

AUGUST 2024

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*

13 YEARS AFTER M.S.S.: REPORT ON HUMAN RIGHTS, ACCESS TO ASYLUM AND DETENTION CONDITIONS IN GREECE

EXECUTIVE SUMMARY

Joint submission by I Have Rights,
Mobile Info Team and Equal Legal Aid



A. ASYLUM PROCEDURES

I. Length of asylum procedures

The authorities remain systemically noncompliant with deadlines in Greek law for the registration of both first instance and subsequent asylum applications. This leaves people undocumented and unable to access their rights to full material reception conditions and healthcare.

II. Access to the online system for registration of asylum applications

Asylum seekers continue to report difficulties in accessing the online platform for requesting registration appointments for first instance asylum claims on the website of the Ministry of Migration and Asylum (MoMA).

B. LACK OF ACCESS TO LEGAL ASSISTANCE BY ASYLUM SEEKERS

In both mainland RICs and the Samos CCAC the authorities impose disproportionate restrictions on lawyers' access, hindering the ability of asylum seekers to access legal assistance.

I. Access to legal assistance during reception and identification procedures

Persons undergoing reception and identification procedures remain de facto detained. This hinders asylum seekers' ability to access legal assistance during reception and identification procedures.

II. Access to legal aid to challenge negative decisions

Deficiencies remain in state-funded legal aid, both after first instance negative decisions and during judicial review by Administrative Courts. Common practices such as the lack of information and high requirements in order to be eligible for free legal aid hinder the exercise of the right to legal aid. In this context, access to legal aid to challenge negative decisions is limited.

III. Effectiveness of remedies for asylum seekers

Legal avenues to challenge de facto detention orders, first instance rejection decisions, and second instance rejection decisions present serious challenges to the right to an effective remedy. De facto detention orders for "restriction of freedom" are issued after the start of the period of detention. The lack of a written order prevents asylum seekers from bringing a challenge against their administrative detention. Procedural requirements at the Appeals Authority, such as the reduction of deadlines for lodging certain appeals, the removal of their suspensive effect, and the obligation to be represented by a lawyer for the appeal to be admissible, have made access to the appeals procedure particularly difficult. Lastly, access to justice following a second instance rejection decision remains a significant challenge, due to high costs and significant delays in the processing of cases.

C. LIVING CONDITIONS OF ASYLUM SEEKERS

I. Overcrowding

Overcrowding and poor conditions remains an issue. The Samos CCAC's official capacity is routinely exceeded, leaving asylum seekers held in degrading conditions. In this context, a new unlawful practice of the authorities emerged where applicants were asked to waive their rights to reception conditions to be transferred from the Samos CCAC. Mainland camps are also in operation with substandard conditions and without basic services.

II. ESTIA 21 programme

In the Greek Government's Rule 9.1 submission dated 8 August 2023, they reported that the ESTIA 21 programme was operational. This is despite the ESTIA 21 programme concluding in 2022.

III. Conditions in the Camps: lack of access to basic services, concerning standard of hygiene

Minimum standards of hygiene are not met in the Samos CCAC and RICs. There is highly limited access to water, a complete lack of laundry services and a shortage of basic hygiene and cleaning items.

VI. Conditions in camps: insufficient water and food supply

There are serious shortages of water and food across reception facilities.

V. Conditions in camps: insufficient medical and psychosocial care

Asylum seekers continue to have highly restricted access to healthcare and psychosocial support. Basic healthcare needs are rarely met, and the lack of psychological support is reported in both island and mainland camps, causing the deterioration of the mental health condition of people seeking asylum.

D. SHORTCOMINGS IN THE RECEPTION AND LIVING CONDITIONS OF VULNERABLE INDIVIDUALS

I. Vulnerability Assessments

Vulnerability assessments are not conducted during the detention period of newly arrived asylum seekers. Vulnerability is not properly assessed during reception and identification procedures, and as a result persons are not granted the specialised support to which they are entitled.

II. Provisions for vulnerable people

Vulnerable individuals continue to not be provided with essential services across reception facilities.

E. RECEPTION, PROTECTION AND DETENTION OF UNACCOMPANIED MINORS

Accommodation facilities both on Samos and on the mainland remain unsuitable for children.

F. CONDITIONS OF DETENTION

I. *De facto* detention

The lawfulness of the detention of asylum seekers, as well as on the conditions under which they are being detained is of serious concern. The authorities do not comply with legal frameworks set by EU and Greek law on the fact of detention, its length and the provision of information to the individuals concerned. The lack of healthcare and psychosocial support in detention facilities on the mainland are of serious concern.

RECOMMENDATIONS

M.S.S. v. Belgium and Greece has been pending implementation for 13 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.

1.Regarding access to asylum:

- 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 request Greece to detail the specific measures it has introduced or aims to introduce to ensure sufficient interpretation services during asylum proceedings.

2. Regarding the lack of access to legal aid and representation during asylum proceedings:

- The Committee should urge Greece to ensure unhindered and sufficient access to legal information and assistance for asylum seekers hosted in Greek reception facilities, in accordance with EU law.
- The Committee should request Greece to ensure Greek lawyers have unlimited access to state facilities where asylum seekers are hosted.
- The Committee should request Greece to detail the specific measures it has introduced or aims to introduce in order for asylum seekers to access legal aid and representation and the effectiveness of remedies after a first or second instance rejection decision.

3. Regarding the 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.
- The Committee should request Greece to provide a detailed account of the measures it has introduced or aims to introduce to address the issue of substandard conditions in state facilities hosting asylum seekers in Greece as well as to alleviate the extreme and widespread isolation of residents.
- The Committee should urge Greece to ensure sufficient access to food, water and hygiene items to asylum seekers residing in state facilities.
- The Committee should urge Greece to ensure sufficient access to adequate medical and psychosocial care to asylum seekers in state facilities.
- 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.

4. Regarding the reception and living conditions of vulnerable asylum seekers:

- 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 provide sufficient and timely documentation for asylum seekers recognized as vulnerable to receive adequate care and reception conditions.
- 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.

5. Regarding Detention Conditions:

- The Committee should urge Greece to ensure a proportionate and justified use of detention, under appropriate legal basis.
- The Committee should urge Greece to ensure that the deprivation of liberty of asylum seekers and migrants is used as a measure of last resort, in accordance with EU and domestic law.
- 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.

