



GREECE

SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW, 39TH
SESSION OF THE UPR WORKING GROUP, NOVEMBER 2021

ISSUES RELATED TO IMMIGRATION DETENTION

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THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

1. To promote the human rights of detained migrants, refugees, and asylum seekers;
2. To ensure transparency in the treatment of immigration detainees;
3. To reinforce advocacy aimed at reforming detention systems;
4. To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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1. INTRODUCTION

This submission has been prepared by the Global Detention Project (GDP) for the third cycle of the Universal Periodic Review (UPR) of Greece in November 2021.

The submission focuses on human rights concerns relating to Greece's immigration detention policies.

2. MIGRATION CONTEXT

- 2.1 Greece has faced enormous influxes of migrants, refugees, and asylum seekers. As arrivals have continued, authorities have taken steps to modify the country's asylum law and restructure reception and detention facilities. During 2020, the country began relocating asylum seekers from island hotspots, banned the detention of children in police stations, and amended asylum detention laws.
- 2.2 On 10 December 2020, Parliament voted to end the detention of unaccompanied migrant children in police stations, called "protective custody." In March 2020, 331 children were in such custody, but by November 2020 they had been relocated to Temporary Reception Facilities.¹ However, there are on-going concerns about poor conditions in these facilities and whether they provide appropriate care.²
- 2.3 Since 2017, island Reception and Identification Centres (RICs) have grown extremely overcrowded. At the end of 2019, 38,423 persons were held in facilities that had capacity for just 6,000. According to data from the government, rates of overcrowding decreased in 2020, with RICs' capacity doubled to 13,338 and occupancy reduced to 14,265³—owed in large part to a decrease in arrivals, as well as the transfer of 13,800 persons from the islands to mainland accommodation centres in 2020.⁴

3. IMMIGRATION DETENTION

3.1 Legal Provisions

3.1.1 Law 4636/2019, also called the International Protection Act (IPA), and its amending Law 4686/2020, were implemented in 2020. They amended the legal framework on immigration-related detention and introduced legal grounds for some existing detention practices. According to these laws, asylum applicants may be detained for 18 months, as well as a further 18 months if their application is unsuccessful and they are given a return or deportation order. Unsuccessful asylum applicants may thus face up to three years in detention. Previously, Greek law enabled detention of an asylum seeker if they submitted their application while already in detention (L 3907/2011 and/or L 3386/2005).⁵

3.2 Facilities

3.2.1 The Global Detention Project (GDP) documented 25 administrative and criminal facilities used for migration detention during 2017-2020 (see: Annexes).⁶

3.2.2 The five RICs, also known as “hotspots”—in Chios, Kos, Leros, Lesbos, and Samos—were originally established to register, screen, and assist arrivals before swiftly transferring them to the Greek mainland. After the EU-Turkey Deal in 2016, they became more restrictive and applied de facto detention.⁷ National legislation from 2016 onwards subjects all newly arriving migrants to movement restrictions within the RICs in order to complete identification and reception procedures. The relevant decision could be taken within the first three, later extended to five, days of arrival by the Centre Manager. Subsequently, the restriction of liberty can be extended by up to 25 days. In 2019, the RIC in Fylakio (Evros region) was reported to be the only one operating as a closed facility in practice.⁸

3.2.3 Eight pre-Removal Detention Centres (PRDCs) detain asylum seekers and third-country nationals under removal procedures, according to former Article 46(9) L 4375/2016, now Article 47(1) IPA. In recent years, these facilities have also hosted persons in “pre-RIC detention” due to limited capacity in the Fylakio RIC. PRDC occupation rates have grown significantly in the last few years: 9,534 in 2017; 18,204 in 2018; and 23,348 in 2019.⁹

3.3 Areas of Concern

3.3.1 Detention of newly arriving asylum seekers in closed centres has become a systematic practice, and reports indicate that “alternatives to detention” (ATDs) are not considered before implementing detention as a measure of last resort.¹⁰ For example, in a so-called pilot project launched in 2017, Greek authorities automatically placed arriving nationals from countries with a low international protection recognition rate in detention.¹¹ During the COVID-19 pandemic, newly arriving asylum seekers, including vulnerable groups, have been detained in new mainland facilities in Malakasa and Serres.¹²

- 3.3.2 According to its National Migration Strategy 2020-2021, the government is planning on systematically expanding Greece's closed detention centre estate. The strategy includes plans for five closed and controlled facilities on the islands Chios, Kos, Leros, Lesbos, and Samos, and at least six more on the mainland. These will contain both a controlled area for the general population, vulnerable groups, and unaccompanied minors, as well as a closed facility for new arrivals (up to 25 days), persons facing removal, and persons infringing with the law.¹³
- 3.3.3 Post-detention shelter possibilities are being reduced by the government, thus increasing the risk of precarity and homelessness for asylum seekers and refugees. Greek authorities have drastically reduced accommodation facilities for migrants and asylum seekers in 2020, by closing 27 FILOXENIA hotels and ESTIA apartments. As a result, around 11,000 refugees were left without housing or cash assistance in June 2020.¹⁴ As a response, 74 local and international NGOs released a joint letter condemning the removals of the asylum seekers and refugees from their housing structures, which included vulnerable groups — survivors of torture, sexual violence, persons with mental health issues, persons with disabilities, members of the LGBTIQ+ community, and single-parent families.¹⁵ Concerningly, the government plans to close 40 more hotels, 6-7 more Temporary Accommodation Facilities and ESTIA apartments in Lesbos and Chios in 2021.¹⁶
- 3.3.4 Living conditions in immigration detention facilities have repeatedly been reported as substandard, with observers flagging issues such as overcrowding, poor material living conditions, and lack of basic service provision. In March 2020, the European Committee for the Prevention of Torture (CPT) visited several immigration-related detention facilities, including Filakio RIC, Filakio PRDC, Malakasa detention camp, and police and border stations, and found conditions that could amount to inhuman and degrading treatment. Conditions inside the PRDC were described as “appalling” and the regime “non-existent,” and the committee reported extremely unhygienic sanitary wings; cells in a poor, filthy, crammed state; the detention of pregnant women and children alongside unrelated men, women, and families; limited access to outdoor physical exercise; and lack of activities for children.¹⁷ Migrants and asylum seekers living in tent accommodation for prolonged periods have been subjected to extremely harsh weather conditions, and even lead poisoning in the case of Moria 2.0/Kara Tepe.¹⁸
- 3.3.5 Despite the necessity of health care provision, the presence of medical personnel in detention facilities was minimal and extremely unequally distributed in 2020: one PRDC had just one doctor for 877 inhabitants while another had two for 165 (See: Annexes).¹⁹ Positive COVID-19 cases have been noted in RIC Moria, Kara Tepe, and Chios.²⁰ In 2019, access to free public health care was effectively halted due to the fact that new asylum seekers are unable to obtain a social security number.²¹
- 3.3.6 Access to asylum has not always been guaranteed to new arrivals, especially during the COVID-19 pandemic when the asylum system was suspended for a month, and in alleged cases of sea and land pushbacks.²² The EU-Turkey Statement implementation has also subjected asylum seekers arriving after 20 March 2016 to fast-track border

processes with reduced procedural guarantees.²³

3.3.7 Greece continues to detain vulnerable asylum seekers due to a lack of proper identification and assessment.²⁴ Procedural guarantees in asylum procedures have been restricted by the new IPA law, including access to an interpreter/translator, legal assistance to asylum seekers whose appeals are likely to succeed (merits testing without legal support), and age assessments.²⁵

4. RECOMMENDATIONS DURING THE 2ND CYCLE OF UPR

4.1 During the 2nd cycle of the Universal Periodic Review of Greece (25th session, May 2016), Greece examined and supported the following relevant recommendations for its immigration management and detention practices, among others:

- Implement protection measures for unaccompanied children and children with disabilities and complete a National Action Plan on the Rights of the Child (Botswana) (para.134.11) and set up a guardianship and care system for unaccompanied minors in the refugee and asylum seeker population (Norway) (para. 134.152);
- Implement a complaint mechanism for allegations of ill-treatment at the hands of law enforcement for marginalised groups, such as migrants, asylum seekers, and Roma (Ireland, para. 134.73);
- Guarantee appropriate reception conditions for asylum seekers in line with the European Convention for the Protection of Human Rights and Fundamental Freedoms requirements and E.U. law (Austria) (para. 134.129);
- Improve material and security conditions in detention facilities (Jamaica) (para. 134.78), migrant processing centres (United States of America) (para. 134.143) and in its refugee reception conditions (Norway) (para. 134.131);
- Extend shelter capacity for asylum seekers and unaccompanied children (Namibia) (para. 134.147), avoid prolonged stays in centres without adequate care infrastructure, especially unaccompanied minors (Mexico) (para. 134.146) and increase alternative detention measures (Germany) (para. 134.77);
- Respect the principle of non-refoulement in its policy and legislative responses to surging irregular migration (Canada) (para. 134.132).

4.2 During the 2nd cycle of the Universal Periodic Review of Greece (25th session, May 2016), Greece did not support the following relevant recommendations:

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Albania, Algeria, Chile, Ecuador, Egypt,

Ghana, Guatemala, Honduras, Indonesia, Kenya, Philippines, Senegal, Timor-Leste, Turkey, Uruguay) (para. 137.1-137.9);

- Decriminalise irregular migration situations (Bangladesh) (para. 137.20);
- Cease deportations at land and sea borders, especially of migrant children (Ecuador) (para. 137.21);
- Create a long-term refugee and migrant plan to prevent the violation of the principle of non-refoulement/forced return (Qatar) (para. 137.23).

5. RECOMMENDATIONS FROM OTHER HUMAN RIGHTS BODIES

- 5.1 Following a visit to Greece in December 2019, the Working Group on Arbitrary Detention recommended measures related to migrants deprived of their liberty, including the non-detention of persons with no reasonable prospect of return, ceasing administrative detention of minors, investigating allegations of pushbacks, and giving full effect to the right to asylum.²⁶
- 5.2 The Committee against Torture (CAT) in its 7th periodic report on Greece (September 2019) recommended that the government only detain asylum seekers and irregular or undocumented migrants as a measure of last resort; avoid prolonged detention; safeguard detainees' procedural guarantees; and establish an independent complaints and oversight mechanism for RICs. The Committee also recommended that asylum seekers should be protected from refoulement and collective return, and that the State should increase criminal accountability for such acts.²⁷
- 5.3 In its 22nd periodic report on Greece (August 2016), the Committee on the Elimination of Racial Discrimination recommended the conversion of RICs into open centres; ceasing the automatic detention of incoming migrants on islands; use of "alternatives to detention"; and faster Emergency Relocation Mechanisms.²⁸
- 5.4 In its Reference Report on the Refugee and Migrant Issue (Part B, September 2020), the Greek National Commission for Human Rights (GNCHR) recommended that authorities:
- Decongest RICs by relocating migrants to non-custodial accommodation facilities on the mainland, and improve living conditions;
 - Employ more medical, administrative, and social-cultural personnel in migrant accommodation centres and ensure access to legal aid, interpretation, and medical aid to detained migrants;
 - Cease deportations of unaccompanied children;
 - Amend Article 61 of Law 4636/2019 to fully respect Article 25 of the Directive 2013/33/EU regarding victims of torture, and sign and ratify Protocol No. 4 of the European Convention on Human Rights;
 - Set up an independent monitoring mechanism for allegations of land and sea pushbacks.²⁹

- 5.5 Following its visit to Greek detention and immigration detention facilities in March 2020, the European Committee for the Prevention of Torture (CPT) urged Greece to:
- Address structural deficiencies in its immigration detention infrastructure, reconsider the carceral nature of detention centres, ensure detention conditions meet basic minimum standards and carry out procedural safeguards, health screenings, avoid the detention of migrant families with children, and the detention of women with unrelated men. (II. A. 4. 26-33; II. A. 6. 51; II. B. 62);
 - Avoid repeating the legislative measure of suspending asylum applications when faced with an influx of applications. (II. A. 1. b. 15);
 - Ensure that Public Prosecutors and Misdemeanour Courts are aware of Greece's international obligations relating to prosecuting newly arriving migrants and asylum seekers, including procedural safeguards (II. A. 1. b. 16-19);
 - Investigate allegations of ill-treatment and abusive behaviour by Police Officers or Coastguards against migrants (II. A. 2. 20-22);
 - Stop detaining newly arriving migrant children with their parents in police cells, and instead transfer them to adequate reception facilities. (II. A. 5. 46-47).³⁰

6. RECOMMENDATIONS

- 6.1 We call on the Greek government to:
- Ensure that immigration detention is only used as a measure of last resort, when it is necessary and proportionate, and that each detention decision be weighed against use of "alternatives to detention."
 - Provide all children with appropriate care and accommodation outside detention.
 - Ensure humane living conditions in detention, as well as at temporary and long-term accommodation outside of detention.
 - Ensure access to procedural guarantees for detained migrants such as access to legal counsel, the ability to challenge detention, access to information in one's own language.
 - Clarify the nature and recommended duration of stays of mainland Temporary Reception Facilities, which the IOM terms Long-Term Accommodation Sites by.³¹
 - Investigate allegations of land and sea pushbacks.
 - Establish a national tracing and protection mechanism for unaccompanied children seeking asylum to ensure their safety in non-detention care arrangements.
 - Ensure that COVID-19 measures do not prevent access to asylum procedures and do not lead to unlawful confinement of migrants and asylum seekers in facilities that are not designed or intended for detention uses.
 - Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

ENDNOTES

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