**End-of-mission statement by Sorcha MacLeod and Carlos Salazar Couto, members of the United Nations Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, on their visit to the Hellenic Republic**

**Athens, 16 December 2022**

**Introduction**

In our capacity as members of the United Nations Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, today we conclude our first official visit to the Hellenic Republic, which took place from 9 to 16 December 2022.

Over the past eight days we, along with our team, have had the opportunity to gather, in the spirit of open dialogue and sincere cooperation, first-hand information on mercenary and mercenary-related activities in all their forms and manifestations, as well as on the activities of private military and security companies and their impact on human rights. We learned about the Hellenic Republic’s concrete experience, good practices, and challenges in these distinct areas.

We are grateful to the Government of Greece for the invitation to visit the country and we extend our heartfelt thanks to those who made our visit possible. We would like to express our particular appreciation to the focal point within the Ministry of Foreign Affairs for coordinating our visit. During our visit, we had fruitful exchanges with numerous senior officials representing different ministries and agencies in Athens, including the Ministry of Foreign Affairs, D3 Directorate and the Office of the National Rapporteur for Combatting Trafficking in Human Beings, the Ministry of Maritime Affairs and Insular Policy, the Hellenic Coast Guard, the Hellenic Police, the Ministry of Citizen Protection, the Ministry of Justice, the Vice-Prosecutor from the Court of Appeals, the Ministry of National Defence, and the Ministry for Migration and Asylum. We thank them all for their openness and their willingness to share information and insights with us.

We also had the opportunity to travel to the island of Samos, where we visited the Closed Controlled Access Centre (CCAC). While there, we met with the Director of the CCAC as well as with representatives and guards from the private company providing security in the Samos CCAC. We also met with migrants living in the Samos CCAC, and we warmly thank all those who entrusted us with their stories.

Finally, we thank the international and national civil society organisations, the representatives of United Nations humanitarian agencies operating in Greece, as well as representatives of the Greek shipping industry, for meeting with us.

The human rights mandate given to us by the United Nations’ Human Rights Council, is focused on mercenaries, mercenary-related activities, and private military and security companies. We assess the impacts of these actors on human rights in a variety of contexts. What follows are our preliminary observations on some of the key legal and policy challenges we observed in Greece. They will be followed by a full report that will flesh out these elements to provide constructive conclusions and recommendations and that will be presented to the Human Rights Council in September 2023.

**Preliminary Observations**

1. **Mercenarism**

In terms of the international framework governing mercenaries, the Working Group notes that Greece is a party to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, which defines mercenaries in Article 47. We also note that Greece has not yet ratified theInternational Convention against the Recruitment, Use, Financing and Training of Mercenaries (1989) and that there is no specific legislation criminalizing mercenarism in the Greek Penal Code. There are no known cases of Greek nationals being involved with mercenary groups active in hostilities. Nevertheless, we were informed that the anti-terrorism provisions of the Greek Penal Code, among others, would be used in cases of mercenarism, depending on the facts of the case, although no such cases have been prosecuted to date.

1. **Private Military and Security Companies (PMSC)**

*General Provisions*

The Working Group defines the term ‘private military and security company’ (PMSC) as a corporate entity that provides, on a compensatory basis, military and/or security services by physical persons and/or legal entities, including services provided on land or at sea.[[1]](#footnote-1) Private military and security companies may offer services and operate on land, at sea or both. It should be noted that the maritime security industry and shipping industry use the term PMSC to meant ‘private *maritime* security company.’ The Working Group does not use this terminology.

The specific term PMSC is not recognised in Greek law, however, the private security industry is regulated by Law 2518/1997 amended and completed by Law 3707/2008. It establishes a legal framework for the licensing and operation of security service providers, both companies and individual security guards. The competent national authority in charge of drafting and amending legislation regulating the private security industry is the Ministry of Citizen Protection.

Law 2518/1997 stipulates that certain criteria must be satisfied in order to obtain corporate or individual licenses. Individuals must satisfy specific requirements including undertaking vocational training provided by either private or public institutions, and the certification of the training process is carried out by the Security Studies Centre of the Hellenic Police via examination. They must also have no criminal record. Administrative and criminal sanctions are stipulated in the Law 2518/1997 for companies and individuals for non-compliance with the licensing regime (e.g. employing unqualified guards) or where crimes are committed. Victims of crimes committed by private security guards may present complaints to the police. Licenses can also be revoked temporarily and permanently under certain circumstances.

Private security guards in Greece are unarmed and are not permitted to use force in carrying out their duties. Such functions remain within the sole jurisdiction of the Hellenic Police. Their duties encompass, among others, the guarding of people and property.

The Working Group notes that Greece was an early signatory of the Montreux Document (2009) which **reaffirms the existing obligations of States under international law, in particular international humanitarian law (IHL) and human rights law, relating to the activities of private military and security companies. Greece is** also a member of the Montreux Document Forum, as well as its Maritime Working Group.

*PMSC in the Maritime Context*

Given the position of Greece as the world’s largest ship-owning State, the Working Group was keen to explore the use and regulation of PMSC in the maritime context. We note that Law 4058/2012 regulates the provision of private security services by armed guards to Greek commercial vessels. Furthermore,Joint Ministerial Decision 641-36-2/12 authorises the provision of private security services by armed guards embarking and disembarking from Greek merchant ships via foreign ports.

For merchant vessels under the Greek flag seeking permission to deploy armed security guards, the Directorate for Security and Sea Borders Protection of the State Security Department has the exclusive competence to authorize the use of armed guards. Such armed guards protect private property, specifically the ship and its cargo, as well as the crew. The use of armed guards on Greek flag vessels and Greek-owned vessels emerged as a response to protect the merchant fleet from pirate attacks in the IMO-designated Indian Ocean High Risk Area (HRA) around the Horn of Africa. To date, no complaints have been received regarding the behaviour of armed guards on vessels, and there have been no arrests or prosecutions relating to armed guards. There are no reports regarding human rights violations or criminal behaviour by these guards. Living conditions on Greek merchant vessels are reported to be generally very good.

Greek law, as noted above, does not permit private security personnel to be armed, therefore, the PMSC hired in the maritime context are not based in Greece. Foreign-registered PMSC are contracted by Greek ship owners, and the personnel are regulated under the legal frameworks of those 3rd party countries. The State Security Department has some oversight of the hiring process. Certain minimum requirements must be met by these guards and attested to by the legal representatives of the companies (e.g. age, basic knowledge of maritime security procedures, knowledge of the English language, weapons expertise, and no criminal record).

In terms of the use of force on vessels, armed guards may only use weapons with the authorization of the Master Mariner. Discharge of weapons for training purposes is only permitted in specified areas. The Greek Penal Code makes provision for the proportionate use of force for the purpose of self-defence. Incidents of disproportionate use of force have not been reported. It is noted that there would be substantial challenges for the Greek authorities in relation to any investigation of reported incidents. Ships are far away from land and are therefore inherently difficult to monitor. It was pointed out that authorities in the regions where the ships are in transit are in a better position to investigate incidents.

If a crime is committed on board a Greek vessel the Greek Penal Code applies. Greece has jurisdiction over crimes committed by Greek and foreign nationals. The Master of the ship has the authority to report and to detain perpetrators until they reach the authorities. To date there have been no relevant complaints lodged in domestic courts.

 There have been no reports of complaints in relation to the behaviour of armed security guards on vessels. The Working Group has, however, received reports of labour rights issues in relation to the treatment of Greek guards hired by foreign PMSC to provide security on merchant vessels. Foreign-owned floating armouries, where armed guards are stationed between deployments are problematic, with the Working Group receiving reports that the conditions are very inadequate. Anywhere between 60-200 guards, including Greek nationals, may be accommodated on poorly maintained foreign vessels, sometimes with no access to drinking water, bad quality food, lack of access to showers, and no clothes washing facilities.

At present, Greek legislative authorisation of armed guards applies only to their use in the Indian Ocean HRA. This IMO HRA designation will cease at the end of 2022 and there are plans for Greece to adopt new legislation covering other piracy-affected regions (including the Gulf of Guinea and the Strait of Malacca) which will allow the hiring of armed guards to protect vessels in additional regions. This is likely to be effected via modification of the relevant Joint Ministerial Decision in January 2023. It is noted by the Working Group that the deployment of armed guards on Greek vessels has been satisfactory and that their use across the HRA has contributed to the substantial reduction, if not elimination, of piracy-related attacks.

*Migration context*

The Working Group notes that the Ministry of Migration and Asylum has contracted unarmed private security guards from four different companies under EU public procurement tendering processes. They are deployed across all Greek migration facilities. They must be licensed as private security guards under Greek law, as outlined above, and receive no special training to work in a CCAC. The qualifications for guards set out in the tender specifications are minimal. The Working Group acknowledges the willingness of the Greek government to progress the conditions under which migrants are received in the country. The use of private security guards can and does increase safety levels in reception centres by some measurements, especially in comparison to their predecessors such as ‘The Jungle’ settlement on Samos, nevertheless they contribute to a highly securitised and oppressive environment.

*Samos CCAC*

In the context of the Samos CCAC the Working Group makes several general observations about the use of private security guards.

The company providing security at the Samos CCAC has provided migration security services in Greece since 2015, and also provides security in another two locations (Lesvos and Kos). Approximately 40 unarmed guards patrol and monitor the CCAC per shift, except during the night when 14 guards are on duty. Approximately 105 guards are employed in total, and comprise 45% women and 55% men. The guards are not permitted to use force (except in self-defence in accordance with the law), neither are they permitted to arrest or detain individuals, or to carry out searches. Such powers are the sole jurisdiction of the police. Any issues of concern or incident must be reported by the guards to the police, guards are not permitted to take action themselves. In practice it is unclear how the roles are divided. For example, while the security guards are present at the entrance to the facility and operate the x-ray machine and electronic searches, physical searches may only be performed by police officers.

The company has a reporting protocol in the event of incidents, whereby guards inform the Security Manager, who in turn informs the Director of CCAC and the police. If a guard is the subject of a complaint or involved in an incident, they will be taken off duty and replaced, either temporarily or permanently. Investigations into the incident are carried out internally and via the police and public prosecutor.

The Working Group observed that there appears to be a lack of training for the security guards beyond the basic training required for a security guard licence. This is of particular concern given the specificities of the vulnerabilities of migrants. For example, no mandatory training on human rights protections, Sexual Exploitation and Abuse (SEA), or intercultural competences is provided to the guards. Similarly, no training is given on the reporting obligations of the guards. This was acknowledged by the security company and the government (Ministry of Migration and Asylum) as an area that could be strengthened. Training has been offered by UN agencies but they took place outside of working hours and were unpaid so only a few personnel attended. In addition, language barriers may contribute to misunderstandings and escalation of incidents. Many of the guards are local to Samos and speak little English or other languages.

Furthermore, the Working Group observed that some migrants in the camp could face difficulties in identifying security guards and distinguishing them from police. This would present particular problems in the event of reporting problems or misbehaviour by the guards. In addition, the efficacy of complaint mechanisms is unclear. While there are protocols in place, given the situation of vulnerability of the migrants it is uncertain whether the complaint mechanisms are compatible with human rights standards.

Moreover, the Working Group received several specific reports of potential violations of human rights in the migration context. These include:

* Migrants being hired in the Evros region as a form of private security and deployed in violent pushbacks;
* Allegations of violence in the Samos CCAC by unidentified perpetrators, particularly at night.

The Working Group notes that various independent monitoring mechanisms exist to receive and address such issues.

*New Technologies*

The Working Group also notes the use of high-tech security systems in communal spaces in the CCAC which includes cameras and motion sensors, and the use of algorithms to automatically predict behaviours and flag threats such as the presence of guns, unauthorised vehicles, or unusual visits into these asylum centres. These disproportionate security and surveillance measures developed by private technology companies infringe on the fundamental rights of those held in these centres, including their rights to freedom of movement and privacy. The Working Group received reports which also give rise to concerns about the wider societal implications and impacts of the unregulated use of new technologies in the security context.

**Conclusions and Recommendations**

**The Working Group:**

* Recommends the ratification of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries (1989) in light of the upward global trends in mercenarism and mercenary-related activities, as well as proxy recruitment.
* Considers that an overarching disaggregation of competences across various ministries is not conducive to the proper and effective monitoring and oversight of the activities of the private security sector.
* Recommends the establishment of a coordinated and independent mechanism to monitor and oversee the private security sector, including the use of new technologies in the security context. This recommendation is made notwithstanding the existing police oversight mechanism.
* Recommends continuous improvement and development in the vocational training of private security personnel provided by public and private institutions, including human rights, respect for cultural diversity, and sexual exploitation and abuse (SEA).
* Recommends strengthening the monitoring and oversight of the deployment of armed private security personnel in the maritime context by foreign PMSC, in order to ensure compliance with international labour standards.
1. See A/HRC/15/25, annex, part I, art. 2. [↑](#footnote-ref-1)