



REFUGEE RIGHTS EUROPE

Communication on the execution of *M.S.S. and RAHIMI groups of cases v. Greece (Applications No. 30696/09, 8687/08)*

15 April 2019

I. Introduction

In anticipation of the 1348th meeting of the **Committee of Ministers** in June 2019 in which the Committee will review the latest communication from Greece concerning the *M.S.S. and RAHIMI groups of cases v. Greece* (Applications No. 30696/09, 8687/08), **Greek Helsinki Monitor** (GHM) and **Refugee Rights Europe** (RRE) submit comments based on **RRE**'s own independent field research in 2016-2018 on mainland Greece and the islands of Chios and Lesbos, alongside a number of recommendations; as well as on relevant work of other NGOs working independently or jointly with **GHM** and **RRE**.

GHM and **RRE**, alongside a large number of NGO's and aid organisations¹, including also the **UNHCR**², reiterate their belief that the 'containment policy', introduced following the EU-Turkey Statement from March 2016, remains a harmful and failed policy that contributes to the suffering and unimaginable hardship of refugees and asylum seekers on the islands. Moreover, **RRE** research highlights a concerning lack of infrastructure and support available for refugees and asylum seekers on the mainland. Finally, **GHM** and **RRE** welcome the 28 February 2019 **ECtHR** ruling in *H.A. and Others v. Greece* that as "*CPT had emphasized that the practice of detaining unaccompanied or separated minors, for "protective" purposes, for several days or even weeks, without any psychological or social assistance, was unacceptable, the Court took the view that the detention conditions to which the applicants had been subjected in the various police stations could be regarded as degrading treatment and found that there had been a violation of Article 3.*" Yet, as documented below, Greece continues to detain scores of unaccompanied minors in "protective custody," in defiance of the judgment.

II. About Greek Helsinki Monitor and Refugee Rights Europe

Greek Helsinki Monitor (GHM), monitors, publishes, lobbies, and litigates on human and minority rights and anti-discrimination issues in Greece and, from time to time, in the Balkans. It has been submitting parallel reports and communications to **UN Treaty Bodies**; applications and third party interventions to the **ECtHR**; communications on the execution of **ECtHR** judgments to the **Council of Europe Committee of Ministers**. It has published specialized reports on ill-treatment and on ethno-national, ethno-linguistic, religious and immigrant communities, in Greece and in other Balkan countries. It operates a general website (<http://greekhelsinki.wordpress.com>)

¹ See e.g. <https://www.oxfam.org/en/pressroom/reactions/over-20000-migrants-now-trapped-greek-islands> and <https://www.hrw.org/news/2018/03/06/greece-13000-still-trapped-islands>.

² <https://www.unhcr.org/news/briefing/2018/11/5be15c454/unhcr-urges-greece-accelerate-emergency-measures-address-conditions-samos.html>

and a specialized website on racist crimes in Greece (<https://racistcrimeswatch.wordpress.com>). **GHM** is a member of the **European Implementation Network** (EIN). **GHM** filed a third party intervention in *M.S.S. v. Greece*.

Refugee Rights Europe is a human rights advocacy organisation and registered UK charity. Founded in late 2015, the organisation researches and documents the situation for refugees and displaced people seeking protection in Europe, with a particular focus on human rights violations and inadequate humanitarian conditions experienced. The organisation uses its research findings to advocate for human rights-centered policy development, to ensure the rights of refugees and displaced people are upheld on European soil, in accordance with the Universal Declaration of Human Rights. **Refugee Rights Europe** is independent of any political ideology, economic interest or religion.

III. General comments based on RRE research in 2016-2018

1. Living conditions

Based on research at various locations in Greece, 2016³, RRE revealed generally inadequate living standards for asylum seekers on the mainland, while living conditions varied dramatically both between different camps, and within individual sites. More than a third, 39.3%, of respondents said their shelter leaked water when it rained. Across all camps studied, only 18% of respondents had access to a heater. The majority kept warm using clothing and blankets, which was a great concern to many as temperatures were plummeting in the run-up to winter. Additionally, only 26.6% said they had a secure lock on their shelter or room, which also gave rise to serious security concerns. Many camps featured problems with hygiene and sanitation. While the majority described toilet facilities in their camps as ‘OK’, some 19.7% described them as ‘very dirty’. Moreover, 28.6% said they did not have enough water to shower and wash. 58.5% did not have access to hot water, and 60.7% said reported they were unable to wash any time they wanted. In one of the larger camps, women respondents explained that there were too few showers for all the residents. The majority of respondents, 77.8%, were able to access a full meal three times a day. However, many described the food as extremely poor, sometimes “inedible”. During our research, some respondents reported being homeless on the streets of Athens. In light of the recent announcement by the Ministry of Migration Policy, that it would begin imposing the 6-month limit for those in receipt of ESTIA support, several NGO’s have raised concerns that this is likely to lead to an increase in destitution among refugees in Greece⁴.

In Chios⁵, 2017, large numbers of people, including many families, were residing in small and fragile tents. Camps were so overcrowded that large numbers are forced to sleep in the streets or on the beach. This is a particular issue for new arrivals. In general, the living environment was unsanitary and dirty. Meanwhile, hot water is a rare currency for refugees in Chios. In Souda camp, hot water was only available for a few hours per day. The situation was particularly dire in Vial, as there was no water available in the toilets. In both Souda and Vial camps, refugees were provided readymade meals three times a day. Only those who are living in flats received money instead and

³ Research conducted between 7-12 November 2016: http://refugeerights.org.uk/wp-content/uploads/2018/08/RRE_LifeInLimbo.pdf

⁴ https://rsaegan.org/en/evictions-of-recognized-refugees-from-accommodation-will-lead-to-homelessness-and-destitution/?fbclid=IwAR3SQ_1KGclWQO4mZEMPP7wd7zjwJUNtjobSsabAiRiFL-tnroXb1qCrFPk

⁵ Research conducted between 11-18 May 2018: http://refugeerights.org.uk/wp-content/uploads/2018/08/RRE_AnIslandAtBreakingPoint.pdf

could cook for themselves. Access to adequate food seemed to be a major problem in Chios. Spoiled food was commonplace, with many respondents reporting having suffered from food poisoning. One respondent mentioned having resided in the streets for approximately one month, during which time he was forced to eat food that he found or was given by passers-by.

In Lesvos⁶, 2018, overcrowding has become a severe and urgent issue, as a result of the containment policy on the island. People live in tents and shipping containers, lacking privacy and security. Overcrowding has also led people to pitch tents in other areas where they risk being bitten by reptiles. Access to water in the camp for bathing and using the toilets is limited. Despite new toilets having been installed one month prior to the research study, water in the toilets is cut off during the night-time and for several hours in the afternoon, raising serious concerns regarding hygiene standards. The unsanitary conditions in the camps on Lesvos risk contributing to the spread of disease, inflammation, scabies and skin infections. A refugee who had been in Lesvos for more than seven months told researchers that he was only able to have a shower every 15-20 days.

2. Access to health services

Health issues and limited access to healthcare emerged as major challenges for refugees living in mainland Greece, with many reporting experiencing constant health problems. In total, 73% of respondents had experienced health problems during their time in the camp - the majority due to the spread of contagious diseases, unhygienic conditions inside the camps, or a lack of effective treatment for chronic diseases or existing health issues. Meanwhile, a striking 20.1% of those who had experienced health problems reported that this was due to poor mental health or emotional wellbeing. In total, 79.4% of those who had experienced health problems sought medical help - in most cases offered by international NGOs inside the camps or by the Greek hospitals through referral from the camp doctor. Of those with experience of healthcare, 51.9% rated it as 'OK', while 26.26% described it as either 'bad' or 'very bad'. A lack of medical supplies and treatment was among the biggest concerns to camp residents. Respondents explained that paracetamol was prescribed to treat most medical concerns. The number of doctors and their reception hours were also perceived as inadequate. Another issue creating barriers to healthcare was a lack of translation services, which in many cases caused delays to treatment and created unnecessary frustration.

On the island of Chios, in 2017, 71.3% said they had experienced health problems since arriving in Chios. While all emergency care can be obtained from the local hospital free of charge, less than a third (28.5%) of those people with a health condition had been able to access medical care. The figure was even higher for women, with a whole 94.3% reporting they experienced health issues in Chios. Less than a third (30.3%) of these women had been able to access medical care. While 37.1% said they had suffered from a common health problem that could happen anywhere, 40.8% said it had started due to the unhealthy environment in the camp. Alarming, 31% described their health problem as a mental health issue rather than a physical ailment. Indeed, it became evident through the study that incidents of mental ill-health were widespread, with many respondents considering self-harm and substance abuse.

On Lesvos, the vast majority of respondents had experienced a health problem; only 13.8% said that they had remained healthy whilst on the island. 57.1% of those who reported health problems believed that these had been brought on by the unhealthy camp environment, and an alarming

⁶ Research conducted between 18-22 June 2018: http://refugeerights.org.uk/wp-content/uploads/2018/11/RRE_AnIslandInDespair.pdf

61.1% of those with a health problem said that they had not received medical care. There are significant obstacles preventing people from accessing medical care. Medical treatment from the hospital of Mytilene has to be paid for by residents, as well as the transport to get there, which makes it inaccessible for many. Of the 86.2% who reported experiencing a health problem since arriving on the island, 45.9% stated that their health concern was a mental health problem, as opposed to a physical ailment. The extreme and worsening conditions on the island, and the length of time spent there, appear to have contributed to an exacerbation of mental health concerns among camp residents. Indeed, many respondents appeared to suffer from severe depression and some expressed suicidal thoughts.

3. Access to education

On the mainland, the education provided for children varied widely between different camps. One respondent told us that there were few programmes for children around the site. Meanwhile, a number of mothers said they chose not to send their children to school because of the embarrassment of not being able to clothe them properly. Others reported long waiting periods, or transport issues interfering with schooling. Meanwhile, service providers claimed that some children did not want to go to school or learn Greek because they are aiming to continue onto a different European country. By this token, researchers found that children in some camps were teaching themselves German.

56.7% of the child respondents in RRE's study said they do not have access to any form of education in Chios. 65.2% of child respondents said that they had access to educational opportunities in Lesvos.

4. Unaccompanied minors

The low overall living conditions for refugees in Greece - and extended periods spent in waiting - are particularly unsuitable for children and there are a significant number of unaccompanied minors in many camps, who are at heightened risk. In Chios, 50% of minors interviewed were unaccompanied, with 72.4% of all minors reporting that they have family somewhere in Europe, meaning they may be eligible for family reunification under the Dublin Regulation. A worrying 43.8% of minors interviewed reported that they were on their own in Lesvos.

5. Access to the asylum procedure on the islands

RRE research on the islands revealed a number of concerns about access to the asylum procedure and the length of time individuals are forced to wait to have their claim assessed, and therefore their ability to move off the islands. In Chios, the situation was highly ambiguous, with people waiting without having any idea of what was going to happen to them, or whether and how their asylum case was being progressed. This sense of hopelessness resulting from a widespread lack of transparency and information was commonplace among refugees in Chios. Many Syrian respondents reported that they were not provided with detailed reasons for why they were rejected - instead being handed papers stating that Turkey will protect them. This made appealing the case extremely difficult, as the grounds for rejection remained unclear. Furthermore, there were very few organisations that had the capacity to provide guidance relating to the asylum process and provision of advice and information. Grassroots initiatives are doing invaluable work alongside other charities on the island, but their resources and capacity are simply not sufficient for the current level of needs

among refugees there. Indeed, 86% of respondents said that they had no access to information about their legal rights or opportunities to change their situation. Similarly, 78.3% reported that they have no access to information about European asylum law and immigration rules. Consequently, people live in complete uncertainty about their future, which appears to foster a strong sense of desperation and unnecessary frustration.

The situation was found to be similar on Lesbos. Whilst more than 68% of respondents had arrived in the Moria camp during 2018, there were actually ten respondents who had been there since December 2016 or for even longer. Almost all new arrivals appeared to have been told that they will have to wait until 2019 or even 2020 for an admissibility or vulnerability assessment. Aid organisations working on the ground also told researchers that even those who have been identified as vulnerable face a significant wait until they are transferred to the mainland. Moreover, those considered vulnerable are supposed to be moved to safe accommodation provided in Mytilene. However, RRE was led to understand that this accommodation was full, meaning that many vulnerable displaced people were left in unsafe conditions in Moria camp awaiting transfer.

Moreover, the process by which vulnerability assessments are conducted remains a source of serious concern. NGOs working on the ground and human rights groups have raised concerns regarding the significant delays to vulnerability assessments due to a lack of staff and expertise. In July 2017 on Lesbos, there were only seven vulnerability experts with a severe backlog and a three-month wait for an opinion⁷. Worryingly, reports indicate that vulnerabilities are often missed, with individuals going through the asylum procedure without having their vulnerability assessment completed first. Médecins Sans Frontières (MSF) report that, out of the total number referred to its clinic on Lesbos, almost 70% belonged to a vulnerable group that had not been recognised, including victims of sexual violence, torture or those with serious mental health disorders⁸.

6. Detention

Immigration detention in Greece has been criticised by leading human rights organisations⁹ on several occasions, while also being described as taking ‘arbitrary and prolonged’ forms¹⁰. 18.4% had been arrested or detained since arriving in Chios. Random detention by police also appeared to be commonplace, with many relating stories about refugees who were detained and beaten by police for no apparent reason.

Similarly, on Lesbos, 23.2% of respondents had been detained by the police at some stage in Lesbos. A Syrian man, aged 21, recounted having been in prison for 51 days on the grounds of ‘illegal entry’. Others explained that they had been arrested whilst finding themselves in the near vicinity of brawls between other refugees. Many respondents also explained that if asylum seekers decide to go back to Turkey or to their country of origin through the voluntary return process, they risk being detained for three-to-four months before being deported¹¹.

⁷ https://reliefweb.int/sites/reliefweb.int/files/resources/aida_vulnerability_in_asylum_procedures.pdf

⁸ <http://www.asylumineurope.org/reports/country/greece/asylum-procedure/guarantees-vulnerable-groups/identification>

⁹ <https://www.amnesty.org/download/Documents/EUR2556642017ENGLISH.PDF>

¹⁰ <https://www.hrw.org/news/2017/08/02/greece-huge-rise-detention-migrant-children>

¹¹ <https://www.amnesty.org/download/Documents/EUR2556642017ENGLISH.PDF>

IV. Conclusion and recommendations from the RRE research

Based on these findings, RRE urge the Greek government and the European Union to undertake human rights centered policy development in order to urgently improve conditions for asylum seekers in Greece and ensure the human rights of refugees in Greece is upheld in line with the Universal Declaration of Human Rights:

1) The containment policy:

- The Greek containment policy ought to be lifted, ending the practice of restricting the freedom of movement of asylum seekers to certain geographic areas.
- In order to support an end to the containment policy on the islands, European leaders must continue to work on a system for permanent responsibility sharing as part of Dublin IV, including providing incentives for states to play their part in responsibility sharing, in order to alleviate disproportionate pressure on Greece and support it is ensuring humane conditions for displaced people arriving in Europe;
- Similarly, at the national and European level, family reunification must be made easier to bring about, and based on an expanded definition of family links qualifying for reunification, in order to more evenly share the responsibility among member states and alleviate pressure on Greece as a first EU-entry country.

2) Conditions on the mainland:

- In order to facilitate the transfer of asylum seekers off the islands, conditions on the mainland must be vastly improved to meet the requirements of the 2013/33/EU Directive on reception conditions for asylum seekers, and any subsequent directives. Specific attention is given to mental and physical health, education, sexual and reproductive health and rights and gender-appropriate camp design.
- The ESTIA programme overseen by UNHCR, ought to be further resourced by the European Union Civil Protection and Humanitarian Aid Operations to provide further urban accommodation places on the mainland. Assurances must be given that funding will continue in to 2020;
- The Ministry of Migration ought to cease attempts to curtail the grace period for newly recognised refugees under the ESTIA programme, which risks making hundreds of refugees homeless, particularly since Greece's welfare system is not currently equipped to offer the necessary support.
- The Greek government must take steps to support a long term and sustainable reception and integration plan, ensuring availability of essential services including social housing, healthcare and education, with financial support from the European Commission's Asylum, Migration and Integration Fund (AMIF).

3) Conditions on the islands:

- In anticipation of the lifting of the containment policy, the Greek government, with financial support from the European Commission's AMIF, must ensure that the requirements of the 2013/33/EU Directive on reception conditions for asylum seekers, and any subsequent directives, are fully implemented on all of the Greek islands. Specific attention is given to

mental and physical health, education, safety and security, sexual and reproductive health and rights and gender-appropriate camp design.

- Pending an end to the containment policy, those identified as vulnerable, regardless of nationality, must be provided with adequate shelter on the islands and transferred to the mainland within a period of 7 days where they receive appropriate specialist support.
- Pending an end to the containment policy, the European Commission must support UNHCR to increase the number of short-term safe accommodation places by 2,000 for individuals who have been deemed ‘vulnerable’ whilst awaiting transfer to the mainland. This accommodation is staffed 24/7 and provides access to mental and physical healthcare.

V. [NGOs calling on European leaders to end the humanitarian and human rights crisis at Europe’s borders](#)



To:

- EU Member States’ Heads of State
- EU Member States’ Ministers of Migration, Justice and Home Affairs,

CC:

- European Commissioner for Migration, Home Affairs and Citizenship, Dimitris Avramopoulos
- Deputy Director-General for Migration – DG Migration and Asylum (HOME), Simon Mordue

14 March 2019

Dear European leaders,

We, the 25 undersigned humanitarian, human rights and volunteer organizations call on you, in the run up to the third anniversary of the EU-Turkey deal, to take immediate and sustained action to end the unfair and unnecessary containment policy which is preventing asylum seekers from leaving the Greek islands. We also call on you to urgently reach a common responsibility-sharing agreement for hosting asylum seekers across EU Member States.

The policy that traps people on the Greek islands and prevents them from reaching the European mainland has caused a recurrent and endless cycle of overcrowding, substandard living conditions and extremely poor access to services: the European “hotspots” continue to provide accommodation and basic services, such as food and medical assistance, well below minimum standards. The European response in Greece has proven to have disastrous consequences on refugees’ rights, including their health and safety. This has been exhaustively documented and brought to your attention through countless reports over the last three years¹².

As many as 20,000 asylum seekers were stranded in unsafe, unhygienic and degrading conditions on the Greek islands in 2018. Currently, **around 12,000 people are still forced to live in inadequate reception and identification centers** built for a maximum capacity of half this population: sleeping in unheated tents or overcrowded containers with limited access to running water and electricity, and often exposed to ongoing violence, harassment and exploitation, amid high tensions, lack of security and minimal protection.

While the number of asylum applications across Europe has dropped over the last three years, the **number of asylum applications filed in Greece has increased exponentially**. In Lesbos alone, for instance, the number of asylum applications more than tripled between 2016 (5,000 applications) and 2018 (17,270 applications). At the same time, organizations providing medical and legal assistance are stretched beyond capacity. By preventing most asylum seekers from leaving the islands and being transferred to the European mainland, European governments are putting undue pressure on the islands’ residents, local community resources, local authorities, and on Greece, while reception conditions, including the protection mechanisms for asylum seekers are still substandard.

¹² See e.g. **Danish Refugee Council**, *Fundamental rights and the EU hotspots approach*, 2017 at https://drc.ngo/media/4051855/fundamental-rights_web.pdf, **Doctors without Borders** at <https://www.msf.org/moria-state-emergency> or <https://www.doctorswithoutborders.org/what-we-do/news-stories/story/refugees-further-traumatizedconditions-greeces-moria-camp> as well as the **International Rescue Committee** at <https://www.rescue.org/sites/default/files/document/3153/unprotecteddunsupporteduncertain.pdf>, **Greek Council for Refugees** in <https://www.gcr.gr/media/k2/attachments/SCIZReportZfinalZPDF.pdf>, **Oxfam** at https://www-cdn.oxfam.org/s3fs-public/file_attachments/2019-01_greece_media_briefing_final.pdf, or **International Center for Migration Policy Development** at https://www.icmpd.org/fileadmin/ICMPD-Website/2019/Strive_Study_final_pdf.pdf

The expectation that most newcomers could be returned to Turkey under the EU-Turkey deal has proved to be dangerously unrealistic. According to Greek Asylum Service representatives in Lesbos, only up to 6% of the asylum-seekers arriving to Lesbos would be eligible for return to Turkey.

It is shameful that, despite this sobering reality, some European governments have been holding hostage any real responsibility sharing mechanism until returns are sped up and increased, focusing instead on deterrence policies and border controls at the expense of basic rights and safeguards. The current situation at the borders of Europe is the direct result of those short-sighted and unsustainable policies implemented following the EU-Turkey deal and the lack of aptitude and political will across Europe to find common ground on key aspects of a common European asylum system.

As civil society organizations from across the European continent, we are convinced that the EU has sufficient resources and capacity to respond humanely to the needs of all those seeking asylum in its territory. Taking immediate measures to improve the conditions of people seeking asylum in Europe and finding a solution to the current humanitarian and human rights crisis at Europe's border is your responsibility and duty. We therefore call on you to live up to Europe's human rights foundation and values. To that end, we, the undersigned organizations, call on you to:

- urgently agree on **fair and sustainable arrangements for sharing responsibility** for asylum seekers arriving in Europe, that will ensure member states' ability to provide decent and dignified conditions for people in need of protection. In this context, we welcome the recent announcement of an agreement between the governments of Portugal and Greece, to gradually relocate 1,000 refugees out of the camps.
- urge the Greek Government to **suspend immediately the restriction of movement** that unnecessarily contains asylum seekers in the Greek islands, imposing squalid and dangerous living conditions on them and putting unfair pressure on Greece and the residents of the Aegean islands. To facilitate the transfer of asylum seekers off the islands, increased reception capacity in the mainland and more effective shelter allocation are needed.
- urge the Greek Government to better **allocate and use EU funding** – not only prioritizing the support of the border control and asylum procedures, but also **ensuring the provision of essential services** – such as medical and legal services for the safety and rights of migrants – as well as the **planning of a fair and an efficient asylum system and a long term and sustainable reception and integration plan** for refugees and migrants in Greece.

Yours sincerely,

ActionAid Hellas
Amnesty International
Avocats Sans Frontières France
Boat Refugee Foundation
Caritas Hellas
CEAR – Comisión Española de Ayuda al Refugiado
Danish Refugee Council
DIOTIMA – Center for Research on Women's Issues
Equal Rights Beyond Borders
Greek Council for Refugees
Greek Helsinki Monitor
Human Rights Watch
International Rescue Committee

JRS Europe
JRS Hellas
Legal Center Lesbos
Mare Liberum
Médecins du monde – Greece
Oxfam
Praxis
Refugee Legal Support
Refugee Rights Europe
Solidar
Solidarity Now
Terre des hommes Hellas

VI. [Greece in Denial About Police Detention of Lone Kids:
Athens Fails to Act on European Court Ruling Against Detaining Migrant Kids](#)

11 April 2019



Eva Cossé Researcher, Western Europe



Unaccompanied children line up for an evening meal at a detention facility run by the Greek police.

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The European Court of Human Rights recently confirmed what many have long known: that Greece’s practice of locking up unaccompanied migrant and asylum-seeking children in police cells and detention centers leads to serious rights abuses.

But despite that ruling, as of March 30, 82 unaccompanied children were still detained in so-called “protective custody,” held in police station cells or immigrant detention centers across the country.

Human Rights Watch has found that [detained children](#) are forced to live in unsanitary conditions, often alongside adults they do not know, and can be abused and ill-treated by police. Detention can also have a serious long-term impact on these children, including anxiety, depression, post-traumatic stress disorder, memory loss, and harm to their development.

To make things worse, because they are in detention, these kids – who may have suffered horrific experiences while escaping from war zones – are often unable to receive medical treatment, psychological counselling, or legal aid. Few even know the reasons for their detention or how long they will be behind bars.

That's what happened to the nine unaccompanied children – six from Syria, two from Iraq, and one from Morocco, aged between 14 and 17 – who brought a case, [protesting both their detention and the conditions](#) of it, to the European Court in 2016.

The court has now finally ruled and found that the children's detention violated their right to liberty and the conditions in the various police stations exposed them to degrading treatment. It rejected the argument that the detention was necessary to protect the children. And it ruled that Greece had violated the kids' right to challenge their detention and seek a remedy for the detention conditions in the police stations.

Unaccompanied children in Greece should not have to spend another day locked up in filthy police cells. The Greek government should respond to the court's ruling by immediately transferring kids who are currently in police custody to open and safe accommodation. Greece should also work to increase its shelter capacity, find alternatives to detention, and implement a comprehensive foster family system introduced in 2018, which would benefit Greek children as well.