

ANNEX

Additional observations on the officially submitted Greek AMIF programme 2021-2027, CCI: 2021EL65AMPR001 Greek BMVI programme 2021-2027, CCI: 2021EL65BVPR001

SECTION 4 – Enabling conditions

Reference: point (i) Article 22(3) CPR

1. The Commission does not have sufficient information yet to assess the fulfilment of the HEC 3 '*Effective application and implementation of the EU Charter of Fundamental Rights*' ('the Charter').

With respect to criterion 1, the Greek authorities are invited to provide information about the arrangements to effectively ensure compliance with the Charter in all phases of the programmes' programming and implementation (i.e. programming, project design, approval and implementation, reporting, evaluation). The Greek authorities should clarify the concrete elements of the '*three-tier system ensuring compliance with the Charter through investigation or, where necessary prosecution, of misconduct by competent state authorities*'.

The Greek authorities are invited to indicate how compliance with the Charter will be ensured in all phases of the implementation of the programmes, in particular as regards key areas such as access to asylum procedures, reception, reception conditions, in particular of unaccompanied minors and vulnerable persons, detention conditions and border management. The Commission recommends the Greek authorities to include in the self-assessment the independent monitoring tasks granted to the National Transparency Authority by the Greek authorities to ensure that the border control activities at the external border are carried out with respect of fundamental rights. In addition, the Greek authorities are invited to provide specific information on the mechanisms in place and the authorities competent to investigate alleged breaches, amongst others, of the right to asylum (enshrined in Article 18 of the Charter) and the principle of *non-refoulement* (enshrined in Article 19 of the Charter). The Greek authorities are invited to also explain how they will ensure that alleged breaches of the Charter in the implementation of the programme are properly investigated and how effective follow-up of the findings of the investigations will be ensured.

In addition, the Greek authorities are kindly requested to provide further information on the mechanisms in place to ensure that reception and detention conditions are in line with rights under the Charter (e.g. prohibition of inhuman and degrading treatment (Article 4 of the Charter), the rights of the child (Article 24 of the Charter), the protection in the event of removal, expulsion or extradition (Article 19 of the Charter), in addition to Article 34 of the Charter relating to social security and social assistance).

In this context, the Commission invites the Greek authorities to pay particular attention to:

- There are issues concerning the lack of access to the asylum procedure / reception for asylum seekers whose applications have been declared inadmissible but cannot be

removed. This concerns access to the procedure in the first instance upon arrival on the territory of an EU Member State, and at a later stage (e.g. through subsequent applications or for persons in detention).

- With regard to persistent and numerous allegations of **pushbacks** over the past 18 months, the Commission welcomes that the existing National Transparency Authority (NTA) has been tasked to investigate certain allegations of pushbacks. The Greek authorities are invited to clarify whether and to what extent all the relevant claims are being properly investigated. Investigations into pushbacks allegations of various types should not be limited to access to the right to asylum, as guaranteed by EU law and the Charter, but also include e.g. the prohibition of torture and inhuman or degrading treatment or punishment (Article 4 of the Charter), and the protection in the event of removal, expulsion or extradition (Article 19 of the Charter).
- The Commission continues to receive complaints about **reception and detention conditions** for asylum applicants, rejected asylum applicants and migrants more generally (including beneficiaries of international protection), both on the mainland and on the islands. The Greek authorities are invited to respond to concerns relating to ensuring suitable reception and protection for unaccompanied minors and vulnerable persons. Serious concerns have been previously raised by the Commission about conditions in detention facilities, including procedural concerns raised as part of the Schengen evaluations in the field of return (access to legal assistance and interpretation).

With regard to support for beneficiaries of international protection and full access to their rights under EU law, the Greek authorities are invited to respond to the exchange of letters in which the Commission has asked about detailed provisions on the access to social benefits and concrete plans to address the administrative obstacles for beneficiaries to access their social rights, which are protected *inter alia* by Articles 34 and 35 of the Charter.

Furthermore, the Greek authorities are invited to clarify the specific roles and tasks of each of the authorities and bodies referred to in the self-assessment in ensuring compliance of the programme and their implementation with the Charter instead of referring to their mandates in general. This is particularly relevant for the Service of Internal Affairs of the Security Corps, the Greek Ombudsman, the Ministry of Citizen Protection and Ministry of Maritime Affairs and Insular Policy, tasked with border surveillance and the Ministry of Migration and Asylum. The Greek authorities are invited to clarify whether these authorities and bodies will provide assistance and expertise on fundamental rights matters and, where relevant, will have the ability to contribute to effectively ensure compliance with the Charter.

The Commission welcomes that Greece has committed to include the existing **National Transparency Authority** (NTA) as a competent authority to investigate pushbacks allegations. The Greek authorities are invited to provide more information on the concrete role of the NTA during the programme's implementation (monitoring, investigations of its own motion, dissemination and outreach, follow-up of NTA's recommendations, etc.), and the relations between the NTA and the Greek Ombudsman with regard to ensuring compliance with the Charter in the implementation of the programmes.

According to the self-assessment, there is an ongoing **cooperation with the European Border and Coast Guard Agency** (Frontex) with the appointment of a Fundamental Rights Officer who is working closely with the Frontex Fundamental Rights Officer on activities carried out at the sea borders in Greece. The Greek authorities are invited to identify the main elements of the cooperation with this EU agency, including the way the Frontex Complaint Mechanism is embedded in the arrangements aiming at ensuring compliance with the Charter in the implementation of the programmes. The Greek authorities should also provide information on the mandate of the Fundamental Rights Officer and its ability to contribute to effectively ensure compliance of the programmes and their implementation with the Charter.

The Greek authorities are invited to include in the self-assessment the Memorandum of cooperation between the National Coordination Authority of the Ministry of Development and Investment and the National Committee on Human Rights (NCHR) on the basis of which the latter will intervene in all stages of programming in an advisory capacity (guidance, trainings, ad hoc assistance requests). Moreover, the Greek authorities are invited to clarify the state of play of adoption of this document.

Finally, the Commission welcomes the plan to hold trainings for staff members involved in the programmes. The Greek authorities are invited to indicate the relevant trainings and guidance provided for all the relevant authorities and bodies. More information is needed on the content, the target audience and who will provide such trainings. Information is required on the adoption status and content of the guidance, the inclusion of authorities and bodies in the design and use of procedures and tools, such as a checklist on fundamental rights.

With respect to criterion 2, the Greek authorities are invited to present the reporting arrangements to the monitoring committee dealing with cases of non-compliance with the Charter of operations supported by the Fund and complaints regarding the Charter submitted in accordance with the arrangements made pursuant to Article 69(7) Regulation (EU) 2021/1060. The Greek authorities are invited to provide more concrete information about the reporting arrangements to the monitoring committee, such as the frequency and content (scope, remedial actions) of reporting on complaints and cases of non-compliance.

The self-assessment refers to complaints only and does not include information for cases of non-compliance of operations supported by the Funds with the Charter. The Greek authorities are invited to confirm that the reporting arrangements will also cover such cases of non-compliance.

The Greek authorities are invited to explain whether the Greek Ombudsman has a role in the complaints procedure in an advisory capacity (e.g. guidance, trainings, ad hoc requests).