

LESBOS BULLETIN

Update on the EU response in Lesbos, by the Greek Council for Refugees & Oxfam



Mavrovouni (Moria 2.0) site on the shore of Lesbos. September 2020. Photo by Violeta Dimitrakopoulou/Oxfam

CALL TO ACTION

The Greek Council for Refugees (GCR) and Oxfam are calling on EU member state's governments, with the support of the Commission, to act urgently, before more people's lives are put at risk in the reception centres to:

- Continue to fulfil their existing relocation commitments in an expedited manner and increase their pledges.

In addition, GCR and Oxfam are calling on Greece, with the support of other EU member states' governments and the European Commission, to:

- Respect due process and the rights of applicants. As a minimum, access to a lawyer should be guaranteed during appeals for all asylum seekers wishing to exert their right to legal aid, for which they have to be informed in a clear and concise manner, in a language that they understand. At the same time, all possible efforts should be made to ensure access to legal aid from the first instance, as a means to enhance the effectiveness of the asylum procedure, without undermining procedural safeguards.

- The Mavrovouni site is not fit for purpose. It must be evacuated immediately and asylum seeker should be hosted in centres, hotels, and apartments across Greece. Until this happens, all measures must be taken to protect the lives and the physical and mental integrity of the camp's residents, especially the most vulnerable.
- Avoid the use of administrative detention. Detention is a measure last resort and if necessary, should only be applied based on clearly justified grounds that substantiate its necessity on a case-by-case basis. Where such grounds cease to apply, such as in the case of persons subject to the EU-Turkey Statement, they should be release and allowed to access the regular asylum procedure, as their ongoing detention serves no purpose. Anyone in detention must be allowed to seek legal advice and their vulnerability should be effectively assessed.

Reception and living conditions still below acceptable standards

Conditions remain below any acceptable standards, particularly in the Reception and Identification Centers (RICs) of Lesbos, Samos and Chios. The drop of temperatures and winter conditions (e.g. snow) in January have particularly affected people still living in tents and makeshift shelters, including pregnant women and persons with disabilities in Mavrovouni camp (Moria 2.0), who remained exposed to “*extremely difficult conditions*”, as noted by UNHCR.¹ Insufficient or unstable power supplies in both Lesbos and Chios –as well as mainland camps, such as Thiva and Oinofyta– made it impossible for many to warm themselves, even in cases where heating devices were secured, such as in Mavrovouni.²

Meanwhile, residents in Mavrovouni camp continued expressing their concerns over their health and safety, as they are exposed to various security risks, including gender-based violence.³ Progress has been made with respect to sanitation, as for instance each toilet facility is shared by roughly 22 residents,⁴ edging closer to the minimum requires in the Sphere humanitarian standards. However, it should be noted that these standards are determined for humanitarian crises in remote areas, not for one of Europe’s reception systems.

The facilities in Samos and Chios, on the other hand, continue operating well beyond their official capacity (more than five times and more than twice, respectively), as of 3 February 2021.⁵ The need for durable solutions on the basis of responsibility-sharing remains evident, as many asylum seekers, including families with children, continue living in unsuitable (e.g. tents), unsanitary and unsafe conditions. In Samos, children and adults have continued being found with rat, scorpion and snake bites on their bodies,⁶ due to the prevalent conditions in the overspill areas of the RIC. GCR is also aware of several alleged unaccompanied minors in Samos who have been waiting for 7 months for their age assessment to be conducted. In the meantime, they remain in the overspill area that still surrounds the overcrowded facility.

“The lack of electricity is a very big problem. Even during the few hours, during which we were told we would have electricity, this doesn’t happen. During the day, it is not difficult, but at night, if there is not light, it is not safe.”

Tents are [also] too small and too many people reside in them.

There are also many pregnant women and families with small children in the camp. Conditions are particularly difficult for them as they are not suitable for vulnerable populations. It is dirty and pregnant women and children may easily get sick.”

R. Single woman asylum seeker on Lesbos

Amid these conditions, asylum seekers and refugees residing in RICs – as well as mainland camps– are still subjected to a disproportionate restriction on their movement, in the context of Covid-19 prevention and response. Exit from the facilities is only allowed between 7am-7pm for one family member or representative of a group, and only in order “to meet essential needs”, as per the relevant ministerial decisions.⁷ On Lesbos, the increased number of COVID-19 cases amongst the general population has led to even stricter measures since 13 January, with the relevant restriction applying from 6pm for everyone on the island. This limited mobility has a direct impact on asylum seekers’ mental health, as well as their ability to access health services, meet social services or seek the advice of lawyers regarding their asylum cases.

In a recently reported case handled by HIAS in Lesbos, the RIS denied two single women applicants exit from the Mavrovouni site, on account of COVID-19 restrictions. This was despite the fact they had procured the necessary certificates to be able to exit the facility in order to consult their lawyer. After multiple interventions by their lawyer, only one of the applicants was ultimately allowed to exit the facility and only for a severely limited amount of time which did not allow for anything but the provision of the most “rudimentary legal information”. On account of this, on 14 January, their lawyer applied in writing for the postponement of their interviews. The Greek Asylum Service (GAS) denied the request, without providing any justification in writing. The applicants denied undergoing the interview, as their right to legal aid and consultation had been violated. The GAS’s response was to inform them that their asylum files would be closed.

8

Generalised detention on account of a suspended EU policy

On Kos, since January 2020, based on experience on the ground, asylum seekers are indiscriminately detained upon arrival without undergoing an effective assessment of their vulnerabilities. There are cases of GBV survivors, pregnant women, elderly persons and single headed families who remain in administrative detention for months at a time. In some cases, they are detained alongside unknown adult men, who are relatives of other detainee families. In all the cases GCR is aware of, this detention is enforced with a primary view of readmitting them to Turkey, if they receive a negative decision on their application. However, Turkey has stopped readmitting anyone from Greece since March 2020, leading to the *de facto* suspension of the EU-Turkey Statement and it remains unknown when or if readmissions will resume. Therefore, their prolonged detention serves no purpose and their asylum applications should be examined on their merits, in accordance with EU and Greek law.⁹ By 3 February, 342 persons remained in administrative detention in the Kos Pre-Removal Detention Center (PRDC).¹⁰

Sped up procedures at the expense of necessary safeguards

Since early 2020, the GAS has been expediting asylum procedures on the islands. However, it is extremely concerning that this ‘speeding-up’ is primarily achieved through the further reduction of necessary safeguards and the trampling of procedural rights.

In recent months, as observed by both GCR and other legal organisation on the ground,¹¹ asylum seekers are frequently informed too late about the day and time of their asylum interview, at times, even just a day before they are required to attend it. This prevents them from exercising their right to counsel a lawyer, which many still don’t have, as there is no state-provided legal aid during the first instance examination of their claim. Yet even when they have a lawyer from an NGO, practices, such

“We don’t even have our basic rights as refugees. We are not free and we don’t know for how long [we will remain detained]. They are replacing our names with numbers, treating us as if we were in prison, calling us by our numbers. We are dependent on their mood regarding when we can see a doctor. They don’t care about people with vulnerabilities

-M. Elderly Syrian refugee under prolonged administrative detention in Kos.

as rescheduling their interviews at the last minute, create ongoing obstacles that hinder access to their lawyer.

GCR handles the case of a single-woman, Syrian asylum seeker, who is a survivor of sexual/gender-based violence. Despite being in a very vulnerable situation, she is currently held in administrative detention in the Pre-Removal Detention Center (PRDC) of Kos. Her asylum interview was scheduled for 07 October 2020. In the morning hours (8am) of 14 September the police officers in the facility woke her up, gave her a new invitation for an interview on the very same day and then transferred her to the local asylum unit to conduct her re-scheduled interview. The applicant couldn't understand what was happening or inform her lawyer of this change. As a result, her lawyer was not able to either attend the interview or support her case. The interview lasted from 10:20 - 11:10 am. Four days later, the asylum service issued a decision, rejecting her case.

Furthermore, the GAS has started conducting remote interviews in Lesbos (October 2020) and more recently in Samos (January 2021), as a means of ensuring uninterrupted processing of applications amid the COVID-19 pandemic. Yet both GCR and other legal organisation on the ground have continued observing challenges, such as poor internet connection, lack of suitable spaces that can guarantee confidentiality, which also hinder applicants' ability to concentrate on the questions asked, as applicants (and their lawyers, when they have one) can hear what is being said in nearby rooms, where other (asylum) interviews are conducted.¹² This situation has an inevitable and negative impact on the quality of asylum interviews, and creates obstacles in the effective contact between applicants and their case's handlers.

Set up to deny international protection

Similar concerns can be drawn by the exponential increase in the use of the "safe third country" concept (in this case, Turkey) to deny asylum to an increasing number of refugees on grounds of admissibility and the EU-Turkey Statement. From 240 decisions rejecting asylum applications as inadmissible in 2019,¹³ these rejections have increased by more than 10 times in the last year. This resulted in more than 2,800 Syrian nationals being denied international protection in 2020, as per data issued by the Ministry of Migration and Asylum.¹⁴ According to the 2016 EU-Turkey Statement, Turkey is considered a "safe third country" for these refugees, which is why their applications are rejected, as it is considered that they can enjoy access to their rights as refugees if they are returned. At its core, however, this is a political decision aimed at denying refugees protection in Europe, by outsourcing the EU's responsibilities to third countries.

As observed by GCR's lawyers, decisions rejecting such applications as inadmissible have consistently failed to take into consideration any potential changes that might have occurred in Turkey since the Statement entered into force, being instead substantiated by reference to the situation up to 2016. Furthermore, these decisions are characterised by poor quality. They display near identical reasons for rejecting applications based on a "template/standardised" form, where even applicants' personal data, such as their gender or family situation (e.g. single as opposed to fam-

ily), are frequently incorrect, giving even the impression of being copied from different decisions. All of this makes it evident that these decisions still lack a genuinely personalised examination of each case, being instead overshadowed by the EU's will to implement the EU-Turkey Statement at all costs, even at a time when, as mentioned, Turkey doesn't accept back these refugees. For some, this has resulted in their prolonged detention (until they can be returned to Turkey). For others, for whom less strict measures are applied (e.g. 15-day deadline to voluntarily depart from Greece), they risk of remaining in limbo, without access to any of their rights¹⁵.

In 2020 GCR undertook the case of a pregnant Syrian woman, mother of 3 minors (single-parent family), who remains in a highly vulnerable psychological condition. In autumn 2020, she received a second negative decision on her application on the basis of the EU-Turkey Statement and was forced to leave the Chios RIC, where she had been residing. She ended up in Athens, homeless and with no possibility to access necessary healthcare services, as upon rejection, her temporary social security number (PAAYPE) was disabled, as per Greece's current asylum legislation (art. 55 par. 2 L. 4636/2019). It took several attempts by both GCR and MsF for her to be finally accepted to a hospital, in order to be able to give birth to her child in early 2021.

On 15 January the Greek Ombudsman intervened on her behalf, requesting from the Greek authorities to immediately register her subsequent asylum application on the mainland and for the provision of special reception conditions, on account of her vulnerability. Amongst others, the Ombudsman notes the impossibility of returning her to Turkey "already for many months", her deprivation of legal documents and impossibility of returning to Syria and that as a result she is "deprived from access to procedures for the determination of [her] status as a refugee and from enjoying relevant rights".

16

Meanwhile, ongoing gaps continue hindering applicants' ability to exercise their rights at 2nd instance (i.e. appeal), where the obligations imposed by 2020 legislative amendments serve as fruitful ground to cast them out of the procedure, without their case being properly assessed.¹⁷ For instance, on both the islands and the mainland, GCR has continued to observe the rejection of appeals as inadmissible based on the applicant's inability to provide proof of their residence in time,¹⁸ which is oftentimes a result of administrative barriers and delays or the lack of knowledge. Though based on EU/Greek legislation asylum seekers have a right to free legal aid which state must provide during appeal,¹⁹ this is hardly the case. Despite a welcome call on 25 September 2020 for filling the GAS' new registry of state-appointed lawyers with 82 additional lawyers -12 of whom on Lesbos²⁰- it has yet to become operational as of 9 February 2021, and legal aid from NGOs cannot cover the gap left by the state.

The lack of free legal aid is detrimental to the rule of law and the effectiveness of the entire asylum procedure, especially taking into consideration the extremely short deadlines inherent in the border procedure applied on the hotspot islands and the gaps in access to legal aid already existing from the first instance of the asylum procedure. This is highly concerning on the islands, where slightly more than 83% of the appeals submitted throughout 2020 were rejected, yet even graver on the mainland, where appeals were rejected in 97% of the cases during the same period.²¹

Despite this, the GAS in Lesbos after 4 months pause because of COVID-19 has started notifying negative decisions on asylum applications on 19

January without however guaranteeing that free legal aid from GAS' registry of lawyers is provided.²²

To conclude, these practices hinder the ability of applicants to prepare for their asylum interview, to enjoy access to effective remedies and to defend their rights, in violation of the EU asylum acquis and Greece's obligations

Voices still waiting to be heard

GCR asked asylum seekers trapped in the island camps on Lesbos, Chios, and Kos to describe their main problems with living conditions. We also asked them what they wish to ask from Europe.. These are the responses we received up to the time of publication:

"We don't have the feeling of freedom. I feel that I'm in prison and I don't have control on my life. Time passing very slow and we feel alone.

Please walk in our shoes for a couple of minutes, being far away from the family, living like prisoners, not having a future, fleeing the disturbing situation and looking for a better and safer future are our only demands, things that are a human's rights.

Help us and don't forget us, everyone here needs your help."

-I. Asylum Seeker on Lesbos

"Particularly us, single women, [we feel] fear. At night it is dark and we cannot go to the toilet. We feel abandoned.

[I would ask Europe] to close down the camp; to transfer people under a safe roof. To stop pushing people back to Turkey. People come here to have a future. When they return them back, they are destroying them; [making them] lose their last glimmer of hope. The camp has to close! For years now people have been dying in this sea."

-R. Single woman asylum seeker on Lesbos

"Life here makes us feel despair. We don't feel safe and feel mentally burdened by the conditions in which we live.

We are waiting for Europe to display more responsibility; to honour human rights and the rights of refugees. We want a life in dignity and safety; for our families and our children."

-M. Elderly Syrian father of two in Kos

"We were expecting from the EU, to treat us humanly and show more interest because we come from Syria, where there is war. Here everything is different, they are not interested (in care meaning), they left us in tents in the cold and rain and fear."

-D. Father on Chios

“We have lived for too long in this camp. Unsanitary conditions are not suitable for my family and myself. We are very tired (mentally). We have health issues. My children cannot have a suitable life in this camp.

We want a better life. I hope they [i.e. Europe] will not forget us Syrians that come from a war-torn country; that we will be granted asylum. I wish for my family to be in the relocation programme; to be able to go in a European country, because we don't have either a place or a country to live in. Thank you.”

-H. Syrian family in Kos

“I am in this camp for seven months. Before I was in Moria. Living conditions are difficult, I have a health problem and I can't find a way to leave from here. It's been four months that I don't have one euro in my pocket to go to the market. I have nothing.

I am asking the European Union and the Greek Government for help.”

-S. single man from Cameroon, in Mavrovouni Lesvos

“We demand that the European Union release us from the camps. We demand our most basic rights, because we are human beings. We want a decent life away from wars. We are neither weak nor poor and we want the truth. We ask for your kindness for our children and for the vulnerable people.

We call on the European Union to evacuate the camps so that we can be released from these prisons.

A cry from a refugee!”

-M. Syrian asylum seeker in Lesvos

NOTES

- ¹ UNHCR, Greece Update no 14, 3 February 2021, available at: <https://bit.ly/39KMtra>.
- ² *Ibid* and kathimerini, “Difficult conditions in Reception Centers due to cold”, 20 January 2021, available in Greek at: <https://bit.ly/3cHbbuu>.
- ³ Also see UNHCR, Greece Update no 13, 8 January 2021, <https://bit.ly/36HxSeq>, p.3
- ⁴ As per information shared in the intersectoral meeting in Lesvos on 26 January 2021, there are a total of 302 functional toilets for the population of asylum seekers and refugees residing in the camp.
- ⁵ Namely, the Samos RIC was called to accommodate 3,359 persons while having a capacity for only 648, while in Chios, 2,356 persons reside in a facility meant to accommodate no more than 1,014, as per official data. See General Secretariat for Information and Communication, National Situational Picture Regarding the Islands at Eastern Aegean Sea (02/02/2021), 3 February 2021, available at: <https://bit.ly/3rqCrBJ>.
- ⁶ MsF, Clarifying statement regarding recent reports on the new camp in Lesvos, 22 December 2020, available in Greek at: <https://bit.ly/36F9wh>.
- ⁷ For the latest such decision, see Joint Ministerial Decision (JMD) 8378/5.2.2021 on “Extraordinary measures to protect public health from the danger of further spread of coronavirus COVID-19 in the entirety of the territory for the period starting Saturday, 6 February 2021 at 6:00 until Monday, 15 February 2021 at 6:00, <https://bit.ly/2OgsyrP>, ANNEX II
- ⁸ HIAS, Press Release, “The administration’s intransigence puts the asylum seekers in front of the dilemma - Asylum interview without legal assistance or exclusion from the procedure, / Η αδιαλλαξία της διοίκησης θέτει τους αιτούντες άσυλο ενώπιον του διλήμματος - Συνέντευξη ασύλου χωρίς νομική συνδρομή ή αποκλεισμός από τη διαδικασία, 15.01.2021 available in Greek here <https://www.facebook.com/HIASGreece/posts/1077889859289635>
- ⁹ Article 38(4) [Directive 2013/32/EU](#) and article 86(5) [L.4636/2019](#) (also known as “IPA), respectively.
- ¹⁰ General Secretariat for Information and Communication, *op.cit*.
- ¹¹ Report of 8 Legal Organizations on the quality of remote asylum interviews at RAO Lesvos and the conditions they are conducted under, which pose a health risk to asylum seekers and employees.” 8.12.2021 available here <https://www.gcr.gr/en/news/press-releases-announcements/item/1574-report-of-legal-organizations-on-the-quality-of-remote-asylum-interviews-at-rao-lesvos-and-the-conditions-they-are-conducted-under-which-pose-a-health-risk-to-asylum-seekers-and-employees>
- ¹² Report of 8 Legal Organizations on the quality of remote asylum interviews at RAO Lesvos and the conditions they are conducted under, which pose a health risk to asylum seekers and employees.” 8.12.2021 available here <https://www.gcr.gr/en/news/press-releases-announcements/item/1574-report-of-legal-organizations-on-the-quality-of-remote-asylum-interviews-at-rao-lesvos-and-the-conditions-they-are-conducted-under-which-pose-a-health-risk-to-asylum-seekers-and-employees> IBID (11)
- ¹³ AIDA, *Country Report for Greece: 2019 Update*, June 2020, available at: <https://bit.ly/3pJBxiZ>, p.84.
- ¹⁴ Ministry of Migration and Asylum, “Annual Briefing Note: 2020”, 19 January 2021, available in Greek at: <https://bit.ly/3jd1hC0>, p.13.
- ¹⁵ For instance, a pregnant woman, mother of 3 minors (single-parent family), in a highly vulnerable psychological condition, received a second instance negative decision based on the EU-Turkey Statement. While pregnant, she was forced to exit the reception facility where she had been residing. She ended up in Athens, homeless and with no possibility to access necessary healthcare services, as upon rejection, her temporary social security number (PAAYPYPA) was disabled, as per Greece’s current asylum legislation (art. 55 par. 2 L. 4636/2019). It took several attempts by both GCR and MsF for her to be finally accepted to a hospital, in order to be able to give birth to her child
- ¹⁶ Greek Ombudsman, Letter addressed to the Greek Asylum Service and the Reception and Identification Service on 15 January, protocol number: 290565-291571/2367/2021, as received by GCR
- ¹⁷ As has been highlighted on multiple occasion, after the new asylum legislation entered into force in 1 January 2020, access to effective remedies cannot be guaranteed without legal aid by lawyer. Observation on the implementation of Law 4636/2019 “On International protection and other provisions at the hotspot of Lesvos, May 2020, available here https://www.hias.org/sites/default/files/joint_briefing_paper-law_4636_2019_hotspot_of_lesvos-english.pdf
- Diminished, derogated, denied: how the right to asylum in Greece is undermined by the lack of EU responsibility sharing, available here <https://www.oxfam.org/en/research/diminished-derogated-denied-how-right-asylum-greece-undermined-lack-eu-responsibility>
- No right’s zone <https://www.oxfam.org/en/research/no-rights-zone>
- ¹⁸ Several appeals have been rejected as inadmissible due to the fact that the certificates issued by the RIC according to Art.78 L. 4636/2019 did not comply with the formalities provided by the law, as they have been issued earlier than 3 days before the examination date
- ¹⁹ Article 71 par. 3 of L. 4636/2016 (A’169), regarding administrative procedure before the second instance article 92-97 of L. 4636/2019
- ²⁰ According to the list of selected lawyers published by the Ministry of Migration and Asylum

08/01/2021 <https://migration.gov.gr/pinakes-epilegenton-epilachonton-kai-apokleimenon-dikigoron-gia-to-mitroo-dikigoron/?fbclid=IwAR1kJZbakZLxc8IC5M06SWeRI3mrTH0FUzZsBhMFvcT8evImQyoWDJ33JB8>

²¹ Ministry of Migration and Asylum, 19 January 2021, *op.cit.* "Annual Briefing Note: 2020", 19 January 2021, available in Greek at: <https://bit.ly/3jd1hC0>, p.15.

²² 9 Legal organisations express serious concerns regarding the lack of state free legal aid for asylum applicants in Lesbos", 11.1.2021, available here <https://www.gcr.gr/en/news/press-releases-announcements/item/1591-legal-actors-express-serious-concerns-regarding-the-lack-of-state-free-legal-aid-for-asylum-applicants-in-lesvos>

© Greek Council for Refugees & Oxfam International February 2021

This paper was written by Natalia-Rafaella Kafkoutsou and Spyros-Vlad Oikonomou. It is part of a series of papers written to inform public debate on development and humanitarian policy issues.