

RETURN OF THIRD COUNTRY NATIONALS

SPECIAL REPORT 2024



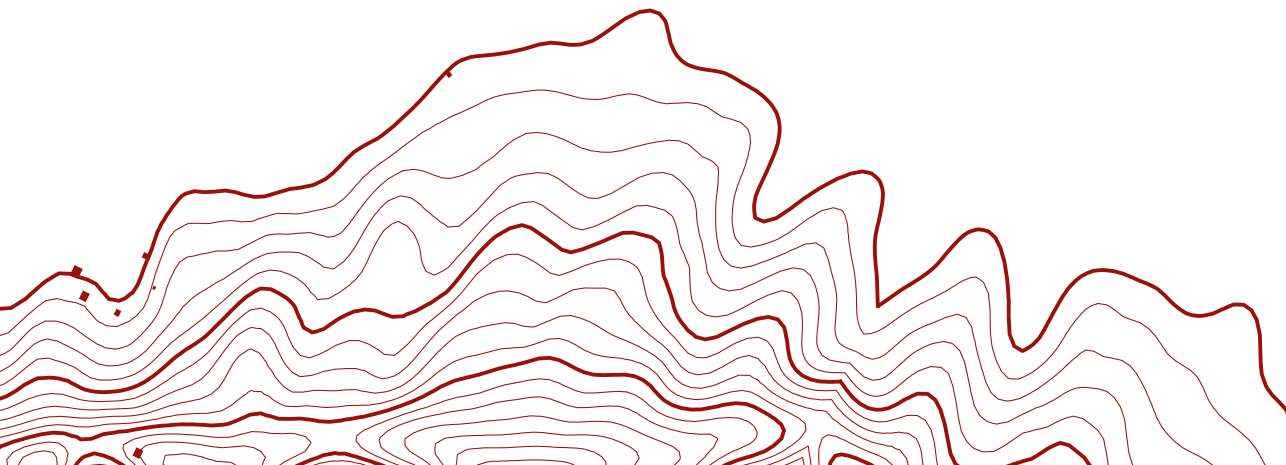
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RETURN OF THIRD COUNTRY NATIONALS

SPECIAL REPORT 2024



This Special Report is the product of processing material derived from the work of the Returns Monitoring Team of the Independent Authority – investigation of complaints, interventions, on-site visits, and monitoring of return procedures – under the supervision of the Greek Ombudsman, Andreas Pottakis and the Deputy Ombudsman for Human Rights, Yiannis Moschos.

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INTRODUCTION

The Greek Ombudsman is the national mechanism for the external monitoring of forced returns of third country nationals, as provided by the Return Directive (Dir. 2008/115/EC). The constitutional guarantees of the Authority's independence ensure the effective protection of third country nationals' fundamental rights, as well as the accountability and transparency required in police return operations within a state governed by the rule of law.

The Ombudsman's competence as the national mechanism for external monitoring extends to all phases and stages of a removal operation. It covers the pre-departure phase, including inspections/on-site visits to Pre-Removal Detention Centres (PROKEKA) or police detention facilities where third country nationals awaiting return are held, to ensure compliance with the provisions of the legal framework for the return of third country nationals. Naturally, it includes actual monitoring of removal operations, by land (from Athens and Thessaloniki to Albania) and by air, while coastal readmissions to Turkey, in line with the EU-Turkey Joint Declaration of 2016, have been suspended as of March 2020.

The year 2024 marked the close of the first decade of operation of the national monitoring mechanism of forced returns of third country nationals. It is noted that the Ombudsman's special competence was granted by a Joint Ministerial Decision in 2014, after the Return Directive was incorporated into Greek legislation with L. 3907/2011.

A brief account of the Ombudsman's activities includes the monitoring of more than 100 return operations by air, 35 return operations by land, 76 coastal readmission operations under the EU-Turkey Joint Declaration (2016-2020) and more than 65 inspections/on-site visits at Pre-Removal Detention Centres (PROKEKA), Migration Management Departments and Police Stations, to monitor the detention conditions of third country nationals.

At the same time, during these 10 years of fulfilling his mandate, the Ombudsman:

- helped create the Frontex Pool of Monitors, having performed the first pilot external monitoring in Europe, and subsequently participating with staff in this Pool, while taking the initiative to create a true European external monitoring mechanism (Nafplio Initiative);
- participated from the beginning in the European Forced-Return Monitoring (FReM I, II, III) project. Together with the other partners, they drafted uniform rules and procedures for the external monitoring of operations organised or supported by Frontex, as well as training materials for pool monitors; and
- took part in training seminars for monitors, escorts and operation leaders in Greece, in other Member States, the Western Balkans and at Frontex.

The cumulative experience and expertise of the Authority's monitors, together with its institutional and constitutionally protected independence, place the Greek Ombudsman at the forefront of the return operation monitoring mechanisms in the European Union.

In 2024, as in previous years, the Ombudsman's national mechanism for external monitoring of forced returns exceeded its initial plan, as it participated in all air operations (Joint Return Operations, as no National Operations have been undertaken since 2023), as well as in selected land return operations. This was the first year that the Ombudsman's pool of monitors also took part in individual return operations of third country nationals by air, on commercial flights.

In general, the productive cooperation of the Ombudsman monitoring team with the heads, escorts and staff of the Return Coordination Office of the Attica Aliens Police Directorate and the Thessaloniki Aliens Police Directorate -Returns Department greatly helps to manage issues that arise during removal operations.

The need for a timely notification to third country nationals about the date of their removal, and their thorough medical assessment – not limited to interviews – to determine that they can travel (fit to travel), remain among the points the Ombudsman consistently highlights with regard to the procedures being followed.

Starting in September 2024, the practice of using Velcro restraint cuffs on all returnees in air operations has been noted, without a prior individualised assessment. This practice, which appears to have become standard and has been observed indiscriminately in all operations ever since, runs against the practice

employed by the Hellenic Police (ELAS) throughout the previous years, a practice the Ombudsman has referred to, in earlier reports. In any case, it must be emphasised that an indiscriminate use of restraints cannot and must not be used to compensate for any lack of staff/escorts in forced return operations.

Lastly, deficiencies in infrastructure remain (e.g. detention conditions at PROKEKA and police stations, use of unsuitable transport for removal operations by land), as well as in important services, mainly the inadequacy and even complete absence of interpretation services at all stages of the removal process and when providing medical care.

With regard to the number of returns, data provided by the Hellenic Police for 2024 show a slight decrease compared to 2023. Specifically, the number of forced returnees showed a small drop (7%), while there was also a reduction in assisted voluntary returns (12%) and an increase in voluntary returns (28%). As to the nationalities of the returnees, 2 in 3 forced returnees and 1 in 2 voluntary returnees are Albanian citizens, while 4 out of 5 returnees using the IOM Assisted Voluntary Return and Reintegration (AVRR) programme are Georgian nationals.

As to administrative detention, data provided by the Hellenic Police for 2024 indicate an overall reduction in the number of the detainees, compared to the figures for 2023, both at PROKEKA and at Police Stations. The reduction of the detainees is a positive trend, noted in recent years. Nevertheless, the total number of detainees remains high. Equally, the fact that the length of detention exceeds six months in many cases, is also of concern, while it is not necessarily associated with a reasonable prospect for removal.

Independent monitoring during border procedures, as they are already conducted and as they are additionally introduced by the Pact on Migration and Asylum, is an institutional tool to protect fundamental rights and ensure transparency of the actions of competent state authorities. Specifically, Article 10 of the Screening Regulation and Article 43 of the Asylum Procedure Regulation explicitly provide for an independent mechanism to monitor fundamental rights. Within 2026, when the set of the new EU regulations stipulated by the Pact on Migration and Asylum enters into force, the new Regulation establishing a return border procedure (2024/1349/EU) will also come into effect, while a new return Regulation, to replace the 2008 Directive is also expected to be completed and approved.

Mechanisms such as the Greek Ombudsman, are expected to play a critical role in the smooth implementation of these provisions, since they carry both guarantees of independence and appropriate competences, experience and

expertise, as the guide to Member States published by the EU Agency for Fundamental Rights (FRA) in 2022, asserts.

With steadfast institutional responsibility, utilising its ever-increasing expertise, the Greek Ombudsman will remain committed to fulfilling this mission, eager to effectively contribute to managing the impending challenges.

Athens, May 2025

Andreas I. Pottakis
The Greek Ombudsman



1. THE OMBUDSMAN'S MANDATE AS THE NATIONAL MECHANISM FOR THE EXTERNAL MONITORING OF FORCED RETURNS

EU Directive 2008/115/EC, known as the Return Directive, established the common rules and procedures applied by Member States for the return to their countries of origin of third country nationals who are staying illegally.¹ Article 8(6) of the Directive **provides for the institutional guarantee of an external body monitoring forced returns.**²

The Greek Ombudsman, an independent authority, serves as the national mechanism for external monitoring of forced return procedures from Greece, under L. 3907/2011, which incorporated the Return Directive into Greek legislation³, and the relevant Joint Ministerial Decision⁴. This special competence has been exercised systematically since 2014, aiming to ensure transparency of administrative action and create a guard rail against arbitrary acts, violations of human rights and any type of abuse enacted during the process of removing third country nationals, based on the country's international commitments.

-
1. Directive 2008/115/EC of the European Parliament and the Council of 16 December 2008 "on common standards and procedures in Member States for returning illegally staying third country nationals." Article 8(6) "Member States shall provide for an effective forced-return monitoring system."
 2. Article 8(6) of the Return Directive.
 3. Article 23(6) of L. 3907/2011 "6. Removal procedures are subject to external monitoring, managed by the Independent Authority "Ombudsman". For this purpose, the Ombudsman collaborates with international organisations and NGOs. A joint decision by the Ministers of Interior, Decentralisation, E-Government, and Citizen Protection, issued following the Ombudsman's proposal, regulates the organisation and operation of the monitoring system."
 4. See JMD 4000/4/57-ia, Gov. Gazette (FEK) 2870/B/24-10-2014, "Regulation on the organisation and functioning of the system of external monitoring of procedures for the removal of third country nationals".

Indeed, removal/deportation/return operations⁵ are by nature susceptible to violations of the fundamental rights of the returnees, either upon their arrival and stay in the country of origin, or during the removal procedure, or due to the exchange of sensitive information or personal data between countries. These operations must be carried out in a manner that respects life and human dignity, the prohibition of torture and inhuman and degrading treatment or punishment, the right to freedom and safety, the right to family and private life, including protection of personal data, the principle of non-refoulement and mass deportations, and the ban on discrimination and the right to effective remedy.

The Greek Ombudsman performs the external monitoring of forced return procedures and operations with the aim of ensuring respect for the aforementioned fundamental rights and to fulfil obligations arising from the Charter of Fundamental Rights of the European Union⁶, the Geneva Convention on Refugees⁷, the European Convention on Human Rights (ECHR)⁸, the United Nations International Covenant on Civil and Political Rights⁹, the UN Convention against Torture¹⁰ and the UN Convention on the Rights of the Child¹¹.

Specifically, Article 5 of Directive 2008/115/EC provides for strict compliance with the key principles of international law when implementing the Directive's provisions, while Member States must take due account of:

- (a)** the best interests of the child;
- (b)** family life;
- (c)** the state of health of the third country national concerned,

and respect the principle of non-refoulement¹².

The legal framework protecting the rights of the returnees is strengthened by,

-
5. The term "*removal*" encompasses the implementation of decisions to expel or return issued by the competent authorities, whether police or administrative. Nevertheless, the three terms are often used interchangeably to refer to the event of a physical removal from the country.
 6. Charter of Fundamental Rights of the European Union (OJ C 202, 7.6.2016, pp. 389-405).
 7. The 1951 Convention on Refugees, United Nations.
 8. The European Convention on Human Rights, 1950, Council of Europe.
 9. United Nations International Covenant on Civil and Political Rights, 1966, United Nations.
 10. United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, United Nations.
 11. United Nations Convention on the Rights of the Child, 1989, United Nations.
 12. Under international human rights law, the principle of non-refoulement guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm.

among others, the:

- Decision of the Council of the European Union (2004) on the organisation of joint flights for removals from the territory of two or more Member States, of third country nationals who are subjects of individual removal orders¹³,
- “Guide on Returns” (2015)¹⁴,
- “Action Plan”¹⁵ and the renewed “Return Handbook” of the European Commission (2017)¹⁶,
- the proposal to recast the Return Directive¹⁷ (2018),
- the Migration and Asylum Pact (2020), with the following document, “Towards an operational strategy for more effective returns”¹⁸,
- the Regulation on border returns¹⁹ (2024) and the recent Commission proposal for a regulation on common standards and procedures in Member States for returning illegally staying third country nationals²⁰.

-
13. 2004/573/EC: Council Decision of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third country nationals who are subjects of individual removal orders, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32004D0573>.
 14. Communication from the Commission to the European Parliament and to the Council EU Action Plan on return, COM/2015/0453 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0453>.
 15. Communication from the Commission to the European Parliament and the Council on a More Effective Return Policy in the European Union – A Renewed Action Plan, COM/2017/0200 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017DC0200>.
 16. Commission Recommendation (EU) 2017/2338 of 16 November 2017 establishing a common “Return Handbook” to be used by Member States’ competent authorities when carrying out return-related tasks, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32017H2338>.
 17. Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third country nationals (recast), <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018PC0634&from=DE>
 18. European Commission Policy Document “Towards an operational strategy for more effective returns”, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023DC0045>.
 19. Regulation (EU) 2024/1349 of the European Parliament and of the Council of 14 May 2024 establishing a return border procedure, and amending Regulation (EU) 2021/1148, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401349.
 20. Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC., <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025PC0101>.

At operational level, the legal framework is broadened by, among others, the Code of Ethics that applies to all persons participating in Frontex activities, the Code of Ethics for return operation (co-)coordinated by Frontex, the Council of Europe's 20 Guidelines on Forced Return, and others.

The Ombudsman forms a **Returns Monitoring Team composed of Senior Investigators from the Authority**, responsible for overseeing all stages of forced return procedures to ensure compliance with the law, while respecting the dignity, personality, and rights of the returnees. This oversight extends to administrative acts, omissions, and physical actions from the moment of the issuance of the return decision to the actual implementation of the removal by land, sea, or air. Special attention is paid to ensuring that coercive measures respect the principle of proportionality.

The Returns Team has **unhindered access** to any administrative detention, waiting, or transit area where third country nationals awaiting return, are held. The Ombudsman can communicate with detainees and access all relevant personal files and records. It reviews the lawfulness of administrative acts, of physical acts or omissions by the administration, from the stage the return decision is issued to the implementation of the removal process, i.e. the arrival of third country nationals in their country of origin. It also checks whether, during their administrative detention and subsequent removal, detainees receive dignified treatment, are informed of their rights and can exercise them effectively, receive necessary healthcare and psychosocial care, and, in light of their impending removal, if they have undergone the necessary medical examinations.

The Ombudsman also receives continuous updates from the Hellenic Police on upcoming removal operations. This enables the Ombudsman to conduct sample and random inspections and participate as an observer-monitor in return operations by land, sea or air, either national or joint operations with other European countries, as well as in forced returns to neighbouring countries based on readmission agreements.

Public administration bodies involved in the forced return process must respond promptly²¹ and with reasoned explanations to the Ombudsman's questions and reports, and these responses will be considered and reported. Additionally, collaboration with the competent authorities is anticipated for

21. Article 1(4) of L. 3094/2003: The Greek Ombudsman may request information and/or support from public agencies as part of their areas of competence. All public agencies, without exception, are required to facilitate the investigation in every way possible, as specified by provisions of L. 3094/2003, as in force.

drafting and revising a manual of best practices for the removal process, and for contributing to the development and implementation of staff training. The Ombudsman may also produce special publications, organise events, and other related activities.

Lastly, in a dedicated annual report, the Ombudsman presents the overall findings on the functioning of the return system, outlining the modes and outcomes of cooperation with the authorities, and offering recommendations for improving procedures and the need for relevant regulatory measures.²²

22. Article 1 Scope – Mission. 1. The Greek Ombudsman oversees, as per Article 23(6) of L. 3907/2011 (GovGaz A/7), the organisation and operation of the external monitoring of procedures for return and removal of third country nationals. Based on the provisions of this decision, this oversight includes all administrative acts, physical actions or omissions by the administration, from the stage the return and removal decision is issued to the implementation of the removal process, which consists of the arrival of third country nationals in their country of origin. 2. Using every available and effective means, the Greek Ombudsman ensures compliance with the legality of the return and removal process, as per the provisions of L. 3907/2011 and L. 3386/2005 (GovGaz A/212), and with respect to privacy and dignity and the human rights of third country nationals being returned or removed, in accordance with the mandates of national, Union and international law.



2. INFORMATION ON THE SCOPE OF EXTERNAL MONITORING

2.1. THE YEAR 2024 AT A GLANCE

In 2024, members of the Returns Team participated as monitors **in all** Joint European Return Operations that the Hellenic Police organised or participated in, together with other EU Member States.

- Nine (9) Joint Return Operations (JRO) coordinated by Frontex to Pakistan, Georgia and Bangladesh.
- Eight (8) individual national forced return operations to Algeria, Egypt, Poland and Romania.

The Ombudsman also took part in two (2) randomly selected land forced removal operations to Albania.

Monitoring ascertained the sound organisation of operations and good co-operation of the members of the Returns Team with the leaders, escorts and staff from the Return Coordination Office of the Attica Aliens Police Directorate and the Thessaloniki Aliens Police Directorate Returns Department. It was also found that certain problems remain, and the Ombudsman continues to consistently highlight, with a view to protecting the rights of returnees and for organisational purposes, the need for:

- timely notification – 24 hours in advance – of third country nationals of their impending removal;**
- thorough medical examination of all returnees, to determine whether they are fit for travel;**
- the presence of interpretation services at all stages of the process;**
- sufficiency in escorting the returnees, both in quantity and in quality (number of escorts and special training);**

- v. **individualised determination of the need for restraints and compliance with the principle of lawfulness and proportionality;**
- vi. **timely finalisation of the returnees list;**
- vii. **availability and use of proper transport vehicles; and**
- viii. **constant vigilance to ensure protection of returnees' rights.**

At the same time and as part of external monitoring of forced returns, the Ombudsman conducts inspections/on-site visits to Pre-Removal Detention Centres (PROKEKA)²³ or other administrative detention areas to verify that terms established by law on the issuance of the order of the detention and its conditions, are complied with. In this context, in 2024 the Ombudsman visited:

- Three PROKEKA in Kos, Amygdaleza and Tavros-Attica.
- The Thessaloniki Aliens Police Directorate and the detention facilities of the Migration Management Police Departments (MMD) in Thessaloniki, Agios Athanasios, Thermi, Mygdonia and the Thessaloniki Courts Police Transfer Sub-Directorate.

As part of the ongoing training and education of the Returns Team, during 2024:

- The Greek Ombudsman held a joint training seminar with FRA on “*External monitoring of returns of third country nationals*”²⁴. The training included presentations by the European Court of Human Rights (ECtHR), FRA, Frontex, the Council of Europe’s CPT and Hellenic Police, with workshops taking place at the same time (22-23/1/2024 EPLO, Athens).
- Members of the Returns Team served as trainers at Frontex training seminars:
 - training of EU Pool of Fundamental Rights Monitors on forced return operations (Lubin, Poland, 8-12/4/2024);
 - training of Fundamental Rights Officers (FRO) of the same organisation (Warsaw, Poland, 23-27/9/2024);

23. It is noted that JMD 8038/23/22-πμδ' (GovGaz B/7265/31.12.2024) extended the operation of PROKEKA for the years 2025 and 2026.

24. The training seminar was co-organised with the EU’s FRA and is one of the actions under the programme “*Greek Ombudsman actions to strengthen good governance, accountability and combat maladministration in the public sector*”. The action is co-funded by the EEA and Norway Grants (EEA funding mechanism) “*Good Governance, Accountable Institutions, Transparency*” programme which represents the contribution of Iceland, Liechtenstein and Norway towards a green, competitive and non-exclusionary Europe. See <https://fra.europa.eu/en/news/2024/greek-ombudsman-and-fra-joint-workshop-forced-return-monitoring> & <https://www.synigoros.gr/el/category/deltia-typoy/post/deltio-typoy-or-ekpaideytiko-seminario-gia-ton-e3wteriko-elegxo-twn-epistrofwn-allodapwn>.

- training of national escort officers and forced return operation leaders in Albania and the Western Balkans (Belgrade, Serbia 20-25/10/2024);
 - training of national escort officers working on forced return operations (Athens, 13-17/5/2024).
- Members of the Returns Team took part as trainers in the training seminar held by the Cypriot Commissioner for Administration (Ombudsman) on the external monitoring of returns of third country nationals (Larnaca, 12-14/6/2024)
 - Five members of the Returns Team received training at special seminars on *"The special framework and practical issues related to protecting the rights of children and families in forced-return operations"*. The seminars were staged by Frontex in the Hague (12-16 February), in Brussels (3-7 June) and in Tallinn (16-20 September). Members of external monitoring mechanisms and police escorts from various Member States took part in the seminars. Discussion took place on topics that arise during the forced return of children and families, the European institutional framework, practices from previous operations, and recommendations on improving procedures aimed at more effectively protecting the rights of these vulnerable groups.
 - The comparative (by country of origin) presentation of methods for handling children and families before forced returns (housing, school life, psychological support, financial assistance upon repatriation) was particularly useful, as was the presentation of tools (leaflets, interactive texts, questionnaires, educational games) Frontex has developed to fulfil its role.
 - Members of the Returns Team participated in the 2nd meeting of the Stakeholder Expert Panel of the research project *"Decentring the Study of Migrant Returns and Readmission Policies in Europe and Beyond (GAPs)"*, carried out in Greece through the National Centre for Social Research (EKKE).

Lastly, as part of the cooperation with competent European institutions on the return of third country nationals, meetings were held in 2024 with the EU Return Coordinator, the panel of evaluators, coordinated by the European Commission, on the proper application of the Schengen acquis as regards returns, and the Frontex Fundamental Rights Officer on issues of human rights within the integrated border management framework.

2.2. FIGURES RELATED TO RETURNS

Article 2 JMD 4000/4/57 Provision of data to the Greek Ombudsman “1. Each month, the competent authorities provide the Ombudsman with aggregated data on the number of return decisions (voluntary and forced), as well as expulsion decisions issued throughout the Greek territory, the number of return and expulsion decisions implemented, the manner of implementation and the countries of return. Data on the number of return decisions applying to unaccompanied minors, by country and age, are also included. The Greek Ombudsman is also informed monthly by the competent police authorities about the total number of detention decisions imposed against third country nationals as part of executing a return decision and/or administrative deportation, the detention facilities, and the total number of decisions extending the length of detention, to the extent that such reporting is possible. The competent police authorities inform the Ombudsman promptly of planned operations to remove third country nationals as part of executing return and deportation decisions. They then also provide in a timely fashion any essential information on third country nationals who are removed each time.”

With regard to returns, data provided by Hellenic Police for 2024 appear to be at about the same levels as the same period in 2023. Specifically, the total number of returns in 2024 was 5,865, showing a slight decrease (-7%), compared to 2023 (6,340)²⁵.

Of the total returns, **2,550 were forced returns**, 2,371 were IOM assisted voluntary returns²⁶ and 944 were voluntary returns²⁷. (See Graph 1).

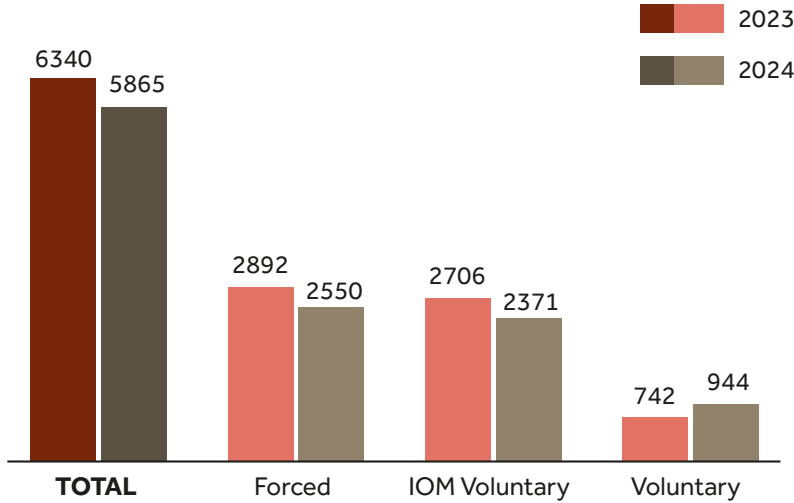
The number of forced returns showed a small drop (7%), as in 2023 there had

25. According to the statistical data from the Ministry of Migration and Asylum, returns include relocation (total of 1,304 for 2024) and transfers under the EU's Dublin Regulation (total of 222 for 2024), amounting to a total of 7,391 for the year. (See Ministry of Migration and Asylum> Statistics – Consolidated Reports>December 2024 (Appendix A), p. 18).

26. International Organisation for Migration (IOM) Assisted Voluntary Return and Reintegration (AVRR) programme, <https://www.iom.int/assisted-voluntary-return-and-reintegration>.

27. Returnees under Article 22 of L. 3907/2011, following a return decision with a deadline for voluntary departure, holders of non-removal certificates for humanitarian reasons under Article 78a of L. 3386/2005, as well as returnees after the withdrawal of an asylum application.

Graph 1 — Returns 2023 - 2024



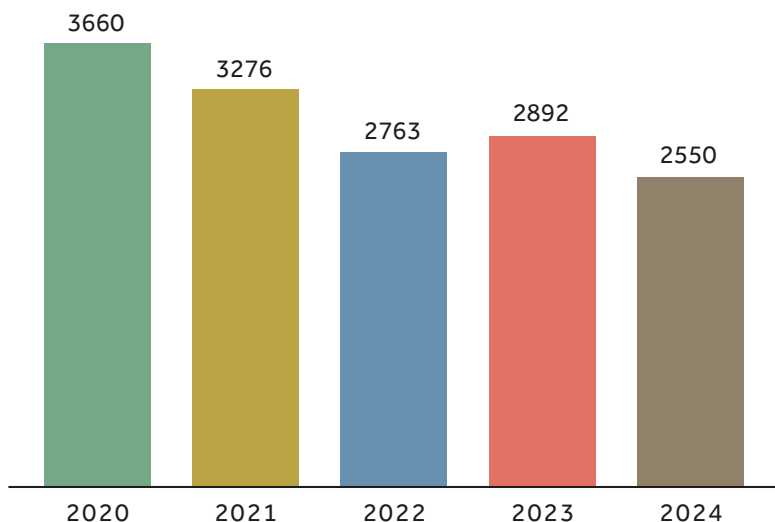
been 2,892, while there was also a reduction in assisted voluntary returns (AVRR) (12%) and an increase in voluntary returns (28%).

Forced returns include deportations and readmissions based on bilateral agreements with neighbouring countries. Additionally, readmissions of third country nationals from the North Aegean islands based on the EU-Turkey Joint Declaration have been unilaterally suspended by Turkey since 19 March 2020, citing the pandemic, and this suspension is still in effect to date.

As for forced returns, with the exception of 2023 when there was a 4.6% increase, the numbers have dropped over the last five years (see Graph 2).

As for nationalities,

- of the total 5,865 returns (forced, assisted voluntary and voluntary), **38% were Georgian nationals, 35% were Albanian nationals**, 6.6% were Pakistani nationals and 2.1% were Bangladeshi nationals (as the largest groups).
- of all 2,550 forced returns, **65% were Albanian nationals** and just 7.6% were Georgian nationals, 8.3% were Pakistani nationals, and 1% were Bangladeshi nationals, countries to which air return operations are imple-

Graph 2 — Forced returns for 5-year period 2020 - 2024

mented. A rate of 8% is added to the foregoing percentages and it reflects returns implemented under the simplified readmission procedure from Greece's northern borders (Albania).

- of the total 2,371 IOM assisted voluntary returns, **79.4 % were Georgian nationals**, 3.3 % were Pakistani nationals and 2.9 % were Iraqi nationals (as the largest groups).
- of the total 944 voluntary returns, **47% were Albanian nationals**, 10.9 % were Georgian nationals and 10.5 % were Pakistani nationals (as the largest groups).

At Union level, and based on **Eurostat**²⁸ data, 28,630 persons were returned to third countries in the 3rd quarter of 2024, corresponding to an increase of 24.3% over the 3rd quarter of 2023, while 124,935 return decisions were issued, representing a 16.3% increase over the 3rd quarter of 2023. As to nationality, the largest percentage of returnees were nationals of Georgia, Turkey, Albania, Morocco and Moldova.

28. Eurostat, Returns of irregular migrants – quarterly statistics (18.03.2025, available at https://ec.europa.eu/eurostat/statistics-explained/index.php?title>Returns_of_irregular_migrants__quarterly_statistics).

Meanwhile, due to the reduced effectiveness of forced returns at European level, the Pact on Migration and Asylum gives priority to voluntary returns²⁹. Nevertheless, the rate of voluntary returns is not significantly greater than forced returns. Based on the same figures from Eurostat, at Union level, voluntary returns came to 57.1% and forced returns were at 42.9% (these rates vary significantly by Member State).

At the same time, greater attention is required when reviewing whether the voluntary return is indeed of the returnee's free will or the "product" of prolonged administrative detention or related conditions, i.e. of the burdensome consequences that the detainee's refusal to consent to removal entails in practice. In any case, to verify the returnee's consent and therefore the voluntary nature of the return, it is critically important to examine the procedures that guarantee it, such as interpretation, legal aid and comprehensive prior information about the right to international protection, in accordance with the ECtHR case law³⁰.

2.3. FIGURES ON ADMINISTRATIVE DETENTION OF THIRD COUNTRY NATIONALS AWAITING RETURN

With regard to administrative returns, data provided by the Hellenic Police for 2024, show a decrease compared to the prior year:

As of 1 November 2024, the total number of third country nationals under administrative detention pending return was 1,895 (-24.5%), 1,676 (-22%) of whom were in PROKEKA and 219 (-38%) at Police Stations³¹. Based on these same data, the largest groups were nationals of Egypt (593), Pakistan (365), Turkey (104) and Bangladesh (102); the number of detainees included 58 Syrian nationals and 42 Afghani nationals.

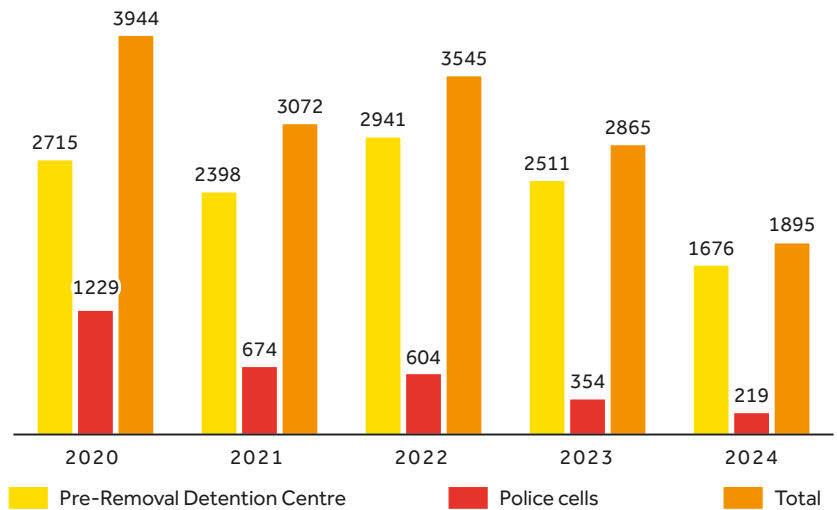
This downward trend noted in recent years (see *Graph 3*) is positive. Nevertheless, the number of detainees remains high. The fact that **the detention duration in many cases exceeds six months** is also of concern, and is not

29. Communication from the Commission (COM/2020/609 final), 23-9-2020, <https://eur-lex.europa.eu/legal-content/EL/TXT/?uri=CELEX%3A52020DC0609> "Return is more effective when carried out voluntarily and accompanied with strong reintegration measures. Promoting voluntary return is a key strategic objective, reflected in the Commission's 2018 proposal on the Return Directive as well as in a forthcoming Strategy on voluntary return and reintegration."

30. See ECtHR judgments *N.A. v. Finland* of 14.11.2019 and *M.A. v. Belgium* of 17.10.2020.

31. As of 1 January 2025, the total number of detainees was 1,646; of these, 1,502 were at PROKEKA and 144 at Police Stations. On the same date, there were 37 Afghani nationals and 8 Syrian nationals among the administrative detainees at PROKEKA.

Graph 3 — Immigrants in administrative detention in view of return (November 2024)



necessarily associated with a reasonable prospect for removal. For example, in mid-December of 2024, 293 third country nationals were being detained pending return longer than 3 months (the main nationalities were Egyptian [105], Pakistani [73] and Bangladeshi [27]), and 136 third country nationals were held longer than 6 months (main nationalities were Pakistani [41], Egyptian [38], Bangladeshi [15] and Afghani [4]), while 8 persons (1 of whom was a woman) were detained longer than 1 year.



3. OBSERVATIONS FROM EXTERNAL MONITORING

Article 3 JMD 4000/4/57 Procedure and means of investigation.
"1. The Greek Ombudsman undertakes external monitoring of procedures for the return and removal of third country nationals, and verifies the lawfulness of actions, omissions and physical actions by competent authorities at all stages of the procedure specified by law. Within the framework of its assigned authority, the Ombudsman may use the procedures and means specified in L. 3094/2003, as in force, Presidential Decree 273/1999, as in force, and other special provisions."

3.1. RETURN OPERATIONS BY LAND

In 2024, members of the Returns Team participated as observers (monitors) in:

- Two forced removal operations from Thessaloniki towards the border with Albania.

Operations to Albania are implemented according to the Hellenic Police schedule. The two Ombudsman monitors participated throughout the entirety of these operations, simultaneously conducting an on-site visit to the detention facilities used for returnees.

The operations were carried out without problems and were completed normally. There was respect for returnees' rights, professional conduct by escorts and support for the monitors' task. During the pre-departure check, files were found to be complete and up to date. For most of the Albanian nationals, this was not their first time being returned to their country; most had declined to pursue any legal remedies or appeals and had declared in writing that they wished to return.

In general, the technical issues and deficiencies that were found during these operations have been consistently ascertained in the past and they are mostly related to infrastructure. These issues need to be addressed by the Hellenic Police so that return operations by land are conducted in a way that better ensures the protection of the rights of the citizens returning to their countries and facilitates the work of the police escorts.

Positive aspects:

- The detention areas for returnees had been improved since previous visits.
- The leader of the operation and the escorts were not wearing uniforms and visible arms (except one), and in general they exhibited courtesy, professionalism and understanding for the condition of the returnees.
- They organised the boarding, the disembarkation and the handing over of the third country nationals to the Albanian authorities, with sufficient supervision and efficiency.
- There were no means of restraint on the returnees, at any stage of the operation.
- The police officers at the detention facility, the operation leader, the police escorts and the vehicle driver addressed the third country nationals with courtesy and respect.
- Detention facility supervisors gave the daily allowance early in the morning so returnees would have time for breakfast.
- Procedures during handover to the Albanian authorities and the controls that precede it had been expedited and there were no complaints or discomfort, while it was evident that a friendly atmosphere had been established between the two sides.
- An upgrade in the transport vehicle (Iveco) was also noted.
- The handing over of personal items was done with respect to the returnees.

Nevertheless, it is necessary to mention the following negative aspects:

- All returnees remained in the vehicle's locked compartments throughout the journey (almost 2.5 hours), though this was neither necessary nor justified, particularly since most of them had waived any legal remedies and had declared they wished to return to their country.
- The pre-departure detention area at the Aliens Directorate is unsuitable as there is no outdoor exercise space available.
- One of the police escorts was in uniform and carrying a firearm.

It is recommended that:

- a departure point be established that is designed as an appropriate, clean and space waiting area, and not as a place of confinement. The space should have seats, easy access to toilets and a separate outdoor exercise ground;
- well-maintained vehicles such as tourist buses or vans, without confinement compartments, should be used;
- returnees should be preventively examined by a doctor before the start of the operation and should undergo the fit-to-travel process (fit-to-travel certificate);
- there should be a sufficient number of police escorts, they should wear civilian clothing and should only carry means of restraint as part of their equipment, not firearms;
- the operation should include an escort certified in first aid, and a first aid kit should be available;
- certified interpreters should be accessible to individuals who do not understand Greek.

3.2. RETURN OPERATIONS BY AIR

In 2024, Greek Ombudsman monitors took part in:

- Nine (9) European Joint Return Operations (JRO)³², coordinated by Frontex, to Pakistan, Georgia and Bangladesh.
- Eight (8) individual (commercial flights) national forced return operations to Algeria, Egypt, Poland and Romania.

The following observations pertain to proposals for improving organisational aspects of the operations, for the benefit of all participants:

3.2.a. Pre-departure check

The pre-departure check of the administrative files of the returnees takes place at the Attica Aliens Directorate, the day before, or immediately before, the operation. Members of the Returns Monitoring Team review the files of returnees to determine whether they are complete and to verify that all legally required procedures have been followed.

For example, the file is checked to confirm it contains the return decision and the proof of notification, the detention decision and the proof of its notifica-

32. It is noted that no National Return Operation (NRO) was organised during this year.

tion, the information sheet of detainees' rights, and any documents regarding the completion of an asylum examination process.

During 2024, the administrative files were generally complete, while in some cases, it was noted that the proof of the decision notification was absent. As a result, these returnees were ultimately exempted from the removal operation.

Specific administrative practices were also noted, to ensure the greatest possible returnee participation in each operation. Specifically, Hellenic Police implements two practices to replace those who are excluded from the removal operation at the last minute (due to an application for asylum, for medical reasons, or other). The first practice, which has been observed in every removal operation and hinders the task of the Returns Monitoring Team, is that, during each pre-departure check, the number of the administrative files (and thus the number of potential returnees) is much greater than the initial list that has already been created and notified to the Ombudsman, based on the return operation implementation decision. The second practice, which relates to the first, is the transport of detained third country nationals to the airport as "*alternates*" and "*candidates*" for return. Following their lengthy wait inside the transport vehicle (police van), either they ultimately board the airplane, or they are transported to the administrative detention centre the same day, or they spend the night at the Airport Police Station and are transported the next day to the Amygdaleza PROKEKA. It is obvious that these detainees, through no fault of their own, are forced to undergo hardship in conditions of physical discomfort and anxiety.

In his observations to the Hellenic Police, the Ombudsman consistently recommends that these practices must cease and that the goal of achieving full participation in return flights could be achieved through timely notification of returnees – 24 hours in advance – so that any pending issues or new applications for asylum can be taken into account in time to avoid last-minute exclusions from the flight. Besides, timely notification of returnees safeguards both their rights and ensures the smooth conduct of the operation.

3.2.b. Medical Examination and Fit-to-Travel Certificate

The Anonymous Company of Health Units (AEMY S.A.), which provides medical and psychosocial services to the detainees at all PROKEKA, maintains an electronic health record on each administrative detainee. This record includes the medical history (medical opinions, diagnoses), medical examinations (x-rays, etc.), visits to the clinic and any referrals to a hospital, a copy of the psychosocial services record, any medicinal treatment, and other information.

During the pre-departure check of the administrative files of the returnees, the Returns Monitoring Team, has consistently confirmed the absence of fit-to-travel certificates, as required by the Frontex Code for return operations and as it is also recommended by the Council of Europe³³ and the Council of Europe's Committee for Prevention of Torture³⁴. A positive exception to this administrative practice are the files originating from the Thessaloniki Returns Police Department, as the concerned third country nationals have usually undergone medical examinations at a hospital in Thessaloniki before being transferred to Athens for the return operation by air.

As to the medical examination of returnees on the day of the operation, this is performed by a Hellenic Police physician who is responsible for the operations and accompanies the flight. The examination consists of a simple interview with the individuals, without the physician having access to their medical history. This practice makes it difficult to form a reliable opinion about the condition of the returnee's health and to issue a fit-to-travel certificate.

It is noted that, as a standard practice, returnees who are detained at the Tavros-Attica PROKEKA, pending an IOM assisted voluntary return, are referred to a specific Polyclinic in Athens for medical examination, where the special fit-to-travel form is filled out and bears the stamp of a public hospital. For individual return operations by air (commercial flights), the AEMY physician examines the returnees and certifies they can be part of the operation.

Nevertheless, there is no such provision for forced joint return operations (by charter flights). In these cases, the Hellenic Police physician (escorting/travelling on the flight) is informed by the AEMY nurse about any serious health issues and (possibly) the need to administer medications during the operation.

The Ombudsman recommends that, to safeguard the health of the returnees and ensure the smooth conduct of the operations, provision should be made for a more **thorough briefing of the Hellenic Police physician (on board phy-**

33. Committee of Minister of the Council of Europe, Guideline 16, Twenty Guidelines on Forced Returns, 2005, available at https://www.coe.int/t/dg3/migration/archives/source/malagaregconf/20_guidelines_forced_return_en.pdf.

34. See related recommendation by the Council of Europe's Committee for Prevention of Torture (CPT): "The CPT also advocates for every returnee to benefit from a clinical examination by a medical doctor prior to the removal operation and to be issued with a 'fit-to-fly' certificate", in "Council of Europe anti-torture Committee (CPT) publishes report on the monitoring of a Frontex-supported return operation from Germany to Pakistan.04.04.2024", available at <https://www.coe.int/el/web/cpt/-/council-of-europe-anti-torture-committee-cpt-publishes-report-on-the-monitoring-of-a-frontex-supported-return-operation-from-germany-to-pakistan>.

sician) about the state of their health. The Ombudsman has suggested that a list of returnees should be prepared, with critical health information and that the physician should have access to the medical records that AEMY retains electronically, and that a fit-to-travel certificate should be issued by the AEMY physician to the third country national.

3.2.c. Organisational issues

Overall organisation of operations: Return operations by air are implemented based on Frontex's scheduling and in accordance with its procedures³⁵ (pre-departure phase, in-flight phase, arrival/handover phase and the return and debriefing phase). The overall organisation was positively evaluated for 2024; however, the following observations were noted:

- **Number of escorts:** The number of police escorts on operations was small, relative to the number of returnees. For example, on an operation with 50 returnees, there were 61 escorts (10 of whom were the support team); on an operation with 49 returnees, there were 64 escorts; and there was an operation with 50 returnees and 48 escorts (who were reinforced by the Frontex team).

It is recommended that a higher number of police escorts should be used for security purposes and to ensure the smooth conduct of operations.

- **Transfer:** Returnees are transported in police vans and remain in the vehicle's locked compartments throughout the process.

It is recommended that the transport takes place in tourist buses (in a seating arrangement of 1 escort/1 returnee).

- **Meals:** There is provision for a small meal and water while waiting at the El. Venizelos Athens Airport before departure. However, due to delays occurring before arriving at the airport on some operations, there was not enough time to provide these meals to returnees.

It is recommended there is stricter compliance with the timeline of the operation, so that no delays are encountered, that result in failure to distribute the meals. In any case, any delay should not interfere with providing the meal, even before boarding, as procedures take a long time.

- **Clothing-footwear:** It is noted that during the operations, some return-

35. Frontex, Return Operations, available at <https://www.frontex.europa.eu/return-and-reintegration/return-operations/return-operations>.

ees do not have suitable clothing or footwear. According to information, the provision of these items is covered by donations, on the initiative of AEMY staff, however, these donations are not sufficient, or consistent.

It is recommended there be timely notification of AEMY social services about the upcoming return operation, so that efforts can be made to provide returnees with appropriate clothing and footwear. The Ombudsman's proposal to the Hellenic Police is to consistently be prepared to procure these goods, so that all needs of the administrative detainees /returnees are met.

- **Space for medical examination-body searches:** At the Aliens Police Directorate in Tavros- Attica, medical examinations and body searches are conducted in a lecture-hall. As a result, the privacy of the returnees is not being respected. Similarly, on some operations at the Amygdaleza PROKEKA, body searches were conducted simultaneously on four returnees, clearly in violation of their privacy.

It is recommended that, for body searches and medical examinations, a suitable space and sufficient time, are necessary to ensure the privacy and dignity of returnees, in accordance with the recommendations of the Frontex Fundamental Rights Officer³⁶.

- **Assistance under the European Reintegration Programme:** The Frontex EURP (European Reintegration Programme) is implemented on joint return operations. Returnees are informed that they can participate in the programme and receive assistance (in the amount of EUR 1,000), mainly for services (transportation, housing, medical care, etc.), in order to facilitate their integration into their country of origin.

It is recommended that information on inclusion to this programme be provided in a timely fashion, i.e. before the operation and not while the operation is being conducted. The possibility of granting a small stipend upon departure to cover the initial basic needs in the country of origin, should be considered.

- **Photographs/video material:** At operational level, the leader provides clear instructions to police escorts at every briefing, prohibiting any shooting of photographs or videos and publishing them on social media. Nevertheless, in one operation, other unofficial participants, took photos and/or published them on social media despite stern warnings by the operation leader.

36. Observations to return operations conducted in the 2nd half of 2023 by the Fundamental Rights Officer, available at https://www.frontex.europa.eu/assets/fundamental/Observations_to_Return_Operations_conducted_in_the_2nd_H_2023_by_the_Fundamental_Rights_Officer.pdf.

This event, as the Ombudsman has noted in previous reports³⁷, also constitutes a violation of rules established by the Frontex Code of Conduct to protect the privacy and the dignity of the returnees. More specifically, Article 13 and 17 of the Frontex Code of Conduct for Return Operations³⁸ state that any form of recording of photographic/video material is possible only if there is an agreement between the competent Member State, the Organisation and the airline, and only in compliance with the legislation on protection of personal data. Recordings for private use are also strictly prohibited in the Frontex Code of Conduct³⁹ applicable to all persons participating in operational activities. In fact, Article 9 addresses confidentiality, since *“processing of personal data by participants must comply with the applicable Union as well as national data protection law”*. Similarly, the Guidelines of the Council of the EU⁴⁰ on safety measures for joint return operations by air, specify that *“Publication of photographs or personal details of the escorts is to be avoided”*.

The Greek Ombudsman recommends the same instructions be given clearly to all operation participants, to avoid the possibility of publishing personal data of returnees and operational activities, as specified by Frontex guidelines.

3.2.d. Interpretation

Provision of interpretation is critical for the smooth conduct of operations and for safeguarding returnees' rights. Initially, the notification/delivery of administrative documents related to the return of third country nationals requires the presence of an interpreter so they can be made aware of the return and detention decision, deadlines and their rights. Throughout the operation, interpretation is essential, both during the medical assessment and during other procedures, to ensure returnees are informed in good time, that they un-

37. Special Report 2020, Return of Third-County Nationals (p. 22) & Special Report 2021, Return of Third-County Nationals (p. 24) at www.synigoros.gr.

38. Code of Conduct Code for Return Operations and Return Interventions Coordinated or Organised by Frontex, available at https://www.frontex.europa.eu/assets/Key_Documents/Code_of_Conduct/Code_of_Conduct_for_Return_Operations_and_Return_Interventions.pdf.

39. Code of Conduct applicable to all persons participating in Frontex operational activities, available at https://www.frontex.europa.eu/assets/Key_Documents/Code_of_Conduct/Code_of_conduct_applicable_to_all_persons_participating_in_Frontex_operational_activities.pdf.

40. Council Decision 2004/573/EC of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third country nationals who are subjects of individual removal orders.

derstand the timeline and are able to communicate with police escorts.

Interpretation was provided (in Urdu) for all operations towards Pakistan; however, in some of the operations, the interpreter could not accompany the mission due to the requirement for a visa. The same was observed with the provision of interpreters on operations to Bangladesh (in Bangla). The inconsistent provision of interpretation on return operations to Georgia (in Georgian) is noted once again.

The Ombudsman recommends there be consistent provision for interpretation for all returnee languages to facilitate procedures and ensure communication amongst all persons participating in operations.

3.2.e. Handling of emergency incidents

Incident involving returnee injury: On a return operation to Georgia-Pakistan, an injury was noted to a returnee, a national of Pakistan, which occurred during boarding (on the stairway) at El. Venizelos Airport, following his resistance to being placed inside the airplane by police escorts. Following the incident, the returnee was bleeding from the mouth and nose; he was placed in the rear of the cabin and remained constrained with Velcro for more than 8 hours. (The Hellenic Police is investigating the incident after being referred by the Greek Ombudsman acting under his special competency as the National Mechanism for the Investigation of Arbitrary Incidents [EMIDIPA]⁴¹.)

Medical emergency involving a returnee: After boarding the police van from the Amygdaleza PROKEKA to the airport, a returnee, national of Pakistan, lost consciousness. An ambulance was called to transport him to a hospital, as he himself had declared earlier that he suffered from a heart condition.

Medical emergency involving a police escort: On a return operation to Georgia-Pakistan, a medical emergency incident took place involving a police escort during an overnight stay in the United Arab Emirates; there was grave concern over his state of health and how to address it (possible need for emergency hospitalisation).

41. The National Mechanism for Investigating Incidents of Arbitrary Behaviour (EMIDIPA) was established by L. 4443/2016 as a special competence of the Greek Ombudsman. EMIDIPA's mission is to conduct independent investigations of reported arbitrary incidents, to make referrals for a Sworn Administrative Inquiry (EDE) to the disciplinary offices of security forces and make referrals for further disciplinary investigation of cases in which the ECtHR has identified deficiencies in the disciplinary investigation. It may investigate incidents ex officio. (For more information, see <https://www.synigoros.gr/en/category/e8nikos-mhxanismos-dierynhshs-peristatikwn-ay8airesias>).

These incidents ascertained, firstly, the critical importance and need for proper training of police escorts to deal with all emergency incidents in the most appropriate manner, as well as the constant presence and availability of medical personnel. Secondly, it was found that, during these missions to third countries, there is no insurance coverage for any of the participants in the event someone is forced to remain in the return country due to emergency hospitalisation. These issues demand immediate resolution through ongoing and appropriate training, as well as through special legislative and organisational provision for covering medical care and hospitalisation for all escorts and operation participants, in the event of an emergency medical issue.

3.2.f. Means of restraint

Article 1 JMD 4000/4/57 "2. The Greek Ombudsman also ensures compliance with the principle of proportionality by competent authorities, without exceeding what is absolutely necessary, particularly when implementing coercive measures, as specified. Specifically, when implementing return and removal procedures, the Ombudsman monitors in particular the compliance of competent authorities with common guidelines, the criteria and specifications issued for this purpose by the competent international organisations or EU agencies."

Starting in September 2024, the practice of using Velcro restraints on all returnees in operations by air, has been noted, without prior individualised assessment of the need for restraints. This practice, which appears to have become standard and has been observed indiscriminately in all return operations, runs **against the practice employed by the Hellenic Police throughout the previous years**, and which the Ombudsman has referred to in earlier reports.

Specifically, **the limited use of restraints during operations and the individualised assessment of their need** has been noted in the annual Special Reports on "Return of Third country nationals"⁴² since 2020 as **the main positive development in the Hellenic Police actions**. The same finding was highlighted

42. See for example: The Greek Ombudsman, Special Report 2020, "Return of Third-County Nationals" (p. 10) & Special Report 2021, "Return of Third-County Nationals" (p. 20) at www.synigoros.gr.

in the report by the Fundamental Rights Agency (FRA) for 2024⁴³, which stated that *“The main findings by monitoring bodies concern the use of coercive measures, which should be based on individual risk assessments and not be an arbitrary preventive measure. Cyprus, France, Greece and Portugal reported positive developments on the use of restraints following monitoring reports and recommendations to the authorities.”*

While exercising his competence, the Greek Ombudsman tries to ensure compliance with the principle of proportionality by the competent authorities, who should not exceed what is absolutely necessary, particularly when implementing coercive measures, as specified. The provisions of Article 8(4) of the Returns Directive dictate that *“Where Member States use – as a last resort – coercive measures to carry out the removal of a third country national who resists removal, **such measures shall be proportionate and shall not exceed reasonable force.** They shall be implemented as provided for in national legislation in accordance with fundamental rights and with due respect for the dignity and physical integrity of the third country national concerned”*. The Greek legal order, which incorporated this provision with Article 23 of L. 3907/2011, provides for individualised assessment before the use of coercive measures, the principle of proportionality and respect for rights: Article 23(4) *“In cases where the third country national **resists the execution of the return decision**, the competent authorities **may** implement coercive measures against the third country national, as these are provided for in Article 80(4) of L. 3386/2005 and JMD 4000/4/46-A dated 27.7.2009 (GovGaz 1535/B). In such cases, measures are taken with respect for the person’s privacy and fundamental rights, without exceeding what is necessary and in accordance with the principle of proportionality”*.

Similar provisions are included in the Frontex Code of Conduct for Return Operations⁴⁴. Article 7 stipulates that the use of coercive measures must be legal, necessary and proportional, not exceeding reasonable force, and with due respect to the returnee’s rights, dignity and physical integrity. The use of coercive measures takes appropriate account of the individual circumstances of each person, such as their vulnerable condition. Further, paragraph 2 of the same article states that coercive measures may be used, only when strictly necessary, on returnees who refuse or resist re-

43. FRA Forced Return Monitoring Systems – 2024, available at <https://fra.europa.eu/en/publication/2024/forced-return-monitoring-systems-2024-update?page=3#read-online>.

44. Frontex: Code of Conduct Code for Return Operations and Return Interventions Coordinated or Organised by Frontex, available at https://www.frontex.europa.eu/assets/Key_Documents/Code_of_Conduct/Code_of_Conduct_for_Return_Operations_and_Return_Interventions.pdf.

moval or in response to an immediate and serious risk of the returnee escaping, causing injury to themselves or to a third party, or causing damage to property. Coercive measures likely to compromise or threaten the possibility of the returnees to breathe normally are prohibited. Based on a dynamic risk assessment, the relevant escort leader periodically reviews the continuing necessity and proportionality of deploying coercive measures and particularly of applying means of restraint when these are used for prolonged periods.

The recommendations of the Frontex Fundamental Rights Officer⁴⁵ also state that *“Member States **should refrain from using restraints as a preventive measure when conducting return operations and encourage the introduction of relevant changes in the national legislation in this regard**”*. The Ombudsman consistently emphasises the need to respect the principle of proportionality when imposing suppression/restraint measures and the need for vigilance in ensuring that the rights of returnees are upheld by the escorts and those in positions of increased responsibility.

It is, therefore, recommended that, instead of universal restraint, care should be taken to **strengthen the number of escorts** so as to increase the safety of each operation overall and avoid the indiscriminate use of restraints to compensate for staff shortages. Also recommended is **the use of effective de-escalation techniques before resorting to the use of force and coercive measures**, as recommended by the Frontex Fundamental Rights Officer⁴⁶.

3.3. INDIVIDUAL RETURN OPERATIONS

For the first time, the Greek Ombudsman in 2024 took part with monitors on eight (8) individual return operations. These operations are conducted using commercial flights, with the participation of two or three police escorts.

Specific observations:

- The short notice of the returnees regarding their removal, led in many cases to their confusion, negative reactions, even resistance, as they were

45. Frontex: Observations to Return Operations conducted in the 1st half of 2023 by the Fundamental Rights Officer, available at <https://prd.frontex.europa.eu/document/observations-to-return-operations-conducted-in-the-1st-half-of-2023-by-the-fundamental-rights-officer/>.

46. Frontex: Observations to Return Operations conducted in the 1st half of 2024 by the Fundamental Rights Officer: Specific Recommendations, *“Member states to prioritise effective de-escalation techniques before resorting to the use of force and coercive measures”*.

surprised. Instead, a timely advance notice would allow each returnee to understand the process, inform their family and friends, gather their personal belongings and find out more about the Frontex reintegration programme. Last-minute notification leads to confusion which in turn can lead to self-harm, use of violence against escorts or other forms of tension – particularly when a commercial flight is involved.

- The presence of an interpreter on all return operations to Egypt was very helpful for returnees to understand the process and to communicate (when permitted to do so) with their families.
- There was no provision for how returnees would communicate with their loved ones and notify them of their return.
- Scheduled flight times and arrivals in the country of origin during the night⁴⁷, hinders the smooth organisation of the operation: returnees seemed to be taken off guard, and were trying to find a way to communicate to their fellow nationals, to bring them their personal belongings, trying to notify their relatives in the country of origin, to want to contact an attorney, etc.
- There did not appear to be any procedure in place for a prior medical assessment and issuance of the fit-to-travel document, other than the verbal information to monitors that the procedure had already taken place.
- There was an accompanying physician on two (2) operations for returnees with health issues (psychiatric history - stroke).
- On some operations, no arrangement was made to provide food/water before the removal, aside from what was offered in-flight.
- There was no timely, comprehensive and clear information about the Frontex reintegration allowance programme. So, returnees did not understand the framework and/or did not ask to be included in the voluntary returns programme, and others.
- Metal handcuffs, Velcro or body cuffs were used as restraints, and even head protection (helmets) in cases of protest or resistance by the returnees during the operation.
- There was no provision for a wheelchair or use of a ramp for disabled persons at the Attica Aliens Directorate in the case of a returnee with difficulty walking (hemiparesis).

47. For example, a flight to Egypt departs at 00:30 am (arriving at 02:00 am); for Algeria, the returnee was awakened and informed at 02:00 am; for Poland, the returnee was awakened and informed at 03:00 am.



4. ADMINISTRATIVE DETENTION PENDING RETURN: FACILITIES AND PROCEDURES

Article 3 JMD 4000/4/57 (...) "2. While exercising his competence, the Greek Ombudsman has unrestricted access to any detention, waiting or transit area throughout the Greek territory, ... Specifically, in exercising his assigned competence, the Ombudsman communicates unhindered with detainees and agency staff, and has access to documents, all data in personal detainee files and to any related electronic or physical record, in accordance with applicable law. 3. The Greek Ombudsman specifically checks whether detainees awaiting return are being treated humanely and with dignity, if they have received appropriate and timely information, at every phase of the procedure, about the phase they are currently in and about their rights, and verifies that their effective exercise of said rights is safeguarded, that they have undergone the necessary medical assessments and have received any needed healthcare or psychosocial support. Regarding unaccompanied minors in particular, he checks whether they have undergone the necessary psychosocial assessment, that a social history has been taken and whether their family or a suitable body to provide care and accommodation at the country of return has been found..."

4.1. ISSUES OF DETENTION LAWFULNESS

The Greek Ombudsman monitors the forced return/deportation procedure – from the issuance of the relevant decision through its implementation. As part of his general competence, he investigates complaints about return and detention procedures, while the Returns Monitoring Team conducts on-site visits to PROKEKA or Police Stations and Directorates, where it inspects the

detention areas, speaks with detainees and has unrestricted access to all information in their administrative files. Inspections check to see that all relevant provisions of the Returns Directive and L. 3907/2011 are being observed, as they apply to lawfulness and the length of detention, to a separate detention from criminal detainees, to a humane and dignified treatment, to proper information about rights and access to legal assistance and to healthcare.

The lawfulness of the decisions imposing and continuing the detention measure is determined by the substantive and procedural rules of national law, the Return Directive and Article 5 of the ECHR⁴⁸. Based on the rules shaped by ECtHR case law, detention for the purpose of expulsion is justified only when relevant procedures are in progress and there is a real prospect that the expulsion will be implemented. If due diligence is not exercised during removal procedures, the detention ceases to be legal. Detention is also illegal when the interpretation of the relevant legislation on imposing detention is irrational or arbitrary. Additionally, the detention must not be **arbitrary**, which means it must be carried out in good faith, it must be closely connected to the ground of detention, the place and conditions should be appropriate and the length of detention should not exceed the length of time that is reasonably required for the purpose pursued⁴⁹.

The Return Directive specifies that authorities should first examine whether detention is the only measure they could take, having exhausted the possibility of imposing **alternative measures** (Article 16 of the Directive). In 2020⁵⁰, the Greek legislator amended Article 30 of L. 3097/2011 incorporating the Direc-

48. Article 5(1) of the ECHR, which provides for the deprivation of liberty based on procedures prescribed by law. Indent (f) of the provision refers to the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

49. See "Guide on Article 5 of the European Convention on Human Rights, 28/2/2025", ECtHR, available at https://ks.echr.coe.int/documents/d/echr-ks/guide_art_5_eng. Applicable examples are cases brought against Greece, where the ECtHR determined the detention of an asylum seeker for the purpose of deporting him or her was arbitrary, if national law does not allow for deportation pending a decision on asylum, R.U. v. Greece, no.2237/08, §§ 88-96, 7 June 2011; Ahmade v. Greece, no.50520/09, §§ 142-144, 25 September 2012.

50. Article 30(1) of L. 3907/2011 was amended by Article 51 of L.4686/2020 (A/96/12.5.2020). The recital to regulating Article 46 of the Ministry of Justice draft legislation submitted on 22.07.2024, now L. 5130/2024, proposed replaced Article 30(1) of L. 3907/2011 (A/7) on detention to safeguard the principles of suitability, necessity and proportionality of the administrative measure of detention, as part of the removal process, in line with the spirit of Article 15 of Directive 2008/115/EC, based on which detention must be used only as a last resort and for the purpose of facilitating the successful removal of illegally staying third country nationals. Nevertheless, this proposal was withdrawn during discussion in plenary session.

tive. Unfortunately, by this amendment the Greek law reverses the letter and purpose of the Directive, by prioritising detention instead of examining alternative measures. It specifies, however, in line with Article 15 of the Directive, that, “*Detention is imposed and maintained for the period that is **absolutely necessary** to complete the removal process, which progresses and is executed with due diligence. In all cases, the availability of **suitable detention facilities** and the possibility of ensuring **dignified living conditions** for detainees shall be taken into account when imposing or continuing the detention measure*”. Moreover, according to the subsequent provisions of the Directive (Article 15(5) and (6), when it appears that a reasonable prospect of removal no longer exists, detention ceases to be justified, while in all cases after six months, **an extension of detention is justified only if** the authorities have made every reasonable effort and the third country national refuses to cooperate or there are delays in obtaining the necessary documentation from the country concerned⁵¹.

In interpreting these specific provisions, the Court of Justice of the European Union (CJEU) held that detention cannot be extended beyond a **reasonable time period to implement the deportation**, that it must be as brief as possible and that it is not justified solely by the fact that a third country national continues to remain in the territory of the Member State, despite a removal order⁵². It also reaffirms that the detention is not legal when there is no reasonable prospect for removal⁵³, that “*Article 15 of Directive 2008/115 must be inter-*

51. Art.15 “... 4. When it appears that a reasonable prospect of removal no longer exists for legal or other considerations or the conditions laid down in paragraph 1 no longer exist, detention ceases to be justified and the person concerned shall be released immediately. 5. Detention shall be maintained for as long a period as the conditions laid down in par. 1 are fulfilled and it is necessary to ensure successful removal. Each Member State shall set a limited period of detention, which may not exceed six months. Each Member State shall set a limited period of detention, which may not exceed six months. 6. Member States may not extend the period referred to in paragraph 5 except for a limited period not exceeding a further twelve months in accordance with national law in cases where regardless of all their reasonable efforts the removal operation is likely to last longer owing to: a) a lack of cooperation by the third country national concerned, or b) delays in obtaining the necessary documentation from third countries”.

52. C-61/11 (El Dridi). With reference to the principle of proportionality, as it was shaped by ECtHR case law and the eighth of the “*Twenty Guidelines on Forced Return*” adopted in 2005 by the Committee of Ministers of the Council of Europe and mentioned in recital 3 of the Directive’s preamble.

53. C-357/09 PPU (Kadoev) par. 67 “*Article 15(4) of Directive 2008/115 must be interpreted as meaning that only a real prospect that removal can be carried out successfully, having regard to the periods laid down in Article 15(5) and (6), corresponds to a reasonable prospect of removal, and that reasonable prospect does not exist where it appears unlikely that the person concerned will be admitted to a third country, having regard to those periods*”.

*preted as **precluding**, first, a third country national being detained on the sole ground that he or she is the subject of a return decision and cannot provide for his or her needs; second, such detention taking place without a reasoned decision ordering detention having first been adopted and without the necessity and proportionality of such a measure having been examined; third, there being no judicial review of the lawfulness of the administrative decision ordering detention; and, fourth, such detention being capable of exceeding 18 months and being maintained when the removal arrangements are no longer in progress or are no longer being executed with due diligence”.*⁵⁴

The CJEU reaffirmed the obligation of authorities to review **in principle the offer of voluntary departure and possible alternative measures** and that administrative detention should be imposed only if enforcing the return decision is placed at risk by the conduct of the third country national⁵⁵. The ECtHR recently held that authorities must duly justify the reason for detention while also examining alternative solutions, as well as verify whether the removal can ultimately take place; otherwise, the detention is in violation of Article 5(1) of the ECHR. In fact, in this same case, the ECtHR held that the judges reviewing the **lawfulness of extending detention** must consider not only the Administration’s assessment of the risk of absconding by the returnee, but also the views of the returnee himself or herself, and they should also review the actions the Administration has undertaken to implement deportation or whether the latter is indeed a realistic prospect.⁵⁶

It can be inferred from the above-referenced legislation and case law that police authorities should first examine possible alternatives to detention, while the fact that the time within which the removal must be successfully implemented is a maximum of 18 months, does not justify administrative practices or interpretations that the detention can exhaust this limit through three-

54. C924/19 PPU and C925/19 PPU, FMS et al. Judgment 14/5/2020, par.-281.

55. C-61/11(El Dridi). Regarding the risk of absconding, see also Case C-528/15, where the provisions for the Dublin Regulation were analysed.

56. ECtHR, G.H. v. Hungary (14.11.2024, application no. 75727/17). Detention for return of an Iraqi national, following the rejections of his asylum request, though he had a partner who was a Hungarian national. This three-month detention awaiting removal was held to be unlawful, since the authorities had at their disposal other measures to ensure his availability for implementing his removal to Iraq.

month extensions⁵⁷, without the existence of the necessary conditions. If it becomes clear from the start or later that removal cannot be implemented for whatever legal or other reason not connected to the returnee's refusal to co-operate or any procedural delays by the authorities in the returnee's destination country, detention must not be imposed or must be lifted. The imposition or the extension of detention is not justified when removal operations are not being carried out to the countries of origin, or when detention conditions and facilities are unsuitable, or when authorities do not demonstrate due diligence for removal, or when the authorities at the destination country not only delay, but do not cooperate on the issuance of travel documents.

Relative to this, the Greek Ombudsman has noted that, since return operations are not being conducted to the country of origin, such as Afghanistan⁵⁸ or Syria⁵⁹, administrative detention does not align from the outset with the condition of lawfulness that there be a reasonable prospect of removal, also taking into account the fact that readmissions to Turkey have been suspended

57. Article 30(3) of L. 3097/2011, *"In any case, the existence of conditions for detention are re-examined ex officio every three months, by the agency issuing the detention decision. In the event the length of detention is extended, relevant decisions are notified to the president of the administrative first instance court under par. 2, or the first instance judge designated by the president, who will determine the legality of the detention extension and promptly issue a judgment set out in summary in the court minutes, a copy of which is notified directly to the competent police authority."*

58. According to the UN High Commissioner for Refugees (UNHCR), Afghanistan remains in a state of crisis, and among the most urgent globally. Human rights violations, economic instability, acute food insecurity and natural disasters are expected to threaten the region's stability throughout 2025. See the situation overview report on Afghanistan, 1/2025 1/2025, available at <https://www.unhcr.org/emergencies/afghanistan-emergency>.

59. F. 364551 Administrative detention at the Kos PROKEKA of Syrian nationals following return decisions for readmission. Due to political upheavals to Syria, the *Greek National Security Council* decided to suspend rendering of asylum decisions for Syrian nationals. See also announcement by the Minister for Migration: *"...We have put asylum decisions on hold until conditions stabilise..."*, Migration Gov 19/12/2024, available at <https://migration.gov.gr/n-panagiotopoylos-sto-open-i-ellada-prepei-na-parakolythei-stena-tis-exelxeis-sti-syria-pagosame-tin-ekdosi-apofaseon-asyloy-mechri-na-epanastathmistoy-n-ta-dedomena/>. Meanwhile, the UNHCR called on States not to initiate forced returns of Syrian nationals, see *Position on Returns to the Syrian Arab Republic*, 12/2024, available on the website <https://www.refworld.org/policy/countryspos/unhcr/2024/en/149254>: "UNHCR for the time being continues to call on States not to forcibly return Syrian nationals and former habitual residents of Syria, including Palestinians previously residing in Syria". These recommendations were also addressed to the Presidencies of the Council of the EU. See *"UNHCR'S 2025 Recommendations for the Polish and Danish Presidencies of the Council of the European Union (EU)"*, 13/1/2025, available at <https://www.refworld.org/policy/polrec/unhcr/2025/en/149353>.

since March 2020⁶⁰.

Besides, it was evident that the largest group among administratively detained third country nationals in 2024 – about one in three (1 in 3) – were Egyptian nationals, while there are no organised European or national air return operations to that country, other than some individual return operations conducted on commercial flights. The Ombudsman received complaints from detained Egyptian nationals who had been in a state of **administrative detention for more than 6 months, with some as long as 8 or 9 months**, without any information on the implementation of their removal, and expressed their desperation⁶¹.

The Ombudsman also received complaints about the administrative detention of 40 Egyptian nationals who, once they were rescued, were not taken to a Reception and Identification Centre; instead, based on the deportation/readmission decisions issued against them immediately following their rescue, they were taken into administrative detention at a PROKEKA, initially as third country nationals awaiting deportation and then as applicants for international protection⁶². **This practice of issuing a deportation decision before subjects undergo reception and identification procedures** and file an application for asylum, and after the asylum application's rejection, having again a return decision issued, leads to months-long detention, particularly for newly arrived persons. Based on "alternating" decisions, people are detained, either awaiting deportation, or as applicants for international protection, or again awaiting return. On the contrary, it must be ensured that newly arrived persons undergo first reception and identification procedures under Article 38(1)

60. See Council of State 177/2023: "From March 2020 until today [i.e. a period of time exceeding 20 months], returns from Greece to Turkey have been suspended", and in fact with no distinction as to the legal grounds (international agreements or EU-Turkey Joint Declaration), based on which returns are ordered. Nor can the Public Sector's claim – that the contested act is not groundless in this regard – be admitted, primarily because the arguments – that its (joint declaration of 18.3.2016) non-implementation is temporary 'and more or less justified (due to circumstances)' – ('Turkey is temporarily, due to the Covid pandemic [a global and indisputable fact], has not been accepting readmissions recently') are not supported by the facts in the case file. Nor is it evident that the competent authority examined the possibility that Turkey would change its position regarding this issue in the near future".

61. F. 360770, 359985, 359897, 363055, 359897, 359896, 359894, 359836.

62. F. 348588, 348399, 349648, 350281. They were not taken to Reception and Identification Service (RIS) facilities, like the other returnees travelling on the same boat.

of L. 4939/2022⁶³; particularly in cases of shipwreck survivors, non-compliance with this provision and their direct subjection to administrative detention overlooks their need for vulnerability assessment and the provision of appropriate reception conditions⁶⁴.

At the same time, **the detention duration depends on how quickly the examination** of applications for international protection (asylum) is completed or a residence permit is issued (migration). For example, the hold on providing interpreters for asylum procedures for a sufficient period of time in 2024 led to suspension of nearly all asylum procedures, with continued detentions clearly running counter to Article 51 of L. 4939/2022⁶⁵ and resulting in an increase in the overall detention time of third country nationals as applicants and as returnees. Additionally, the lack of access by the Hellenic Police to the Asylum Service's Alkyoni-II system creates a need for communication between the two agencies, leading to further delays (e.g. to verify that the person arrested has filed documents to legalise his or her stay). Therefore, better coordination is needed between the Ministry of Migration and Asylum (and the Directorates of Aliens and Migration at Decentralised Administrations) and the Hellenic Police, for more rapid response to its requests.

4.2. LACK OF FREE LEGAL ASSISTANCE

To ensure detainees are “heard” before administrative and judicial authorities regarding the return decision and the detention decision, the approval of its

63. The article states that newly arrived persons in Greece “are immediately taken to a Reception and Identification Centre (RIC) or a Closed Controlled Access Centre (CCAC) by competent police or coast guard authorities. The transport may take place under the supervision of the Reception and Identification Service, in the event competent police or coast guard authorities are unavailable, or to ensure the rapid and appropriate transport of persons from vulnerable groups”.

64. Article 41, L. 4939/2022 Special Report on Returns 2021, p. 7, as well as Ombudsman documents related to case files F. 311575/2022, 311252/2022, 320954/2022, 328955/2022.

65. The article specified that “Detention of those applying for international protection (asylum) is imposed for the absolutely necessary period of time. Delays in administrative procedures which cannot be attributed to applicants do not justify continued detention”.

extension⁶⁶, and for the purpose of submitting “objections”⁶⁷, they must be supported with **legal assistance. This assistance should** be provided free of charge, if they cannot afford it. The Return Directive **requires Member States to grant legal assistance free of charge** upon request, in accordance with national legislation (Article 13)⁶⁸. Similarly, Article 28 of L. 3907/2011, as in force, states that “*legal assistance and representation is granted free of charge upon request, in accordance with the provisions of L. 3226/2004 (A/24), provided the judge determines that the application for the annulment of the administrative decision is not manifestly inadmissible or manifestly unfounded*”.⁶⁹

As to the returnee’s right “to be heard” by the administration regarding the extension to detention, the CJEU has held that Article 15(2) and (6) of the Directive, “*must be interpreted as meaning that, where the extension of a deten-*

66. Article 30(6) 3. “*In any case, the existence of conditions for detention are re-examined ex officio every three months, by the agency issuing the detention decision. In the event the length of detention is extended, relevant decisions are notified to the president of the administrative first instance court under par. 2, or the first instance judge designated by the president, who will determine the legality of the detention extension and promptly issue a judgment set out in summary in the court minutes, a copy of which is notified directly to the competent police authority*”.

67. Article 30(2) of L. 3907/2011. The third country national being detained, along with the rights granted him or her under the Administrative Procedure Code, can also seek remedy against the detention decision or decision to extend detention before the presiding judge or the first instance administrative judge he or she designates, in the region where the third country national is being detained. (...) The third country national is released immediately if his or her detention is deemed to be illegal.

68. Directive 115/2008 Article 13 Remedies 1(...). 3. *The third country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance.* 4. *Member States shall ensure that the necessary legal assistance and/or representation is granted on request free of charge in accordance with relevant national legislation or rules regarding legal aid, and may provide that such free legal assistance and/or representation is subject to conditions as set out in Article 15(3) to (6) of Directive 2005/85/EC.*

69. Article 28 L. 3907/2011. Remedies: (Article 13 of the Return Directive) “1. *The third country national concerned shall be afforded an effective remedy to appeal return decisions issued by police authorities (...)* 2. *The administrative officers competent to rule on appeals (...). Temporary judicial protects is provided as specified in L. 3900/2010 (A/213) and PD 18/1989 (A/8).* 3. *The authorities competent for issues related to third country nationals are required to provide information and any possible assistance to those nationals requesting legal advice, attorney representation or linguistic assistance to allow them to exercise their rights under this article.* 4. *The necessary legal assistance and representation is provided free of charge upon request, in accordance with the provisions of L. 3226/2004 (A/24), provided the judge determines the application for annulment is not manifestly inadmissible or manifestly unfounded, when applying, mutatis mutandis, Article 15, pars. 3 to 6 of Directive 2005/85/EC, as incorporated in the Greek legal order with PD 114/2010 (A/195). This paragraph enters into effect on 24.12.2011.* 5. *An application for annulment of return decisions is filed in accordance with Article 15(1) of L. 3068/2002 (A/274).*”.

*tion measure has been decided in breach of the right to be heard, the national court responsible for assessing the lawfulness of that extension decision may order the lifting of the detention measure only if it considers, in light of all of the factual and legal circumstances of each case, that the infringement at issue actually deprived the party relying thereon of the possibility of arguing his defence better, to the extent that the outcome of that administrative procedure could have been different*⁷⁰.

With regard to providing free legal assistance to low-income citizens, L. 3226/2004 specifies as a precondition for third country nationals and stateless persons that they should be lawful residents or habitual residents of an EU Member State. The documents that the applicants must submit, include tax records and proof of residence, which must be filed together with an application at least 15 days prior to the hearing or the act for which legal assistance is being requested. Based on these provisions, therefore, a request for free legal assistance during the return or detention decision procedure is practically impossible for the vast majority of administratively detained third country nationals awaiting return.

It is recalled that the ability to obtain legal assistance constitutes a **procedural guarantee** of the returnees' rights, the proper compliance of legislation and the avoidance of unlawful and arbitrary detention. It equally consists of a condition for exercising the right to effective protection under Article 47 of the EU Charter of Fundamental Rights. Without legal assistance, it is difficult for third country nationals to understand the complicated return and detention procedures, as all documents are in Greek, there are strict deadlines and conditions for filing appeals and it is also difficult for them to pay court costs. Member States or on non-governmental organisations can rely on their state budget and the Asylum, Migration and Integration Fund (AMIF), to run free legal assistance programmes for returnees. However, such funding, particularly for NGOs, is not always constant, and there are gaps and delays in payment. Based on data collected by FRA in 2019, in practice, returnees, third country nationals in Greece, **do not benefit from free legal assistance for return decisions**⁷¹, a fact confirmed by all on-site visits to Police departments and PROKEKA; the same is noted with regard to submitting objections against administrative detention.

70. C-383/13 PPU.

71. See report by EU Agency for Fundamental Rights (FRA) "Legal aid for returnees deprived of liberty", available at https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-legal-aid-in-return_en.pdf.

In response to the Report of the Council of Europe Committee for the Prevention of Torture, the Greek government in summer 2024 announced that, for the AMIF funding period 2021-2027, special provision has been made to hire interpreters as part of the “*linguistic support*” programme and lawyers as part of the free legal assistance programme⁷².

It is necessary, however, for the related national provisions to be amended, for the case that returnees request for free legal assistance, particularly detainees. Additionally, a ministerial decision is anticipated as stipulated in Article 39(2) of L. 3907/2011, as amended by Article 46 L. 5130/2024 (A/127/01.08.2024): “2. A decision of the Minister of Citizen Protection and co-competent ministers in each case regulates issues that apply to the procedure and conditions for providing legal assistance, and generally any specific issue that arises when applying Article 28(3)⁷³”. It is noted, however, that par. 3 of this article does not refer to free legal assistance. Instead, free legal assistance is provided for in par.4 of art.28.

4.3. CONDITIONS OF DETENTION AT PROKEKA AND POLICE DIRECTORATES

In 2024, the Greek Ombudsman conducted random on-site visits to three PROKEKA: in Kos (23.05.2024), Amygdaleza-Attica (25.11.2024) and Tavros-Attica (02.12.2024). The Ombudsman also visited detention facilities at four Police Departments for migration management (MMDs) in Thessaloniki: Agios Athanasios (01.10.2024), Thermi (04.10.2024), Mygdonia (05.11.2024) and Thessaloniki-Kordelio (06.11.2024), as well as the Thessaloniki Courts Police Transfer Sub-Directorate (06.11.2024).

The Ombudsman’s detailed findings regarding the detention facilities and

72. Council of Europe: Committee for the Prevention of Torture, Response of the Greek Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Greece from 20 November to 1 December 2023, CPT/Inf (2024) 22, 12 July 2024, (p. 7) available at <https://www.refworld.org/reference/countryrep/coecpt/2024/en/148304>.

73. “ (...) 3. The authorities competent for issues related to third country nationals are required to provide information and any possible assistance to those nationals requesting legal advice, attorney representation or linguistic assistance to allow them to exercise their rights under this article. 4. The necessary legal assistance and representation is provided free of charge upon request, in accordance with the provisions of L. 3226/2004 (A/24), provided the judge determines the application for annulment is not manifestly inadmissible or manifestly unfounded, when applying, *mutatis mutandis*, Article 15, pars. 3 to 6 of Directive 2005/85/EC, as incorporated in the Greek legal order with PD 114/2010 (A/195). This paragraph enters into effect on 24.12.2011.”

conditions are included in his special report as part of his competence as the National Preventive Mechanism against Torture and Inhuman Treatment (L. 4228/2014 – OPCAT). In the present Report, only some specific and general observations related to detention procedures pending return, are noted.

General observations:

- Firstly, the problem remains that one (1) in ten (10) detainees are not held at Pre-Removal Centres (PROKEKA), but at Police Stations. In fact, the Ombudsman received complaints again in 2024, about detentions at Police Station facilities⁷⁴. These facilities are completely unsuitable for detentions beyond just a few hours, due to their size, lack of outdoor exercise space and the fact that administrative detainees may be held together with suspects in criminal cases. Their unsuitability for administrative detention of returnees is confirmed not only by the Ombudsman's inspections, but also consistently by ECtHR case law⁷⁵. On-site visits to Police departments for migration management (MMDs) found damaged and unsuitable facilities, insufficient daily amount for the provision of food for detainees and an absence of interpretation.
- It was found that detention of families at PROKEKA continued into 2024, though not as a standard and extensive practice, but in small numbers and for a few days, according to information given by the authorities. Specifically, families were detained at the Amygdaleza PROKEKA in unsuitable living conditions, especially in cases where children were involved, as the wing was isolated, fenced off with barbed wire, and without suitable facilities. It is reiterated that detaining families, even for a few days, must be

74. F. 359234 Administrative detention of an Iraqi national for at least 4 days at the Agios Panteleimonas Police Station before his transfer to PROKEKA. F. 347725 Administrative detention of a Turkish national at the Chania Police Station for at least two months, after his release from a correctional facility, though he had been declared judicially innocent and though he had filed an application for asylum. Complaints were also received about the administrative detention of applicants for international protection at Police Directorates: F.349137 detainee at the Heraklion Transfer Directorate who had filed for international protection, a husband and father of recognised refugees. F.352966, 352967: At the Argolida Police Directorate, detention of two Egyptian nationals who were applying for international protection, after being found innocent in court of causing the shipwreck at Pylos in June 2023.

75. See *Horshill v. Greece*, judgment of the ECtHR of 01/08/2013 (application no. 70427/11), par. 47: "(...) the premises of the police are not appropriate places for the detention of people awaiting the application of an administrative measure. By their very nature, they are places intended to accommodate persons for very short periods". See also recent judgement on an administrative detention exceeding one month at a Police Station, which constitutes a violation of Article 3 of the ECHR, *Muhammad v. Greece* 25.04.2024 (application no. 14606/20).

avoided, by law (Article 32 of L. 3907/2011)⁷⁶. Particularly where newly arrived persons are concerned, they must not be placed in detention, but must initially undergo reception and identification procedures (Article 38 of L. 4939/2022), during which general regulations about material reception conditions and healthcare are followed (Article 59 of L. 4939/2022)⁷⁷. Though their detention lasted a few days, the needs of this population (children, elderly people, single-parent families) are greater and cannot be met by the services and facilities of a PROKEKA (a typical example is the lack of facilities for children, e.g. a playground, or the lack of functionality of these facilities).

- A decrease in the number of detainees was noted in 2024. The reason offered during on-site visits was the postponed removals of Syrian nationals and the option for returnees, by exception, to apply for a residence permit, despite their prior illegal entry and stay; this followed a relevant provision in late 2023 allowing for residence permits for employment, granted to those who had been staying in Greece for three years and had an employer's declaration verifying their employment⁷⁸.

76. Article 32 Detention of minors and families (Article 17 of the Return Directive) "1. Unaccompanied minors and families with minors shall only be detained as a measure of last resort, only if other adequate but less burdensome measures cannot be implemented for the same purpose, and for the shortest required period of time. 2. Families detained pending removal shall be provided with separate accommodation guaranteeing adequate privacy. 3. Minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to education, in accordance with Article 72 of L. 3386/2005. 4. Unaccompanied minors shall as far as possible be provided with accommodation in institutions with personnel and facilities which take into account the needs of persons of their age. 5. The best interests of the child shall be a primary consideration in the context of the detention of minors pending removal".

77. Article 59(1) General regulations about the material reception conditions and healthcare. "1. (...) Material reception conditions may be provided either in kind or in the form of an allowance, and ensure applicants of an adequate living standard that guarantees their sustenance and protects their physical and mental health, while exhibiting respect for human dignity. The same living standard is ensured in the case of applicants in detention. Particular care is taken where vulnerable persons are concerned, in accordance with Article 1 indent 33 of this Code".

78. Article 193 L. 5078/2023: Granting a new type of residence permit for employment to third country nationals. "1. By decision of the Decentralised Administration Secretariat, a residence permit with a right to access employment and provide services or works is granted to third country nationals who: a) hold a statement offering employment from an employer in Greece to hire them for paid work, or to provide services or works; b) were staying in Greece up until 30 November 2023 without a residence permit; c) continue to stay in Greece; and d) have been in Greece for at least 3 consecutive years before filing an application, as evidenced by documents certifying the date. (...) 4. Third country nationals who meet the conditions of this provision may file for a residence permit by 31 December 2024. (...)".

Special remarks:

4.3.a. Detention at Police Directorates

The on-site visits to Migration Management police Departments indicated that detention is imposed, as a rule, for a few days – up to five. Afterwards, the third country nationals are transferred to other detention facilities, mainly to the Thessaloniki Courts Transfer Police Sub-Directorate. Specifically, with regard to the Mygdonia MMD, which has been designated as an identification centre for unaccompanied minors found on the street, as part of the National Emergency Response Mechanism (NERM)⁷⁹, or are transferred from other Police Stations, **one to two minors are kept (detained) there per week, for a few hours, without an overnight stay**, until their identification is completed and they can be moved to an emergency accommodation facility.

There are discrete toilets and showers at every detention facility. There are built-in beds which are not sufficient and inadequate, as they are too narrow. The common practice is to provide detainees with mattresses for placement on the floor. Hot water is available from a solar panel and air conditioning for heating and cooling; in the winter, there is central heating. It was found that there was no ventilation or at least no adequate ventilation at the facilities. As a rule, cleaning is performed by cleaning crews and pest and rodent controls are carried out monthly. Bedding is provided by the Departments, but is not always sufficient. It is washed in a washing machine, and mattresses are changed regularly or are disinfected monthly. Detainees receive personal hygiene items if they request them.

As for meals, the cost per person per day is EUR 5.87. This amount was established in 2001⁸⁰, but does not reflect current prices for food and clearly **is not sufficient to cover complete daily meals** (breakfast, lunch, dinner), while most MMDs do not have a canteen where goods could be purchased at special lower prices. As a rule, food for detainees is obtained from the local market (restaurants, fast food outlets).

79. Pursuant to Article 66(33) of L. 4939/2022. “National Emergency Response Mechanism. (NERM). (...) 2. The aim of NERM is to locate and immediately refer and place unhoused and unaccompanied minors or minors living in precarious conditions in emergency accommodation, in application of Article 43 of L. 4760/2020 (A/247) on abolishing protective custody of unaccompanied minors”.

80. As for the cost of meals for detainees at police detention facilities, the daily cost per person for meals (Greeks and third country nationals) is laid down in Article 152 of the Royal Decree of 15-05-1959 “Ratification of the Gendarmerie Financial Services”, Legislative Decree 116/1969 “On expenditures for persons in detention” and JMD 2/30866/022 of 03-08-2001 of the Ministers of Finance and Public Order, and currently amounts to EUR 5.87.

In the event medical care is needed, it is provided by the nearest Health Centres or, if necessary, by Thessaloniki hospitals. Every Department has some basic medicines to provide to detainees.

As for communication, detainees are not allowed to use their mobile phones. They use card-operated payphones located outside the cells. Lacking the ability to use interpretation, communication is conducted in English, if detainees happen to be able to communicate in English, or with gestures or assistance from other detainees. Additionally, there are audiovisual devices installed at some Departments.

As for the right to be informed about procedures and detainee rights, there is informational material posted at some Departments on the asylum and return procedures and about detainee rights, printed in multiple languages, as well as leaflets with information about NGOs services and IOM assisted voluntary returns. At some Departments, the informational material only covered the return procedures and detainee rights.

Lastly, it should be noted that conditions at the detention facility of the **Kos Police Directorate** were particularly poor. This facility is located in the basement of an old two-storey building and is separated from the open-air space by prison bars; that is, there is no wall at all. A transparent plastic surface has been placed at a short distance from the bars, but is nevertheless inadequate for protecting detainees from weather conditions. There was an unpleasant odour in the area and a good deal of waste, dirty mattresses and bedding were observed. The one available toilet was not in good condition. Cleaning is performed by the detainees themselves. Moreover, the only card-operated payphone was out of order and there was no outside exercise yard.

Observations/recommendations:

- It is recommended **to immediately increase the daily allowance**, as the current amount given by the state cannot meet the nutritional needs of adults and unaccompanied children. Given that detainees, particularly third country nationals, are often enduring financial hardship, it is essential to at least double the amount for all detainees, regardless of nationality.
- Cells should be further improved and more beds should be built.
- In the absence of interpreters, written information about asylum and return procedures, the rights of detainees and organisations that can assist them should be made more widely available in several languages.

- Lastly, it is urgent that the detention facility at the Kos Police Directorate be repaired and renovated immediately. Until then, the facility should not be used for detention as it in and of itself constitutes **inhuman and degrading treatment**.

4.3.b. Detention in Pre-Removal Centres (PROKEKA)

The needs for maintenance, repairs and renovation of the detention facilities are extensive and ongoing, particularly the repair of damages caused by time and use, and the replacement of materials and devices that diminish the living and working conditions of the detainees and the employees. There is evident wear of walls, floors, doors and wiring, pipes, beds and toilets, as well as broken window panes or heating/cooling units. In addition, due to damage to the metal containers, the nominal capacity does not reflect their actual functionality. For example, of the 1,100 places at the Amygdaleza PROKEKA, only 700 were functional. A serious problem is particularly evident with the toilets. To resolve this, authorities informed the Ombudsman that their immediate plans include the construction of common sanitary facilities (toilets/showers) to prevent the wear and tear caused by detainees' individual use.

As regards the Tavros PROKEKA, the Council of Europe's CPT noted that the detention areas consisting of rows of cells with bars are only suitable for detentions of a few days, not weeks or months⁸¹. The on-site visit found that the areas had been partly renovated, but further, significant works are needed, e.g. replacement/repair of flooring, toilets (they present a very negative image), and the doors. There was easy access to drinking water and to hot water for showers; the mattresses and bedding were in good condition, found to be clean. As to communication of detainees, there are card-operated payphones in the corridors. Last, the creation of a space with a television was a positive note, but there are no areas for exercise or entertainment.

At the Amygdaleza PROKEKA, there is access to Wi-Fi internet and mobile phones are allowed, which facilitates the communication of detainees and the passing of the time. However, shading/awnings systems are required for the outdoor areas, to make it possible to spend time there, as well as creating areas for exercise and/or activities.

At the Kos PROKEKA, detainees had access to the outdoor area, but they complained of a lack of facilities for any sporting activity. They are able to re-

81. CPT, CPT/Inf (2024)21, Report to the Greek Government on the visit to Greece carried out by the CPT from 20 November to 1 December 2023, 12 July 2024, pp. 3, 22-23 (accessible at <https://rm.coe.int/1680b0e4e1>).

tain possession of their mobile phone, but its capacity to record photographs or video has been disabled.

It is noted that in the relevant CPT report⁸², the Committee recommends that the Greek authorities extend the ability to detainees to keep their mobile phones or at least to have regular and frequent access to them, as well as to investigate the possibility of using free video calling through a *Voice over Internet Protocol* (VoIP). In conclusion, care should be taken to provide all detainees with payphone cards, as there is no other way for them to communicate with their loved ones.

The state of cleanliness of mattresses at all facilities was not good, although an effort is made to change them frequently. A serious shortage of clothing, footwear and other personal hygiene items was also observed in PROKEKA. An urgent need to ensure the supply of a sufficient number of these items to the populations staying there and to returnees is noted. Providing these goods either by the Hellenic Police or by the AEMY⁸³ will ensure dignified living conditions of detainees and a dignified travel/transfer of those included in return operations.

Additionally, the longer the period of detention, the more developed should be the activities which are offered to them (a common association room, place of worship, suitable and properly equipped outdoor yard, educational/recreational activities)⁸⁴.

The Ombudsman has already recommended that additional funding solutions be investigated to cover standard and urgent needs that arise. The renovation of the two Attica PROKEKA will improve living and working conditions of detainees and employees, increasing the actual functionality of their capacity. Concern for greater and regular funding to fully restore damages and/or replace damaged prefab containers will improve health and hygiene conditions

82. Ibid. p. 15.

83. Ibid. p. 24: "The CPT recommends that the Greek authorities ensure that every foreign national deprived of their liberty in a pre-removal facility (PROKEKA) is provided with sufficient and suitable clothing adapted to the season. This will require proper management and coordination between the relevant authorities at all levels of responsibility (Hellenic Police and the Ministry of Health)" (at <https://rm.coe.int/1680b0e4e1>).

84. Ibid. p. 25.

of detainees, particularly when detained for several months⁸⁵.

4.4. HEALTHCARE

Health status should be taken into serious consideration during the return decision-making process and when issuing an administrative detention decision. Either way, detention must in all cases be imposed, only if it is absolutely necessary and when alternative measures cannot be ordered⁸⁶. In those cases where administrative detention is decided, medical and pharmaceutical coverage is necessary to safeguard the health of the third country national and to protect public health. The provisions of Article 20 of L. 3907/2011 are critical in stipulating that the return and removal authorities *“must take due account of: (...) c) the health status of the specific third country national and comply with the principle of non-refoulement”, as well as of Article 31, that “Emergency health care and essential treatment of illness shall be provided to third country nationals in detention. Particular attention shall be paid to the situation of vulnerable persons”* (Article 16 of Directive 2008/115/EC)⁸⁷. Note that according to the ECtHR, specifically regarding detainees with serious, chronic conditions, the lack of health care raises issues falling under Article 3 of the

85. Also relevant is the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT): CPT/Inf (2024)21, Report to the Greek Government on the visit to Greece carried out by the CPT from 20 November to 1 December 2023, 12 July 2024, p. 24: *“All cells or rooms and sanitary annexes should provide decent minimum conditions in terms of hygiene and repair and be regularly maintained. In particular, broken doors, windows, heating systems, lights and/or beds as well as broken showers and toilets or leaking pipes should be repaired swiftly. To this end, the necessary funding should be made available”* (at <https://rm.coe.int/1680b0e4e1>).

86. As already noted, Article 30 of L. 3907/2011, as amended and in force, contradicts this thinking in the Directive in prioritising detention.

87. Article 52 of L. 4939/2022 *“Detention of vulnerable persons and asylum seekers with special reception needs”* states that *“1. The health, including the mental health, of detained asylum seekers who are vulnerable persons is the primary concern of competent authorities. In cases of detention, the competent authorities ensure regular monitoring and adequate support, taking consideration of their particular status, including their health”*.

ECHR, on the prohibition of inhuman or degrading treatment⁸⁸.

On-site visits also identified the detention – if only of a few days – of vulnerable persons, such as a solitary woman with disability, suffering from dementia, without adequate infrastructure to support her, as well as a woman with a serious fracture who could not move and who was held with her minor grandson after a traffic accident. In such cases, where it is found that detention does not meet the conditions of proportionality, AEMY teams make efforts, according to information provided, to refer detainees to appropriate facilities, either accommodation facilities (Ministry of Migration and Asylum facilities) or support facilities (National Centre for Social Solidarity-EKKA, psychiatric hospitals) as soon as possible. The Greek Ombudsman also received a complaint from a detainee, who was HIV-positive and could not obtain his antiretroviral treatment while he was detained, because he was not insured and did not have a valid passport⁸⁹.

At the Tavros- Attica PROKEKA, health, psychosocial support and interpretation services are provided on weekdays, 07:00-16:00, with a nurse on duty until 20:00, by the AEMY unit, staffed by 1 physician, 3 nurses, 1 health visitor, 1 psychologist, 1 social worker, 1 administrative clerk and 2 interpreters (for Urdu/Punjabi and Arabic). On Saturdays, there is a morning nursing shift. The clinic includes an examination room with basic equipment (examination table) and an office for administrative tasks. There are deficiencies in material technical equipment, such as computers and internet, and in heating. Detainees who are referred to hospitals, are transported in police vehicles.

Newly arrived detainees initially undergo screening by the health visitor, to determine whether there are any problems that require immediate attention or are infectious; an electronic medical record/card is filled out and stored in AEMY files. Those suffering from an infectious disease are held separately. Cases requiring further tests are referred to the Athens Polyclinic in Omonoia (which is part of Evangelismos Hospital). In general, every medical procedure, prescrip-

88. Judgment E.F. v. Greece, of 05.10.2023 (application no. 16127/20), regarding an HIV-positive asylum seeker at a reception centre. The ECtHR found the government in violation of Article 3, as the delay in administering the antiretroviral treatment was due to the Greek authorities, which did not exercise due diligence by failing to take all reasonable measures to protect the applicant's health. The ECtHR also took into account a letter from the Ombudsman to the authorities regarding the duty to ensure the medical care of people suffering from serious illnesses and, as a priority, people suffering from HIV and rape victims. Available at <https://www.echr.caselaw.com/apofaseis-edda/ellipis-iatriki-perithalpsi-se-prosfiga-pasxousa-apo-hiv-mazi-me-apanthropes-sinthikes-se-ellinikous-katavlistous-katadiki-gia-apanthropi-kai-ekseftelistiki-metaxeirisi/>.

89. F.362248 Amygdaleza PROKEKA. The detainee was released immediately following an intervention by the subject's attorney.

tion, referral or other action is recorded on the medical card. The AEMY physician becomes involved in any medical problem and, where necessary, a referral is made to a hospital. Similarly, emergency cases or injuries can be treated by transporting detainees to an on-duty hospital. In fact, in cases where the wait for an ambulance is impractical, a police patrol car is used for the transport.

Medications are obtained – aside from expenses covered by AEMY and the Hellenic Police – from social pharmacies (e.g. Tavros Social Pharmacy, World Pharmacists). During the on-site visit, it emerged that the detained population has greater needs for psychiatric support and administering of medication. Through partnership with OKANA, the Organisation Against Drugs, a psychiatrist visits the Centre every week, follows up on cases and prescribes medications (however, it is not possible to prescribe drugs containing narcotics that require a double-red line prescription). Additionally, a special therapist from OKANA conducts group sessions every Friday for detainees who want to take part. It was noted that only about 10% of the need for psychiatric treatment is covered, as nearly half of detainees need this treatment.

At the Amygdaleza PROKEKA, the AEMY unit is staffed by 1 physician (general practitioner), 1 dentist, 4 nurses, 2 psychologists, 2 health visitors, 2 social workers, 1 administrative clerk and 1 interpreter for Arabic and French (though there was an interpreter for Urdu-Bangla). The dentist's surgery room was found to be functional, with adequate equipment. The main problems identified were a) the lack of medications; b) insufficient equipment; c) the high number of psychiatric cases, which are seen during the visit from the OKANA psychiatrist to the Aliens Police Directorate at Tavros, Attica. Aside from medical care, there is also a great need to dispense psychiatric medications, which are not covered by the AEMY clinic supplies.

As regards psychiatric care in general, the units do not have a regular psychiatrist available, so monitoring is conducted by psychologists and medical examinations by hospitals. There is also some dysfunction with the prescription system. Medications, whether psychiatric or otherwise, are dispensed from AEMY and PROKEKA stocks, with Hellenic Police expenditures; these are not always enough to meet the needs, while there is no capacity for prescribing medications that require a special (double-line) prescription and cannot be issued due to the lack of a social security number (AMKA)⁹⁰. To address these

90. L. 4600/2019 "Modernisation and Reform of the Institutional Framework for Private Hospitals, Establishment of a National Public Health Organisation, Establishment of a National Cancer Institute and other provisions related to electronic prescribing". By exception, single/double line prescriptions are written by hand until the Electronic Governance of Social Insurance (IDIKA) computer system can be brought into line with the provisions of the law for, among others, third country nationals without an AMKA.

deficiencies, AEMY turns to social pharmacies (non-state actors).

It is noted that, with regard to the healthcare coverage and ability to issue prescriptions for administratively detained returnees (at PROKEKA or other police facilities), the provision from 2016 on issuing a Healthcare Card for Foreign Nationals was never implemented⁹¹. They are not entitled to a Social Security number (AMKA⁹²) nor a Temporary Insurance and Healthcare Number for Foreign Nationals (asylum seekers) (PAAYPA⁹³), while they do not fall under the provisions for a Temporary Healthcare Number for Prisoners at Correctional Facilities (PAYPEK)⁹⁴. They are listed as beneficiaries only in the provisions for issuing a Temporary Social Security Number (PAMKA)⁹⁵, which applies to vaccination against Covid-19; it is, therefore, very likely that such a number has not been issued to third country nationals after mandatory vaccination was abolished, and particularly to newly arrived detainees. At the same time, to register prescriptions on the e-Prescription System (EPS) and having them filled by pharmacists for third country nationals who do not have an AMKA, PAAYPA, PAYPEK or PAMKA, the physician must be a registered EPS user and must verify the patient's identity by checking their valid passport⁹⁶. However, on one hand, many administrative detainees do not have a valid passport, and on the other, AEMY physicians cannot prescribe medications – even to detainees who have an AMKA – since they do not have login credentials to access the IDIKA e-Prescription System.

The Greek Ombudsman has already recommended to the competent Hellenic Police authorities to seek solutions *ex officio* and in co-operation with the min-

91. JMD no. A3(γ)/ ΓΠ/οικ. 25132/4.4.2016 (Article 3(1)). In other words, they do not have access to all the facilities provided for in Article 33 of L. 4368/2016. “1. *Uninsured and vulnerable social groups, as defined in par. 2 hereof, are entitled to free access to public health facilities and are entitled to hospital and medical care*”.

92. Ministerial Decision 80320/109864/2023, B/7280.

93. JMD 605869/2022.

94. L. 4985/2022, Article 84 and JMD 16177/2023, B/3274.

95. Article 248 L. 4782/2021, Ministerial Decision 2981/2021, B/2197.

96. Ministerial Decision no. Δ3(α)/33959/2024 (B/3800) “*Application of the e-Prescribing System (EPS) for third country national and European citizens*” establishes the procedures for implementing the use of EPS for uninsured third country nationals staying in Greece temporarily. Physicians who are verified EPS users have access to the prescribing service. A valid passport is required to confirm the identification of third-party nationals. Meanwhile, based on Ministerial Decision 30268/2022 (B/2673/31.05.2022), physicians at National Health Service hospitals and those employed at reception and identification facilities are also entitled to prescribe medications, treatment regimens and diagnostic tests. Private physicians can write prescriptions for uninsured patients for certain conditions, provided they have user credentials for the EPS.

istries of Health, Labour and Social Insurance, and of Digital Transformation for issues related to healthcare and prescription of medications for uninsured administrative detainees. This initiative is essential for protecting the health of detainees and public health⁹⁷. In any case, it was for these reasons the legislator undertook to institute the PAYPEK and full medical and pharmaceutical coverage for uninsured prisoners at correctional facilities⁹⁸.

4.5. REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

Following its visit to Greece in November 2023, the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report in July 2024 with conclusions and recommendations regarding the detention of third country nationals at PROKEKA, Police Stations and Closed Control Access Centres (CCAC) on the Aegean Islands⁹⁹. The Committee concluded that the Greek authorities have not taken sufficient steps to address the serious structural deficiencies the CPT had highlighted on its previous visits. As to the issue of detention, the Committee urged the Greek authorities to review their approach to immigration detention and to ensure in practice that it is applied only as a measure of last resort.

According to the report, most PROKEKA were found to be unsuitable for long-term detention, they had inadequate facilities and services and deficiencies in healthcare. A lack of interpreting services, inadequate provision of information to third country nationals on their rights and status, a lack of free legal assistance and access to mobile phones were also documented. The Committee recommended the reform of the system for detaining migrants from the aspects of facilities, living conditions and trained personnel¹⁰⁰.

97. The Ombudsman sent document no. 362248/63231/2024 dated 10/12/2024 to ELAS Headquarters, requesting clarification on issues that were raised regarding healthcare and pharmaceutical care in general for detainees and particularly those who are HIV-positive.

98. The decision on granting a PAYPEK takes into consideration: "20. *The fact that this regulation ensures the healthcare coverage of uninsured prisoners at Greek correctional facilities so they can enjoy equal access to the public health system during their incarceration, in application of Article 21(3) of the Greek Constitution*".

99. CPT Report following its visit to Greece during the period 20.11.2023-1.12.2023, CPT/Inf (2024) 2021, <https://rm.coe.int/1680b0e4e1>, published on 12.07.2024. See also <https://rm.coe.int/1680b0e4e2>, Executive summary, CPT/Inf (2024) 21 – Part Response of the Greek Government, CPT/Inf (2024) 22 <https://rm.coe.int/1680b0e4e4>.

100. For details, see The Greek Ombudsman, Annual Special Report 2024, National Preventive Mechanism against Torture and Ill-treatment at www.synigoros.gr.



5. COOPERATION AND ACTIONS AT EUROPEAN LEVEL

As already set out, the Greek Ombudsman, as a constitutional authority whose mission is to protect fundamental rights and as a national mechanism for monitoring forced returns, collaborates with the European Border and Coast Guard Agency (Frontex). As Regulation (EU) 2019/1896 specifies for national external monitoring mechanisms, the Ombudsman participates with eight specialised experts in Frontex's EU Pool of Monitors on European forced return operations, while still having some reservations about the fact that this European "*pool*" essentially makes the monitoring of returns coordinated and monitored by Frontex, an "*internal*" function of the organisation. For this reason, the Ombudsman continues to collaborate with his counterparts in independent institutions of other EU Member States to enhance transparency in European operations, under a networking initiative he has undertaken (the "*Nafplio Initiative*"), which is supported by the Council of Europe¹⁰¹.

Additionally, the Frontex Fundamental Rights Officer notifies the Ombudsman, as per the same Regulation, of complaints concerning rights violations during Frontex operations enacted by the Member State authorities involved.

101. See also The Greek Ombudsman, Special Report 2019 "*Return of Third country nationals*", ch. 5 The Ombudsman's human rights initiative on European return operations of third country nationals (pp. 28-29) (www.synigoros.gr).



6. DEVELOPMENTS IN THE EUROPEAN RETURN FRAMEWORK

6.1. INDEPENDENT MONITORING OF HUMAN RIGHTS PROTECTION IN BORDER PROCEDURES

Independent monitoring during border procedures, as they are already conducted and as they are additionally introduced by the Pact on Migration and Asylum, is an institutional tool to protect fundamental rights and ensure transparency of the actions of competent state authorities.

Specifically, Article 10 of the Screening Regulation¹⁰² and Article 43 of the Asylum Procedure Regulation¹⁰³ explicitly provide for an **independent mechanism to monitor fundamental rights**, which, among other things, *covers all activities undertaken by Member States in implementing Regulations and monitors compliance with Union and international law, including the Charter, particularly in regard to access to the asylum procedure, the principle of non-refoulement, the best interest of the child and related regulations on detention, including relevant provisions in national law on detention, during the screening process.*

Specific reference is made in the Screening Regulation to the role of institutions, such as the Ombudsman: *“Member States shall put in place adequate safeguards to guarantee the independence of the independent monitoring*

102. Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817. Article 10.

103. Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU. Article 43 par. 4. *“Without prejudice and complementary to the monitoring mechanism laid down in Article 14 of Regulation (EU) 2021/2303, each Member State shall provide for a monitoring of fundamental rights mechanism in relation to the border procedure that meets the criteria set out in Article 10 of Regulation (EU) 2024/1356”.*

*mechanism. **National Ombudspersons** and **national human rights institutions, including national preventive mechanisms established under the Optional Protocol to the 1984 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)**, shall participate in the operation of the independent monitoring mechanism and **may be appointed to carry out all or part of the tasks of the independent monitoring mechanism**. The independent monitoring mechanism may also involve relevant international and non-governmental organisations and public bodies **independent from the authorities carrying out the screening**”¹⁰⁴.*

Meanwhile, according to the same Regulation, FRA issues general guidelines for Member States regarding the establishment of a monitoring mechanism and its independent function¹⁰⁵.

To that end, the Organisation initially published these guidelines in 2022¹⁰⁶, according to which national border monitoring mechanisms should have: i) Complete independence and autonomy to perform their task; ii) A broad thematic mandate to monitor all aspects of border operations at any time; iii) Sufficient powers giving them unimpeded access to monitoring of operations and to records, whenever needed; iv) Relevant interdisciplinary legal knowledge and expertise on fundamental rights and migration for managing a broad spectrum of situations, such as managing children or members of vulnerable groups; v) Sufficient resources and funding to work effectively; vi) The ability to function with transparency and to publish reports about their work, including formulating recommendations; vii) Synergies with existing monitoring mechanisms; viii) Duties equivalent to competent services for national borders and migration to consult and inform national border monitoring mechanisms.

Subsequently, in September 2024, in updating the aforementioned guidance, the Organisation issued the “*Monitoring fundamental rights during screening*”

104. See as above, Article 10 of the Screening Regulation 2024/1356 “

105. Preamble recital 27 “*The European Union Agency for Fundamental Rights established by Council Regulation (EC) No 168/2007 (15) (the ‘Fundamental Rights Agency’)* should establish general guidance as to the establishment and the independent functioning of such monitoring mechanisms. Member States should furthermore be allowed to request the support of the Fundamental Rights Agency for developing their national monitoring mechanism. Member States should also be allowed to seek advice from the Fundamental Rights Agency with regard to establishing the methodology for their national monitoring mechanism and with regard to appropriate training measures.”

106. European Union Agency for Fundamental Rights, Establishing national independent mechanisms to monitor fundamental rights compliance at EU external borders: practical guidance, Publications Office of the European Union, 2022, available at <https://data.europa.eu/doi/10.2811/03425>.

and the asylum border procedure – A guide on national independent mechanisms¹⁰⁷, and added specificity to the above framework by highlighting the importance of independence and prioritisation and use of institutions such as national ombudspersons and national torture prevention mechanisms (as well as external monitoring mechanism for forced returns) regarding the assumption of competences stemming from the Regulations¹⁰⁸.

Specifically, with regard to forced returns, in updating its Guidances in October 2024, FRA recommends that Member States consider the experience of the forced return monitoring mechanisms in view of designating national independent monitoring mechanisms under the new Pact.¹⁰⁹

Therefore, to guarantee respect for the rights of third country nationals and transparency of administrative action at the borders, priority is given to making use of the existing competence and expertise of national monitoring mechanisms, such as the Ombudsman, an explicitly¹¹⁰ constitutionally protected Independent Authority (articles 101a & 103(9)), which not only has been functioning for 27 years as the national intermediary between citizens

107. “Monitoring fundamental rights during screening and the asylum border procedure – A guide on national independent mechanisms”, 17/9/2024, available at <https://fra.europa.eu/en/publication/2024/border-rights-monitoring>.

108. See also 1.2 National ombudspersons and national human rights institutions, including national preventive mechanisms under the United Nations (UN) Optional Protocol to the United Nations Convention against Torture (OPCAT), should participate in the operation of the mechanism and should be prioritised when considering who to appoint for the monitoring and 8.3 In order to avoid duplication, the tasks and activities of the mechanism should be designed to build on existing monitoring mandates at the national (e.g. national human rights and ombuds institutions, national preventive mechanisms and forced return monitoring systems set up under the Return Directive (Directive 2008/115/EC)), regional (e.g. Council of Europe) and international (e.g. UN) levels.

109. FRA, Forced Return Monitoring Systems – 2024 update <https://fra.europa.eu/en/publication/2024/forced-return-monitoring-systems-2024-update?kw=independent>. As an example, it is noted in the Introduction that “In 2024, the EU pact on migration and asylum introduced a new obligation: by mid 2026, Member States must have independent national mechanisms to monitor fundamental rights compliance during the screening of new arrivals and asylum procedures at borders. Member States’ experience in monitoring forced returns will be helpful to design effective national independent monitoring mechanisms under the pact on migration and asylum” (...). “Although in practice the Frontex pool of forced return monitors has operational autonomy, FRA suggested that it should be managed by an independent body outside Frontex;” and in par. 2.1. “To be effective, monitoring should be carried out by an entity that is sufficiently independent from the authority in charge of returns”. (...) Those Member States that appointed national preventive mechanisms as the bodies in charge of forced return monitoring offer the strongest guarantees of independence but may face other challenges, such as limited resources.(...)”

110. In contrast to other bodies or independent authorities provided for in the common legislation.

and administration, but also has extensive experience with the special competences it performs as a National Preventive Mechanism against Torture¹¹¹ (OPCAT) and as a National Monitoring Mechanism for forced returns, with the highest assurance of independence.

6.2. INDEPENDENT MONITORING OF HUMAN RIGHTS PROTECTION IN RETURN PROCEDURES

In March 2025, the European Commission announced its proposal to replace the Return Directive with a **Regulation**¹¹² for a common system of returns for third country nationals illegally staying in the European Union. The proposal is awaiting discussion in the European Parliament and the Council.

The key points of the new draft Regulation, are common procedures for issuing return decisions and the introduction of a “*European Return Order*” (ERO), the establishment of “*return hubs*” by Member States in third countries, the significant expansion of possible countries to which foreign nationals can be forcibly returned, aside from their country of origin, a maximum detention period of 24 months (instead of the current 18), the extended length of entry bans to up to 10 years, and others¹¹³.

The positive points include the enhanced provision for an independent mechanism that will oversee forced return procedures. In any case, with regard to the suggested return hubs, both the European Commission and FRA propose the existence of an independent body or mechanism to monitor the imple-

111.L. 4228/2014 - GovGaz 7/A/10-1-2014 “*Ratification of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the UN General Assembly*”.

112. Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC- COM/2025/101 final, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025PC0101>.

113. See ECRE comments on the proposed new Regulation, available at <https://ecre.org/proposal-for-an-eu-return-regulation/>.

mentation of agreements¹¹⁴ and the protection of fundamental rights¹¹⁵ as a precondition.

The proposed Regulation also provides for:

- A) Strict safeguards, throughout the return procedures, to ensure the process is conducted with **complete respect for international standards for fundamental human rights**.
- B) Member States shall provide for **an independent mechanism to monitor the respect of fundamental rights** during removal operations. Member States shall equip the independent monitoring mechanism with appropriate means (Article 15(1))¹¹⁶.

It is noted that the Return Directive of 2008 provided for an **“effective system of monitoring forced returns”**¹¹⁷, while the new proposed Regulation expressly states that an **“independent monitoring mechanism”** is required.

114. See Questions and Answers on the Commission proposal for a new Common European System for Returns, 11/3/2025, “A clear number of safeguards would have to be part of the agreements or arrangements, such as the existence of an independent body or mechanism to monitor the application of the agreement or arrangement”, available at https://ec.europa.eu/commission/presscorner/detail/en/qanda_25_725.

115. “9. Considering the serious fundamental rights risks connected with the running of return hubs, any agreement which may be concluded with third countries envisaging the establishment of return hubs should include provisions on effective and independent human rights monitoring mechanisms;” and “121. An effective and independent fundamental rights monitoring system is preventative, as it reduces the risk of fundamental rights violations”; See European Union: European Agency for Fundamental Rights, Planned Return Hubs in Third Countries: EU Fundamental Rights Law Issues, 1/2025, 6 February 2025, available at <https://fra.europa.eu/en/publication/2025/return-hubs>.

116. Article 15 Monitoring of removal

1. Member States shall provide for an independent mechanism to monitor the respect of fundamental rights during removal operations. Member States shall equip the independent monitoring mechanism with appropriate means. 2. The independent monitoring mechanism shall select the removal operations to monitor based on a risk assessment and conduct its activities on the basis of desk review and on-the-spot checks which may be unannounced. Member States shall inform the monitoring body in advance about upcoming removal operations and ensure access to relevant locations. 3. Substantiated allegations of failure to respect fundamental rights during removal operations shall be communicated to the competent national authority by the monitoring mechanism. The competent authorities shall deal with such allegations effectively and without undue delay.

117. Recital 3 of the Return Directive refers to the Council of Europe Twenty Guidelines, from which arises (Guideline 20) the need for independent investigation against alleged ill-treatment. Therefore, for such a mechanism to be effective, it must be composed of organisations or bodies different from the authorities enforcing return (“*nemo monitor in res sua*” (see also FAiR Project, Improved Return Monitoring Guidelines (deliverable D7.1), p. 94 at https://fair-return.org/wp-content/uploads/2024/12/FAiR_D7.1_v2-subm-and-web.pdf).

Pending its entry into force in mid-2026, the Pact on Migration and Asylum, together with the new regulations, form a new European management framework which will have to take into consideration the respect of fundamental rights, in line with international and Union law. Specifically, **Regulation 1349/2024**¹¹⁸ establishing a return border procedure, will enter into effect in June 2026 and will be applied to those entering irregularly, at the “*pre-entry phase*”, if their application for international protection has been rejected through the border procedure. The articles of the Regulation refer to specific provisions of Directive 115/2008, relative to, among others, the definitions, non-refoulement, the best interests of the child, family life and state of health, the risk of absconding, the obligation to cooperate, the period for voluntary departure, the return decision, removal, the return of unaccompanied minors, and detention.

The return from the border must be completed within three (3) months from the time the request for asylum has been denied. After the three-month period has elapsed and removal has not been possible, the Return Directive is applied, and once approved, the new Return Regulation shall apply.

Specifically, regarding detention, this shall be imposed as a measure of last-resort and shall be maintained for as short a period as possible, and for only as long as a reasonable prospect of removal exists, and while arrangements are in progress and are executed with due diligence. It is noted that the period of three months is included in the maximum period of detention set out by Directive 115/2008. The Regulation assigns the European Union Agency for Asylum (EUAA) to develop guidelines on the form and application of detention alternatives. These guidelines have been issued¹¹⁹, but they are a “*soft law*”.

Lastly, it is recalled that the European Parliament also stressed with its resolution in 2020¹²⁰ that ***“the effectiveness of the Return Directive should be measured by referring to the return rate as well as by the [...] implementation of fundamental rights safeguards and respect for procedural guarantees”***.

In other words, to achieve proper and effective application of all the above

118.Regulation (EU) 2024/1349 establishing a return border procedure, and amending Regulation (EU) 2021/1148, available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401349.

119. EUAA, Guidelines on Alternatives to Detention, available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401349.

120.European Parliament resolution of 17 December 2020 on the implementation of the Return Directive (2019/2208(INI)) <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020IP0362>.

Regulations, as part of the Pact on Migration and Asylum, an independent mechanism to monitor procedures (asylum and returns) is necessary to ensure respect for fundamental rights. The notion of independence has a two-fold application: firstly, the monitoring mechanism must be independent of the body implementing screening procedures and return operations (e.g. reception and asylum services and police authorities)¹²¹; secondly, it should have institutional characteristics of independence.

At national level, the Ombudsman, as a constitutionally protected authority, offers the maximum guarantee of independence (integrity, objectivity, visibility, transparency, not subject to hierarchical control, personal and operational independence). At the same time, as a body protecting fundamental rights and exercising special competences as a National Preventive Mechanism against Torture and Ill-treatment (L. 4228/2014- OPCAT), a National Mechanism for the External Monitoring of Forced Returns (L. 3907/2011), a National Mechanism for Investigating Incidents of Arbitrary Behaviour (L. 4443/2016) and others, it already has accumulated expertise regarding the procedures involved in managing migration and asylum, through its competence to monitor every procedure, its unimpeded access to every detention facility and records, its right to conduct on-site inspections, its experience investigating complaints regarding the rights of asylum seekers, migrants, refugees and detainees, and mainly due to its guaranteed independence, through accountability and transparent operation.

Epilogue

Over the last decade (2014-2024), the Greek Ombudsman has responded to the demands of external monitoring of forced returns of third country nationals with a great sense of responsibility. As an independent and effective monitoring system, it functions as a guard rail, as the return monitors enhance the protection of the fundamental rights and dignity of returnees during forced removal operations. Through the inspections conducted and the findings and recommendations he formulates, within a national and Union framework to

121. Frontex, The Pool of Forced-Return Monitors: Guidelines for Monitors (September 2021), within the framework of the project “Forced-Return Monitoring III” (FReM III), co-funded by the Asylum, Migration and Integration Fund (AMIF) of the European Union: “Forced-return monitors should be independent from the State and/or the organisation enforcing the return so that they are not bound by the orders of the members of the return operation carrying out the forced-return operation. They should also preferably not have been involved in providing services such as legal advice or psycho-social counselling, to the returnee beforehand. These measures are important to safeguard the objectivity and independence of the monitor. Thus, when a State nominates a monitor, the monitor’s independence from that State should be guaranteed”. (p. 30).

intensify returns, the Ombudsman will continue the efforts to instil the understanding that respect of fundamental rights of all persons is an integral part of legitimacy and essential to the rule of law.



ANNEX

JMD 4000/4/57-ia, Gov. Gazette (FEK) 2870/B/24-10-2014 "Regulation on the organisation and functioning of the system of external monitoring of the procedures for the removal of third country nationals".

DECISION OF THE MINISTERS OF FINANCE, THE INTERIOR, DEVELOPMENT AND COMPETITIVENESS, PUBLIC ORDER AND CITIZEN PROTECTION

Having regard to:

- 1.** The provisions of articles 19(2) and 23(6) of L. 3907/2011 (A/7) "*Establishment of an Asylum Department and Reception Department, alignment of Greek legislation with the provisions of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third country nationals"* and other provisions, as in force.
- 2.** The provisions of articles 76 and 80 of L. 3386/2005 (A/212), "*Entry, stay and social integration of third country nationals in the Greek territory*", as in force.
- 3.** The provisions of L. 3094/2003 (A/10), "*The Greek Ombudsman and other provisions*", as in force.
- 4.** The provisions of Article 18 of L. 3293/2004 (A/231), "*Olympic Village Polyclinic, Ombudsman for Health and Social Solidarity and other provisions*", as in force.
- 5.** The provisions of Presidential Decree 273/1999 (A/229), "*Rules of Procedure for the Greek Ombudsman*", as in force.
- 6.** The provisions of Article 3 of L. 3938/2011 (A/61) "*Establishment of an Arbitrary Incident Response Department at the Ministry of Citizen Protection and other provisions*", which designates the European and Development Programmes Management Agency within the Ministry of Citizen Protection as an independent national authority of the European Return Fund, in implementing Decision No 575/2007/EC of the European Parliament and of the Council of 23

May 2007 establishing the European Return Fund for the period 2008 to 2013.

7. The provisions of Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013, as part of the General Programme Solidarity and Management of Migration Flows" (OJ L 144, 6.6.2007).

8. The provisions of Presidential Decree 82/2011 (A/198) "*Organisation and Operation of the European and Development Programmes Management Agency*".

9. The provisions of Article 2 and Article 22(3) of L. 2362/95 (A/247) "*on public accounting audit of government expenditures and other provisions*", as in force.

10. The provisions of articles 20 and 77 of L. 4270/2014 "*Principles of fiscal management and oversight of public accounting and other provisions*", (A/143).

11. The provisions of Presidential Decree 85/2012 "*Establishment and re-naming of ministries, relocation and elimination of departments*" (A/141), as amended by PD 88/2012 (A/143), 94/2012 (A/149) and 98/2012 (A/160).

12. The provisions of Presidential Decree 89/2014 "*Appointment of ministers, alternate ministers and deputy ministers*" (A/134).

13. The provisions of Article 90 of the Legislative Code for the Government and Government Agencies, ratified by Article 1 of Presidential Decree 63/2005 (A/98).

14. The provisions of Prime Minister's Decision no Y48/972012 "*Defining competences of Alternate Minister of Finance Christos Staikouras*", (B/2105).

15. The provisions of Joint Decision 4062/25.7.2014 of the Prime Minister and Minister of the Interior "*Assigning competences to Deputy Minister of the Interior Georgios Dolios*", (B/2110).

16. The provisions of Joint Decision 34658/04072014 of the Prime Minister and the Minister of Development and Competitiveness, "*Assignment of competences to Deputy Ministers for Development and Competitiveness*", (B/1825).

17. The minutes from 10.7.2013 of the Committee regarding the preparation of a draft joint ministerial decision to regulate the organisation and operation of an external monitoring system for removal procedures involving third country nationals.

18. Ombudsman document no 32518 of 1392013.

19. The Ombudsman's proposal no. Φ.1000.2/39058/2013 of 7102013 for a Joint Ministerial Decision.

20. The fact that the provisions of this JMD involve an expense amounting to a total of EUR 160,000.00 and will be covered until 3062015 by the European Return Fund. Specifically, an expenditure of EUR 10,000.00 will be covered by the 2012 annual programme funded through the Public Investment Programme, and specifically SAE [Collective Decision for Projects] 0502 of the project code 2012ΣΕ05020001, titled "*Annual Programme for 2012*", and an expenditure of EUR 150,000.00 will be covered by the 2013 annual programme funded through the Public Investment Programme, specifically SAE 0502 of the project code 2013ΣΕ05020007, titled "*Annual Programme for 2013*". The expenses resulting for the period 172015 onward will be covered only if funded by the Asylum, Migration and Integration Fund, the successor to the Return Fund.

21. Document no 8000/20/4/219/38' of 2102014 of the European Return Fund, we hereby decide:

Article 1

Scope Mission

1. The Greek Ombudsman oversees, as per Article 23(6) of L. 3907/2011 (GovGaz A/7), the organisation and operation of the external monitoring of procedures for return and removal of third country nationals. Based on the provisions of this decision, this oversight includes all administrative acts, physical actions or omissions by the administration, from the stage the return and removal decision is issued to the implementation of the removal process, which consists of the arrival of third country nationals in their country of origin.

2. Using every available and effective means, the Greek Ombudsman ensures compliance with the lawfulness of the return and removal process, as per the provisions of L. 3907/2011 and L. 3386/2005 (GovGaz A/212), and with respect to privacy and dignity and the human rights of third country nationals being returned or removed, in accordance with the mandates of national, Union and international law.

The Greek Ombudsman also ensures compliance with the principle of proportionality by competent authorities, without exceeding what is absolutely necessary, particularly when implementing coercive measures, as specified.

Specifically, when implementing return and removal procedures, the Ombudsman monitors in particular the compliance of competent authorities with common guidelines, the criteria and specifications issued for this purpose by the competent international organisations or EU agencies.

3. To fulfil his mission, the Greek Ombudsman:

- a)** exercises the competences listed in Article 2 et seq. in this decision, in L. 3094/2003 (A/10), as in force, Presidential Decree 273/1999 (A/229), as in force, and other special provisions;
- b)** uses methods and models implemented by national and international monitoring mechanisms which may be specified by internal rules of procedure;
- c)** may collaborate with non-governmental organisations (NGOs) as specified in Article 4 of this decision, or with other bodies, Union and international organisations engaged in the field of protecting human rights.

Article 2

Provision of data to the Greek Ombudsman

1. Each month, the competent authorities provide the Ombudsman with aggregated data on the number of return decisions (voluntary and forced), as well as expulsion decisions issued throughout the Greek territory, the number of return and expulsion decisions implemented, the manner of implementation and the countries of return. Data on the number of return decisions applying to unaccompanied minors, by country and age, are also included.

The Greek Ombudsman is also informed monthly by the competent police authorities about the total number of detention decisions imposed against third-country citizens as part of executing a return decision and/or administrative deportation, the detention facilities, and the total number of decisions extending the length of detention, to the extent that such reporting is possible.

The competent police authorities inform the Ombudsman promptly of planned operations to remove third country nationals as part of executing return and deportation decisions. They then also provide in a timely fashion any essential information on third country nationals who are removed each time.

At the end of the year, aggregated data are submitted to the Ombudsman on all of the above.

2. The competent police authorities also provide the Ombudsman with every piece of information or clarification at any phase of the return and removal process.

Article 3

Procedure and means of investigation

1. The Greek Ombudsman undertakes external monitoring of procedures for

the return and removal of third country nationals, and verifies the lawfulness of actions, omissions and physical actions by competent authorities at all stages of the procedure specified by law.

Within the framework of its assigned authority, the Ombudsman may use the procedures and means specified in L. 3094/2003, as in force, Presidential Decree 273/1999, as in force, and other special provisions.

2. In exercising his competence, the Ombudsman shall have unimpeded access to any detention, waiting or transit area in the Greek territory, and can participate as an observer on operations to carry out return decisions, including the execution of road or air administrative deportation decisions, as well as readmission procedures, in implementation of relevant Greek bilateral agreements or agreements of the European Union with a third country.

Specifically, in exercising his assigned competence, the Ombudsman communicates unhindered with detainees and agency staff, and has access to documents, all data in personal detainee files and to any related electronic or physical record, in accordance with applicable law.

3. The Greek Ombudsman specifically checks whether detainees awaiting return are being treated humanely and with dignity, if they have received appropriate and timely information, at every phase of the procedure, about the phase they are currently in and about their rights, and verifies that their effective exercise of said rights is safeguarded, that they have undergone the necessary medical assessments and have received any needed healthcare or psychosocial support.

Regarding unaccompanied minors in particular, he checks whether they have undergone the necessary psychosocial assessment, that a social history has been taken and whether their family or a suitable body to provide care and accommodation at the country of return has been found.

The Ombudsman also verifies that the return decision for unaccompanied minors has been issued based on the best interest of the child.

Lastly, he may collaborate with competent bodies to ensure the appropriate reception at the country of return of unaccompanied minors.

4. The Ombudsman may request information and/or support from public agencies as part of their areas of competence.

All public agencies, without exception, are required to facilitate the investigation in every way possible, as specified by provisions of L. 3094/2003, as in force.

Article 4

Collaboration with representatives of civil society

1. The Greek Ombudsman works with non-governmental organisations (NGOs) to effectively perform the task of external monitoring of removal procedures. This collaboration mainly involves creating a network of NGOs, including migrant communities, which can inform the Ombudsman about problems that arise during procedures and to suggest ways to effectively resolve them.
2. As part of his oversight of the external monitoring system and to support his work, the Ombudsman, at his discretion, can work with NGOs to perform part of the external monitoring activities, which comprise observing removal procedures. The NGOs, which are selected for this purpose following an invitation for expression of interest published on the Independent Authority's website, serve a supportive function on its behalf and report to it under conditions of confidentiality, while upholding the Authority's exclusive competence as to the form and manner of intervening with the competent authorities.

Article 5

Cooperation with the Administration in the external monitoring system

1. All public administration bodies must respond promptly with reasoned explanations to the reports and questions put to them by the Ombudsman as part of his competence as per Article 23(6) of L. 3907/2011.
2. In the event issues of lawfulness arise which, in the Ombudsman's opinion, require immediate attention, particularly in cases under pars. 1 and 2 of Article 24 and Article 41 of L. 3907/2011, the Administration is required to provide a prompt and fully documented response about its actions.
3. Otherwise, all requirements for public agencies working with the Ombudsman apply, as do threatened sanctions for refusing to cooperate with the Authority of L. 3094/2003, as in force (Article 4).
4. The Ombudsman takes into consideration and reports on the administration's views in his periodic reports and his annual report, and collaborates with the administration to provide training and review manuals on best practices for the removal process. He also recommends and contributes to training and implementation of education and training programmes for personnel involved. He is also entitled to release special publications, stage events and undertake related activities.

Article 6

The Greek Ombudsman's Report

The Greek Ombudsman notifies his findings and recommendations about the function of the return system to administrative departments involved through his reports on specific visits or individual topics.

He also records his findings about the overall function of the return system and his recommendation for improving procedures and potentially necessary provisions, by year, in a special report submitted in March, together with his annual report, under the procedure for the Authority's special reports under L. 3094/2003, as in force; these are also published on the Authority's website. The Administration is required to respond to the Ombudsman's observations, recommendations and suggestions within a reasonable time frame.

His annual report will also reflect the manner and the results of the Ombudsman's cooperation with the administrative authorities and NGOs within the framework of the external return monitoring system.

Article 7

Entry into force

This decision shall enter into force with its publication in the Official Government Gazette.

This decision shall be published in the Official Government Gazette.



ABBREVIATIONS

AEMY	Anonymous Company of Health Units
BPD	Border Protection Department
CCAC	Closed Controlled Access Centre
CPT	European Committee for the Prevention of Torture
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
ECRE	European Council on Refugees and Exiles
ECtHR	European Court of Human Rights
ELAS	Hellenic Police
EMIDIPA	National Mechanism for Investigating Incidents of Arbitrary Behaviour
EU	European Union
F	File
FRA	European Union Agency for Fundamental Rights
FRONTEX	European Border and Coast Guard Agency
IOM	International Organisation for Migration
IT	Information Technology

JMD	Joint Ministerial Decision
JRO	Joint Return Operation
L.	Law
LIBE	Committee on Civil Liberties, Justice and Home Affairs of the European Parliament
MMD	Migration Management Department
NGO	Non-Governmental Organisation
NPM	National Preventive Mechanism against Torture and Inhuman Treatment (L. 4228/2014 – OPCAT)
NRO	National Return Operation
OHCHR	United Nations High Commissioner for Human Rights
OPCAT	Optional Protocol to the UN Convention Against Torture
PROKEKA	Pre-Removal Detention Centre for Third country nationals
RIC	Reception and Identification Centre
TGO	The Greek Ombudsman
UNHCR	United Nations High Commissioner for Refugees

