Date: Tuesday, 19th of September, 2023

Unlawful detention and worsening conditions: Over 4,000 asylum seekers unlawfully detained on Samos and Lesvos

Since July 2023, the Aegean islands have experienced a sharp increase in arriving asylum seekers crossing by boat from Türkiye. Between 1 July – 31 August 2023, over 4,000 people were brought to the Closed Controlled Access Centres (CCACs) on Samos and Lesvos and placed into unlawful detention while awaiting registration of their asylum requests.

The registered arrival of asylum seekers continues to increase. The undersigned organisations have observed the authorities' (including the Reception and Identification Service, the Greek Asylum Service and European Agency for Asylum) inability to manage this influx. A policy of automatically *de facto* detaining all new arrivals has been implemented. The result is the mass violations of the right to liberty under Article 5 of the European Convention on Human Rights (ECHR), risking infringement of Article 3 ECHR's prohibition against torture and inhuman or degrading treatment, and violating Greek and EU law, requiring that detention be a matter of last resort and be accompanied by an individualised detention order.

Unlawful 'de facto' detention

This practice of automatically detaining asylum seekers is unlawful as:

- 1. It infringes the requirement that detention is only used as a measure of **last resort**.[1]
- **2.**People are detained for **extended periods** (two weeks to one month) without the legally required individualised written decision or justification provided for their detention.
- **3.**In cases where applicants *are* provided with written documents justifying their detention, an order for "restriction of freedom", not an order for detention is given, **failing to reflect the reality of the confinement**.
- **4.** Moreover, the justification for this *de facto* detention is **not individually assessed** and the blanket justification that 'the reception and identification procedures are not completed' is consistently given.
- 5.Legal actors on Samos have observed that the provision of these 5 and 20 day "restriction of freedom" orders, frequently occurs after the detention period has already begun. For example, on Samos, legal actors have recorded that the 5-day restriction of freedom orders were **retroactively provided** to applicants on the same day that they were given the 20-day restriction order. Applicants reported being forced to sign orders that were back-dated, masking the reality that they had been detained for several days without documents. Other applicants were not given the restriction of freedom order but draft translations of another type of restriction orders, without any date or name.
- **6.**Legal actors on Lesvos have observed that newly arrived asylum seekers are de facto detained in the Lesvos CCAC without the issuance of any specific decision ordering detention or restriction of their freedom. They are issued with neither a detention order within 5 days of arrival, nor an extension for up to 25 days, as required by Article 40(a) of Law 4939/2022. Asylum seekers are issued only a piece of paper documenting the simple registration of their will to seek asylum, containing only their basic biographic data. After their asylum claims have been fully registered, asylum seekers are free to leave the Lesvos CCAC, but this process is unacceptably delayed, in some cases for more than three weeks, in violation of Article 69(2) of Law 4939/2022.

[1] Law 4939/2022 Asylum code, Article 50(2), https://www.e-nomothesia.gr/kat-allodapoi/nomos-4939-2022-phek-111a-10-6-2022.html (accessed 8 September 2023); European Union: Council of the European Union, Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), 29 June 2013, OJ L. 180/96 -105/32; 29.6.2013, 2013/33/EU, paragraph 20, available at: https://www.refworld.org/docid/51d29db54.html (accessed 8 September 2023).

7. In both Lesvos and Samos, accompanied and unaccompanied children are detained alongside adults in this detention setting.[2]

Inhumane and degrading detention conditions

At both CCACs, new arrivals have been de facto detained in inhuman and degrading conditions.

On Samos, hundreds of people have been restricted to the "Temporary Accommodation Zones" of the CCAC, the sections of the CCAC that were previously used for Covid-19 quarantine. These enclosed zones are composed of accommodation containers only and are surrounded by layers of barbed wire fences. Police provide 24/7 surveillance and residents are only permitted to exit for urgent medical needs or for interviews with the authorities. **Mobile phones are taken by the police upon arrival** for between 7-10 days,[3] resulting in a mass violation of applicants' privacy and leaving new arrivals with no possibility to reach out for medical or legal support to non-governmental actors operating outside the CCAC.

As newly arrived persons are detained within subsections of the CCAC, they do not have access to any services, including medical support. This is compounded by the fact that no doctor is permanently present in Samos CCAC to provide medical care to people who have just arrived, resulting in hundreds of asylum seekers being unable to access medical, including psychological support. The potential repercussions for this lack of access are significant, as asylum seekers are frequently exposed to violence enroute and/or in their country of origin and present specific health vulnerabilities. This includes, for example, survivors of sexual violence and pregnant women, who may need urgent sexual and reproductive health care. Additionally, owing to the absence of healthcare and individual vulnerability assessments, applicants with non-communicable chronic diseases such as diabetes or cardiovascular conditions and communicable diseases risk remaining undetected or unable to seek medical treatment for several weeks after arrival.

On Lesvos, **newly arrived persons are de facto detained inside the Lesvos CCAC**, **housed in large rubhalls**. They can circulate throughout the CCAC, but are prohibited from leaving, except for specific medical emergencies or medical care, normally in coordination with Médecins Sans Frontières (MSF). **Men, women, and children (including unaccompanied children and other vulnerable groups) are housed together in these rub-halls, without any privacy or safety measures** to protect vulnerable individuals. As in Samos, there is 24/7 surveillance of the Lesvos CCAC by police both at the entrance and throughout the CCAC, and all the mobile phones of newly arrived persons are taken by police upon arrival for several days.

Conditions in these rubhalls are unacceptable. There are insufficient mattresses and beds meaning that people are forced to sleep on the ground. People de facto detained in these conditions have reported that they do not have sufficient food or fresh water and are constantly hungry. There is also insufficient running water. Distribution of non food items is slow or non-existent for new arrivals, leaving most new arrivals without proper shoes and only the clothing they arrived with to Lesvos.

Medical access is also severely limited. Newly arrived people have reported that they have been **denied medical and psychological care by EODY**, due to their lack of documentation in Greece, including persons with chronic medical issues. The vulnerability assessments are also delayed.

[3] Reports suggest that people are required to write their pin code on a post-it note when their phones are taken by police. Moreover, applicants report not being provided with any legal justification for their phones being taken.

^[2] Committee of the Parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (January 30, 2018), Special report further to a visit undertaken by a delegation of the Lanzarote Committee to transit zones at the Serbian/Hungarian border <u>https://rm.coe.int/special-report-further-to-a-visit-undertaken-by-a-delegation-of-the-la/1680784275</u> (accessed 07 September 2023).

While the number of people de facto detained in the CCAC in these conditions has fluctuated over the last months, it reached a peak of over 1000 people de facto detained in late July/early August 2023, and was still over 600 people as of 14 September 2023.

In both Lesvos and Samos, absence of medical care upon arrival at the CCACs directly violates both Greek national law[4] and the EU reception conditions directive in regard to asylum seekers and refugees.[5]

Despite their willingness to support, many members of non-governmental organisations operating on the islands have had their **access to the CCAC restricted or removed**, despite the increasing needs inside the CACC, the lack of adequate living standards and absence of medical care for new arrivals.

We, the undersigned organisations, call for an immediate end to the unlawful practice of systematically de facto detaining people upon arrival and awaiting registration of their asylum requests. The fact that the authorities were unprepared for this predictable increase in the number of people seeking safety in Greece is not a justification for the mass violation of their right to liberty and freedom from inhuman treatment.

Signed,

Organisation on Samos and Lesvos:

Avocats sans Frontières France Fenix Humanitarian Legal Aid Greek Council for Refugees (GCR) Human Rights Legal Project I Have Rights (IHR) Just Action Legal Centre Lesvos Médecins Sans Frontières-Greek Section Samos Volunteers Skills Factory Yoga and Sport with Refugees

Other organisations:

Be Aware And Share (BAAS) The Border Violence Monitoring Network Equal Legal Aid Greek Forum of Migrants HumanRights360 Jesuit Refugee Service Greece (JRS) Lighthouse Relief Mobile Info Team Northern Lights Aid Project Armonia Refugee Legal Support

[4] Law 4939/2022 Asylum code, Article 41(c) and (d), <u>https://www.e-nomothesia.gr/kat-allodapoi/nomos-4939-2022-phek-111a-10-6-2022.html</u> (accessed 7 September 2023).

[5] European Union: Council of the European Union, Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), 29 June 2013, OJ L. 180/96 -105/32; 29.6.2013, 2013/33/EU, available at: https://www.refworld.org/docid/51d29db54.html, Article 11 (accessed 7 September 2023).