

Input for the preparation of the OHCHR Secretary General's Report on the Human Rights of Migrants

Submitted by: I Have Rights and Mobile Info Team

Supported by: Border Violence Monitoring Network

I. Reporting Organisations

1. **I Have Rights (IHR)** is a non-profit law clinic that assists people undergoing the asylum procedure on the Greek Aegean island of Samos. IHR engages in advocacy and strategic litigation with an aim towards ending the detention of people on the move, ending the illegal practice of pushbacks, and defending the right to seek asylum. IHR is a member of the Border Violence Monitoring Network.
2. **Mobile Info Team (MIT)** is a Greece-based organisation that provides advice and assistance throughout all stages of the asylum procedure. MIT raises awareness and advocates for changes to the asylum system in Greece, and works to end pushbacks as part of the Border Violence Monitoring Network.
3. **Border Violence Monitoring Network (BVMN)** is a coalition of organisations working to document illegal pushbacks and related violations along the EU's external borders in the Western Balkans, Greece and Turkey. The collection of data on violations is done by a consortium of independent field experts who are part of or cooperate with partner organisations united through the Border Violence Monitoring Network.

II. Executive Summary

4. In this submission we present key challenges and recommendations relating to formal immigration detention and *de facto* detention in Greece. We identify systemic challenges, as well as contextual differences, in the practices of both Pre-Removal Detention Centres (PRDCs)¹ on the Greek mainland and Closed Controlled Access Centres (CCACs) on the Aegean island of Samos.² The submission distinguishes formal immigration detention in the PRDCs and what we argue amounts to *de facto* detention in the CCACs, a form of detention which we note is absent from the General Assembly Resolution (A/RES/76/172).³ The Greek State imposes measures of containment that we affirm clearly contravene several aspects of the Resolution and amount to an unlawful deprivation of liberty and inhuman and degrading treatment in violation of ECHR Articles 3 and 5.

III. Key challenges relating to immigration detention in Greece

5. We assert that the Greek State's immigration detention practices present key obstacles to the fulfilment of obligations outlined in the Resolution adopted by the General Assembly on 16 December 2021 (A/RES/76/172), which calls on States to put an end to the arbitrary arrest and detention of migrants, to pursue alternatives to detention while assessments of migration status are under way, to work towards ending the detention of migrant children, and to prosecute acts of violation of the human rights of migrants and their families.⁴

¹ This submission draws on research conducted by Mobile Info Team (MIT) and Border Violence Monitoring Network (BVMN) into the conditions in which applicants of international protection and third country nationals subject to return orders are detained within the six Pre-Removal Detention Centres (PRDCs) on mainland Greece.

² See IHR, 'Joint Statement: Call for the closure of the Samos Closed Controlled Access Centre', (3 May 2023), available [here](#).

³ IHR argues in their recent report that the *de facto* detention in the CCAC amounts to an evasion of the implementation of legal safeguards. See IHR, 'Press Release - The EU-funded Closed Controlled Access Centre: The De facto detention of asylum seekers on Samos' (23 February 2023), available [here](#).

⁴ 5(a), (b) and (h) Available [here](#).

6. We identify the following ongoing key challenges relating to immigration detention in Greece:
- a. **Arbitrary apprehension and detention of asylum seekers and migrants in irregular situations:**
 - i. Migrants and asylum seekers in Greece are routinely subjected to detention within PRDCs, police stations and other detention sites which is arbitrary both in terms of reason and length and represents a continued and widespread violation of their human rights, including through detention in police stations beyond the legal limit of one month, and the excessive and disproportionate use of the maximum limit of administrative detention of 18 months, and in some cases 36 months, within PRDCs.⁵ Migrants in irregular situations and asylum seekers are additionally frequently apprehended and detained by Greek authorities on the mainland without being provided with a reason for their apprehension or continued detention in a language they can understand, and are moreover frequently forced to sign documents in a language they do not understand, without the assistance of a translator.
 - b. **Use of detention and *de facto* detention as default rather than as a measure of last resort, including for asylum seekers:**
 - i. We note that while EU legislation stipulates that immigration detention should only be a measure of last resort, many States including Greece resort to *de facto* detention as a default, and despite widespread recognition that this practice violates international law and human rights standards.⁶
 - ii. The authorities implementation of article 40 of Greek Law 4939/2022 has led to a blanket practice of prohibiting newly arrived asylum seekers from leaving the Samos CCAC, amounting to unlawful and arbitrary *de facto* detention.⁷ Asylum seekers arriving at the CCAC are ‘restricted’ to the structure for up to 25 days for ‘identification purposes’.⁸ Through IHR’s monitoring, the CCAC authorities have changed and provided conflicting interpretations of when someone is identified and thus permitted to exit. As a result of the default *de facto* detention measure, people are deprived of access to legal advice and counsel, as well as community and psycho-social services.⁹ The hostile architecture of the CCAC¹⁰ and the systemic practice of detention, stands in contrast with Greece’s obligations to only use detention as a measure of last resort.

⁵ MIT. 2023. “‘Prison for Papers’’: Last Resort Measures as Standard Procedure.” Available [here](#).

⁶ See, for example:

1. Amnesty International, Greece: Irregular migrants and asylum-seekers routinely detained in substandard conditions, 2010, available [here](#).
2. Human Rights Watch, Greece: End Inhumane Detention Conditions for Migrants, 2010, available [here](#).

⁷ IHR, *ibid* 3, page 41. This has also formed the basis for recent infringement proceedings against Greece by the European Commission. See: European Commission, ‘January Infringements Package: key decisions’, (26 January 2023), available [here](#).

⁸ Article 40, Law No 4939/2022, Published in the Official Gazette 111/A/10-06-2022. This replaced an earlier version, Law No 2436/2019.

⁹ During the first 25 days, applicants undergo at least three interviews with the authorities, with some even having their fourth substantive asylum interview, before they can leave the CCAC. MSF, 30 November 2022, ‘In Greek reception centers, asylum seekers are stranded in prison-like conditions’, available [here](#).

¹⁰ The structure is surrounded by barbed wire fencing and CCTV, and guarded by Hellenic police (including Greek riot police) and the private security company, G4S. See Hellenic Ministry of Migration and Asylum, Closed Controlled Access Center of Samos, available [here](#).

c. Detention and *de facto* detention of migrant children:

- i. The Greek State continues to detain migrant children, including those who are unaccompanied, within detention facilities on the mainland where inadequate conditions, ill-treatment and incidences of violence have been widely documented.¹¹ For instance, in 2021 there was a total of 311 minors detained at Amygdaleza PRDC,¹² despite well-documented incidents of physical and verbal abuse at the PRDC.¹³
- ii. IHR additionally raises concern that unaccompanied children (UACs) on Samos are *de facto* detained in the so-called ‘safe zone’, a fenced off area of the CCAC they are only permitted to leave for two hours of ‘free time’ a day where they remain restricted to the wider structure of the CCAC.¹⁴

IV. Further challenges relating to immigration detention

7. Recalling para. 6(e), 11(g) and 13 of A/RES/76/172, we further highlight the following key challenges relating to immigration detention in Greece:

a. Failure to provide equitable responses to the pandemic and *de facto* detention

- i. We assert that between March 2020 to 25 November 2022, asylum seekers newly arriving to Samos were subject to a discriminatory pandemic-related measure which amounted to *de facto* detention.¹⁵ People were required to undergo a group-based, mandatory quarantine period of 5 - 15 days,¹⁶ with reports of xenophobic, dehumanising and degrading treatment by the authorities.¹⁷ Following reports of inhuman treatment in the quarantine zones, in December 2023 IHR co-submitted a complaint to the Greek Ombudsman. Despite nearly 5 months passing, the Ombudsman has not made any updates on an investigation.

b. Routine and systematic violence against migrants held in formal detention centres or under a *de facto* detention regime

- i. We assert that acts of violence against migrants held in Greek immigration detention is systemic, amounting to widespread human rights violations which in many cases may

¹¹ See, for example:

1. Report to the Greek Government on the visit to Greece carried out by the CPT from 4 to 16 April 2013, CPT/Inf (2014) 26, available [here](#);
2. Human Rights Watch, Boys’ Drawings Expose Greece’s Broken Detention System, 2020, available [here](#);
3. Greek Council for Refugees, submission to the Council of Europe, Application no. 30696/09, 2014, available [here](#);

¹² See AIDA Country Report : Greece, 2021 Update, p.206, available [here](#).

¹³ BVMN. 2023. “Dark Rooms, Degrading Treatment, and Denial: The Use of Violence in Greece’s Pre-Removal Detention Centres.” Available [here](#).

¹⁴ UACs are not provided any written decision for their detention. IHR, *ibid* 3, page 29.

¹⁵ This policy continued seven months after the United Nations (UN) High Commissioner for Refugees appealed to states to lift remaining pandemic-related asylum restrictions in May 2022 and Greece dropped all COVID-19 entry measures for tourists on 1 May 2022.

¹⁶ Published in Government Gazette sheet no. 4756/B/09.09.22. See Annex II of the Joint Ministerial Decision on Measures Against The Appearance And Spread Of Coronavirus Covid-19 In The Centers Reception And Identification (C.y.t.), In Closed Controlled Structures (C.e.d.), In Controlled Temporary Accommodation Structures For Asylum Seekers And In The Accommodation Structures Of Third Country Citizens In The Entire Territory; the last renewal was by Joint Ministerial Decision No. Δ1α/Γ.Π.οικ.61055/27-10-2022 (published in Government gazette sheet no 5563/B/27-10-2022).

¹⁷ See Nektaria Psarakis. 2023. Άγρια κακοποίηση προσφύγων στο ΚΕΔ Σάμου από αστυνομικούς – «Ξεκινάμε άμεσα ΕΔΕ», η απάντηση της ΕΛ.ΑΣ στο TPP’. Available [here](#).

amount to torture or cruel, inhuman or degrading treatment. Testimonies collected by BVMN in 2022 show that 65% of respondents reported that they had been subjected to violence by authorities or witnessed violence by the authorities in formal detention facilities,¹⁸ while IHR testimonies collected report incidents of police brutality and dehumanising treatment by police within CCACs, including forced undressing and beating, insults and taunting language.¹⁹

c. Lack of access to legal counselling, information and translation and legal services

- i. We assert that there is a widespread and systematic lack of access to legal counselling, information and translation and legal services within PRDCs on the mainland and in the Samos CCAC, which leaves people unable to complete their asylum procedure or appeal rejection decisions, thus endangering their access to human rights and fundamental freedoms, and appropriate protection and assistance.²⁰

V. Key recommendations relating to immigration detention in Greece

Ensure that the deprivation of liberty or use of detention for people on the move is only used as a measure of last resort, and in line with international and European human rights standards.

Guarantee an individualised assessment is carried out to ensure that all alternative measures are exhausted prior to detaining people on the move.

End the use of detention for third country nationals and asylum seekers on grounds of public order and national security and in cases where there is no reasonable prospect of removal to avoid arbitrary detention.

End the formal and *de facto* detention of minors.

Guarantee effective access to the asylum procedure without delay in detention and establish adequate access to free legal aid and translation assistance for all people in detention to challenge the legality of their detention decisions.

Establish an independent detention monitoring mechanism with the mandate to independently investigate allegations of human rights violations in formal detention centres and sites where people are held in *de facto* detention.

Ensure a clear distinction in policy and practice between reception and identification procedures and forms of administrative detention.

¹⁸ BVMN. 2023. “Dark Rooms, Degrading Treatment, and Denial: The Use of Violence in Greece’s Pre-Removal Detention Centres.” Available [here](#).

¹⁹ IHR, *ibid* 3, page 38.

²⁰ MIT. 2023. ““Prison for Papers”: Last Resort Measures as Standard Procedure.” Available [here](#); IHR, *ibid* 3. In the Samos CCAC, no interpreters have been present since March 2023, as contracts of the interpreters of the European Asylum Support Service that expired were not renewed. See George Pagoudis, 19 April 2023, ‘Είδος υπό εξαφάνιση οι διερμηνείς στις προσφυγικές δομές του Β. Αιγαίου’, available [here](#).