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Unaccompanied Minors in the Greek-Turkish Borders:
Evros Region, March 2011- March 2012

Greek Council for Refugees Permanent Mission in Evros Region
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Evros Orestiada, 2012

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Introduction: A few words on GCR's Mission and the Report¹

Since March 2011, the Greek Council for Refugees has managed, despite significant challenges, to maintain a permanent mission of six staff² in the Evros Region with the task of providing legal assistance to asylum seeking detainees and other vulnerable groups in detention. They have been present in the detention facilities on an almost daily basis, developing a particular focus on minors in detention in addition to the legal assistance services provided to the detainee population.

After a year of systematic monitoring and evaluation of children's needs and responses to the particular environment, some conclusions can safely be drawn regarding their entrance, stay and living conditions in the Evros region, which underscore the grave consequences of these conditions on their status and development.

The focus of the study is on conditions in the Fylakeio³ detention centre -- the largest such facility in the region, and the only one with a cell for minors exclusively. The detention center consistently hosts the highest number of minors arrested upon entering Greece in the Evros region, and is therefore the best focus for a case study highlighting the experience of minors in the region. Apart from a few minor differences, the major one being the number of detainees held, the conditions in other regional facilities are identical, despite the fact that minors are not generally separated from adults (the so-called *mixed detention*), a practice that in Fylakeio was only an issue on rare occasions.

The one-year case study covers a period of 8 months of monitoring and evaluation and not 12 as one might expect. Access to the detention facility and interaction with the detainees was not possible for the entire year for a number of reasons which include arbitrary denial of access to the facility and the detainee population by police authorities

¹ The present report is exclusively dedicated to minors. For an extended description of the situation, concerning adults and all detention facilities in the region, as well as national provisions and their actual application, see Proasyl, GCR, Infomobile. "*Walls of Shame. Accounts from the inside: The detention Centres of Evros*"

Useful Links to Greek legislation and reports in English can be found at the present report's indexes I & II

² The mission consist 4 lawyers and 2 interpreters residing in Orestiada, Alexandroupoli and Komotini

³ "Fylakeio Special Holding Facility for Illegal Migrants (EXIIA)"

and unfavorable weather conditions which rendered travel to the facility impossible. The data and observations informing the conclusions of the case study are based only on the days the mission was able to access the facility and the detainee population, and they serve as a starting point for a broader analysis of the status and experience of minors in detention in the region.

It should be noted that the present report only covers the experience of unaccompanied minors arrested by the police authorities in Orestiada. The occurrence of accompanied minors held in the same premises under identical conditions – most often in the women’s cell with a female family member – is also very high, and includes mostly children under the age of ten.

The actual number of children entering the Greek territory through this specific prefecture cannot be estimated. Apart from the children that are additionally arrested under the competence of the Police Directorates of Alexandroupoli and Komotini⁴, there are others missing and/or escaping arrest. Their numbers remain unknown. Many families are separated while crossing the borders one way or the other, while there are high numbers of children found dead either from drowning in the Evros river or from hypothermia. Most of their bodies remain unclaimed⁵.

Finally, it should be noted that conditions prevailing in the region have been significantly and consistently in flux throughout the year that the case study was conducted. From March through September 2011, there was limited involvement of NGO’s conducting aid and assistance programs in the region. At the same time, harsh and severe policies regarding asylum seekers and their detention were recorded among the three regional police authorities. Since October 2011, some progress has been made on this front, though conditions remain far below the optimal levels. With regards to the

⁴ In Komotini last year have been arrested 30, minors according to their statements, in Alexandroupolis more or less 50.

⁵ According to the responsible police and coronary authorities, the topography of the area with the special features of the Evros river (depth, flow, currents, and plantation) consists a restraining factor in recovering anything sunken, indefinitely. Therefore, the number of diseased - regardless of age - while crossing the border, can neither be calculated nor estimated

provision of aid and assistance to minors, an additional program by NGO, “Arsis”, has been running since, with special focus on aid to children. Their efforts complement the ongoing assistance programs conducted by GCR and Doctors Without Borders (MSF). At the same time, authorities in the region alter their policies and practices regarding the detention of asylum seekers. Some progress has been made regarding living conditions in detention facilities. All these changes were ongoing through mid-February 2012, after which the Fylakeio detention facility was closed for renovations. It is expected to re-open in the near future as a Special Holding Facility for Illegal Migrants.

I. Who are the children that cross the Evros Region

According to the Fylakeio registrations finally obtained throughout the year, there were 572⁷ minors detained, either unaccompanied or accompanied by an under aged sibling. GCR’s access to the facility was denied over a particularly crucial period of detainee influx, from mid-July through September 2011. In the first 10 days of July 2011, 67 children were arrested and detained in Fylakeio, and their numbers increased by approximately 10 minors every two days. Staff was unable to obtain information regarding any arrests and detentions made from that time through the end of September. When access to the facility was restored on September 30 2011, 55 children were found to be detained in Fylakeio, all of whom were arrested that same month. In the first 10 days of October 2011, 65 more minors were registered in the facility, 42 of them over a period of 2 days.

Therefore, in the period covering July – October 2011, GCR’s observation team can report a total of 187 minors in detention at the above facility. This data is compromised in its accuracy by the two months the mission was unable to access the facility, but the

⁷ The actual number throughout the year, according to the mission’s estimations as explained below, must have been approximately 650-700 children, in the area of Orestiada alone.

statistical trends observed indicate that the actual number of children in detention was significantly higher than the one able to report.

The ages of children observed in detention is varied, from infancy through adulthood. The vast majority of minors in detention are adolescent boys aged 16, followed in descending percentages by boys aged 15 and 17 (with an insignificant rate difference), 13 and 14 (in nearly identical rates), and boys 12 years of age and below with an alarming rate of 4, 20 % . Last are boys on the verge of adulthood, within a few months or days of their 18th birthday¹⁰. Unaccompanied female minors comprise only 0, 87% of the minor detainee population, and are mostly teenagers in between 16-14¹¹ years of age.

It should be noted that there is a high incidence of inaccuracy in the exact ages reported for children in detention. Many of the children in the detention facility reported significant discrepancies between their actual and registered ages, being both obviously older and younger than the age noted down by authorities. In most cases, minors registered 13 or 14 are, according to their declarations, 12 and 13 respectively, while on the other hand teenagers often stated they were adults in order to be released sooner.

Finally, there is the case of minors that – according to the exact birth date attributed to them by the authorities – came of age while in detention. Children registered as born on or before 01-01-1994 are, since 01-01-2012, no longer considered minors. It so happened that in these particular cases the detainees were non-deportable nationalities, but nonetheless - although they were no longer waiting to be transferred to a reception centre - they were “forgotten” in detention. They were released from detention in early March 2011, 2 months after reaching official adulthood.

¹⁰ Years of birth in percentages : years 2008-2000 : 1,75 %, 1999 : 2,44%, 1998 : 6,46%, 1997 : 6,11 %, 1996 : 24,30 %, 1995 : 35,83 %, 1994 : 21,67 %, 1993 (during 2011) : 1,22 %.

¹¹ The above mentioned percentages serve as indicators. They were extracted from the official accessible registrations of 572 children (see footnote no. 5)

The vast majority of minors observed in detention originate from Afghanistan¹² while quite a significant number are from Pakistan. The nationalities of other minors include Algeria, Morocco, rest African countries and Iran. There were also only two unaccompanied minors from Syria in March 2012¹³.

All these children found themselves in Greece while either trying to reach another destination or wishing to remain in the country. In both cases, their immediate goal was to reach a certain person. During their meetings with members of the mission, minors were able to contact persons outside of the country who were previously unaware of their whereabouts or safety. Furthermore, it was observed that in many cases of unaccompanied minors families did exist, settled in other European countries as recognized refugees or immigrants, but with no knowledge of safe and regular ways for the children in question to join them. There were a number of minors both unaware and lacking in trust of the legal procedures available to unite with their families, choosing to pursue this path independent of official procedures available. Others wished they shouldn't travel alone anymore and choose the safe way, fewer actually made it. Unfortunately, on more than one occasion, an unexpected referral prevented further communication between the child and GCR's mission.

Some minors were lost on the way, others had lost their relatives contact numbers, while the majority of detainees couldn't contact their family due to either lack of money or after spending all of their resources during months of detention. Children wishing to ask for asylum in Greece were indeed the exception, and none of them actually applied for asylum status while they were in detention. This fact resulted from the inability of some to do so – such as minors younger than the age of 14 - but mainly because children believed that an asylum application would cause prolonged detention – as they witnessed happening with adults. The only asylum application claims lodged by minors in detention

¹² Unaccompanied female minor on the other hand, are primarily of an African origin.

¹³ On the contrary, since September 2011, Syria is – along with Afghanistan- number one country of origin among children accompanied by their family.

were those of children with relatives they had managed to contact in other European countries. In these cases, the corresponding states were approached to accept responsibility of the claim's¹⁴ examination and take charge of the child.

II. Legal Status : Child Protection & Detention framework

“Refugee children are among the most vulnerable groups in the world – they are, for example, disproportionately likely to be victims of sexual abuse or military recruitment. (...) Whatever the pressure on the receiving State its legal and moral obligations to protect these children are unarguable.”¹⁵

The Greek legal protective framework for unaccompanied refugee children is probably the most deficient part of the national legislation regarding refugees, despite numerous international provisions and guidelines. Provisions for this are dispersed within the current laws, primarily in two basic Presidential Decrees introducing EC law, no.114/2010 and 220/2007.¹⁶

The competent district Public Prosecutor for minors is responsible for the representation of an unaccompanied minor, or in the former's absence, the Public Prosecutor of First Instance. These authorities are considered the “de facto” temporal guardian for minors, until a suitable person for this task is identified and appointed.¹⁷

¹⁴ The Dublin Regulation (Dublin II).

¹⁵“Implementation Handbook for the Convention on the rights of the child” Unicef - Fully revised third edition, Geneva 2007 pag 313 / UN CRC, GENERAL COMMENT No. 6 (2005) TREATMENT OF UNACCOMPANIED AND SEPARATED CHILDREN OUTSIDE THEIR COUNTRY OF ORIGIN CRC/GC/2005/6 - 1 September 2005.

¹⁶ Presidential Decree no. 114/2010 “Procedures concerning the recognition of refugees and persons entitled to subsidiary protection according the Council Directive 2005/85//EC on “minimum standards on procedures on minimum standards on procedures in Member States for granting and withdrawing refugee status” and Presidential Decree 220/2007 on the transposition into the Greek legislation of the Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers in Member states.

¹⁷ a. 19 P.D 220/2007

Asylum applications of minors and their examination is regulated in P.D 114/2010¹⁸. While undergoing an examination, the guardian could be present if he/she wishes, unless the child is below the age of 14 years. In the latter case, the guardian's presence - and their actual and substantial existence for that matter –is a prerequisite even for the application of asylum. The competent receiving and examining authorities are obliged to immediately ensure that the child's accommodation needs are met, either in the attendance of a relative, a foster family or a children's reception centre, while at the same time making every effort possible to locate other members of his/her family , without undue delay¹⁹.

Detention of minors is to be “*avoided*” at all times. Unaccompanied minors could however be detained “*only for the time necessary until they could safely be referred to a suitable reception facility for minors*” without the law prescribing any further requirements or a maximum time limit²⁰. Nonetheless, living conditions during detention are not to be of a lower standard than the ones laid down by Directive 2003/9/EC as a minimum entitlement to all asylum seekers. The Directive does not differentiate its applicability according to the type of premises. Hence, despite confinement, conditions should be such as to ensure their health, their basic needs of subsistence and the protection of their fundamental rights²¹ - regardless of age. When it comes to minors though, conditions should additionally be consistent with the special needs of childhood.

¹⁸ a. 4, 10, 12, PD 114/2010

¹⁹ a. 19 PD 220/2007

²⁰ a. 13 (6) b PD 114/2010, actually being one of the most unfortunate provisions therein.. Ever since its adoption by the Greek Legislator article 13 violates the children's “right to liberty and personal security” as prescribed in article 5 of the ECtHR and interpreted by the ECHR. Deprivation of liberty is justified only by law and only for the reasons exhaustively mentioned in article 5. Detention is lawful during penal procedures, a lawful and active deportation procedure etc., always accompanied by an effective and accessible remedy reviewing its lawfulness and necessity, a safeguard against state arbitrariness. None of the above preconditions are met in national legislation. Minor's detention is used as a superficial solution to the everlasting problem of insufficient reception facilities, giving the Administration an unlimited amount of time and hence significant discretion before fulfilling its obligation to accommodate the child. Thus national law nominated the administration's convenience to a lawful reason for detention, without even providing for a remedy to challenge the relevant decision.

²¹ a 12 PD 220/2007

Children who do not apply for asylum or whose claims are rejected fall under the provisions of Law. No 3907/2011²² on “return of third country nationals”, prescribing the Best Interest of the Child as a guide to the relevant decision. A minor can only be returned to a country that a family member or another person suitable for the child’s care and upbringing is found to be residing. If this is not possible, the minor can only be relocated to a country in which the appropriate accommodation and care facilities exist. Detention until the actual return is provided “*only as a last resort*”, during which children should be entitled to recreational activities and playtime, education and other activities favoring their age, depending on the time spent in detention premises.²³ A similar provision is not found in P.D 114/2010, where no mention is made regarding the activities offered by a detention regime when it comes to asylum seeking minors. Therefore, the existing laws apply different standards depending on the child’s legal status. The basic standards for detention conditions should proportionally be considered applicable to all minors regardless of their legal status.

Detention conditions are regulated primarily by the European Committee’s for the Prevention of Torture Standards (CPT)²⁴ and other International Human Rights instruments and organs that Greece is a signatory on²⁵. Among others, three basic rights are underlined: the right to outdoor activities – yarding²⁶, sufficient living

²² Law 3907/2011 “Establishment of an Asylum Service and a First Reception Service, adaptation of the Greek legislation to the provisions of Directive 2008/115/EC «with regard to the common rules and procedures in Member States for the return of illegally staying third-country nationals» and other provisions.”

²³ a. 20, 25, 32 of L. 3907/2011

²⁴ *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Standards CPT/Inf/E (2002) 1 - Rev. 2010 English*

²⁵ Primarily, article 3 of the ECtHR (the prohibition of torture and all forms of inhuman or degrading treatment) and its application in the context of detention conditions by the ECHR , whose inadequacies under certain circumstances can amount to a violation of the above mentioned article.

²⁶ According to CPT a detained held more than 24 hours must have access to outdoors activities. In the same reasoning see also e.g ECHR, *Price v. the United Kingdom / Tabesh v. Greece* » .(§41): « *Mis à part les problèmes de promiscuité et d’hygiène, tels qu’ils sont relevés par les rapports précités, la Cour estime que le régime afférent à la possibilité de loisirs et à la restauration dans les locaux de police où le requérant a été détenu pose en soi problème par rapport à l’article 3 de la Convention. En particulier, l’impossibilité même de se promener ou de pratiquer une activité en plein air pourrait faire naître chez le requérant des sentiments d’isolement du monde extérieur, avec des conséquences potentiellement négatives sur son bien-être physique et moral.*”

space²⁷ and health care of the same level as the general population – such as immediate access to a doctor²⁸. When it comes to minors, from infancy through adolescence, their age makes them inherently vulnerable to all sorts of dangers, starting from the initial fact of confinement. Adults respond to and experience detention differently from adolescents - though not without significant difficulty as well –, let alone a child younger than 12 years of age. In any case “*children must be treated first and for most as children.*”²⁹ Therefore, additional safeguards and stricter provisions are laid down to secure that detention conditions and services offered are tailored to their needs. In this context, any element of an incarcerated environment is forbidden (e.g bars, batons of custodial staff in open view etc.). Particular vigilance is required to ensure that their psychical and mental wellbeing and development are adequately protected and promoted. Among others, purposeful, physical, and recreational activities should be offered while in child friendly surroundings, according to their increased needs for movement and intellectual stimulation. Additional humanitarian, psychological and social support must be provided individually, to prevent any psychological and social damage or emotional deprivation.³⁰

All the above provisions, theoretically, are to be interpreted and applied under the auspices of the United Nations Convention for the Rights of the Child and the

²⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (“the CPT”) every detainee is entitled to 7 m² of personal space regardless of total number of inmates, 7 m² individually. Anything less is to be considered as overcrowding and therefor forbidden. Extract from the 2nd General Report - CPT/Inf (92) 3, § 43, ECHR Kalashnikov v. Russia, 47095/99 § 97

²⁸ CPT Health Care Services in Prison – Extract from the 3rd General Report [CPT/Inf (93) 12] / see also e.g ECHR Kudla v Poland [GC] no 30210/96 § 94, Kalashnikov v. Russia no. 97095/99 § 95-100.

²⁹ Council of Europe / Committee on Migration Refugees and Population/ Report “Unaccompanied children in Europe : issues of arrival stay and return” Doc 12539, 21-3-2011

³⁰ CPT : Extract from the 19th General Report: Safeguards for irregular migrants deprived of their liberty [Cpt/inf (2009)27] - Additional Safeguards for Children, Extract from the 2nd general Report [Cpt/Inf(92)3] : Imprisonment - / Extract from the 9th General Report [Cpt/Inf (99) 12] : Juveniles deprived of their liberty. / see also ECHR Rahimi v. Greece, Mubilanzila Mayeka & Kaniki Mitunga v Belgium.

general principle of the “Best Interest of the Child”,³¹ obliging authorities to be guided in every decision, even reflecting to the life of a child, primarily by the child’s interests.³²

For these children, the so-called “*displaced*” ones, the principle must be respected during all stages of the “displacement cycle”, without limiting its application to refugee children alone. The mere fact that they are not being cared after, entails the express obligation of states to search for short and long-term durable solutions, commencing by tracing family members and, if possible, reunifying them immediately, unless the best interest of the child dictates otherwise.³³

III. The Greek Border Reality

In practice, none of the above provisions is observed in the Evros region, leading to numerous and multiple violations of children’s rights. The major problems of minors found throughout the year of this case study were: Long-lasting detention in inhumane and degrading conditions - due to lack of sufficient and appropriate reception facilities-,

³¹ As its moreover defined and particularized for unaccompanied children by CRC’s GENERAL COMMENT No. 6 (2005) TREATMENT OF UNACCOMPANIED AND SEPARATED CHILDREN OUTSIDE THEIR COUNTRY OF ORIGIN (CRC/GC/2005/6)

³² Text of Article 3 “ 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. 2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. 3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision”

³³ CRC/GC/2005/6 page 22 “VII. FAMILY REUNIFICATION, RETURN AND OTHER FORMS OF DURABLE SOLUTIONS”. When it comes to refugee children, article 22 of the Convention provides among others, as follows : “ 1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are parties. 2. For this purpose, States Parties shall provide, as they consider appropriate, cooperation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations cooperating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

the complete absence of any official mechanism in tracing family members, the lack of initial and individualized assessment of protection needs by qualified professionals, and, finally, the inefficiency of the national Guardianship system which deprives children of any actual possibility to participate in the decisions made for them³⁴.

All unaccompanied minors entering the territory are treated as “irregular migrants”³⁵. Upon arrest they are taken to the Fylakeio detention facility, while simultaneously decisions of temporary detention are issued. Since the institution of guardianship does not essentially function in this environment, no actual legal representation for these children exists. Deadlines for challenging these decisions elapse without anyone exercising the relevant remedies, leading to final detention and deportation decisions. According to the legal framework on “return” as prescribed by Law 3907/2011, any return before establishing the particular circumstances of the child’s family, and the reasons forcing the child to arrive in Greece, is prohibited. Nonetheless, the invariable practice of the local authorities is the issuance of mass deportation decisions indiscriminately, (based on law 3386/2005 and not law 3907/2011 providing for more safeguards), actually serving as a cause - legal basis for detaining all children, until their referral to a reception facility is possible.

The Public Prosecutors Office is informed of every arrest made. Further on, the relevant Secretariat of the Ministry of Health is notified - the responsible authority for minor’s reception and accommodation -, in order to trace vacancies in the limited facilities scattered throughout the country. The minors relationship with their Guardian is limited to the fact that, the Prosecutor will be the one - the child being totally unaware - issuing the order allowing the police to transfer the child to the reception centre identified

³⁴ It should be noted that, the problem of Guardianship does not affect children only upon arrival and thus it's not confined in the border area. It is faced throughout the country by all children until their adulthood. Charging the Prosecuting Authorities with this additional task has not proved so far a legislative success, considering the number of prosecutors and their responsibilities as such alone. It is de facto impossible, even with the outmost possible diligence and effort by them, to develop a personal and individual relationship with the children as guardianship implies, allowing every prosecutor to become the “actual guardian”, better on the “compensatory parent” needed.

³⁵ The word actually used by the regional authorities being “illegal migrants”

1. “Fylakeio Special Holding Facility for Illegal Migrants (EXIIA)” *a.k.a* Fylakeio Detention Centre

“ The delegation was struck by the fact that no special measures were taken as regards the care of babies, young children and juveniles – no milk, no added nutrition, no activities – to alleviate the appalling conditions. Everyone was treated the same - like caged animals” ³⁶

Fylakeio – formerly known as Kiprinos Detention Centre or EXIIA - is situated in an isolated area near the village “Fylakeio”, 23 km from the city of Orestiada. It is surrounded by fields, and there is an artificial water channel running next to it. The building is situated in the middle of a large piece of fenced land. There is sufficient outdoor space which could be used as an exercise yard, a unique feature among other regional facilities. During the winter months, the centre is often unreachable due to snow and ice, while in the summer months there is unbearable heat and humidity. Throughout the year, rats and cockroaches are inside external premises, near the waste bins.

In the interior of the building, the space reserved for detainees is particularly inhospitable and hostile. “*Inadequate*” - “*Repulsive*”- “*Inhuman*”- are only a few of the numerous characterizations internationally attributed to the Centre ³⁷. The inadequacy of all regional detention facilities in hosting any human –let alone a child- has been repeatedly and severely criticized since 2003. For Fylakeio, international

³⁶ Report to the Government of Greece 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 19 to 27 January 2011 § 25

³⁷ E.g. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Public statement concerning Greece 15-3-2011/ FRA - European Union Agency for Fundamental Rights Coping with a fundamental rights emergency : The situation of persons crossing the Greek land border in an irregular manner 8 -3- 2011/ Report submitted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ,Manfred Nowak, (A/HRC/16/52/Add.4) to the Human Rights Council , 4-3-2011/ Human Rights Watch : The EU’s Dirty Hands, Frontex Involvement in Ill-Treatment of Migrant Detainees in Greece 21-9-2011/ Médecins Sans Frontières (MSF) Emergency Intervention in Migrants’, Detention Facilities in Evros, December 2010 – April 2011/ UN Special Rapporteur on Torture presents preliminary findings on his Mission to Greece, 20-10-2010. Amnesty international, irregular Migrants and asylum seekers routinely detained in substandard conditions, July 2010”

criticism of the facility commenced at its inception in 2007. Despite all reports and criticisms, the facility continued functioning as a detention facility for third country nationals until mid-March 2012, all held under identical conditions, regardless of their age.

1.a. Detention Conditions

The minors's cell (cell no.2) is a closed rectangular cement space, with the capacity of approximately 35 - 40 persons. The entrance consists of floor to ceiling bars. All detention cells are placed next to each other – except the cell for female detainees. All cells face the same closed, dark and dirty corridor, which separates the cells from the rest of the building through a heavy door, mostly kept closed, hindering any additional air or sunlight from coming in, and prohibits any contact with the outside world. Like all the cells in Fylakeio, the living area for minors is poorly and inadequately lit and ventilated, with only one window so highly placed that natural light is only possible in the early morning hours.

- Complete lack of sanitation: the cell is consistently filthy; there are few toilet facilities available, and the permanent drain dysfunctions causes the cell to be consistently flooded by water and sewage.
- The cell is furnished but with rows of bunk beds on two levels. There are inadequate numbers of sheets, mattresses and blanquettes, and those provided were in unacceptable condition, never being cleaned or renewed. Hot water was rarely available. Custodial authorities did not provide personal hygiene products (such as toothbrushes, toothpaste, soap, shampoo or toilet paper) on a regular or consistent basis. In this regard, the assistance of Doctors without Borders was invaluable for al

detainees, for they actually were the only regular source providing hygiene products, sleeping bags etc.

- Even though winter months in the region are always harsh and very cold, in Fylakeio there are no heating facilities, and thus being in the cells becomes literally unbearable. In October 2011, the local temperature had already dropped to below 10° C, while by the end of February 2012 temperatures had reached -16° C, and remained below zero for most of the winter.
- There were no arrangements for cleaning services and de-worming inside the cells. Children were expected to clean the cell, though cleaning products to do so were almost never provided. On occasion, a mop would be given to every cell, though the cleaning bucket would be kept outside of the cell and could only be accessed through the cell bars. Some efforts were made for professional cleaning services to be established during the year, but remained occasional until they were stopped completely.
- Access to medical healthcare and psychosocial support was de facto limited and totally insufficient. There was only one doctor, one social worker and one psychologist available for the entire detainee population of Fylakeio. These personnel were responsible for providing services at minimum 450 persons at any given time, while at times the detainee population would exceed 600³⁸ persons. From September 2011, psychological assistance at Fylakeio was terminated, despite the fact that it is the largest and most populated facility in the region.

³⁸ According to its official capacity, Fylakeio is designed to accommodate maximum 370 persons, while the CPT found it adequate only for a maximum of 188 detainees.

- Minors nutrition was no different than adults and included : a small industrialized juice with a little bread every morning, and a meal poor in quantity and quality - let alone nutritional value – was provided once a day. They had to save half of this meal for dinner, while at the same time they had to prevent more aggressive minors from taking it away. They didn't have free access to potable water. They had to drink from the toilet's tap, even though it's not considered potable. On many occasions they suffered from gastroenteritis attributed by the children themselves to the food's and water's bad quality, for they were noted massively and simultaneously in the cell's population. They were never offered a hot drink, dairy products or fruits and vegetables sufficient for their growth needs. Anyone desiring additional beverages or bottled water had to buy them from a person visiting every afternoon. Children with no money were obviously unable to use this option.
- Access to a telephone was possible only after purchasing a pre-paid card and only once a week for a limited time. Since the children were always too many and all tried to use the telephone at the minimum time allowed, in the end, only a few managed to use it. Others would run out of time and others would lose their place in line because of an older inmate. Those without money didn't have any access to the telephone.
- No reading materials, such as newspapers, books, or magazines, were provided. There existed no day room, radio, stationery or any means for creative outlet by any detainee, minors being no exception. All means of recreation, purposeful activities and most contact with the outside world was generally impossible.
- There were no arrangements for the permanent presence of a translator inside the detention premises. Detainees of any age were unable to obtain any information regarding the cause and the duration of their confinement, while at the same time,

there were no means for them to communicate with the authorities. In cases of emergency, such as the need for a doctor, detainees were forced to resort to shouting and singing in order to gain the attention of the attendant authorities.

- Finally, upon arrest, their personal objects (mobile phone, computer, watch e.t.c) and baggage were taken and kept separately. During detention, access to this property was allowed only exceptionally. On many occasions, detainees of every age complained when released about things missing or found destroyed.

1. b. Overcrowding

The population of the cell permanently exceeded its capacity. An average of 55 to 65 children was present in the cell on an everyday basis, despite the official capacity being that of only 40 minors. At times there were 75-85 minors held together, with numbers reaching 100, and on one occasion, up to 130. Permanent overcrowding in the conditions previously described, combined with the total absence of any preoccupation or outdoor activity, rendered the children's everyday lives literally unbearable.

Many couldn't sleep for days, having no space to lie down. Others were crammed together in groups of 3 in one bunk, and others were injured by falling off the upper bunks while sleeping. Some were forced to lie on the floor, on cardboard mats in pools of water or next to leaking sewage.

11-7-2011: Children are 116. 51 of them were arrested between 1-10/7/2011. The rest 65 of them are in the cell from the end of May – early June. Among them are a child of the age of 6 and many others aged 12-11 years old. There are no words to describe the

situation. Children are literally hanging out from the cell bars, pushing each other all together to get some more air. The youngest ones can't reach all the way to the bars. During day and night they sheet together in groups of 5 in each bunk for, literally, there is no place to stand, let alone sleep. Even on this occasion, they are not allowed in the yard. The solution found was for some of them to share the next door cell with the adults.

9-10-2011: *Children are 121. 65 of them were arrested in October. The rest are detained since September. Among them can be found, one child aged 11, one aged 12 and seventeen minors aged 13 years old. They are crammed in the cell but, as fourteen year old S.A., detained from late September, say: "at least so many that we are, we can't feel the cold".*

1.c. Yarding/ Specialized activities favoring childhood

Children "accommodated" in Fylakeio before September 2011 had the misfortune of being held in the above conditions for long periods of time without ever being allowed out of their cell. Psychological exercise, a small stroll in the sun, all outdoor activities, were prohibited.

A, aged 8, (detained since 16/6/2011) and S, aged 6 (detained since 10/6/2011), are out in the yard for the first time late June, on the occasion of their escort's update on

their case by the mission. (A is accompanied by his minor brother age 14, and S by his father). Even though they have been detained only for a few days so far, none of the two little ones feels like playing or running and the sun is hurting their eyes. They sheet together on a bench in the shade near the building's entrance, obviously unwilling to move far from it. The two escorts hesitate in the same manner. They believe they are not allowed to walk outdoors.

Brothers N.A & N.B., aged 16 and 14 respectively, are detained since 29/2/2011. Late March that they are noted by GCR's mission is the first time they receive and reply to questions concerning their situation and are informed on their available option. Mid April is the first time they face the sun, escorted outdoors by their lawyer. The younger one is moved by seeing spring. Last time they were outside was the day of their arrival in Fylakeio, in the middle of winter. Both of them remain in the shade for their eyes ache from the sunlight.

Ever since September 2011, yarding, though of a short duration, became more regular. Apart from the days of heavy weather conditions, all detainees were allowed outdoors for at least 15 minutes every day. This later practice coincides with a change in Fylakeio's Administration and can possibly be attributed to a general shift in the local authority's attitude at the particular time.³⁹ This change had an immediately positive effect on the detainee's psychology, contributing considerably to a more harmonious coexistence amongst each other and with custodial staff. Tensions occurring (self-harm, suicide attempts, revolts, wrangling) were minimal compared to the previous semester.

³⁹ The same time, a favorable alteration for adult asylum seekers is noted, concerning the duration of detention. From the extreme and exceptional six months limit provided by P.D 114/2010 under certain circumstances - which that far had been the rule in the area and not the exception - asylum seekers begin to be released within the regular lawful limits of three months or a while later. The result was the decongestion of cells and consequently, detention conditions were somewhat improved

1.d. Detention Duration

As previously mentioned, the maximum duration of a minor's detention is not regulated in the Presidential Decree 114/2010. Detention is allowed for whatever time proves necessary for the child to be referred to a proper facility. In practice, the amount of time spent in detention depends on many factors, such as the child's age and gender, an NGO's intervention, always under the reservation that a vacancy would be found soon enough among the limited facilities.⁴⁰ In Fylakeio, minor boys below the age of 11, or female minors regardless of their age, seemed to be given a priority in referral due to their significant vulnerability. Even in their case, detention ranged between an average of 15 to 30 days⁴¹ while exceptions did occur.⁴²

When it came to minors approaching adulthood, their confinement could often exceed three months. Some of them reached adulthood while detained, causing a few to be endangered with immediate readmission to Turkey and consequent deportation.

Male minor M.A. from Iraq, was arrested on the 23/10/2010 in Vena –Komotini and he was registered as an adult. After the intervention of GCR's lawyer in Komotini, his aged was corrected and he was transferred to Fylakeio. Until March 2011 he was still there and had completed 5 mounts in detentions. On May he would have become 18 years old and he would be deportable. Neither the Ministry, nor the Public Prosecutor, were aware of his existence. Therefore he was not included in any waiting list or order for accommodation. He was finally transferred to a minors care facility after the intervention

⁴⁰ The available special accommodating structures for minors held in the Border area have been so far only 7 with limited capacity : Child Care Centre Konitsa - Ioannina, Welfare Institution of Agiasos – Lesvos “Theomitor” , Child Care Institution Pagoniani - Ioannina, Social Support of Youth “ARSIS” facilities in Thessaloniki Oreocastro and Makrinitsa Volos, National Youth Institution Anogia Lasithiou, Kriti, National Youth Institution Abelokipoi Athens.

⁴¹ Indicative detention cases of particularly young children monitored by G.C.R. : Brothers A.O & A.S (aged 17 and 8) detained 19 days (since 2/6/11 until 21/6/11), Brothers N.I & NN (aged 11 and 14), 31 days (since 12/9/11 until 13/10/11), Siblings A.A and A.Z., male and female respectively (aged 12 and 13), 17 days (since 10/10/11 until 27/10/11).

⁴² A.M. male aged 11, was arrested and held in detention for 47 days (since 5/11/2010 until 27/12/2011)

of GCR's lawyer in Orestiada on the 3/5/2011, a few days before adulthood, after being detained for 6 months and 10 days.

Male minor B.H (of a non-deportable nationality, born in 1994, was arrested on the 14/11/2011. Until 1/1/2012 it was impossible to be referred to centre due to lack of vacancies. Ever since the latter date, he was no longer considered a minor and his name was deleted from the relevant list. Nonetheless he remains detained. He was finally released early March, after spending almost 4 months in detention, 2 of which had no actual legal basis.

With only a few exceptions, the rule for all minors going through Fylakeio until March 2012 - mainly the teenagers – has been detention for at least 1 ½ month⁴³ - and counting - , leading to the paradox of minors possibly detained in the above conditions longer than the law allows for adults.⁴⁴ Since September 2011, with the activation of the additional program concerning minors by the third NGO in the area,⁴⁵ and the usage of a new space available, referral to a special facility and leaving Fylakeio became faster and immediate. Many of them were detained for less than a month ever since. Substantial changes to accommodation facilities have yet to come.

⁴³ During visits in the indicative dates below, it was noted that detained minors were confined up to three months consecutive months :**25-3-2011** : Of a total of 73 minors, 19 of them were detained 3 months, 20 , 2 ½ months, 6 almost 2 months, the rest 25 less than a month. **6-4-2011** : of a total of 73 minors, 20 of them 3 or almost 3 months, 6, 2 ½ months, 35 a month, while the rest 12 just a few days. **11-7-2011** : of a total of 116 minors, 4 of them were detained almost 2 months, 61 approximately a month, the rest 51 just a few days. **1-12-2012** : of a total of 42 minors, 1 of them detained 2 ½ month, 28 almost 2 months, while the rest 12, almost a month.

⁴⁴ a. 13 P.D. 114/2010 - regularly 3 months.

⁴⁵ “Social Support of Youth - ARSIS”

2. Individualized assessment of age & protection needs/ Information

Unaccompanied minors, being children and refugees, have as such specific particularities. Every each one of them has their own experience, mostly traumatic, while all of them just went through the difficulties of a dangerous journey accessing a strange and “forbidden” territory. Others have crossed the Evros river (either swimming or by boat), others have walked endlessly in the snow, in the middle of nowhere, always during the night, among strangers. All these realities do not seem to concern the authorities (Prosecution, Police, and Custodial).

The “Reception” reserved for children after entering the territory is the one previously described. While still in shock by the circumstances of their journey, they are put through administrative identification procedures, during which they have no actual participation. Shortly after, without even being informed on the procedures outcome, they find themselves in the unbearable conditions of Fylakeio. No one takes the time to explain to them the reasons for being arrested and detained or for how long they will have to remain in detention. Some children are not even aware which country they have finally reached.

All minors have no knowledge of the identity under which they are registered by the authorities (first or last name, age, nationality). Especially when it comes to age, even though the exact determination is the first requirement for any effort to assess and thus address the child’s needs, no specific age assessment procedure exists in Greece. As a result it is impossible for any alleged age to be officially verified or challenged. Resource to a medical examination could be a solution, but authorities are not obliged by law to use them. The only relevant provision is limited to asylum seeking minors⁴⁶, referring to medical examinations as “potential”. On the other hand, despite the provision, responsible services, procedures or even the types of appropriate exams are yet to be designated.

⁴⁶ a.12 par.4 P.D 114/2010

In practice, every police authority has to invent a procedure of its own. Children are whatever age they claim to be, unless their growth and appearance indicates otherwise. The youngest ones are usually registered one or two years older than they claim to be, while adolescents are classified often as adults. There were also cases of minors deliberately trying to be registered as adults, believing this will help them to avoid detention.

Long before detention, the initial “reception” these children should have had, would have included child-friendly information and social and psychological support, by experienced child care professionals. Special assessment of needs and thus care arrangements for each child separately should have followed, always as indicated by the child’s best interest and after his /her views are heard.

None of the above seems to follow from the way children are actually treated by authorities, neither from the institution of Temporal Guardianship (at least not from the way it functions so far). Children are “pending referrals”, unwanted responsibility, and there is no time for any particular or special preoccupation with each one of them. Child Care providing services are but a huge gap which cannot be filled – considering the number of children in need - by Guardianship as it currently takes place and by the limited capacity of NGO’s.

IV. Consequences

Problematic provisions and legal gaps, lack of care, insufficient reception centres and compulsory detention in inhuman conditions are the children’s reality in the region, with incalculable short and long-term consequences on their lives and development. The conditions and realities described above hinder their future prospects for something better. Children are driven to risk-taking behaviors and life decisions which, although they shouldn't be left to make on their own, they are in fact forced into. The following findings

(which emerged as issues repeatedly throughout the year) result from interviews of minor detainees with members of the mission, and from Fylakeio's reality that the former, as well as the latter, viewed every day.

a. Direct Consequences on children's health and wellbeing

- The impact of the unsanitary environment described above on children's health was immediate and obvious. Contrary to adults, minors frequently suffered from dermatitis, colds, fevers, gastroenteritis, and similar diseases caused by the permanent drainage dysfunction flooding the floor, combined with the lack of resources for any personal hygiene.
- Mental health was also significantly impacted by these circumstances, resulting in many signs of emotional distress to appear among the children: Overwhelming fear, insecurity, disorientation, unpredictable behavior and attitudes, anxiety, physical symptoms of distress (unexplainable permanent headaches, stuttering, and insomnia). Depending on their age, reactions to the environment differed. For some adolescents, aggressiveness, fights, self-harm, suicide attempts (albeit only virtual) and threats were common behavior. For the youngest ones, it was common for them to experience uncontrollable outbursts of crying or absolute silence and hesitation. Children aged 10 to 12 years old seem to have the most difficulties coping with the specific environment. On the one hand, they are not as aggressive as adolescents, while at the same time their perceptiveness is fully developed. Hesitation and withdrawal was a regular reaction from them.

- Emotional and personal impoverishment: Children were in the above mentioned conditions for months, purposeless and inactive, wearing the same dirty clothes every day, without being able to take a bath and without any actual sun light. Some of them could not communicate during detention with anyone – a relative, a member of the staff, sometimes not even another minor inmate.⁴⁷ When finally released, they were in a worse condition than they originally were, obviously weakened both physically and mentally.

b. Indirect consequences on children’s legal status and future to come

- Misinformation and mistrust / suspicion: Due to the absence of any official information, minors are totally unaware of their current status and situation. They believed rumors and whatever they have heard from other inmates, parents or compatriots. Whatever they saw or heard concerning adult detainees, they believed applied to them as well, while sometimes they were deliberately misinformed. Hearing different things from different sources, children became suspicious of everyone, and were thus often unable to accept any actual help provided.⁴⁸
- Inability to understand: Information on asylum procedures, especially on a possible family reunification or on matters concerning guardianship can be very complicated. It requires time, effort and clarity for procedures that are not easily understood even by adults, let alone a confused minor.

⁴⁷ Many children were isolated by the rest of their inmates for they were speaking a different language. This was the case with francophone or children of an Arabic origin, who appeared in detention premises scarcely as isolated cases. Thus compatriots were missing and so they could not communicate with anyone but NGOs.

⁴⁸ Z, male aged 14, originated from a family residing in Germany as recognised refugees. Nonetheless he refused to try for a family reunification according to the Dublin II Regulation asking for Germany to take charge of him and his claim, for – as he replied to his lawyer – “*My father said, there is no such procedure*”

- Inability to cooperate: Every legal action concerning a child’s legal status demands time, seriousness and commitment to intensive cooperation between the lawyers - the social worker - the interpreter and last – but not least – the child. During detention, there is no such time. Communication and cooperation depends on many uncertain factors (e.g. the schedule of the custodial staff, their work burden, their discretion, the child’s mental and psychological disposition). All these can not always be foreseen and settled in advance. In such circumstances it was impossible for the minors to cooperate to the extent necessary.
- Family “lose” : Particularly alarming has been the fact that, in too many occasions, arrest and detention of the child had inexcusably interfered with the child’s effort – and right for that matter- to regain family contact. On more than one occasion, family ties seemed actually broken for good, while at other times, any attempt of reunification was rendered futile.

H.K, male aged 14, is noted March 2011 among detainees by GCR. He has already been detained for two months and his intension is to reach his sister, a recognized refugee residing in the U.K. He has no money to buy a pre-paid card; hence he was not allowed to use the telephone and speak with her. He knows nothing about asylum or the reunification procedure. The members of the mission are the first persons asking him anything on his situation so he is hesitant and suspicious. The next day, before his sister could be located and examine any possibility of a reunification, he was transferred to a reception centre in Mitilini. Although GCR immediately searched for him in the centre, the child had already left to continue his journey.

Brothers N.A and N.B, detained since 29/2/2011, are located in Fylakeio by the missions in March 2011. They haven't spoken with their mother since they left their country of origin. They have no money to buy a pre-paid card so they were not allowed to use the telephone. They finally contact her that day using a third persons telephone and they inform her on their whereabouts. From that day on, she tries to contact them by calling to Fylakeio herself. She was never allowed to speak to her children, nor did anyone ever try to contact her. None of the responsible authorities ever informed her on her children's transfer and their new location.

V. Concluding Observations

Fylakeio and the other regional facilities have been closed for renovations since February 2012. However, it is clear that the dangers and challenges faced by minors in these cases cannot be addressed by simple renovations of the detention facilities.

A closed space with guards is always a prison. Whatever the conditions may be, confinement is always confinement, and always particularly harmful for a child's idiosyncrasy and development. Without overlooking the consequences of an unsanitary environment, it is obvious that children are more threatened by indifference and neglect, restraint and its corollaries (isolation, purposeless, inactivity, ignorance, insecurity) than anything else. For the children we actually managed to help, the most substantial solutions were given by the simplest possible means.

Many times it just took a phone call that the minor was not free to make to alter their prospects and psychological disposition. Other times, just devoting time to give child-friendly explanations was enough to relieve their anxiety, so they would not be tormented by impatience. But, above all proofs stand the ones given by post-detention monitoring that GCR was able to make on some children in their new situation. They were completely different children in every way: though they still have huge problems to overcome and a long way to go before their legal status is settled, the fact remains that their psychological, physical and mental state had radically improved.

As mentioned from the beginning, GCR's mission in the Evros region is not exclusively to monitor minors, but to provide legal aid to those in need of international protection (minors and adults). It was during this effort that this report emerged. Visiting Fylakeio regularly and being constantly in touch with the children made all the above observations possible. Having thus, a "clear view" of the actual situation, it was considered invaluable, for this "picture" to be equally reflected and circulated, in order to provide some more information on the subject-matter and emphasize what interventions were proven to have the most positive effect for the minors in question.

The present report is not intended to provide particular suggestions – though, if all the above mentioned insufficiencies and gaps in child protection are considered, suggestions emerge on their own - . The purpose of this report is to provide greater awareness and knowledge to all those involved in any way with children, child-providing services and decision makers. Above all, the ultimate aim is to make everyone (professionals or not) realize what it really means for a child to "go through" Evros. What detention actually signifies for children and in how many ways this experience –and every similar one – will affect their future.

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Index 2 – International Reports

Report to the Government of Greece 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 19 to 27 January 2011 (<http://www.cpt.coe.int/documents/grc/2012-01-inf-eng.pdf>)

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