the avoidance of unnecessary movements, the provision of courtrooms in psychiatric hospitals of major urban centres in the country is established for dealing with cases of involuntary hospitalisation,

- reduction of the time spent in involuntary psychiatric care from six to four months,

- a special prosecutor in the large urban centres is provided to supervise the issues arising from involuntary hospitalisation. ●

6. Care Institutions for Disabled Persons

6.a. Competence of the NPM on care institutions for disabled persons

Within the framework of its competencies, the NPM visits places for people with disabilities who have serious support needs. These public or private facilities, given the actual living conditions, the specific personal constraints of the individuals concerned, and often the legitimate grounds for commitment (placement by a public prosecutor's office), are de facto restriction sites, which are considered to fall under Article 4 of Law 4228/2014. In these places, people with severe disabilities are deprived of their liberty as they cannot actually leave on the basis of personal desire or will, especially in cases of lack of legal capacity, and personal restraint measures (chemical/pharmaceutical or mechanical restraint), which are also within the competence of the NPM, may also be taken.

6.b. Completion of pilot intervention and implementation of de-institutionalisation programmes

In 2018, the NPM conducted an inspection at the Department of Disabled People of Lehaina of the Centre for Social Welfare of the Region of Western Greece (29 January). Since 2011, the Ombudsman has been monitoring the issue of the living and care conditions of children with severe and complex disabilities living outside the family environment, as well as of adults, in the structures of Social Welfare Centres, including the Department of Disabled People of Lehaina[27].

The Authority has highlighted violations of the human rights persons under care and found serious deficiencies in the areas of care, rehabilitation, education, socialisation, activities, entertainment, lack of adequate and appropriate staff and scientific supervision, bedding/cabinets, strapping and drug suppression, electronic monitoring instead of human presence, non-observance of therapeutic protocols and shortfalls in equipment and facilities.

In addition, the Authority has noted that the current institutional framework and existing living conditions do not guarantee the protection of the

27 The Greek Ombudsman, Report "Care Institution for Disabled Children in Lehaina" *https://www.synigoros.gr/?i=childrens-rights.el.anaphries.46868*

human rights of patients, who suffer discrimination and exclusion due to their disability and the lack of a family background. It has been suggested that substantive and institutional changes should be made, in particular redesigning the care and services provided in order to establish multifaceted, appropriate and personalised care based on personal and age-related needs and the disability, based on statutory rights, and abandoning the current model of care by adopting institutional and substantive measures to de-institutionalise and prevent institutionalisation, in line with the recommendations of the Council of Europe, in order to promote the care of disabled children and adults, especially those with mental disabilities, in the family with support from community services such as specialised day care structures and regular short-term hospitality structures, as well as the establishment of specifications for alternative care in small hospitality structures, the environment and the circumstances of which will be similar to the family context.

During a recent visit, within the framework of the NPM, changes were made regarding the care of minors and adults and significant improvement was noticed. In particular, mechanical strains (with straps) are not observed, and the use of cocoons and pharmaceutical suppression have been minimised. The changes are due in particular to the implementation of a pilot deinstitutionalisation intervention programme by the Mental Health and Welfare Directorate of the Institute of Child Health (ICH) in collaboration with technical support from the international non-profit British organisation Lumos, on the basis of a plan for the reform of the services, following the approval of a proposal for cooperation from the Board of Directors of the Social Welfare Centre of the Region of Western Greece, with the support of the Ministry of Labour since 2016. An ICH/Lumos treatment intervention team coordinator has been hired and is monitoring the programme and volunteers who provide activities.

Following this innovative effort, and with the aim of reforming the services and the transition of care for disabled guests from the institutions to the community, Joint Ministerial Decision 60135/1579/27.12.2017 was issued for the *"De-institutionalisation of people with disabilities"* programme in order to help the organisation and operation of structures, actions and programmes for deinstitutionalisation of the persons hosted by the Department of People with Disabilities of the Social Welfare Centre of Western Greece, as well as in the affiliated departments of the Social Welfare Centre of Attica. More specifically, provision is made for housing persons with disabilities in safe and supportive family-style structures or returning them to their families and supporting them through the programme with specific funding and implementation by the two involved Social Welfare Centres.

However, this innovative project has a limited duration, while implementation of deinstitutionalisation is pending on the basis of the ministerial decision,

thus raising concerns about the possible return of the patients to the previous situation.

Following the positive developments, the Ombudsman is looking closely at the matter, hoping that the efforts of the involved authorities will continue in the direction of completing the deinstitutionalisation programme, transition of care to the community and prevention of the institutionalisation of people with severe disabilities, with respect to the rights of equal treatment, non-discrimination, the participation and the life in the family, by providing appropriate community support services in accordance with the international conventions[28] as well as recommendations of the Council of Europe[29]. ●

28 CRC articles 2, 18, 20,23, 25 and 27, CRPD articles 4, 5, 7, 15, 16, 19, 23, OPCAT, ECHR

29 Recommendation CM/Rec(2010)2 of the Committee of Ministers: *«Deinstitutionalisation and community living of children with disabilities»*

7. Cooperation and International Networking

7.a. Participation in meetings of National Preventive Mechanisms

The NPM was represented at several international meetings by either the Deputy Ombudsman with NPM competencies or senior investigators of the Authority:

- Conference of the NPM Network *"Controlling Homes of the Elderly"* (Trier, Germany, March 10th -14th);
- Meeting of the Council of Europe with representatives of the National Technical University (Vienna, 26th -28th March);
- Council of Europe NPM Impact Assessment meeting (Ljubljana Slovenia, 16th -19th April);
- Southeast Europe NPM Meeting *"Prevention of Suicides and Deaths from overdose in Detention Centres"* (Podgorica, Montenegro, 29th -30th May);
- Regional Seminar of the Middle East and North Africa NPM (Amman, Jordan, 31st July – 1st August);
- Seminar *"Use of force by police services"* (Brussels, 25th -27th October),
- NPM Workshop on *"Strengthening the follow-up on NPM recommendations"* (Copenhagen, 6th -9th November);
- International Anniversary Meeting for the Armenian NPM (Yerevan, Armenia, 27th -29th November)
- 2nd NPM Meeting on *"Preventing Torture in Detention of Immigrants"* (Milan, 2nd -5th December).

7.b. Cooperation – visits

i. European Committee for the Prevention of Torture

During the visit of the Delegation of the European Commission for the Prevention of Torture (CPT) to Greece (April 10-19), members of the Delegation met with representatives of the NPM[30] to be briefed on the Greek mental health system, hospitalisation conditions and the safety of mental patients as well as cases of violation of their rights. The NPM provided information on psychiatric clinics with serious operational problems. The CPT refers to its cooperation with the NPM in its relevant report[31].

ii. Cooperation with other NPMs

In the framework of the NPM's programme for cooperation with the United Kingdom Institution and the Oxford University Criminology Centre, a senior investigator of the Authority took part in training activities on exchange of expertise (London, 13-18 May). In the same context, the Head of the Royal Prison Inspection Service (HMIPS) and his colleagues conducted a training course for all members of the Greek NPM team (28 September), at the offices of the Ombudsman, on the methodology of conducting an inspection in criminal and administrative detention facilities, the preparation of reports, observations and recommendations to the Administration on the monitoring of their implementation.

During a training visit (5-6 March), the director of the Australian NPM, Steven Caruana, was briefed by a Greek NPM team on their operation and practices and attended inspections carried out by the senior investigators at the Women's Detention Facility and the Rehabilitation Centre for Detainees in Thebes.

Representatives of European NPMs and national Ombudsmen institutions participated in a working meeting (Nafplio, 14 October) on the Ombudsman's initiative to set up an external mechanism for monitoring the forced returns of foreigners organised by Frontex.

7.c. Information actions

- The Deputy Ombudsmen G. Nikolopoulos and T. Koufonikolakou participated in the meeting of the Special Permanent Parliamentary Committee on the Penitentiary System and Other Forms of Confinement of Detainees on *"The Institutional Role of the Om-*

30 The Greek Ombudsman, Press Release https://www.synigoros.gr/?i=human-rights.el.danews.491717

31 European Commission for the Prevention of Torture, *https://rm.coe.int/1680930c9a*

budsman in the Penitentiary System" (26th April)[32].

- In the same Committee, the Ombudsman, Deputy Ombudsman G. Nikolopoulos and officials from the Authority presented the National Preventive Mechanism Reports for 2016 and 2017 (14 December)[33].

- The Deputy Ombudsman responsible for the implementation of the NPM's competences and senior investigators from the Authority participated in the meeting of the Special Permanent Parliamentary Committee on Equality, Youth and Human Rights on *"Preliminary remarks by the European Commission Delegation for Prevention of Torture and Inhuman or Degrading Treatment or Punishment"*(3 July)[34].

- Finally, the NPM organised a workshop on *'Human Rights in detention facilities'* for the presentation of the Annual Special Reports of 2016 and 2017 (7 December)[35].

././.

32 Hellenic Parliament, *https://www.hellenicparliament.gr/Vouli-ton-Ellinon/ToKtirio/Fotografiko-Archeio/#64e2e952-1427-4642-a29b-a8d400a07484*

33 Hellenic Parliament, *https://www.hellenicparliament.gr/Vouli-ton-Ellinon/ToKtirio/Fotografiko-Archeio/#8cc48f33-2af5-44fd-8f9a-a9b900a96952*

34 Hellenic Parliament, *https://www.hellenicparliament.gr/Vouli-ton-Ellinon/ToKtirio/Fotografiko-Archeio/#fdb1f6e4-568c-4252-ae28-a91301230b94*

35 The Greek Ombudsman, Workshop *"Human Rights in Detention Facilities" https://www.synigoros.gr/resources/07122018-programma-imeridas.pdf*