



## **Report**

**to the Greek Government  
on the visit to Greece  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 13 to 17 March 2020**

The Greek Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2020) 36.

Strasbourg, 19 November 2020

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## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT<sup>1</sup> carried out a “rapid response” ad-hoc visit to Greece from 13 to 17 March 2020. The visit was considered by the Committee “to be required in the circumstances” (cf. Article 7, paragraph 1, of the Convention).

2. The visit was carried out by four members of the Committee: Mark Kelly, 1<sup>st</sup> Vice-President of the CPT<sup>2</sup>, Julia Kozma, Djordje Alempijević and Alan Mitchell. They were supported by Hugh Chetwynd, Head of Division, and Natacha De Roeck of the Committee's Secretariat.

3. The report on the visit was adopted by the CPT at its 102nd meeting, held from 30 June to 3 July 2020, and transmitted to the Greek authorities on 6 July 2020. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Greek authorities to provide, within three months, a response containing a full account of action taken by them to implement the Committee’s recommendations, as well as replies to the comments and requests for information formulated in this report.

### B. List of establishments visited by the CPT’s delegation

#### 4. Police and border guard establishments in the Evros region

- Alexandroupolis Police Station
- Didimoticho Police Station
- Feres Police and Border Guard Station (PBFS)
  - Poros detention facility under the authority of Feres PBFS
- Isaakio Police and Border Guard Station
- Metaxades Police and Border Guard Station
- Neo Cheimonio Police and Border Guard Station
- Orestiada Police Station
- Soufli Police and Border Guard Station
- Tychero Police and Border Guard Station

#### Police establishments in Samos

- Detention cells under the authority of the Hellenic Police at the Coastguard Premises
- Vathi Police Station

#### Immigration detention facilities

- Filakio Reception and Identification Centre, Evros region
- Filakio Pre-removal centre, Evros region
- Malakasa detention camp, Attica

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<sup>1</sup> See [www.cpt.coe.int](http://www.cpt.coe.int) for information on the CPT’s mandate and work.

<sup>2</sup> Due to unforeseen circumstances, Mykola Gnatovskyy, Head of Delegation and President of the CPT, had to leave Greece on 14 March 2020 and Mark Kelly joined the delegation on the same date.

### C. Context of the visit

5. On 28 February 2020, the President of Turkey, Recep Tayyip Erdoğan made a statement<sup>3</sup> declaring that the borders to the EU were open and that Turkish forces would no longer prevent people from trying to access Greece. As from 29 February, thousands of migrants started to converge on the Turkish side of the north-west land border to Greece in the region of Edirne. Crossings by boat also increased for a few days, for example, on 1 and 2 March, 1,200 persons arrived on the Greek islands.<sup>4</sup>

In reaction to these developments, the Greek authorities reinforced the numbers of police and military personnel guarding the Evros border and increased its patrols of the shipping lanes between Turkey and the Aegean islands, notably, Chios, Kos, Lesbos and Samos. Further, on Sunday, 1 March, the Prime Minister of Greece, Kyriakos Mitsotakis, announced the suspension of asylum applications.<sup>5</sup>

Reference might also be made to the position adopted by the European Commission and, in particular, by the Commissioner for Home Affairs that it is “absolutely necessary that we, the European Union protect our external borders. But it is also absolutely necessary that we defend our fundamental rights and values, including the right to asylum”.<sup>6</sup>

6. In the first few days of March, confrontations occurred at the Kastanies border crossing, which included reports of live ammunition being fired and the death of one migrant<sup>7</sup> and injuries to several others on 4 March 2020. With migrants appearing at risk of being subjected to treatment contrary to Article 3 of the European Convention on Human Rights, the CPT decided to use its preventative mandate to examine for itself the situation of migrants who had crossed into Greece.

The CPT also wishes to place on record that it has received information from numerous sources and from interviews with migrants who all alleged that the Turkish authorities took active measures to promote and facilitate the large-scale entry of persons into Greece. Regardless of their number, the men, women and children crossing into Greek territory are individuals who must be treated with dignity and respect and in accordance with European norms. The findings of the visit demonstrate that this was not always the case.

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<sup>3</sup> [Cumhurbaşkanı Erdoğan: 18 bin düzensiz göçmen sınırı geçti, kapıları kapatmayacağız](#) (President Erdoğan of Turkey: 18 thousand irregular immigrants crossed the border, we will not close the doors).

<sup>4</sup> UNHCR Refugee Brief of 2 March 2020

<sup>5</sup> Act of Legislative Content for the suspension of asylum applications (GG A’ 45/2.3.2020) was published on 2 March 2020, giving retrospective effect (from 1 March 2020) to this decision.

<sup>6</sup> Commissioner Ylva Johansson, [Opening statement to debate on situation at Greek-Turkish border, European Parliament Plenary Session, 10 March 2020](#)

<sup>7</sup> See the detailed forensic analysis video (16 minutes) published by [Der Spiegel on 8 May 2020](#) which was drawn up together with research teams from Forensic Architecture, Lighthouse Reports and Bellingcat.

**D. Consultations held and cooperation encountered**

7. Following the visit, on 23 March 2020, Mykola Gnatovskyy, the President of the CPT, held an exchange of views by videoconference with Notis Mitarachi, Minister for Immigration and Asylum, and his Alternate Minister, Giorgos Koumoutsakos, on the findings of the CPT's delegation. Prior to that, on 18 March 2020, telephone conversations had taken place with Police Lieutenant General Michail Karamalakis, Chief of the Hellenic Police and other senior officials of the Hellenic Police, and a letter outlining urgent concerns had been addressed to Michalis Chrisochoidis, Minister of Citizen Protection.

The CPT's delegation also held consultations with UNHCR representatives in Athens and in the field, as well as with non-governmental organisations active in areas falling within the CPT's mandate.

8. The CPT notified the Greek authorities of its intention to visit the country less than 48 hours in advance and it appreciated the cooperation of the Hellenic Police and the Ministry of Citizen Protection in providing its delegation with credentials and a liaison officer within this time period.

With a few exceptions, the CPT's delegation received generally very good cooperation from the staff at the establishments visited. It enjoyed access to all the places it wished to visit, none of which had been notified in advance, was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

The exceptions concerned a very few Hellenic Police officers at the Filakio RIC and in Samos who did not understand the mandate of the CPT and who attempted to hinder the delegation from carrying out its work.

9. Of much greater concern, however, is that the liaison arrangements put in place did not operate in an effective manner, notably because senior liaison officers from other relevant Ministries were not appointed. It was particularly disappointing that no Coast Guard contact point was provided, despite repeated requests by the CPT before and during the visit.<sup>8</sup> The CPT has in the past stressed the importance of having liaison officers from the relevant ministries and services responsible for the places of deprivation of liberty that may be visited by the Committee, and/or from the Ministry of Foreign Affairs, who are able to carry out effectively the liaison functions. These liaison officers must be in a position to respond to any request from the CPT's delegation or to relay it to the appropriate authority. For example, a visit to Greece regarding migration matters will inevitably require communication with the Hellenic Police, Coast Guard and Ministry for Migration Policy in addition to other authorities such as the Ministry of Foreign Affairs, the Ministry of Citizen Protection and the General Prosecutor.

For the CPT's delegation, the liaison officers appointed by the Hellenic Police for the March 2020 visit were considered as being responsible for addressing all matters arising throughout the visit. Their duty was to ensure that any immediate observations raised were relayed to the relevant authorities for action and a response provided to the delegation. In this context, the CPT considers that the Greek authorities failed in their obligations under Article 3 of the Convention under which

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<sup>8</sup> For example, the CPT's delegation was initially hindered in visiting the Coast Guard premises in Samos due to Coast Guard officials lacking any knowledge of the CPT's mandate.

the CPT operates to address the situation of the 93 persons being held in the two cells in the port of Samos in an expeditious and transparent manner once the delegation had communicated its grave concerns over their conditions of detention (see paragraphs 26 and 27 below).

A further manifestation of that failure was that, despite several detailed requests, the CPT's delegation was not informed of the whereabouts of the vessel detaining some 400 migrants after it set sail from Lesbos on the night of 14-15 March 2020 (i.e. on the day after the CPT's visit began). The delegation subsequently located the persons concerned, without the assistance of the Greek authorities, on the day that they were disembarked on the mainland.

**The CPT recommends that the Greek authorities review the liaison officer arrangements to ensure that issues raised by a CPT delegation are addressed in a timely manner by the competent ministry or service.** The CPT also wishes to recall that its delegations are entitled to "full information on the places where persons deprived of their liberty are being held" (cf. Article 8, 2 (b) of the Convention), irrespective of the nature of that place of detention.

#### **E. Immediate observations under Article 8, paragraph 5, of the Convention**

10. In the course of the visit, the CPT's delegation made a number of requests to the Greek authorities in respect of matters requiring urgent attention. These requests, including the three formal immediate observations under Article 8, paragraph 5, of the Convention, were confirmed in the written preliminary observations transmitted on 23 March 2020. The Greek authorities were requested:

- to take out of use the two cells at Isaakio Police and Border Guard Station until such time as they have been properly refurbished;
- to confirm that every person who is held at Poros detention facility is now properly registered, with their full details recorded, including the time of their entry and exit from the facility;
- to confirm that all the persons admitted to the Malakasa camp have now undergone a full health screening, given the significant public health issues at stake;
- to transfer immediately the persons held in the two cells under the authority of the Hellenic Police at the former Special Missions Unit of the Hellenic Coastguard in Samos to alternative premises that offer humane and decent conditions;
- to act to ensure that the practice of pushbacks of migrants into Turkey across the Evros River ceases immediately.

By letter of 16 April 2020, the Ministry of Migration Policy and the Hellenic Police provided a response to the delegation's preliminary observations, including as regards the action taken to address the above-mentioned requests. This information has been taken into account when drafting the report.

## **II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

### **A. Foreign nationals deprived of their liberty under aliens' legislation**

#### **1. Preliminary remarks**

##### **a. Background**

11. At the outset, the CPT wishes to recall that in the period since 2005, it has paid particular attention to the issue of foreign nationals deprived of their liberty under aliens' legislation in Greece. The most recent visit on this topic took place in April 2018.<sup>9</sup>

The CPT has over the years been extremely critical of the way in which the Greek authorities treat migrants who enter the territory in an irregular manner. It has advocated that any immigration detention facilities established are not punitive and meet basic minimum standards. Regrettably, despite repeated recommendations by the Committee, the approach of the Greek authorities has not evolved substantially.

12. The adoption of Law 3907/2011 which transposed the provisions of the EU Return Directive 2008/115/EC into Greek law as well as the establishment of an Asylum Service and First Reception System combined with the Action Plan on Asylum and Migration Management adopted in 2010, and updated in December 2012, heralded a new approach. In particular, the concept of the pre-departure centres appeared to meet the basic requirements set out by the CPT of offering decent living conditions and a purposeful regime. In reality, the operation of the centres was based on a security approach, with detainees treated in many respects as criminal suspects. Such an approach is even more pronounced in the case of the police pen-like holding facilities of Filakio and Petrou Ralli, which the CPT has repeatedly criticised since 2005.

A belief apparently remains that harsh conditions will deter migrants from arriving in Greece, without taking into consideration the push factors driving people to risk their lives to enter the country. The European Union's determination to seal its external borders has resulted in severe difficulties for Greece since 2015; however, the punitive approach pursued by the Greek authorities throughout that time has done nothing to resolve the underlying issues.

13. The CPT fully acknowledges the difficult context and the significant on-going challenges faced by the Greek authorities in dealing with the high number of foreign nationals arriving in the country, both on the Aegean islands and in the Evros region. The Committee has repeatedly stressed the need for a coordinated European approach to address this phenomenon.

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<sup>9</sup> See [CPT and Greece](#) for the report on the 2018 visit and the preceding nine visits reports on this topic.

However, as the CPT recalled in its report on the 2018 visit, even in this challenging situation, foreign nationals deprived of their liberty by the Greek authorities must be treated both with humanity and with dignity. Further, their systematic detention cannot be the immediate response to this challenge.<sup>10</sup> Moreover, Greece cannot be so ill-prepared to receive new migrants that it has to hold them in inhuman and degrading conditions such as those witnessed on the island of Samos. The influx of migrants is not new and yet each time numbers surge, improvised places such as buses and a vessel are used to detain them. Forward planning with support from the European Union must be put in place to avoid such scenarios repeating themselves. In the light of the above, **the CPT considers that the time is ripe for Greece to reconsider the approach taken towards the detention of migrants and it would appreciate receiving the comments of the Greek Government on this matter.**

b. Legal framework: administrative and criminal

14. As regards the general legal framework for detention of foreign nationals deprived of their liberty under aliens' legislation in Greece, it has not changed since the CPT's visit in 2018.<sup>11</sup>

15. The CPT notes that the above-mentioned Legislative Act for the suspension of asylum applications was not renewed after 31 March 2020 and hence expired.

Nevertheless, the CPT wishes to recall that the absolute prohibition of torture and inhuman or degrading treatment or punishment under Article 3 of the European Convention on Human Rights entails the obligation not to send a person to a country where there are substantial grounds for believing that he or she would run a real risk of being subjected to torture or ill-treatment (*refoulement*). This obligation is applicable to any form of forcible removal, including deportation, expulsion, informal transfer and non-admission at the border, and in respect of return to any other country to which the person may subsequently be removed (so-called chain *refoulement*). The CPT recalls that Article 3, in conjunction with Article 13, of the European Convention on Human Rights requires States to enable persons to lodge an asylum claim and thereafter to provide for an independent rigorous scrutiny of the claim.

Consequently, in view of the gravity of the interests at stake, **the CPT urges the Greek authorities not to resort to such a legislative measure again even when faced by a potential increased influx of migrants. It is imperative that all persons in need are placed in a position to effectively request asylum.**

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<sup>10</sup> In line with the relevant case law of the European Court of Human Rights, deprivation of liberty should only be a measure of last resort, after exhausting the possibility of less intrusive measures and after a careful and individual examination of each case. See, for instance, ECtHR, *J.R. and Others v. Greece*, application no. 22696/16, 25 January 2018, paragraph 84.

<sup>11</sup> See CPT/Inf (2019) 4, paragraph 73. As regards the legal provisions regulating detention, see in particular Section 76 of Law 3386/2005, Section 30 of Law 3907/2011 and Sections 14 and 76 of Law 4375/2016.

16. A further consequence of the events that unfolded after 28 February 2020, was the decision by certain prosecutors to criminally charge migrants with illegal entry into the country.

Law 3386/2005 on the “*Entry, residence and social inclusion of third country nationals in the Greek Territory*” states under Article 83, paragraph 1, that “Third-country nationals who .... enter or attempt to enter Greece without legal formalities shall be punished by imprisonment of at least three months and a fine of at least one thousand five hundred EUR (1,500€)”. In the past, in practice, prosecutors have used their discretionary powers under Article 83, paragraph 2, of the Law not to pursue criminal charges against irregular migrants.

17. The CPT understands that Public Prosecutors in Alexandroupolis District and on the island of Lesbos have filed criminal charges against some migrants but that these cases have yet to come to court. Likewise, 12 minors from Afghanistan have also been charged but their cases were postponed by the Court of Minors on 5 March 2020 due to a lack of interpretation services. However, the Public Prosecutor in the district of Orestiada (north Evros) was the most systematic in criminally charging and seeking punitive sentences for migrants who entered the country in an irregular manner.

Between 28 February and 14 March 2020, the single-member Misdemeanours Court in Orestiada sentenced 103 persons to imprisonment under the above-mentioned regulation. In 19 cases which concerned women, the sentences were suspended and the administrative procedure for deportation was applied (the delegation met many of them at Filakio). In the remaining 84 cases, 79 men were sentenced to periods of up to four years of imprisonment and a fine of 10,000 Euros and five women were sentenced to three or three and a half years of imprisonment and a fine of 5,000 Euros.<sup>12</sup> The cases were all referred to the Court under the procedure of ‘*flagrante delicto*’ and hence dealt with within 24 hours of the person’s apprehension.

18. The CPT has serious misgivings about the way in which these cases were conducted. For example, two Turkish men had entered Greece at 6 a.m. on 14 March (a Saturday), were apprehended near to Neo Cheimonio and brought to Orestiada police station at 9:40 a.m. on that day. In the early afternoon of the same day, they had a hearing (at which they claimed they could not understand the proceedings and that they did not have a chance to speak to their lawyer), at the end of which both were sentenced to four years of imprisonment and a fine of 10,000 Euros. In another case, a family from Afghanistan was arrested on 29 February and, on the same day, the husband was sentenced to three years and six months and a fine of 4,000 Euros and the wife received a suspended three-year sentence and fine of 5,000 Euros, which at least enabled her to remain with her two children (aged 11 months and 2 years) albeit within an immigration detention facility. At no stage were any of these persons, or others whom the delegation met, allowed to make a phone call to inform someone of their situation while held in police custody.

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<sup>12</sup> The women were all transferred to Thiva Women’s Prison near Athens.

Further, the CPT was informed that in these cases there was poor interpretation (at times undertaken by other migrants), lack of legal aid, an inability for migrants to present their cases and intimidation and bias by the Court.<sup>13</sup> However, the CPT is particularly concerned over the Article 3 ECHR implications of these sentences, including the fact that many of the sentenced men were sent to Komotini Prison, an establishment that has been operating at nearly 200% of its capacity for several years.<sup>14</sup> The deliberate separation of the family unit was another consequence.

19. The CPT recalls that States must not impose penalties on persons who directly come from a territory where they might face persecution in accordance with the 1951 Convention Relating to the Status of Refugees (Article 31). According to this article, they must be provided with the opportunity to “show good cause” for their illegal entry.<sup>15</sup> Moreover, “imprisonment of a migrant in an irregular situation for the offence of having unlawfully entered [...] must not take precedence over applying the [EU] Return Directive, including its fundamental rights safeguards”.<sup>16</sup> Finally, also in light of the state of Greek prisons, this new practice is highly questionable.

**The CPT recommends that the Greek authorities ensure that all Public Prosecutors and Misdemeanour Courts are fully cognisant of Greece’s international legal obligations**

**Further, the CPT wishes to be informed whether those persons who received a term of imprisonment of a suspended sentence are eligible to apply for asylum after 31 March 2020. The CPT would also like to be informed whether those criminal cases filed by the Public Prosecutors in the District of Alexandroupolis and on the island of Lesbos have been pursued. In addition, it wishes to receive details as to the charges being filed against the 12 minors from Afghanistan and to be informed of any future judicial proceedings concerning them.**

## **2. Ill-treatment**

20. The vast majority of migrants met by the CPT’s delegation in the establishments visited stated that they had not been physically ill-treated by the Hellenic Police, Coast Guard or military when apprehended and detained.

However, the CPT’s delegation received, once more, a number of allegations by migrants that they had been subjected to slaps to the head and kicks and truncheon blows to the body by members of the Hellenic Police and Coast Guard. In a few cases, those allegations were supported by medical evidence. In addition, several allegations of abusive language were received at the Filakio pre-departure centre concerning certain police officers addressing the migrants through the bars of the cells as “animals”.

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<sup>13</sup> It was reported to the CPT that the Public Prosecutor and the Judge suggested during the proceedings that the severe sentences were intended as a measure to deter others, despite the crime being classified as that of a misdemeanour.

<sup>14</sup> See the CPT’s report on the 2019 visit and notably the preliminary observations: CPT/Inf (2020) 15, paragraphs 11 to 15; see also *inter alia* ECtHR S.D. v. Greece, application no. 53541/07 of 11 June 2009.

<sup>15</sup> It is interesting to note that in several cases where the prosecution of migrants was initiated in the past, the Greek Courts, including the Supreme Court, have acquitted refugees or applicants for international protection from the charge of illegal entry making explicit reference to the obligations of the State deriving from Article 31, 32 and 33 of the 1951 Refugee Convention.

<sup>16</sup> EU Fundamental Rights Agency, Criminalisation of migrants in an irregular situation and of persons engaging with them, pp. 3 et seq., [https://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants\\_en.pdf](https://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants_en.pdf)

For example, one person held in the two cells at the former Special Missions Unit of the Hellenic Coastguard in Samos alleged that he was struck across the left side of the head with a baton by a police officer after asking to be let out of the cell to go to the toilet. He complained of resulting deafness in his left ear, and an examination by the delegation's doctor revealed that he had tenderness and a swelling on the left side of his face. Further, another police officer on duty on certain nights at this same facility allegedly slapped a number of men and children, reportedly for making a noise. In one instance, a child explained to the delegation that he had been slapped after he had had an anxiety attack which had caused him to scream out.

**The CPT calls upon the Greek authorities to take vigorous steps to stamp out ill-treatment of foreign nationals deprived of their liberty by the police under aliens' legislation. Police officers should regularly be reminded that foreign nationals should be treated with respect and that any form of ill-treatment of detained persons – including verbal abuse, racist behaviour and threats of ill-treatment – is unacceptable and will be punished accordingly. Further, senior officers should be held accountable for their line-management responsibilities.**

### **3. Safeguards against ill-treatment**

21. The CPT wishes to recall again that, in the same way as other categories of detained persons, irregular migrants apprehended by the police in virtue of the applicable aliens' legislation should, from the very outset of their deprivation of liberty, enjoy three basic rights that are fundamental safeguards against ill-treatment, namely the rights of notification of custody, access to a lawyer and access to a doctor.

That said, no noticeable improvements have occurred since the CPT's 2018 visit to Greece. Once again, the Committee has to conclude that these fundamental safeguards against ill-treatment, for the most part, do not apply in practice from the very outset of a foreign national's deprivation of liberty and, more generally, remain ineffective, despite the existence of clear rules.<sup>17</sup> The suspension of the right to apply for asylum after 1 March 2020 does not in any way remove the legal right to benefit from these fundamental safeguards.

22. According to the information gathered during the visit, many foreign nationals met by the delegation who were – or had recently been – in police custody stated that they had not been granted the right to notify promptly a close relative or third party of their choice of their detention. Further, several persons complained that they were not able to contact a lawyer and/or see a doctor (see also section 6 on health care below) throughout the entire period of their police custody. In particular, access to a lawyer often remained theoretical and illusory for those who did not have the financial means to pay for the services of a lawyer. The provision of legal advice for issues related to detention and deportation was generally inadequate in all the detention places visited, including the Filakio RIC and the Filakio pre-departure centre. As a result, detainees' ability to raise objections against their detention or deportation decisions or to lodge an appeal against their deportation was conditional on them being able to access a lawyer.

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<sup>17</sup> See the CPT's report on the 2013 visit report (CPT/Inf (2014) 26), paragraphs 27-32 where these issues were clearly laid out. The findings from the visits in 2015, 2016 and 2018 found that there had been no improvement.

**The CPT calls upon the Greek authorities to take the necessary steps to ensure that all foreign nationals who are deprived of their liberty by the police under aliens' legislation are granted the rights of notification of custody, access to a lawyer and access to a doctor and are placed in a position to effectively exercise these rights as from the very outset of their deprivation of liberty. As regards the right of access to a lawyer, this should include the right to have access to legal advice as well as, when foreign nationals are not in a position to pay for a lawyer themselves, the right to benefit from access to free legal aid.**

23. A systematic deficiency of fundamental importance, which the Committee raised once again in its report on the 2018 visit, concerns an almost total lack of available interpretation services in all the establishments visited. Consequently, police officers and other staff faced significant difficulties in communicating with detainees and understanding their requests and needs. They usually had to rely on fellow detainees who spoke English or Greek. The CPT has long stressed that the use of fellow detainees as interpreters should, in principle, be avoided. Further, most foreign nationals claimed that they had signed documents in the Greek language without knowing their content and without having benefited from the assistance of a qualified interpreter. Indeed, nearly all official documents, including detention and deportation orders, were only available in the Greek language and were not translated. In Samos, migrants held in the two cells in the Coastguard premises were not even provided with the notification on detainees' rights in a language they could understand. Where there are insufficient interpreters available to cover the required languages, the Greek authorities should explore alternative means such as the use of telephone interpretation services which have proved effective in other countries.

**The CPT reiterates its recommendation once again that detained foreign nationals should be systematically and fully informed of their rights, their legal situation (including the grounds for their detention) and the procedure applicable to them as from the very outset of their deprivation of liberty, if necessary, with the assistance of a qualified interpreter. Further, all detained persons should be systematically provided with a copy of the leaflet setting out this information in a language they can understand.**

**Sufficient funding should be made available to ensure that interpretation services are available when required (including by means of phone or videoconferencing).<sup>18</sup>**

**Further, detained persons should not be required to sign official documents in a language they do not understand. To this end, a copy of these documents should systematically be provided to detainees in a language they can understand, or the content should be translated.**

24. Custody records reviewed by the CPT's delegation in the police establishments visited varied greatly in respect of the comprehensiveness of the information contained therein. For instance, at Feres Police and Border Guard Station, the records were generally well kept with an individual file for each person in which it was noted whether they had been provided with an information leaflet on their situation in a language they could understand. However, the register did not record the time of the apprehension which in some cases could be several hours prior to their arrival at the station.

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<sup>18</sup> This is a major concern at facilities such as Filakio pre-departure centre where staff, including health care staff and the psychologist, are unable to communicate effectively with the detained persons.

The registers in other places of detention such as at Vathi Police Station in Samos and the two cells in the port of Samos or Isaakio and Metaxades Police and Border Stations did not provide detailed information.

Further, the complete absence of any registration of detention at the Poros detention centre is extremely worrying. The Poros centre falls under the jurisdiction of the Feres Police and Border Guard Station and, at least since 29 February 2020, it was officially being used for holding migrants for several hours prior to their transport to another detention facility. The delegation was told that all persons were recorded upon entry to the facility but that at the end of each day the form containing the information on these persons was simply thrown away. Such a practice lends credence to the very detailed allegations that the Poros detention facility was used to hold persons arbitrarily without any access to their rights, and that it served as a staging post for the pushback of migrants to Turkey (see section 7 below).

25. It is for this reason that the CPT has advocated the introduction of an individualised custody record which would not only reinforce the practical application of the fundamental safeguards afforded persons in custody but also facilitate the work of the police.

Such a single and comprehensive record should contain information on all relevant aspects of a detainee's custody and action taken regarding them (time of and reason(s) for the apprehension; time of arrival on police premises; when informed of rights; signs of any injury, health alert issues given with the consent of the detainee etc.; contacts with and/or visits from next of kin, lawyer, doctor or consular official; when offered food; when questioned; when brought before the relevant judge, when transferred, released, etc.). For certain matters (for example, the removal of personal belongings, the fact of being informed of his/her rights and of invoking or waiving them), the detainee's signature should be obtained and, if necessary, the absence of a signature explained. The detainee's lawyer should have access to such a custody record.

**The CPT calls upon the Greek authorities to ensure that such an individualised custody record is maintained in every police detention facility. Further, the Committee would like to be informed of the progress in the introduction of electronic registers in all police establishments throughout Greece.**

**In addition, the CPT would like to receive confirmation that the detention of all persons held at the Poros centre since 15 March 2020 is fully recorded and that the records are kept.**

#### **4. Conditions of detention**

26. The CPT has consistently advocated that persons detained under aliens' legislation should be accommodated in **centres specifically designed for that purpose**, offering material conditions and a regime appropriate to their legal situation. Care should be taken in the design and layout of such premises to avoid, as far as possible, any impression of a carceral environment. The CPT has also repeatedly set out the minimum conditions under which such person should be held.<sup>19</sup>

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<sup>19</sup> See the report on the 2013 visit: CPT/Inf (2014) 26, paragraph 51 and [the CPT Factsheet on Immigration detention of March 2017](#): CPT/Inf (2017) 3, Section 4.

Regrettably, once again, far too many of the places being used to detain migrants offered conditions of detention which are an affront to human dignity.

a. Conditions that may amount to inhuman and degrading treatment

27. On 16 March 2020, the CPT's delegation visited the two cells under the authority of the Hellenic Police at the former Special Missions Unit of the Hellenic Coastguard in the Port of Samos. The delegation found 93 migrants (58 men, 15 women – three of whom were pregnant – and, 20 children, 10 of whom were under five years old), crammed into the two cells. One cell measured 42 m<sup>2</sup> and held 43 people (affording each one less than 1 m<sup>2</sup> of living space per person) and the second cell measured 32 m<sup>2</sup> and held 50 migrants (affording each person 0,6 m<sup>2</sup> of living space).

Access to natural light was limited and there was no artificial lighting, no heating, no beds and no mattresses. The detained migrants slept on blankets or on cardboard placed on the cell floor. The unpartitioned in-cell toilets were blocked and emitted a foul stench into the rest of the cell. Access to three portable toilets located outside the cell area was offered in small groups a few times a day. There was no communal area and no outdoor exercise yard. The migrants met had not had access to a shower for more than two weeks and no soap was given to them to wash their hands after going to the toilet. Women were given wet wipes, but they were not provided with any other hygiene products; many women recounted the embarrassing and unsanitary situation with which they had had to cope during their detention. These conditions clearly amount to inhuman and degrading treatment. The fact that the Greek authorities continued to hold this group of 93 persons, many of whom were clearly vulnerable, for 18 days without any efforts to lessen the harshness of their situation could be considered an inhuman punishment.

In addition to their squalid conditions, they were not afforded the possibility of contact with the outside world (their mobile phones had been confiscated).

28. The CPT's delegation immediately invoked Article 8, paragraph 5 of the Convention both orally and in writing that same day. It requested that immediate steps be taken to transfer the persons held in these two cells to alternative premises that offer humane and decent conditions, and that those persons in need of medical treatment be transferred to hospital without delay (see paragraph 50). The CPT was not provided with any official feedback about the steps being taken to resolve this situation until 18 March, when the Chief of the Hellenic Police informed the delegation that "the persons located in Samos will be transferred to an appropriate structure, on Friday 20 March 2020 inland, under the auspices of the Ministry of Migration and Asylum". The group, along with others, was subsequently transported to the newly established Kleidi-Serres camp during the night of 20-21 March.

**The CPT recommends that the Greek authorities take steps to ensure that migrants arriving in Greece be afforded basic minimum conditions, if detained. Further, the Committee recommends that families with children should not be detained and that women should not be detained together with unrelated men.**

29. The two cells at *Isaakio Police and Border Guard Station* were once again<sup>20</sup> found to be filthy, damp, smelly and dilapidated; one of the sanitary annexes contained piles of faeces on the floor and had an overpowering stench. On the cell floors were a pile of dirty sponge mattresses and blankets. Although not holding any persons at the time of the visit, the two cells had accommodated 75 men, women and children between 29 February and 2 March 2020 (most overnight) in these conditions. The CPT's delegation invoked Article 8, paragraph 5, of the Convention and requested that the Greek authorities take these two cells out of use until such time as they have been properly refurbished.

By letter of 16 April, the Greek authorities responded that the cells had been refurbished, thoroughly cleaned and disinfected. **The CPT trusts that the facilities will now be maintained in a decent state as even for short stays of one night detained persons must be offered basic minimum conditions. If not, the two cells should be taken out of service.**

30. At *Vathi Police Station* in Samos, the situation was dramatic in terms of overcrowding and squalid conditions. Two cells, each measuring 18m<sup>2</sup>, held 14 and 15 men respectively while four men were accommodated in the 12m<sup>2</sup> cell, three slept on the floor of the corridor and one man was accommodated in the broom cupboard (which measured a mere 1.5m<sup>2</sup>). The foam mattresses were filthy, there was insufficient bedding for all the detained persons and the sanitary annexes were feculent and in an appalling state of hygiene. There was no outdoor exercise yard and, at the time of the visit, at least 27 of the men had been held for four nights or longer in such conditions. Indeed, the Greek authorities in their response of 16 April stated that the police station continued to hold 25 persons albeit purportedly in less filthy conditions. **The CPT recommends that the Greek authorities reduce the occupancy levels at Vathi Police Station to its official capacity and that persons not be detained in this facility for periods in excess of 24 hours. Further, every detained person must be provided with their own mattress and bedding and the facility cleaned and maintained in a decent state of hygiene.**

31. The CPT has visited the *Filakio pre-departure centre* on numerous occasions and has repeatedly criticised the appalling conditions of detention and the non-existent regime.<sup>21</sup> Regrettably, the situation at the time of the March 2020 visit was no better.

At the time of the visit, the centre was accommodating 156 persons in five large cells for an official capacity of 254.<sup>22</sup> As has been described in previous reports, the six cells in the main accommodation corridor are all crammed with bunk beds set upon a concrete plinth which means that even when not crowded the cells offer little space. Of the four cells in operation, Cells 5 and 6 were accommodating families (and some unrelated men). They held 37 and 55 persons, respectively, which included 43 men, 22 women (several of whom were pregnant), 16 boys and 11 girls. The cells were filthy, bedding was dirty and there was a stale odour in the air. The sanitary annexes were extremely unhygienic, with mould on the walls and rusty toilet doors, and a rank odour; the sink taps were permanently flowing, and the floor was wet and soiled. Moreover, the general structure was dilapidated, and expansive cobwebs spanned the ceilings and the pipes. Cells 3 and 4 were accommodating 16 and 36 men, respectively, and both cells were in a similarly poor state.

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<sup>20</sup> See the CPT's report on the 2018 visit: CPT/Inf (2019), paragraph 87.

<sup>21</sup> In the report on the 2018 visit, the CPT found the conditions to amount to inhuman and degrading treatment: see CPT/Inf (2019), paragraphs 104 to 106. Reference should also be made *inter alia* to the report on the 2011 visit in which the CPT enumerated the deficiencies at Filakio: CPT/Inf (2012)1, paragraphs 22 to 26

<sup>22</sup> A fire in April 2019 had severely damaged cells nos. 1 and 2 leading to them being taken out of service and lowering the official capacity from 374 to 254.

The dormitory for women (40m<sup>2</sup>) was equipped with 13 sets of bunk beds and was accommodating 11 women. It was also dilapidated and, due to a leaking pipe in the wall, the floor of the dormitory was wet. Moreover, the artificial lighting did not work, which meant that the dormitory was plunged into complete darkness at nightfall. Further, as was the case in 2018, many persons complained that they did not have access to hot water.

In addition to the poor material conditions, the CPT's delegation found that, contrary to the official information provided, access to outdoor exercise was only being offered on weekdays, and that it was limited to a mere 15 to 20 minutes per day. Other activities such as a gym (in a container), shaving and haircutting as well as gardening had all ceased to be offered due to a lack of staff. Nothing was provided in the way of games or activities for the children.

32. This state of affairs is once again wholly unacceptable. In the CPT's view, holding persons for several weeks or months in such appalling conditions can easily be considered as amounting to inhuman and degrading treatment. These conditions are particularly unsuitable for families with children and pregnant women due to their vulnerability. Indeed, the CPT cannot understand how the Greek authorities can continue to detain small children let alone babies in such traumatising conditions for periods of up to one month or even longer.

The CPT considers that the Filakio pre-departure centre is wholly unsuited to fulfil its purpose as a pre-departure centre. The Greek authorities had informed the CPT in their response to the 2018 visit report that the centre would be completely refurbished and the capacity reduced. The CPT is not convinced that the current carceral structures can be reconfigured. Suffice it to say that the time has come for the Greek authorities to take decisive action to ensure that this centre provides basic minimum conditions of detention to all persons held there. This requires ensuring that it has a sufficient staffing complement to provide a full range of activities to detained persons, including as open a regime as possible with access to the outdoor areas.

33. In the light of the above findings, **the CPT calls on the Greek authorities to take immediate action to:**

- **transfer vulnerable persons (including families with children, pregnant women, etc.) to suitable open reception facilities, where they can receive appropriate care for their specific needs;**
- **never detain women and children; if exceptionally, they are detained for very short periods (hours) they should not be held in the same cell as unrelated men.**

**Further, the CPT once again calls upon the Greek authorities to either close down or completely renovate the Filakio pre-departure centre to ensure that:**

- **it no longer provides such a carceral environment;**
- **the official occupancy rates are revised so as to offer a minimum of 4 m<sup>2</sup> of living space per detained person in the multiple-occupancy accommodation; preferably the cells should be divided up into smaller living units;**
- **all detained persons are offered a clean bed, mattress, blanket and bedding;**
- **all dormitories have adequate lighting (including daylight), ventilation and heating/cooling;**

- all dormitories are equipped with tables and chairs and all detained persons provided with personal lockable space;
- all dormitories and sanitary annexes are regularly maintained and disinfected;
- all detained persons have access to hot water, including at night.

In addition, the CPT calls upon the Greek authorities to ensure that:

- unrestricted access to outdoor exercise is granted throughout the day;
- outdoor exercise areas are appropriately equipped (benches, shelters, etc.);
- a programme of activities (educational, recreational and vocational) is developed;
- at least one common association room, equipped with television and games, and one multi-faith room are set up;
- the facility is adequately staffed by a range of professionals who are equipped with the necessary range of skills to work with migrants.

b. Conditions in other places visited

*i. Police and border guard stations in the Evros region*

**34. The conditions of detention at the Hellenic Police and Border Guard Stations of Feres, Neo Cheimonio and Soufli remain essentially the same as described in the report on the CPT's April 2018 visit.<sup>23</sup>**

35. At the time of the visit, *Soufli and Neo Cheimonio stations*, were not holding any migrants. Both had, however, held significant numbers of persons in the two weeks prior to the visit. It was noticeable that at *Neo Cheimonio*, in particular, the sanitary annexes were very dirty, with human faeces smeared on the floor in several of them. Further, the cells were filthy and the foam mattresses old and stained. The exercise yard was filthy too. If the detention areas are in such a state when unoccupied, they can only be considerably worse when inhabited. **Detention premises and sanitary annexes must be kept clean and in a state of good repair and hygiene.**

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<sup>23</sup> See the CPT report on the 2018 visit: (CPT (2019) 33), paragraphs 84-89.

36. The CPT's delegation received consistent and detailed allegations that migrants were held for several hours at *Soufli Police and Border Station* in the back of a disused or confiscated truck parked just inside the back entrance to the station. Migrants met claimed that it was still night-time when they had been placed in the sealed container and that it was extremely cold and dark once the doors were closed. A few blankets had been left lying on the floor of the container but they were wet and reeked of urine. Only one of the migrants interviewed had wrapped a blanket around himself to ward off the cold and he ended up a few days later having to be isolated from all other persons at the Filakio pre-departure centre due to scabies. When the delegation visited the facility, the container was easily accessible and the inside (windowless and with no lighting) smelled of urine and still contained some signs of having been occupied. The delegation also found strewn on the ground around the back doors of the container the cut off remains of the plastic cuffs used to restrain migrants and a pile of belts and clothes as well as an empty wallet. A couple of plastic bottles filled with urine also lay under the truck.

Even if the officers at the Soufli station were having to cope with a large number of migrants to register in the custody suite at that time, there can be no justification for placing these men in a sealed, dirty container for several hours with no information as to their fate, no possibility to go to the toilet and no means to keep themselves warm. Such conditions may well amount to inhuman and degrading treatment. **The CPT recommends that the Greek authorities ensure that any designated temporary places of detention should always provide basic minimum conditions and that all persons held there be registered accordingly. The CPT also wishes to receive confirmation that the container truck at Soufli Police and Border Guard Station has been removed and can no longer be used as a place of temporary detention.**

37. At *Feres Police and Border Guard Station*, on the day of the visit, there were 18 detainees, including one woman with her brother and three unaccompanied minors, two born in 2003 and one in 2005. The detainees were all held on administrative charges and for periods of four to eleven days. The layout of the facility had not changed since the CPT's last visit in 2018.<sup>24</sup> There were still two wings, one wing had six cells for five persons and the other wing seven cells for five persons each, and an outdoor courtyard between the two wings. One cell was used as a storage room. Reportedly, detainees were allowed to keep personal items, except mobile phones and dangerous objects. The conditions were adequate for short stays of a few days.

*Metaxades Police and Border Guard Station* had not been used for detaining persons for two years until 1 March 2020 and no longer had any persons in detention at the time of the visit. The layout of the separate detention area remained the same as that described in the report on the 2013 visit<sup>25</sup>: three cells<sup>26</sup> with an official capacity of 15 (based on the number of concrete plinths). The cells were clean and in an acceptable state of repair. It was noted that on some nights in early March 2020, the facility had held 20 or even 24 men and young adults, some of whom had slept on blankets on the floor.

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<sup>24</sup> See CPT/Inf (2019:4, paragraph 85 and footnote 55.

<sup>25</sup> See CPT/Inf (2014) 26, paragraph 46

<sup>26</sup> The cells measured respectively 28.5 m<sup>2</sup>, 17 m<sup>2</sup> and 11.5 m<sup>2</sup>.

38. *Alexandroupolis police station* possessed two cells. One of the cells measures 6m<sup>2</sup> and has a single concrete plinth while the second cell (12 m<sup>2</sup>) was equipped with three concrete plinths and had therein three dirty foam mattresses and four worn blankets. At the time of the visit, the larger cell accommodated two foreign nationals suspected of a criminal offence who had been arrested the previous day. The flush of the single dirty toilet was not functioning, and the shower did not work. There was a lack of hygiene products (including toilet paper).

The *Didymoticho police station* had two cells, equipped with three and four closely packed concrete plinths, respectively. However, it appeared that no more than two persons were held at one time except at the beginning of March 2020, when up to 16 migrants had been held overnight. This was confirmed by the registers. Access to natural light, artificial lighting and ventilation were adequate. The toilet and “shower” facility, in a separate room, were rather run-down.

The two cells at *Orestiada police station* offered acceptable conditions of detention for short stays (i.e. up to 24 hours). The cells (measuring 13.5 m<sup>2</sup> each), each with the capacity to hold three persons, were accommodating three persons at the time of the visit. Access to natural light was adequate, artificial lighting sufficient and hygiene acceptable.

The detention facility at Tycherio Police and Border Guard Station had been taken out of service following the CPT’s 2013 visit.<sup>27</sup> However, one of the rooms contained a mattress and a used blanket and apparently some 50 persons had been processed at the station in the first two and a half months of 2020, including most recently on 7 March. The detention was not recorded in any register. **The recommendation in paragraph 25 above applies equally to Tycherio.**

ii. *Filakio Reception and Identification centre (RIC)*

39. The *Filakio RIC* was described in the report on the CPT’s April 2018 visit<sup>28</sup>, since when a fifth section (Section E) has been opened with a purported capacity of 60 places. At the time of the March 2020 visit, the RIC was holding 253 persons, of whom 161 were unaccompanied minors. The centre was still functioning as a closed detention facility, guarded by the police, with foreign nationals in theory detained at the RIC for up to 25 days, until their reception and identification procedure had been completed<sup>29</sup>. Unaccompanied minors could be held for six months or more.

40. As regards material conditions, Sections A to D remained essentially the same as noted in 2018: each accommodation unit comprised five sets of bunk beds and a sanitary annexe with a shower, a toilet and a sink, as well as one association room with a television, tables and chairs, one laundry room and one room for worship, all sufficiently ventilated and lit. The accommodation units visited were in a good state of cleanliness and repair.

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<sup>27</sup> See CPT (2014) 26, paragraph 47

<sup>28</sup> See CPT (2018) 33, paragraphs 95 to 99.

<sup>29</sup> See Section 14 of Law 4375/2016. During the 25 days, foreign nationals were being subjected to medical examinations and a psycho-social screening, before being identified, recorded, and provided with support and information about their situation. They could also submit an application for international protection and have their first asylum interview at the Regional Asylum Service which was present in the centre.

The newly established Section E provided less good conditions. It accommodated 48 persons at the time of the visit, composed of families (mainly women) with children, many of whom had been apprehended in the period since 29 February 2020. Each of the six containers consisted of an open space of 24m<sup>2</sup> and were designated for 10 persons each, which is far too many. The containers were humid and devoid of any furnishings apart from mattresses on the floor, and not everybody had their own mattress. For example, a container which accommodated eight adults and two children had only seven mattresses. The sanitary facility for females consisted of two toilets and two sinks and one toilet for persons with disabilities and was in a reasonable state of cleanliness. However, the compound itself was dirty and there was no communal room or play area for the children; they had to play in the alleyway between the two rows of containers with high fences all around.

**The CPT recommends that steps be taken to improve the conditions in Section E by reducing the occupancy of each container to no more than six persons and equipping each one with basic furniture. Further, persons in this Section should have access to a communal room (equipped with a television and board games and facilities to make a hot drink) where they can associate.**

41. As regards the regime, the unaccompanied minors, some of whom had been at the facility for seven months, were offered schooling only very irregularly (a few hours per month). No recreational, sports or other organised activities were provided for them, apart from once a month watching a film in a container with a projector. They spent their days playing with their mobile phones (which they had problems to charge due to the lack of electrical sockets). Such a poor regime, considering the length of stay of these juveniles, must be redressed urgently.

No activities were offered to the rest of the population held in the RIC. It was particularly galling that the children detained in Section E were not provided with any games or recreational activities or access to a small equipped outdoor area with swings, etc.

**The CPT recommends, once again, that a programme of activities (educational, recreational and sports) be developed for persons detained for longer than a few days.**

42. The CPT was informed that on 12 May 2020, a number of unaccompanied minors allegedly set fire to mattresses and caused a disturbance which included throwing stones. The incident was quelled by police officers in riot equipment. **The CPT would like to receive a report on this incident, including what caused it and how it was resolved. It would also like to be informed of the charges filed against some 26 minors and the outcome of the judicial proceedings.**

*iii. Malakasa camp*

43. In the morning of Sunday, 15 March 2020, 434 men, women and children arrived at Malakasa detention camp after having spent two weeks on a vessel in Mytilini harbour. Later that same day, the CPT's delegation visited the camp to assess the situation.

At the time of the visit, the camp consisted of 50 tents, each said to have a capacity of ten persons (five per “side” of each tent, some of which were equipped with a canvas divider inside the tent). The delegation was concerned that the list of detained persons drawn up by the police did not record the specific tent to which each person had been allocated. For example, a tent occupied by an Afghan man and his wife, together with their three small children, also accommodated three single adult men, to whom they were unrelated. Further, the delegation found that the tents were not equipped with beds or mattresses and had no heating or artificial lighting. The camp contained 24 showers and 35 toilets at the time of the visit.

44. By letter of 16 April 2020, the Greek authorities informed the CPT that the International Organisation for Migration (IOM) had been assigned the Site Management support for the Malakasa and the Kleidi-Serres camps since 6 April 2020. As of 14 April 2020, the Malakasa camp had grown to 130 tents with a capacity of 1,500 persons and was accommodating 1,180, while the Kleidi-Serres camp consisted of 94 tents (each equipped with artificial lighting), 65 toilets, 52 showers, and was accommodating 779 persons for a capacity of 1,000. Three meals were provided daily to all persons, including baby food/milk and special dietary meals for people as required.

In the light of this information, **the CPT would like to be informed of the current situation in these two camps concerning:**

- **the current capacity and occupancy levels in the camps;**
- **the furnishings and equipment inside each tent (electricity, beds, mattresses, bedding, etc.);**
- **confirmation that families and single women are not accommodated together with unrelated adult men in the same tent;**
- **whether the migrants are able to leave the camps, and if so, the daily policy;**
- **whether any purposeful activities, notably for children, are on offer;**
- **whether any communal rooms exist specifically for men, women and children;**
- **what facilities exist to enable contact with the outside world (access to mobile phones, WiFi connections / pay phones);**
- **the staffing available to support the migrants by providing health care, counselling, interpretation, social care, administrative, educational and recreational activities.**

## **5. Children in immigration detention**

45. In its reports on the 2016 and 2018 visits, the CPT examined the situation of foreign national children in immigration detention in Greece. It was highly critical of their continued and routine detention for lengthy periods in poor conditions and with insufficient care. The CPT stressed that, as a matter of principle, any form of deprivation of liberty may have a detrimental effect on the physical and/or mental well-being of unaccompanied/separated children (UASC), given their particular vulnerability. It urged the Greek authorities to fundamentally review their approach.

Regrettably, the findings of the 2020 visit demonstrate that children continue to be routinely detained and, moreover, that detention occurs in totally unsuitable conditions. The Committee recognises the challenges of providing appropriate structures to host families with children and UASC. Nevertheless, this is an international obligation by which Greece must abide. In this respect, it welcomes the current procedures underway to transfer UASC to various European Union countries where they will be settled and cared for on a permanent basis. It trusts that Greece will now move rapidly to end the detention of all foreign national children.

46. The Committee repeats that, as a matter of principle, unaccompanied children should not be held in a closed immigration detention facility, but they should always be provided with special care and accommodated in an open (or semi-open) establishment specialised for juveniles (e.g. a social welfare/educational institution for juveniles).

**The CPT reiterates its recommendation that the Greek authorities fundamentally revise their policy regarding the detention of unaccompanied children both for reception and identification purposes and under “protective custody” in places of deprivation of liberty – be it in RICs, pre-removal centres, special holding facilities for irregular migrants or police and border guard stations – in line with the principle of the best interests of the child. As a matter of priority, an end should be put to holding unaccompanied children in these establishments. Instead, they should be transferred without delay to a (semi-) open establishment specialised for juveniles (e.g. a social welfare/educational institution for juveniles).**

47. The CPT’s delegation’s findings in the course of its March 2020 visit to police establishments in the Evros region clearly show that children were still routinely being detained with their parents in police and border guard stations upon arrival. Children could be deprived of their liberty for several weeks or longer in the Filakio pre-departure centre and the Filakio RIC. In none of these places was any effort made to accommodate the specific needs of children.

The CPT reiterates that the detention of children with their parents in police detention facilities – be it police and border guard stations, pre-removal centres or RICs – can have a negative psychological effect on the child’s development and well-being, particularly when the child is young. The Committee has repeatedly stressed that if, exceptionally, children are held with their parents by the police, their stay should be for the shortest possible period of time. Every effort should be made to avoid splitting up the family<sup>30</sup>. The current practice of routinely detaining children with their parents in police establishments upon their arrival in the Evros region and until their transfer to the Filakio RIC for days or weeks on end is unacceptable and should be stopped forthwith.

**The CPT calls upon the Greek authorities to end the routine detention of children with their parents in police establishments upon arrival. Instead, they should be transferred to suitable reception facilities capable of catering to their specific needs.**

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<sup>30</sup> See, for example, paragraph 17 of this report.

## 6. Health care

48. The CPT has long urged the Greek authorities to improve the provision of health-care services in all immigration detention facilities where persons are held for periods of more than a day or two. The general lack of medical screening upon arrival and of access to health care have been compounded by the severe shortage of resources, including staffing resources, and the complete lack of integrated management of health-care services; combined with the lack of hygiene and appalling detention conditions, the Committee considered that they even presented a public health risk<sup>31</sup>.

The CPT acknowledges that the COVID-19 pandemic has created additional challenges to ensure that all facilities in which migrants are detained adhere to strict standards of hygiene and cleanliness, and that persons in need of health care are provided with rapid access to such. Regrettably, the CPT's delegation found that those persons held in makeshift detention places such as the vessel in Mytilini Port or the two cells in Samos Port were not provided with the necessary health care.

49. The importance of effective medical screening of irregular migrants on admission cannot be overstated. Such screening is indispensable, in particular in the interests of identifying those with potential or acute health problems (including mental health problems and post-traumatic stress disorder), screening for transmissible diseases and the timely recording of injuries. Further, all newly arrived persons should be assessed regarding any vulnerabilities.

For example, the 434 men women and children held together for 15 days on a vessel in Mytilini harbour had not been medically screened or provided with access to a shower during this period, and yet, upon arrival at Malakasa camp on 15 March, they had only had their temperature taken. When the CPT's delegation had visited the camp a few hours later, it found several migrants in need of urgent medical attention who should have been identified at the initial medical screening.

Among them, was a four-year old boy, MA, who had complex medical problems, including being blind and unable to verbally communicate. He had a fever and had hardly taken any nourishment by mouth during the two weeks of detention on the vessel, as he could not swallow solid food. The CPT's delegation relayed its concern to the Greek authorities on the ground and was informed by letter of 16 April 2020 that the boy had been immediately hospitalised in Athens (Aghia Sofia).

50. The lack of any medical screening provided to the 93 men, women and children held in the two cells in Samos Port (see paragraph 26 above), was also dramatic.

For example, the delegation's doctor identified a man with HIV and pulmonary tuberculosis (TB) who appeared too unwell to take the anti-TB medication in his possession (he had had a cough and a fever for two weeks and had difficulty standing). This person was not only at risk of developing multi-drug resistant TB, which could have infected both staff and his cellmates, including pregnant women and children, but also of dying without appropriate care.

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<sup>31</sup> See the reports on the 2016 and 2018 visits: CPT (2018) 33, paragraph 112 and CPT/Inf (2019) 4, paragraph 112 to 120.

In addition, several women<sup>32</sup> and an infant of one year with breathing difficulties were found by the delegation's doctor to be in need of medical care and of being taken out of the appalling conditions in which they were detained. In particular, the delegation was concerned that a woman who was 37 weeks pregnant with her fourth child needed to be taken to hospital, appropriately assessed and arrangements made for an elective caesarean section before she went into labour.

By letter of 16 April, the Greek authorities confirmed that the man suffering from TB was hospitalised in Serres on 21 March 2020 and that the other migrants were provided the health care they required. Subsequently, the CPT has learned that the man in question, who might otherwise have died, has made a full recovery.

**51. The CPT calls upon the Greek authorities to ensure that all migrants who are detained in a facility for longer than 24 hours are properly interviewed and physically examined by a medical doctor or by a nurse with a recognised nursing qualification reporting to a doctor, as soon as possible after their admission. In particular, such screening should enable the identification of those with potential or acute health problems (including mental health problems) and transmissible diseases. It should also ensure a timely recording of any injuries. Further, a vulnerability assessment should be carried out on arrival.**

**When conducting such health care screenings whether at the facility or at a hospital, it is imperative that the health care staff have access to appropriate translation/interpretation services to ensure that a comprehensive assessment can be formulated and communicated to the persons concerned.**

**More generally, the CPT reiterates its recommendation that the Greek authorities review the provision of health care in police and border guard stations and consider establishing a system of regular visits by doctors and/or nurses reporting to a doctor.<sup>33</sup>**

52. As regards the health care services at the Filakio pre-departure centre and the Filakio RIC, the CPT has noted that both facilities now possessed basic medication and medical equipment, such as an ECG machine, defibrillator, nebuliser, oxygen and blood pressure measuring machine (sphygmomanometer).

Further, as of November 2019, a healthcare team is now in place at the Filakio RIC consisting of three full-time equivalent (FTE) nurses, one FTE midwife and two FTE auxiliary staff as well as two FTE psychologists and three FTE social workers. The medical doctor had joined the team in March 2020. The staff are present on weekdays and on call at the weekends and at night. At the Filakio pre-departure centre, there is one General Practitioner but only two nurses, which is inadequate as evidenced by the fact that medication was distributed by custodial officers and there was no weekend coverage. **The CPT recommends that the nursing complement at the Filakio pre-departure centre be increased.**

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<sup>32</sup> For example, a pregnant woman due to give birth at the beginning of April 2020 complained about persistent abdominal pain, that she had experienced a pre-labour rupture of membranes and was passing urine frequently. Given that she was only permitted to leave the cell three times a day to go to the toilet, she had to urinate in a cut-off bottle within the crowded cell. The delegation had asked for arrangements to be made for this woman to be assessed at hospital on account of her continuing lower abdominal pain, which could be the result of a spontaneous rupture of the membranes or urinary tract infection.

<sup>33</sup> See CPT/Inf (2019) 4, paragraph 117.

## 7. The practice of pushbacks across the Turkish border and at sea

53. In the report on the 2018 visit, the CPT addressed the issue of pushback operations from Greece to Turkey via boat across the Evros River border.<sup>34</sup>

In the course of the 2020 visit, the CPT's delegation again received consistent and credible allegations obtained through individual interviews in different places of detention of foreign nationals being detained, having their belongings confiscated and subsequently being pushed back across the Evros River border to Turkey. The allegations mainly referred to incidents that had taken place prior to March 2020 but within the previous six months. The persons who alleged that they had been pushed back from Greece to Turkey had subsequently re-entered Greek territory and had been apprehended and detained by the Greek police.

By letter of 16 April 2020, the Hellenic Police assured the Committee that all police officers operating in the Evros region act in accordance with the law and in compliance with human rights standards. The *modus operandi* of the police along the border is summarised along the same lines as set out in the response of the Greek authorities to the report on the 2018 visit.<sup>35</sup>

54. The persons who alleged to have been pushed back in the period prior to March 2020 described having been held for short periods in various detention facilities situated not far from the Evros River. Further, the persons alleged that they had had their personal belongings, including mobile phone and in some instances footwear, confiscated by their guards who had escorted them to the river and supervised the pushbacks (these persons all wore balaclavas which hid their faces and were dressed either in military-style fatigues or police uniforms).

55. A few of the persons met during the March 2020 visit alleged that they had initially been detained with other migrants, including families, who had subsequently been sent back across the river to Turkey<sup>36</sup>. These persons described having been held together with many other people for a number of hours in a facility, the layout of which corresponded to that of the Poros detention facility visited by the delegation.<sup>37</sup> Indeed, the Greek authorities confirmed to the CPT's delegation that this facility had indeed been used for holding migrants for several hours before taking them to Feres or Soufli Police and Border Guard Stations.

However, as the Hellenic Police did not keep any record of the persons who had been held at the Poros detention facility, it was not possible to trace the location to which these persons had been transferred. Records at Feres and Soufli did not state whether they had been held at Poros or not.

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<sup>34</sup> See CPT/Inf (2019) 4, paragraphs 136 to 145.

<sup>35</sup> See CPT/Inf (2019) 5, pages 35 and 36.

<sup>36</sup> The CPT has also noted in this regard, the case of L.A and others v. Greece (application nr [12237/20](#)) communicated to the Greek authorities by the European Court of Human Rights on 12 May 2020.

<sup>37</sup> The Poros detention facility consists of a U-shape building comprised of three single-storey structure with green roofs, encircling a small concrete courtyard on three sides, as well as three containers that had previously been used as offices and interview rooms, and a former medical facility in a separate building. Migrants detained at the facility were kept on the left side on a large, unfurnished room of 55m<sup>2</sup>. There is also a separate sanitary annexe with three toilets.

The CPT is not convinced by the explanation provided to its delegation that the details of all persons taken to Poros were recorded upon entry to the facility and that at the end of each day, the form containing the information on these persons was simply thrown away.<sup>38</sup> Moreover, persons held at the Poros facility claimed that while their personal belongings were taken away (bags, mobiles), they did not have to provide any individual personal information at that stage.

56. A telling manifestation of the human impact of this pushback practice is represented by a girl of two and a half years old who, along with her older brother of 21 years, was separated from her mother and father and five other siblings. The whole family had crossed into Greece on 29 February 2020 and had been apprehended in a field and taken to the quasi-official Poros centre. There were so many migrants present that some of them had had to remain in the courtyard sitting on the concrete floor in the rain. The officers, dressed in camouflage uniforms and with balaclavas over their faces, allegedly confiscated the mobile phones of the migrants as well as their personal bags and kicked anyone who did not obey their orders to remain seated.

After around six or seven hours, the camouflaged officers are said to have loaded most of the migrants, including the mother and four of her children, onto about six vehicles and transported them to the Evros River, where they were put into wooden boats and taken across to the Turkish side. A day later, the father and another brother were pushed back across the river in a similar manner. All the belongings of this family, including a backpack with clothes and identity and property documents as well as money, were allegedly taken by the officers.

The brother and his little sister were taken to Feres Police and Border Guard Station and two days later to the Filakio RIC. They were served with deportation papers to Afghanistan. The anguish of the mother who was forcibly separated from her child in such a manner cannot be put into words. And yet, this is but one tragic illustration of the pushback practice.<sup>39</sup>

57. The evidence supporting the case that migrants are pushed back across the Evros River to Turkey after having been detained for a number of hours, without benefiting from any of the fundamental guarantees, by Greek officers operating in an official capacity is credible.<sup>40</sup> The onus is now upon the Greek authorities to ensure that this practice ends once and for all, and that any officers (police or military) operating outside of official command structures are held to account and sanctioned accordingly.

Moreover, the CPT reiterates that every instance of detention of a person must be fully and accurately recorded so that there can be no arbitrary detention.

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<sup>38</sup> The document on the desk of the duty officer at Poros was entitled “activity report” and it covered a shift / daily period from 6 a.m. to 6 a.m. the next day, and consisted of separate columns for “time”, “location”, “number of persons”, “patrol”, “nationalities”, “gender”, “telephones”, “observations” in which the details of the migrants detained should have been but were not recorded.

<sup>39</sup> The CPT is grateful to the good offices of the UNHCR and of the Greek Red Cross and Turkish Red Crescent in facilitating the reunification of this family in Turkey in early May 2020.

<sup>40</sup> The CPT’s delegation received a credible and consistent allegation from an unaccompanied minor that some four months previously he had been picked up by the police in Kavala and after spending one night in a police station closer to the Turkish border was driven in army trucks to the Evros River where persons in military fatigues transported him and many other persons across the river in a wooden boat with a motor. The boat transported around 15-20 persons during each crossing. The army personnel wore balaclavas. His claims were similar to those detailed in certain media. See, for example, an article of 21 May 2020 entitled [Migrants accuse Greece of forced deportations](#).

**58. The CPT reiterates its recommendation that the Greek authorities act to prevent any form of pushbacks taking place across the Evros River border by law enforcement officials and military personnel. All foreign nationals arriving at the border or present in the territory of Greece who wish to request international protection should be effectively protected against the risk of *refoulement*, including possible chain *refoulement*. In particular, they should have effective access to an asylum procedure which involves an individual assessment of the risk of ill-treatment, on the basis of an objective and independent analysis of the human rights situation in the countries concerned.**

**To this end, clear instructions should be given to Greek police and border guards to ensure that irregular migrants who have entered Greek territory must be individually identified and registered, and placed in a position to effectively make use of the legal remedies against their forced return. The CPT would like to be informed of the actions being taken by the Greek authorities to ensure that such pushbacks no longer take place.**

59. The CPT's delegation also received a number of consistent and credible allegations concerning acts by the Greek Coast Guard to prevent boats carrying migrants from reaching any Greek island. For example, in early March 2020, the Greek Coast Guard allegedly stopped a boat with almost 50 persons on board and removed the fuel leaving the migrants and the boat to float about aimlessly. It was apparently only some 15 hours later that the Coast Guard returned to tow the boat to Lesbos island.

Moreover, since the delegation's visit, credible allegations have emerged of migrants having reached the island of Samos from Turkey by boat before being re-embarked on a dinghy by Greek officers and towed by a Greek Coast Guard vessel back to Turkish waters, where they were allegedly left adrift overnight until recovered by the Turkish Coast Guard on the afternoon of the following day.<sup>41</sup>

As the European Court of Human Rights has repeatedly made clear,<sup>42</sup> whenever the State through its agents operating inside or outside its territory exercises control and authority over an individual, and thus jurisdiction, the State is under an obligation to secure to that individual the rights and freedoms of the European Convention on Human Rights.

**The CPT would appreciate the comments of the Greek authorities on these matters. It also wishes to be informed of the official operating instructions provided to the Greek Coast Guard whenever they encounter a boat carrying migrants.**

60. The CPT is aware that FRONTEX (the European Border and Coast Guard Agency) currently supports Greece through Operation Poseidon with border surveillance, search and rescue, registration and identification capacities, as well as combatting cross-border crime. It has deployed some 600 officers from various European countries both in the Evros region and on the Aegean islands, as well as a number of boats to support the Greek Coast Guard (including, at the time of the delegation's visit to Samos, two German Coastguard boats operating as part of the FRONTEX mission). However, human rights monitors apparently had not been included in Operation Poseidon.

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<sup>41</sup> See, for example, [Samos And The Anatomy Of A Maritime Push-Back](#) of 20 May 2020.

<sup>42</sup> See, for example, [Hirsi Jamaa and Others v. Italy](#) (§74).

Bearing in mind Article 46(4) of the FRONTEX Regulation,<sup>43</sup> as well as the general duty upon FRONTEX to guarantee the protection of fundamental rights in the performance of its tasks,<sup>44</sup> **the CPT would appreciate receiving further details from the Greek authorities about the manner in which respect for these human rights provisions is being monitored during the current FRONTEX operation in Greece. It would also like to receive information about the precise terms of engagement of FRONTEX vessels with boats carrying migrants that have been agreed between FRONTEX and Greece.**

## **B. Concluding remarks**

61. The CPT wishes to emphasise that it acknowledges the significant challenges the Greek authorities are facing in dealing with large numbers of refugees, asylum seekers and irregular migrants entering the country. It has repeatedly stressed that addressing this phenomenon requires a coordinated European approach as well as support by the European Union and its member States. The response of the Greek authorities cannot rely on a policy of detention.

At the same time, it wishes to reiterate that this situation cannot absolve the Greek authorities from their international human rights obligations as regards the treatment of foreign nationals deprived of their liberty. The State must exercise its duty of care to all persons deprived of their liberty and treat them with humanity and with dignity.

62. The CPT has emphasised time and again since its 1997 visit to Greece the need to address the structural deficiencies in Greece's immigration detention policy, and has attempted to exercise its preventive function by recommending practical measures to ensure that all irregular migrants deprived of their liberty are held in decent conditions. However, the Committee has been met by either inaction or a minimalist approach from the Greek authorities in addressing the very serious concerns raised.

To begin with, the carceral design of detention centres such as the Filakio pre-departure centre are totally inappropriate – large cells crammed with beds, with floor to ceiling bars guaranteeing no privacy, and communication with staff usually taking place through the bars.

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<sup>43</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624. Article 46 (4) states: “the executive director shall, after consulting the fundamental rights officer and informing the Member State concerned, withdraw the financing for any activity by the Agency, or suspend or terminate any activity by the Agency, in whole or in part, if he or she considers that there are violations of fundamental rights or international protection obligations related to the activity concerned that are of a serious nature or are likely to persist”

<sup>44</sup> See Article 80 of the FRONTEX Regulation, which *inter alia* provides that: “1. The European Border and Coast Guard shall guarantee the protection of fundamental rights in the performance of its tasks under this Regulation in accordance with relevant Union law, in particular the Charter, and relevant international law, including the 1951 Convention relating to the Status of Refugees, the 1967 Protocol thereto, the Convention on the Rights of the Child and obligations related to access to international protection, in particular the principle of non-refoulement.”

Other deficiencies noticeable in most, if not all, places in which irregular migrants are detained include a lack of maintenance of the building (especially the sanitary facilities), poor lighting and ventilation, insufficient personal hygiene products and cleaning materials, inability to obtain a change of clothes, lack of information provided to detained persons, no access to daily outdoor exercise, inadequate food. The situation was further aggravated by the extreme overcrowding prevalent in several facilities visited during the 2020 visit, in particular as regards hygiene and access to medical care. In the Evros region and on the island of Samos, the result was that the conditions of detention in which irregular migrants were held, in at least four facilities, could be described as amounting to inhuman and degrading treatment.

63. The current approach towards immigration detention must change. All migrants entering the country must be registered, undergo health screening and be offered the opportunity to apply for asylum. Following this process, at a minimum, families with children, unaccompanied and separated children and other vulnerable persons (with a physical or mental health illness, or pregnant women) should not be detained but offered suitable accommodation and support.

Where it is deemed necessary to detain persons with a view to returning them to their country of origin or a third country, they should be held in facilities that offer decent conditions and provide a basic regime (including access to outdoor exercise, sport and recreational activities). Further, the personnel employed to care for these detained migrants should be adequately trained and include persons who speak the languages of those detained.

In addition, the Greek authorities must make provision for the possibility to cope with sudden peaks in the influx of migrants by establishing facilities which can be brought into service at very short notice and which offer basic minimum conditions of detention for short periods.

64. The problem of migration into Greece is not new and will almost certainly continue given the push factors that exist in those countries from which the vast majority of migrants come. Therefore, Greece together with the support of the European Union must put in place an immigration detention system which abides by European values and norms. No persons held in immigration detention in Europe should ever be subjected to treatment or conditions which amount to inhuman and degrading treatment according to Article 3 of the European Convention on Human Rights.

The CPT has always taken the approach of working constructively with the Greek authorities to prevent migrants being exposed to inhuman and degrading treatment. It wishes to avoid again pursuing a road which leads to the opening of the procedure under Article 10, paragraph 2 of the Convention.<sup>45</sup>

**The Greek authorities must now take decisive steps to address the very serious issues outlined in this report and reform their immigration detention system accordingly.** In doing so, they should seek the support of the European Union and the Council of Europe, as appropriate.

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<sup>45</sup> Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."