

**JULY 2023**

**Submission to the  
Committee of Ministers of the Council of Europe  
in the cases of  
*M.S.S. v. Belgium and Greece & Rahimi v. Greece***

**12 YEARS AFTER M.S.S:  
REPORTING ON HUMAN RIGHTS,  
ACCESS TO ASYLUM AND DETENTION  
CONDITIONS IN GREECE**

***Joint Submission by  
I Have Rights and Mobile Info Team***



**I HAVE  
RIGHTS.**



**MOBILE  
INFO TEAM**





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## Executive Summary

### A. Introduction

I Have Rights (IHR) and Mobile Info Team's (MIT) submission presents direct evidence obtained through their daily work with asylum seekers, refugees and migrants from two locations in Greece to assist the CM in supervising the implementation of the *M.S.S. v. Belgium and Greece* and *Rahimi v. Greece* cases. They provide evidence of the adequacy of mechanisms currently available in Greece for redressing the violations in question, by commenting on: i) the Greek Government's Communication to the CM dated 20 June 2023 and ii) other key areas relevant to the cases. The submission highlights the living conditions of asylum seekers in Greece - specifically in the Samos Closed Control Access Centre (CCAC) - the lack of access to asylum procedures, and the conditions of detention facilities on mainland Greece.

### B. Summary of Submission

#### a. Living Conditions of Asylum Seekers

##### i. Reception and Identification Procedures and the CCACs

The Government's communication describes the 25-day regime of restriction of movement applied to third country nationals (TCNs) upon arrival to the CCAC for reception and identification procedures. IHR provides evidence that this is an unlawful regime of *de facto* detention that systematically violates asylum seekers' rights under Article 5. IHR maintains that the CCAC does not offer safe living conditions as asserted by the Greek Government, and are especially inappropriate for vulnerable groups, for example survivors of human trafficking and unaccompanied children.

##### ii. Accommodation Facilities (Δομές) and the ESTIA Programme

The Government claims that after reception and identification procedures are concluded, applicants for international protection will be transferred to accommodation facilities that offer "*a stable living environment*" which "*meets essential material, social and educational needs*". Our submission disputes that these basic provisions are met, and raises alarm at the Government's claim in paragraph 12 that the ESTIA programme "*is running*" and provides "*decent living*" considering that the ESTIA programme was closed by the Government, last year. The inclusion of clearly erroneous and outdated information in the Government's communication to the CM suggests at best a lack of rigour and at worst a lack of respect for the procedures of the CM.

#### b. Asylum Procedures

The Government describes the Greek international protection procedure as "*unrestricted and free of charge*". IHR and MIT provide evidence of the structural deficiencies that persist throughout the asylum system that severely restrict access to international protection, including the critical lack of doctors and interpreters available in the Samos CCAC, resulting in inadequate vulnerability assessments and indefinite delays for asylum interviews. Further, MIT details two significant policy changes resulting in virtually non-existent access to asylum procedures on mainland Greece throughout 2022 and continuing into 2023, with ongoing issues caused by the dysfunctional online platform system for registering asylum claims, which remains out of order at time of submitting. Additional evidence is provided pertaining to the lack of capacity of the Greek Asylum Service, delays on issuance of asylum seeker cards and concerns regarding the 100 euro fee for subsequent applications.



### **c. Conditions of Detention**

The Government claims that “*clear instructions*” are provided to the competent Ministries to transfer TCNs “*as soon as possible*” to Pre-Removal Detention Centres (PRDCs) as opposed to police detention facilities. Our submission presents evidence that police stations are in fact routinely used to detain TCNs for extended periods of time on the Greek mainland, in substandard conditions, and often prior to their transfer to a PRDC for a further detention period. Additionally, we counter the Greek Government’s claim at paragraph 21 that PRDCs are closed facilities that “*meet adequate standards for long-term detention*”. We highlight that the Government makes this claim without the provision of any supporting evidence and proceed to present extensive evidence which directly disputes their statement.

### **d. Reception and protection of Unaccompanied Children (UACs)**

The Government comments that UACs are accommodated in “*designated areas in CCACs or RICs, separately from adults and have access to age-appropriate activities and care*”. IHR raises concerns and provides evidence regarding the unsuitability of CCACs for accommodation of children for any period of time, given the inhuman living conditions, systemic deficiencies in the age and vulnerability assessment procedures, lack of access to asylum, a lawyer or to basic services.

## **C. Summary of additional information on Destitution and Pushbacks**


IHR and MIT additionally provide information pertaining to the second violation found in *M.S.S* referring to the circumstances which rendered the applicant homeless and destitute. Our submission discusses the systematic challenges applicants for international protection face in accessing housing, amplified by the closure of the ESTIA programme and evictions in December 2022.

Lastly, as member organisations of the Border Violence Monitoring Network (BVMN), IHR and MIT present evidence that asserts that the risk of return that the Court found in *M.S.S* persists; pushbacks that are systematically carried out from Greece to Turkey, amounting to a serious breach of the right to seek asylum and of the prohibition of *refoulement*.

## **D. Conclusions and Recommendations**

Despite *M.S.S. v. Belgium and Greece* pending implementation for 12 years, serious problems persist affecting a large number of vulnerable people. The submitting organisations recommend, *inter alia*:

- The Committee examines the cases on an annual basis.
- The Committee should request Greece to repeal Article 40(a) of the Asylum Code and end the regime of *de facto* detention in CCACs and RICs.
- The Committee should urge Greece to ensure that vulnerability assessments are carried out prior to applicants for international protection having their personal interview.
- The Committee should request Greece to report on the measures taken, or the measures that will be taken to urgently improve access to health care, interpretation services and the unsanitary conditions in PRDCs.



**I Have Rights (IHR)** is a non-profit refugee law clinic based on the island of Samos. Since beginning operation in March 2022, IHR has provided one to one legal counselling and representation to over 400 asylum seekers and provided legal information to nearly 700 people through our information hotline. IHR closely monitors and documents human rights violations against asylum seekers on Samos, and in particular has published various reports on the Samos Closed Controlled Access Centre (CCAC).<sup>1</sup> IHR engages in advocacy and strategic litigation, including with stakeholders at the Council of Europe, EU and international level to provide evidence from Samos.<sup>2</sup> IHR is a member of the Border Violence Monitoring Network (BVMN).<sup>3</sup>

**Mobile Info Team (MIT)** is a non-profit organisation based in Thessaloniki that provides information and assistance to people throughout all stages of asylum and related procedures across Greece. Beginning operations in 2016, MIT has provided vital information to up to 5,000 individuals per year through our hotlines in six languages. Its legal team offers in-depth support in a wide range of legal matters, including issues related to integration and the Dublin Regulation. Additionally, MIT advocates for changes to the asylum system in Greece by engaging with stakeholders at an EU and international level. Based on its work in Greece, MIT has published numerous reports on the lack of access to asylum,<sup>4</sup> immigration detention centres<sup>5</sup> as well as on the situation of asylum seekers and beneficiaries of international protection with regard to living conditions, integration, and risk of destitution.<sup>6</sup> MIT is a member of the BVMN.<sup>7</sup>

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<sup>1</sup> See for example: I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre - The De Facto Detention of Asylum Seekers on Samos. Available at: <https://ihaverights.eu/de-facto-detention-in-the-ccac/>; I Have Rights. 2023. "They are killing minds"- Life in the Samos Closed Controlled Access Centre. Available at: <https://ihaverights.eu/they-are-killing-minds/>

<sup>2</sup> See for example: I Have Rights and BVMN. 2023. Third Party Intervention to the European Court of Human Rights in *A.B. v Greece* and *D.G. v Greece*. Available at: <https://ihaverights.eu/third-party-intervention-to-the-european-court-of-human-rights/>; I Have Rights and the Border Violence Monitoring Network. 2023. Policy Brief to MEPs on evidence of Aegean pushbacks. Available at: <https://ihaverights.eu/policy-brief-on-new-evidence-of-aegean-pushbacks/> ; I Have Rights and the Human Rights Legal Project. 2023. GREVIO evaluation report on the implementation of the Council of Europe convention on preventing and combating violence against women and domestic violence. Available at: <https://rm.coe.int/joint-report-of-i-have-rights-and-the-human-rights-legal-project-ngos/1680aaa214>; I Have Rights and the International Rescue Committee. 2023. Contribution to EU Ombudsman Consultation: Samos Closed Controlled Access Centre breaks EU human rights standards. Available at: <https://ihaverights.eu/samos-closed-controlled-access-centre-breaks-eu-asylum-standards/> I Have Rise and Still I Rise. 2022. Greece's Compliance with the Convention on the Rights of the Child Additional Submissions Report for the 90th Session of the Committee on the Rights of Child. Available at: [https://www.stillirisengo.org/site/assets/files/1290/final\\_uncrc\\_sir\\_and\\_ihr\\_additional\\_submission.pdf](https://www.stillirisengo.org/site/assets/files/1290/final_uncrc_sir_and_ihr_additional_submission.pdf)

<sup>3</sup> The Border Violence Monitoring Network (BVMN) is a network of non-governmental organisations situated along the Balkan and Greek migration route, whose purpose is to monitor, document and litigate human rights violations at European borders.

<sup>4</sup> Mobile Info Team. 2021. Lives on Hold: Access to asylum on mainland Greece, Crete and Rhodes. Available at: <https://www.mobileinfoteam.org/livesonhold>; Mobile Info Team. 2022. Blocked from the system. Voices of people excluded from the asylum system on mainland Greece, Crete and Rhodes. Available at: <https://www.mobileinfoteam.org/blockedfromthesystem>; MIT. 2022. Control and Containment: Changes in access to asylum on mainland Greece, Crete and Rhodes. Available at: <https://www.mobileinfoteam.org/control>;

<sup>5</sup> Mobile Info Team. 2023. "Prison for Papers": Last Resort Measures Used as Standard Procedure. Available at: [www.mobileinfoteam.org/detention](http://www.mobileinfoteam.org/detention)

<sup>6</sup> Mobile Info Team. 2021. The living conditions of applicants and beneficiaries of International Protection. Available at: <https://www.mobileinfoteam.org/accommodation-report>

<sup>7</sup> The Border Violence Monitoring Network (BVMN) is a network of non-governmental organisations situated along the Balkan and Greek migration route, whose purpose is to monitor, document and litigate human rights violations at European borders.

1. IHR and MIT (hereinafter the submitting organisations) respectfully make this submission to the Committee of Ministers (CM) in relation to the cases *M.S.S. v. Belgium and Greece* and *Rahimi v. Greece* ahead of the CM's meeting in September 2023. Our submission, aims to: 1.1. Provide direct evidence of the adequacy of the mechanisms currently available at domestic level for redressing the violations in question. This evidence comes through the submitting organisations' work both i) providing legal support to asylum seekers and refugees from two locations in Greece, and ii) through their work documenting the treatment of asylums seekers and refugees on Samos and the Greek mainland. We provide comments on the Greek Government's communication to the CM dated 20 June 2023 (Section I) and also in regard to other key areas relevant to the cases *M.S.S. v. Belgium and Greece* and *Rahimi v. Greece* (Section II) and make proposals for remedial action (Section III).
2. An executive summary of this submission can be found at Annex 1.
3. The submitting organisations hope that the direct evidence presented below, gained through the organisations' daily work with asylum seekers, refugees and migrants in Greece, will assist the CM in supervising the implementation of the *M.S.S. v. Belgium and Greece* and *Rahimi v. Greece* cases.

### **Section I - Comments on the Greek Government's Communication**

4. The Greek Government (hereinafter the Government)'s communication puts forward several statements regarding the circumstances and conditions of asylum seekers in Greece. In particular, the Government first focuses on living conditions of asylum seekers in Greece, with an emphasis on the Samos Closed Controlled Access Centre (CCAC), a site often used by the Government as an example of a "model" structure for receiving asylum seekers,<sup>8</sup> despite reports detailing a litany of human rights violations in the CCAC,<sup>9</sup> as well as its dehumanising approach to migration management.<sup>10</sup> The Government then comments on the state of Greece's asylum procedure and detention facilities in Greece. Section I will address the comments of the Government in these areas in turn.
5. As highlighted above, the submitting organisations work directly with asylum seekers, refugees and migrants in Greece and have closely monitored the impact of policies and practices implemented by the Greek Government over recent years. In particular the submitting organisations have reported on the CCAC's compliance with human rights, access to asylum in Greece and conditions of detention facilities on the mainland.

<sup>8</sup> Aljazeera. 2023. EU details alleged violations at Greece's model refugee camps. Available at: <https://www.aljazeera.com/features/2023/5/11/eu-details-alleged-violations-at-greeces-model-refugee-camps>

<sup>9</sup> Medium. 2023. AYS Special from Greece: Protests on Samos CCAC Shed Light on Procedural Violations. Available at: <https://medium.com/are-you-syrious/ay-special-from-greece-protests-on-samos-ccac-shed-light-on-procedural-violations-d5e7bf509c40> [https://rsaegean.org/en/samos-2023/;](https://rsaegean.org/en/samos-2023/)

I Have Rights. 2023. Joint Statement: Call for the closure of the Samos Closed Control Access Centre. Available at: [https://ihaverights.eu/joint-statement-call-for-the-closure-of-the-samos-closed-controlled-access-centre/;](https://ihaverights.eu/joint-statement-call-for-the-closure-of-the-samos-closed-controlled-access-centre/)

I Have Rights. 2023. GREVIO evaluation report on the implementation of the Council of Europe convention on preventing and combating violence against women and domestic violence. Available at: <https://ihaverights.eu/grevio-evaluation-report/>

<sup>10</sup> I Have Rights and the International Rescue Committee. 2022. One year since Greece opened new prison refugee camps NGOs call for a more humane approach. Available at: <https://www.rescue.org/eu/statement/one-year-greece-opened-new-prison-refugee-camps-ngos-call-more-humane-approach>

I Have Rights. 2023. "They are killing minds" Life in the Samos Closed Controlled Access Centre. Available at: [https://ihaverights.eu/wp-content/uploads/2023/06/They-are-killing-minds-Life-in-the-Samos-Closed-Controlled-Access-Centre-.pdf;](https://ihaverights.eu/wp-content/uploads/2023/06/They-are-killing-minds-Life-in-the-Samos-Closed-Controlled-Access-Centre-.pdf)

I Have Rights. 2022. Letter from people in the Samos CCAC. Available at: <https://ihaverights.eu/letter-from-people-in-the-samos-ccac/>

Paragraph 6 of the Government's communication states that, "[...] *the Government has taken further important steps in the direction of streamlining reception of third country nationals (TCNs) in general and in particular in the areas highlighted in the M.S.S. group of cases*".

6. The submitting organisations agree that since the ruling, steps have been taken by the Government to improve reception of applicants for international protection and the asylum system generally. However, certain questions are raised by the latest Government communication, in particular because:
  - 6.1. The statistics provided by the Government are taken from 2022 and the first quarter of 2023. The Government's previous communication to the CM, dated 25th June 2020, referred to 2019 until May 2020.<sup>11</sup> Therefore, evidence from the remainder of 2020 and 2021 have not been presented by the Government to the CM, where serious deficiencies in the reception of asylum seekers and the asylum procedure occurred. The time-period not accounted for in the Government's communications saw extensive wait-periods for first instance asylum decisions, increasing use of administrative detention<sup>12</sup> and an erosion of the rights of asylum seekers in Greece<sup>13</sup> In June 2021, Refugee Support Aegean found that 71% of first-instance applications had been pending for over a year from the date of lodging an application.<sup>14</sup>
  - 6.2. Moreover the 2020 communication only refers to the suspension in the asylum procedure from 13/03/2020 - 15/05/2020 in a footnote as, "*in the context of mitigating the spread of COVID-19*".<sup>15</sup> The Government fails to mention that in March 2020, Greece unlawfully suspended its asylum system for one month in reaction to Turkey encouraging migrants and asylum seekers to cross into Greece.<sup>16</sup> As noted by human rights groups, including the UNHCR,<sup>17</sup> neither EU nor international law allows for countries to suspend individuals' right to seek asylum.<sup>18</sup> It is noteworthy that this widespread practice is not detailed in the Government's communications to the CM.

## Living Conditions of Asylum Seekers

### ***Reception and Identification Procedures and the Closed Controlled Access Centers (CCACs)***

At paragraph 8, the Government details, "*TCNs temporarily reside there in a regime of restriction of their movement*

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<sup>11</sup> Communication from Greece concerning the groups of cases of M.S.S. v. Greece (Application No. 30696/09) and Rahimi v. Greece (Application No. 8687/08).

<sup>12</sup> Greek Council for Refugees and Oxfam. 2021. Detention as Default. Available at: <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621307/bp-detention-as-default-greece-asylum-161121-en.pdf;jsessionid=AE76321CC26843F4874C838605CED732?sequence=1>

<sup>13</sup> OHCHR. 2020. Greece: Rights violations against asylum seekers at Turkey-Greece border must stop. Available at: <https://www.ohchr.org/en/press-releases/2020/03/greece-rights-violations-against-asylum-seekers-turkey-greece-border-must>

<sup>14</sup> Refugee Support Aegean. 2021. The Greek Asylum in the first half of 2021. Available at: <https://rsaegean.org/en/the-greek-asylum-in-the-first-half-of-2021-stats/>

<sup>15</sup> Communication from Greece concerning the groups of cases of M.S.S. v. Greece (Application No. 30696/09) and Rahimi v. Greece (Application No. 8687/08). Page 6.

<sup>16</sup> Human Rights Watch. 2020. Greece Restarts Suspended Asylum Procedure. Available at: <https://www.hrw.org/news/2020/06/05/greece-restarts-suspended-asylum-procedure#:~:text=Greece%20suspended%20its%20asylum%20procedure,or%20their%20countries%20of%20origin>

<sup>17</sup> UNHCR. 2020. UNHCR statement on the situation at the Turkey-EU border. Available at: <https://www.unhcr.org/news/news-releases/unhcr-statement-situation-turkey-eu-border>

<sup>18</sup> Refugees International. 2020. Issue Brief: Blocked at Every Pass: How Greece's Policy of Exclusion Harms Asylum Seekers and Refugees. Available at: <https://reliefweb.int/report/greece/issue-brief-blocked-every-pass-how-greece-s-policy-exclusion-harms-asylum-seekers-and>

within the Centers for a maximum period of twenty-five (25) days, until they undergo the above mentioned reception and identification procedures”.

7. The “restriction of movement” referred to by the Government refers to an unlawful *de facto* regime of detention where, upon arrival to CCACs in Greece, every asylum seeker is by default deprived of their liberty.<sup>19</sup> This regime of *de facto* detention goes beyond a mere “restriction of liberty” as during this period asylum seekers are strictly not permitted to leave the CCAC. This not only systemically violates asylum seekers’ rights under Article 5 but is also the current basis of infringement proceedings against Greece. Evidence of this practice is also provided in the CSO submission of Refugee Support Aegean and Pro-ASYL to the CM.<sup>20</sup>
8. Turning first to asylum seeker’s rights under Article 5, the regime of 25 days of *de facto* detention is not prescribed by law, is without a legitimate aim and deprives asylum seekers of their rights to safeguards as a person deprived of their liberty.
  - 8.1. While Article 40(a) of the Law 4939/2022 allows for a maximum 25-day “restriction of freedom”, it does not prescribe the deprivation of liberty/ detention of asylum seekers, nor does it prescribe a default deprivation of every asylum seeker upon arrival to CCACs in Greece. In this way, the phrasing “restriction of freedom” is used as a terminological fig leaf to obscure the default detention of asylum seekers in CCACs.
  - 8.2. This regime of *de facto* detention is not “necessary to attain the legitimate aim pursued”.<sup>21</sup> Asylum seekers are detained for “identification purposes” despite being provided with an ID document (“the Police Note”) at the same time that they are issued with an order for “restriction of freedom”.<sup>22</sup>
  - 8.3. Finally, there is a lack of safeguards which breach the international standards required when detaining an individual. As this regime of *de facto* detention is automatic, it deprives individuals of their right to an “individual assessment”,<sup>23</sup> thus meaning vulnerabilities remain unassessed<sup>24</sup> and leaving individuals without access to legal information.<sup>25</sup> Asylum seekers on Samos routinely report to IHR that they do not understand the reasons they have been detained. They are not provided with a written decision in a language they can understand that sets out the reasons in fact and law for their detention, as this is only provided in Greek and their *de facto* detention is referred to only as a “restriction of freedom”.<sup>26</sup> The blanket *de facto* detention of individuals in the CCAC is indicative in itself of the Government’s failure to consider detention as a “last resort”.<sup>27</sup>

<sup>19</sup> Article 5 of the European Convention of Human Rights. See also the Reception Conditions Directive, which defines detention as the confinement of an applicant for international protection who is ‘deprived of his or her freedom of movement’.

<sup>20</sup> Refugee Support Aegean and Stiftung Pro-ASYL. 2023. The state of the Greek asylum system, twelve years since M.S.S. Available at: [https://rsaagean.org/wp-content/uploads/2023/07/RSA\\_PRO-ASYL\\_MSS\\_2023\\_Submission.pdf](https://rsaagean.org/wp-content/uploads/2023/07/RSA_PRO-ASYL_MSS_2023_Submission.pdf)

<sup>21</sup> *Riad and Idiab v Belgium*, (First Section) [2008] ECHR, para 99.

<sup>22</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 44. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)

<sup>23</sup> Article 8, Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>

<sup>24</sup> Article 11. *Ibid.*

<sup>25</sup> Article 9. *Ibid.*

<sup>26</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 43. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)

<sup>27</sup> Paragraph 20, Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>



9. Concerns as to regime of 25 days of *de facto* detention's compliance with established human rights standards are reflected by the current infringement proceedings initiated by the European Commission in January 2023, based on the failure of Article 40 of Greek Law 4939/2022 to comply with the requirements of the Reception Directive [2011/95/EU]. In the letter to the Government, the Commission expressly states, "*a person should not be detained simply because he seeks international protection*" and that "*detention of applicants should only be possible in clearly defined, exceptional circumstances provided for in this Directive and governed by the principle of necessity and proportionality as regards both the manner and purpose of said detention*".<sup>28</sup>
10. In addition to the regime of 25 days of detention detailed by the Government in its latest Communication to the CM, IHR continues to document the restriction of liberty of asylum seekers in the CCAC post the 25 day detention period, which constitutes systemic breaches of Article 5 and 3 ECHR. IHR has documented the disproportionate restriction of liberty of those accommodated in the CCAC underpinned by the (i) prison-like architecture and security apparatus; (ii) imposition of rules and curfews; and (iii) isolation from wider society.<sup>29</sup>
11. The CCAC's prison-like characterisation is consistent with the findings of the European Ombudsman, who describes the features of the CCAC including the "*barbed wire fencing [and] extensive surveillance systems*" as "*reminiscent of detention facilities*".<sup>30</sup> The level of control and security within the CCAC is indicative of pervasive restrictions of movement. Individuals are accommodated in containers in specific zones of the CCAC, and must pass through extensive security, check-points, private and state security and fences to enter different zones of the CCAC (see Annex 2 for photos of the CCAC). As per the Greek Ministry of Migration and Asylum's website, the CCAC is "*surrounded by a double NATO-type security fence, which in combination with the installation at the entrance of the necessary control systems, such as magnetic gates, x-rays, two factor access control system (identity and fingerprint), ensured secure and controlled entry and exit from the access centre to whoever is entitled to it*".<sup>31</sup>
12. After being subjected to an unlawful regime of *de facto* detention, asylum seekers are then subject to a curfew between 8am and 8pm,<sup>32</sup> must present themselves in person twice a day before the authorities to receive food,<sup>33</sup> and must report for a weekly consensus.<sup>34</sup> If they do not adhere to the rules, they are threatened with penalties, including *inter alia* the possibility to terminate accommodation and withdraw

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<sup>28</sup> Koraki. 2023. Illegal discrimination and detention - the EU and the Greek government on new arrivals. Available at: <https://www.koraki.org/post/illegal-discrimination-and-detention-the-eu-and-the-greek-government-on-new-arrivals>. Also at: [https://ec.europa.eu/commission/presscorner/detail/en/inf\\_23\\_142](https://ec.europa.eu/commission/presscorner/detail/en/inf_23_142)

<sup>29</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)


<sup>30</sup> European Ombudsman. 2023. Decision in strategic inquiry OI/3/2022/MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece. Paragraph 48. Available at: <https://www.ombudsman.europa.eu/en/decision/en/170792>

<sup>31</sup> Hellenic Republic Ministry of Migration & Asylum. Closed Controlled Access Center of Samos. Available at: <https://migration.gov.gr/en/ked-samoy-kleisti-elegchomeni-domi-samoy/>

<sup>32</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 24. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)

<sup>33</sup> BVMN. 2023. Illegal Pushbacks and Border Violence, March 2023. Page 12. Available at: <https://borderviolence.eu/app/uploads/Monthly-Report-March-2023.pdf>

<sup>34</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 24. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)

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- material reception.<sup>35</sup> Visitors are also not allowed, unless their request is approved by the Reception and Identification Service (RIS) and the Director of the CCAC, with the duration, hours and place of the visit being at the authorities' discretion.<sup>36</sup> This also applies for legal representatives.<sup>37</sup>
13. Crucially, despite being permitted to leave subject to particular rules, many are unable to travel outside the CCAC to the closest town of Vathy given the site's isolated location. With Vathy 8km away, most residents struggle to pay the bus fare or to complete the two hour walk into town, a near impossible task in the summer heat.<sup>38</sup> This disproportionately impacts those who are disabled, elderly or with other protected characteristics who are unable to access key services. The isolation prevents asylum seekers from integrating into society and accessing key services, community projects, religious groups, and/or shops for basic goods.
  14. For these reasons, and for reasons detailed below, IHR asserts that the nature and conditions of the CCAC constitute systemic breaches of Article 5 of the ECHR. Those residing in the CCAC are subjected to restrictions on their liberty, at times amounting to *de facto* detention, due to the prison-like conditions imposed in the CCAC.
  15. The submitting organisations hope that evidence presented above both on the practice of unlawful 25 days of detention and other practices of restriction and deprivation of liberty in the CCAC provide further context to the information provided in the Government's communication.

Also at paragraph 8, the Government claims that during the reception and identification procedures, an initial medical examination is performed by the Medical Screening and Psychosocial Support Unit "*for identification of possible illnesses*".

16. On Samos, in reality these assessments either do not happen or are significantly delayed.<sup>39</sup> There is no doctor on staff at the Medical and Psychosocial Unit of the RIC (staffed by EODY, National Organization for Public Health).<sup>40</sup> In fact, since February 2022, state doctors "*only occasionally visited the center for a limited number of hours*".<sup>41</sup> At the time of writing, the responsibility for carrying out the medical assessments falls

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<sup>35</sup> Article 7 (2) Decision 25.0/118832 of the General Secretary of Reception of the MoMA, Gov. Gazette 3191/B/ 20.7.21 via ECRE. 2023. Reduction or withdrawal of reception conditions. Available at: [https://asylumineurope.org/reports/country/greece/reception-conditions/access-and-forms-reception-conditions/reduction-or-withdrawal-reception-conditions/#\\_ftn4](https://asylumineurope.org/reports/country/greece/reception-conditions/access-and-forms-reception-conditions/reduction-or-withdrawal-reception-conditions/#_ftn4)

<sup>36</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 24. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)


<sup>37</sup> European Ombudsman. 2023. Decision in strategic inquiry OI/3/2022/MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece. Available at: <https://www.ombudsman.europa.eu/en/decision/en/170792>

<sup>38</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 24- 25. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)

<sup>39</sup> I Have Rights. 2022. AYS Special from Greece: Protests on Samos CCAC shed light on procedural violations. Available at: <https://medium.com/are-you-syrious/ay-special-from-greece-protests-on-samos-ccac-shed-light-on-procedural-violations-d5e7bf509c40>; I Have Rise and Still I Rise. 2022. Greece's Compliance with the Convention on the Rights of the Child Additional Submissions Report for the 90th Session of the Committee on the Rights of Child. Page 6. Available at: [https://www.stillirisengo.org/site/assets/files/1290/final\\_uncrc\\_sir\\_and\\_ihr\\_additional\\_submission.pdf](https://www.stillirisengo.org/site/assets/files/1290/final_uncrc_sir_and_ihr_additional_submission.pdf)

<sup>40</sup> This issue is also raised in the Rule 9 submission made by Refugee Support Aegean and Stiftung Pro-ASYL. 2023. The State of the Greek Asylum System, twelve years since M.S.S. Available at: [https://rsaegean.org/wp-content/uploads/2023/07/RSA\\_PRO-ASYL\\_MSS\\_2023\\_Submission.pdf](https://rsaegean.org/wp-content/uploads/2023/07/RSA_PRO-ASYL_MSS_2023_Submission.pdf)

<sup>41</sup> Info Migrants. 2022. Centres on Greek islands lack psychological and medical support, says MSF. See also the following report from March 2022: GCR and Oxfam. 2022. Lesbos Bulletin Update on Lesbos and the Aegean Islands, by the Greek Council for Refugees & Oxfam. Page 5. Available at: [https://www.gcr.gr/media/k2/attachments/20220224\\_Lesbos\\_Bulletin.pdf](https://www.gcr.gr/media/k2/attachments/20220224_Lesbos_Bulletin.pdf)



on one volunteer doctor from the Samos Hospital who visits the camp on an *ad hoc* basis.<sup>42</sup> Asylum seekers report that assessments feel rushed and like a “*tick box*” exercise.<sup>43</sup>

17. Moreover, under Greek law, the purpose of the initial medical screening is not limited to identifying possible illnesses, as suggested by the Government's communication. Under Article 41 and 62 L. 4939/2022, the medical screening process should also serve to identify vulnerable persons so they can be provided with specialised care and protection. Current delays in medical assessments mean that vulnerabilities are not identified until late in the asylum procedure, often after the asylum interview and/or first instance decision, if identified at all.<sup>44</sup> In fact, many of IHR's clients are interviewed without having undergone a full medical assessment. This includes survivors of human trafficking and torture who are not seen by the State-provided psychologist before their interview. This has the (often catastrophic) result that some asylum seekers' vulnerabilities, including those arising from severe trauma, are not recognised or taken into account during the asylum procedure. Furthermore, asylum seekers are not given access to the special reception conditions that they are entitled to by virtue of such vulnerabilities (Article 62 L. 4939/2022, Article 21 and 22 Directive 2013/33/EU).
18. The rushed nature of medical assessments also means that even when medical assessments do take place, vulnerabilities are often not identified. 27% of IHR's clients are survivors of torture and/or serious violence, 17% are survivors of sexual and gender-based violence and around 14% are survivors of human trafficking, yet many of them are not identified as such in their vulnerability assessments due to lack of access to medical and psychosocial support. IHR made a submission to the UN Special Rapporteur on Trafficking in Persons, Especially Women and Children in October 2022, which detailed first-hand accounts of fourteen of IHR's clients, all survivors of human trafficking. Of the fourteen, only three were designated as such in the psycho-social evaluation of the vulnerability assessment.<sup>45</sup> In IHR's experience, only where a person explicitly states that they are a survivor of human trafficking or sexual violence are they referred to a psychologist for a psychosocial evaluation for their vulnerability to be assessed.<sup>46</sup>
19. The submitting organisations hope that this information provides nuance to the Government claims that during the reception and identification procedures, an initial medical examination is performed by the Medical Screening and Psychosocial Support Unit.

At paragraph 8 and 9 respectively, the Government claims that those belonging to vulnerable groups are provided “*special care and support*” and that the CCAC is equipped with “*special structures for vulnerable individuals*”.

20. It is unclear to the submitting organisations what the Government refers to when claiming the CCAC is

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<sup>42</sup> International Rescue Committee and I Have Rights. 2023. Contribution to the European Ombudsman's strategic inquiry into how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman\\_Submission\\_IRC\\_IHR\\_Jan-2023\\_final.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman_Submission_IRC_IHR_Jan-2023_final.pdf)

<sup>43</sup> I Have Rights. 2023. Fighting human trafficking - review of EU rules, Feedback from I Have Rights. Available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13106-Lutte-contre-la-traite-des-etres-humains-reexamen-des-regles-de-lUE/F3389760\\_fr](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13106-Lutte-contre-la-traite-des-etres-humains-reexamen-des-regles-de-lUE/F3389760_fr); Are You Syrious?. 2022. AYS Special from Greece: Protests on Samos CCAC shed light on procedural violations. Available at: <https://medium.com/are-you-syrious/ay-s-special-from-greece-protests-on-samos-ccac-shed-light-on-procedural-violations-d5e7bf509c40>

<sup>44</sup> I Have Rights. 2023. Appeals Authority overrule the asylum service's decision to put a vulnerable person through the accelerated procedure. Available at: [https://ihaverights.eu/case\\_study\\_appeals\\_authority/](https://ihaverights.eu/case_study_appeals_authority/)

<sup>45</sup> I Have Rights. 2022. Complaint to the UN Special Rapporteur on trafficking in persons, especially women and children.

<sup>46</sup> I Have Rights. 2023. Fighting human trafficking - review of EU rules, feedback from I Have Rights. Available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13106-Lutte-contre-la-traite-des-etres-humains-reexamen-des-regles-de-lUE/F3389760\\_fr](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13106-Lutte-contre-la-traite-des-etres-humains-reexamen-des-regles-de-lUE/F3389760_fr)



equipped with “*special structures for vulnerable individuals*”. The Government provides no further information or evidence to substantiate this claim nor does it elaborate on whether this refers to the accommodation of vulnerable individuals or support service for them. It is also important to emphasise that in *M.S.S.* the Court found that the applicant, as an asylum seeker, belonged to a “particularly underprivileged and vulnerable population group in need of special protection” (para 251). As such, all persons entering the Samos CCAC belong to this vulnerable group, and should be afforded due regard to how their needs can be best met.

21. In any event members of vulnerable groups protected under Greek law such as pregnant women, survivors of trafficking and torture are rarely, if at all, provided with “*special care and support*” in the Samos CCAC. As detailed by a letter co-authored by IHR and the IRC, and signed by 22 Civil Society Organisations in Greece, “*There is no safe space for single women, with or without children, or other vulnerable groups that need special reception conditions, despite NGOs highlighting this issue in a joint statement addressed to the Ministry of Asylum and Migration when the plan was announced*”.<sup>47</sup> As highlighted above, vulnerability assessments are hampered by the lack of access to medical and psychosocial support, leaving many vulnerabilities unrecognised.
22. Vulnerable persons continue to be housed within the prison-like structure of the CCAC, an inappropriate accommodation for vulnerable groups. For example, for survivors of human trafficking who have experienced situations of being trapped in environments of physical, psychological and/ or sexual abuse, being held in the CCAC, a space patrolled almost exclusively by male guards can be re-traumatising, triggering memories of their trafficking.<sup>48</sup>
23. Unaccompanied Children (UACs), are detained for 22 hours a day in the so-called “Safe Zone” of the CCAC, a section of the CCAC which is surrounded by a further layer of fencing, with the children being permitted 2 hours of “free time” a day where they can go to the main sections of the CCAC.<sup>49</sup> The treatment of UACs in the Samos CCAC is detailed further in paragraphs 61, 62 and 63 below.
24. The lack of evidence presented by the Government to substantiate their assertion, contrasted with the clear evidence from residents and former residents of the CCAC cited in this submission about the “*special care and support*” and “*special structures for vulnerable individuals*”, casts significant doubt as to the nature of these “*special structures*”.

At paragraph 8, the Government claims, “*Throughout the reception and identification procedures TCNs enjoy decent living conditions, remain with their families, have access to medical care and receive psychological support*”.

25. The Government presents no evidence to support this claim. In reality, on Samos asylum seekers are held within a prison-like and carceral environment with limited access to medical care and psychological support.<sup>50</sup> As detailed by Medecins Sans Frontieres (MSF), the CCAC’s prison-like environment “*exacerbates*

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<sup>47</sup> I Have Rights and International Rescue Committee. 2022. One year since Greece opened new “prison-like” refugee camps, NGOs call for a more humane approach. Available at: <https://www.rescue.org/eu/statement/one-year-greece-opened-new-prison-refugee-camps-ngos-call-more-humane-approach>

<sup>48</sup> I Have Rights. 2023. Fighting human trafficking - review of EU rules, feedback from I Have Rights. Available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13106-Lutte-contre-la-traite-des-etres-humains-reexamen-des-regles-de-IUE/F3389760\\_fr](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13106-Lutte-contre-la-traite-des-etres-humains-reexamen-des-regles-de-IUE/F3389760_fr)

<sup>49</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 29-31. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf).

<sup>50</sup> Medecins Sans Frontieres. 2022. In Greek reception centers, asylum seekers are stranded in prison-like conditions. Available at: <https://www.doctorswithoutborders.org/latest/greek-reception-centers-asylum-seekers-are-stranded-prison-conditions>

*psychological trauma*<sup>51</sup> and causes *“psychological distress”*.<sup>52</sup> This is confirmed by testimonies from asylum seekers who also attest to feeling punished and dehumanised, as illustrated by the following quotes from residents and former residents of the CCAC, collected by IHR:<sup>53</sup>

- 25.1. *“Even in my country, I have never been in a prison like this place. Our freedom is limited. It’s a place we call “the next African prison”. Minds are destroyed. Mentally, psychological illness is killing people in this camp. People lost lives, lost babies, lost families. We came here because we needed protection”*.<sup>54</sup>
- 25.2. *“It is very difficult for us in the camp; very, very difficult. The camp is a prison. We live like prisoners in the camp”*.<sup>55</sup>
- 25.3. *“I don't feel safe in this environment. They can always enter the containers when they want. no privacy. Of course it’s bad, especially we ladies need privacy. of course it stresses you, but there is nowhere you can go and complain”*.<sup>56</sup>
- 25.4. *“Many times they ask some guy to go inside this room, sometimes [to] hit them, sometimes make a double check, take off all the clothes, besides talking with bad words. It always happens. Five times at least in a week”*.<sup>57</sup>
- 25.5. *“We are supposed to be given protection, but we are having to beg for food. It’s our right to come and seek safety and European protection, food, water, shelter. None of it is given to us by the Greek authorities”*.<sup>58</sup>

26. With regards to access to medical care and psychological support, the Government’s claims do not reflect the reality of CCACs in Greece. As noted above, the Samos CCAC has no permanent doctor, this is despite in the first quarter of 2023 the population of the Samos CCAC reached over 1,000. The volunteer doctor attends the CCAC approximately 2 afternoons per week and is reportedly occupied with carrying out initial medical assessments. For example, at the time of writing, the volunteer doctor is responsible for carrying out the medical assessments of over 200 asylum seekers who arrived in Samos in July 2023. Asylum seekers with serious medical conditions have reported facing extended wait times to see a doctor.<sup>59</sup> Asylum seekers on Samos are not permitted to attend the local hospital without a referral from the CCAC medical services, asylum seekers’ access to medical treatment is highly restricted. Moreover, there is only one psychologist employed by EODY who does not have the capacity to provide psychological support to more than a small fraction of the population. This lack of access is widely considered by NGOs on the island to be one of the largest protection issues and provides nuance to the Government’s claim that *“TCNs [...] have access to medical care and receive psychological support”*.

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<sup>51</sup> Medecins Sans Frontieres. 2022. Closed centres for refugees on Greek islands exacerbate psychological trauma. Available at: <https://www.msf.org/closed-centres-refugees-greek-islands-exacerbate-psychological-trauma>

<sup>52</sup> Medecins Sans Frontieres. 2022. In Greek reception centers, asylum seekers are stranded in prison-like conditions. Available at: <https://www.doctorswithoutborders.org/latest/greek-reception-centers-asylum-seekers-are-stranded-prison-conditions>

<sup>53</sup> I Have Rights. 2023. “They are killing minds” Life in the Samos Closed Controlled Access Centre. Available at: <https://ihaverights.eu/wp-content/uploads/2023/06/They-are-killing-minds-Life-in-the-Samos-Closed-Controlled-Access-Centre-.pdf>

<sup>54</sup> *Ibid.* Page 4.

<sup>55</sup> *Ibid.* Page 4.

<sup>56</sup> *Ibid.* Page 5.

<sup>57</sup> *Ibid.* Page 6.

<sup>58</sup> *Ibid.* Page 15.

<sup>59</sup> International Rescue Committee and I Have Rights. 2023. Contribution to the European Ombudsman’s strategic inquiry into how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman\\_Submission\\_IRC\\_IHR\\_Jan-2023\\_final.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman_Submission_IRC_IHR_Jan-2023_final.pdf)

At paragraph 15 the Government details that the Samos CCAC is “equipped with modern infrastructure” that offers “upgraded and safe living conditions”.

27. The assertion by the Greek Government that the CCAC is equipped with modern infrastructure that offers “safe living conditions” is supported only with reference to the cost (43 million euros), population and population-changes, and broad structural description of the facilities. No further evidence or information is presented by the Government to support their claim.
28. In reality, the Samos CCAC is a dehumanising structure with, as detailed by the EU Ombudsman, significant “infrastructural shortcomings”.<sup>60</sup> For example, the Ombudsman expressly states that the material conditions of CCACs including the barbed wire fencing and extensive surveillance infrastructure: “do not create a physical environment conducive to wellbeing”, “may also have negative health (including mental health) consequences on vulnerable migrants and those who have fled difficult circumstances”, and “It is questionable how respect for human dignity and protection of the best interests of the child and of vulnerable individuals can be ensured if residents are forced to stay in such an environment”.<sup>61</sup>
29. This is consistent with testimony from asylum seekers collected by IHR who report that the conditions of the CCAC including the monotonous, prison-like infrastructure, pervasive social control, constant surveillance and isolation from society, instil a collective feeling that they are being punished, which compounds a feeling of dehumanisation and negative impacts on mental health.<sup>62</sup>
30. Furthermore, despite the expense of the Samos CCAC, there are institutional failures to provide for basic needs including items for new-born children, clothes for UACs, or even running water. As IHR reported with the International Rescue Committee (IRC) to the EU Ombudsman, in the “CCAC’s first year of operation, residents have had their access to water severely limited or completely cut off for two extended periods”.<sup>63</sup> The lack of constant running water continues today, which is particularly concerning at the time of writing with Greece enduring the longest heatwave since records began.<sup>64</sup> Residents also report being plagued by bed bugs and cockroaches in their containers, with reports that cockroach infestations have become so severe that people are suffering from cockroaches biting them at night, impacting their ability to sleep.<sup>65</sup>

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<sup>60</sup> European Ombudsman. 2023. Decision in strategic inquiry OI/3/2022/MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece. Paragraph 28. Available at: <https://www.ombudsman.europa.eu/en/decision/en/170792>; Solomon. 12 May 2023. EU Details Violations at Greece’s ‘Model’ Refugee Camps. Available at: <https://wearesolomon.com/mag/format/investigation/eu-details-violations-at-greeces-model-refugee-camps/>

<sup>61</sup> European Ombudsman. 2023. Decision in strategic inquiry OI/3/2022/MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece. Paragraph 48. Available at: <https://www.ombudsman.europa.eu/en/decision/en/170792>

<sup>62</sup> I Have Rights. 2023. “They are killing minds” Life in the Samos Closed Controlled Access Centre. Available at: <https://ihaverights.eu/wp-content/uploads/2023/06/They-are-killing-minds-Life-in-the-Samos-Closed-Controlled-Access-Centre-.pdf>

<sup>63</sup> International Rescue Committee and I Have Rights. 2023. Contribution to the European Ombudsman’s strategic inquiry into how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman\\_Submission\\_IRC\\_IHR\\_Jan-2023\\_final.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman_Submission_IRC_IHR_Jan-2023_final.pdf)

<sup>64</sup> Sammy Gecsoyler. 22 July 2023. Heatwave set to be Greece’s longest as extreme weather continues in Europe. *The Guardian*. Available at: <https://www.theguardian.com/world/2023/jul/22/heatwave-set-to-be-greeces-longest-as-extreme-weather-continues-in-europe>

<sup>65</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 43. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf); CCAC Resident. 2022. AYS Special from Greece: The Eye - An asylum-seeker’s account on pushbacks and life in Samos Refugee Camp. Available at:

31. Finally, of grave concern are reports of police violence, abuse and inhuman treatment against asylum seekers inside the CCAC. As detailed to the CM in IHR and the Human Rights Legal Project's (HRLP) joint Rule 9 Submission dated 20/02/2023 in the case of *Safi*,<sup>66</sup> IHR and HRLP have made two joint submissions, one to the Council of Europe's Committee for the Prevention of Torture (CPT) and another to the Greek Ombudsman, to investigate allegations by eight asylum seekers who reported being subjected to violence at the hands of the police in the CCAC, including forced stripping and beating, beating in the dark, kicks, punches, slaps, stampings, multiple police officers beating one person at a time and/or in quick succession, insults, taunting and laughing at people while they are being beaten, constituting severe physical and psychological violence.<sup>67</sup> These testimonies are supported by the Press Project, who in earlier this year wrote that "*incidents of brutal police violence are very frequent*" and an "*open secret*" in the CCAC.<sup>68</sup> Fear of violence is compounded by the fact that asylum seekers report being unable to distinguish between the CCAC state security forces and those responsible for pushbacks (23% of IHR's clients report having experienced at least one pushback),<sup>69</sup> leading to an environment of oppression, fear and subjugation.
32. The lack of evidence presented by the Government to support their claim that the Samos CCAC offers "*upgraded and safe living conditions*", combined with evidence that attests to structural shortcomings and persistent allegations of violence against asylum seekers, brings to question the veracity of the Government's assessment of the living conditions in the CCAC.

### ***Accommodation Facilities (Δομές) and the ESTIA Programme***

At paragraph 10, the Government claims that after reception and identification procedures are concluded, applicants for international protection will be transferred to one of 25 accommodation facilities on the Greek mainland. These are described as open air structures that provide "*a stable living environment*" which "*meets essential material, social and educational needs*".

33. The Government makes no reference to specific facilities or evidence that these basic provisions are met, with the Government's claims contradicting various reports evidencing substandard living conditions for asylum seekers on the mainland.<sup>70</sup> We also refer the CM to the Rule 9 submission by Refugee Support

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<https://medium.com/are-you-syrious/avs-special-from-greece-the-eye-an-asylum-seekers-account-on-pushbacks-and-life-in-samos-refugee-111792b7cd1b>

<sup>66</sup> Communication from NGOs (Hellenic League for Human Rights, Human Rights Legal Project, I Have Rights) (20/02/2023) in the case of *Safi and Others v. Greece* (Application No. 5418/15) and reply from the authorities (03/03/2023). Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680aa6879](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680aa6879)

<sup>67</sup> Refugee Support Aegean. 2023. Samos: What is happening today in the refugee structures on the Aegean islands. Available at: <https://rsaagean.org/en/samos-2023/>

<sup>68</sup> The Press Project. 2023. Άγρια κακοποίηση προσφύγων στο ΚΕΔ Σάμου από αστυνομικούς – «Ξεκινάμε άμεσα ΕΔΕ», η απάντηση της ΕΛ.ΑΣ στο TPP. Available at: <https://thepressproject.gr/agria-kakopoiisi-prosfygon-sto-ke-d-samou-apo-astynomikous-xekiname-amesa-ed-e-i-apantisi-tis-el-a-s-sto-tp-p/>

<sup>69</sup> See the IHR's website for updated statistics on their casework: <https://ihaverights.eu/>.

<sup>70</sup> Refugee Support Aegean and Stiftung Pro-ASYL. 2023. The state of the Greek asylum system, twelve years since M.S.S. Available at: [https://rsaagean.org/wp-content/uploads/2023/07/RSA\\_PRO-ASYL\\_MSS\\_2023\\_Submission.pdf](https://rsaagean.org/wp-content/uploads/2023/07/RSA_PRO-ASYL_MSS_2023_Submission.pdf). See also: Greek Refugee Council. 2023. ECRE Greece Country Report: Conditions in Reception Facilities. Available at: <https://asylumineurope.org/reports/country/greece/reception-conditions/housing/conditions-reception-facilities/>; Greek Refugee Council. 2023. ECRE Greece Country Report: Types of Accommodation. Available at: <https://asylumineurope.org/reports/country/greece/reception-conditions/housing/types-accommodatio/>; Greek Refugee Council et al. 2022. Do the human right thing Raising our Voice for Refugee Rights. Available at: <https://eu.rescue.org/sites/default/files/2022-01/IRC%20housing%20report%20Greece%20-%20English.pdf>

Aegean and Pro-ASYL who provide evidence that attests to substandard conditions.<sup>71</sup> With the closure of the ESTIA programme, addressed in paragraph 34 below, the accommodation facilities (Δομές) managed by the Reception and Identification Service (RIS) of the Ministry of Migration and Asylum are the sole form of state accommodation available to applicants for international protection.<sup>72</sup>

At paragraph 12, the Government claims that the ESTIA programme “*is running*” and provides “*decent living*” and supportive services in furnished houses and apartments. The Government details that the processing time for ESTIA accommodation “*varies from three to five days*” but depends on the time it takes for the institution processing accommodation requests “*to sort out eventual problems*”.

34. It is alarming that the Government makes this claim considering the ESTIA programme was closed, by the Government, last year.<sup>73</sup> The Ministry of Immigration and Asylum announced on the 2nd February 2022, a decrease in the number of places in the ESTIA housing programme from 27,000 to 10,000, “*with a view to completing the programme by the end of 2022*”.<sup>74</sup> In December 2022, the 10,000 people still living in ESTIA housing were forcibly evicted, with asylum seekers forced to relocate back to isolated refugee camps across the country.<sup>75</sup> The ESTIA programme has not been running since December 2022.
35. The programme’s closure had devastating consequences for asylum seekers in Greece, resulting in mass evictions of vulnerable people from their homes, leading to the breaking of social links, forcing people to leave their jobs, school or any other daily activities.<sup>76</sup> This also includes essential medical treatment, with the mass interruption of health monitoring and/or treatment because of the absence of specialised medical facilities in the camps to which the asylum seekers were transferred.<sup>77</sup> In many cases, people were given only 24 hours notice before being evicted.<sup>78</sup>
36. Evicted people who had received refugee status, as well as those in the process of submitting subsequent asylum applications, did not receive any kind of assistance in finding new accommodation, with many left

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<sup>71</sup> See Rule 9 submissions made by Refugee Support Aegean and Stiftung Pro-ASYL. 2023. The State of the Greek Asylum System, twelve years since M.S.S. Available at: [https://rsaegean.org/wp-content/uploads/2023/07/RSA\\_PRO-ASYL\\_MSS\\_2023\\_Submission.pdf](https://rsaegean.org/wp-content/uploads/2023/07/RSA_PRO-ASYL_MSS_2023_Submission.pdf)

<sup>72</sup> *Ibid.* Pages 15-16.

<sup>73</sup> Médecins Sans Frontières. 2022. ESTIA Eviction Statement. Available at: <https://msf.gr/en/node/6016>; Fenix. 31 October 2022. Closure of ESTIA II: thousands of extremely vulnerable asylum seekers to be left without humane and adequate accommodation and proper care. Available at: <https://www.fenixaid.org/Articles/closure-of-estia-ii-thousands-of-extremely-vulnerable-asylum-seekers-to-be-left-without-humane-and-adequate-accommodation-and-proper-care>; Leonie Passler. 26 January 2023. Planned Homelessness: The Ending Of The ESTIA II Programme In Greece. Equal Legal Aid. Available at: <https://www.equallegalaid.org/planned-homelessness-the-ending-of-the-estia-ii-programme-in-greece/>

<sup>74</sup> Unofficial, DeepL translation of “*με προοπτική το πρόγραμμα να ολοκληρωθεί στο τέλος του 2022*”, Ministry of Immigration and Asylum, Press Release of 22-02-2022. Available at: <https://migration.gov.gr/en/oloklironetai-to-programma-stegasis-estia-ii-to-2022/>

<sup>75</sup> Leonie Passler. 26 January 2023. Planned Homelessness: The Ending of the ESTIA II Programme in Greece. Equal Legal Aid. Available at: [https://www.equallegalaid.org/planned-homelessness-the-ending-of-the-estia-ii-programme-in-greece/#\\_ftn5](https://www.equallegalaid.org/planned-homelessness-the-ending-of-the-estia-ii-programme-in-greece/#_ftn5)

<sup>76</sup> *Ibid.*

<sup>77</sup> Fenix. 31 October 2022. Closure of ESTIA II: thousands of extremely vulnerable asylum seekers to be left without humane and adequate accommodation and proper care. Available at: <https://www.fenixaid.org/Articles/closure-of-estia-ii-thousands-of-extremely-vulnerable-asylum-seekers-to-be-left-without-humane-and-adequate-accommodation-and-proper-care>

<sup>78</sup> *Ibid.*



homeless<sup>79</sup> and at risk of being pushed back.<sup>80</sup> It is estimated that around 8,300 recognised refugees were evicted from their homes.<sup>81</sup> For asylum seekers, they were sent to camps, which are often isolated and with poor living conditions.<sup>82</sup>

37. Considering the damaging impact the closure of the ESTIA programme had on the accommodation of asylum seekers and refugees in Greece, it is not only highly misleading but extremely concerning that the Government has claimed that the ESTIA programme is in operation. In any event, the inclusion of clearly erroneous and out of date information in the Government's communication to the CM suggests at best a lack of rigour and at worst a lack of respect for the procedures of the CM. The submitting organisations urge the CM to strongly deprecate the Government's reliance on the ESTIA programme in such circumstances, and further suggest that the Government be specifically requested to provide information regarding its provision of services to replace the ESTIA programme in the intervening period.

### Asylum Procedures

At paragraph 16, the Government describes the Greek international protection procedure as "*unrestricted and free of charge*" referring to the finding in *M.S.S.* of a violation of Article 13 in conjunction with Article 2 and 3 of the Convention, due to deficiencies in the asylum system.

38. Aside from a brief description of the new procedures for submitting an application for international protection at paragraph 16, the Government refers, at paragraphs 16 and 17 respectively, only to the assistance of interpreters, procedures for hiring additional personnel, recognition rates of asylum, and processing times up until full registration and the issuance of decisions. However, structural deficiencies persist in the Greek asylum system which restrict access to the procedure for making an application for international protection.
39. Despite the asylum procedure requiring the assessment of potential vulnerabilities of applicants,<sup>83</sup> in practice (and as highlighted above at paragraph 16) there is no permanent State-appointed doctor in the CCAC and the occasional visits from a volunteer doctor from the Samos Hospital are not enough to ensure a thorough assessment of the vulnerability of applicants.<sup>84</sup> For example, in a case represented by IHR's lawyer, a survivor of human trafficking's asylum claim was considered through the accelerated asylum procedure, with her being interviewed and receiving a first instance rejection prior to any vulnerability assessment.<sup>85</sup>

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<sup>79</sup> Leonie Passler. 26 January 2023. Planned Homelessness: the ending Of The ESTIA II programme in Greece. Equal Legal Aid. Available at: <https://www.equallegalaid.org/planned-homelessness-the-ending-of-the-estia-ii-programme-in-greece/>

<sup>80</sup> *Ibid.*

<sup>81</sup> Diotima. 2022. 8,300 refugees to be evicted from their homes in Greece – Joint Letter to EU and Greek officials. Available at: <https://diotima.org.gr/en/8-300-refugees-to-be-evicted-from-their-homes-in-greece/>

<sup>82</sup> Leonie Passler. 26 January 2023. Planned Homelessness: The Ending of the ESTIA II Programme in Greece. Available at: <https://www.equallegalaid.org/planned-homelessness-the-ending-of-the-estia-ii-programme-in-greece/>

<sup>83</sup> Article 24, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast). Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0032>

<sup>84</sup> International Rescue Committee and I Have Rights. 2023. Contribution to the European Ombudsman's strategic inquiry into how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece. Page 18. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman\\_Submission\\_IRC\\_IHR\\_Jan-2023\\_final.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman_Submission_IRC_IHR_Jan-2023_final.pdf)

<sup>85</sup> I Have Rights. 2023. Appeals Authority overrule the asylum service's decision to put a vulnerable person through the accelerated procedure. Available at: [https://ihaverights.eu/case\\_study\\_appeals\\_authority/](https://ihaverights.eu/case_study_appeals_authority/)

40. Furthermore, in March 2023, the contract to provide interpretation in CCACs between the Ministry of Migration and Asylum and the European Union Agency for Asylum (EUAA) expired.<sup>86</sup> As a result, asylum interviews were indefinitely postponed for anyone requiring interpretation services. Asylum seekers were effectively unable to communicate with the asylum service during this period due to the lack of interpreters. IHR learned that some applicants had expressed their willingness to forgo their right to an interpreter in asylum interviews, feeling this may increase their chances of being transferred from the prison-like confinement of the CCAC to better accommodation and facilities on the mainland.<sup>87</sup> Interpretation services have also been drastically reduced since October 2022 on the mainland, leading to delays and inefficiencies in the asylum procedure.<sup>88</sup> It is clear that without proper access to legal advice, such a decision could have disastrous results.
41. On the Greek mainland, MIT found that access to asylum was highly restricted during the period cited in the Government's communication. Two significant policy changes came into effect in this period, namely the termination of the Skype pre-registration system for first instance claims at the end of 2021, and the introduction of mandatory reception and identification procedures in July 2022 for all irregularly arriving or staying third country nationals and stateless persons on the mainland. A report published by MIT in May 2022 found that following the issue of a Circular and Clarification in November 2021,<sup>89</sup> yet without further clarification by the Ministry of Migration and Asylum for more than six months, there were just three narrow avenues to accessing asylum at this time: through Fylakio Reception and Identification Centre (RIC), by evidencing a vulnerability, or registering a police note,<sup>90</sup> all of which presented very significant challenges for people wishing to register a claim. In August 2022, two new RICs at Diavata (Thessaloniki) and Malakasa (Athens) were established through a circular from the Ministry,<sup>91</sup> with the possibility to book appointments at the RICs through a new online booking form. However MIT reported on 1st September 2022 that appointments for registering asylum claims were being scheduled up to 14 months later, or were not available at all.<sup>92</sup>
42. The reduced provision of interpreters since October 2022 has further restricted access to asylum by hampering the operations of the Asylum Service, as reported by the Workers Union of the Asylum Service in June 2023.<sup>93</sup> There have been continuous issues with the online platform including delays in appointments and frequent technical faults and blackouts.<sup>94</sup> At the time of reporting and since 5th May 2023, the online

<sup>86</sup> George Pagoudis. 2023. 'Είδος υπό εξαφάνιση οι διερμηνείς στις προσφυγικές δομές του Β. Αιγαίου'. *efsyn*. Available at: [https://www.efsyn.gr/ellada/koinonia/386468\\_eidos-ypo-exafanisi-oi-diermineis-stis-prosfygikes-domes-toy-b-aigaiou](https://www.efsyn.gr/ellada/koinonia/386468_eidos-ypo-exafanisi-oi-diermineis-stis-prosfygikes-domes-toy-b-aigaiou)

<sup>87</sup> Border Violence Monitoring Network. 2023. Monthly Report: March 2023. Page 11. Available at: <https://borderviolence.eu/app/uploads/Monthly-Report-March-2023.pdf>

<sup>88</sup> 902.gr. 2023. Να αποκατασταθεί άμεσα η υπηρεσία ασύλου. *902.gr*. Available at: <https://www.902.gr/eidisi/koinonia/331861/na-apokatastathei-amesa-i-ypiresia-asyloy>

<sup>89</sup> Ministry of Migration and Asylum. Διαδικασία Υποβολής Αιτημάτων Ασύλου. Available at: <https://migration.gov.gr/en/diakasia-yponolis-aitimatou-asyloy/>

<sup>90</sup> Mobile Info Team. 2022. Blocked from the System. Available at: <https://www.mobileinfoteam.org/blockedfromthesystem>

<sup>91</sup> Ministry of Migration and Asylum, Circular 504912/2022, 31 August 2022. Malakasa and Diavata are established as RIC under Article 34 PD 106/2020, Gov. Gazette A' 255/23.12.2020, as amended by Article 3 PD 20/2023, Gov. Gazette A' 43/24.02.2023.

<sup>92</sup> Mobile Info Team. 2022. Statement on New Registration Procedure. Available at: <https://www.mobileinfoteam.org/new-registration>

<sup>93</sup> 902.gr. 2023. Να αποκατασταθεί άμεσα η υπηρεσία ασύλου. *902.gr*. Available at: <https://www.902.gr/eidisi/koinonia/331861/na-apokatastathei-amesa-i-ypiresia-asyloy>

<sup>94</sup> See: GCR. 2023. Updates from the Field May 2023. Available at: <https://www.gcr.gr/en/news/ta-nea-apo-to-pedio/item/2156-updates-from-the-field-may-2023>; Refugee Support Aegean. 2023. Registration of asylum applications in the new mainland RIC in Greece. Available at: <https://rsaegean.org/en/registration-ric-mainland-greece/>

form has been out of order, meaning that only people transferred directly by the authorities to the RICs are able to register an asylum claim. As highlighted by Refugee Support Aegean and Pro-ASYL in their Rule 9 submission to the CM,<sup>95</sup> no information has been provided to date by the Greek government regarding plans to ensure access to asylum is reinstated on the mainland. Reports of truncated asylum processes within the RICs, in which people do not receive adequate legal advice or assistance, or indeed time to prepare for interviews,<sup>96</sup> presents an additional restriction on the right to claim asylum. From 5th May 2023, the form for subsequent applications was additionally unavailable for several weeks, leaving people without access to accommodation, basic services or healthcare, as well as at heightened risk of apprehension by police, detention and pushbacks.<sup>97</sup> Those registering subsequent applications must pay a fee of €100 euro per person, meaning that access to asylum is not “*free of charge*” on the mainland for those making second or further applications.<sup>98</sup>

43. A report by MIT showed that people left undocumented due to an inability to pay the subsequent application fee were apprehended by the police and detained in PRDCs on the Greek mainland.<sup>99</sup> Additionally, there is a widespread practice of the Greek authorities not recognising booking an appointment via the first instance online form as ‘making’ of an asylum application,<sup>100</sup> contrary to extensive case law from the Court of Justice of the European Union (CJEU).<sup>101</sup> The European Commission and eight judgments issued in 2023 by Greek courts have ruled that the request of an appointment via the online platform constitutes ‘making’ of an asylum application,<sup>102</sup> yet people in possession of documentation proving their appointment for registering an asylum claim continue to be arrested and detained by the Greek authorities.<sup>103</sup>
44. The submitting organisations hope that the information provided above provides nuance to the claims that the asylum service is “*unrestricted and free of charge*”.

At paragraph 16, the Government claims that, “*a date for interview is arranged and the TCN receives an asylum seeker card*”.

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<sup>95</sup> Refugee Support Aegean and Stiftung Pro-ASYL. 2023. The state of the Greek asylum system, twelve years since M.S.S. Available at: [https://rsaagean.org/wp-content/uploads/2023/07/RSA\\_PRO-ASYL\\_MSS\\_2023\\_Submission.pdf](https://rsaagean.org/wp-content/uploads/2023/07/RSA_PRO-ASYL_MSS_2023_Submission.pdf)

<sup>96</sup> See Refugee Support Aegean. 2023. One Month After the Shipwreck in Pylos. Available at: <https://rsaagean.org/en/one-month-after-the-shipwreck-in-pylos/>; and Refugee Support Aegean. 2023. Registration of asylum applications in the new mainland RIC in Greece. Available at: <https://rsaagean.org/en/registration-ric-mainland-greece/>

<sup>97</sup> Mobile Info Team *et al.* 2023. Joint Statement: Shutdown of the Greek Asylum Service database leaves people unable to claim asylum and in limbo. Available at: <https://www.mobileinfoteam.org/alkyoni>

<sup>98</sup> The European Commission has raised concerns with the impact of this practice on unrestricted access to asylum. See: European Commission, Reply to written question E-5103/2021, 25 January 2022.

<sup>99</sup> Mobile Info Team. 2023. “Prison for Papers”: Last Resort Measures Used as Standard Procedure, Researching Pre-Removal Detention Centres on Mainland Greece. Available at: <https://www.mobileinfoteam.org/detention>

<sup>100</sup> Refugee Support Aegean. 2023. Registration of asylum applications in the new mainland RIC in Greece. Available at: <https://rsaagean.org/en/registration-ric-mainland-greece/>

<sup>101</sup> CJEU, C-823/21 Commission v Hungary, 22 June 2023, para 43; C-72/22 PPU MA, 30 June 2022, para 80; C-808/18 Commission v Hungary, 17 December 2020, para 97; C-36/20 VL v Ministerio Fiscal, 25 June 2020, paras 93-94.

<sup>102</sup> Administrative Court of Athens, AP741/2023, 17 March 2023; AP721/2023, 17 March 2023;

Administrative Court of Kavala, AP421/2023, 12 April 2023; AP382/2023, 3 April 2023;

AP379/2023, 31 March 2023; AP209/2023, 7 February 2023; AP164/2023, 7 February 2023;

Administrative Court of Komotini, AP209/2023, 11 April 2023. Available at: <https://shorturl.at/gjBGX>

<sup>103</sup> GCR. 26 June 2023. Updates from the Field May 2023. Available at: <https://www.gcr.gr/en/news/ta-nea-apo-to-pedio/item/2156-updates-from-the-field-may-2023>;

45. The Government's communication does not provide any figures on the average processing times between first registration and the date of asylum interviews, nor the processing time between the date of issuing a summons for interview and the asylum interview. This would evidence the amount of time which applicants for international protection have to prepare for the interview and access legal advice and counselling as is their right. Such a figure is important to ensure that a reasonable amount of time is given to applicants between the invitation and the personal interview, as suggested by the EUAA's guidelines, while at the same time avoiding overly prolonged waiting times before asylum interviews.<sup>104</sup> The enforcement of reasonable time frames would ensure that applicants get access to interpreters, legal advice and counselling, while safeguarding their mental health throughout a crucial and intimidating asylum procedure.
46. On Samos, applicants are issued with a date of interview which can vary drastically, often depending on the availability of interpreters. An applicant may also have their asylum interview rescheduled with a day's notice,<sup>105</sup> with it being common that people are informed in the late afternoon that they will be interviewed at 8am the following day.<sup>106</sup>
47. IHR has reported on delays in issuing asylum seeker cards for those in the Samos CCAC, previously required by the authorities in order to leave the CCAC facilities.<sup>107</sup> The regime of 25 days of *de facto* detention and delays issuing asylum seeker cards prevented applicants from leaving the CCAC to receive legal information and counselling prior to their substantive asylum interviews, as is their right under EU law and the general principles of Article 13 of the Convention.<sup>108</sup> In the period between April 2022 and December 2022, IHR found that 6% of asylum seekers did not receive their asylum seekers card for over 25 days and were prevented from leaving the CCAC,<sup>109</sup> resulting in them being subjected to a further period of arbitrary *de facto* detention. In internal correspondence written by representatives from the European Commission, obtained by Solomon and Al Jazeera, the delays issuing cards and preventing entry/exit past the 25 day period, was the result of the lack of a permanent doctor who could sign off on medical checks (as referred to above at paragraph 8).<sup>110</sup>
48. Across Greece, the Greek Asylum Service database, called the 'Alkyoni system', began an upgrade in May 2023, despite commitments made in early 2022 to a January 2023 launch of the upgraded system.<sup>111</sup> As a result of the upgrade, between 5th May and 7th June 2023, most of the asylum authorities operations were

<sup>104</sup> European Union Agency for Asylum. 2019. EASO Guidance on asylum procedure: operational standards and indicators. Page 18. Available at:

[https://euaa.europa.eu/sites/default/files/Guidance\\_on\\_asylum\\_procedure\\_operational\\_standards\\_and\\_indicators\\_EN.pdf](https://euaa.europa.eu/sites/default/files/Guidance_on_asylum_procedure_operational_standards_and_indicators_EN.pdf)

<sup>105</sup> Similar patterns were noted on Chios, Refugee Support Aegean. 2022. The State of the Border Procedure on the Greek Islands. Page 12. Available at: [https://rsaegian.org/wp-content/uploads/2022/10/BorderProcedure\\_Greek\\_islands\\_report.pdf](https://rsaegian.org/wp-content/uploads/2022/10/BorderProcedure_Greek_islands_report.pdf)

<sup>106</sup> Border Violence Monitoring Network. 2023. Monthly Report: March 2023. Page 11. Available at: <https://borderviolence.eu/app/uploads/Monthly-Report-March-2023.pdf>


<sup>107</sup> I Have Rights. 2022. One Year since Greece opened new prison-like refugee camps, 22 NGOs call for a more humane approach. Available at: [https://ihaverights.eu/wp-content/uploads/2022/09/JS\\_One-year-since-Greece-opened-new-prison-like-refugee-camps-NGOs-c-all-for-a-more-humane-approach.pdf](https://ihaverights.eu/wp-content/uploads/2022/09/JS_One-year-since-Greece-opened-new-prison-like-refugee-camps-NGOs-c-all-for-a-more-humane-approach.pdf)

<sup>108</sup> Article 12(1(c)), Directive 2013/32/EU on 'common procedures for granting and withdrawing international protection (recast)'; Article 13, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols No 11 and 14; See also in the judgment of *M.S.S.* at paragraph 301.

<sup>109</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 45. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)

<sup>110</sup> Solomon. 2023. EU Details Violations at Greece's 'Model' Refugee Camps. *Solomon*. Available at: <https://wearesolomon.com/mag/format/investigation/eu-details-violations-at-greeces-model-refugee-camps/>

<sup>111</sup> Greek Government. 2022. Consolidated Government Policy Plan 2022. Available at: [https://www.government.gov.gr/wp-content/uploads/2022/01/eskyp\\_2022- fin2.pdf](https://www.government.gov.gr/wp-content/uploads/2022/01/eskyp_2022- fin2.pdf)



suspended, including registration of asylum claims, issuance and reissuance of asylum seeker cards, residence permits, travel documents and other documentation, and employees were unable to access the database and electronic files of applicants for international protection.<sup>112</sup> The submitting organisations were signatories of a joint statement by NGOs in Greece, highlighting the significant impact of this ‘upgrade’ on accessing asylum procedures.<sup>113</sup> The suspension was announced abruptly and without further information, opportunity for clarification, or without announcing the expected date for the resumption of services.<sup>114</sup> As of the last week of July 2023, it is still not possible to register first instance asylum claims, but only subsequent applications. Individuals were not informed of the consequent postponement of their substantive asylum interviews, resulting in those on the mainland potentially travelling long and costly distances from remote camps to attend cancelled interviews.<sup>115</sup> This suspension evidenced a continuity from M.S.S., wherein the Greek authorities failed to ensure communication between the competent authorities and the applicant (paragraph 318). Moreover, the inability to request and issue new asylum seeker cards exposed applicants without such cards to a serious risk of detention and deportation.

49. It is hoped that the evidence above from Samos in particular and across Greece generally provides context to the Government's claim that “*a date for interview is arranged and the TCN receives an asylum seeker card*”.
50. At paragraph 16, the Government details that the Asylum Service currently employs 914 people (including both permanent and contract staff) and that there are ongoing procedures for hiring additional personnel.
51. In June 2023, the Asylum Service Workers Union shared a statement highlighting that the Asylum Service is chronically understaffed and over capacity.<sup>116</sup> The statement highlighted how the recent Alkyoni system update exacerbated structural and long-standing issues within the Asylum Service, including not only understaffing but the proliferation of temporary work contracts and outdated IT systems.

## Conditions of Detention

At paragraph 21, the Government claims that “*clear instructions*” are provided to the competent Ministries to transfer TCNs “*as soon as possible*” to Pre-Removal Detention Centres as opposed to police detention facilities.

52. The submitting organisations are members of the BVMN, who found that people apprehended on the mainland in the first quarter of 2023 were routinely held for extended periods of time in police stations.<sup>117</sup> BVMN has documented the arbitrary detention of undocumented people in police stations across mainland Greece, for periods of up to three months, and typically prior to their transfer to a Pre-Removal Detention Centre (PRDC) for a further period of deprivation of liberty. As detailed by Refugee Support Aegean and Pro-ASYL in their Rule 9 submission to the CM, the use of police stations for detention purposes continues to be widespread in Greece, with 316 people reported as detained in police stations on immigration

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<sup>112</sup> Mobile Info Team *et al.* 2023. Joint Statement: Shutdown of the Greek Asylum Service database leaves people unable to claim asylum and in limbo. Available at: <https://www.mobileinfoteam.org/alkyoni>

<sup>113</sup> *Ibid.*

<sup>114</sup> Refugee Support Aegean. 2023. The upgrade of the "Alkyoni" system of the Asylum Service leaves processes and people in the air. Available at: <https://rsaagean.org/en/alkyoni/>.

<sup>115</sup> *Ibid.*

<sup>116</sup> 902.gr.. 2023. Να αποκατασταθεί άμεσα η υπηρεσία ασύλου. 902.gr. Available at: <https://www.902.gr/eidisi/koinonia/331861/na-apokatastathei-amesa-i-ypiresia-asyloy>

<sup>117</sup> Border Violence Monitoring Network. 2023. Balkan Regional Report April 2023. Available at: <https://borderviolence.eu/reports/balkan-regional-report-april-2023/>

grounds at the end of 2022.<sup>118</sup> The ECtHR, in two separate cases in 2018<sup>119</sup> and 2019,<sup>120</sup> ruled that prolonged detention in police stations constitutes a breach of Article 3 of the Convention, noting that “*police stations per se [...] are places designed to accommodate people for a short time only*”.

53. As highlighted by BVMN in 2023,<sup>121</sup> an Oxfam report in 2021,<sup>122</sup> the Greek Ombudsman’s Special Report report in 2022<sup>123</sup> police stations are unfit for prolonged periods of detention. BVMN also reports that people are routinely held in overcrowded and unsanitary conditions (see Annex 3 for photos of PRDCs).<sup>124</sup> One case documented by BVMN evidenced the detention of a man along with 11 others in a dark basement where they had to share a single toilet. Another testimony documented by BVMN reports how a group of 21 individuals were detained in a police cell with no heating and blankets that were too thin to keep them warm at night. BVMN additionally documented the highly worrying trend of people being pressured into signing documents in a language they did not understand within police stations, without the assistance of a translation or interpreter. One testimony reported the prolonged detention of a 17 year-old minor in a police station. The detention of minors is only allowed as a measure of last resort and for short periods of time according to Greek law, yet reports suggest that this obligation is often breached in Greece.<sup>125</sup> Research published by MIT in 2023 found that detainees frequently reported that minors were held there for extended periods of time, with 20% of respondents noting minors were held in Corinth between 2020 and 2022.<sup>126</sup> This is supplemented by highly concerning evidence raised by Refugee Support Aegean and Pro-ASYL in their Rule 9 submission to the CM, highlighting critical gaps in healthcare and support provided to people detained in PRDCs.<sup>127</sup> These gaps in essential provision are additionally corroborated by official data provided in para 23 of the Greek Government’s communication to the CM.
54. It is hoped that the above information provides deeper context to the Government’s claims on detention in police stations.

At paragraph 21, the Government describes PRDCs as closed facilities that “*meet adequate standards for long-term detention*” with the Government alleging that they provide: “*access to open air structures and facilities*”, food (three

<sup>118</sup> Refugee Support Aegean. 2023. Immigration detention in 2022: Sharp rise in detention orders, no access to remedies and legal aid in Greece. Available at: [https://rsaagean.org/wp-content/uploads/2023/03/2023-03\\_RSA\\_Detention2022\\_EN-1.pdf](https://rsaagean.org/wp-content/uploads/2023/03/2023-03_RSA_Detention2022_EN-1.pdf)

<sup>119</sup> S.Z. v. Greece (Application no. 66702/13), 21 June 2018. Available at: <https://www.asylumlawdatabase.eu/en/content/ecthr-sz-v-greece-application-no-6670213-21-june-2018>

<sup>120</sup> H.A. and others v. Greece (Application no. 19951/16), 28 February 2019. Available at: <https://www.asylumlawdatabase.eu/en/content/ecthr-ha-and-others-v-greece-1995116-28-february-2019>

<sup>121</sup> Border Violence Monitoring Network. April 2023. Monthly Report. Available at: <https://borderviolence.eu/reports/balkan-regional-report-april-2023/>

<sup>122</sup> Oxfam. 2021. Detention as the Default: How Greece, with the support of the EU, is generalizing administrative detention of migrants. Available at: <https://policy-practice.oxfam.org/resources/detention-as-the-default-how-greece-with-the-support-of-the-eu-is-generalizing-621307/>

<sup>123</sup> Greek Ombudsman. 2022. Special Report. Return of Third-Country Nationals. Available at: <https://www.theioi.org/ioi-news/current-news/ombudsman-publishes-special-report-on-return-of-third-country-nationals-in-2022>

<sup>124</sup> Border Violence Monitoring Network. April 2023. Monthly Report. Available at: <https://borderviolence.eu/reports/balkan-regional-report-april-2023/>

<sup>125</sup> ECtHR. H.A. and others v. Greece (Application no. 19951/16), 28 February 2019. Available at: <https://www.asylumlawdatabase.eu/en/content/ecthr-ha-and-others-v-greece-1995116-28-february-2019>

<sup>126</sup> Mobile Info Team. 2023. “Prison for papers”: Last Resort Measures Used as Standard Procedure. Available at: <https://www.mobileinfoteam.org/detention>

<sup>127</sup> Refugee Support Aegean and Stiftung Pro-ASYL. 2023. The state of the Greek asylum system, twelve years since M.S.S. Available at: [https://rsaagean.org/wp-content/uploads/2023/07/RSA\\_PRO-ASYL\\_MSS\\_2023\\_Submission.pdf](https://rsaagean.org/wp-content/uploads/2023/07/RSA_PRO-ASYL_MSS_2023_Submission.pdf)

meals per day), clothing and interpretation assistance “when needed”, spaces for religious practice, and people “are allowed to keep their personal items”.

55. The Government presents no evidence to support this claim.
56. Reports published in 2023 by MIT,<sup>128</sup> BVMN,<sup>129</sup> Equal Rights Beyond Borders<sup>130</sup> and others<sup>131</sup> present strong evidence that conditions within PRDCs in Greece are far from “adequate”. MIT’s research evidences that access to legal advice in PRDCs on mainland Greece is extremely limited; those who cannot afford lawyer’s fees are left without information or advice, amplified by the critical lack of translators available in detention centres.<sup>132</sup> In the *M.S.S v Belgium and Greece* 2011 judgment, the ECtHR noted “the systematic placement of asylum-seekers in detention without informing them of the reasons for their detention is a widespread practice of the Greek authorities” (para 226). MIT found that this practice persists; over 40% of their respondents across PRDCs were arrested without being informed of the reason in a language that they understood.<sup>133</sup> In its 2020 report,<sup>134</sup> the CPT additionally reiterated comments made following their 2018 visit, highlighting the “systematic deficiency of fundamental importance [...] concerning the total lack of interpretation services in all establishments visited” resulting in significant difficulties faced in communications with detainees. Furthermore, the CPT noted that detainees were forced to sign documents that they did not understand, a practice reported by a third of MIT’s respondents between 2020-2022.<sup>135</sup> The Greek Ombudsman’s Special Report published in 2022 confirmed that “the lack of interpretation services is a critical issue in all PROKEKAs, because it impairs all rights of the detainees”.<sup>136</sup>
57. In addition, the carceral environments of PRDCs, coupled with dilapidated structures, dysfunctional facilities, unsanitary conditions and a fundamental lack of access to healthcare has a significant impact on the psychological wellbeing of detainees.<sup>137</sup> In MIT’s research, 61% of people interviewed reported poor hygiene conditions within PRDCs, including reports that centres are dirty, harbouring mould and infestations of rodents and insects.<sup>138</sup> In certain centres, including Corinth PRDC, respondents had limited access to the outdoors and shared overcrowded, cell-like rooms, with a lack of mattresses, bed sheets, blankets, clothing

<sup>128</sup> Mobile Info Team. 2023. “Prison for papers”: Last Resort Measures Used as Standard Procedure. Available at: [www.mobileinfoteam.org/detention](http://www.mobileinfoteam.org/detention)

<sup>129</sup> Border Violence Monitoring Network. 2023. Dark Rooms, Degrading Treatment and Denial: The Use of Violence in Greece’s Pre-Removal Detention Centres. Available at: [www.borderviolence.eu/detention-violence-greece](http://www.borderviolence.eu/detention-violence-greece)

<sup>130</sup> Equal Rights Beyond Borders. 2023. ‘Still Detained and Forgotten’. Available at: <https://www.equal-rights.org/Articles/100>

<sup>131</sup> AIDA. 2022. Country Report Greece. Available at: [https://asylumineurope.org/wp-content/uploads/2023/06/AIDA-GR\\_2022-Update.pdf](https://asylumineurope.org/wp-content/uploads/2023/06/AIDA-GR_2022-Update.pdf)

<sup>132</sup> Mobile Info Team. 2023. “Prison for papers”: Last Resort Measures Used as Standard Procedure. Available at: [www.mobileinfoteam.org/detention](http://www.mobileinfoteam.org/detention); and BVMN. 2023. Dark Rooms, Degrading Treatment and Denial: The Use of Violence in Greece’s Pre-Removal Detention Centres. Available at: [www.borderviolence.eu/detention-violence-greece](http://www.borderviolence.eu/detention-violence-greece)

<sup>133</sup> *ibid.*

<sup>134</sup> CPT. 2020. Report to the Greek Government on the visit to Greece carried out by the CPT from 13 to 17 March 2020, CPT/Inf (2020). Available at: <https://rm.coe.int/1680a06a86>

<sup>135</sup> Mobile Info Team. 2023. “Prison for papers”: Last Resort Measures Used as Standard Procedure. Available at: <https://www.mobileinfoteam.org/detention>

<sup>136</sup> Greek Ombudsman. 2022. Special Report. Return of Third-Country Nationals, p.26. Available at: <https://www.theioi.org/ioi-news/current-news/ombudsman-publishes-special-report-on-return-of-third-country-nationals-in-2022>

<sup>137</sup> Equal Rights Beyond Borders. 2023. ‘Still Detained and Forgotten’. Available at: <https://www.equal-rights.org/Articles/100>; and Mobile Info Team. 2023. “Prison for papers”: Last Resort Measures Used as Standard Procedure. Available at: <https://www.mobileinfoteam.org/detention>

<sup>138</sup> Mobile Info Team. 2023. “Prison for papers”: Last Resort Measures Used as Standard Procedure. Available at: <https://www.mobileinfoteam.org/detention>

or cleaning items provided. The quality of food reported across PRDCs was extremely low, with fewer than 20% of testimonies reporting no food-related issues.<sup>139</sup> All 50 respondents in MIT's research unanimously reported that there was no dedicated space for religious practice across all PRDCs, directly disputing the Government's communication with the CM.<sup>140</sup>

58. The practice of confiscating mobile phones is routine in the detention centres of Petrou Ralli and Fylakio, while BVMN documented the widespread smashing of phone cameras in Paranesti PRDC.<sup>141</sup> This stands in contrast to the Government's claim stating that detainees are able to keep personal items, of which mobile phones are of particular importance to stay in communication with networks of support, as well as with their legal representatives.
59. Finally, a case analysis by MIT of over 150 enquiries made by individuals who were detained in PRDCs highlighted that people consistently reported that medical access in detention facilities was the most challenging issue that they faced, resulting in reported incidents of self-harm.<sup>142</sup> This is supplemented by reports which detail the limited or total lack of medical personnel present in PRDCs in 2023 (in particular, in Amygdaleza, Corinth and Xanthi where there are no doctors at all, for the some 1,794 detainees who were being held in these PRDCs as at the end of April 2023) confirming that conditions do not ensure adequate standards for long-term detention.<sup>143</sup>
60. For the reasons highlighted above, the submitting organisations strongly dispute that PRDCs "*meet adequate standards for long-term detention*" and that detained persons have "*access to open air structures and facilities*", three meals per day, clothing and interpretation assistance "*when needed*", as well as spaces for religious practice, and people "*are allowed to keep their personal items*".

## Reception and Protection of Unaccompanied Children (UACs)

At paragraph 26, the Government claims that "*Unaccompanied minors arriving in the Greek territory are accommodated in designated areas in CCACs or RICs, separately from adults and have access to age-appropriate activities and care*". They also claim that UACs are placed in designated areas of CCACs or RICs "*only for the time necessary for the completion of the identification and initial reception procedures*", until they are transferred to accommodation centres or other facilities for UACs.

61. IHR has consistently raised concerns regarding the unsuitability of CCACs for the accommodation of children for any period of time, given the inhuman living conditions, systemic deficiencies in the age and vulnerability assessment procedures, lack of access to asylum including access to a lawyer and lack of access to basic services that render it unsuitable for UACs.<sup>144</sup> UACs are *de facto* detained in the so-called 'Safe Zone' of the Samos CCAC, which they are restricted to for 22 hours a day, with 2 hours of 'free time', where they

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<sup>139</sup> *ibid.*

<sup>140</sup> *ibid.*

<sup>141</sup> BVMN. 2023. Dark Rooms, Degrading Treatment and Denial: The Use of Violence in Greece's Pre-Removal Detention Centres. Available at: [www.borderviolence.eu/detention-violence-greece](http://www.borderviolence.eu/detention-violence-greece)

<sup>142</sup> Mobile Info Team. 2023. "Prison for papers": Last Resort Measures Used as Standard Procedure. Available at: [www.mobileinfoteam.org/detention](http://www.mobileinfoteam.org/detention).

<sup>143</sup> Refugee Support Aegean and Pro-ASYL. 2023. The state of the Greek asylum system, twelve years since M.S.S. Available at: [https://rsaegean.org/wp-content/uploads/2023/07/RSA\\_PRO-ASYL\\_MSS\\_2023\\_Submission.pdf](https://rsaegean.org/wp-content/uploads/2023/07/RSA_PRO-ASYL_MSS_2023_Submission.pdf)

<sup>144</sup> I Have Rights. 2022. Unaccompanied minors in the Closed Controlled Access Centre of Samos. Available at: <https://ihaverights.eu/unaccompanied-minors-in-the-closed-controlled-access-centre-of-samos/>; I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 29. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf).



can play in Section A of the CCAC only. Furthermore, despite not being provided with reasons on the restriction of their liberty, children are not allowed to go outside the CCAC unless they are (i) being taken to hospital; or (ii) attending the informal education NGO Alkezei for classes. Since the CCAC has opened the RIS has refused to register children in public school. As a result of these conditions, children have reported feeling that they are detained in a “*prison within a prison*”.<sup>145</sup>

62. Moreover, until November 2022, accompanied children and UACs were detained in the quarantine zones of the CCAC, where their age was not assessed until after the quarantine period was over. This meant that they were detained with adults in violation of European and Greek law.<sup>146</sup> Reports also suggest that children may have been witness to violence and ill-treatment in the quarantine zones of the CCAC.<sup>147</sup>
63. Concerns have also be raised about: UACs lack of access to adequate clothing,<sup>148</sup> and access to legal information as the RIS revoked the lawyer of the child protection NGO, PRAKSIS’ access to the so-called “Safe Zone”.
64. As emphasised by IHR and the IRC earlier this year, “*considering the extensive EU funding involved in establishing the CCAC the rights of the children appear to be worryingly deprioritised*”,<sup>149</sup> providing nuance to the Government’s claims in their communication.

## **Section II - Additional information relevant to implementation**

### **Destitution and Homelessness**

65. The second violation found in *M.S.S.* referred to the circumstances which rendered the applicant homeless and destitute. The Court determined that the situation of extreme material poverty faced by the applicant amounted to a violation of Article 3 of the Convention, moreover, that the Greek authorities had failed to take “*due regard to the applicant’s vulnerability as an asylum seeker*” (para 263). Despite the significance of this finding in the judgment, the Government’s communication makes no reference to the real situation of destitution and street homelessness still faced by asylum seekers in Greece today.
66. A 2022 study by the Greek Council for Refugees (GCR), Diotima Centre and the IRC addresses the systemic challenges applicants and beneficiaries of international protection face in accessing housing.<sup>150</sup> From early 2020 to mid-November 2021, GCR received requests for support from 1,461 people registered as homeless and/or as squatting tenants.<sup>151</sup> In 2020, 94% of those requesting this support were people seeking

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<sup>145</sup> *Ibid.* Page 29.

<sup>146</sup> Committee of the Parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (January 30, 218), Special report further to a visit undertaken by a delegation of the Lanzarote Committee to transit zones at the Serbian/Hungarian border (5-7 July 2017). See also I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Page 29. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf).

<sup>147</sup> *Ibid.* Page 29.

<sup>148</sup> Samos Volunteers and Just Action. 2022. Instagram Post. Available at: <https://www.instagram.com/p/Ci0-utJNiuf/?igshid=YmMyMTA2M2Y%3D>

<sup>149</sup> International Rescue Committee and I Have Rights. 2023. Contribution to the European Ombudsman’s strategic inquiry into how the European Commission ensures respect for fundamental rights in the EU-funded migration management facilities in Greece. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman\\_Submission\\_IRC\\_IHR\\_Jan-2023\\_final.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/EU-Ombudsman_Submission_IRC_IHR_Jan-2023_final.pdf)

<sup>150</sup> Greek Council for Refugees, Diotima Centre, International Rescue Committee Hellas. January 2022. Do the human right thing—Raising our Voice for Refugee Rights. Available at: [https://www.gcr.gr/media/k2/attachments/GCR\\_ACF\\_english.pdf](https://www.gcr.gr/media/k2/attachments/GCR_ACF_english.pdf)

<sup>151</sup> *Ibid.* Page 10.

asylum.<sup>152</sup> Similarly, in 2020 Diotima Centre referred 24% of the survivors of gender-based violence they work with to housing agencies, and 22% in 2021.<sup>153</sup>

67. As mentioned at paragraphs 12 and 13 above, people seeking asylum are expected to reside within RIS accommodation facilities. Previously, individuals could alternatively be housed through the ESTIA programme. Applicants for international protection are only eligible for cash assistance if they are residing in one of the RIS accommodation facilities during the asylum process.<sup>154</sup> However, people have little or no choice in the accommodation facility they may be transferred to. For example, the Vaghiochori camp –closed in 2017 and 2018 due to poor conditions but reopened in 2019 to host people transferred from the islands – is 10km from the nearest public health facility and the free bus service into Thessaloniki is limited to one bus per day.<sup>155</sup> In Athens, single-mothers expressed that they “*preferred to be on the street rather than a camp*”, describing the camps as “*worse than a prison*” and that “*dangerous networks are in charge*”.<sup>156</sup> Vulnerable applicants for international protection are thus either forced into socially-isolating camps which they do not feel safe or supported in, or resort to homelessness closer to community and advocacy networks.
68. As highlighted in paragraph 36 above, rates of destitution and homelessness worsened during the ‘down-sizing’ and eventual closure of the ESTIA programme. Already in 2020 when the Greek government assumed responsibility for the programme, they cut spending by 30% and caused an increase in homelessness amongst vulnerable applicants and beneficiaries of international protection.<sup>157</sup> In December 2022, up to 10,000 people were evicted from their homes and forcibly relocated to camps.<sup>158</sup> Those who were still waiting to receive an appointment for a subsequent application, and therefore without an active asylum claim and legal documents, were evicted and left homeless and at risk of a pushback.<sup>159</sup>
69. The 2022 report concluded: the number of applicants and beneficiaries of international protection, “*who experience complete homelessness and live in abandoned buildings/occupations...remains unknown [...]* However, it is clear from the experience of partner organisations that there is an invisible crisis affecting even extremely vulnerable people, who lack shelter and protection”.<sup>160</sup> This information attests to the real situation of destitution and street homelessness still faced by asylum seekers in Greece today.

## Pushbacks

70. In *M.S.S.*, based on the analysis of the merits the Court found that there had been “*a violation of Article 13 of the Convention taken in conjunction with Article 3 because of the deficiencies in the Greek authorities’ examination of the applicant’s asylum request and the risk he faces of being returned directly or indirectly to his country of origin without any serious examination of the merits of his asylum application and without*

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<sup>152</sup> *Ibid.* Page 10.

<sup>153</sup> *Ibid.* Page 11.

<sup>154</sup> UNHCR. Access to Cash Assistance. Available at: <https://help.unhcr.org/greece/living-in-greece/access-to-cash-assistance/>

<sup>155</sup> Refugee Support Aegen. 2019. Vaghiochori Camp. Available here: <https://rsaegean.org/en/vagiochori-camp/>

<sup>156</sup> Marianna Kakaounaki. 20 January 2023. Thousands of refugees back out in the cold. Available at: <https://www.ekathimerini.com/society/1202643/thousands-of-refugees-back-out-in-the-cold/>

<sup>157</sup> ANSA. 22 June 2022. Greece reduces funding for housing program. Available at: <https://www.infomigrants.net/en/post/25509/greece-reduces-funding-for-migrant-housing-program>

<sup>158</sup> Leonie Passler. 26 January 2023. Planned Homelessness: The Ending of the ESTIA II Programme in Greece. Equal Legal Aid. Available at: [https://www.equallegalaid.org/planned-homelessness-the-ending-of-the-estia-ii-programme-in-greece/#\\_ftn5](https://www.equallegalaid.org/planned-homelessness-the-ending-of-the-estia-ii-programme-in-greece/#_ftn5)

<sup>159</sup> *Ibid.*

<sup>160</sup> Greek Council for Refugees, Diotima Centre, International Rescue Committee Hellas. January 2022. Do the human right thing—Raising our Voice for Refugee Rights. Page 10. Available at: [https://www.gcr.gr/media/k2/attachments/GCR\\_ACF\\_english.pdf](https://www.gcr.gr/media/k2/attachments/GCR_ACF_english.pdf)

*having access to an effective remedy*” (para 321). The judgment referred in several instances to reports of individual and collective forced returns and deportations made by the Greek authorities to Turkey, including at the border with Turkey and of asylum seekers who have not yet applied for asylum, effectively putting asylum seekers at risk of refoulement (paras 160, 192 and 282). Pushbacks that are systematically carried out from Greece to Turkey are a clear example of these instances, and according to the conclusions made by the Court in *M.S.S.* they amount to systemic violations of Article 13 and Article 3, raising much broader concerns on the frequency of such violations by the Greek State.

71. In January 2023, the Recording Mechanism of Incidents of Informal Forced Returns published an interim report detailing 50 incidents of informal forced returns which according to the alleged victims occurred in April 2020 to October 2022.<sup>161</sup> Furthermore, BVMN’s online database has recorded 43 pushback incidents involving 3,049 people pushed back from Greece to Turkey since 2022. Finally, Forensic Architecture published a cartographic platform in 2022 mapping 1,018 ‘drift-back’ expulsions in the Aegean Sea involving 27,464 people since February 2020, 26 incidents of which recorded the Hellenic Coast Guard directly throwing people into the sea without floatation devices.<sup>162</sup> Consistent with RSA and Pro-ASYL’s Rule 9 submission to the CM, the submitting organisations reiterate that these reports amount to a serious breach of the right to seek asylum and of the prohibition of *refoulement*, leaving people at risk of, “*refoulement of asylum-seekers by the Greek authorities*” (para 192) as found by the Court in *M.S.S.*
72. Moreover, as a result of the severely limited access to asylum on mainland Greece throughout 2022<sup>163</sup> and ongoing in 2023,<sup>164</sup> asylum seekers are left undocumented and without basic services or accommodation. Coupled with the increased presence of police carrying out sweep operations of the cities to check people for documentation,<sup>165</sup> particularly in Athens and Thessaloniki, asylum seekers are at heightened risk of apprehension, which according to BVMN, systematically results in people being detained in inhuman conditions and from detention then being pushed back.<sup>166</sup>

### **Section III - Conclusions and Recommendations**

73. *M.S.S. v. Belgium and Greece* has been pending implementation for 12 years. Yet, as highlighted by the submitting organisations, serious problems continue to persist, affecting a large number of vulnerable people. The submitting organisations recommend:

- The Committee should examine the cases on an annual basis.

### **Living Conditions of Asylum Seekers in Greece**

- The Committee should request Greece to repeal Article 40(a) of the Asylum Code and end the regime of *de facto* detention in CCACs and RICs.

<sup>161</sup> Recording Mechanism of Incidents of Informal Enforced Returns. 2023. Interim Report. Available at: [https://www.nchr.gr/images/pdf/nea\\_epikairothta/deltia\\_tupou/2023/Interim\\_Report\\_echanism\\_en.pdf](https://www.nchr.gr/images/pdf/nea_epikairothta/deltia_tupou/2023/Interim_Report_echanism_en.pdf)


<sup>162</sup> Forensic Architecture. 2023. Drift-backs in the Aegean Sea. Available at: <https://forensic-architecture.org/investigation/drift-backs-in-the-aegean-sea>

<sup>163</sup> Mobile Info Team. 2022. Blocked from the System. Available at: <https://www.mobileinfoteam.org/blockedfromthesystem>

<sup>164</sup> Mobile Info Team et al. 2023. Joint Statement: Shutdown of the Greek Asylum Service database leaves people unable to claim asylum and in limbo. Available at: <https://www.mobileinfoteam.org/alkyoni>

<sup>165</sup> Border Violence Monitoring Network. 2022. Press Release: Greek police launched operations targeting people-on-the-move in Thessaloniki. Available at: [https://borderviolence.eu/app/uploads/Press-Release-Thessaloniki\\_3004.pdf](https://borderviolence.eu/app/uploads/Press-Release-Thessaloniki_3004.pdf)

<sup>166</sup> Border Violence Monitoring Network. 2022. The BlackBook of Pushbacks 2022. Available at: <https://left.eu/issues/publications/black-book-of-pushbacks-2022/>

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- The Committee should urge Greece to restore alternatives to camp accommodation, *inter alia* by exploring how to mobilise community resources.
  - The Committee should urge Greece to take immediate action to respond to the homelessness crisis of asylum seekers and refugees in Greece.

### **Regarding Access to Asylum:**

- The Committee should urge Greece to immediately cease its practice of pushbacks to Turkey, which deny people access to territory and to asylum in Greece.
- The Committee should urge Greece to ensure that vulnerability assessments are carried out prior to applicants for international protection having their personal interview.
- The Committee should urge Greece to employ sufficient doctors and psychologists in RICs for vulnerable persons to be identified and for asylum seekers to have access to treatment.
- The Committee should request Greece to detail the specific measures it has introduced or aims to introduce in order to grant efficient access to the asylum procedure on the mainland within the deadlines set out in EU and domestic law.
- The Committee should request Greece increase staffing of the Greek Asylum Service and cease employing staff on short-term contracts.
- The Committee should urge the Greek authorities to align their practices with rulings by domestic Greek Courts with regards to the point at which an individual acquires the status of an applicant of international protection, thereby granting them access to territory and material reception conditions.<sup>167</sup>

### **Regarding Detention Conditions:**

- The Committee should request Greece to report on the measures taken, or the measures that will be taken to urgently improve access to health care, interpretation services and the unsanitary conditions in PRDCs.
- The Committee should urge Greece to ensure that the deprivation of liberty or the use of detention for asylum seekers and migrants is only used as a measure of last resort and in line with EU and domestic law
- The Committee should urge Greece to end the use of immigration detention for minors.

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<sup>167</sup> Administrative Court of Athens, AP741/2023, 17 March 2023; AP721/2023, 17 March 2023; Administrative Court of Kavala, AP421/2023, 12 April 2023; AP382/2023, 3 April 2023; AP379/2023, 31 March 2023; AP209/2023, 7 February 2023; AP164/2023, 7 February 2023; Administrative Court of Komotini, AP209/2023, 11 April 2023. Available at: <https://rsaegean.org/en/greek-asylum-case-law-report-issue1-2023/>

### Annex 1 Photos of The Samos Closed Controlled Access Centre



© Samos Advocacy Collective

Photo of residential containers in the Samos CCAC which are surrounded by two layers of barbed wire fences and CCTV cameras.<sup>1</sup>



Photo shared with IHR by a resident of the CCAC.<sup>2</sup> It shows multiple layers of barbed wire fences, private security (G4S) personnel at a checkpoint and accommodation containers in the distance.

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<sup>1</sup> I Have Rights. 2023. "They are killing minds" Life in the Samos Closed Controlled Access Centre. Available at: <https://ihaverights.eu/wp-content/uploads/2023/06/They-are-killing-minds-Life-in-the-Samos-Closed-Controlled-Access-Centre-.pdf>

<sup>2</sup> *Ibid.*



© Romy van Baarsen\_ Romy Aimee Photography

Photo of the biometric fingerprint control system which must be used, with an ID card to enter the CCAC on Samos.<sup>3</sup>



© Romy van Baarsen\_ Romy Aimee Photography

Photo of G4S personnel subjecting CCAC residents to a handheld scanner control.<sup>4</sup> This check is part of a longer chain of security checks people must undergo upon entry to the CCAC including: removal of footwear and outerwear, placing their items into an x-ray machine, having their bag inspected and walking through a metal detector frame.

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<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*



© Sam Jubb

Photo of layers of barbed wire fences and surveillance towers that surround the Samos CCAC.<sup>5</sup>

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<sup>5</sup> I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos. Available at: [https://ihaverights.eu/wp-content/uploads/2023/02/detention\\_report\\_full.pdf](https://ihaverights.eu/wp-content/uploads/2023/02/detention_report_full.pdf)



© Sam Jubb

Photo of the CCAC on Samos from outside, showing the barbed wire fences and CCTV cameras as well as the road surrounding the facility and the presence of the police.<sup>6</sup>



© Romy van Baarsen\_ Romy Aimee Photography

Photo of the bag searches at CCAC entrance conducted by police.<sup>7</sup>

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<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*



## Annex 2 - Pre-Removal Detention Centre conditions on mainland Greece

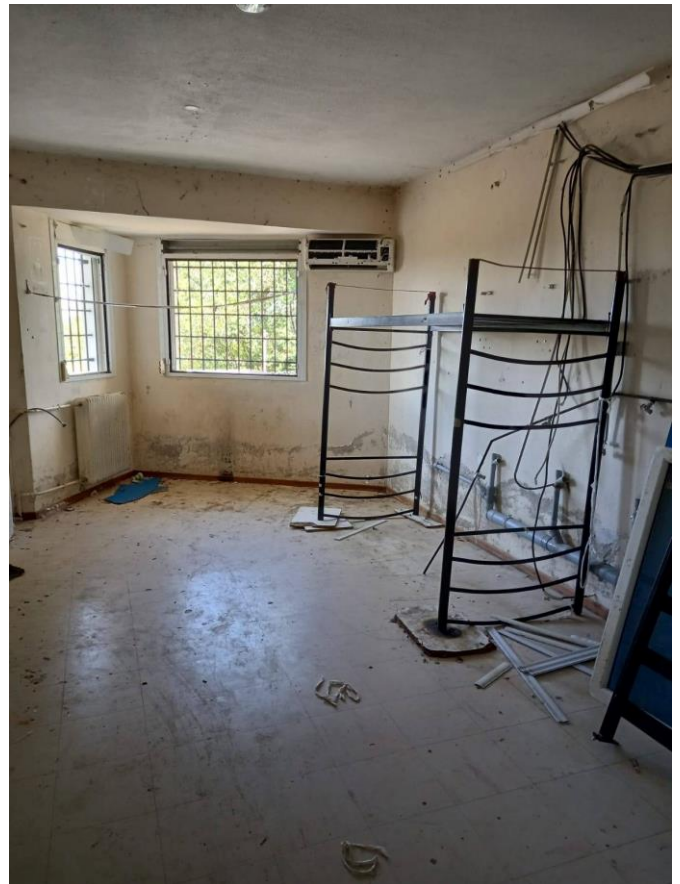


Photo shared by respondents of the Mobile Info Team report detained in Xanthi PRDC. It shows the unsanitary conditions and dysfunctional facilities of PRDCs.<sup>8</sup>

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<sup>8</sup> Mobile Info Team, 2023. "Prison for Papers": Last Resort Measures Used as Standard Procedure. Available at: [www.mobileinfoteam.org/detention](http://www.mobileinfoteam.org/detention)



Photo shared by respondents of the Mobile Info Team report detained in Corinth PRDC. It shows the poor water quality and unsanitary conditions.<sup>9</sup>

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<sup>9</sup> *Ibid.*