



PERMANENT MISSION OF GREECE  
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**NOTE VERBALE**

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's Note Verbale dated 5 May 2014, on the General Assembly Resolution A/RES/68/179 on the Protection of Migrants, has the honour to submit the attached contributions by the Ministry of Public Order and Citizen Protection, the Ministry of Shipping and Aegean and the Ministry of Justice, Transparency and Human Rights.

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

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Geneva, 17 June 2014

To: **The Office of the High Commissioner for Human Rights  
Development and Economic and Social Issues Branch**

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Att.: 19 pages

**OHCHR REGISTRY**

20 JUN 2014

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Ministry of Public Order and Citizen Protection

**SUBJECT: "Resolution of the UN General Assembly A/RES/68/179 for the protection of migrants".**

**1. -Question: "if specific measures have been adopted for the protection of the migrants' human rights ...».**

**(a)** In order to deal with the phenomenon of illegal immigration, which now constitutes a major national issue, a series of measures have been taken that have been drawn up and are based on risk analysis, including the modus operandi (migration flows) of aliens non lawfully transiting through our Country. Our intention is to deal with the mixed migration flows at the entry points of the Greek territory, in a way that secures the need to control the borders from the non lawful immigration, as well as the need to provide protection to the refugees and to other vulnerable groups, in order to ensure living conditions compatible with human dignity.

In order to achieve the above mentioned and to deal with illegal immigration in our Country, an integrated action plan has been elaborated, the financing of which has been approved by the European Union. It is also to be noted that the specific legislative initiatives that have been undertaken by our Ministry as regards the upgrading of the First Reception System, the setting up of First Reception Centers (FRCs), of Pre-departure Detention Centers and of Aliens' Citizenship Identification Centers, the reforming of the national asylum system (Asylum Service and Appeals' Authority), the reinforcement of the policy of forced and voluntary returns of third country nationals to their countries of origin, as well as the operational actions of our Services, such as the operation "Xenios Zeus", constitute a modern and cohesive system of initiatives and actions aiming at an integrated management and an effective control and facing of the migration issue, in accordance with the national, Union and international obligations of our Country.

**(b)** To this objective specific legislative initiatives have been undertaken, in order to substantially reform and improve the existing detention structures and to modify the national asylum procedure, by creating modern and permanent structures, in order to

respond adequately not only to the demands of the present that concern migration flows but also to cover the needs that may arise in the future, in a way that will secure the rights of the persons hosted in these places, as it is appropriate for a civilized country with a European orientation. These innovations in combination with detention policies and all the measures included in our immigration policy, have given substantial solutions.

More specifically, it has been decided to establish Pre-departure Detention Centers for Aliens: apart from the exploitation of the allotted area in Fylakio/Orestiada-Evros, we also have: the use of the camps in Korinthos and Paranesti/Drama, the transformation of the former Central Special Areas for the Stay of Aliens/Aliens Division in Attica (*24 P. Ralli – Tavros*), the setting up of facilities in Amygdaleza/Attica, in Komotini, in Xanthi, the reconstruction of the building facilities of the former Special Areas for the Stay of Aliens in Chios and Samos (*they operate as Citizenship Identification Centers*), wherein there are transitory units of First Reception and the creation of an Aliens Citizenship Identification Center in Lesvos, observing in full security and hygiene rules and always respecting human rights.

In parallel, work is being done for the establishment of an Aliens' Pre-departure Detention Center and an Aliens' First Reception Center in Lesvos, for the enlargement of the Pre-departure Aliens Detention Centers in Korinthos and Drama (Paranesti) with the required technical interventions.

With the First Reception Centers and the Aliens' Citizenship Identification Centers a new system is launched for registering, evaluating and certifying the identity and the origin of third country nationals subject to the procedure of first reception, by means of special know-how and specialized personnel. At the same time, their separation, registration and medical check up are ensured, as well as the rendering of support to vulnerable groups (unaccompanied minors, women, *single parent families*) and, of course, the giving of instructions to those who are eligible for international protection.

The Ministry of Public Order and Citizen Protection and the Hellenic Police Headquarters pay extra attention to ensuring the necessary sanitary arrangements and secure stay of all detained persons in the Pre-Departure Detention Centers, in the Aliens Citizenship Identification Centers and in police lock ups (*short stay for a few days*). Moreover, sanitary rules must be strictly observed by all Police Personnel, who, on a daily

basis, deal with a large number of detainees, during their guarding, their transfer from and to courts and/or detention facilities, etc.

For this reason, orders have been issued to all our regional Services, with instructions for them to comply with their obligations arising from provisions in effect and from international conventions. We also follow the whole issue by intervening with more specific instructions-orders, if deficiencies – malfunctions are establish, in order to improve promptly the existing conditions.

It must be pointed out that opinions, complaints and findings as well as possible observations-recommendations included in the reports, etc. of international organizations, humanitarian organizations etc., with respect to detention conditions in the detention facilities of our regional Services, constitute a subject for consideration, detailed study and investigation by our competent Services.

In the context of ongoing efforts for ensuring human rights, improving building structures and securing the sanitary conditions for and the protection of detainees, a Technical Description has been elaborated regarding detention areas, on the basis of which the detention areas of Police Services have been constructed/reconstructed. It is to be noted that, inter alia, the relevant instructions of the European Committee for the Prevention of Torture have been taken into account. In this context, projects are materialized either through the Public Investments Programme or through the Collaboration of the Public and Private Sectors regarding the construction of new modern buildings with proper detention areas in order to fully cover the personnel's working needs as well as the needs of the citizens that go there, while they also provide the proper detention conditions to all detained persons in these Services.

All the above-mentioned aim at securing human rights in the context of dignity and respect for human particularities, of the non-marginalisation and the separation of the individuals into categories.

**(c)** As regards illegal migration issues, there is a legislative framework fully harmonized with the community legislation. The special provisions of Laws 3907/2011, 3386/2005 and 4251/2014 provide for the detention of aliens illegally entering and residing in our Country.

More specifically, Law 3386/2005 applies to those illegally entering our Country, whereas Law 3907/2011 (*transference of Directive 2008/115/EC*) has been elaborated, in order to enable the return of illegal immigrants already in the Country who enjoy the toleration status.

According to Community Law [Directive 2005/85/EC (article 18)] "*Member-States do not place under arrest an individual because he/she requests asylum*" and "*in the case an asylum seeker is placed under arrest, Member-States see to the possibility of a quick judicial re-examination*". By means of Presidential Decree 114/2010, as it has been amended (*P.D. 116/2012 and P.D. 113/2013*) and it is in force regarding the "*detention of the applicants*", our national legislation has been adapted to the community legislation.

Apart from the above, the Hellenic Police through its Services, makes every effort to speed up asylum procedures and to reinforce the policy of forced and voluntary returns of third country nationals to their countries of origin.

It is to be noted, that as regards the detention time period, in accordance with the legislation in force (Law 3386/2005 and Law 3907/2011), the aliens are detained for the necessary time period until the completion of return procedures, which in no case exceeds the period of eighteen months (18) (*every three months the need for detention is also judicially re-examined*).

As regards the extension of the detention time beyond the time period of eighteen months, in accordance with the State Legal Council's Consultatory Response number 44/2014, this extension concerns only special and isolated cases and in any case, this is not the rule.

It has to be pointed out that our operational aim is to complete the respective procedures, in accordance with the existing legislation, in a short time.

In no case aliens are detained arbitrarily, besides what is provided for by the existing legislation.

The presence of a lawyer is obligatory at every stage of the penal and administrative procedure, on the basis of the national legislation provisions.

The presence of an interpreter is also obligatory and efforts are made in order to cover interpretation needs as regards all involved Services, with appointed interpreters by the Greek State and NGOs.

The respective competent National, International and Non-Governmental Organizations and Bodies may visit the installations of the Centers, where aliens under removal are detained, after getting the respective authorization due to strict security measures and the need to protect the detained persons' personal data.

The detained aliens are systematically informed about the rules prevailing in the detention facilities, as well as about their rights and obligations, including their right to contact the above mentioned organizations. For this reason, the related leaflets are posted at conspicuous positions. Moreover, the contribution of NGOs is significant as regards the rendering of medical services to non-legal immigrants.

In any case, the detention preconditions are re-examined, *ex officio*, every three months by the body that has issued the detention decision or the Service that further deals with the third country national. In order to impose or hold over the measure, it should be taken into consideration the availability of proper detention areas as well as the possibility for securing decent living conditions for the detained persons.

It is also to be noted that the procedures of removal are subject to a system of external control that operates under the guidance of the "Greek Ombudsman" independent Authority, which cooperates to this objective with International Organizations and NGOs.

In parallel, "**alternative detention measures**" are applied by the First Reception Service (Law 3907/2011), which deals with newly arrived arrested illegal aliens (*verification of identity-nationality, recording, medical check-up, updating about their rights, care for vulnerable groups etc.*).

Illegal immigrants, who are under the status of toleration and are subject to the Return Directive, are detained until the procedure for their return is completed (*issuing of travel documents, communication with the authorities of their countries, International Organizations etc*).

It is to be clarified that not all aliens of all nationalities are detained, but only those who have the possibility to return to their countries of origin.

In parallel, the Ministry of Public Order and Citizen Protection and the Hellenic Police Headquarters support the Programme for voluntary Returns that is already in progress and is financed by the EU. To this objective a national framework of motives has already been elaborated as regards the voluntary repatriation of aliens residing illegally in the Country (*individuals detained or not*). To this direction, resources of the European Returns Fund are utilized, and the cooperation with the International Organization for Migration as well as with NGOs shall continue.

Besides, it must be stressed that, by implementing a respective action of the European Return Fund, the Country's Bar Associations will soon start rendering free legal support to detained aliens, within the framework of the administrative procedure for their return to their countries of origin. A respective memorandum of understanding has already been signed.

**2. - Question: "... human rights protection of... the children of immigrants ..."**

1<sup>st</sup> edition - small

The Hellenic Police Headquarters monitors very carefully the serious issue of the handling of unaccompanied minors-refugees, which for our Services is an issue of special care in the context of their social role and their mission for providing minors with the necessary protection given their sensitive age.

More specifically, every case of an unaccompanied minor alien entering illegally our Country, is communicated and forwarded directly by our Services to the Prosecutorial Authorities, in accordance with the provisions in force. Then, the necessary measures are taken, in order to define their identity and nationality and to establish the fact that they are

not accompanied. Special care is taken for defining minority and their separation from the rest of the non-legal economic immigrants, until they are transferred to proper hosting structures, focusing on the children's best interest. In parallel, on the initiative of the General Secretariat for Transparency and Human Rights, there is a Working Group that will assess the legal framework that governs the status of unaccompanied minors.

2<sup>nd</sup> edition – analytical

- (i) The Hellenic Police Headquarters follows the serious issue of under-age refugees' handling very closely, since for our Services this is an issue requiring special care. In the context of their social role and their mission, they face the a/m issue with sensitivity and attention for ensuring the best possible protection level to this sensitive age population group.

Every case regarding the illegal entry of an alien and/or an unaccompanied minor into the Country is immediately made known and referred by our Services to the Prosecutorial Authorities, in accordance with the legal provisions in effect (Law 3907/2011//Article 25, Law 3386/2005//Article 83, Law 3875/2010//Article 48, Presidential Decree 220/2007//Article 19).

In the case of third country nationals who are unaccompanied minors or human trafficking victims, the competent Prosecutorial or Police Authorities take all necessary measures for establishing their identities and nationalities and for founding the fact that they are unaccompanied.

They also make every possible effort for tracking down, the soonest possible, their families and for securing their legal representation and, if needed, their representation in the context of penal proceedings.

The afore-mentioned procedure is followed in every case even if the unaccompanied minor does not apply for political asylum, in accordance with Presidential Decree 220/2007//Article 19, which has incorporated Directive 9/2003. The Juvenile Public Prosecutor or the Public Prosecutor of the local competent Court of the First Assistance is appointed as the minor's temporary Guardian and later, in cooperation with NGOs and Social Services, the permanent Guardian, who is usually a social worker, is appointed for



ensuring the minor's necessary representation. If the Guardian does not fulfill his/her duties satisfactorily, he/she may be replaced by order of the Public Prosecutor.

In the facilities where illegal immigrants are detained, unaccompanied minors are separated from the other non legal economic immigrants, until the process for the establishment of their minority, their origin, their entitlement to asylum, and the relevant notification of the Judicial Authorities, carried out by the competent Services is brought to completion. It is to be noted that the age of detained minors is established on the basis of an interview carried out by specialized personnel in cooperation with medical doctors offering their services in aliens' Reception and Detention Centers and in police lock-ups, with members of NGOs, with psychologists and social workers employed in detention places, in order to have a combined approach to every case, which is not only based on medical findings but it also takes into account the maturity of the person, his/her behaviour, his/her conception, and his/her cultural background.

They are always detained in specially arranged places and never with other adults, on the basis of the specific hospitality and protection regime. Then, in accordance with the legislation in effect, they are transferred to proper hosting structures in cooperation with the National Social Solidarity Center and NGOs. It is to be stressed that all the activities aim at the minors' best interest.

(II) - Unaccompanied minors – non asylum applicants :

When the search carried out in our Country by the competent Aliens Service for the minors' parents or the persons who are in charge of them has no positive results, the INTERPOL is accordingly informed in order to look for them in their countries of origin.

When the above mentioned process is brought to completion, a judgment is delivered for their deportation or their return and until then they are kept under detention. The nationals of neighboring countries are turned over to their Countries' Police Authorities, on the basis of a turning over – taking over certificate/document.

As regards minors who are Albanian nationals, the Hellenic and the Albanian governments have signed an agreement on the protection of minors, including the repatriation,

rehabilitation and medical care of Albanian children, who are human trafficking victims in Greece.

The other minors are sent back to their countries of origin by plane after the local branch of INTERPOL is notified accordingly. In the event that the deportation/return back of unaccompanied minors is unfeasible, due to the lack of airline connection with their countries or to other problems, they are released and in cooperation with the National Social Solidarity Center and with NGOs, they are accommodated in special Host Centers. It is to be noted that the decision regarding deportation/return may be revoked on the grounds of tolerance, high principled administration and the ensuring of the legality of administrative action, in accordance with Administrative Procedure Code Article 21.

Since the Authorities keep always in mind the unaccompanied minors' best interest, their repatriation is carried out only when their safe return to their countries of origin and their reception are absolutely secured. The presupposition for repatriation is that the minor does not run any danger in his/her country of origin and his/her social and family milieus are able to ensure his/her smooth re-integration, mental and bodily rehabilitation and the rights that arise from his/her minority.

The investigation for the unaccompanied minors' safe repatriation is carried out by persons or/and Bodies that are suited to providing the proper care and to ensuring his/her rights, in accordance with his/her needs, taking into account his/her age and his/her maturity. For the repatriation, the consent of the competent Public Prosecutor for Minors is required and the cooperation with the competent authorities, the public Bodies and the NGOs is needed.

(III) Unaccompanied minors – asylum applicants :

Both the national legislation (Presidential Decrees 114/2010 and 116/2012) and the Circular Order of the Chief of the Hellenic Police nr 5401/1 – 498001, dated 03/01/2011, explicitly state the rights of minors and mainly of unaccompanied minors and their ensuring, focusing exclusively on the children's best interest. Moreover, our Services, in accordance with the Dublin Regulation, strictly abide by the main principle of keeping the family united and for this reason, they try to re-unite unaccompanied minors residing on Greek territory with members of their families living in EU MS. Thus, they cooperate with

the UNHCR and with NGOs for documenting the relevant requests and for rendering feasible the minors' transfer near their families, ensuring at the same time their safety.

The minors who apply for asylum, are transferred to the appropriate structures for them to stay there (Minors – Asylum applicants Reception Centers), in cooperation with the competent Services of the Ministry of Labour, Social Solidarity and Welfare and the National Social Solidarity Center. At the same time, the competent Prosecutorial Authorities proceed to the necessary process for appointing a Guardian, who will assist the minor during the whole length of the asylum procedure.

#### (IV)

For addressing issues related to the handling/treatment of minors, our competent Services cooperate closely with the Judicial Authorities for Minors, the Services of the Ministry of Labour, Social Security and Welfare, the National Social Solidarity Center and the other competent public and private Bodies. There is also cooperation with the Police Authorities of neighboring Countries, at a bilateral level and through the United Nations, while the exploitation of minors is also dealt with by the European Union Organs, to which our Country is a Party.

Our Ministry, in cooperation with the co-competent Ministries, has been making strong efforts for creating more structures for hosting unaccompanied minors. It also seeks participation and cooperation with NGOs in order to be able to offer more efficient protection to unaccompanied minors that find refuge in our Country.

Moreover, it is to be noted that the European Commission has directly entrusted the International Organization for Migration (IOM) with actions regarding the return process of third country unaccompanied minors to their countries of origin.

Of course, the issue is extremely complicated, since a lot of them want to go to other European countries where their relatives reside.

At the same time, there are on-going processes related to the operation of open structure facilities for the stay of vulnerable groups in the area of Attica and in other regions of the Country and to the operation of a Service engaged in the handling of Accommodation