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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Visita a Grecia

Informe del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación*

Resumen

El Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación visitó Grecia del 9 al 16 de diciembre de 2022. En cumplimiento de su mandato, el Grupo de Trabajo, durante su visita, se centró en obtener información directa sobre los mercenarios y las actividades relacionadas con ellos en todas sus formas y manifestaciones, sobre las actividades de las empresas militares y de seguridad privadas y su repercusión en los derechos humanos en Grecia, y en identificar los retos y las buenas prácticas. En su informe, el Grupo de Trabajo se centra en dos ámbitos concretos: el marco jurídico nacional existente que aborda el mercenarismo; y la utilización, regulación y supervisión de las empresas militares y de seguridad privadas que operan en tierra o en el mar. Además, el Grupo de Trabajo presenta sus conclusiones sobre el uso y la regulación de las empresas militares y de seguridad privadas en los contextos migratorio y marítimo. El Grupo de Trabajo formula recomendaciones para abordar cuestiones con respecto a la regulación de los mercenarios y los agentes relacionados con ellos, y las operaciones de las empresas militares y de seguridad privadas.

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que fue presentado.



Annex

Report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination on its visit to Greece

I. Introduction

1. Pursuant to Human Rights Council resolution 51/13, the Working Group conducted an official visit to Greece from 9 to 16 December 2022, at the invitation of the Government. The Working Group was represented by two of its members: Sorcha MacLeod and Carlos Salazar Couto. They were accompanied by staff of the Office of the United Nations High Commissioner for Human Rights.

2. In accordance with Commission on Human Rights resolution 2005/2 establishing the mandate and Human Rights Council resolution 51/13 renewing the mandate and all previous resolutions on the subject, the Working Group is mandated to study and identify emerging issues, manifestations and trends regarding mercenaries and mercenary-related activities and their impact on human rights, particularly on the right of peoples to self-determination. The Working Group is also mandated to monitor the activities of private military and security companies and their effects on human rights.

3. In the light of that mandate and its recent thematic work, the Working Group decided to focus on certain specific areas of interest during the visit:

(a) The existing domestic legal framework addressing mercenarism, in particular, measures taken at the national level to consider the ratification of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries (1989);

(b) The use, regulation and oversight of private military and security companies operating on land or at sea, including the existing domestic legal framework, particularly the use and regulation of private military and security companies in the migration context, and the use and regulation of private military and security companies in the maritime context.

4. In connection with the Working Group's areas of focus and mandate, the Human Rights Council emphasized in its resolution 33/4 its utmost concern about the impact of the activities of private military and security companies on the enjoyment of human rights, in particular when operating in immigration-related facilities. In that resolution, the Council noted that such companies and their personnel were rarely held accountable for violations of human rights. In that connection, in 2017 the Working Group submitted a report to the General Assembly on the use of private security companies in places of deprivation of liberty, including in detention facilities for migrants.¹ Furthermore, in 2020, the Working Group dedicated its thematic report to the Human Rights Council to the impact of the use of private military and security services in immigration and border management on the protection of the rights of all migrants.²

5. The Working Group has continued to expand its areas of study on the contexts in which private military and security companies operate, and in 2022 submitted to the General Assembly a thematic report on the provision of military and security products and services in the maritime sphere by private military and security companies and their human rights impacts.³ The Working Group considered that the visit to Greece was an opportunity to assess the operation of private military and security companies in the maritime context.

6. During the visit, the Working Group held meetings in Athens with representatives of the Ministry of Foreign Affairs, the D3 Directorate for the Council of Europe and Human Rights, the Office of the National Rapporteur for Combating Trafficking in Human Beings,

¹ [A/72/286](#).

² [A/HRC/45/9](#).

³ [A/77/268](#).

the Ministry of Maritime Affairs and Insular Policy, the Hellenic Coastguard, the Ministry of Citizen Protection, the Ministry of Justice, the Ministry of National Defence and the Ministry for Migration and Asylum, and with the Vice Prosecutor General.

7. In Samos, the Working Group met with the Director of the Closed Controlled Access Centre, representatives and guards from the private company providing security in that Centre and migrants living in the Centre.

8. The delegation also met with representatives of international and national civil society organizations, representatives of United Nations entities operating in Greece, academics and representatives of the Greek shipping industry.

9. The Working Group thanks the Greek authorities for their excellent cooperation prior to, during and after the visit. The delegation met and held open discussions with State representatives on the challenges faced and lessons learned. The Working Group also warmly thanks all the non-government interlocutors who met and held open discussions with the delegation.

II. Background and context of the visit

10. The purpose of the visit was to gather first-hand information on mercenary and mercenary-related activities in all their forms and manifestations, and on the activities of private military and security companies and their impact on human rights. The Working Group was interested in examining different areas, such as: (a) the relevant national regulatory frameworks and measures taken in relation to the oversight of private security companies; (b) the domestic private military and security landscape; (c) the provision of military and security products and services in different contexts, including the maritime and migration context; and (d) the investigation and prosecution of, and accountability for, crimes committed by mercenaries, mercenary-related actors and private military and security companies, and measures taken to ensure access to justice for victims.

11. The visit was an opportunity for the Working Group to examine the extent to which the efforts made by Greece at the international and national levels on issues relevant to its mandate could be considered good practice and to look at potential challenges in the protection and promotion of human rights and international humanitarian law. The identified use of private security in different contexts in Greece merited reflection on the regulation of private military and security companies operating domestically and on the human rights impacts that their activities might have. The Working Group examined the operation of private military and security companies, including those that are foreign-based, and the mechanisms in place to monitor and oversee the activities of the private security sector. Furthermore, the Working Group considered the role of State and non-State clients of such companies in setting standards, ensuring respect for human rights and facilitating remedies and reparation in case of human rights abuses by private military and security personnel.

III. Definitions and scope

12. The legal definition of “mercenary” is contained in article 47 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 1977. While the definition is cumulative in nature, and therefore narrow, its essence is that a mercenary directly participates in hostilities for substantial private gain (art. 47 (2) (b) and (c)). Mercenarism is not criminalized under article 47. Nevertheless, mercenaries are denied the automatic right to the protections accorded by prisoner-of-war status.⁴ Article 47 of Protocol I Additional to the Geneva Conventions of 1949 is concerned with the definition and status of mercenaries and contains no reference to accountability.

⁴ See International Committee of the Red Cross (ICRC), Customary international humanitarian law database, rule 108 (mercenaries), and rule 106 (conditions for prisoner-of-war status).

13. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries applies beyond armed conflict. Article 1 reflects the definitional criteria in article 47 of Protocol I Additional to the Geneva Conventions of 1949, with the exception of the requirement of direct participation in hostilities. The Convention criminalizes: (a) the recruitment, use, financing or training of mercenaries; (b) the direct participation of a mercenary in hostilities or in a concerted act of violence; and (c) attempting or assisting in the commission of any of the offences set forth in the Convention. It also requires States parties to make the offences set forth in the Convention punishable by appropriate penalties which take into account the grave nature of those offences (arts. 2–5).

14. The Working Group defines the term “private military and security company” as a corporate entity which provides, on a compensatory basis, military and/or security services by physical persons and/or legal entities, including services provided on land or at sea.⁵ Private military and security companies may offer services and operate on land or at sea, or both. The Working Group notes that the maritime security industry and the shipping industry in Greece use the term “private maritime security company”. The Working Group does not use that particular terminology.

15. “Military services” refers to specialized services related to military actions, including strategic planning, intelligence, investigation, land, sea or air reconnaissance, flight operations of any type, manned or unmanned, satellite surveillance, any kind of knowledge transfer with military applications, material and technical support to armed forces and other related activities. “Security services” refer to armed guarding or protection of buildings, installations, property and people, any kind of knowledge transfer with security and policing applications, development and implementation of informational security measures and other related activities.

16. The Working Group has observed that there are certain specificities and challenges – both operational and legal – associated with the provision of maritime security services, such as anti-piracy operations, floating armouries and jurisdiction at sea. However, there are also significant overlaps with land-based security operations, such as the guarding of assets and provision of security intelligence.⁶ Land-based and maritime security cannot always be strictly distinguished from each other. The Working Group has highlighted the importance of focusing on the types of services carried out by private military and security companies operating in the maritime context, given the mutable nature of their operations, the complex corporate structures employed by the industry, its clients and flag States, and the potential risks to human rights posed by maritime security operations.

17. For the purpose of clarity and understanding of the terminology used throughout the present report, “flag State” is taken to mean “a State whose flag a ship flies and is entitled to fly” and its duties are set out in article 94 of the United Nations Convention on the Law of the Sea.⁷ Each State has the right to sail ships flying its flag on the high seas and the Convention gives such a State the right to exercise certain rights and duties in relation to those ships that bear the nationality of that flag State.⁸ A flag State thus exercises “primary legislative and enforcement jurisdiction over its ships on the high seas”.⁹

18. In the absence of a universal legal definition and for ease of reference, the Working Group uses the term “migrants” to refer to all persons who are outside the State of which they are a citizen or national or, in the case of stateless persons, their State of birth or habitual residence. The term includes migrants who intend to move permanently or temporarily and those who move in a regular or documented manner, as well as migrants in irregular situations. The term “migrants” encompasses different categories of persons, such as asylum-

⁵ [A/HRC/15/25](#), annex, part I, art. 2.

⁶ See [A/77/268](#).

⁷ See United Nations Convention on Conditions for Registration of Ships (1986), art. 2 (definitions), and art. 4 (1). See also Richard A. Barnes, “Flag States”, in *The Oxford Handbook of the Law of the Sea*, Donald B. Rothwell and others, eds. (Oxford, Oxford University Press, 2015).

⁸ United Nations Convention on the Law of the Sea, art. 90.

⁹ Barnes, “Flag States”.

seekers, refugees and migrant workers. The term is without prejudice to the protection regimes that exist under international law for specific legal categories of non-nationals.¹⁰

IV. Legal framework

19. Greece has ratified the four Geneva Conventions of 12 August 1949 and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted on 8 June 1977. Greece has yet to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

20. The Working Group notes that Greece has ratified a number of international conventions, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention against Torture, the Convention on the Rights of the Child, the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention relating to the Status of Refugees. It has also acceded to the Protocol relating to the Status of Refugees, the Rome Statute of the International Criminal Court and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Furthermore, Greece has ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and Protocols No. 1 and No. 2 thereto.

21. Greece is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure or the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

22. The Working Group also notes that Greece was an early signatory of the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict, which reaffirms the existing obligations of States under international law, in particular international humanitarian law and human rights, relating to the activities of private military and security companies in armed conflicts.¹¹ Greece is also a member of the Montreux Document Forum and its Maritime Working Group, which is mandated to examine the relevance of the Montreux Document to maritime security.¹²

V. Mercenarism and mercenary-related activities

23. While Greece is a party to Protocol I Additional to the Geneva Conventions of 12 August 1949, it is not a State party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. The Working Group was informed that ratification of that Convention was not currently under discussion within the Ministry of Justice. There is no specific provision criminalizing mercenarism in the Penal Code. Officials informed the Working Group that there are no reported cases of Greek nationals being involved with mercenary groups active in hostilities in the country or abroad, or any instances of mercenaries being transferred to other countries through Greece. The delegation was told that there is no regulation in place that would specifically penalize the recruitment of mercenaries to participate in a foreign conflict.

24. The Working Group considers that the absence or lack of identification of the phenomenon of mercenarism and the derogative connotations of the term “mercenary” may be factors contributing to the low level of ratification of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. The Working Group has appealed to all States Members of the United Nations to ratify the Convention, as it remains

¹⁰ A/HRC/45/9, para. 16. See www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf.

¹¹ See <https://www.montreuxdocument.org/about/montreux-document.html>.

¹² See <https://www.montreuxdocument.org/about/maritime-working-group.html>.

an important international legal instrument for the prevention of the use of mercenaries as a means of violating human rights and the right of peoples to self-determination. Furthermore, the Working Group considers that the ratification of the Convention and adoption of national legislation in line with it would allow Greece to take a step forward in its response to tackling mercenarism and responding to cases such as the transfer of mercenaries through the country to participate in conflict areas in the region. The Working Group has publicly expressed concern about the ongoing recruitment, financing, use and transfer of mercenaries and mercenary-related actors in and out of different conflict situations around the world and has called on States to implement effective international and national regulation to ensure accountability and remedies for human rights violations perpetrated by those actors.¹³

25. The Working Group was informed that the anti-terrorism provisions in the Penal Code, among others, would be used in cases of mercenarism, depending on the facts of the case, although no such cases have been prosecuted to date. Particular reference was made to the articles of the Penal Code that penalize incitement to commit crimes, violence or dissension (art. 184), offering incentives for the commission of a crime (art. 186) and acts of terrorism and terrorist organization (art. 187 (a)). Acts of terrorism are defined in article 187 (a) (para. 1) and article 187 (a) (para. 2) provides for punishment by imprisonment of up to ten years for becoming a member of a structured and continuously operating group of three or more persons acting in concert and seeking to commit acts of terrorism. Inciting or contributing to the commission of a terrorist act or participation in a terrorist organization by providing instructions, information or directions through the recruitment of individuals constitutes a criminal offence (art. 187 (a) (para. 4)). The law also criminalizes travelling with the aim of committing or contributing to the commission of a terrorist act, participating in the activities of a terrorist group, or providing or attending training for the commission of terrorist acts (art. 187 (a) (para. 7)). The Working Group notes that persons suspected of travelling to engage in conflict owing to financial incentives or other motivations, and who engage in combat activities, could be prosecuted. The Working Group has identified foreign fighters as one category of actor that may engage in activities related to mercenarism but may fall short of the strict definition of a mercenary under the applicable international legal framework. They nevertheless share many of the characteristics of mercenaries and engender similar risks and impacts.¹⁴

26. In relation to the extraterritorial application of Greek criminal law, articles 5 to 11 of the Penal Code stipulate the different circumstances in which the law is implemented. Article 5 refers to the application of Greek law for crimes committed in the territory of the country by nationals and non-nationals, and stipulates that Greek ships are considered to constitute Greek territory irrespective of where they are located, unless under international law they are subject to foreign law. There are provisions that refer to the circumstances under which national law is implemented for crimes committed abroad by a national (art. 6) and for crimes committed by foreigners abroad (art. 7). Furthermore, the law refers to specific crimes that, irrespective of where they were committed and whether they are perpetrated by nationals or foreigners, are punishable in accordance with Greek criminal law. They include terrorist acts and any other crime for which special provisions or international conventions signed and ratified by Greece provide for the application of Greek criminal law (art. 8 (f) and (k)). The Working Group has observed that extraterritorial jurisdiction is key to ensure accountability and judicial remedy for victims of mercenaries, mercenary-related actors and private military and security companies.¹⁵

27. Moreover, articles 156 and 164 of the Greek Military Penal Code refer to acts committed by Greek soldiers against prisoners of war that constitute criminal offences. In addition, article 163 penalizes violence against citizens of the other party to the conflict.

¹³ See <https://www.ohchr.org/en/statements/2022/03/statement-un-working-group-use-mercenaries-warns-about-dangers-growing-use?LangID=E&NewsID=28210>.

¹⁴ See [A/73/303](#).

¹⁵ See [A/HRC/51/25](#).

VI. Private military and security companies

A. National legal and institutional framework on private security companies

28. While the specific term “private military and security company” is not recognized in Greek law, the private security industry is regulated by Law No. 2518/1997, which was amended and completed by Law No. 3707/2008. It establishes a legal framework for the licensing and operation of providers of private security services, both companies and individual security guards. The competent national authority in charge of drafting and amending legislation regulating the private security industry is the Ministry of Citizen Protection. Law No. 2518/1997 stipulates that private security companies and their personnel are subject to the supervision of the police and should provide assistance to police officers if necessary, particularly in the context of combating criminal activity (art. 7).

29. Law No. 2518/1997 provides that private security companies are required to obtain a licence to operate, and to comply with the obligations established by the law, including the requirement to hire personnel that have obtained a specific licence to carry out security activities. The law stipulates that certain criteria must be satisfied in order to obtain corporate or individual licences. An individual must have no criminal record or be the subject of criminal proceedings. Individuals must satisfy specific requirements, including undertaking vocational training provided by either private or public institutions. The certification of the training process is carried out by the Centre for Security Studies of the Hellenic Police, by way of examination. The Working Group was informed that the Ministry of Education is responsible for the content of the training provided and that the licences are granted for five years. There are two different types of licence, type A being provided automatically to former police officers and military personnel. Trainers are often retired police officers, lawyers and psychologists and basic vocational training in unarmed skills is provided, including in the following areas: soft policing skills such as security planning, critical infrastructure, identifying vulnerabilities and recognizing threats; monitoring of closed-circuit television; first aid; fire training; communication skills; non-verbal communication; and legal aspects. The delegation was also informed that the duration of training is dependent on the nature of the provider and the certification. Certification for a type A licence is awarded by private educational institutions (e.g. vocational training institutes and lifelong learning centres), after training lasting 105 hours, six months or four or five semesters. Certification for a type B licence is awarded by public or private educational institutions after a period of study lasting up to four years.

30. Criminal and administrative sanctions are stipulated for companies and individuals in cases of non-compliance with the law, including the provisions on licensing (e.g. the employment by private security companies of unqualified guards) or where crimes are committed. Criminal sanctions include imprisonment for up to three years (art. 8), while administrative sanctions include the imposition of an administrative fine on the private security company ranging from €20,000 to €200,000 and the temporary or permanent withdrawal of the licence granted to the private security company (art. 9). If, within a period of five years, two administrative fines have been imposed, the licence will be revoked temporarily for a period of between 20 days and six months. In case of a third violation within a period of five years, the licence will be permanently revoked (art. 9). The law also stipulates the imposition of administrative sanctions on security personnel who violate specific provisions of the law, including the temporary and permanent withdrawal of their work permit.

31. Three ministerial decisions complement Law No. 2518/1997: Common Ministerial Decision No. 1016/109/121-I, on administrative sanctions against private security companies and their staff for violation of Law No. 2518/1997; Ministerial Decision No. 1016/109/121-j, on supporting documents and procedure for the provision of private security services; and Ministerial Decision No. 1016/109/149-a, on supporting documents and procedure for the issuance of work permits for security personnel. Those decisions provide clarification and additional information on the administrative penalties imposed for violations of Law No.

2518/1997 and on the framework and procedure for the issuance of licences for private security companies and security personnel.

32. The Working Group was informed about measures that have been taken by the Hellenic Police Headquarters through the Police Services in the areas of their competence, aimed at strengthening the monitoring of private security companies and their personnel and ensuring that they operate within the legal framework. The delegation was also informed that victims of crimes committed by private security guards can submit complaints to the police. The Working Group observed that there is an overarching disaggregation of competences across various ministries in relation to the enforcement of the legal framework, which is not conducive to the proper and effective monitoring and oversight of the activities of the private security sector.

33. The duties of private security guards encompass, among others, the guarding of people and property. The Working Group was informed that in Greece, private security guards are unarmed when carrying out such duties. They are not permitted to carry firearms or any other weapons (e.g. batons, pepper spray or tasers), are not permitted to use force in carrying out their duties and have no power of detention; those functions remain within the sole jurisdiction of the Hellenic Police. The delegation was informed that there are occasional cases in which private security personnel may carry weapons, for example in the context of close protection of individuals.

34. The Working Group has expressed concern about the risks to respect for human rights generated by the outsourcing of services by States in different contexts, including in the migration context. The Working Group considers that the contractual obligations to which private security companies are subjected should be aligned with internationally recognized human rights standards. While the outsourcing of inherent State functions is not a violation of international law per se, it is imperative to take into consideration the fact that it creates risks for the violation of human rights, including obstacles to accountability and remedy for victims of human rights violations.

B. Private security companies in the maritime context

35. The use of private security companies in the maritime context has grown exponentially in response to the increase in the threats of piracy and armed robbery against merchant ships in areas at sea where there is considered to be a high risk of such incidents occurring. Multiple strategies have been adopted by States to deal with those challenges, including the adoption of legislation by flag States of vessels, regulating the operation and hiring of armed private military and security companies to protect vessels in areas where the risk of piracy and armed robbery is high.¹⁶ During its visit, the Working Group highlighted the fact that, while the use of private military and security companies creates the potential for more secure maritime transit, the activities of those actors need to be effectively regulated and monitored in order to prevent human rights violations in that context and to ensure accountability.

36. The Working Group was interested in exploring the use and regulation of private military and security companies in the maritime context, given the position of Greece as the world's largest ship-owning State. The Working Group was informed that Law No. 4058/2012 regulates the provision of private security services by armed guards to Greek commercial vessels. Furthermore, Joint Ministerial Decision No. 641-36-2/12 specifies matters relating to the authorization of the provision of private security services by armed guards embarking and disembarking from Greek merchant ships through foreign ports. The Working Group noted that the use of armed guards on Greek flag vessels and Greek-owned vessels has emerged as a response to the need to protect the merchant fleet from pirate attacks in the area of the Indian Ocean around the Horn of Africa designated by the International Maritime Organization (IMO) as a high risk area.

37. The legislative authorization of armed guards applies to their use in high risk areas. During its visit, the Working Group was informed that those areas were defined in Joint

¹⁶ See [A/77/268](#).

Ministerial Decision No. 641-36-2/12 as sea areas designated by IMO, particularly areas around the Red Sea, from the Gulf of Aden to the Strait of Hormuz and the northern part of the Indian Ocean, including the Arabian Gulf and the Mozambique Channel (art. 4). The Working Group was informed that in January 2023, article 4 of the Joint Ministerial Decision was amended by Common Ministerial Decision No. 2152.20/5207/2023, as a result of the declassification on 1 January 2023 of the area as a high risk for piracy attacks.¹⁷

38. The Directorate of State Security of the Hellenic Coastguard Headquarters has the exclusive competence to issue the required authorization for merchant vessels under the Greek flag to deploy armed security guards. Law No. 4058/2012 stipulates that private armed guards may provide security services to commercial vessels that sail seas under the threat of piracy¹⁸ and protect the crew, the vessel and the cargo from attacks (art. 1). Furthermore, Law No. 4058/2012 regulates different aspects of the provision of security services by armed guards, including the terms and conditions of the authorization of armed guards to operate (art. 2), the validity and length of the authorization (art. 3), the rights of the crew (art. 5), safety and the use of weapons (art. 6), the obligations of the captain (arts. 7 and 8) and the penalties established in case of violation of the law (art. 10).

39. The Working Group notes that, to date, no complaints have been received by the relevant authorities regarding the behaviour of armed guards on Greek vessels, and that there have been no arrests or prosecutions relating to human rights violations perpetrated by armed guards operating in commercial vessels. The delegation was informed of reports indicating that living conditions on Greek merchant vessels are generally adequate.

40. As noted above, the legislation in place regulating private security companies does not allow private security personnel to be armed. The Working Group received information about the hiring of foreign private military and security companies that do not fall under Law No. 4058/2012 and Joint Ministerial Decision No. 641-36-2/12. The personnel of those companies are regulated under the legal frameworks of the third party country in which the companies are registered. The delegation was informed that the Directorate of State Security of the Hellenic Coastguard Headquarters takes some measures to oversee the hiring process of those personnel and that certain minimum requirements must be met by them and attested by the legal representatives of the companies (e.g. age of the individuals, basic knowledge of maritime security procedures, knowledge of the English language, expertise on weapons and concerning any criminal records).

41. The Working Group has concerns about the oversight mechanisms in place to monitor the operation of those foreign security personnel and companies, and their ability to ensure that they comply with standards that could prevent human rights violations in that context (e.g. training undertaken by security personnel). In addition, the Working Group is concerned about the oversight and evaluation of the foreign private military and security companies that could be granted authorization under Law No. 4058/2012 and Joint Ministerial Decision No. 641-36-2/12. The Working Group considers that measures should be taken to strengthen the monitoring and oversight mechanisms of the activities of private security companies, including foreign companies and armed security personnel operating in the maritime context, to ensure accountability for human rights violations committed by those actors. Although the use of private military and security companies contributes to more secure maritime transit, the Working Group has voiced concern about the impact that it can have on human rights, particularly in cases of disproportionate use of force, violations of the rights to life, liberty and other physical integrity rights and abuses of labour rights. The domestic legal regimes, especially of flag States – in the present case Greece –, play an important role in preventing those violations (e.g. through the regulation of the use of force and the vetting and training of personnel) and ensure accountability and access to justice for victims.

42. Concerning the use of force by authorized security personnel on vessels, Law No. 4058/2012 stipulates that the use of weapons by armed guards is allowed in high risk areas

¹⁷ See <https://www.imo.org/en/MediaCentre/Pages/WhatsNew-1821.aspx>.

¹⁸ As defined in arts. 101 and 103 of the United Nations Convention on the Law of the Sea (Law No. 2321/1995 on sanctioning the United Nations Convention on the Law of the Sea and the Agreement relating to the implementation of part XI of the Convention).

in response to imminent threats to the crew, the vessel or its cargo and as required to prevent an incident, and with the authorization of the Master Mariner (art. 6). The Penal Code provides for the proportionate use of force for the purpose of self-defence. The Working Group was informed that incidents of disproportionate use of force have not been reported to the relevant authorities. If any were reported, there would be substantial challenges to investigating the incidents, given that ships are far away from land and there are practical obstacles in relation to their monitoring. The relevant authorities in Greece noted that the authorities in the regions where the ships transit would be in a more favourable position to investigate any reported incidents owing to their proximity to the vessel.

43. In relation to the jurisdiction to investigate crimes perpetrated on board a Greek vessel, the Penal Code stipulates that Greek ships are considered to constitute Greek territory, irrespective of where they are located. Greek law applies for crimes committed by nationals and non-nationals on board, unless under international law they are subject to foreign legislation (art. 5). The Master of the ship has the authority to report and detain perpetrators until they reach the authorities. The Working Group was told that to date, there have been no complaints lodged in domestic courts in relation to crimes committed by armed security personnel on board Greek vessels. The delegation noted that the deployment of armed guards on Greek vessels has been satisfactory and that their use across the high risk areas has contributed to the substantial reduction of piracy-related attacks.

44. The Working Group is concerned about reports received in relation to violations of labour rights of the personnel hired by foreign private military and security companies to provide security on merchant vessels. The Working Group received information suggesting that there are cases of inadequate working and living conditions in foreign-owned floating armouries in which armed guards are stationed between deployments. The Working Group was told that there are instances in which approximately 60 to 200 guards, including Greek nationals, are accommodated on poorly maintained foreign vessels, with limited or no access to drinking water, poor quality food, limited access to showers and no laundry facilities. The Working Group has noted that often, maritime private military and security companies resort to storing firearms and accommodating personnel in floating armouries to avoid the legal requirements pertaining to the transport and carrying of weapons. The Working Group considers that to be of significant concern, as floating armouries operate in some cases in a legal grey area. That phenomenon highlights the importance of clear national regulations governing the operation, management and use of floating armouries.¹⁹

45. The operation of private security companies and their personnel in the maritime context often gives rise to certain specificities concerning violations of labour standards. Maritime operations of private security companies pose unique threats to the health and safety of security personnel, including physical, psychological and social factors. Therefore, the Working Group considers that adequate measures need to be taken to ensure compliance with labour standards and adequate working conditions for hired national and foreign security personnel.

46. The Working Group was pleased to learn that Greece is a member of the Montreux Document Forum and its Working Group on the use of private military and security companies in maritime security. Furthermore, the Working Group recognizes that the reference document²⁰ developed by the Chair of the Maritime Working Group of the Montreux Document Forum constitutes key guidance to assist States in regulating the private military and security industry in maritime contexts and encourages Greece to fully adopt the standards it contains.

C. Private security companies in the migration context

47. The outsourcing of security in Greek migrant detention and management facilities to private military and security companies is justified by the national authorities on the grounds that there is a need to ensure safety within the facilities and to support the activities of the

¹⁹ [A/77/268](#).

²⁰ See <https://www.montreuxdocument.org/news/referencedocument.html>.

national authorities. The Working Group noted that the Ministry of Migration and Asylum has contracted unarmed private security guards from four different companies under European Union public procurement procedure EASO/2016/453 to operate in Greek migration facilities. The tender sets out minimal qualifications for guards providing security services and requires the private security company to ensure basic training of the security personnel in compliance with national legislation. Furthermore, the tender requires security personnel to “be polite towards migrants, guests and employees”. The Working Group considers that there is a heightened risk of human rights abuses associated with the provision of private security services in those facilities, regardless of the activities that the security personnel carry out, owing to several factors, including the extent of control the private security personnel have over the facility and the migrants, the remote location of some of the facilities and the situation of vulnerability in which migrants in the facilities find themselves. The Working Group has concerns about the lack of training for security guards to work in Closed Controlled Access Centres. It notes the need to provide guards with special training, given the particular environment in which they operate and the interaction that they have with vulnerable groups, including migrant women and children.

48. The Working Group acknowledges the willingness of the Government to enhance the conditions under which migrants are received in the country. It also takes note of the information provided by the Ministry of Migration and Asylum on the improvements made to those Centres, aimed at preventing overcrowding and ensuring safety within the facilities. The use of private security guards may contribute to increased safety levels in reception centres by the scanning of objects, verification of the individuals who enter the facilities and the reporting to the police in case of incidents. The Working Group notes that those safety measures have improved the conditions in the newly established centres, particularly in comparison to their predecessors such as the “The Jungle” settlement in Samos. Nevertheless, the Working Group considers that the structure and operation of those facilities contribute to a highly securitized and oppressive environment, which poses a risk to human rights. The Working Group is concerned about the impact that the environment has on the well-being and mental health of the migrants in the Closed Controlled Access Centres, considering their situation of vulnerability and the possible re-traumatization that some individuals may experience by being exposed to that environment. The Special Rapporteur on the situation of human rights defenders expressed similar concerns in her report on her visit to Greece in June 2022. She noted that the improvements in reception facilities appear to have been accompanied by a progressive move towards more securitized structures which, in combination with the remote locations of such facilities, appear to be having a negative impact on the movement both of asylum-seekers and those trying to assist them.²¹

49. During its visit, the Working Group highlighted the importance of strengthening oversight over private military and security companies and security personnel operating in Closed Controlled Access Centres to ensure that their activities comply with human rights standards. It also highlighted the need to ensure that adequate complaint mechanisms are in place to strengthen accountability and access to justice for human rights violations occurring in that context.

D. Samos Closed Controlled Access Centre

50. The Samos Closed Controlled Access Centre, which is located in Zervou area in the east of Samos, was opened on 18 September 2021 and was the first Closed Controlled Access Centre in Greece. In 2022, similar facilities started operating on the islands of Kos and Leros and two additional facilities are being constructed in on Chios and Lesbos. The Samos Closed Controlled Access Centre is guarded by the Hellenic Police and personnel from the G4S private security company. The centre is a modern and highly securitized facility that accommodates undocumented migrants who arrive on the island of Samos and are, according to national legislation, subject to reception and identification procedures. The centre has an official capacity of 3,000 individuals and an “open door” regime that runs from 7 a.m. to 9.30 p.m.

²¹ See [A/HRC/52/29/Add.1](#).

51. At the Samos Closed Controlled Access Centre, the Working Group met with the Director and representatives of G4S. The delegation was informed that G4S has provided migration security services in Greece since 2015, and provides security in the centres in two other locations (Kos and Lesbos). The delegation was also told that, in the Samos Closed Controlled Access Centre, approximately 40 unarmed G4S guards patrol and monitor the centre per shift, except at night, when 14 guards are on duty. Approximately 105 guards are employed in total, 45 per cent of whom are women and 55 per cent men.

52. The Working Group was informed that G4S is involved in activities that include the guarding of different areas of the Closed Controlled Access Centre and screening of persons entering and exiting the facility, which involves searches with the use of portable metal detectors or magnetic gates. The security personnel are required to be in continuous contact with the police and to report situations that are out of the ordinary. They are not permitted to intervene directly to control any incident. The delegation was also told that guards are not allowed to carry weapons and are not permitted to use force, except in self-defence, in accordance with the law. They are also not permitted to arrest or detain individuals or to carry out searches, given that such powers are the sole jurisdiction of the police.

53. The Working Group noted that, in practice, it is unclear how the roles of the private security personnel and the police are divided within the Closed Controlled Access Centre. For example, the delegation observed that the private security guards were present at the entrance to the facility and operate the x-ray machine and electronic searches. Indeed, they appeared to be mainly in charge of the operations within that area of the centre. The Working Group was informed that physical searches may only be performed by police officers. The Working Group did not receive further information on how those tasks are divided in practice between the police and the private security personnel. The Working Group considers that the adoption of measures to ensure clarity in relation to the division of labour between private and public actors is key, in order to ensure accountability for any human rights violations in that context.

54. In relation to the complaint mechanisms in place in case human rights violations occur inside the Closed Controlled Access Centre, the Working Group was informed that the private security company has a reporting protocol in the event of incidents, according to which guards are obliged to inform the Security Manager, who in turn informs the Director of the centre and the police. If a guard is the subject of a complaint or involved in an incident, he or she will be taken off duty and replaced, either temporarily or permanently. The Working Group was told that investigations into any reported violations within the centre are conducted internally and through the police and the public prosecutor.

55. The delegation observed that there is a lack of adequate training for the security guards beyond the basic training required to obtain a security guard licence. The Working Group was told that there is no mandatory training for security guards on human rights protections (e.g. the human rights protections to which migrants are entitled, including non-discrimination), sexual exploitation and abuse, or intercultural communication. Similarly, the security personnel do not receive training on their reporting obligations and the complaint mechanisms in place. That is of particular concern to the Working Group, given that security personnel have to interact in the discharge of their functions with migrants and asylum-seekers, including women, children, persons with disabilities and LGBTIQ+ persons.

56. The private security company operating in the Closed Controlled Access Centre and the Ministry of Migration and Asylum acknowledged that the training provided to security personnel could be strengthened. The delegation noted that most of the guards are local to Samos and cannot communicate well in English or other foreign languages, which may contribute to misunderstandings and the escalation of incidents. The Working Group considers that training criteria and curricula provide a key opportunity to raise awareness about human rights and to train personnel to carry out their functions in that environment and on their obligations in that context, to recognize human rights impacts, to identify the occurrence of human rights violations and to learn about the complaint mechanisms in place. The delegation was informed that, while training has been offered by United Nations entities and other actors on protection principles (e.g. treatment of people in distress, prevention of discriminatory behaviour and the psychological impact of forced migration), those training sessions have been provided outside of working hours and were unpaid, therefore making it

problematic for security personnel to attend. Nevertheless, the Working Group learned that a number of security personnel attended the training in their own time.

57. The Working Group also observed that migrants in the Closed Controlled Access Centre often face difficulties in identifying security guards and distinguishing them from the police. That poses difficulties in relation to migrants' (and guards') ability to report incidents within the centre and their ability to identify those responsible for human rights violations. The Working Group took note of the protocols in place relating to the reporting of incidents within the centre. However, the Working Group has concerns about the complaint mechanisms in place and their compatibility with human rights standards, and the impact that that may have on access to justice and remedy for victims.

58. The Working Group received information from various interlocutors on human rights violations that have allegedly occurred in the Samos Closed Controlled Access Centre. While the reports received refer to incidents of violence within the centre, it was apparently not possible to identify the perpetrators. The delegation was informed about one incident of sexual abuse of a migrant woman in the centre, which allegedly took place at night. The Working Group considers that measures should be taken to ensure adequate monitoring of the centre and the safety of the individuals within the facility. Such measures should involve adequate oversight of the activities of security personnel operating in the centre during both day and night shifts.

59. The Working Group also received information concerning allegations that migrants in camps located in the Evros region had been hired as a form of private security and deployed in violent pushback operations. The Working Group is concerned about those allegations and urges the relevant authorities to investigate them. The authorities should put measures in place to prevent any instances in which migrants could be hired or involved in that type of activity or other activities that involve labour or economic exploitation.

E. New technologies

60. The Working Group noted the use of high-tech security systems in communal spaces in the Closed Controlled Access Centres, including cameras, motion sensors and algorithms to automatically predict behaviour and flag threats such as the presence of guns, unauthorized vehicles and unusual visits. Those disproportionate security and surveillance measures developed by private technology companies infringe on the fundamental rights of those held in the centres, including their rights to freedom of movement and privacy. The Working Group also received reports that give rise to concern about the wider societal implications and impacts of the unregulated use of new technologies in the security context.

61. The Working Group is concerned about the impact of those new technologies on the migrants in the Closed Controlled Access Centres and the reliance of private security companies or the police on them to make decisions and operate within the facilities. There is a need to take measures to ensure the responsible and secure use of information and new technologies and the absence of automation bias, considering that certain surveillance measures may have negative impacts on human rights. The Working Group cautions against increased securitization in the migration context, which is often exacerbated by the use of new technologies, particularly surveillance technologies. The heavy reliance on new technologies often provided by private actors may, in practice, lack the requisite human judgment and risk resulting in potentially serious errors. In that context, the use of high-tech systems requires that adequate legislation be put in place to regulate the operation of those actors and the adoption of measures that ensure effective oversight of their activities to prevent human rights violations.

VII. Conclusions and recommendations

62. **Greece has yet to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. There is legislation in place to combat terrorism that can be implemented to punish some of the activities of mercenaries and mercenary-related actors. The Working Group highlights the importance of ratifying**

the Convention to prevent mercenarism and considers that ratification could be a step forward in response to the growing use of mercenaries and mercenary-related actors in armed conflicts around the world. Greece prohibits the operation of private military companies and has adopted legislation to regulate the private security industry. However, measures should be taken to avoid the disaggregation of competences across the various authorities to ensure the proper and effective monitoring and oversight of the activities of private security companies. The Working Group acknowledges the measures taken to regulate the activities of armed guards in the maritime context and was pleased to learn that their deployment on Greek vessels has contributed to a substantial reduction in piracy-related attacks. Addressing the specificities of the operation of private security in the maritime context is key to ensuring accountability for human rights violations. With regard to the operation of private security companies and security personnel in the migration context, government efforts to strengthen existing complaint mechanisms and ensure the prevention of human rights violations and protection of vulnerable groups are necessary.

63. In the light of the findings detailed in the present report, the Working Group recommends that the Government of Greece:

Mercenaries and mercenary-related activities

(a) Consider ratifying the International Convention against the Recruitment, Use, Financing and Training of Mercenaries (1989) in the light of the upward global trends in mercenarism and mercenary-related activities, as well as proxy recruitment;

(b) Consider incorporating the crime of mercenarism in the national legal framework to complement the existing legislation on terrorism that touches on mercenary-related activities and also consider criminalizing the recruitment, training, financing and use of mercenaries, as well as enabling the extradition of suspected mercenaries;

(c) Take the measures necessary to identify instances of recruitment, use and transfer of mercenaries and mercenary-related actors;

Private military and security companies

(d) Notwithstanding the existing police oversight mechanism, consider establishing a coordinated and independent mechanism to monitor and oversee the private security sector, including the use of new technologies;

(e) Take the measures necessary to ensure the continuous improvement and development of the vocational training of private security personnel provided by public and private institutions, including on human rights, respect for cultural diversity and sexual exploitation and abuse, and consider adopting measures to ensure increased harmonization between the training provided by public and private institutions;

(f) Consider participating in the sessions of the open-ended intergovernmental working group to elaborate the content of an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, without prejudging the nature thereof;

Private security companies in the maritime context

(g) Adopt measures to ensure the adequate oversight and monitoring of the activities of armed security personnel authorized to operate under the requirements stipulated in the recently adopted Common Ministerial Decision No. 2152.20/5207/2023 which, the Working Group was informed, amends various provisions of Common Ministerial Decision No. 641.36-2/12, particularly in relation to the classification of high risk areas;

(h) Adopt the measures necessary to ensure the monitoring and regulation of foreign private military and security companies operating at sea, particularly those that are not regulated under Law No. 4058/2012;

(i) Ensure that human rights violations perpetrated at sea are duly investigated and that labour standards are respected by private military and security companies;

(j) Consider mutual cooperation in order to facilitate investigations and prosecution, including through legal assistance and extradition agreements, to ensure effective remedies;

(k) Take the measures necessary to ensure effective monitoring, oversight and accountability of private security personnel at sea, strengthen the monitoring and oversight of the deployment of armed private security personnel in the maritime context by foreign private military and security companies, and ensure that those companies comply with international labour standards;

(l) Take the measures necessary to effectively regulate the management, transfer and use of firearms and other weapons, especially in the context of floating armouries, and consider establishing State-controlled armouries onshore to tackle the phenomenon of floating armouries and its impact on human rights;

(m) Continue implementing standards developed by multi-stakeholder initiatives on the provision of private military and security at sea, such as the reference document of the Montreux Document Forum Working Group on the use of private military and security companies in maritime security, entitled “Elements for a maritime interpretation of the Montreux Document”, in which the Group sets out good practices relating to the hiring of maritime private military and security companies;

(n) Take the steps necessary to ensure that the private military and security companies authorized to operate at sea are certified members of the International Code of Conduct for Private Security Service Providers’ Association and/or are certified to ISO/PAS 28007-1:2015;

Private security companies in migration context

(o) Take the measures necessary to ensure that contracts between public agencies and private military and security companies include sufficiently detailed obligations with regard to international human rights standards and that they establish clear delineation of responsibilities, including reporting requirements;

(p) Ensure that any delegation of “security management” does not undermine human rights, and that private actors engaged in migration governance are held accountable for human rights abuses;

(q) Strengthen accountability, oversight and remedy mechanisms to prevent abuses within Closed Controlled Access Centres and protect victims of human rights violations;

(r) Ensure that specific monitoring mechanisms are in place for the private security companies providing security services in the migration context and consider establishing external monitoring and inspection mechanisms of Closed Controlled Access Centres, independent of the inspections conducted by government agencies;

(s) Ensure that all complaints are thoroughly investigated and that companies and their personnel are held accountable for human rights violations and abuses committed against migrants;

(t) Conduct regular and comprehensive reviews of the advanced technologies used in the migration context, with the aim of assessing their human rights compliance, and consider taking additional measures that do not necessarily involve the use of new technologies to ensure the safety of migrants and guards in that context;

(u) Ensure that private security personnel receive training on human rights standards and that the training is mandatory and required by private security companies and the Ministry of Migration and Asylum;

(v) Consider providing officials in charge of asylum processes with training on or information about mercenaries, mercenary-related actors and private military

and security companies and the impact of their activities on human rights, with the aim of facilitating the identification of individuals involved in mercenarism or mercenary-related activities, and provide them with information on the phenomenon of predatory recruitment and the instances in which it amounts to trafficking in persons for purposes of forced labour.

64. The Working Group invites private military and security companies operating in the maritime context to continue working towards raising standards in the industry and to ensure the integration of human rights elements throughout their activities. The Working Group considers that elements to be explored in this regard include the adoption of clear policies and procedures regarding the use of force at sea, the use of floating armouries, the vetting and training of personnel, including in human rights and labour standards, ensuring the adoption of human rights-compatible corporate-level mechanisms and taking the steps necessary to become certified members of the International Code of Conduct for Private Security Service Providers' Association and/or certified to ISO/PAS 28007-1:2015.

65. The Working Group invites shipowners to ensure, when contracting for the use of national and foreign private military and security companies at sea, that those companies have in place clear policies and procedures on vetting and training, the use of force, the management, transfer, use and storage of weapons, especially floating armouries, and human rights and labour standards.

66. The Working Group recommends that private security companies and security personnel operating in the migration context pay particular attention to the human rights risks that their activities may pose, particularly to individuals or groups in vulnerable situations.
