May 19, 2020

Mr. Kyriakos Mitsotakis
Prime Minister of the Hellenic Republic
General Secretariat of the Prime Minister
Maximos Mansion
Herod Atticus 19
10674 Athens

Cc: Irini Agapidaki, Special Secretary for the Protection of Unaccompanied Children;
Ylva Johansson, EU Commissioner for Home Affairs

Human Rights Watch Letter to Prime Minister Mitsotakis on Detention of Unaccompanied Children in Greece

Dear Prime Minister Mitsotakis,

I am writing to you to express Human Rights Watch’s deep concern at the high number of unaccompanied migrant children detained in “protective custody” in police station cells and pre-removal detention centers across Greece.

Human Rights Watch welcomes the fact that the new law on migration and asylum voted on May 8 decrease the time that an unaccompanied child can be detained from 45 to 25 days. We also welcome the creation of a Special Secretariat for unaccompanied children under the Ministry of Migration and Asylum. However, we are concerned that despite this effort to reduce the harm caused to children, the new law continues to violate Greece’s obligations under international human rights law, according to which the “protective” detention of unaccompanied children in the immigration context is never justifiable.

The situation remains critical for unaccompanied children in police custody, particularly in the context of the Covid-19 pandemic. We urge you immediately to end this practice and identify or create spaces so that unaccompanied children currently in custody can be transferred into open facilities with decent living conditions where they can receive care and counseling, and have access to legal aid and other basic services. Their release from abusive detention conditions would also better protect them from the risk of Covid-19 infection.

On April 30, according to data from Greece’s National Center for Social Solidarity (EKKA), 276 unaccompanied children were being detained under the police protective custody regime, while awaiting placement in a shelter. This means there are currently 19 more children behind bars compared to the end...
of November 2019, when you announced the No Child Alone plan to protect unaccompanied children.

Our research over the years has found that Greek police detain unaccompanied children for weeks and in some cases months in small, overcrowded and unsanitary police station cells. In some cases, they are held with unrelated adults even though this increases the risk of abuse and sexual violence and violates international and national law requiring the separation of adults from children in detention. Many children do not receive information about their rights or about the process of seeking asylum, and many of them experience psychological distress linked to the conditions in which they are held. We are concerned little has changed since the launch of the No Child Alone plan.

The Greek nongovernmental organization ARSIS (Association for the Social Support of Youth), recently raised concerns about the unacceptable conditions experienced by 100 unaccompanied children detained under the protective custody regime in the pre-removal detention facility of Amygdaleza.

Under international law, binding European directives, and Greek national law, detention of unaccompanied children can be used only as a measure of last resort, in exceptional circumstances, and for the shortest appropriate period. The so-called "protective" detention of unaccompanied migrant, asylum-seeking, or refugee children does not meet these thresholds and does not comply with international standards.

The UN Committee on the Rights of the Child has stated that under the Convention on the Rights of the Child, children should not be detained solely because of their immigration status or on the basis that they are unaccompanied. The 2019 UN global study on children deprived of liberty found that far from offering protection, detention in the context of immigration "is harmful to a child’s physical and mental health," "aggravates existing health conditions and causes new ones to arise, including anxiety, depression, suicidal ideation, and post-traumatic stress disorder," and "exposes the child to the risk of sexual abuse and exploitation." The report concludes that "detention of children for purely migration-related reasons can never be considered a measure of last resort or in the best interests of the child and shall, therefore, always be prohibited," and that this prohibition specifically applies to detaining unaccompanied and separated children "for their 'protection', where alternative care is lacking, [which] can never be a justification."

The UN special rapporteur on torture has noted that immigration detention of children puts them at risk of cruel, inhuman, or degrading treatment or punishment. In addition, UNICEF has called on all governments to release children from detention, specifically including immigration detention, due to the coronavirus pandemic.

We recognize that Greece faces a significant and disproportionate responsibility among European Union member states due to the continued arrival of migrants and asylum seekers, including unaccompanied children. Nevertheless, this situation coupled with the failure of other EU member states to share responsibility, does not relieve Greece of its obligation to do its utmost to protect unaccompanied migrant children in detention and ensure that they are treated in a humane way and that their rights are respected.
We welcome your government’s call to other EU member states to set up and implement a meaningful responsibility-sharing mechanism, including by voluntarily relocating 2,500 unaccompanied children. Together with over 60 other human rights and humanitarian groups, we launched a public campaign calling for EU member states to urgently relocate unaccompanied children from the Greek islands.

Many people have joined Human Rights Watch’s #FreeTheKids, by calling on your government to immediately release unaccompanied migrant children who are in detention, and to transfer them to safe and open child-friendly facilities.

We urge you to ensure that Greek authorities take the following steps:

- Ensure that unaccompanied children currently in detention are accommodated elsewhere in open facilities suitable for children, by prioritizing efforts to create short-term alternatives to detention, such as hotels, foster care, and apartments under a Supported Independent Living program for unaccompanied children aged 16 to 18.
- End the practice of detention of unaccompanied children under the protective custody regime, and make individual assessments of the needs of each child based on their best interest.
- Amend legislation so that unaccompanied children may not be detained in closed facilities for any period of time, including police jail cells, or detained with adults, including for “protective custody” and that Greece follows the practice of other states that provide non-custodial solutions for unaccompanied children, identified by the UN global study on children deprived of liberty, such as placing children in open and child-friendly accommodation within child protection systems that are disconnected from migration policies and authorities; periodic reporting; foster families; and other arrangements which prioritize the best interests of the child.
- Ensure that all unaccompanied children in protective custody have access to interpretation services, information about the purpose of their detention, counseling, legal aid, and educational and recreational materials.
- Increase the number of safe spaces in existing long-term care facilities for unaccompanied children.
- Create new facilities to the level required to ensure placements for all unaccompanied children in the country.
- Establish a functioning national, government-run foster family system.

Thank you for your attention to these important matters. We look forward to a continued dialogue.

Sincerely,

Kenneth Roth
Executive Director