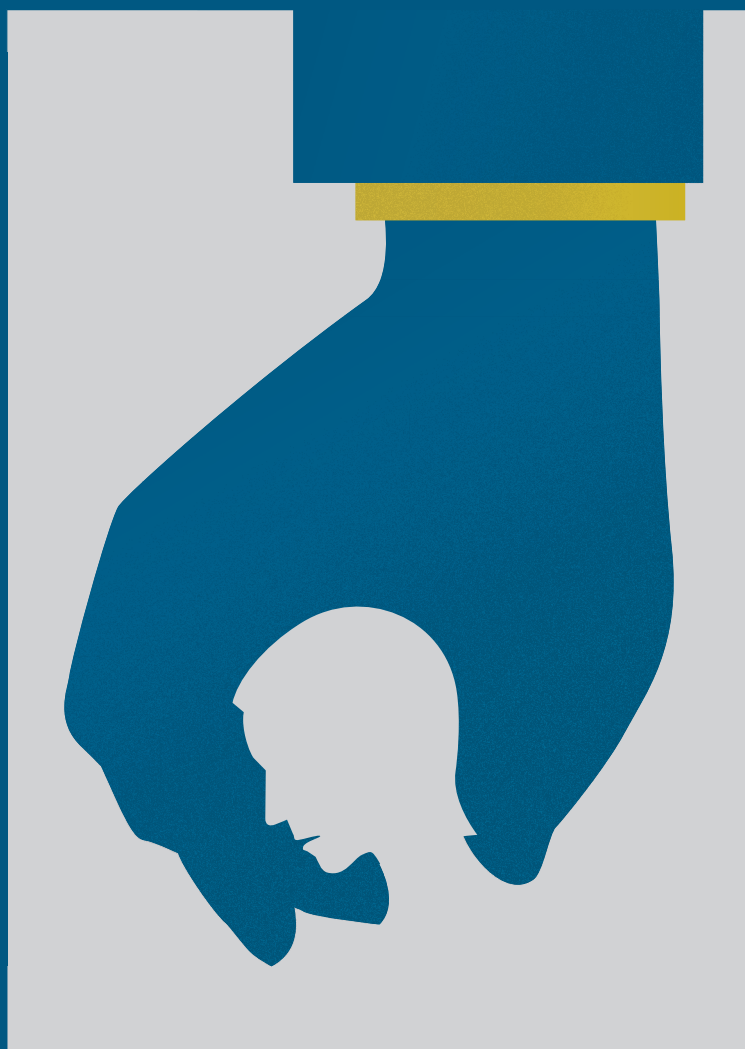


REPORT

NATIONAL PREVENTIVE  
MECHANISM  
AGAINST TORTURE  
AND ILL-TREATMENT  
ANNUAL SPECIAL REPORT 2016



# OPCAT

## NATIONAL PREVENTIVE MECHANISM AGAINST TORTURE AND ILL-TREATMENT

ANNUAL SPECIAL REPORT 2016

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



This report reflects the activities of the **Greek Ombudsman** in 2016, as the **National Torture Preventive Mechanism**, in accordance with its competence under Article 2, Law 4228/2014.

The reports are the product of visits to and on-site inspections of places of detention by Ombudsman experts; the final editing was carried out by special investigators **Olga Lysandropoulou**, **Fotini Pantelidou** and **Michalis Tsapogas**, under the supervision of the **Deputy Ombudsman** responsible for exercising the competence of the National Preventive Mechanism, **Prof. George Nikolopoulos**.

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## FOREWORD BY THE GREEK OMBUDSMAN

2016 marks the 10th anniversary of the entry into force of the Optional Protocol to the UN Convention *“against torture and other cruel, inhuman or degrading treatment or punishment”*.

The declared objective of the Optional Protocol was to establish a system of monitoring, by international and independent national bodies, of the conditions in deprivation of liberty in order to avoid acts of torture or cruel, inhuman or degrading treatment or punishment. Its necessity, obvious: without the Optional Protocol, the UN Convention against torture would lack the necessary and effective mechanism for the control of detention conditions. It would remain a declaration of intent, without an assessment of practices and applied policies. Its importance, highly significant: the fact that a significant number of countries that have subscribed to the UN Convention against torture, has yet to ratify the Optional Protocol, thus abstaining from the substantive application of the Convention itself serves as indicative proof: from the US and Canada to the Russian Federation, the countries of the Middle East, northern and eastern Africa and Asia.

In our country, the Optional Protocol was ratified only in 2014. The Independent, constitutionally designated, Authority of the Ombudsman was proclaimed the National Preventive Mechanism provided for in the Protocol. The delegation to the Ombudsman of this special mandate came as a self-evident corollary of his long-standing accumulated experience and advanced know-how in the protection of fundamental human rights. An additional guarantee for the successful implementation of the National Preventive Mechanism mission has been the long-term oversight of matters relating to the provision of detention and living conditions, in line with international conventions and EU requirements, prior to the conferral of specific competence on the Ombudsman. Necessary conditions for the diligence and adequacy of the National Mechanism are, as prescribed by international treaties, appropriate staffing and financial support. As far as the first is concerned, the requirements of the National Mechanism are still lagging behind what is anticipated and appropriate. Concerning the latter, it was only in mid-2017 that the Mechanism was eventually granted subsidy, notwithstanding the fact that support was envisaged already since 2014 and the law that ratified the Optional Protocol. Hence, the present, 2016 report reflects the work of the Authority with resources redistributed from scarce regular funding. I hope

that 2017 will signal a new springboard for the Mechanism; reinforced by the specific experience of previous years, the fruitful and intense exchange of best practices in bilateral, multilateral and international partnerships and the substantial financial support that has been achieved for the first time and which I expect to be steady and regular, the Authority will place its stamp, as the national human rights watchdog, in the particularly sensitive area of treatment in conditions of deprivation of liberty.

The present report is the third annual survey of the situation in our country. The material contained herein reflects the main findings of the work of a special group of investigators of the Ombudsman, under the guidance of the former Deputy Ombudsman, responsible for the coordination of the National Preventive Mechanism, Prof. Vassilis Karydis. The editing supervision of this issue fell to the Deputy Ombudsman who assumed these responsibilities at the end of 2016, Prof. George Nikolopoulos. ●

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

## ■ INTRODUCTION

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

Greece's ratification of the 2002 Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 (Law 4228/2014) not only transposed it into Greek domestic law – and, indeed, with increased formal power over national law (Article 28(1) of the Constitution of Greece) – but led to the establishment of the National Preventive Mechanism (NPM) as a “two-pronged” external monitoring agency of detention conditions. It is a national institution as regards its founding and operational competence, but its action is based on continuous collaboration and dialogue with the UN Subcommittee on Prevention of Torture and its counterpart national authorities and services competent for organising, operating and monitoring places of detention. In this way, the “externality” of the inspections carried out by the NPM is assured not only in relation to the executive power but also – in some way – to Greece itself. From this point of view, in contrast to the targeted and irregular inspections carried out by the European Committee for the Prevention of Torture (CPT) of the Council of Europe the NPM is a permanent and constant monitoring agency, which, although established at the national level, is firmly supported at the international level<sup>1</sup>.

The Greek Ombudsman, upon assuming its special competence as NPM in 2014, stressed that it would carry out its mission in a fair and constructive manner, operating on the conviction that *“the legality of the restraint must be understood through a just, liberal and humane prism”* (Annual Report 2015, p.137).

This report reflects the NPM's operation in 2016, both with regard to its visits to and on-site inspections of places of detention, as well as its national and international presence, and includes interventions and recommendations regarding current policies, as well as its networking and collaborations with corresponding authorities.

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1 See the provision of Article 11(1b) of the Protocol, that provides that in regard to the NPMs, the UN Subcommittee on Prevention shall *“(i) Advise and assist States Parties, when necessary, in their establishment, ... (iv) Make recommendations and observations to the States parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment”*.

However, from the beginning the lack of sufficient funding – despite the provision in Article 6 of Law 4228/2014 granting a special credit for covering its expenses – forced the NPM to significantly limit the range of its activities in relation to its initial planning, a problem that was finally resolved during the second half of 2017.

In any case, the Greek Ombudsman will continue, under its special competence as NPM, to assert its judicial-political mission within the field of operation of institutions of restraint per se, establishing the boundaries of their legality, to increase their operating transparency and ensure their accountability. ●

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



# I. - LEGAL FRAMEWORK AND OPERATION OF THE NATIONAL PREVENTIVE MECHANISM

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT) is an international convention on human rights, which was adopted by the General Assembly of the United Nations in 2002 and came into force in 2006. The common denominator was the consensus and the common understanding of the member states of the international community that the efforts associated with combating the ill-treatment of persons who are deprived of their liberty, and are therefore in an especially vulnerable position, should focus on prevention. In this framework, a broader definition of the meaning of torture was adopted, according to which, torture is not merely the systematic causing of pain but also all inhuman and degrading treatment that debases humanity. The use of torture offends human dignity and aims at eradicating the victim's sense of self. Apart from being a criminal offence, under both national and international law, it is a position contrary to human civilisation. Facilities such as prisons, migrant detention centres, psychiatric institutions, police cells, etc., are danger spots for human dignity.

Greece ratified OPCAT with Law 4228/2014, transposing it into national law with increased formal power. Article 2 of the above law designates the Greek Ombudsman as the "National Preventive Mechanism against Torture". The mission of the National Preventive Mechanism (hereinafter NPM) includes regular investigation of the treatment of persons deprived of their liberty, submission of respective improvement recommendations to the competent authorities and submission of proposals and observations regarding existing legislation or draft laws.

Article 4 of Law 4228/2014 stipulates that the NPM shall visit all detention facilities, public or private, with or without prior notification to the competent authorities. Such facilities are prisons, police station cells, psychiatric institutions, places of administrative detention of third-country nationals, welfare institutions, etc. In fact, in line with international practices, these visits may be carried out on non-business days or even at night. NPM inspections include the collection of data using any available means, such as, indicatively, visiting all areas of detention facilities, interviewing persons and taking photographs.

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

To implement this competence of the Ombudsman, a working group was set up in October 2014 on all issues relating to the NPM under the responsibility of the Deputy Ombudsman for Human Rights. The following key areas of activity were defined:

- Analysis of the scope and extent of its competence, good practices and search for collaborations in the direction of the efficient exercise of its competence.
- Definition of the methodology of investigation, data collection and processing, and presentation of findings and recommendations.
- Establishing the criteria for prioritising the selection of the detention facilities to be visited.

These serve as the starting-point from which the NPM will carry out its operational planning with regard to monitoring issues relating to detention, starting with the conviction that detention, as the most serious deprivation of liberty, must be used as the exception, when it is unavoidable and when no alternative measures can be imposed. ●

## ■ II. – SPECIAL REPORT 2016

### 1. – INSPECTION OF DETENTION FACILITIES

In 2016, the National Preventive Mechanism carried out visits/on-site inspections at:

- 6 Detention Facilities, and specifically: Larissa, Trikala, Domokos, Tripoli, Detention Facility for Juveniles of Corinth and Women’s Detention Facility of Korydallos.
- 4 Police Headquarters cells (Samos, Chios, Lesvos and Kos) and 3 police station cells (Omonoia, Patissia and Amaroussion/Attica).
- 3 Pre-removal Centres (Tavros/P. Ralli St., Corinth and Moria/Lesvos) (7 visits).
- 4 Registration and Identification Centres (Lesvos, Chios, Kos and Samos) (16 visits).
- Follow-up visits to inspections made the previous year to the Psychiatric Hospital of Athens (Dafni) and the Lechaina Branch for Persons with Disabilities of the Social Welfare Centre of the Region of Western Greece.

#### Prisons

All the NPM’s visits were carried out without previously notifying the prisons and its access was absolutely unhindered.

A common finding is that the possibilities for release from prison provided by Law 4322/2015 *“Reforms of penal provisions, abolishment of type C detention facilities and other provisions”* significantly decreased prison populations, improving detention conditions. However, the problems posed by the age and unsuitability of the building infrastructures remain, with the most egregious example being the Tripoli Detention Facility. Prisoner overcrowding continues to be a matter of crucial importance to the Ombudsman as does the effect it has on their living conditions. *“Fewer detainees, less incarceration time, special attention to special cases, implementation of alternative detention measures”* are unvarying objectives. More generally, the penitentiary issue must be evaluated in the light of the overall operation of the penal system with its separate aspects, i.e. legislative, judicial and correctional, in

the framework of a mid-term coordinated penal and correctional policy – a priority which the Administration appears to grasp in principle.<sup>2</sup>

**It has been observed that in all Detention Facilities there is a lack of creative activity and recreation programmes for the prisoners, a fact of crucial importance particularly with regard to their psychological state.**

Medical, pharmaceutical and dental care are also lacking, with the Tripoli Detention Facility – which does not even have a visiting dentist, let alone a permanent one – being a characteristic example. Moreover, there is no provision for the detention of women in the prison’s hospital and psychiatric facility. There are significant shortages of personal hygiene products since, because of the difficult financial circumstances, the regular donations of the past have dried up. Finally, a common request from the various facilities is the discontinuation of paying a stamp duty to the Disability Certification Centres (KEPA) on behalf of the detainees, many of whom, although meeting the formal requirements, are unable to pay the amount imputed to them.

The existence and operation of second chance schools is generally considered to be a positive development, with the exception of the Domokos Detention Centre, where such a school operated until October 2014 and then ceased when the Facility was designated as a C-type penitentiary. It is expected to re-operate once a new Director has been appointed (the process is under way). The schools have a particularly uplifting effect on the prisoners’ spirits and, undoubtedly, contribute to their smooth reintegration into society. The NPM visited the schools at the Larissa, Trikala and Corinth Detention Facilities and encountered particularly active and sensitive directors and teachers. However, it should be noted that the parallel organisation of vocational training programmes, aimed at acquiring a certificate, would further assist prisoners’ occupational rehabilitation. The NPM also recommended the operation of a secondary school within the existing structure of the second-chance school in detention facilities where there is enough interest from inmates, given that this would strengthen the prisoners’ abilities and prospects, particularly those who would like to continue on to tertiary education. The Ministry of Justice informed the NPM that it is already working with the Ministry of Education on implementing the project.

Significant shortages of office and security personnel at the detention facilities were noted. The social services also appear to be severely understaffed, with a shortage of social workers and psychologists. For example, at the Domokos Detention Facility the social service has been operating at diminished capacity since 2008 and a correctional employee replaces a social

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2 See the Special Report on the “Prevention of torture and ill-treatment” 2015, p. 3, <https://www.synigoros.gr/resources/docs/ee2015-15-basanistiria--2.pdf>

worker on the Parole Board. Regarding security personnel, another issue that was noted is insufficient training and the age of its equipment, which in some cases is unsuitable as it is beyond its expiration date.

Specifically:

- On visiting the **Tripoli Detention Facility** it was found that the Facility's building infrastructure is unsuitable for its designated use due to age and location. The Facility generally appears to operate on "autopilot" as a place for processing prisoners who are simply "placed" there to wait for their sentence to run its course. Issues such as the condition of the buildings, the creation of workshops, the devising of a dining area, the establishment of a social service and the organisation of a school, are matters that require immediate attention, and are in danger of being in violation of the provisions of Article 4 of the Penitentiary Code, which clearly stipulates the protection of the individual rights of prisoners.
- The NPM visited the **Corinth Detention Facility** in April 2016, where a Special Detention Facility for Juveniles aged 15 to 18 years has been operating since September 2014, in accordance with Ministerial Decision 90467/22.10.2013 (GG 2767b/2013). The visit was aimed at assessing the situation as it developed following the previous on-site inspection in February 2015, and particularly following the changes instituted by Law 4322/2015 regarding the conditions and duration of the detention of minors. Indeed, the NPM found only a small number of prisoners and, specifically, 10 minors of Greek nationality and a few adults, who were employed in cleaning, operating the canteen and food preparation. The on-site inspection produced the following findings with regard to the living conditions of minors:
  - No psychological support services are provided, despite the fact that this is considered necessary, especially for minors, who by definition are considered vulnerable, while, in addition, the specific minors are charged with having committed serious offences, which of course necessitates special expertise in their penal treatment.
  - The valuable initiatives undertaken by the personnel and, particularly, the operation of the school, appear to have a positive effect on the gradual re-socialisation of minors and their reconnection to the community.
  - The building infrastructures continue to exhibit a variety of deficiencies, especially when considering the needs of adolescents (lack of organised exercise areas, library, recreation room).

- Improvements were observed in relation to the cells (the most important being the placing of a door on the toilet) and the food.
- At the **Larissa Detention Facility** a significant decrease in the number of prisoners was observed, a fact which contributed to the improvement of living conditions and reduced operational problems, such as the sufficiency of hot water and personal hygiene products. However, there is no permanent internist, while prisoners complained about the Facility's dampness and the presence of bedbugs. Furthermore, there is no door dividing the toilet from the rest of the cell, only a curtain. The open visiting area is judged to be particularly friendly, as it allows for free contact between persons.
- At the women's wing of the **Korydallos Detention Facility** it was found that there are frequent large increases in the numbers of prisoners, due to transfers, which disrupts the smooth flow of prison life. The prison yard is big enough, with exercise equipment and vegetation, but the other outdoor areas are less suitable, due to the limited amount of space. The areas adjacent to the facility's refuse collection area are particularly unsuitable as the refuse is usually left there for a number of days, creating, especially in summer, an oppressive atmosphere due to the strong smell. The women's wing does not have its own kitchen since it ceased to operate when the ground floor was repurposed for the accommodation of another category of prisoners. Moreover, the change of use of the ground floor has also significantly restricted the size of the women's wing, which has created overcrowding and has left - apart from the cells - only a small corridor for the use of the women prisoners. Strong complaints were expressed by the women prisoners regarding the inadequacy of the dental care provided, as well as the lack of a nurse, the position of which is filled by a correctional officer. During the visit a particularly pleasant special visiting area was being constructed for the prisoners' children.



### Police station cells

- As a result of information received about the detention of unaccompanied minors, the NPM visited the holding cells of the **Omonoia Police Station** on 22 June 2016. The premises were in very bad condition and entirely unsuitable for detention, which, moreover, lasted for more than a few days. It is noted that approximately half of the prisoners there on the day of the visit had been detained for more than 15 days and some for up to 1 month. The poor detention conditions and the length of their stay create a stressful environment for both the prisoners and the police personnel. The NPM's impression was that detention in the specific premises could be characterised as inhuman and degrading treatment and could cause Greece to be accused before the European Court of Human Rights.
- On 18 August 2016 the NPM made a no-notice on-site inspection of the **Patissia Police Station** in order to determine the conditions and procedures of administrative detention of third-country nationals and the treatment of any minors. The detention conditions were found to be quite good and the place was particularly clean. It is noted that the NPM considers it good practice for all police stations that the cell interiors should also be cleaned by the station's sanitation crew, as opposed to the practice of leaving the cleaning of the cells to the prisoners them-

selves. The cells in question do not have a yard area and therefore it is deemed unsuitable for the administrative detention of third-country nationals awaiting return, as it does not meet the provisions of Article 31, Law 3907/2011. The guarding of the cells by the outer gate police guards was deemed unsafe for the security of both the building and the detainees and the NPM recommended the assignment of a separate guard for the holding cells.

- On the same date, the NPM carried out a no-notice on-site inspection of the **Amaroussion (Attica) Police Station**, in order to determine the conditions and procedures of administrative detention of third-country nationals and the treatment of any minors. On the day of the on-site inspection no administrative detainees were found. The existing cell has room for only a small number of persons, does not allow for the separation of administrative detainees and criminal prisoners and lacks any possibility of outdoor access, and therefore was deemed unsuitable for detention for longer than a few hours.
- Upon visiting the **Lesvos Police Station** cells the conditions were deemed bad. The detention area consists of 4 cells, parallel to each other, which open onto a narrow corridor that possesses the facility's only windows, with the result that there is very little natural light. Adjacent to the entrance are the toilets and showers, which were particularly dirty. The prisoners move between their cells and the common corridor. The cells are narrow and without beds. There are mattresses on the floor but no sheets. The NPM recommends:
  - Taking measures regarding the cleaning of the premises and particularly of the showers and toilets.
  - Ensuring the prisoners are granted yard time in an outdoor space.
  - Providing prisoners with sheets.

### **Administrative detention of third-country nationals**

The administrative detention of third-country nationals is an issue of special concern to the NPM, particularly regarding the legality and the conditions of detention and especially in the present circumstances, which necessitate the management of a large number of refugees and migrant flows. The Greek Ombudsman's overall picture for 2016 regarding the State's management of the issue is documented in its special and annual reports:

- "Returns of third-country nationals" Special Report 2016 <https://www.sinigoros.gr/resources/eidikiekthesiepiastrofesallodapwn2016gr--2.pdf>.



- Chapter “The refugee and migrant issue” of the Authority’s annual report for 2016, p. 28-35 [https://www.synigoros.gr/?i=kdet.el.ehtisies\\_ekthe-seis\\_documents.416089](https://www.synigoros.gr/?i=kdet.el.ehtisies_ekthe-seis_documents.416089)

The Greek Ombudsman, exercising its competence both as the NPM and as the external monitoring mechanism of return procedures, according to Article 23(6) Law 3907/2011, made on-site inspections of the Pre-Removal Centres of Tavros (Petrou Ralli St.), Corinth and Moria (Lesvos), as well as of the holding cells of the Police Headquarters of Chios, Lesvos, Kos, Samos and other police station cells within Attica.

- ***Numerical data of detainees to be returned***

As regards the detention facilities, the Hellenic Police informed the Ombudsman that on 3 November 2016 a total of 1,583 third-country nationals were being detained at Pre-Removal Centres, a number vastly greater than the corresponding 504 in 2015. The largest concentration of detainees was in the Pre-Removal Centre of Corinth (697 detainees). The corresponding number of third-country nationals for return is not known. The Hellenic Police continues its efforts to detain third-country nationals for only a few days at police stations until space is found at Pre-Removal Centres, although this is not always possible due to the over-crowding of the Aliens Division of Attica at the Pre-Removal Centre of Tavros (characteristically, on 7 June 2016 there were 114 men detained in Attica police stations). It is also noted that the police holding cells at the Aliens Division of Thessaloniki appear to be used as a standard location for the detention of third-country nationals for return (case 216963/2016)<sup>3</sup>.

- ***Findings from on-site inspections - visits***

The visits to and on-site inspections of detention facilities – particularly of those located on islands – were repeated a number of times during the year. Once again these revealed the unsuitability of most of the premises and overcrowding. In any case, the Ombudsman stresses its long-standing positions that:

1. Administrative detention of minors must be abolished.
2. Administrative detention of adults within police stations must be avoided, due to the fact that, as a rule, the conditions of the detention facilities are unsuitable.

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<sup>3</sup> See also the Ombudsman’s previous relevant observations in the Annual Report for 2015, pp 128-129.

3. In the event of the even temporary detention in police station cells of third-country nationals to be returned, an effort must be made to separate administrative detainees from criminal prisoners, in accordance with Article 31(1) subparagraph b of Law 3907/2011 and Article 16(1) of the Returns Directive 2008/115/EC: *“In all cases, third-country nationals in detention are kept separate from ordinary prisoners”*.

Following are some indicative conclusions drawn from visits/on-site inspections:

- At the **Centre at Moria (Lesvos)**, the overall image of the site in October 2016 appears to have improved compared to January and May of the same year. Although in the area next to the entrance some temporary tents (of the kind used for camping) in poor condition were set up, farther inside the camp the accommodation was better organized. It is noted that the weather conditions on the day of the delegation’s visit were especially good. However, it is certain that the general image of the centre will change radically when the rains start, since it is located on an incline and there are a significant number of temporary tents, housing a large number of third-country nationals, which are deemed entirely unsuitable for winter conditions. The toilets and other sanitation areas appear inadequate for the number of people resident at the centre, but the level of cleanliness of the areas appears relatively satisfactory.
  - » More specifically, as regards the detention premises (**Pre-Removal Detention Centre**), during the October inspection it was determined that it consists of 14 huts, placed in two parallel rows of 7 and leaving a large area between them which serves as a yard. Two of the 14 huts are not in use, as they have suffered extensive fire damage. The living conditions and infrastructure were deemed poor. The majority of detainees sleep on mattresses on the floor. The toilets in the huts were found to be in very bad condition, very dirty, and full of water due to a problem with the plumbing system. The detainees complained of the lack of cleanliness. Also, they expressed complaints about the lack of sanitary products and hot water. There were complaints of many cases of gastroenteritis, while detainees informed the Ombudsman delegation that whenever they request a doctor, their request is not granted, and also that they lack dining tables and other basic infrastructure. Furthermore, they complained of the lack of variety in the food distributed to them (3 times a day). The huts are locked only at night, while it should be noted that although asked by the delegation the detainees expressed no complaints against the police officers’ conduct towards them. Some claimed not to know the reason for their detention. In a neighbouring fenced-

in area, women and families are detained in better conditions, as there is more available space. The huts have bunk beds and there is a dining hall. The state of the sanitation areas is problematic here too. To a question from the delegation, the head of the facility answered that most of the families are being detained even though they have requested to return to their countries of origin through the International Organisation for Migration. Recommendations were made for the immediate improvement of detention conditions, and specifically that:

1. Measures be taken concerning the facility's cleanliness
2. Sanitary products be distributed to the detainees
3. Special dining areas be created, possibly by repairing or replacing the unused huts.
4. The food be improved.





In the designated Reception and Identification Centre the situation appears under control. The general image of the centre was acceptable. The atmosphere was calm, the relations between police officers and the residents of the centre appeared good, and there was relative mobility in and out of the centre. Unaccompanied minors reside in a special wing of the centre. The maximum capacity of the minor wing is 160 persons. The on-site inspections determined that:

- » The process for verifying the age of minors does not include a wrist x-ray, but is made macroscopically. Rulings are made only by Doctors of the World. However, the Ombudsman considers it problematic that once a decision has been made that a person claiming to be a minor is an adult, the third-country national ceases to be protected as a minor, even if the person in question appeals the decision. Therefore, as a rule, such persons no longer receive “protective detention” as minors; neither do they receive legal support, in order to exercise their rights. Indeed, at the time of the visit, cases of third-country nationals were reported, who had initially been deemed to be adults and who requested to remain at the Reception and Identification Centre for their own protection. However, the administrator of the Reception and Identification Centre noted that – although in his estimation, the third-country national does not warrant any protection or increased care, during the period of time that the decision of appraisal of adulthood is in effect – in similar cases the Reception and Identification Centre

informally shows a certain clemency, provides the interested party with an application to appeal the decision and (always according to them) notifies a non-governmental organization to provide support. The process of taking a wrist X-Ray is not utilised, according to the Reception and Identification Centre, even in cases where third-country nationals appeal the ruling determining them adults, and of course there is no notification that such a possibility and/or right exists for the person appealing to request to submit to such a test. The only thing they can do is submit translated and attested documents from their country of origin verifying their identity and age. With such requirements, it is obviously difficult for appeals to be successful.

- » It was determined that the Reception and Identification Centre housed minors, deprived of their liberty, for a period of time exceeding 25 days, which is the stipulated maximum time of detention for registration and identification. Irrespective of the problematic nature of the detention itself and, much more, of the extended deprivation of liberty – and particularly of minors – another aspect that is considered problematic is that minors are forced to stay at these centres even after the period covered by the relevant decision of the administrator has expired, until an accommodation centre can be found.
- » The administrator’s initiative to supply the unaccompanied minors with personalised “cards”, so they are able to move freely for a pre-defined amount of time in the area described as the Pre-Removal Centre, so that they do not have to remain exclusively inside the Reception and Identification Centre, was identified as good practice.





- On 11 April 2016 an Ombudsman delegation visited the **Special Accommodation Facility for Unaccompanied Minors at Amygdaleza**, to enable the Ombudsman to form its own opinion of the conditions of detention of unaccompanied minors. It was observed that - taking into account the small number of detainees - the detention conditions were acceptable for a short stay but that a stay of over one month becomes problematic, particularly for minors. In addition, access to the international protection procedure did not appear to present particular problems, since, at the time of the visit, a minor had been transferred to the regional asylum office for an interview. However, the delegation observed that detainees lack basic information and legal counsel. Most detainees were ignorant of the reason for their detention, and did not know that there was provision for placing them in accommodation facilities, provided that vacancies could be found; quite a few had relatives in Greece, both with legalization documents and without, while there was a widespread view that they would very soon be transferred through the open borders to Europe.

In this matter, as with the possibility of applying for asylum, the appropriate informational material must be made available to detainees in a language they understand. It must also be ensured that they are able to communicate with their relatives.

■ ***Health services during detention***

The provision of health services to the mixed populations of refugees and migrants during the two-year period 2015-2016 gives the impression of being incomplete and erratic rather than regular primary care dedicated to prevention and to ensuring the good health of the populations. The first link in the chain is entry into Greece. Although since 2011 the law stipulates that all persons entering the country illegally be given medical examinations as a basic part of the first reception services, to date this has never been fully implemented. In 2014, the Ombudsman observed in its Annual Report (pp. 152,154) that citing the heavy workload of the hospitals or first reception mobile units is not sufficient reason for not providing basic minimum health care to the new entrants to the country, and requests medical examinations for all. The Ombudsman's continuous on-site inspections in 2015 and 2016 to islands such as Lesbos, Chios and Samos, reveal that medical services are provided by Non-Governmental Organisations based on a contract with the First Reception Service or the Ministry of National Defence, but only upon request. As a result, there is no complete picture of the state of the health of all new entrants to the country. It was found that the health cards that are completed, for those who are examined by a doctor, remain, as a rule, at the Reception and Identification Centres and do not always follow them when they are transferred.

As regards detention at the Pre-Removal Detention Centres for Third-Country Nationals, the Ombudsman had highlighted in 2014 the arbitrariness of the provision of basic services, doctors, nurses, as well as services that are closely connected with medical care, such as the services of psychologists, social workers and interpreters. These services are stipulated for Detention Centres, but are implemented only intermittently, because they depend on competitions which present large time gaps. This issue boils down to the general problem of stable funding of the Pre-Removal Detention Centres for Third-Country Nationals, with the absorption of amounts from the regular budget which was approved for Greece in the summer of 2015 by the European Asylum, Migrant and Integration Fund (AMIF).

During the visits it was found that in 2016 doctors contracted to the Hellenic Centre for Disease Control and Prevention (KEELPNO) provided their services at the Pre-Removal Detention Centres for Third-Country Nationals in Corinth and Tavros. However, having one general practitioner and one nurse to cover a detention centre like the one in Tavros cannot be considered adequate. The Corinth facility, which has a large detainee population

(approximately 700 persons), also has a psychiatrist but instead of a daily presence the Hellenic Centre for Disease Control and Prevention (KEELPNO) is there only 3 mornings a week. The completion of a health card for every detainee, as stipulated by the Operation Regulations of the Pre-Removal Detention Centres for Third-Country Nationals, and the provision of regular medical care are still objectives in detention facilities, where individual healthcare primarily falls to the Greek state. The fact that these are centres with constant prisoner mobility – the Pre-Removal Detention Centre of Tavros is the main assembly facility for detained persons in the jurisdiction of the Aliens Division of Attica – makes it even more difficult to provide medical care, especially when the transferred detainees are not accompanied by their medical histories. It is also noted that the shortage of interpreters jeopardises the provision of proper health services. A related problem is the irregular supply of medicine and the coverage of the corresponding expenses, which are either covered sporadically or by donations from associations, Non-Governmental Organisations, etc.

Living conditions at the Detention Centres also give rise to questions concerning the additional strain that is caused, particularly to the mental health of third-country nationals, by being detained for months, by their uncertainty about their future and by the lack of adequate information. It should also be noted for further investigation with regard to proper care, that there is a concentration of patients with transmissible diseases, such as AIDS, tuberculosis, hepatitis B and C, in a separate wing of the Aliens Division of Attica (P. Ralli Street). Another matter for concern is the standard assurance of the doctor to the Ombudsman officers carrying out the external monitoring of return operations, which are launched from this centre, that the patients included in the operations are not active carriers of transmissible diseases.

Finally, it is noted that the Greek Ombudsman has been stressing since 2014 that administrative detainees should receive the same level of medical care as the rest of the population, by analogous application of the relevant provisions of the Penitentiary Code (Article 27). The Operation Regulations of the Detention Centres at the beginning of 2015 limit the provision of services to the “necessary” medical/pharmaceutical care. The law, especially for detainees seeking asylum, stipulates proper medical care. The Greek Ombudsman sent a detailed opinion to the Ministry of Migration Policy regarding the draft bill that was scheduled for discussion in October 2016 on the reception of applicants for international protection (Directive 2013/33/EC, recast 29.6.13), noting, *inter alia*, that the health, including mental health, of applicants in detention, shall be of primary concern to national authorities, in accordance with Article 11(1) of the above Directive. According to Article 19 of the same Directive, necessary health care “shall include, at least, emergency care and essential treatment of illnesses and of serious mental disorders”, as well as “necessary medical or other assistance to applicants who have special reception needs, including appropriate mental health care



where needed”. However, the relevant draft bill on the reception of applicants for international protection was not submitted to the Hellenic Parliament.

### **Psychiatric commitment**

In 2015 the NPM was already stressing the serious consequences that the many levels of the crisis and the continuing recession have had, both in the increase of mental disorders in the general population and in the increase in demand for psychiatric and psychological assistance, while at the same time noting the gradual collapse of the public system of mental health services due to insufficient funding. As a result, the successful completion of the effort for psychiatric reform, without excluding mental health from the priorities of social policy, is deemed to be of vital importance. This also reflects the positions of the Council of Europe’s Commissioner for Human Rights, as laid out in his document of 17 August 2016 to the Minister of Health and the Deputy Minister of Employment, following his visit to Greece.

The political leadership of the Health Ministry, at the 2nd Mental Health Conference, set as a priority the reversal of the abandonment and deregulation of the public mental health system by rehabilitating the “maligned” idea of psychiatric reform. They planned for its revival and completion through well-prepared steps that will ensure a smooth transition from asylum-type care to the reliable care of the long-term mentally ill in community-type structures, the development of primary mental health care and the protection of patients’ rights and dignity. A draft bill has already been drawn up on the reorganisation and decentralisation of the Administration of the Mental Health Services, with the participation of mental health services recipients and their families, through voting rights.

On 11 November 2015 – following up on the Authority’s related reports – the NPM made a visit to and on-site inspection of the Psychiatric Hospital of Attica (PHA). They identified the commitment of insane offenders to public treatment facilities (under Article 69 of the Penal Code) as a major problem, being of the opinion that confinement under guard hinders their treatment, and recommended that the co-competent Ministries of Health and Justice design a special care framework for the insane in order to put an end to the contradiction between their treatment as prisoners and as patients. For example, one suggestion is that all insane patients (patients of the PHA, the PHA Dromokaition and Psychiatric Divisions of the Papanikolaou General Hospital of Thessaloniki) be assessed by mental health specialists in order to create a psycho-judicial high-security unit, a measure that requires the collaboration of the Ministries of Health and Justice. The on-site inspection report (see *Annual Report 2015*, p. 140) was sent to the Ministries of Health and Justice. The Ministry of Justice responded in July 2016, acknowledging that the practice of guarding insane offenders at psychiatric hospitals is obsolete and reflects the thinking of the legal and psychiatric community

of the '50s (i.e. the decade when the Penal Code was formulated) and that it recognises the need for its revision. In this framework, the Ministry of Justice, in collaboration with the Ministry of Health, began a study on harmonising the provisions of the criminal law and the capacities of psychiatric care, establishing a special legislative committee aimed at drafting a bill to modernise the relevant criminal law provisions to meet the requirements of the contemporary reality of criminal and psychiatric science. On a more recent visit to the PHA the NPM was assured that the relevant procedure has been set in motion.



Following the on-site inspection of the **Lechaina Branch for People with Disabilities** of the Social Welfare Centre of the Region of Western Attica, where the living conditions of the inmates were found to be exceptionally bad (see *Annual Report 2015*, p. 140), the NPM again underlines what the Ombudsman had expressed in the past (2011) with regard to the need for planning and scheduling the gradual closing of the asylum-type welfare units, such as this centre, which accommodates both minors and adults with disabilities and long-term disorders. At the same time, it recommends that they be replaced by foster programmes and small family-type units, which will operate within the community in order to ensure a link with the local community services and members of the community, according to the principles and deinstitutionalisation policy promoted in the EU, based on the principles of non-discrimination and non-exclusion.

The Ombudsman has been informed that the procedure to terminate the operation of the specific institution has begun, with the aim of transferring all children and adults to other units. The Institute of Child Health is collabo-

rating with “Lumos”, an organisation that will provide financial and scientific assistance for as long as the Lechaina Branch continues to operate. A small number of inmates have already been transferred. However, before it closes for good an exhaustive individualised evaluation of each patient must be carried out, as a necessary first stage of deinstitutionalisation.



## 2. - WORKING MEETINGS, INTERNATIONAL PRESENCE AND OTHER ACTIVITIES OF THE NATIONAL PREVENTIVE MECHANISM

- In the context of the collaboration between the NPM and the UN Subcommittee on the Prevention of Torture (SPT) a teleconference was held on 16 February 2016, during which issues regarding the operation, organisation, goal-setting and general problems of the NPM were discussed. Questions were answered, clarifications were requested and were followed up by an exchange of correspondence, and a synopsis of the NPMs' work over the previous year was presented. The SPT noted that it considers it important that the NPM's competence be extended to inspect as many institutions and facilities as possible that have to do with *de jure* deprivation of liberty, by judicial or administrative decision, or with *de facto* deprivation of liberty, when persons residing in a specific place because of the circumstances and because of the state of their health or their particularly vulnerable positions are objectively deprived of their liberty, while the facility where they are detained is under the jurisdiction or supervision of the State. In this perspective the SPT appeared to attach particular significance to the places of detention of third-country nationals, while at the level of NPM operation it placed particular emphasis on the effective planning of this special competence, so that it may be carried out as independently and distinctly as possible from the rest of the Authority's competences.
- On 19 May 2015 a Memorandum of Cooperation was signed between the Ministry of Justice, Transparency and Human Rights and the Greek Ombudsman, under its special competency as the National Preventive Mechanism against torture and ill-treatment. The signing of the agreement took place in the context of the conference "*Prisons - Human Rights - Transparency and accountability: the role of monitoring mechanisms*", which was held in the amphitheatre of the General Secretariat for Media and Communication and was the outcome of the close collaboration between the two parties, already since 2015.<sup>4</sup> By clearly defining the distinct roles of the parties, so as to simultaneously establish the Authority's independence and the exercising of control over the Administration, the agreement serves the dual goal of improving prison conditions and protecting prisoners' rights. The UN Subcommittee for the Prevention of Torture hailed this initiative as good practice and a positive development of the collaboration between the NPM and the Administration, aimed at its more effective operation.

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4 <https://www.synigoros.gr/?i=kdet.el.news.369782>

- **European Twinning Project with the Ombudsman of Azerbaijan “Support to the Strengthening of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan”.**

A team of experts of the Greek Ombudsman participated in the above European programme in the framework of implementing the more specific action “Strengthening of the Capacity of the Ombudsman Institution to act as National Preventive Mechanism under OPCAT”.

The action’s objective was, in line with the mandates of OPCAT, to promote in-depth cooperation between two peer institutions, to generate proposals and to produce a supporting document for a more effective NPM. In this context, a strategic and an action plan were devised for the Ombudsman of Azerbaijan and joint visits/on-site inspections were carried out to detention sites in Azerbaijan and in Greece, such as Detention Facilities, Psychiatric Institutions and detention facilities of third-country nationals. More specifically, in the context of a visit by a multi-member delegation of the Azerbaijan Ombudsman to Athens, a seminar was held at the Authority’s offices and educational visits/on-site inspections were made to the Agricultural Prison of Tiryns, as an alternative model of a Detention Facility (5 October 2016) and the Psychiatric Hospital of Athens (6 October 2016).

- **Educational presentation of the work of the UK NPM regarding the inspection of prisons and detention facilities of third-country nationals/refugees.**

The educational presentation was held in the context of the visit of the Inspection Team Leader of HM Inspectorate of Prisons NPM, Singh Bhui Hindpal, at the Authority’s offices, on 25 October 2016. The title of the presentation was “NPM England and Wales – Inspecting Prisons and Immigration Detention in the UK” and it concerned the UK NPM’s method of operation and inspection with regard to prisons and the premises where third-country nationals are held.

- **Participation of Authority representatives in conferences and working meetings**
  1. - An Authority representative participated in the conference “Ensuring fundamental rights compliant implementation of Framework Decisions related to detention. The role of the Judiciary and National Preventive Mechanisms” which was organised by the Ludwig Boltzmann Institute and the Academy of European Law (ERA) in Vienna (15-17 November 2017). Attending the conference were NPMs and members of the judiciary from 24 countries. The central theme of the conference was the reinforcement of fundamental rights, as these are encapsulated in EU legislation on detention through the role of the NPMs and the judiciary. The purpose of the conference was the exchange of information and the opening of channels of communication between NPMs and the judiciary, so as to ensure the necessary cooperation between them.
  2. - An Authority representative participated in the Annual Meeting of NPMs from the OSCE region held in Vienna (13-14 October 2016). The above meeting was organised by the Association for the Prevention of Torture (APT) together with the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The meeting was attended by representatives of 32 NPMs, APT and ODIHR officers, SPT and CPT representatives, as well as observers from other organisations and institutions.

**The Meeting aimed to:**

- Take stock of the NPMs’ work 10 years after the entry into force of the Operational Protocol to the UN Convention against Torture (OPCAT).
  - Empower NPMs to effectively implement their mandate, through exchange of experience and best practices with their peers and with other experts on preventive monitoring, including representatives of the SPT and the CPT.
  - Facilitate interaction between the OSCE and the NPMs and strengthen their mutual understanding of how the OSCE and the ODIHR can strategically support the effective implementation of the Operational Protocol to the UN Convention against Torture (OPCAT).
3. An Authority representative participated in the workshop for NPMs “Monitoring of Psychiatric Facilities”, organised by the International Ombudsman Institute together with the Association for

the Prevention of Torture (APT) and the Seimas Ombudsmen's Office of the Republic of Lithuania, in Vilnius (21-23 June 2016).

**The workshop's objectives were:**

- To examine issues relating to the effective monitoring of psychiatric institutions.
  - To deepen the understanding of the main risk situations connected with psychiatric institutions and ways to address them.
  - To develop skills for handling specific challenges relating to the monitoring of psychiatric institutions.
  - To explore strategies for organising follow-up visits to psychiatric institutions and overcoming challenges, such as gaps in legislation.
4. – Authority representatives participated in two SEE NPM Network workshops, “Homes for the elderly: Care institutions and dementia” and “Standards in health care and medication-based deprivation of liberty”, organised by the Austrian Ombudsman, as the current chair of the network, in Salzburg (21-22 April 2016) and Vienna (11-12 October 2016), respectively.

The workshops focused on the NPMs' positions with regard to monitoring homes for the elderly, the conditions of deprivation of liberty peculiar to these institutions, the standards and the legislation applied to the monitoring of these institutions, as well as a visit to a comparable institution.

5. – Participation of **Greek Ombudsman representatives** in the South East Europe NPM Network Meeting in Zagreb (29-30 November 2016).

The purpose of the workshop was to discuss: **a)** the possibility of implementing the UN Revised Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) in the work of the Prevention Mechanisms, **b)** the extent of State monitoring of the implementation of the recommendations made by the Mechanisms, and **c)** the role of prevention mechanisms in the refugee crisis. ●





