



CPT/Inf (2019) 4

## **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 10 to 19 April 2018**

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 (2019) 5.

Strasbourg, 19 February 2019

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## EXECUTIVE SUMMARY

The purpose of the CPT's April 2018 visit to Greece was to examine the situation of civil and forensic patients in psychiatric establishments and of foreign nationals deprived of their liberty under aliens' legislation. With a few exceptions, the cooperation received by the Greek authorities was very good. Concrete action should, however, be taken to implement a number of long-standing CPT recommendations.

### Psychiatric establishments

The CPT notes that the very significant reforms undertaken in the psychiatric sector in Greece since the 1980s have come a long way. However, they remain incomplete, with persistent problems of the inappropriate allocation of patients to understaffed and/or overcrowded in-patient services.

In general, patients met by the CPT's delegation spoke well about staff at the establishments visited, whereas some isolated allegations were received of ill-treatment (punches on the back, tight restraints, verbal abuse) by staff at the private "Athina Vrilissia" Psychiatric Clinic. A small number of allegations of violence among patients were also received at Dromokaiteio Psychiatric Hospital, in particular in respect of periods during which the alleged victims were being restrained.

As regards living conditions, the CPT recommends that improvements be made in the personalisation of living space and the degree of privacy afforded to patients. The most problematic material conditions observed concerned the systemic overcrowding in the psychiatric units at the three general hospitals visited (Evangelismos, Gennimatas and Sotiria). In particular, at Evangelismos, patients needing greater assistance or under mechanical restraint were placed in the corridor. On the other hand, it was positive that patients at Dromokaiteio and Sotiria benefited from an open regime, with unrestricted access to the garden area throughout the day. However, very few activities were offered to patients.

Understaffing was a problem, especially at Dromokaiteio Psychiatric Hospital and the Athina Clinic. As regards treatment, high-dosage intra-muscular anti-psychotic injections were being regularly administered during the first days after admission to Dromokaiteio Psychiatric Hospital. At Athina Clinic, 1st-generation anti-psychotic drugs were in use in relatively high doses over long periods, with several patients displaying clear symptoms of overmedication. The CPT recommends that diversified and individualised treatment plans be urgently introduced. Further, medical record-keeping should be improved.

One of the most serious findings during the visit concerned the use of mechanical restraint. The CPT's delegation observed a lack of appropriate training on, and strict criteria for, the use of restraints in line with internationally accepted guidelines. These factors, combined with very low staffing levels, have resulted in a widespread practice of excessive and inappropriate use of mechanical restraint. Shortcomings related to the criteria, duration, methods, supervision and documentation when resorting to mechanical restraint. The CPT recommends that a range of principles be followed, restraint guidelines and procedures introduced, and staff training implemented in each establishment, and that a strategy be drawn up on lowering the incidence and prolonged use of mechanical restraint.

In examining the safeguards surrounding involuntary placement procedures, the CPT recommends that the law, currently under review, explicitly provide that: periodic re-assessment beyond six months of placement be carried out; involuntary treatment be the subject of a separate decision; and a clearer legal basis be established for involuntary placement in a private institution, subject to external monitoring. Certain safeguards, although prescribed by law, were found not to benefit

patients in practice. The report points, *inter alia*, to the need for: placement procedures to be supported by two separate and reasoned medical opinions; and patients to be fully informed of their rights, heard in person and legally represented during placement or appeal procedures.

The CPT reiterates its very serious concerns regarding transfers of persons by the police to psychiatric establishments. Pending the planned change in transfer arrangements, the necessary instructions (e.g. that patients not be handcuffed) and training should be provided, so that transfers are carried out in conditions which ensure the safety and dignity of patients. In light of the practice of allowing armed penitentiary staff to supervise prisoners receiving treatment at civil psychiatric hospitals, the CPT recommends that a proper individual risk assessment be made in such cases and less intrusive measures considered.

The CPT's delegation also visited Korydallos Prison Psychiatric Hospital, noting little significant change since the CPT's previous visit in 2005. The Committee trusts that the imminent transfer to the Ministry of Health of responsibility for medical services will help to transform the establishment into a proper health-care facility. The planned reinforcement of health-care staff should also address a number of concerns expressed in the report as regards the quality and variety of care, treatment and activities on offer at the establishment.

No allegations of ill-treatment were received, though a few complaints were made by patients of verbal abuse and disrespectful behaviour by staff. The CPT's most alarming finding at Korydallos Prison Psychiatric Hospital concerned the unacceptable use of the basement protection cells for the seclusion of patients at risk of harming themselves or others. In the Committee's view, to place patients in those cells, without supervision and for extended periods, could easily be considered inhuman and degrading. The CPT welcomes the steps taken by the authorities following the visit to take the cells out of service and instead to establish an appropriate "quiet room" on the ground floor of the Hospital.

#### Foreign nationals deprived of their liberty under aliens' legislation

At the outset, the CPT 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. Nevertheless, in light of the increased use of immigration detention, the Committee recalls that foreign nationals deprived of their liberty must always be treated humanely and with dignity.

The CPT's delegation received a number of credible allegations of physical ill-treatment by the police, mainly consisting of slaps, punches, and kicks as well as baton blows. The allegations related primarily to detention places in the Evros region (i.e. Fylakio Pre-removal Centre, Fylakio Reception and Identification Centre (RIC) and Tycherio Police and Border Guard Station) and on Lesbos (i.e. Moria Pre-removal Centre). Several allegations of verbal abuse, including racist language, by police officers were also received. The CPT recommends that vigorous steps be taken to stamp out ill-treatment of foreign nationals deprived of their liberty by the police.

The fundamental safeguards against ill-treatment (i.e. the rights of notification of custody, access to a lawyer and access to a doctor) remain ineffective and, for the most part, do not apply in practice from the very outset of deprivation of liberty. Interpretation services should also be strengthened, and custody records and complaints procedures improved.

Conditions of detention in most police and border guard stations visited remain unsuitable for holding persons for periods exceeding 24 hours, and yet they were still being used to detain irregular migrants for prolonged periods. At Isaakio Police and Border Guard Station, 41 foreign nationals were crammed together overnight in filthy and grossly sub-standard material conditions,

with less than 1.5 m<sup>2</sup> of living space per person. Overcrowding was also observed at Fylakio RIC and the CPT invites the Greek authorities to introduce alternative measures to detention in managing irregular migrants arriving in the country. Conditions in the pre-removal centres visited varied from good (Pyli on Kos), to acceptable (Amygdaleza), to poor (Moria) and even appalling (Fylakio). In particular, Fylakio Pre-removal Centre was severely overcrowded, with up to 95 foreign nationals, including families, children, and pregnant women, crammed together in a cell with little more than 1 m<sup>2</sup> of living space per person. 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.

The CPT specifically recommends that: occupancy levels be reduced drastically so as not to exceed an establishment's capacity; facilities be clean and repaired; and every detained person be provided with appropriate food, a mattress and clean bedding, and sufficient hygiene products. Immediate action should be taken to ensure that vulnerable persons are transferred to suitable open reception facilities and that women and children are never detained together with unrelated men. Unrestricted access to outdoor exercise throughout the day should also be extended to all pre-removal centres in Greece.

As regards the provision of health-care services to immigration detainees, the CPT concludes, once again, that it was inadequate. In particular, in most of the detention places visited, the Committee noted chronically insufficient numbers of health-care staff and deficient interpretation services. Even the most basic medical equipment and medication was lacking; medical screening on arrival was not carried out systematically; and access to a doctor was still not effective in practice. The report makes a series of recommendations to address these deficiencies.

Regrettably, no decisive action has been taken by the Greek authorities to implement the CPT's previous recommendations as regards the detention of migrant children. The Committee recommends that the Greek authorities fundamentally revise their policy regarding the detention of unaccompanied children both for reception and identification purposes and under "protective custody". The CPT also recalls that the detention of children with their parents in police detention facilities – police and border guard stations, pre-removal centres or RICs – can have a negative psychological effect on a child's development and well-being, particularly when the child is young. The CPT reiterates its recommendation to end the routine detention of children with their parents in police establishments upon their arrival in the country, and urges the authorities to pursue their efforts to increase significantly and rapidly the number of dedicated open (or semi-open) shelter facilities for unaccompanied children.

The CPT reiterates the importance of carefully selecting and training custodial staff in pre-removal centres. It is also necessary for all centres to be adequately staffed and, in this context, staffing levels at Fylakio Pre-removal Centre should be increased. Further, the Greek authorities should permit foreign nationals held by the police to retain their mobile phones in all pre-removal centres.

Finally, in the course of the April 2018 visit, several foreign nationals interviewed in private at three places of detention made credible allegations about the occurrence of push-back operations from Greece to Turkey by boat across the Evros River border, after they had been apprehended by Greek police and border guards. A number of them alleged that they had been physically ill-treated (including baton blows to the head) by police and border guard officers or (para-) military commandos during such push-back operations. From the information gathered, the CPT considers that, at least until early March 2018, these persons were not effectively protected against the risk of *refoulement*. The Committee recommends that the Greek authorities act to prevent any form of push-backs taking place, and effectively protect foreign nationals against the risk of *refoulement*.

## **I. INTRODUCTION**

### **A. The visit, the report and follow-up**

1. In pursuance of Article 7 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 carried out a visit to Greece from 10 to 19 April 2018. 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 the following members of the CPT:

- Georg Høyer (Head of delegation)
- Alan Mitchell
- Jari Pirjola
- Ilvija Pūce
- Olivera Vulić.

They were supported by Caterina Bolognese and Sebastian Rietz of the CPT's Secretariat, and assisted by an expert, Andres Lehtmets, Head of the Centre of Psychiatry, West Tallinn Central Hospital (Estonia), as well as Eleonora Cambas, Haris Ghinos, Ionathan Markel and Alexander Zaphiriou (interpreters).

3. The report on the visit was adopted by the CPT at its 96<sup>th</sup> meeting, held from 2 to 6 July 2018, and transmitted to the Greek authorities on 23 July 2018. 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. Context of the visit and cooperation encountered**

4. The purpose of the visit was two-fold. On the one hand, for the first time since 2005, the CPT looked into the treatment, living conditions and safeguards offered to civil and forensic patients in various public psychiatric establishments, as well as a private one, each located in the Attica area. On the other hand, it examined again the situation of foreign nationals deprived of their liberty under aliens’ legislation to follow-up on its visits carried out in 2016. To this end, the CPT’s delegation visited several pre-removal centres, one reception and identification centre and a number of police and border guard stations, with a focus on the Evros region, the Aegean islands of Lesvos and Kos, and Attica. The list of establishments visited by the delegation can be found in Appendix I.

5. With a few exceptions, the cooperation received during the visit by the CPT's delegation from the Greek central authorities, as well as from the management and staff in the establishments visited, was very good. The delegation enjoyed rapid access to all the places of detention it wished to visit, was able to interview in private persons deprived of their liberty and was provided with the information it needed to accomplish its task.

The CPT wishes to express its appreciation for the assistance provided to its delegation in the course of the visit by the liaison officers from the Ministries of Foreign Affairs, Citizens' Protection, and Health.

6. Regretfully, however, the central authorities provided the delegation only at a very late stage with the credentials and information requested concerning establishments falling under the responsibility of the Ministry of Health. Further, the management at Dromokaiteio Hospital was only informed of the delegation's visit less than one hour before its arrival, despite the fact that the visit to that particular establishment – as well as a list of requests for information to be provided to the delegation – had been notified to the Greek authorities some ten days before the visit began. As a result, the smooth operation of the visit was somewhat hampered.

Moreover, at the local level, information provided by the duty senior officer at Isaakio Police Station proved to be clearly misleading. For example, the register consulted by the delegation indicated that foreign nationals had regularly been held at the police station overnight in the weeks and months prior to the visit, a fact that had initially been denied by the duty senior officer. Further, on the occasion of its first visit to the establishment, the delegation had been given an assurance by the duty senior officer that the filthy detention area would be immediately cleaned up. However, during a follow-up visit to the facility two days later, the detention area had still not been cleaned and yet was holding 41 persons.

7. The principle of cooperation encompasses the obligation of the national authorities to provide documents and information requested by the CPT in a timely and accurate manner. At the very least, those establishments in respect of which the Committee has requested specific information in its notification letter should be informed about the imminent arrival of a CPT delegation. Effective and efficient coordination and communication among the ministries concerned in the preparation and follow-up of the CPT's visits are essential elements of this cooperation. This also includes the need to ensure that the Government responses to the CPT's visit reports do indeed address all of the recommendations and information requests made by the Committee.

**The CPT trusts that the Greek authorities will take the necessary steps to ensure that, in future, visiting delegations are provided in good time with credentials and with accurate information allowing them to accomplish their task. All establishments indicated in the notification of the visit should be made aware of the CPT's visit in a timely manner. Further, the Committee urges the Greek authorities to ensure effective and efficient coordination among the ministries concerned in the preparation of and follow-up to CPT visits.**

8. Moreover, the CPT has repeatedly stressed that the principle of cooperation as set out in Article 3 of the Convention is not limited to facilitating the work of visiting delegations, but also requires that decisive action is taken to effectively implement the recommendations made by the Committee.

In this respect, the CPT is concerned to note that, as regards psychiatric establishments, no progress has been made to address the CPT's previous recommendation to develop Korydallos Prison Psychiatric Hospital into a fully resourced psychiatric hospital. Further, as regards foreign nationals deprived of their liberty under aliens' legislation, hardly any progress has been achieved in implementing the CPT's long-standing recommendations concerning safeguards against ill-treatment, material conditions, health-care provision, and the continued detention of irregular migrants for prolonged periods in police stations and of migrant children by the police.

**The CPT urges the Greek authorities to take concrete action to address without delay the recommendations made by the Committee in these areas in this and previous visit reports.**

9. At the end of the visit, the delegation presented its preliminary observations to Ioannis Balafas, Alternate Minister for Migration Policy, Dimitrios Anagnostakis, Secretary General for Public Order, Giorgos Giannopoulos, Secretary General of the Ministry of Health, and Eftychios Fytrakis, Secretary General for Crime Policy of the Ministry of Justice, Transparency and Human Rights, and Hellenic Police Lieutenant General Zacharoula Tsirigoti, Inspector General for Aliens and Border Protection, as well as senior officials from the above-mentioned ministries and from the Hellenic Police. Shortly after the transmission of the preliminary observations in writing, the Greek authorities requested their publication.<sup>1</sup> The delegation also met Nikolaos Fistopoulos, Hearings Prosecutor at the Athens Court of First Instance.

Further, the delegation held consultations with Giorgos Nikolopoulos, Deputy Ombudsman for Human Rights and Head of the National Preventive Mechanism (NPM), and with representatives of international and non-governmental organisations active in the areas of concern to the CPT.

A list of the national authorities and organisations with which the delegation held consultations is set out in Appendix II to this report.

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

10. During the end-of-visit talks with the Greek authorities, on 19 April 2018, the CPT's delegation made four immediate observations under Article 8, paragraph 5, of the Convention. The Greek authorities were requested:

- to put an immediate stop to the practice, at the Psychiatric Unit of Evangelismos General Hospital, of placing people in need of intensive care and supervision in the corridor;
- to put an immediate end to the current practice regarding the use of the "blue" or protective cells at Korydallos Prison Psychiatric Hospital;
- to take immediate steps to radically reduce the occupancy levels at Fylakio Pre-removal Centre. Further, all persons held at the establishment should have their own bed and mattress and vulnerable persons should immediately be transferred to appropriate open reception facilities;
- to provide all foreign nationals detained by the police with food, at regular intervals.

On 7 and 8 June and 3 July 2018, the Greek authorities informed the CPT on the action taken in response to these immediate observations and on other matters raised by the delegation at the end-of-visit talks, which has been taken into account in the relevant sections of the present report.

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<sup>1</sup> See CPT/Inf (2018) 20, published on 1 June 2018.

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

### A. Psychiatric establishments

#### 1. Preliminary remarks (legal framework and establishments visited)

11. Under the 1992 law governing health establishments and involuntary hospitalisation,<sup>2</sup> a patient can be hospitalised involuntarily only when he or she is suffering from a mental disorder and is incapable of taking decisions affecting his or her health, and failure to hospitalise the patient would be detrimental to his or her treatment or state of health. Alternatively, a person suffering from a mental disorder may be hospitalised in order to prevent him or her from committing acts of self-harm or inflicting harm on others.<sup>3</sup>

A spouse, parent, relative or guardian may apply for a person's placement to the relevant district prosecutor (the "hearings prosecutor"); in their absence and in emergency cases, the hearings prosecutor may launch a placement procedure *ex officio*. Committal applications – or procedures launched *ex officio* – must be supported by medical opinions from two psychiatrists.<sup>4</sup> Where the committal procedure is launched *ex officio* or the person refuses to submit voluntarily to a psychiatric assessment, the hearings prosecutor orders the person's transfer to a public psychiatric hospital to undergo a psychiatric assessment; the person may not be held for longer than 48 hours pending the assessment. Within three days from ordering the transfer for assessment, the prosecutor must refer the patient's case, accompanied by the two medical opinions, to the district court, which must convene within 10 days and either issue a motivated order for involuntary placement or order the patient's discharge.<sup>5</sup> Further details concerning the safeguards surrounding involuntary placement decisions are discussed at paragraphs 43 to 49.

A reform of the law governing involuntary hospitalisation was launched in late 2017. **The CPT trusts that the Greek authorities will, prior to finalising this reform, take due account of the CPT's recommendations, in particular as regards legal safeguards relating to involuntary hospitalisation** (see part 6 of this chapter). **The Committee would like to be informed of progress in the drafting of the new law.**

12. The CPT has noted that since its previous examination of psychiatric institutions in 2005, de-institutionalisation reforms, which began in the 1980s,<sup>6</sup> have advanced steadily. Out of nine public civil psychiatric hospitals still functioning in 2005, only three remained open in 2018. The CPT's delegation visited one of them, Dromokaiteio Psychiatric Hospital.<sup>7</sup>

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<sup>2</sup> Law 2071/1992. See also the CPT's 1993 visit report (CPT/Inf (94) 20), paragraphs 218 to 223.

<sup>3</sup> Section 95 of Law 2071/1992.

<sup>4</sup> If a second psychiatrist's opinion cannot be obtained, the second opinion can be supplied by a doctor with another related specialisation (Article 96, Law 2071/1992).

<sup>5</sup> Section 96 of Law 2071/1992.

<sup>6</sup> See the CPT's 1993 visit report (CPT/Inf (94) 20), paragraphs 12, 197, 199 and 200.

<sup>7</sup> The other two are Dafni (also in the Attica area) and Thessaloniki Psychiatric Hospitals.

13. An extensive multi-pavilion complex occupying 100 acres of parklands in suburban Athens, Dromokaiteio Psychiatric Hospital was initially established as a private institution in 1887, and partly integrated into the Greek national health system during the 1980s. In accordance with the founder's will, the majority of governing Board members are private individuals, limiting somewhat the powers of the State-appointed Director. The CPT's delegation was informed that this management structure could not adversely affect the Hospital's ability to provide care and services to patients.

Dromokaiteio Hospital has a capacity of 588 beds. On the first day of the visit it provided care for a total of 424 patients: 224 in 8 in-patient wards, while 200 patients were accommodated in (mostly off-site) psychosocial rehabilitation units (boarding homes and hostels).

The Hospital receives voluntary patients, patients placed involuntarily,<sup>8</sup> and patients who have been declared criminally irresponsible and placed in psychiatric confinement by court order.<sup>9</sup> The number of immigration detainees referred to the Hospital from different hotspots/immigration centres has increased considerably in recent years. The Hospital also receives detained persons brought directly from police stations, as well as prisoners who could not be (adequately) treated at Korydallos Prison Psychiatric Hospital (e.g. women). The average duration of placement in the Hospital's short-term departments was 24 days.

14. Psychiatric assessments in view of an involuntary placement order are carried out at one of the country's three psychiatric hospitals or, as part of decentralisation efforts, at 41 in-patient psychiatric wards established in General Hospitals. Nevertheless, the closure of several psychiatric hospitals in the regions, coupled with the still insufficient geographical coverage or capacity of psychiatric wards in General Hospitals, meant – apart from the general problem of overcrowding – that patients from many (small, remote) Greek municipalities are often assessed in (and if necessary admitted to) institutions in the Attica district.

The CPT's delegation visited in-patient psychiatric units at three General Hospitals in Athens: Evangelismos, Gennimatas and Sotiria.

15. Evangelismos General Hospital, located in a densely populated neighbourhood of central Athens, is one of the largest public hospitals in Greece. The Psychiatric Unit occupies the 9th floor of one of the Hospital's buildings.

The official capacity of the Unit is 20 patients, but this number is regularly expanded, with the addition of up to 20 auxiliary beds in the Unit's corridor. Occupancy levels fluctuated, with 22 patients present during the delegation's first visit, whereas during the second visit two days later (after the Unit's rostered duty day for psychiatric assessments), it accommodated 27 patients, 17 of whom were involuntary. The highest occupancy experienced by the Unit was 43 patients, in 2017.

The average length of stay at the Unit in 2017 was just under 32 days. However, four patients had been accommodated in the Unit for more than two years, two of whom were admitted as far back as 2012.<sup>10</sup>

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<sup>8</sup> See paragraphs 11 and 49.

<sup>9</sup> Court-ordered placements under Article 69 of the Criminal Code could only be served in civil psychiatric hospitals. At the time of the visit there were 138 such interned patients: 85 at Dafni, 35 at Thessaloniki, and 18 at Dromokaiteio Psychiatric Hospital.

<sup>10</sup> Staff explained that one foreign patient could not be properly identified, and the other patient's family refused to retrieve him; see also paragraph 18.

16. The Psychiatric Unit at Gennimatas General Hospital is located in a separate two-storey building of the Hospital. In spite of an official capacity for 17 patients, additional beds were regularly placed in the Unit, and it accommodated 25 patients on the day of the visit, 18 of whom involuntary. The Unit's highest recorded occupancy level in 2017 had been 35. Most patients did not stay longer than a few weeks, whereas two patients had been hospitalised long-term, one of them for over two years. The Unit had a newly refurbished annex designed for acute admissions (including patients' rooms, nursing station and small exercise yard), which was not yet in use due to a lack of staff.

17. Occupying a large wooded area in the outskirts of Athens, Sotiria General Hospital specialises in the treatment of cancer, pulmonary and heart diseases. Its small Psychiatric Unit is housed in a single-storey pavilion with an official capacity of 20 beds, extended by up to 10 more auxiliary beds in the Unit's corridor. The Unit accommodated 24 patients on the day of the visit, 12 of them involuntary. The average length of stay at the Unit was some 23 days.

18. Each Psychiatric Hospital or Unit in a General Hospital is additionally responsible for servicing specific out-patient care centres and safe houses/hostels. The CPT's delegation visited two hostels located within the perimeter of Dromokaiteio Psychiatric Hospital.<sup>11</sup>

The development of outpatient services and assisted living units is part of the on-going reforms, with such centres established in many Greek municipalities. Indeed a considerable number of patients met at Dromokaiteio Hospital, the Unit at Evangelismos and at the Athina Clinic suffered from long-term mental disorders. Many would have benefited from placement in an assisted living setting or from outpatient care arrangements.

By letter of 7 June 2018, the Greek authorities informed the CPT that they had called upon Evangelismos Hospital to take action in order to transfer long-term mental health patients who had been at the Unit for long periods to community-based mental health units. **The CPT trusts that the Hospital's efforts to have those patients transferred will be effective and would like to be informed about the action taken. Moreover, the Committee recommends that the same approach be followed throughout the psychiatric care system.**

19. Having undergone a psychiatric assessment resulting in a recommendation for in-patient care, a patient (or his/her family) could, in practice, opt for placement in a private clinic. That said, the law providing for such a possibility<sup>12</sup> is contingent on by-laws and supervision regulations, which have not yet been enacted. Nevertheless, it is not uncommon for the hearing prosecutor to approve such transfers, if the patient's family so requests, either immediately after the psychiatric assessment or in the course of treatment in a public institution.<sup>13</sup>

**The CPT recommends that a clearer legal basis be established for involuntary placement/treatment in a private health-care institution, ensuring that such measures are surrounded by appropriate safeguards (see, in particular, paragraph 52).**

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<sup>11</sup> The Hospital was also responsible for providing services to several more hostels and autonomous living units outside the Hospital perimeter.

<sup>12</sup> See Section 101 of Law 2071/1992, and Section 16 of Law 2716/1999.

<sup>13</sup> In 2017, the Athens hearing prosecutor approved 188 such transfers.

The CPT's delegation visited one private institution: Athina Vriliisia Psychiatric Clinic, in a suburban area in the north of Athens. Purpose-built in 1971, the three-storey structure was surrounded by a garden and a secure perimeter fence. With a maximum capacity of 300, the Clinic was accommodating 256 patients at the time of the visit, 23 of whom on an involuntary basis. The longest a current involuntary patient had stayed in the Clinic was three years.

20. At Dromokaiteio Hospital, the Psychiatric unit at Evangelismos Hospital and at Athina Clinic, the delegation met several patients suffering from mental disability. These patients should be placed elsewhere, under more suitable conditions. At the very least, the allocation of such patients should be improved in order to separate long-term patients with mental disabilities from patients suffering from an acute psychiatric disorder, and the safeguards surrounding the de facto involuntary placement and treatment of patients with learning disabilities should be strengthened.

Moreover, for as long as psychiatric institutions continue to serve as shelters for patients not in need of in-patient mental health care, the very significant reform efforts in the Greek mental health care sector will be undermined.

**The CPT recommends that the Greek authorities take the necessary steps to ensure a more appropriate placement of persons with mental disabilities who are not in need of in-patient psychiatric treatment.**

21. Given the systemic overcrowding experienced by the Psychiatric Units of the three General Hospitals visited, **the CPT recommends that the distribution of duties to assess and admit psychiatric patients in the Athens area be reviewed. In particular, services regularly scheduled to assess and admit patients must have the capacity to manage the influx of patients** (see also paragraph 26).

22. The Criminal Code provisions regarding persons found to be criminally irresponsible due to a mental or intellectual disorder were amended in December 2017<sup>14</sup>. Issues of relevance to the CPT's mandate are discussed below, under 'safeguards' (see paragraphs 54 and 55).

Adult men<sup>15</sup> accused of, or sentenced for, a criminal offence and who require psychiatric treatment were held at Korydallos Prison Psychiatric Hospital, which was the subject of a follow-up visit by the CPT's delegation, covered later in this chapter (see paragraphs 58 to 69).

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<sup>14</sup> Law 4509/2017.

<sup>15</sup> Women and juvenile offenders were provided psychiatric care either in their respective dedicated prisons or at public psychiatric hospitals such as Dromokaiteio Psychiatric Hospital.

## 2. Ill-treatment

23. The CPTs delegation received hardly any allegations of ill-treatment by staff. On the contrary, the Committee notes positively that, in most of the establishments visited by its delegation, patients spoke well of staff. In general, a caring attitude towards patients and a relaxed atmosphere were in evidence, especially at Dromokaiteio and Sotiria Hospitals, where patients generally enjoyed a less confined environment.

Nevertheless, the delegation did receive some isolated allegations of ill-treatment by staff at Athina Vrillissia Private Clinic, consisting of punches on the back, of restraint straps being applied too tightly, and of verbal abuse<sup>16</sup>.

**The CPT recommends that a clear message be communicated to staff at Athina Vrillissia Private Clinic that such behaviour is unacceptable. Further, management should ensure that all staff members working in contact with patients are properly trained in verbal de-escalation skills and authorised control and restraint techniques.**

24. The CPT's delegation received a small number of allegations of violence among patients at the continuing care wards at Dromokaiteio Psychiatric Hospital. In particular, certain patients alleged that they had been assaulted by other patients while they had been restrained.

**The CPT recommends that staff at Dromokaiteio Psychiatric Hospital be vigilant as to signs or risks of inter-patient violence and be prepared to intervene rapidly** (see also paragraph 40).

The CPT's delegation also encountered two patients at Athina Psychiatric Clinic who presented recent facial injuries (periorbital haematoma) which could not, in the delegation's view, be reasonably explained as accidents – contrary to the assertions of staff – and which had not been duly documented in any registers or files. Due to the limited mental capacity of the patients involved, it was not possible to communicate with them in order to establish the origin of their injuries.

**The CPT recommends that steps be taken at all psychiatric establishments, including private clinics such as Athina Psychiatric Clinic, to ensure that all injuries suffered by patients are diligently recorded, including on body maps, and that the patients concerned are examined by a doctor who should treat, if necessary, and describe the injuries. Whenever such injuries are indicative of possible ill-treatment or inter-patient violence, even in the absence of an allegation to this effect, the record should be systematically brought to the attention of the relevant prosecutor.**

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<sup>16</sup> See also paragraph 62 with regard to Korydallos Prison Psychiatric Hospital.

### 3. Patients' living conditions

25. The accommodation rooms in all of the establishments visited offered patients good access to natural and artificial light, temperature, ventilation, and some limited space for personal belongings. Patients also had ready access to adequate sanitary facilities. Patients' rooms and furnishings were generally of a good standard, except for those at Athina Clinic and in most wards at Dromokaiteio Hospital, which were rather poorly furnished and austere. There was little if any personalisation of living areas in evidence in any of the establishments visited. Further, at Athina Clinic the multiple-occupancy rooms were accommodating up to 7 patients each. A number of them were somewhat cramped; more importantly, they lacked privacy.

**The CPT recommends that the authorities take steps to ensure that patients in any psychiatric establishment enjoy sufficient privacy, in particular in terms of the number of patients accommodated in each room. Further, patients' living areas should be suitably furnished and efforts should be made to personalise them.**

26. As already mentioned, overcrowding at all three psychiatric units of general hospitals visited meant that auxiliary beds were regularly placed in the corridor. This was reportedly a regular occurrence throughout the Greek mental health care system. The strain on space and services, and the impact on patients and staff, of long-term overcrowding should not be underestimated.

**The CPT recommends that a strategy be adopted to end systemic overcrowding in psychiatric units in Greece. In particular, persons who do not require in-patient psychiatric care should not be placed in such care institutions (see paragraphs 19 and 20).**

27. It was, however, positive that patients had access to parklands for much of the day at Dromokaiteio and Sotiria Hospitals and to a large garden for several hours per day at the Athina Clinic.

Most patients at the Psychiatric Unit at Gennimatas Hospital had free access to a small, concrete exercise yard, offering no shelter from inclement weather; some patients needed to be accompanied there by staff. **The CPT recommends that this yard be taken out of service and that patients be afforded access to the gardens at Gennimatas Hospital.**

No outdoor exercise facility was available at the Unit at Evangelismos Hospital. Since the visit, the Greek authorities have informed the CPT, by letter of 7 June 2018, that they have called upon the Hospital to remedy, as a matter of priority, the lack of outdoor activity for patients hospitalised in the Unit.

**The CPT would like to be informed of the concrete steps taken to ensure that all patients at the Psychiatric Unit of Evangelismos Hospital are offered daily access to a dedicated outdoor exercise area, adapted to the needs of patients.**

28. The situation at Evangelismos Psychiatric Unit also gave rise to particular concern as a number of bedridden and/or restrained patients were accommodated for extended periods in the corridor. Some of them wore diapers which were changed by staff in full view of others, which, in the CPT's view, could be considered as degrading. At the end of the visit, the delegation called upon the Greek authorities to put an immediate stop to this practice, pointing out that patients in need of restraint or requiring assistance as regards their hygiene needs should be cared for in hospital rooms, under close monitoring by staff, and under conditions which respect their privacy and dignity.

By letter of 7 June 2018, the Greek authorities informed the CPT that, in addition to issuing specific instructions addressed to all psychiatric establishments *inter alia* not to use mechanical restraint in view of other patients (see paragraph 39), the Ministry of Health has called upon Evangelismos General Hospital to accommodate mental health patients with impaired functionality in hospital rooms, and immediately stop the practice of placing them in the corridor. **The CPT welcomes this development and requests an update on the implementation, in practice, of these instructions.**

29. The CPT notes positively that, for the most part, patients spoke well of the food they were provided.

30. The open regime were one of the most positive aspects of the situation observed in the establishments visited. As mentioned at paragraph 27, many patients (those who were not bedridden or immobilised) could move around freely for part, if not most, of the day.

At the Psychiatric Unit at Sotiria Hospital a number of occupational activities were on offer, including painting, puzzles and movie-watching. The CPT's delegation noted positively that two occupational therapists attended the Unit on weekdays and fully engaged with patients.

At Athina Clinic and the Unit at Gennimatas Hospital activities on offer were rather limited and could certainly be developed further, in the CPT's view. The few resources available for activities at Dromokaiteio Hospital, following staff cuts in recent years, had been directed primarily towards patients in its hostels, leaving the majority of other patients – including long-term and forensic patients – idle. Any activities for patients in the regular wards took place in a dedicated building, making it difficult for less mobile patients to engage in them. Finally, patients within the more restricted confines of the Unit at Evangelismos Hospital had little to occupy themselves with other than a TV room, a smoking area, and a small collection of books.

**The CPT recommends that all psychiatric patients, including long-term and forensic patients, be offered a range of recreational activities suited to their needs. In the interest of including immobile or less mobile patients, at least some of these activities should be offered within wards accommodating them.**

#### 4. Staff, treatment and documentation

31. The two larger establishments visited by the CPT's delegation were clearly understaffed, especially as regards the nursing complement, psychologists and occupational therapists. At both Dromokaiteio Psychiatric Hospital and Athina Clinic every ward was affected by understaffing. According to official figures, out of 382 nurses (of different categories) foreseen in the establishment table at Dromokaiteio Psychiatric Hospital, only 172 were employed for all the services under its responsibility. At any one time only one or at most two nurses were on duty at wards accommodating up to 36 patients. The staff-to-patient ratio was certainly better at the smaller psychiatric units of the three general hospitals visited. Nevertheless, additional staff would be needed to engage in activities with patients especially at the Evangelismos Psychiatric Unit, and to bring the new annex at Gennimatas Hospital's Psychiatric Unit into service.

The CPT's delegation saw clear signs of a caring attitude among staff and an admirable level of motivation, in spite of the obvious strain they were under due to overcrowding and understaffing. The Committee understands that the current staffing crisis must be seen in the context of strict austerity measures combined with lengthy recruitment procedures.

Nevertheless, **the CPT recommends that urgent steps be taken to address the staff shortages, as essential frontline services, in direct contact with vulnerable patients, cannot be taken care of properly and safely, given the current low staffing levels.**

32. As regards treatment, the pharmacotherapy provided to patients at the units of the three General Hospitals visited does not call for particular comment. Some psychotherapeutic activities, including group therapy, were also provided there, which is positive.

By contrast, at Dromokaiteio Psychiatric Hospital and Athina Psychiatric Clinic there was an over-reliance on pharmacotherapy and very limited psychosocial activities on offer. A clear pattern was observed of high dosage, intra-muscular anti-psychotic injections during the first days after patients' admission to Dromokaiteio Hospital. At the Athina Clinic, mainly 1<sup>st</sup>-generation anti-psychotic drugs were in use in relatively high doses,<sup>17</sup> with several patients clearly displaying symptoms of overmedication (blurred speech, extra-pyramidal symptoms).

**The CPT recommends that treatment at both establishments be the subject of a thorough evaluation, aimed at bringing medication in line with modern medical standards, preventing overmedication, and diversifying the treatment on offer; at all psychiatric establishments, patients should be offered a range of treatment options, including counselling, psychotherapy and psychosocial rehabilitation. It is especially important, in the Committee's view, that long-term and forensic patients be offered suitable occupational and vocational therapy, in order to counter the risks of institutionalisation; and, as regards forensic patients, in order to foster their re-integration into society.**

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<sup>17</sup> Up to 60mg/day of Haloperidol for several patients, whereas many were receiving 50mg/day over uninterrupted periods of months or even years.

33. No comprehensive individual treatment plans, tailored for each patient, were in evidence at any of the establishments visited. The use of individual treatment plans, a discussion with the patient about his or her plan, and its regular review, would go a long way, in the CPT's view, in giving purpose and structure to placement in psychiatric care.

To this end, **the Committee recommends that comprehensive individual treatment plans, offering a range of treatment options in accordance with a multi-disciplinary approach, be drawn up and regularly revised for patients in all psychiatric establishments in Greece. Each individual treatment plan should include the diagnosis, the goals of treatment, the therapeutic means used and the staff members responsible; it should also take into account the special needs of acute, long-term and forensic patients and, with respect to the latter, the need to reduce any risk they may pose. Patients should be involved in the drafting and revision of their individual treatment plans and be informed of their progress.**

34. The CPT's delegation encountered very confusing and incomplete medical record keeping at several of the establishments visited. At times, it appeared impossible even for staff members themselves to locate information pertaining to a patient's state of health, due to the multitude of separate files kept, and due to the fact that important diagnostic information and regular reviews were lacking. The situation at Athina Psychiatric Clinic was particular poor in this respect, due to an evidently less-than-rigorous concern with the orderly keeping of medical records.

By contrast, a notable exception was found at the Psychiatric Units at Gennimatas and Sotiria Hospitals, where medical files were well kept and of a good quality. From the very beginning of the assessment of patients prior to admission, thorough diagnostic information was provided – as opposed to the box-ticking exercise which was typical elsewhere – and the files clearly showed that patients and their state of health were thoroughly and regularly assessed. This is very positive.

**The CPT recommends that the necessary steps be taken to ensure that all psychiatric establishments institute an efficient system of medical record-keeping, which allows for appropriate qualitative oversight, both internally and by external monitoring bodies.**

## 5. Means of restraint

35. One of the most serious findings during the visit concerned the use of mechanical restraint. The CPT's delegation observed a lack of appropriate training on, and strict criteria for, the use of restraints in line with internationally accepted guidelines. These factors, combined with very low staffing levels, have resulted in a widespread practice of excessive, inappropriate use of mechanical restraint.

The CPT's delegation observed that the *criteria* followed for the use of mechanical restraint were often unclear. Allegations were heard about the use of restraints as a punishment (e.g. two hours for "stepping on a mop" (at the Athina Clinic)) or as a means, during the initial period of hospitalisation, to prevent escape. Even at the Psychiatric Unit of Sotiria Hospital, where restraints were resorted to less frequently than at the other establishments visited and were subject to adequate monitoring and recording, the CPT's delegation found records of the prolonged use of mechanical restraint, for days, on subdued patients who were described by staff as "calm, polite and compliant", evidently presenting no imminent risk of harm to themselves or others. At Dromokaiteio Psychiatric Hospital, advance authorisations were found for mechanical restraint, for example, at the geriatric unit, or at the Singrio ward, where a doctor had ordered restraint in case the patient went to another room. Certain files examined, and interviews held with staff, also indicated a "therapeutic" use of restraints.

Quite a number of files consulted by the CPT's delegation and/or interviews held with patients or staff attested to an excessively long *duration* of mechanical restraint being applied. For example, at Dromokaiteio Psychiatric Hospital, one formally voluntary patient found in restraints at the Kundirijotio ward during the CPT delegation's visit on 12 April had been restrained since 3 April and beforehand between 8 March and 1 April 2018; and at the Berisarios ward one patient, who had been hospitalised for many years, was constantly restrained on a long-term basis and released only during visits from her mother, who would stroll with her in the gardens. Two patients at the Gennimatas Hospital Psychiatric Unit were subject to long-term restraints: one, who suffered from autism and had been at the hospital for two years, was restrained for lengthy periods; the other was restrained constantly and only released during the daytime visits of additional support staff.

The CPT's delegation also encountered instances, as well as numerous consistent reports, of inappropriate restraint *methods*. For example, restraints were usually applied in hospital rooms – or, at Evangelismos, in the Unit's corridor – in full view of other patients. At Dromokaiteio Psychiatric Hospital, in particular, restrained patients were often obliged to use a bedpan or in some instances soiled themselves in front of other patients. Restraints were often applied just to one lower limb; and padlocks were in use at the Psychiatric Unit of Gennimatas Hospital and at the Aiya Markella ward at Dromokaiteio Psychiatric Hospital. Nowhere was there a reliable system in place ensuring the immediate release of a restrained patient in the event of an emergency.

The CPT's delegation also noted that patients were restrained without appropriate *approval* and/or *supervision* by a doctor, in particular wherever no *dedicated restraints register* was in use, namely at the Athina Clinic and at all wards at Dromokaiteio Psychiatric Hospital except the Singrio ward. It is certainly positive that dedicated restraints registers were in use at the Singrio ward and at the Psychiatric Units of the three General Hospitals. That said, those registers should be kept more thoroughly.

36. The CPT's delegation noted that chemical restraint was frequently used. However, with the exception of the Psychiatric Unit at Sotiria Hospital, the application of chemical restraint was not generally acknowledged or recorded as such, and therefore was not surrounded by the necessary safeguards (monitoring, recording, etc.). Moreover, many patients, particularly during the initial phase of hospitalisation at both Dromokaiteio Psychiatric Hospital and Athina Psychiatric Clinic, were administered neuroleptics by injection without their consent, for the purpose of rapid tranquillisation, often in combination with mechanical restraint applied for long periods of days or even weeks.

37. Limited resort was had to seclusion, in two special rooms with sanitary annexes at the Aiya Markella (acute) ward at Dromokaiteio Psychiatric Hospital, either to prevent patients – including ostensibly voluntary ones – from escaping, or to punish them for having attempted to escape. One patient interviewed by the CPT's delegation had been in seclusion for a day, ever since she had been returned to the Hospital after escaping for one week. The other seclusion room at the ward was occupied by a forensic patient prone to impulsive acts of violence; staff informed the CPT's delegation that he had been secluded for uninterrupted periods of weeks. At the Unit at Evangelismos Hospital, patients were also very occasionally, and for brief periods of a few hours, according to both patients and staff, confined to a locked hospital room. No formal record was kept of any of the above-mentioned instances of seclusion.

38. At most establishments visited, staff were not aware of the ministry-endorsed *policy*<sup>18</sup> on restraints. Internal regulations implementing that policy were absent at Athina Psychiatric Clinic, and staff were insufficiently aware of the implementing regulations at Dromokaiteio Psychiatric Hospital.

39. In response to the CPT delegation's preliminary observations about the use of restraints, the Greek Ministry of Health informed the CPT, by letter of 7 June 2018, that it had issued instructions to all public psychiatric establishments on the exceptional use of mechanical restraint, with a view to:

- (a) clarifying the very specific criteria according to which it is acceptable to apply mechanical restraint (immediate risk of harm to self or others, and only after de-escalation attempts have failed);
- (b) integrating the CPT's standards on this issue into the practice, as well as the policy, in Greece;
- (c) ensuring that any change in practice does not result in a departure from the open regime conditions, and that on the contrary, time spent outdoors, home leave and therapeutic activities are to be promoted as decreasing tension and preventing the need to resort to restraints; and
- (d) ensuring that patients are treated with respect and their needs and particularities are taken into account.

Establishments were further required to keep a specific register on the use of means of restraint as well as to submit regular quantitative reports to the Health Ministry, the Special Committee for the Protection of the Rights of Persons with Mental Health Disorders and the

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<sup>18</sup> Special Committee on the Rights of Patients with Mental Illnesses, *Guidelines on the Use of Restraints*, 30 January 2008

Ombudsman's Office, on the use of mechanical restraint and seclusion. The Ministry also called upon establishments to arrange for the necessary staff training to ensure that these instructions would be correctly implemented.

In addition, the authorities informed the CPT that they would be sending to all private psychiatric institutions a separate document prohibiting the use of any means of restraint in those establishments.

**40. The CPT welcomes the authorities' thorough and constructive response and would like to be provided with detailed information on the implementation of the steps envisaged and on progress achieved, in practice, to strengthen the protection of psychiatric patients from the excessive and inappropriate use of restraints, in accordance with the CPT's standards on the use of means of restraint in psychiatric establishments for adults.<sup>19</sup> In particular:**

- **mechanical restraints are a security measure which can never have a therapeutic purpose;**
- **it is unacceptable for doctors to give blanket advance instructions to nurses to apply restraints at their discretion;**
- **the use of mechanical restraint should never take place in front of other patients;**
- **restrained patients should never be placed in a position where, in order to comply with the needs of nature, they are obliged to soil themselves or defecate or urinate in view of other patients;**
- **patients should never be restrained by the use of padlocks;**
- **patients under mechanical restraint should be continuously monitored by staff;**
- **a reliable system must be in place to ensure the immediate release of a restrained patient in the event of an emergency; and**
- **patients should be properly debriefed after a restraint episode.**

**Further, each establishment should introduce clearly defined restraint guidelines and procedures, explaining that restraints are to be used as a means of last resort, to control aggressive or auto-aggressive behaviour; and they should never be used to prevent escape or make up for the shortage of staff.**

**Finally, both at ministerial policy level and at the local establishment level, a clear strategy should be drawn up on how to lower the incidence of the use of restraints, with a particular focus on eradicating long episodes of the use of mechanical restraint. Staff should receive training on the use of restraints, but primarily on the use of verbal de-escalation techniques in order to avoid having to resort to the use of restraints.**

**41. Seclusion should only ever be used within a psychiatric institution for the prevention of imminent harm, for the shortest time necessary, and subject to constant staff supervision and systematic recording in a dedicated register. As with any other means of restraint, seclusion should never be used as a form of punishment. Guidelines to this effect were issued in 2008 by the Special Committee for the Protection of the Rights of Persons with Mental Health Disorders and endorsed by the Ministry of Health.**

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<sup>19</sup> See the CPT's standards on "Means of restraint in psychiatric establishments for adults", CPT/Inf (2017) 6.

Similarly, the use of chemical restraint must also be surrounded by appropriate safeguards, in particular as regards its comprehensive recording in a dedicated register as well as in the patient's medical file, and the circumstances and manner in which chemical restraint may be used in combination with mechanical restraint.<sup>20</sup>

**The CPT recommends that steps be taken to ensure that the principles outlined above in respect of the use of seclusion and of chemical restraint are rigorously followed.**

## **6. Safeguards**

42. Involuntary placement in a psychiatric establishment, whether under civil or criminal law, must be surrounded by appropriate safeguards.

43. In Greece, the formal decision to place a person in a psychiatric hospital is always based on the opinion of two psychiatrists.<sup>21</sup> However, in all of the cases examined by the CPT's delegation, both psychiatrists were from the same institution in which placement was sought and they conducted their assessment jointly, producing one opinion, not two as prescribed by law. Moreover, at Dromokaiteio Psychiatric Hospital, for example, one of the psychiatrists was typically in training, mentored by his or her licenced colleague. Further, with the exception of assessments made by the Psychiatric Unit at Sotiria General Hospital, the opinions examined by the delegation contained little if any reasoned, diagnostic information (see also paragraph 34).

**The CPT recommends that the Greek authorities ensure that involuntary placement procedures offer guarantees of independence and impartiality as well as of objective medical expertise. In particular, the psychiatric opinions provided should include reasoned diagnostic information (description of state of mind, appearance, attitude, behaviour, etc.), and two separate opinions should be provided, as prescribed by the Greek legislation.**

44. An examination of patients' files showed that the placement of long-term patients was not the subject of systematic, periodic reviews beyond the first 6-month review.<sup>22</sup>

**The CPT recommends that the law be amended so that this periodic review is explicitly required, and that steps be taken in order to ensure that such a review is undertaken in practice.**

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<sup>20</sup> See CPT/Inf (2017) 6.

<sup>21</sup> See Section 96.2 of Law 2071/1992, which allows for one of the two doctors to be specialised in another related field.

<sup>22</sup> See also the CPT's 2005 visit report (CPT/Inf (2006) 41), paragraph 147.

45. Patients admitted to a psychiatric hospital on an involuntary basis legally have the right to be heard in person by the court during placement or appeal procedures<sup>23</sup>. However, the CPT's delegation found that this right is rarely enjoyed in practice. Indeed, out of 2853 cases considered by the Athens Court of 1<sup>st</sup> instance<sup>24</sup> in 2017, only very few patients were personally heard by the judge. Many patients interviewed by the CPT's delegation had evidently not been notified. Staff also stated to the CPT's delegation that the court notification of the hearing often arrived at the establishment after the date of the hearing or after the patient had been discharged.

In addition, a number of patients' files examined by the CPT's delegation at Athina Psychiatric Clinic contained a doctor's opinion that the patient was unfit to attend the hearing; yet the delegation found no reasonable justification for such an opinion in patients' files or during interviews with the patients and staff concerned. At the Psychiatric Unit at Sotiria Hospital, it was acknowledged that staff usually did not inform the patient about the hearing because this information would be "stressful" for the patient, and, in any case, the Hospital was not in a position to arrange transportation to the hearing.

**The CPT recommends that the Greek authorities take the necessary steps to ensure that patients benefit, in practice, from the right to be heard in person by the court during placement or appeal procedures.** One way to ensure this is for court placement/review hearings to be held in psychiatric institutions. Such arrangements could, in the CPT's view, facilitate direct contact between all the parties concerned (i.e. the patient, the doctor and the judge), and prevent the court's role from being reduced to a mere formality, or from being perceived as such.

46. No information brochure was available in any of the establishments visited by the CPT's delegation. Certain information on rights was shown to patients on admission to Dromokaiteio Psychiatric Hospital, but it was an unclear information document (poor photocopy, in small print) which patients were requested to sign in the course of their admission. At Athina Clinic and the Unit at Evangelismos Hospital most patients interviewed were also unaware of their legal status,<sup>25</sup> and it would appear that little or no information on their rights was provided to them. No information about rights was displayed in the corridors of any of the institutions visited. According to information gathered by the CPT's delegation, patients do not receive a copy of any court decision on involuntary placement in a psychiatric hospital; nor are they otherwise informed, orally or in writing, about the reasons for the decision and the avenues/deadlines for lodging an appeal.

**The CPT recommends that the Greek authorities ensure that the above shortcomings are addressed. In particular, persons admitted to psychiatric establishments should be provided with full, clear and accurate information, in an appropriate range of languages, setting out the facility's daily routine and patients' rights, including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures; patients unable to understand this information should receive appropriate assistance. Further, all patients should receive a copy of any court decision on their involuntary placement, or be otherwise informed, both orally and in writing, about the reasons for the decision and the avenues/deadlines for lodging an appeal.**

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<sup>23</sup> See Sections 96.6 and 97 of Law 2071/1992, concerning the initial placement decision and the appeal.

<sup>24</sup> Figures for the whole country were not available. Nevertheless, this court is competent for a considerable proportion of such cases in Greece.

<sup>25</sup> See the CPT's 2005 visit report (CPT/Inf (2006) 41), paragraph 149.

47. Patients are entitled to legal assistance in placement proceedings. They can also be represented by someone acting in their interests. However, neither of these formal rights is effectively enjoyed in practice. In general only the very few persons who availed themselves of the right to be present were also legally represented at placement hearings before the Athens Court of 1<sup>st</sup> instance.

**The CPT recommends that the Greek authorities ensure that patients enjoy effective access to legal representation. Such assistance should be made available to indigent patients free of charge.**

48. As explained above (see paragraph 11), a provisional placement measure is subject to a time limitation of 10 days from the moment the psychiatric assessment recommending placement for treatment is communicated to the district court.<sup>26</sup> However, it was clear from interviews with patients, staff, non-governmental organisations and the Office of the Ombudsman, as well as from the CPT delegation's consultation of patients' files, that this limit is often not respected. Such situations could possibly amount to unlawful deprivation of liberty.<sup>27</sup>

**The CPT recommends that the Greek authorities review, as a matter of urgency, the practice applied to involuntary placements, and take the necessary steps to ensure that the statutory time limitations are respected.**

49. There is no distinction in Greek law between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment. Indeed the term used in the Greek legislation, signifying both concepts, is "involuntary hospitalisation"<sup>28</sup>. As a result, no safeguards were in place in the establishments visited as regards forced medication/treatment. In particular, due to the lack of properly kept documentation (see paragraph 34), it was difficult to establish the policy and frequency of applications of forced treatment.<sup>29</sup>

**The CPT recommends that the Greek law be amended in order to ensure that placement and treatment (where involuntary) are two separate decisions, and that each is surrounded by appropriate safeguards.**

50. In none of the establishments visited were patients – who were formally voluntary – required to sign a form on admission attesting to their voluntary status. That said, it was not uncommon for the institutions visited to initiate a procedure to change the status of a patient from voluntary to involuntary. However, it was unclear how systematically this procedure was initiated.

**The CPT recommends that all voluntary patients be required to sign a form, on admission, attesting to their voluntary status. This form should expressly state that voluntary patients are free to leave the establishment and to refuse treatment they do not wish to take. Further, patients who are not able to give valid consent to their hospitalisation should be assessed in order to establish whether they fulfil the criteria for involuntary admission.**

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<sup>26</sup> See Section 96.6 of Law 2071/1992.

<sup>27</sup> See European Court of Human Rights (ECtHR), *Venios v. Greece*, application no. 33055/08, 5 July 2011.

<sup>28</sup> "Involuntary hospitalisation consists of a patient's admission against his/her will to, and his/her placement for therapy in, an appropriate Mental Health Unit" (Section 95.1 of Law 2071/1992, "Ακούσια νοσηλεία είναι η χωρίς τη συγκατάθεση ασθενή εισαγωγή και η παραμονή του, για θεραπεία, σε κατάλληλη Μονάδα Ψυχικής Υγείας (ΜΨΥ).").

<sup>29</sup> On this issue, see also the CPT's 2005 visit report (CPT/Inf (2006) 41), paragraph 148.

51. At Dromokaiteio Psychiatric Hospital patients who were mobile could address complaints internally to a central office, which ensured that the complaints were registered, received a response, and were the subject of quantitative and qualitative reporting each semester. At Gennimatas Hospital, a patients' rights officer had the task of directing complaints to the appropriate internal or external body, but both patients and staff said patients were unaware of this possibility. The other establishments visited did not offer such a possibility to patients.

No effective external complaints procedure was in place at any of the establishments visited. Patients interviewed knew neither how, nor to whom, to complain if they wished to do so.

**The CPT recommends that both internal and external complaints procedures, including complaints boxes (to be opened only by specially designated persons, and in confidence), be introduced at all psychiatric establishments. Such procedures and arrangements should allow patients to lodge formal complaints with a clearly designated body, and communicate in confidence with an appropriate authority outside the establishment.**

52. Public psychiatric establishments in Greece may be visited by the Special Committee for the Protection of the Rights of Persons with Mental Health Disorders, as well as by the Ombudsman's Office acting in its capacity of National Preventive Mechanism. Both bodies may speak privately with patients, consult all relevant documentation, receive any complaints which they might have and make any necessary recommendations. Nevertheless, it was clear that visits by either body were not particularly frequent, due primarily to a lack of resources. Further, in practice, patients' complaints were received either indirectly, via the family, or once the patient was discharged.

No visits were made by the above-mentioned bodies to private sector institutions (see also paragraph 18). As borne out by numerous observations during the visit concerning Athina Private Psychiatric Clinic in particular, **the CPT recommends that this significant monitoring gap be remedied urgently, and that appropriate external supervisory bodies are provided with the necessary resources to make frequent and unannounced visits to all places – including private clinics – where involuntary patients are hospitalised.**

53. As regards contacts with the outside world, all patients were quite free to receive visits from family and friends. It was also not uncommon for home visits of a day or longer to be approved at the psychiatric units at the three general hospitals. Whereas patients were allowed to keep their mobile phones at Sotiria Hospital's Psychiatric Unit, mobile phones with a camera function were not allowed at Dromokaiteio Hospital, for privacy reasons, but patients there were allowed to use payphones with phone cards. Several patients at Athina and Dromokaiteio complained that the times during which they were allowed to receive phone calls was quite limited, for example not allowing them to speak to friends and family when they are available rather than at work.

**The CPT recommends that all involuntary patients benefit from facilitated contact with the outside world; this includes, for example, allowing for more flexible time periods for phone access at the Athina Clinic and at Dromokaiteio Psychiatric Hospital.**

54. All compulsory placements of criminally irresponsible patients have been subject to court review every three years. In practice, however, these reviews were not systematically carried out. Indeed none of the patients hospitalised pursuant to a Court order under Article 69 of the Criminal Code – including for many years – and interviewed by the CPT’s delegation had ever attended a review hearing. From documentation and interviews with patients and staff, the CPT’s delegation formed the opinion that, in practice, it was extremely difficult for patients to make any progress towards release: psychiatrists were often very reluctant to issue an opinion that the patient, if discharged, would no longer pose a risk to society; and even when the psychiatric assessment recommended the patient’s release, such recommendations were rarely followed.

**The CPT would like to receive from the Greek authorities information regarding the number, frequency and outcome of the reviews of orders under Article 69 of the Criminal Code carried out in 2016 and 2017, as well as the number of review hearings during which patients were indeed present.**

55. The changes introduced in December 2017 to the Criminal Code provisions concerning the placement and treatment of persons found to have partly or substantially reduced criminal responsibility have strengthened the safeguards surrounding such placement and treatment orders and their review.<sup>30</sup>

In particular, the amendments have clarified the need for public court proceedings to determine such placements; the pejorative and inaccurate reference to “unrecognised criminals” has been changed to “persons exempt from penalty due to a mental or intellectual disorder”; the seriousness of acts justifying a compulsory measure has been increased (i.e. linked to the seriousness of the offence which would have been committed had the person not been found to be criminally irresponsible); the stigmatising reference to “dangerousness for public safety” has been removed; and the possibility for out-patient treatment is introduced.

The duration of the compulsory treatment must be stipulated in the order: up to two years for acts that would have qualified as misdemeanours, and up to five years for acts that would have qualified as felonies. A three-member complaints court decides whether the measure should be extended for up to the same duration. The measure must be reviewed by the court every year. A review may also be prompted at any time by the prosecutor, the treating unit or the person concerned. Decisions to continue the measure must be motivated. Court-appointed legal representation is provided for three-member complaints court proceedings.

The CPT welcomes the above-mentioned amendments to the Criminal Code. The Committee’s visit took place too soon after the entry into force of these new provisions for the Committee’s delegation to assess their effectiveness. **The CPT would like to be informed of the number of reviews which have been carried out since the entry into force of the amendments, whether the patient concerned was present for the review hearing, whether he or she had legal representation, where necessary appointed by the court, and the outcome of those reviews.**

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<sup>30</sup> See Law 4509/2017.

## 7. Other issues

56. The process of transfer of individuals by the police to an establishment for psychiatric assessment or involuntary placement remained a problem<sup>31</sup>. At all establishments visited, the CPT's delegation heard allegations of routine handcuffing behind the back, sometimes painfully tight and/or lasting many hours, of patients transported from remote locations in Greece. At Dromokaiteio Psychiatric Hospital, the CPT's delegation also witnessed, for example, the patently unnecessary use of handcuffs on a frail, elderly patient left waiting for her turn to undergo a psychiatric assessment, her hands cuffed behind her back. In addition, the delegation received one allegation of excessive use of force by the police during a transfer from the patient's home to a psychiatric institution several weeks prior to the visit. In particular, the patient alleged that while he was handcuffed behind his back an escorting officer hit him on the back of his head with a truncheon. No trace of this allegation, or physical evidence of it, was found in admission registers or the patient's file.

In the CPT's view, the police should not be the agency usually responsible for transfers to a psychiatric establishment. The fact that the police are not the appropriate service to carry out such transfers is borne out by interviews with patients, health-care staff and police officers themselves. Persons with mental health-care needs should, in principle, always be transported by health-care staff.

By letter of 7 June 2018, in response to the CPT delegation's observations on this issue, the Ministry of Health informed the CPT that the draft law on involuntary psychiatric placement includes an article which stipulates that the transfer of patients to mental health units for assessment will be carried out by specially trained staff in special vehicles under conditions that absolutely ensure respect for the patient while at the same time fulfilling the necessary safety requirements. The assistance of a police officer during the transfer can only be requested as an exception.

**The CPT welcomes this positive response and requests an update on the adoption of the above-mentioned new arrangements for the transfer of patients with mental disorders.**

**Further, the Committee recommends that the Greek authorities take the necessary steps – including clear instructions and training on how to handle the transfer of persons possibly in need of psychiatric care – pending the implementation of those arrangements, to ensure that transfers are carried out in such conditions as to ensure the safety and dignity of patients. In particular, handcuffs should not be used in the course of such transfers.**

**The CPT would also like to be informed whether, and if so, under what circumstances, law enforcement officers are allowed to use truncheons during such transfers.**

57. The CPT's delegation met one patient, at Dromokaiteio Psychiatric Hospital, who had been transferred from Korydallos Prison Psychiatric Hospital. He was accommodated in a room on his own, supervised by two plainclothes penitentiary staff members, each carrying a firearm and constantly stationed outside the room. The CPT's delegation was informed that such arrangements were not infrequent.

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<sup>31</sup> See the CPT's 2005 visit report (CPT/Inf (2006) 41), paragraph 151.

The CPT has serious misgivings about penitentiary staff carrying firearms in a health-care establishment, especially one in which patients with mental disorders are deprived of liberty. Exceptional circumstances and an individual risk assessment may warrant the adoption of special security measures. However, in the Committee's view, such measures must be proportionate and interfere as little as possible with the therapeutic vocation of the health care establishment. In particular, having carried out a risk assessment of the individual in question, less intrusive measures than the presence of armed personnel should be considered, such as the use of a secure room, or, as regards the forensic psychiatric context, a high security wing.

**The CPT recommends that the relevant authorities consider the foregoing precepts when determining any security arrangements to be made for the custody of prisoners within a hospital environment.**

## **8. Korydallos Prison Psychiatric Hospital**

58. The CPT's delegation paid a targeted visit to Korydallos Prison Psychiatric Hospital, focussing on the treatment of persons with mental disorders (as opposed to drug-dependent patients), and both the segregation and the reception/protection units.

59. At the time of the visit, Korydallos Prison Psychiatric Hospital was still entirely under the responsibility of the Ministry of Justice, pending its integration into the Greek national health services. By letters of 7 June 2018, the Greek health and justice authorities informed the CPT that responsibility for medical services at Korydallos Prison Psychiatric Hospital would be transferred to the Ministry of Health by September 2018, pursuant to a Presidential Decree outlining a range of measures foreseen for the management of the Hospital.

The CPT welcomes the finalisation of this transfer of responsibility, which has been pending since 2009<sup>32</sup>; it should, in principle, facilitate the establishment's transformation into a proper healthcare facility, as has been recommended by the CPT on each of its five previous visits<sup>33</sup>. **The CPT trusts that the transfer of responsibility will be accompanied by resolute action in addressing the Committee's long-standing recommendations in respect of Korydallos Prison Psychiatric Hospital.**

60. Korydallos Prison Psychiatric Hospital remains the only establishment in Greece for the placement of prisoners who are mentally ill. At the time of the visit the establishment had a *de facto* maximum capacity – indeed the only capacity referred to by staff during the visit – of 270 persons. There were 238 patients at the time of the visit, representing a decrease (from 265) since 2005, but a significant level of overcrowding as compared to the (nominal) official capacity of 160.

Sixty-seven persons detained at the Hospital were classified as workers, the vast majority of whom had no psychiatric illness or addiction issue justifying their placement at the Hospital. Similarly to the situation observed in 1993<sup>34</sup>, the CPT's delegation received allegations that certain prisoners had managed to arrange a transfer to the Hospital in order to benefit from the better conditions there as compared to ordinary prison<sup>35</sup>.

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<sup>32</sup> See Section 13 of Law 3772/2009.

<sup>33</sup> CPT visits to Korydallos Prison Psychiatric Hospital took place in 1993, 1997, 1999, 2001 and 2005.

<sup>34</sup> See the CPT's 1993 visit report (CPT/Inf (94) 20), paragraph 178.

<sup>35</sup> A police investigation into an alleged medical certificate scam, allowing prisoners to purchase their way into placement at Korydallos Prison Psychiatric Hospital, was opened in May 2018.

**The CPT recommends that the Greek authorities ensure that the official capacity of 160 patients at Korydallos Prison Psychiatric Hospital is in line with the national minimum standard of living space per patient in a mental health care institution, and that this capacity is adhered to in practice. Further, action should be taken to ensure that only those prisoners in need of in-patient treatment are accommodated in the Hospital.**

61. All patients at Korydallos Prison Psychiatric Hospital were men.<sup>36</sup> However, following the above-mentioned transfer of responsibility, the Hospital is expected to include a 10-person unit for women, and another for juveniles, in addition to 180 places foreseen for men, with an overall capacity of 200<sup>37</sup>. **The CPT would like to be informed of the steps envisaged to set up these two new units at the Hospital, in particular as regards their location, and the material conditions and regime offered to patients placed there.**

62. The delegation received no allegations of recent physical ill-treatment by staff at Korydallos Prison Psychiatric Hospital. Inmates with longer experience at the establishment spoke to the delegation of violence by staff dating back a number of years, stating that this was no longer a problem. Nevertheless, the delegation did receive a few allegations of verbal abuse and other disrespectful behaviour by staff.

**The CPT recommends that the hospital management issue a clear message to all staff that such behaviour is unacceptable.**

It is also positive that the CPT's delegation received no allegations of inter-patient violence, which had been a source of serious concern during the Committee's previous visit in 2005.<sup>38</sup> On the contrary, protection from such occurrences had visibly improved, due at least in part to a more structured - yet still relatively open - regime on movements.

63. Material conditions at the establishment were generally poor, and certainly not of a standard required of a hospital. The only common indoor area, on the 1st floor, was a large eating hall with no furnishings apart from a television and low fixed benches along the walls and in the centre. Cells in the *Segregation Unit*, in the ground floor annex, had adequate access to natural and artificial light and ventilation, but they were particularly dilapidated and bleak, fitted only with metal beds, dirty mattresses and blankets, but not, for the most part, with sheets or pillows. Sanitary annexes in the segregation unit cells were in working order, with a floor-level toilet and sink, but they were unhygienic (each had an open drain) and squalid.

**The CPT recommends that material conditions at Korydallos Prison Psychiatric Hospital be improved in the light of the foregoing remarks.**

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<sup>36</sup> Several women had been held at the establishment some years prior to the visit. However, after a fire incident, the establishment has reverted to solely accommodating men.

<sup>37</sup> Article 6 of the draft Presidential Decree.

<sup>38</sup> See the CPT's 2005 visit report (CPT/Inf (2006) 41), paragraph 82.

64. The individual/double cells in the basement level *Reception/Protection Unit*, used for accommodating new arrivals, were somewhat better, in particular as regards bedding. However, as was the case in 2005<sup>39</sup>, the three protection cells (also known as “blue” cells) for the seclusion of patients at risk of harming themselves or others were once again found to be unfit for use by anyone, least of all by persons with mental disorders. Refurbishment of one cell had been completed and was still under way for the other two. Nevertheless, the cells remained windowless, either poorly padded or not at all, each measuring around 5m<sup>2</sup>, and containing a barely raised plinth and no alarm bell. The cells had artificial lighting and reverse-cycle air conditioning which was controlled by staff, as was access to a basic toilet and sink, in the cell’s antechamber (just outside the inner cell door). Patients were placed in the cell naked, with no rip-proof clothing provided, which in itself may be considered degrading.

From interviews with staff and patients, as well as patients’ files, it clearly emerged that custodial staff presence in the basement area was infrequent at best, with patients often placed in the protection cells for periods of several days, and left unattended for many hours at a time, with the result that they were obliged to defecate and urinate in the cell. Indeed, the CPT’s delegation observed obvious fresh traces of human waste in two cells, one of which was in use during the visit. Patients also provided consistent accounts of a pattern of alternating very cold and very hot air being blasted into the cell. Furthermore, in spite of the fact that the use of the cells was subject to a psychiatrist’s approval (often obtained by telephone), the cells were, in some cases, evidently used as an informal disciplinary punishment following self-harm incidents.

65. It is totally unacceptable, and could easily be considered as inhuman and degrading, in the CPT’s view, to place patients, without supervision, and for extended periods, in these cells – all the more so if they are naked. From the medical stand-point, patients who self-harm should not be placed in a solitary confinement regime: on the contrary, they should receive increased care and support. There can be no justification, in the CPT’s view, for the resort to placement in a protective cell of a patient needing urgent medical intervention (for example, on account of swallowing a foreign object).

In accordance with the standards applicable for a proper psychiatric hospital, if there is a need to seclude patients for protective purposes, this should be done for the shortest possible time necessary to resolve the acute situation, to prevent self-harm or harm to others. During that time the person should be permanently monitored by staff, and access to a functioning call system must be guaranteed as an additional safeguard; if the removal of the patient’s clothing is considered necessary in the interest of safety, rip-proof clothing should be provided. Furthermore, a dedicated register on the use of protective cells should be in place, from which one can ascertain the circumstances, date/time of placement and release, person ordering/authorising placement and release, and the permanence of supervision and assistance provided by staff.

66. By letter of 7 June 2018, in response to the delegation’s request urging the authorities to put an end to the practice regarding the use of the “blue” or protective cells at Korydallos Prison Psychiatric Hospital, the Ministry of Justice provided the CPT with an account of the steps taken so far and those planned still. In particular, after a series of ministerial inspections and consultations, the Ministry has issued an order on 29 May 2018 ceasing promptly and irrevocably the operation of the so-called “blue” cells.

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<sup>39</sup> See the CPT’s 2005 visit report (CPT/Inf (2006) 41), paragraph 118.

The Ministry has further drawn up an action plan, already being implemented in cooperation with Korydallos Prison Psychiatric Hospital, to:

- establish a quiet room, on the Hospital's ground floor, to address patients with self-harm behaviour, including natural light and ventilation, a bed and toilet and CCTV monitoring;
- ensure compliance with the protocol on the use of restrictive measures drawn up by the Special Committee for the Protection of the Rights of Persons with Mental Health Disorders (see paragraph 39) and draw up specific operating regulations for the use of the quiet room in accordance with the protocol;
- ensure comprehensive record-keeping of restrictive measures in a register;
- supply proper clothing to patients with self-harm behaviour;
- strengthen the staff by the addition of a psychologist and the intervention of other specialists – including for staff training purposes – to assist with de-escalation efforts in respect of patients with acute self-harm behaviour.

**The CPT welcomes this very constructive response and requests confirmation that:**

- (1) the register in which the use of the quiet room is to be recorded is a specific one;**
- (2) any CCTV supervision, if introduced, does not encroach upon patients' intimacy;**  
**and**
- (3) the action plan includes express instructions never to use the quiet room (or any other form of seclusion or restraint) as a punishment against patients who self-harm.**

**The Committee would like to receive an update on the implementation of the action plan, including a copy of the specific operating instructions for the use of the quiet room.**

67. Staffing levels at the Hospital had improved somewhat since the previous visit in 2005, with the addition of one psychologist and four social workers. That said, the health-care staff complement remained insufficient for the size of the establishment, in particular as regards qualified nursing staff, psychologists, occupational therapists and other staff who would be responsible for engaging in activities with patients. One full-time psychiatrist attended morning shifts, whereas a pool of six others attended afternoon shifts on weekdays. Seven out of the 11 nurses were so-called "acting" nurses, i.e. custodial staff attributed certain nursing duties, but who lacked any formal nursing training. Indeed they even lacked basic first aid training. As a result, at certain times not one staff member with formal health-care training was present on the premises. Continuity of care and prompt medical screening on arrival were also compromised, especially for patients arriving on weekends, since after-hours duty doctors were only entrusted with emergency duties, did not screen new arrivals and were not permitted to authorise continuation of medication prescribed elsewhere.

By letter of 7 June 2018, the Greek authorities informed the CPT that, following the transfer of responsibility to the Ministry of Health, 40 new health-care staff positions, including 7 psychiatrists, 2 pathologists and 20 nurses, would be established at the Hospital by January 2019. **The CPT welcomes this development and would like to be informed of the timing of employment of new staff members at Korydallos Prison Psychiatric Hospital.**

**The Committee further recommends that health-care staff be strengthened, in particular in order to develop the capacity to deliver occupational therapy, but also to ensure a properly trained health-care staff presence at the Hospital at all times.**

**Further, proper, timely medical screening of all new arrivals at the Hospital must be ensured.**

68. The treatment offered to patients was based exclusively on pharmacotherapy, with no genuine occupational therapy activities, or facilities for them, in place. Indeed, apart from cleaning and maintenance work, no activities were on offer at the Hospital.

A review of medical files revealed an absence of treatment plans – confirmed by discussions with patients and staff – as well as very poorly kept or organised records.

**The CPT recommends that these very serious shortcomings be addressed as a matter of priority. Comprehensive individual treatment plans, offering a range of treatment options in accordance with a multi-disciplinary approach, should be drawn up and regularly revised for each patient and should include the diagnosis, the goals of treatment, the therapeutic means used and the staff members responsible. Patients should be involved in the drafting and revision of their individual treatment plans and be informed of their progress.**

69. There appeared to be no designated smoking areas in the hospital. Indeed smoking in shared open and closed spaces was visibly widespread. In the context of the establishment's transition towards a proper hospital, **the CPT recommends that the authorities put in place measures to ensure, at the very least, protection from the harms of passive smoking.** Ideally, any hospital environment, including a prison psychiatric hospital, should be smoke free, and strategies to ensure this should include (therapeutic) activities and other measures (e.g. nicotine replacement therapy) to assist persons suffering from nicotine addiction; such a strategy should include gradual steps, taking due consideration of the stress which quitting will cause for many patients.

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

### **1. Preliminary remarks**

70. In the period since 2005, the CPT has paid particular attention to the issue of foreign nationals deprived of their liberty under aliens' legislation in Greece and visited the country no less than nine times regarding this matter.<sup>40</sup> Most recently, following its visits in April and July 2016, the CPT expressed its concern over the situation in the "hotspots" on the Aegean islands and was highly critical of the continued and routine detention of foreign national children. The report also highlighted the totally inadequate conditions of detention in immigration detention facilities and in most of the police stations visited.<sup>41</sup>

71. Although the number of arrivals of foreign nationals to Greece has significantly decreased from a peak of 856,000 in 2016 to 35,000 in 2017,<sup>42</sup> the Greek reception and asylum system remains under pressure from the continued arrival of large numbers of irregular migrants, refugees and asylum seekers. According to UNHCR, between January and April 2018, a total of 16,500 foreign nationals arrived in Greece, with a spike in April when over 3,000 persons reached the Aegean islands and more than 3,600 persons crossed the Evros land border with Turkey. For the first time since 2013, more persons arrived by land than by sea. While persons who crossed by sea were mainly from Syria, Iraq and Afghanistan, Turkish nationals were the second largest group of those who crossed by land. Amongst these persons were a high number of families with small children and other vulnerable groups.

72. At the outset, the CPT 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.

However, the CPT would like to recall that, even in this challenging situation, foreign nationals deprived of their liberty by the Greek authorities must be treated humanely and with dignity. In this respect, coordinated action by all competent ministries is required. Further, their detention cannot be the immediate response to this challenge.<sup>43</sup> In this respect, the CPT notes with concern that the use of immigration detention in Greece has significantly increased. As of 30 April 2018, more than 8,200 foreign nationals were detained by the Hellenic Police under aliens' legislation.<sup>44</sup>

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<sup>40</sup> For the corresponding visit reports, see <https://www.coe.int/en/web/cpt/greece>.

<sup>41</sup> See the CPT's report on its 2016 visits (CPT/Inf (2017) 25).

<sup>42</sup> This trend is mainly due to the implementation of the European Union-Turkey Statement as of 20 March 2016. All refugees and migrants who reached the Greek Aegean islands from Turkey after that date were deemed liable to be returned to Turkey.

<sup>43</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. According to the Court, such detention upon arrival is acceptable only to enable States to identify newly arrived migrants, to register them and to take their fingerprints, and provided there are adequate safeguards. See, for instance, ECtHR, *Mikolenko v. Estonia*, application no. 10664/05, 8 October 2009; and *J.R. and Others v. Greece*, application no. 22696/16, 25 January 2018, paragraph 84.

<sup>44</sup> See Fundamental Rights Agency, Periodic data collection on the migration situation in the EU, [May Highlights, 1 March – 30 April 2018](#), May 2018, p. 14.

73. There has been no major change to the legal framework for detention of foreign nationals deprived of their liberty under aliens' legislation in Greece since the CPT's visits in 2016. It is recalled that all newly arrived foreign nationals can be deprived of their liberty on the premises of a reception and identification centre (RIC) for an initial period of three days, which can be extended for up to a total of 25 days.<sup>45</sup>

Irregular migrants can be detained in a pre-removal centre for the purpose of deportation, return or readmission for up to six months – a period which can be extended for a further 12 months under certain conditions; foreign nationals may thus be held for a maximum of 18 months under aliens' legislation.<sup>46</sup>

Further, foreign nationals who apply for asylum while they are already in detention for the purpose of deportation or return can be deprived of their liberty under aliens' legislation for a period of 45 days, which can be prolonged under specific circumstances for up to a total of three months.<sup>47</sup>

## 2. Ill-treatment

74. The CPT notes that the vast majority of foreign nationals interviewed by the delegation in the places visited made no complaints about the manner in which they had been treated by the police.

However, the delegation received once again a number of credible allegations of physical ill-treatment of foreign nationals deprived of their liberty by the police. These allegations consisted of slaps, punches, and kicks to various parts of the body (including the face/head) as well as baton blows, and mainly related to detention places in the Evros region (i.e. Fylakio Pre-removal Centre, Fylakio RIC and Tycherio Police and Border Guard Station), as well as to Moria Pre-removal Centre on Lesbos Island.<sup>48</sup>

The delegation also heard several allegations of verbal abuse, including racist language, and disrespectful behaviour by police officers towards detained persons.

75. In particular, at *Moria Pre-removal Centre*, a foreign national detained in Wing A alleged that four masked police officers had entered his detention room to search for drugs during the night of 1<sup>st</sup> April 2018 and had subjected him to several baton blows, because he had been screaming on account of an acute headache. Upon examination by the delegation's medical doctor, two weeks later, he displayed four abrasions on his right lower leg beneath the knee and one abrasion beneath the left knee, which were consistent with the ill-treatment alleged. Another detained person claimed that he had received a kick by a police officer to his head behind the right ear during the same incident. Both of these acts of alleged police ill-treatment had been observed by all other persons detained in the same room who were still present at the time of the delegation's visit.

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<sup>45</sup> See Section 14 of Law 4375/2016. According to the provision, all newly arrived foreign nationals who irregularly entered Greece shall be immediately transferred to a reception and identification centre.

<sup>46</sup> See Section 76 of Law 3386/2005 and Section 30 of Law 3907/2011.

<sup>47</sup> See Section 46 of Law 4375/2016. Worth mentioning is the adoption in May 2018 of Law 4540/2018 aimed at simplifying and speeding up the asylum procedures and transposing the recast Reception Conditions Directive (2013/33/EU), thereby easing overcrowding at the reception and identification centres on the Aegean islands. The law clarifies that asylum seekers should be held in specialised facilities, separately from convicted persons and insofar as possible separately from other migrants. It also reintroduced the geographical restriction of freedom of movement for asylum seekers arriving on the Aegean islands. This restriction had previously been annulled by the Greek Council of State in April 2018.

<sup>48</sup> The delegation also heard two allegations by Greeks: one of physical ill-treatment during a transfer from Omonia Police Station and one of excessive use of force upon apprehension near Drapetsona Police Station.

At *Fylakio RIC*, an unaccompanied minor held under protective custody in Wing A, alleged that, the night prior to the delegation's visit, he had been punched and kicked by several police officers as well as being subjected to verbal abuse after he had loudly protested against his confinement inside one of the accommodation containers. His mobile phone had also been confiscated on this occasion. He claimed that this treatment was in retaliation for his escape attempt two days earlier. The review of his records confirmed that he had escaped on 9 April and that he had been brought back to the centre on 10 April 2018. All the other detained persons who were accommodated in the same room had observed the incident. Further, they stated that they had themselves been intimidated and threatened by the police officers that they would all be deprived of food if the minor left his room.

Further, the delegation received several consistent and credible allegations from foreign nationals about physical ill-treatment by police and border guard officers or (para-)military commandos in the context of push-back operations (see paragraphs 138-139).

76. In the light of the above, the Committee concludes that foreign nationals deprived of their liberty by the police under aliens' legislation continue to run a certain risk of being subjected to ill-treatment by law enforcement officials in the Evros region and on the Aegean islands.

**The CPT recommends once again that the Greek authorities take vigorous steps to stamp out ill-treatment of foreign nationals deprived of their liberty by the police under aliens' legislation. In particular, effective investigations into all instances of alleged ill-treatment should be carried out and the officers concerned be held responsible. 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.**

**As regards screening of injuries, reference is made to the recommendation made by the CPT in paragraph 115.**

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

77. The CPT wishes to recall 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 developments have occurred since the CPT's previous visits 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>49</sup>

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<sup>49</sup> See the CPT's report on its 2016 visits (CPT/Inf (2017) 25), paragraphs 68-75, the CPT's 2015 visit report (CPT/Inf (2016) 4), paragraphs 45-54, and the CPT's 2013 visit report (CPT/Inf (2014) 26), paragraphs 27-32.

78. According to the information gathered during the visit, several foreign nationals interviewed 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 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. With the exception of Amygdaleza Pre-removal Centre, the provision of legal advice for issues related to detention and deportation was generally inadequate in the pre-removal centres visited.<sup>50</sup> 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.

**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.**

79. In the CPT's view, irregular migrants should be informed, without delay and in a language they understand, of their rights and the procedure applicable to them. This is all the more important given the lack of interpreters available. Copies of the information leaflet detailing the rights of detained persons in several languages were usually attached to the wall in the corridor outside the detention area in the police and border guard stations visited, as well as, with the exception of Moria Pre-removal Centre, inside the detention compounds in the pre-removal centres visited. However, most detained persons had not been provided with a copy of the leaflet.

Moreover, the delegation met again a large number of foreign nationals in the pre-removal centres visited who complained that the information provided was insufficient – particularly concerning their (legal) situation and length of detention – or that they were unable to understand this information. This was partly due to the complex legal framework which allowed for their detention on numerous grounds. Moreover, it appears that the practice of the Greek authorities of depriving of their liberty specific categories of new arrivals on the Aegean islands and in the Evros region on the basis of pre-established criteria – such as a combination of nationality and apparent absence of vulnerability – without an individual assessment of the necessity and proportionality of the measure, adds to the unclear situation.

**The CPT calls upon the Greek authorities to ensure that detained foreign nationals are 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 (that is, from the moment when they are obliged to remain with the police), 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.**

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<sup>50</sup> Only occasionally were such services provided by UNHCR or civil society organisations.

80. Similar to the situation observed in 2016, there was an almost total lack of available interpretation services in all the establishments visited.<sup>51</sup> 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. This problem was acknowledged by the management in all the centres visited and the Greek authorities, on 3 July 2018, informed the CPT that efforts to recruit interpreters had so far not been successful.<sup>52</sup> 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, all official documents, including detention and deportation orders, were only available in the Greek language and were not translated. This matter must be addressed without further delay.

**The CPT calls upon the Greek authorities to ensure that, when necessary, interpretation services are made available to detained foreign nationals in all pre-removal centres, RICs and police and border guard stations in Greece (including, for instance, by means of phone-or video-conferencing). To this end, sufficient funding should be made available.**

**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 be translated.**

81. Custody records consulted by the CPT's delegation in the police establishments visited varied to a great extent. It is positive that electronic registers were used and very well kept in all four pre-removal centres, at Fylakio RIC and at Soufli Police Station. While paper records were well kept in some police establishments, such as Feres Police and Border Guard Station and Kolonos Police Station, they were poorly kept at Isaakio and Neo Cheimonio Police and Border Guard Stations, with numerous errors or omissions (e.g. missing entries for arrival times or dates and times of transfer or release, etc.).

**The CPT reiterates its recommendation that the Greek authorities take effective steps to ensure that custody registers are properly maintained, accurately record the dates and times of actual apprehension, admission, placement in a cell, release or transfer, and reflect all other aspects of custody.**

**The Committee also invites the Greek authorities to consider introducing electronic registers in all police establishments throughout Greece.**

82. Moreover, none of the pre-removal centres visited had a central incidents register to record security- or health-related incidents. Only when a foreign national committed a criminal offence was a report drawn up and submitted to the competent prosecutorial and judicial authorities.

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<sup>51</sup> Only at Amygdaleza Pre-removal Centre and Fylakio RIC, the Asylum Service and the health-care staff had a permanent interpreter at their disposal. This was not the case for the other centres visited.

<sup>52</sup> Only some 15% of announced positions had been filled.

It is positive that – as highlighted in the Greek authorities’ communication of 3 July 2018 – international and civil society organisations were granted access to police detention facilities on almost 300 occasions in 2017. However, there were still no effective and accessible complaints procedures in place and no information was provided to detained persons on how they could access these, be it within the police or outside mechanisms such as the Ombudsman’s or Prosecutor’s Offices.

In the CPT’s view, a central incidents register and effective complaints procedures are basic safeguards against ill-treatment. Therefore, **the CPT recommends that these shortcomings be remedied. The information leaflet provided to detainees should also explain the right to make a complaint and detained foreign nationals should be informed about different complaints bodies and on how to make a complaint.**

83. At Amygdaleza Pre-removal Centre, the delegation also visited foreign nationals who were detained at the so-called “IOM section”. According to the police authorities, these persons all had declared their intention and signed up for voluntary return from Greece to their country of origin in the context of the Assisted Voluntary Return and Reintegration (AVRR) programme of the International Organisation for Migration (IOM). However, several foreign nationals told the delegation that they did not want to return home voluntarily and that they had not given their consent. They also alleged that they had not met any IOM representative and that they were not aware why they were held in the “IOM section”. Those who wanted to return home voluntarily stated that they all had been routinely placed in detention until their actual return.

In the CPT’s view, all foreign nationals who declare their intention to sign up to IOM-assisted voluntary return from Greece to their country of origin should be fully informed of the consequences of their decision (including their detention) before signing, so that they can give an informed consent. Further, they should be able to have regular access to IOM representatives during the period they are deprived of their liberty until their actual return.

**The CPT recommends that the Greek authorities take the necessary steps to ensure that these safeguards are respected in practice.**

**Further, the Committee invites the Greek authorities to consider alternatives to detention for those who declare their intention to return voluntarily.**

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

##### **a. police and border guard stations**

84. The CPT has in its previous reports been very critical of the conditions of detention in police and border guard stations, and has repeatedly stressed that the detention facilities in most of them were totally unsuitable for holding detained persons for periods exceeding 24 hours. This remained the case for most police stations visited by the delegation in April 2018, and yet they are still being used to detain irregular migrants for prolonged periods. On the other hand, there are a few police and border guard stations that provide decent conditions of detention for short periods of stay.

In the course of this visit, the delegation carried out follow-up visits to Feres, Isaakio, Neo Cheimonio and Soufli Police and Border Guard Stations (all Evros)<sup>53</sup> as well as to Drapetsona, Kolonos and Omonia Police Stations (all Attica)<sup>54</sup>.

85. As regards the police and border guard stations in the Evros region, the Committee notes the comparatively good conditions of detention observed at *Feres* and *Soufli Police and Border Guard Stations*. The overall design of both facilities had not changed since the CPT's last visit in 2013.<sup>55</sup> At the time of the visit, 23 foreign nationals, including two unaccompanied children were being detained at Soufli for a capacity of 32 places; 38 persons, including two unaccompanied children (see paragraph 127), were being held at Feres for an overall capacity of 72 places. From the registers it appeared that most were being held for an average period of two or three days. Detention cells and sanitary annexes in both establishments were generally clean, adequately ventilated and lit, and in a good state of repair. Further, all detainees had the possibility to wash their clothes and had been granted access to daily outdoor exercise.

That said, at Feres Police and Border Guard Station, the delegation met one foreign national who was being isolated for medical reasons.<sup>56</sup> He complained that he had been held alone for at least eight days in a small cell with a blocked sink, without any meaningful human contact, in conditions akin to solitary confinement, including during his daily outdoor exercise which lasted for no longer than ten minutes. He was found in a fragile mental state.

**The CPT recommends that the Greek authorities take the necessary steps to ensure that all detained persons who are isolated for medical reasons are provided with at least some meaningful human contact every day (for instance, during outdoor exercise).**

86. The detention area at *Neo Cheimonio Police and Border Guard Station* was holding 12 persons, including four children, in the larger cell (21 m<sup>2</sup>), and eight persons, including three children, in one of the two smaller cells (12 m<sup>2</sup> each) – i.e. in less than 2 m<sup>2</sup> of living space per person. The number of beds and sponge mattresses were insufficient and the smaller children were required to share a mattress with their parents. Although the cells were clean, access to natural light was insufficient and water was leaking from the toilet area in the smaller cell. Further, the group that had arrived two days earlier had not yet been granted access to the fenced outdoor exercise yard. The registers indicated that, previously, on two occasions, up to 86 persons had been held at Neo Cheimonio in conditions of severe overcrowding.<sup>57</sup>

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<sup>53</sup> See the CPT's 2013 visit report (CPT/Inf (2014) 26), paragraphs 47-51, for Feres and Soufli Police and Border Guard Stations; and the CPT's 2011 visit report (CPT/Inf (2012) 1), paragraph 29, and the CPT's 2007 visit report (CPT/Inf (2008) 3), paragraphs 23 and 25, for Isaakio and Neo Cheimonio (then referred to as "Neo Himoni" Police and Border Guard Station).

<sup>54</sup> See the CPT's report on its 2016 visits (CPT/Inf (2017) 25), paragraph 55, for Drapetsona Police Station; the CPT's 2007 visit report (CPT/Inf (2008) 3), paragraph 22, for Kolonos Police Station; and the CPT's 2015 visit report (CPT/Inf (2016) 4), paragraph 58, for Omonia Police Station.

<sup>55</sup> *Feres Police and Border Guard Station* has a detention area composed of two blocks with respectively seven and eight cells, which are separated by a courtyard. 13 of the cells measured 18 m<sup>2</sup> and each contained five concrete plinths, and the two remaining cells had three or four plinths. The detention area of *Soufli Police and Border Guard Station* consisted of four cells, each measuring 18 m<sup>2</sup> and equipped with four sets of bunk beds, a plinth, a storage rack, and a sanitary annexe with a shower, a toilet and a basin, for an overall capacity of 32.

<sup>56</sup> He had scabies and was receiving anti-scabietic treatment. It should be noted that scabies can only be spread during a relatively long period of direct skin contact with an infected person.

<sup>57</sup> Although the duty officer indicated that they had been held there for only a few hours, this information could not be verified as no date or time of departure was recorded. Over 1,050 persons had been processed through Neo Cheimonio Police and Border Guard Station in 2018.

87. Material conditions at *Isaakio Police and Border Guard Station* were grossly sub-standard. The detention area consisted of a 21-m<sup>2</sup>-cell and a 38-m<sup>2</sup>-cell, which were poorly ventilated and lit and which were only equipped with some dirty sponge mattresses and blankets lying on the floor. The cells and sanitary annexes were extremely filthy, unhygienic and full of waste (e.g. food leftovers and clothes, empty bottles, used diapers and sanitary towels were strewn on the floor). The sanitary facilities were also in a poor state of repair (e.g. leaking pipes).

In light of this, the duty senior officer assured the CPT's delegation that the detention area would be cleaned that same day. However, during a follow-up visit to the facility two days later, not only had the two cells and sanitary annexes still not been cleaned but they were crammed with 41 foreign nationals, including women, young children and a baby. Fifteen persons had spent the night in the smaller cell and 26 new arrivals were required to stay overnight in the larger cell (i.e. all in less than 1.5 m<sup>2</sup> of living space each). The latter group had not even been provided with dry clothes (all their clothes had got wet when crossing the Evros River the night before). Further, the register indicated that foreign nationals had regularly been held overnight in the weeks and months prior to the visit; on two occasions, almost 50 persons had spent one or even two nights at the police station. Cramming so many persons into such filthy cells and not addressing their basic needs is unacceptable and, in the CPT's view, can be considered as amounting to inhuman and degrading treatment.

**The CPT recommends that the Greek authorities take immediate action to remedy these shortcomings and refurbish Isaakio Police and Border Guard Station in line with the recommendations set out in paragraph 94 to ensure that detained persons are held in decent and clean conditions without exceeding the establishment's capacity. If this is not possible, Isaakio Police and Border Guard Station should be taken out of service.**

88. Further, the delegation received several credible allegations that the conditions of detention in *Tychero Police and Border Guard Station* (not visited by the delegation during the present visit) – which had clearly not been closed down as announced by the Greek authorities in 2013 – were extremely poor. Foreign nationals complained that they had been held there for up to one month in overcrowded and extremely unhygienic conditions, some without having been provided with a mattress and a blanket. As a result of these appalling conditions, many persons reportedly became infected with scabies. Indeed, the delegation met with a number of foreign nationals who had been transferred from Tychero to other police establishments in the Evros region, some of whom had been isolated for medical reasons and had received anti-scabietic treatment. They further alleged that they had not regularly been provided with food free-of-charge, that often they had not been able to access the toilet, and that they had not been provided with clothing or shoes.

**The CPT would like to be informed about the conditions of detention at Tychero Police and Border Guard Station (including capacity, daily occupancy levels for the months of July and August 2018, material conditions, access to toilet, provision of food and clothing, measures to prevent infectious diseases, and access to outdoor exercise).**

89. It is of particular concern that families with children and women were being held together with unrelated men in cells in the police and border guard stations in the Evros region, with whom they had to share toilets and sanitary facilities. This was in contradiction to a 2016 order issued by the Hellenic Police Headquarters, which instructed police officers to separate women and children from unrelated men in closed facilities,<sup>58</sup> and presented an increased risk for their safety and security, exposing them to a risk of sexual and gender based violence. Further, they did not receive appropriate care for their specific needs. This practice should immediately be brought to an end.

**The CPT calls on the Greek authorities to ensure that women and children are never detained in the same cell as unrelated men.**

**As regards the routine detention of children with their parents, the Committee refers to its recommendation made in paragraph 131.**

90. As regards the police stations in Attica, *Drapetsona Police Station* was still operating and holding immigration detainees for months on end. At the time of the April 2018 visit, 24 foreign nationals were being held in one of the two large detention areas; the longest stay had been for over two and a half months.<sup>59</sup> The structure of the facility had not changed and not much had improved since the Committee's July 2016 visit. The walls had been painted and repair works had been carried out on the flooring and the sewage and ventilation systems. While there were four spotlights, access to natural light was still insufficient and the ten cells remained dark. Many mattresses were worn-out and blankets had not been cleaned for months. Only four of the six toilets and three of the six showers were functioning. With the exception of soap, detained persons had not been provided with hygiene and cleaning products. Access to outdoor exercise was still not provided. The second large detention area was in a similar poor state.

The CPT continues to consider that *Drapetsona Police Station* is totally unsuitable for holding persons for longer than 24 hours. As long as persons are detained there, **the CPT recommends that the Greek authorities take urgent action to remedy these shortcomings at *Drapetsona Police Station* in line with the recommendations set out in paragraph 94 to ensure that detained persons are held in decent and clean conditions.**

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<sup>58</sup> See Hellenic Police Headquarters, [Ανακοίνωση σχετικά με την έκδοση διαταγής για την προστασία των ευάλωτων προσώπων και ιδίως των ανήλικων και των γυναικών μεταναστριών και προσφύγων](#) [Communication on the issuing of an order for the protection of vulnerable persons, especially minors and migrant women and refugees], 31 May 2016.

<sup>59</sup> The police station also held six criminal suspects, including three foreign nationals and three Greeks, who were held at the large detention area in the front (five persons) and in a small temporary detention cell (one person).

91. At *Kolonos Police Station*, which consisted of five cells between 8 and 22 m<sup>2</sup> – each equipped with several plinth beds – for a capacity of 25 places, conditions of detention were acceptable for short periods. However, at the time of the visit, three of the seven foreign nationals<sup>60</sup> had been held there for more than a month. While the detention area had been partially cleaned and drinking water from a water fountain, as well as hot water to shower, were available for detained persons who could walk freely within the detention area, the delegation observed a number of shortcomings that were acknowledged by the duty officer. In particular, access to natural light was insufficient in the two cells, which had not been cleaned, and artificial light was insufficient in the whole area. Not all detained persons had a mattress to sleep on and there were insufficient blankets. The sanitary facilities had no lights and only two out of the four toilets were functioning. Further, detained persons were neither provided with sufficient hygiene products nor with access to outdoor exercise.

**The CPT recommends that these shortcomings at Kolonos Police Station be addressed.**

92. At *Omonia Police Station*, the holding cells on the first floor were closed for refurbishment works at the time of the visit, in order to provide for hot water, lighting and improved security. That said, the delegation met six persons, including an irregular migrant, in the detention cell of the Security Police Department on the third floor; the latter was being held there for ten days without access to outdoor exercise. The cell was in a poor state of cleanliness with dirty blankets and infested by cockroaches. Further, the sanitary annexe, which could only be accessed when the police officers unlocked the cell door, was absolutely filthy and dilapidated, with water all over the floor: the toilets were dirty and unhygienic, the stand-pipe from which detained persons were required to drink was hardly functioning and the sink was broken.

**The CPT recommends that the Greek authorities take the necessary steps to ensure that the detention cell of the Security Police Department on the third floor of Omonia Police Station is disinfected and maintained in a decent state of cleanliness and repair.**

93. Further, all persons interviewed by the delegation in this cell stated that, while they were able to buy food; they had not been provided with food free-of-charge by the police since their arrival. This is very much at variance with the duty officer's assurance to the delegation that each detained person was provided with two meals per day. In particular, the foreign national who had been held there for ten days had no money to buy food. This state of affairs is unacceptable. Every person detained by the Hellenic Police must be provided with adequate and appropriate food free of charge, which includes at least one hot meal a day.

At the end of the visit, the CPT's delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation requesting to provide all foreign nationals detained by the police with food, at regular intervals. On 3 July 2018, the Greek authorities informed the CPT that all persons held in custody at Omonia Police Station are provided with food, twice a day and that nobody remained without food during his/her custody.

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<sup>60</sup> Further, two criminal suspects were being held there.

94. In the light of the above, **the CPT once again calls on the Greek authorities to ensure that:**

- **the number of persons held at any time in any police and border guard station does not exceed the establishment's capacity (calculated on the basis of 4 m<sup>2</sup> of living space per person);**
- **each detained person is provided with a mattress, a blanket, and bedding – all clean – and a means of rest, such as a plinth or a bed;**
- **all detained persons are provided with adequate and appropriate food free of charge, which includes at least one hot meal a day;**
- **all detained persons staying longer than 24 hours are provided with a basic sanitary kit, free of charge;**
- **cells are maintained in a decent state of cleanliness;**
- **cells, including sanitary facilities, are maintained in an adequate state of repair and offer both sufficient access to natural light and adequate artificial lighting;**
- **all detained persons staying longer than 24 hours are provided with access to hot water for the purpose of washing.**

**Further, the CPT reiterates once again its recommendation that steps be taken to ensure that all persons detained for longer than 24 hours are offered access to outdoor exercise every day.**

b. Fylakio Reception and Identification Centre (RIC)

95. The CPT visited, for the first time, Fylakio RIC, which is the only RIC facility on the mainland<sup>61</sup> and was operating under the First Reception Service of the Ministry of Migration Policy. In contrast to the RICs on the Aegean islands, the centre was functioning as a closed detention facility, guarded by the police. Foreign nationals were usually detained at the RIC for up to 25 days (see paragraph 73), until their reception and identification procedure had been completed.<sup>62</sup>

96. At the time of the visit, Fylakio RIC, which contains four wings (A-D), was accommodating 319 foreign nationals – 128 of whom were children (including 58 unaccompanied children) – for an official capacity of 240 places.<sup>63</sup> For instance, 88 persons were accommodated in Wing D for a capacity of 60 beds. The capacity of the only RIC in the region was thus grossly insufficient to adequately respond to the significant increase in arrivals.<sup>64</sup> Further, the management of the centre acknowledged that, mainly due to the lack of sufficient open reception facilities in mainland Greece, several foreign nationals, and particularly unaccompanied children, were required to stay in

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<sup>61</sup> The other RICs (so-called “hotspots”) have been established on the Aegean islands of Lesbos, Chios, Samos, Leros and Kos. See the report on the CPT's 2016 visits (CPT/Inf (2017) 25), paragraphs 11-13.

<sup>62</sup> During that period, 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.

<sup>63</sup> Unaccompanied children were mainly held in Wing A, families mostly in Wings B and C, and single men mainly in Wing D.

<sup>64</sup> While, according to UNHCR, more than 1,300 foreign nationals crossed the Evros border from Turkey to Greece in March 2018, the number increased to over 3,600 persons in April 2018.

the RIC for prolonged periods.<sup>65</sup> 43 persons, including 21 unaccompanied children (see paragraphs 124-125), had been detained at the centre for more than 25 days; four men had been held for almost two months and an unaccompanied child for almost 10 months.

As a result of this bottleneck, apprehended irregular migrants were initially placed in custody in one of the police and border guard stations in the Evros region, before being transferred to Fylakio Pre-removal Centre (or another detention centre in Northern Greece), by way of derogation from the existing legislation, where they were warehoused in detention until a place in the RIC became available. This deprivation of liberty could last between several days and several weeks, but as much as several months in some cases, until their transfer to Fylakio RIC (this was particularly the case for single men from countries with low recognition rates)<sup>66</sup>. According to the information gathered by the delegation, all foreign nationals, including vulnerable persons, were subjected without distinction to this practice, at the time of the April 2018 visit. That said, vulnerable persons (e.g. families) and persons from countries with high refugee-recognition rates (e.g. Syria and Iraq) were prioritised and usually transferred to the RIC within one or two weeks of their apprehension and detention by the police.

**Given this context, the CPT invites the Greek authorities to introduce alternative measures to detention for new arrivals, and particularly for asylum seekers and vulnerable persons. Further, in view of the current practice of non-prosecution of the irregular entry of foreign nationals, consideration should be given to amending the law accordingly.**

97. As regards material conditions, each of the four wings consisted of six accommodation units comprising 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. As a result of the overcrowding in the four wings, all available units (including those intended for association, laundry and worship) accommodated detainees who slept on additional mattresses placed on the floor. For instance, 20 men were crammed inside the association room in Wing D.

Most accommodation units in the centre were in a good state of cleanliness and repair. That said, only two showers were functioning in Wing D, which held 88 persons and, reportedly, the funding was insufficient for repair works to take place. The delegation has also been informed about a major problem with the sewage system. While all foreign nationals were provided with sheets and bedding, and personal hygiene items, a number of persons interviewed complained that hygiene products were insufficient and that they had not received appropriate clothing.

On 7 June 2018, the Greek authorities informed the CPT that “extension works” had been carried out “at the RICs” to increase the number of accommodation places available.

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<sup>65</sup> After their identification, asylum seekers were usually given the choice to be released or to remain detained in the RIC until a place in an open reception centre became available. In particular, unaccompanied children were required to stay until adequate accommodation was identified for them and some of them had to undergo lengthy procedures for confirming their age or verifying family links.

<sup>66</sup> Only a very small percentage of asylum seekers from countries such as Algeria, Bangladesh, Morocco, Pakistan or Tunisia are able to obtain refugee or subsidiary protection status in Greece. Foreign nationals from these countries were usually placed in detention.

**The CPT would like to receive more specific information about the current operational capacity at Fylakio RIC and the daily occupancy levels for the months of July and August 2018.**

**In the light of the above, the CPT recommends that the Greek authorities take immediate steps at Fylakio RIC to ensure that:**

- **the financial and staffing resources of the centre are substantially increased, such that all those persons who are required to undergo the reception and identification procedure can be accommodated and processed in a timely manner, without being previously placed in detention for weeks or months on end;**
- **vulnerable persons (e.g. families with children, pregnant women, etc.) are immediately transferred to open reception facilities where they can receive appropriate care and support for their specific needs, which also implies that the number of places in these facilities should be increased. As regards unaccompanied children, reference is made to the CPT's recommendation in paragraph 128;**
- **the centre is regularly maintained and refurbished. To this end, sufficient funding should be made available in a swift manner;**
- **all detainees are provided with sufficient hygiene products and appropriate clothing, according to their needs.**

98. New arrivals were mainly placed according to nationalities and available space, which resulted in some families with children, and particularly girls, women, and unaccompanied children being held together in a section with unrelated boys or men, with whom they had to share toilets and sanitary facilities. This presented an increased risk for their safety and security, exposing them to a risk of sexual and gender based violence, and should immediately be stopped.

**The CPT recommends that the Greek authorities take immediate steps to ensure that women and children are never detained in the same wing as unrelated men.**

99. As regards regime, with the exception of the provision of language courses, no recreational or other organised activities were provided in the RIC in Fylakio. This was justified by the transitional character of the RIC. However, given the fact that all foreign nationals could be detained for up to 25 days and longer at the centre, the activities on offer were clearly insufficient.

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

c. pre-removal centres

100. The CPT would once again like to recall its standards in the field of immigration detention. In the CPT's view, material conditions and the regime offered to irregular migrants should be appropriate and reflect the nature of their deprivation of liberty.<sup>67</sup>

In the course of the April 2018 visit, the CPT's delegation carried out follow-up visits to Amygdaleza (Athens),<sup>68</sup> Fylakio (Evros)<sup>69</sup> and Moria (Lesvos)<sup>70</sup> Pre-removal Centres, and visited, for the first time, Pyli Pre-removal Centre (Kos).

Conditions of detention for irregular migrants in the pre-removal centres visited varied to a large extent. At the time of the visit, the delegation observed good conditions of detention at the centre in Pyli; they were acceptable in Amygdaleza, poor in Moria and appalling in Fylakio.

101. *Pyli Pre-removal Centre*, which is located next to the RIC near the town of Pyli in the centre of Kos Island, has a total capacity of 500 places distributed over seven wings. At the time of the CPT's visit, 100 foreign nationals, comprising 85 single men and 15 vulnerable persons (including one family), were being held in the two wings of the centre that were in use (Wings B and E).<sup>71</sup>

As regards material conditions, the detention areas in both Wings B and E consisted of several rows of pre-fabricated accommodation units, each containing two rooms measuring some 9 m<sup>2</sup>, adequately lit and ventilated, and equipped with two sets of bunk beds and an air-conditioning unit, as well as a sanitary annexe with a shower and a toilet; another unit served for the purpose of worship. Overall, the accommodation units were in a good state of repair and clean, although maintenance was required in some of them as regards plumbing and electricity.

102. The basic structure at *Amygdaleza Pre-removal Centre* had not changed since the CPT's previous visit.<sup>72</sup> At the time of the visit, the facility had a reduced capacity of 724 places (significantly down from its initial capacity of 2,000 places). Indeed, seven out of 13 wings were out of use, due to the significant degradation or destruction (including by arson) of most of the accommodation containers in these wings. It was holding 459 foreign nationals, including 427 single adult men, four families (comprising two men, four women and four children) and 22 unaccompanied children (see paragraph 126).<sup>73</sup>

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<sup>67</sup> See the CPT's 2013 visit report (CPT/Inf (2014) 26), paragraph 67.

<sup>68</sup> See *idem.*, paragraphs 68 and 72.

<sup>69</sup> See *idem.*, paragraphs 74 and 77 and the CPT's 2011 visit report (CPT/Inf (2012) 1), paragraphs 22-26. The facility was then referred to as "Filakio Special Holding facility"; its status was changed to a pre-removal centre in 2013.

<sup>70</sup> See the report on the CPT's 2016 visits (CPT/Inf (2017) 25), paragraphs 13 and 16. The facility was then referred to as "Section B"; its status was changed to a pre-removal centre in 2017.

<sup>71</sup> The detention population was primarily from Pakistan, Iraq and Syria. Most foreign nationals had been detained for less than three months at the centre; however, nine persons had been held there for more than six months, including three for almost a year. The majority had been transferred from Athens to Kos and detained at the centre for breaching the geographical restriction of freedom of movement imposed on them.

<sup>72</sup> The pre-fabricated accommodation units had two rooms, each measuring some 9 m<sup>2</sup>, adequately lit and ventilated, and equipped with two sets of bunk beds, a table and chairs as well as two fully-partitioned sanitary annexes with a shower and a toilet.

<sup>73</sup> 384 men were held in three operating wings near the administrative part of the centre, seven of whom were absent for medical or other appointments and 45 men were held at the so-called "IOM Section" for voluntary

The delegation noted some improvements, such as the installation of a playground for children and tables with benches inside the wings. The accommodation units were generally adequate and clean. However, the delegation observed a number of shortcomings, such as local overcrowding in some of the units. For instance, it met eleven persons in an eight-bed unit, three of whom were sleeping on the floor. This was mainly due to the many problems with the plumbing (e.g. non-functioning showers/toilets or leaking pipes), electricity (e.g. non-functioning lights and electrical outlets) or other damage (e.g. broken doors) in other units. Thus, some units could no longer be used for accommodation, while others were still used despite their state of disrepair. Some foreign nationals also indicated that their bedding and blankets had not been cleaned for several months. Further the delegation received several complaints that no measures were being taken to tackle the presence of mosquitoes and rats.

103. At *Moria Pre-removal Centre*, material conditions remained poor. At the time of the April 2018 visit, a total of 134 foreign nationals were being held in the two wings at the centre – 109 persons in Wing A and 25 persons in Wing B.<sup>74</sup>

Most of the housing units were crammed with between 12 and 15 persons sharing rooms of 47 m<sup>2</sup> in Wing A (i.e. between 3 and 4 m<sup>2</sup> of living space per person). Some of the sanitary equipment (e.g. broken taps, broken toilets or showers, leaking pipes) and most of the air-conditioning units were in need of repair. The delegation received many complaints about the poor quality and quantity of the food. Detainees also stated that they had no access to hot water and that the water was cut off during the night (i.e. from 9 p.m. to 9 a.m.). Hygiene products were insufficient, no clothing or shoes were provided and foreign nationals were required to clean the housing units themselves without being provided with the necessary material to do so. Further, blankets and bed sheets were dirty and had not been changed for several months.

On 3 July 2018, the Greek authorities informed the CPT that repair works had been carried out at the centre after the delegation's visit and that a tender was being conducted so as to guarantee the supply with hygiene products, clothing and footwear for detained persons.

104. At the time of the visit, material conditions at *Fylakio Pre-removal Centre* were appalling and totally unsuitable for long-term detention. Despite the CPT's previous recommendations, the over-inflated official capacity of 374 places had still not been revised downwards and no renovation works had been carried out since 2013. At the time of the visit, 421 foreign nationals were being detained at the centre, including 103 children.<sup>75</sup> With the exception of three foreign nationals, all other persons were awaiting their transfer to the adjacent RIC (see paragraph 96). Most foreign nationals had been held at the centre for less than a week but several persons, mainly Bangladeshi single men, had been detained there for almost two months.

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returns. 22 unaccompanied children (three of whom had a medical appointment), ten family members, three men who were segregated for health reasons (i.e. scabies) and two asylum seekers were held in separated wings. While most foreign nationals had been held in Amygdaleza for less than three months, one person had been detained for almost one year and eleven persons for over six months.

<sup>74</sup> The majority had requested asylum and had been detained at the centre for less than three months, after which time they were usually to be released to the RIC. However, some detainees had been held for up to six months.

<sup>75</sup> Families were mainly detained in Cells 1-3, 5 and 6 together with single men. While Cell 4 was reserved for single men only, single women (including mothers with their children) were detained in Cell 7. Persons were separated for medical reasons (i.e. contagious diseases) in Cell 8. Thirty-five of the children were infants who had been born in 2015 or later. Two of the minors were considered unaccompanied by the Greek authorities.

The facility was severely overcrowded. In Cell 1, 95 foreign nationals, including families with young children, unaccompanied children, pregnant women and single adult men were held in some 100 m<sup>2</sup> (i.e. about 1 m<sup>2</sup> of living space per person). Due to the insufficient number of available beds and mattresses (i.e. the cell contained 36 sets of bunk beds but only some 65 mattresses), many detainees had to share mattresses (i.e. up to four persons were sleeping on two mattresses).<sup>76</sup> Access to natural light was still restricted and the artificial lighting poor; the lights in the sanitary annexe were not functioning.<sup>77</sup> Ventilation was insufficient; cells were malodorous and everyone, including small children, was exposed to passive smoking. Hygiene was extremely poor and several persons presented skin rashes. Cells and sanitary annexes were absolutely filthy and had not been cleaned for several months.<sup>78</sup> Toilets and showers were in a poor state of repair; two toilets were blocked, one out of three showers did not function and pipes were leaking. Detainees complained that they did not have access to hot water, despite the solar panels placed on the roof, which obviously did not cover the needs of all detainees. The cell floor was partially flooded with water that was leaking from the sanitary annexe of the adjacent cell. Blankets were worn and dirty, and hygiene items were no longer distributed as they were in short supply. The other five cells along the main corridor and the women's cell displayed similar poor material conditions.<sup>79</sup>

Further, new arrivals were placed according to nationalities and available space, which meant that the initial separation of the different groups was no longer respected, due to the high numbers. The fact that families with children, and particularly girls, as well as women, were locked in the same cell together with unrelated men, with whom they had to share toilets and sanitary facilities, presented an increased risk for their security and safety, exposing them to the risk of sexual and gender based violence.

105. This state of affairs is 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, single/pregnant women and unaccompanied children,<sup>80</sup> due to their vulnerability. In particular, the provisions for children were totally inadequate (e.g. insufficient diapers and lack of hot water for baby formula milk). At the end of the CPT's visit, the delegation was informed that this situation had further degenerated and that, on 17 April 2018, the detainee population at the centre had soared to a total of 640 persons.

At the end of the visit, the delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation, requesting the Greek authorities to take immediate steps to radically reduce the occupancy levels at Fylakio Pre-removal Centre. Further, the delegation requested that all persons held at the establishment should have their own bed and mattress and vulnerable persons should immediately be transferred to appropriate open reception facilities.

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<sup>76</sup> The delegation later found that some 40 new mattresses on stock had not been distributed to detained persons.

<sup>77</sup> The impression of gloom and confinement was increased by the fact that detainees had covered the bunk beds with blankets from top to bottom in an attempt to gain some privacy.

<sup>78</sup> No cleaning services had been provided since 31 January 2018, reportedly due to the slow public procurement procedure. Three cleaning ladies only resumed their work on the second day of the delegation's visit.

<sup>79</sup> With the exception of one cell, all were holding more detainees than their official capacity. For instance, 45 persons (20 women and 25 children) were detained in Cell 7, which contained 13 sets of bunk beds (i.e. 26 beds with only 24 mattresses). Only one blanket had been provided per family. Neither of the two toilets flushed and one toilet door was off its hinges, one of the two showers did not function (and the other only provided cold water), and three out of the four taps were constantly running.

<sup>80</sup> The delegation met at least seven pregnant women, including several in an advanced state of pregnancy.

106. During the visit at Fylakio Pre-removal Centre, the delegation was informed that a study had been carried out by the Directorate of Technical Support of the Hellenic Police Headquarters. The report dated January 2018 suggested, as a first step towards implementing the CPT's previous recommendations,<sup>81</sup> decreasing the capacity of the centre from 374 to 230 places by removing the second level of the bunk beds, improving access to natural light and transforming one of the larger cells into a common association room. The renovation project had reportedly been approved by the Ministry of Citizens' Protection and a funding request was being submitted. **The CPT would like to be informed about the timeline and progress of the planned renovation at Fylakio Pre-removal Centre.**

Further, in their communication of 3 July 2018, the Greek authorities attributed the overcrowding and the poor conditions of detention at Fylakio pre-removal Centre to the significant increase of newly-arrived foreign nationals and the lack of available places in the RIC, at the time of the delegation's visit, and stated that the situation had "normalised" since. Moreover, a number of measures allowing for the reimbursement of repair and maintenance works would contribute to guaranteeing decent detention conditions for all persons detained in pre-removal centres. This response is, in the CPT's view, not convincing, given the totally unacceptable situation that had been observed by its delegation and the likelihood that such a situation might occur again in the case of increased arrivals. Further, no concrete action appears to have been taken by the authorities to radically change the above-described conditions of detention. The Committee must reiterate that the Greek authorities have an obligation to ensure that foreign nationals deprived of their liberty are treated humanely and with dignity, in all circumstances.

**The CPT would like to be informed about the current situation at Fylakio pre-removal Centre (including daily occupancy levels for the months of July and August 2018, categories of detained persons, material and hygiene conditions, provision with hygiene products, and access to outdoor exercise).**

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

- **drastically reduce the occupancy levels at Fylakio Pre-removal Centre, so as to ensure that every detained person has his/her own bed and mattress. To this end, the number of persons transferred at any given point in time should not exceed the capacity of the centre;**
- **immediately 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. As regards unaccompanied children, reference is made to the recommendation in paragraph 128;**
- **never detain women and children in the same cell as unrelated men.**

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<sup>81</sup> See the CPT's 2013 visit report (CPT/Inf (2014) 26), paragraph 77.

**Further, the CPT once again calls upon the Greek authorities to ensure that:**

- **official occupancy rates are revised so as to offer a minimum of 4 m<sup>2</sup> of space per detainee in multiple-occupancy accommodation, and are respected in practice;**
- **all detainees are offered a bed, mattress, blanket and bedding, all clean;**
- **all centres have adequate lighting (including daylight), ventilation and heating/cooling;**
- **detention cells and accommodation units are equipped with tables and chairs and all detainees provided with personal lockable space;**
- **all centres are regularly refurbished and maintained as well as disinfected. To this end, sufficient funding should be made available in a swift and non-bureaucratic manner;**
- **all detainees have access to hot water, including at night.**

108. At Fylakio and Moria Pre-removal Centres and, to a lesser extent also at the centres in Amygdaleza and Pyli, the delegation gained the impression that the design of the establishments was far too carceral. At Moria and Pyli, rolls of razor blade wire were omnipresent, as were high wire-mesh fences which sometimes ran in several lines. Further, the cells in the centre in Fylakio gave a prison-like atmosphere.

**The CPT recommends that the Greek authorities take steps to remove the rolls of razor blade wire and the wire-mesh fences at Moria and Pyli Pre-removal Centres and review the design and layout of the prison-like cells at Fylakio Pre-removal Centre.**

109. Moreover, many foreign nationals interviewed by the delegation at all pre-removal centres visited complained that clothes or shoes had not been distributed to them upon arrival and that personal hygiene products had not been provided or only in an insufficient quantity. The delegation was informed that the availability of clothes and footwear, as well as personal hygiene and cleaning products, almost exclusively depended on private donations. It appeared that there was no functioning system allowing for these non-food items to be regularly provided by the Greek authorities in all centres in Greece. Further, even at Amygdaleza Pre-removal Centre, which had a storeroom full of these items, they were not adequately distributed to all detainees.

**The CPT recommends that the Greek authorities take the necessary steps to ensure that detainees in all pre-removal centres in Greece are provided with clothes and footwear (adapted to the season), according to their needs. Further, they should also be provided with sufficient quantities of personal hygiene products, free of charge.**

110. As regards the regime in the pre-removal centres visited, the CPT welcomes the fact that an open-door-regime is applied at both Amygdaleza and Pyli Pre-removal Centre; detainees were able to leave the accommodation units within their wing without restrictions throughout the day. In the CPT's view, this can be considered as a good practice which should be implemented in all pre-removal centres in Greece, as it can help to significantly improve conditions of detention and reduce tensions.

In contrast, most foreign nationals detained in Moria Pre-removal Centre were locked in their rooms for around 21 hours per day, as only two rooms were granted outdoor exercise at a given time for security reasons. At Fylakio Pre-removal Centre, access to outdoor exercise was only granted for 10 to 20 minutes per day, which was clearly insufficient, especially given the severe overcrowding and appalling material conditions observed at the centre. Outdoor exercise had not been granted at all during the Orthodox Easter holiday period. With the exception of Fylakio, the outdoor space available had no means of shelter from inclement weather and only in Amygdaleza were there some benches to rest. Neither the gravel forecourts in Amygdaleza and Pyli, nor the bleak, fenced yard in Fylakio (much too small for the number of detainees), nor the concrete yard space between the housing units in Moria provided decent conditions for outdoor exercise.

Further, in all the pre-removal centres visited, there was an almost total lack of purposeful or recreational activities on offer to detained foreign nationals. Kicking a ball around occasionally in the exercise yards was the only distraction at Amygdaleza, Pyli and Moria. Further, none of the centres had communal rooms for association or television. Only Fylakio was equipped with televisions along the corridor wall opposite the cells (detainees had to stand with their heads against the metal bars to watch). Pyli was the only facility that had a dedicated place for worship.

**111. The CPT calls upon the Greek authorities to take the necessary steps to ensure that, in all pre-removal centres:**

- **the emerging practice of unrestricted access to outdoor exercise throughout the day is implemented;**
- **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.**

## **5. Health-care services**

112. In its previous reports, the CPT has urged the Greek authorities to improve the provision of health-care services in immigration detention facilities given the deficiencies observed regarding medical screening upon arrival or access to health care. These problems were 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.

The findings of the April 2018 visit clearly demonstrated that the situation has not improved since the previous visits in 2015 and 2016.

113. As regards health-care staffing, the CPT's delegation again noted the chronic lack of sufficient health-care staff in most of the pre-removal centres and the RIC visited. At Amygdaleza Pre-removal Centre, two doctors and one nurse were present five days a week, in addition to one health visitor. At Fylakio Pre-removal Centre, one doctor was present five days a week and four nurses worked in two shifts six days a week. This was, however, entirely insufficient for the number of foreign nationals detained at the centre.

The situation was critical at Moria and Pyli Pre-removal Centres and at Fylakio RIC, as none of the centres had a doctor. At Moria, medical services were only occasionally provided by the doctors of the adjacent RIC. Pyli had only two nurses six days a week who had started working ten days prior to the delegation's visit and, once a week, detained persons were sent to the local hospital (including to the dermatologist and the GP) for assessment. At Fylakio RIC, only three nurses (one of whom was on leave at the time of the visit) were working in two shifts, six days a week.

These numbers were totally insufficient. In particular, on Sundays and holidays, there were neither a doctor nor a nurse in any of the centres. The delegation also noted that the absence of a doctor was compromising the care that was provided to detained persons. Only some of the centres had a psychologist. Even if there was some psycho-social assistance available, as was the case at Fylakio Pre-removal Centre, it was totally insufficient given the number of detained persons.

Further, with the exception of the centre at Amygdaleza, where two dedicated interpreters were available, no interpretation services were at the disposal of health-care staff in any of the other centres visited. This presented a significant impediment not only for detained persons and health-care staff but also for the effective provision of adequate health care to detained persons.

On 3 July 2018, the Greek authorities informed the CPT about their on-going efforts to recruit health-care staff for all pre-removal centres with a total budget of several million euros. In particular, the recruitment of additional doctors (only at 38% of the initial provision), nurses (at 60%), health visitors (at 37%) and psychiatrists (at 12%) was pending.

**The CPT recommends that the Greek authorities continue their efforts to increase the number of health-care staff and interpreters assisting them in fulfilling their task in these establishments. In particular, there should be at least one permanent doctor at Moria and Pyli Pre-removal Centres and at Fylakio RIC and a nursing presence should be ensured at all times, including during weekends or holidays; at least one psychologist and one social worker should be present at Fylakio RIC. Further, the outstanding vacant positions should be rapidly filled in all pre-removal centres.**

114. Moreover, in most of the centres, even the most basic medical equipment and medication was lacking. For instance, at Fylakio Pre-removal Centre, no ECG machine, defibrillator, nebuliser, oxygen or blood pressure measuring machine was available. Further, at Fylakio RIC, the two bottles of oxygen available at the centre proved to be empty (see paragraph 118). As regards medication, it appears that paracetamol was issued to treat most kinds of diseases in the pre-removal centres and, at the centre in Moria, many complained that the prescribed medication was not provided.

**The CPT recommends that the necessary basic medication and medical equipment is made available in these establishments. Prescribed medication should be provided to detained persons and the equipment regularly maintained.**

115. 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 their vulnerabilities.

In the centres visited, such screening on arrival was not systematically occurring. No medical screening took place at Fylakio and Pyli Pre-removal Centres and it was limited to questions about diseases at Moria Pre-removal Centre. While each person was, in principle, seen by a nurse at Fylakio RIC, this assessment cannot be considered as effective medical screening. Not surprisingly, the delegation's medical doctor met a high number of persons in these centres who had significant health problems ranging from diabetes to inguinal hernia requiring urgent surgical intervention to acute psychotic disorder. The delegation also met several pregnant women in both centres in Fylakio who needed to urgently consult a gynaecologist and several foreign nationals with scabies. A high number of persons were traumatised, including children, and some had lost their relatives and friends during the journey. Most had not been seen by a doctor or a nurse on arrival and health problems were not adequately identified and treated. At Amygdaleza Pre-removal Centre, only those who requested to be seen by a doctor were effectively screened.

**The CPT calls upon the Greek authorities to ensure that all newly-arrived detainees are properly interviewed and physically examined by a medical doctor or by a fully qualified nurse reporting to a doctor, as soon as possible after their admission to a pre-removal centre or a RIC. 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 injuries. Further, a vulnerability assessment should be carried out on arrival.**

116. For example, in the course of the visit, the delegation was informed of the death of a foreign national on 7 April 2018 during his transfer from Amygdaleza Pre-removal Centre to a hospital, after he had suddenly become unwell. He had not been seen by health-care staff upon his arrival at the centre, some two weeks earlier. Prior to his detention at Amygdaleza, he had been held for almost a month at Drapetsona Police Station. During this time, he had been transferred once to the hospital. The medical reports from the hospital included blood results suggesting that he was suffering from an infection. Unfortunately, his medical file had not been transferred to Amygdaleza and, due to the lack of medical screening upon arrival, the doctor at the centre had not been aware of a possible health problem.

**The CPT recommends that the Greek authorities ensure that all medical documentation accompanies detained persons when they are transferred to another establishment.**

**Further, the Committee would like to be informed of the provision of health care services to this detainee prior to his death and whether an official investigation into his death has been carried out as well as the results of any such investigation.**

117. As regards access to a doctor, the CPT's delegation found that access is still not effective in practice. In general, the system in police stations remains that for detained persons to see a doctor, they must make a request to the police officers responsible for their custody who would then have to organise a vehicle and staff to transport the person concerned to the nearest local health centre or hospital. In Neo Cheimonio Police and Border Guard Station as well as in Drapetsona and Kolonos Police Stations, a number of detained persons complained that staff filtered requests for a consultation by an external doctor and that they had not been allowed to see one.

**The CPT reiterates once again 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.**

118. There were also many detained persons in the pre-removal centres and the RIC visited who approached the delegation and complained that they had not been granted access to a doctor. Although some had high fever or were in acute pain or psychotic crisis, despite their repeated requests to see a doctor, police officers at Fylakio and Moria Pre-removal Centre had not taken appropriate action. This was also partly due to the lack of staff and interpretation services available.

**The CPT recommends that the Greek authorities ensure that all detained persons be able to request and obtain a medical consultation, without such requests being filtered or controlled in any way by police officers.**

119. The most striking example of the ineffective provision of health-care services for foreign nationals deprived of their liberty was the case of a 13-month-old baby who had been held for 12 days with his parents at Fylakio Pre-removal Centre. The infant had been suffering from a respiratory infection before his arrival at the centre and had become unwell. It was not until the morning of the delegation's visit that the child was seen by the doctor of the centre. When the delegation saw the child, the infant was moribund (i.e. at the point of death) with acute respiratory distress, due to an asthma attack.<sup>82</sup> No medical oxygen cylinder was available within the pre-removal centre and the two oxygen bottles brought from the nearby RIC were both empty. This incident fully illustrates the effects that the lack of health-care staffing, interpretation services, basic medical equipment, routine medical screening on arrival, and access to a doctor have on the care afforded to persons detained at the Fylakio Pre-removal Centre. Such a state of affairs is completely unacceptable.

**The CPT calls upon the Greek authorities to take the necessary measures to ensure that effective medical care is provided at all facilities where irregular migrants are held.**

120. The Committee remains concerned as regards the respect of medical confidentiality for persons detained by the police. Police officers continue to be present during all external examinations in public hospitals, to be provided with medical information on detained persons, and to be tasked with dispensing medication to them.

**The CPT reiterates once again its recommendation that the Greek authorities ensure that the principle of medical confidentiality is strictly respected.**

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<sup>82</sup> The child's oxygen saturation was only 66%. The infant was transferred together with his mother to the local hospital and subsequently to the University Hospital in Alexandroupoli, where the child then recovered.

## 6. Children in immigration detention

121. The CPT has repeatedly examined the situation of foreign national children in immigration detention in Greece. In its report on the 2016 visits, it was highly critical of their continued and routine detention for lengthy periods in poor conditions and with insufficient care offered to them. 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 children, given their particular vulnerability. It urged the Greek authorities to fundamentally review their approach with regard to “protective custody” of unaccompanied children and end their immigration detention.<sup>83</sup>

122. Regrettably, and despite the commitment voiced at ministerial level to engage significant efforts in increasing shelter capacities so as to reduce the recourse to deprivation of liberty, no action has been taken to fundamentally change this situation. On the contrary, the situation has become even more acute than it already was in 2016. As of 31 May 2018, out of the estimated number of 3,500 unaccompanied children currently in Greece, less than 1,000 were accommodated in dedicated shelter facilities. In the year prior to the visit, no additional shelter places have been created and the funding problems for shelters provided by civil society organisations have put about half of these places at risk of being closed.

As a result, the number of unaccompanied and separated children on the waiting list has soared to more than 2,700.<sup>84</sup> 367 of them were held in RICs and a peak of 200 children was detained in “protective custody”, which shows that the CPT’s previous recommendations have not been implemented. Unaccompanied children continue to be routinely, and for lengthy periods, detained in police stations, special holding facilities, pre-removal centres, and RICs, at the time of the CPT’s April 2018 visit.

That said, in their communication of 3 July 2018, the Hellenic Police re-affirmed that the issue of unaccompanied children was a matter of special concern. Its Headquarters had long requested the establishment of a national strategy for the management of unaccompanied children, the reform of the institution of guardianship and the creation of more specialised shelters for unaccompanied children but all these matters were still pending implementation in practice.

Further, a communication by the European Commission of May 2018 indicated that a call for proposals for shelter places was currently underway. Offers were reportedly received for 1,785 accommodation places and a number of contracts have been signed by the Greek authorities. According to the European Commission, more efforts were nevertheless required to put a sustainable national system in place.

**The CPT reiterates its previous recommendation that the Greek authorities pursue their efforts to increase significantly and rapidly the number of dedicated open (or semi-open) shelter facilities for unaccompanied children. The Committee would like to receive concrete information on the Greek authorities’ plans to create additional capacity in specialised shelter facilities as well as on the funding and expected timeline.**

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<sup>83</sup> See the report on the CPT’s 2016 visits (CPT/Inf (2017) 25), paragraph 35.

<sup>84</sup> Only some 800 unaccompanied children have been accommodated in open temporary accommodation facilities, safe zones and in hotels. Over 700 were reported to be homeless. See National Centre for Social Solidarity (E.K.K.A.), [Situation Update: Unaccompanied Children \(UAC\) in Greece](#), 31 May 2018.

123. The legal basis has remained largely unchanged.<sup>85</sup> It is recalled that unaccompanied children may be deprived of their liberty for the purpose of reception and identification for 25 days, which can be extended up to a total period of 45 days.<sup>86</sup> However, it seems that in practice unaccompanied children are frequently held in “protective custody” for prolonged periods based on the general provisions relating to the detention of irregular migrants in the context of administrative expulsion, which can last for up to six months and can be prolonged for up to a total period of 18 months.<sup>87</sup> **The CPT wishes to receive the Greek authorities’ comments on this matter.**

124. At the time of the visit, 128 children were held at *Fylakio RIC*, of whom 58 were unaccompanied children. While families were accommodated in all four wings (Wing A-D), the centre had a dedicated section for unaccompanied children (Wing A), where most of them were placed. However, given their high number, unaccompanied children were also placed in the other wings together with families and unrelated men, based on nationality considerations. The CPT has repeatedly criticised in the past that holding unaccompanied children together with unrelated adult men was unacceptable and exposed them to an increased risk of exploitation and abuse.

125. It is of concern that unaccompanied children were those who were detained the longest at the RIC, due to the lack of available places in dedicated shelter facilities. Twenty-one unaccompanied children who were mostly from Pakistan or Bangladesh, had been held at the centre for longer than the 25-day-time limit to complete the reception and identification procedure and nine of them had even been held for more than 45 days and were thus detained under “protective custody” pending their transfer to a shelter. The delegation met four unaccompanied children who had been held at the centre for almost five months, one who had been there for almost six months and another one who had been detained at the RIC for almost 10 months. In the CPT’s view, holding unaccompanied children under “protective custody” for such long periods is unacceptable.

Although the material conditions at the centre were acceptable, the only organised activity consisted of Greek language courses that were provided to all detained persons. The three persons from a network of guardians present at the centre could only provide limited support to every unaccompanied child, due to the high number of new cases. Further, no psycho-social support was available at the centre.

126. At *Amygdaleza Pre-removal Centre*, 22 unaccompanied children were being held in a separate wing for periods ranging from 4 to 20 days. Material conditions were acceptable and the accommodation units were clean. However, several children had not been provided with shoes and had to walk barefoot on the gravel yard, despite the large stock of footwear available at the centre. There was also a total lack of purposeful activities at the centre. Further, there were no specialised staff and the children were not provided with any psycho-social support.

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<sup>85</sup> See the report on the CPT’s 2016 visits (CPT/Inf (2017) 25), paragraph 31. Recent legislation (Law 4540/2018) amended Section 46 (10) of Law 4375/2016, which now provides that children are not detained, except where absolutely necessary, always in line with their best interests and where it is proven that less coercive alternative measures cannot be applied.

<sup>86</sup> See Section 46 (10) of Law 4375/2016.

<sup>87</sup> See Section 76 (3) of Law 3386/2005.

From the information gathered by the CPT and its delegation, it appears that Corinth Pre-removal Centre and Thessaloniki Special holding facility for irregular migrants are currently being used by the Greek authorities to hold unaccompanied children under “protective custody”. Moreover, it seems that shortly after the end-of-visit talks, during which the delegation welcomed the fact that Amygdaleza Special holding facility for unaccompanied children stopped operating in December 2016, the facility has been re-opened, despite the CPT’s previous recommendation to no longer use the establishment for detaining unaccompanied children. **The CPT would like to receive the Greek authorities’ comments in this respect.**

127. The delegation also met two unaccompanied children at Feres Police and Border Guard Station. The children had been held there for two weeks under “protective custody”. While they were held separately in one cell, they were able to walk almost without restriction in the corridor of the detention area (the cells of the other detainees being locked). Despite this arrangement, conditions of detention were totally inadequate for holding unaccompanied children, as they were provided with no activities or psycho-social support.

From the information provided by the Greek authorities to the delegation, it became clear that unaccompanied children were also held at Doirani and Mygdonia Police and Border Guard Stations. In its report on the 2016 visits, the CPT had already underlined that placing unaccompanied children for several days or even weeks in police custody for “protection” purposes without any assistance or psycho-social support is unacceptable; the children’s welfare, by definition, should exclude accommodating them in police and border guard stations.

128. The Committee has repeatedly stressed that every effort should be made to avoid resorting to immigration detention of migrant children. In particular, 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).

**In the light of the above, the CPT recommends 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).**

129. In the course of the April 2018 visit, the delegation again met a number of foreign nationals in the pre-removal centres at Moria and Pyli who claimed that they were unaccompanied minors but that they had been registered as adults. Two of them were able to show a copy of their birth certificates, which clearly proved that they were younger than 18 years. Despite these documents in their possession, they remained detained together with adults at Moria. In this context, the CPT notes that there is still no reliable system of age assessment in place for persons held by the police. A number of minors also appeared to have problems in proving their age, as the prosecutorial and judicial authorities would only accept original and/or officially translated documents.

**The CPT recommends that the Greek authorities take steps to ensure that all detained persons who claim to be juveniles have access to a proper age assessment procedure and be treated as such until proven otherwise, unless their claim is manifestly unfounded. Further, practical solutions should be found to assist them in proving their age and reduce bureaucratic obstacles.**

130. In its 2016 visit report, the CPT was also critical of the routine detention of children, including infants and babies, with their parents and recommended that this practice be ended. However, no action had been taken by the Greek authorities in this respect. The delegation's findings in the course of its April 2018 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 and in Fylakio Pre-removal Centre upon arrival. Due to the increase in arrivals in that region, children could be deprived of their liberty for several days or even for some weeks until their transfer to Fylakio RIC, where they still remained in detention. In all these places, no efforts were made to accommodate the specific needs of children.

131. The CPT must reiterate 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. 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 Fylakio 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.**

## **7. Other issues**

132. The numbers of police staff were clearly insufficient at Fylakio Pre-removal Centre, where only 5 police officers were on duty during each of the three daily shifts for 421 detained persons. This impacted negatively on the staff's ability to provide secure and safe conditions for detainees and cater to their needs (taking into account that the facility also held families and children). Indeed, the delegation received many complaints by detained persons that police staff did not respond to their requests and that they had either no or only restricted access to outdoor exercise. Further, the staff themselves said that they felt overwhelmed.

In the CPT's view, lack of staffing cannot be a justification for not providing appropriate treatment for irregular migrants. In the light of these remarks, **the CPT recommends that the Greek authorities increase the staffing levels at Fylakio Pre-removal Centre.**

133. The CPT has long stressed that custodial staff in pre-removal centres should be carefully selected and receive appropriate training. Staff should possess well-developed qualities in the fields of interpersonal communication and cultural sensitivity, given the diverse backgrounds of the detainees. At least some of them should have relevant language skills. They should also be taught to recognise possible symptoms of stress reaction displayed by detained persons and to take appropriate action. Further, the presence of both male and female staff can have a beneficial effect in terms of the custodial ethos and foster a degree of normality in a place of detention. The presence of female custodial staff members should be guaranteed in all establishments accommodating female detainees.

**The CPT recommends that the Greek authorities take the necessary steps to ensure that these precepts are effectively implemented in all pre-removal centres.**

134. As regards foreign nationals' contact with the outside world, in all police stations visited by the delegation, mobile phones were systematically taken away by the authorities in line with the relevant Police Regulations. Although the delegation was told by the duty officers in several police stations that detainees were allowed to access their mobile phones in order to collect contact details of relatives or even to make a phone call in the presence of a police officer, many foreign nationals interviewed by the delegation complained that this possibility had not been granted to them in practice. Consequently, contact with the outside world had been made practically impossible for indigent persons in most of the police stations visited, despite the presence of card phones.

By contrast, the CPT welcomes that, thanks to a pilot project, all detained persons had full access to their mobile phones with cameras and could connect to a Wi-Fi network for at least several hours a day at Amygdaleza Pre-removal Centre.<sup>88</sup> Further, at Fylakio RIC, foreign nationals could access the Internet for several hours a day. This measure clearly had a positive impact on the foreign nationals' well-being and reduced tensions, as it provided both an occupation and allowed them to keep contact with their families. In contrast, access to the phone was severely restricted at the other pre-removal centres visited. While only mobile phones without a camera were admitted at Fylakio and Pyli Pre-removal Centre, access to card phones was severely restricted at Fylakio and there were no such phones at Pyli. Access to mobile phones was only granted twice a week at Moria Pre-detention Centre and all card phones were out of use.

The CPT wishes to recall that most foreign nationals concerned were neither convicted nor suspected of a criminal offence other than that related to their migration status. Bearing this in mind, **the CPT reiterates its recommendation that the Greek authorities permit foreign nationals held by the police in pre-removal centres to retain their mobile phones and that the relevant Police Regulations be amended accordingly.**

**Further, the CPT recommends that the Greek authorities take steps to ensure that all foreign nationals are able to make telephone calls in all police stations and pre-removal centres and that those detainees without the financial means to pay for them are offered at least one free-of-charge telephone call per month.**

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<sup>88</sup> According to the police commander in charge of the facility, the project was a success and did not cause any problems. That said, the delegation received many complaints about the weak Wi-Fi signal that was insufficient for the number of detainees who wanted to connect.

135. Foreign nationals could receive visits at Amydgaleza, Moria and Pyli Pre-removal Centre. While a special visiting room with a Plexiglas separation was available at Amygdaleza and detainees could receive food and goods, detained persons had to stand and communicate through the fence at Moria and Pyli. Although visits were allowed at both centres in Fylakio, detainees were not able to make use of this possibility, given their situation and the remote location of the centres.

**The CPT recommends that the Greek authorities ensure that detained persons are able to receive visits in dedicated visiting rooms in all pre-removal centres and RICs, which should enable them to meet openly with family and friends visiting them.**

## 8. Push-back operations

136. At the time of the April 2018 visit, foreign nationals could still be readmitted to Turkey based on the bilateral Greek-Turkish Readmission Protocol, which was ratified in 2002.<sup>89</sup> However, the Protocol was no longer operating effectively, and has since been suspended by the Turkish government. Further, pending the effective implementation by Turkey of the third country national clause, the European Union-Turkey Readmission Agreement, which entered into force on 1 October 2014, only allows for the readmission to Turkey of Turkish nationals.<sup>90</sup> Consequently, the only operational legal basis for returning foreign nationals to Turkey is the European Union-Turkey Statement of 18 March 2016, which is limited to all new arrivals on the Aegean islands from Turkey by boat after that date and which does not apply to foreign nationals crossing the Evros border from Turkey to Greece.<sup>91</sup>

Greek legislation also provides for the possibility of expelling, within 48 hours, irregular migrants who are apprehended or intercepted in connection with the irregular border crossing by land, sea or air based on an individual expulsion decision by the competent police authorities.<sup>92</sup> Further, foreign nationals irregularly staying on the Greek territory may be returned, under certain conditions, based on an individual return decision by the competent police authorities, after a period for voluntary departure.<sup>93</sup> In both cases, the foreign nationals concerned may, under certain conditions and based on an individual detention order, be temporarily deprived of their liberty.<sup>94</sup> They may lodge a quasi-judicial appeal with the competent administrative review bodies against the expulsion and return decisions within five days, as a consequence of which the decision to enforce the expulsion or return can be temporarily suspended.<sup>95</sup>

However, there is no legal basis for returning irregular migrants to Turkey prior to their identification and registration.

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<sup>89</sup> See Law 3030/2002. Respectively 1,183 (2016), 21 (2017) and five (2018) foreign nationals have been readmitted to Turkey based on the bilateral Readmission Protocol. See Ministry of Citizens' Protection, [Επιστροφή επτά παράτυπων μεταναστών στην Τουρκία](#) [Return of seven irregular migrants to Turkey], 12 April 2018.

<sup>90</sup> Between 1 January 2016 and 12 April 2018, 89 Turkish nationals have been readmitted to Turkey according to the European Union-Turkey Readmission Agreement. See *idem*.

<sup>91</sup> As of 12 April 2018, a total of 1,590 foreign nationals (including 801 in 2016, 683 in 2017 and 106 in 2018) have been returned to Turkey based on the European Union-Turkey Statement. See *idem*.

<sup>92</sup> See Section 76 (1) and (2) of Law 3386/2005.

<sup>93</sup> See Sections 21 (1) and 23 of Law 3907/2011.

<sup>94</sup> See Section 76 (3) of Law 3386/2005 and Section 30 of Law 3907/2011.

<sup>95</sup> See Section 77 of Law 3386/2005 and Section 28 of Law 3907/2011.

137. At the outset, the CPT wishes to recall that the prohibition of torture and inhuman and 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/she would run a real risk of being subjected to torture or other forms of ill-treatment (*refoulement*).

This obligation is applicable to any form of forcible removal, including deportation, expulsion, extradition, informal transfer or “renditions”, and non-admission at the border. This is also evident from the wording of Article 33(1) of the 1951 Convention on the Status of Refugees, which refers to expulsion or return (*refoulement*) “in any manner whatsoever”.

The principle of non-*refoulement* applies not only in respect of return to the country of origin, but also to any other country to which removal is to be effected or any other country to which the person may subsequently be removed (*chain refoulement*). Consequently, it is essential that foreign nationals have effective access to an asylum procedure which involves an individual assessment of the risk of ill-treatment in the case of a forcible removal, on the basis of an objective and independent analysis of the human rights situation in the countries concerned. The principle of non-*refoulement* is expressly recognised in Section 79 (1) (d) of Law 3386/2005 and in Sections 20 and 24 of Law 3907/2011 as an element prohibiting expulsion or leading to the compulsory postponement of the person’s removal.

138. In the course of the April 2018 visit, several foreign nationals alleged the occurrence of push-back operations from Greece to Turkey via boat across the Evros River border. These consistent and credible allegations were received by the delegation through individual interviews with 15 foreign nationals carried out in private at three different places of detention. They mainly referred to incidents that had taken place between January and early March 2018, whereas some dated back to 2017. 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.

139. Several of these persons alleged that they had been physically ill-treated by police and border guard officers or (para-) military commandos during such push-back operations. The alleged ill-treatment consisted in particular of slaps, punches and kicks to various parts of the body (including to the head), as well as baton blows to the head after the foreign nationals concerned had been made to kneel face-down on the boat during the push-back operations (i.e. all those who raised their head were systematically subjected to a baton blow to the head). Several persons complained that they – together with all the members in their group being pushed back – had been threatened, treated brusquely (i.e. pushed, dragged or thrown to the ground) and forced to board small inflatable boats.

Usually, the persons who were described as the authors of the alleged ill-treatment were armed and had their faces covered with balaclavas; while some were dressed in police uniforms, others wore military fatigues.

140. From the information gathered by the delegation during the visit, it transpired that the alleged push-back operations described in detail by the foreign nationals interviewed displayed a similar pattern. The persons concerned had initially entered Greece from Turkey by irregularly crossing the Evros River.<sup>96</sup> Shortly after their arrival in Greece, they were apprehended by Greek police and border guards and were usually brought to one of the nearby police and border guard stations in the Evros region. Personal belongings, including mobile phones, were usually confiscated. Some foreign nationals alleged that they were not individually registered and that their arrest and detention had not been recorded. One person claimed that, before being pushed back, he had been kept overnight in a van together with a group of other apprehended migrants. Further, some foreign nationals alleged that they were not provided with food by the police during the entire period of their detention in police custody, which lasted between several hours and more than one day.

The persons interviewed told the delegation that they were then transported in a van with a group of other foreign nationals, including in some instances families with children, to a military zone at the Evros River bank. Subsequently, they were handed over to other armed and masked police and border guards or (para-) military commandos who forced the group to board small inflatable boats. Some persons complained that their repeated requests for asylum in Greece were ignored and that they were not given the possibility to challenge their removal. Foreign nationals also alleged that, in some cases, personal belongings (including identity documents) were destroyed. They were then taken back by boat to the Turkish side of the river; some alleged that they were left on one of the small islets in the middle of the river near the Turkish river bank, and either had to reach Turkish soil by their own means or were required to wait to be collected by the Turkish authorities.

141. These allegations also correspond to allegations that the CPT had previously received,<sup>97</sup> including through interviews with foreign nationals who had alleged push-backs during its 2015 visit to Turkey.<sup>98</sup>

142. In addition, the delegation received a credible allegation that, in February 2017, three Turkish nationals who had crossed the Evros River and who intended to seek asylum in Greece were apprehended, unofficially detained in a hotel in Orestiada and later returned to Turkey and handed over to the Turkish authorities. The three were reported to have been arrested and detained in Turkey, where they were allegedly severely ill-treated by the law enforcement officials (including deprivation of food, physical and psychological harassment, beatings, electroshocks and rape). This allegation was confirmed by a second detained person with whom the delegation met.

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<sup>96</sup> Some had done so with the assistance of smugglers.

<sup>97</sup> See also Council of Europe Commissioner for Human Rights, [Letter to the Greek Ministers of Public Order and Citizen Protection, Mr Nikolaos Dendias, and of Shipping and the Aegean, Mr Miltiadis Varvitsiotis](#), 5 December 2013. For more recent allegations see, for instance, United Nations High Commissioner for Refugees (UNHCR) Greece, [Η Υ.Α. εκφράζει την έντονη ανησυχία της για τις αναφορές για άτυπες αναγκαστικές επιστροφές από την Ελλάδα στην Τουρκία](#) [UNHCR expresses its deep concern at the reports of informal forced returns from Greece to Turkey], 8 June 2017; and Greek Council for Refugees, [Reports of systematic pushbacks in the Evros region](#), 20 February 2018.

<sup>98</sup> See the report on the CPT's 2016 visits (CPT/Inf (2017) 32).

143. In their communication of 3 July 2018, the Greek authorities reiterated that no such informal push-backs take place and stressed their commitment in protecting the human rights of migrants and refugees. Although the authorities are implementing a number of measures and operational actions aimed at controlling Greece's borders and preventing the irregular entry of migrants into the territory, all these measures were carried out in line with national and European Union legislation and included a number of bi- or multi-lateral cooperation activities. Returns to and cooperation with Turkey are only carried out on the basis of existing bilateral readmission agreements and in line with national and European Union law as well as international conventions and treaties (including the principle of non-*refoulement*).

Further, during the end-of-visit talks, the Greek authorities informed the delegation that official investigations were conducted by the judicial and police authorities, which had so far not produced any evidence to suggest further disciplinary or other measures concerning such incidents. Further, the Greek Ombudsman had opened an own-initiative investigation (including on the involvement of the Hellenic Police, the First Reception Service and the Asylum Service and on the handling of the investigation), which was still on-going.

**The CPT would like to be informed of the outcome and receive a copy of both the Greek authorities' official investigation(s) and the Ombudsman's own-initiative inquiry, once they are completed.**

144. That said, from the information gathered by the delegation during the visit, it appears that, at least until early March 2018, a number of foreign nationals who irregularly entered Greece from Turkey via the Evros River border and who were apprehended by Greek police and border guards were *de facto* subjected to informal forcible removals (push-backs) to Turkey without being provided an effective possibility to apply for asylum in Greece. Further, it appears that these persons were not properly identified and registered and, consequently, they were not in a position to make use of the legal remedies against their expulsion or return provided for by law.

In the light of these circumstances, the CPT considers that these persons were not effectively protected against the risk of *refoulement*, including possible chain *refoulement*.

145. Therefore, **the CPT recommends that the Greek authorities act to prevent any form of push-backs taking place across the Evros River border by law enforcement officials. 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.**

**Further, as regards alleged ill-treatment by the police, reference is made to the recommendations made by the CPT in paragraph 76.**

**APPENDIX I:**

**LIST OF THE ESTABLISHMENTS VISITED BY THE CPT'S DELEGATION**

**Establishments under the authority of the Ministry of Health**

- Dromokaiteio Psychiatric Hospital, Athens
- Psychiatric unit at Evangelismos Hospital, Athens
- Psychiatric unit at Gennimatas Hospital, Athens
- Psychiatric unit at Sotiria Hospital, Athens
- Athina Vrilissia Private Psychiatric Clinic, Athens

**Establishments under the authority of the Ministry of Justice, Transparency and Human Rights**

- Korydallos Prison Psychiatric Hospital

**Establishments under the authority of the Ministry of the Interior and Administrative Reconstruction**

- Amygdaleza Pre-removal Centre, Athens
- Fylakio Pre-removal Centre, Evros
- Fylakio Reception and Identification Centre, Evros
- Moria Pre-removal Centre, Lesvos
- Pyli Pre-removal Centre, Kos
  
- Drapetsona Police Station, Piraeus
- Feres Police and Border Guard Station, Evros
- Isaakio Police and Border Guard Station, Evros
- Kolonos Police Station, Athens
- Neo Cheimonio Police and Border Guard Station, Evros
- Omonia Police Station, Athens
- Soufli Police and Border Guard Station, Evros.

**APPENDIX II:**

**LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. National authorities**

**Ministry of Health**

Giorgos Giannopoulos	Secretary General of the Ministry of Health
Panos Papadopoulos	Director of the Office of the Minister of Health
Maria Mitrosyli	Head of the Committee for the Protection of the Rights of People with mental health disorders, Assistant Professor at the West Attica University
Nikolaos Marketos	Director of the Psychiatric unit of Genimmatas General Hospital, Member of the Committee for the new draft law on involuntary psychiatric placement
Ioannis Papadopoulos	Director of the Mental Health Center of Agioi Anargyroi of Attica Psychiatric Hospital (Dafni), Member of the Committee for the new draft law on involuntary psychiatric placement

**Ministry of Justice, Transparency and Human Rights**

Eftychios Fytrakis	Secretary General for Crime Policy
Maria Giannakaki	Secretary General for Transparency and Human Rights
Ioannis Stalikas	Director General for Crime and Penitentiary Policy
Maria Anagnostaki	Advisor at the Office of the Secretary General for Crime Policy
Garyfallos Arhontidis	Department of General and Rural Detention Institutions

**Ministry of the Interior and Administrative Reconstruction**

*Ministry of Citizens' Protection/Hellenic Police*

Dimitrios Anagnostakis	Secretary General for Public Order
Zacharoula Tsirigoti	Lieutenant General, Inspector General for Aliens and Border Protection

Achilleas Skandalis	Head of the Aliens and Border Protection Branch
Dimitris Athanassopoulos	Brigadier, Head of the Public Order Branch
Elias Xanthakis	Brigadier, Director of the International Police Cooperation Division
Georgios Kanellos	Brigadier, Director of the State Security Division
Pavlos Daskalakis	Brigadier, Director of the General Policing Division
Michael Ladomenos	Brigadier, Director of the Police Officers' Human Resources Division
Panagiota Papadopoulou	Lieutenant Colonel, Organization and Legal Affairs Division
Georgios Kossioris	Colonel, Director of the Migration Management Division
Alexandros Konstas	Embassy Counsellor (Grade A), Diplomatic Advisor to the Alternate Minister of Citizens' Protection
<i>Ministry of Migration Policy</i>	
Ioannis Balafas	Alternate Minister of Migration Policy
George Balafas	Director of the Office of the Alternate Minister
Manolis Kalogeropoulos	Associate to the Alternate Minister
Spiros Voulgaris	Diplomatic Advisor to the Minister of Migration Policy
Dafni Spiropoulou	Head of the Department of Co-ordination, Reception and Identification Service
Niki Tselepi	Department of Legal Support, Reception and Identification Service
Sevastiania Kountouri	Department of Legal Support, Reception and Identification Service
<b>Ministry of Foreign Affairs</b>	
Markella Megalokonomou	First Secretary, Head of the Council of Europe (CoE) Department, D3 Directorate for CoE-OSCE

