



FORGOTTEN

Administratively detained irregular migrants and asylum seekers



SUMMARY

With the support of EPIM



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FINDINGS AND RECOMMENDATIONS

i. FINDINGS

1. The number of administratively detained irregular immigrants and asylum seekers is significantly reduced compared to the prior to 2015 period.

2. The detention conditions diverge from the relevant legislation, regarding not only the international standards and the CPT recommendations, but also the governmental declarations¹ of February 17, 2015.

In particular, we observed:

- Use of detention areas that the CPT has deemed inappropriate for more than a few days detention as well as use of the Special Juvenile Detention Center in Amygdaleza which has been declared inappropriate for the detention of minors
- Inadequate maintenance of the facilities
- Lack of yard time
- Inadequate healthcare
- Lack of support by social workers and psychologists
- Inadequate and poor quality feeding
- Inadequate heating/ cooling conditions
- Lack of provision in clothes, shoes and personal hygiene items
- Lack of recreational activities
- Lack of interpretation services

1 Press Release by Deputies of Interior and Administrative Reform Mr. Giannis Panousis and Mrs Anastasia Christodouloupoulou regarding Detention Centers, Available at: http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=&perform=view&id=5374&Itemid=607, (5 September 2016)

- Lack of information to the detainees regarding:
 - their legal status;
 - the Rules of operation of the detention centers
 - the impending forced return
- Lack of free legal aid

3. The procedures followed by the competent authorities regarding administrative detention diverge from provisions laid down in the legislation and from the governmental declarations of February 17, 2015. In particular, we observed that:

In the Hellenic Police Departments there are serious long-standing systemic problems:

- Lack of an individualized approach based on the characteristics, the situation and the needs of foreign nationals who are under arrest
- Lack of use of alternatives to detention
- Systematic, unjustified detention of dubious legitimacy on the grounds of public order
- Detention of individuals whose removal violates the principle of non-refoulement
- Detention for a period longer than six months
- Re-arrest for the purpose of return despite prolonged and ineffective previous detention
- Detention of seriously ill people
- Failure to take into account data that arise over the period of detention regarding the health status of detainees and extension of the detention of vulnerable persons
- Lack of interpretation services, indispensable to the detainees in order to fully understand their legal status, the decisions that concern them and the documents they are asked to sign
- Lack of free legal assistance
- Lack of information regarding an imminent enforcement of forced return

In the Asylum Service:

- Serious delays in registering and processing of prisoners' asylum claims
- Recommendations to the police authorities on the detention of asylum seekers, have a standard and not binding wording, which results in the police authorities continuing to determine exclusively about the detention of the applicants.

4. Unaccompanied minors are still being detained due to lack of open accommodation facilities and due to deficiencies in age definition procedures and in identification of unaccompanied minors.

ii. RECOMMENDATIONS

TO THE GREEK AUTHORITIES

General Recommendations

Full implementation of the prescribed first reception procedures not only at the entry points but also within the mainland.

Full compliance with CPT recommendations regarding detention conditions.

Full implementation of the legal framework on the procedures of administrative detention and return.

Abolition of the administrative detention of unaccompanied minors and seriously ill people.

Special Recommendations

TO THE MINISTRY OF INTERIOR

- DIVISION OF PUBLIC ORDER AND PROTECTION OF CITIZENS (HELLENIC POLICE)

Discontinuation of use of police stations for holding administrative detainees over 48 hours.

Discontinuation of use of the Pre-removal Detention Centers in Tavros and Fylakio as well as the detention centers in Aliens Police Division of Salonica.

Logistic support so that the facilities and equipment of the detention centers are kept in good order.

Staffing of all detention centers with interpreters, social workers and psychologists.

Full implementation of the legal framework concerning the conditions in the Pre-removal Detention Centers.

Implementation of a medical screening system for entrants to a Detention Center, monitoring of their health and provision of medical care as well as adequate hygiene conditions in Detention Centers. The organization and supervision of this system should be assigned to independent authorities /entities with the additional advantage of preventing instances of detainee abuse.

Provision of adequate food in terms of quantity, quality and nutritional value, taking also into account the dietary needs of ill detainees.

Individualized assessment of all the arrested third-country nationals, in order to identify vulnerable persons and those whose return is in contrast to the principle of non-refoulement.

Use of detention only as a measure of last resort when alternative measures cannot be exploited.

Implementation of the age assessment procedure provided in the Joint Ministerial Decision No 1982/16.2.2016.

Prohibition of detention of seriously ill people.

Abolition of the administrative practice of evoking reasons of public order as grounds for detention.

Abolition of the practice of re-arrest for the purpose of return despite prolonged and ineffective previous detention when there is no immediate prospect of return.

Provision of information to the detainees regarding their legal status, the decisions that affect them, their rights and the impending enforcement of the return decision in a language they understand.

Provision of free legal assistance.

- DIVISION OF MIGRATION POLICY (ASYLUM SERVICE)

Prioritization of registration and examination of the detainees' asylum applications.

Full use of the important role assigned to the Asylum Service by the legislator regarding the detention of asylum seekers by issuing detailed and justified recommendations which take into account that detention should be a measure of last resort and have a wording binding for the Hellenic Police.

TO THE EUROPEAN COMMISSION

Strengthening of the monitoring role of the Commission concerning enforcement of the legislation in the field of administrative detention and compliance of the EU member states with CPT's recommendations.

Abolition of administrative detention of unaccompanied minors and seriously ill persons.

SPECIFIC CASES

1. The national of Afghanistan, R.F., despite the fact that, according to her identity card, she was born in 2002, during her entry in Greece she has been registered as born in 1999 and as the accompanied daughter of a woman, who was not her mother. After that, when her real family came to Greece, she stayed with them at the open center for refugees on the site of the Greek capital's old international airport at Helliniko. On 1/6/2016, R.F. was arrested and transferred to the Women's Detention Center of Helliniko, while a return decision was issued against her. On 13/7/2016, our Organization requested the Children's Ombudsman mediation in order to ensure that the minor would be accorded the appropriate treatment. On 25/7/2016, the Children's Ombudsman referred to the Juvenile Prosecutor. On 3 August 2016, our Organization informed the latter about this case. The following day, «Arsis» NGO submitted an application to the Juvenile Prosecutor in order to assign the girl's custody to her mother. We note that, as reported in the above-mentioned application, R.F. attempted to commit suicide and was transferred to the Athens General Hospital "Evangelismos on 2/8/2016". Finally, the Prosecutor ordered her release on 4/8/2016. As shown above, R.F. had been detained for two months at the Women' Detention Center of Helliniko with adult women, without the competent authorities taking care to provide for her transfer to an accommodation center for minors or her reunification with her mother.

2. Pakistani citizen B.A. was detained for 6 months on the grounds of public order (which was related by the Police to a sentence of 5-month imprisonment that he had already served), even though he was suffering from a severe mental disorder. We note that, on 29/05/2015, during his detention at the Pre-Removal Detention Center of Xanthi, he climbed on the roof of the wing B of the Center, from where he finally came down, after the intervention of the psychologist of the psychosocial support team of the Center. After that, during his detention at the Amygdaleza Pre-Removal Detention Center, he was hospitalized from 22/09/2015 until 09/10/2015 at the psychiatric ward of Nikaia General Hospital "Agios Panteleimon", due to *"a major depressive episode, with psychotic symptoms and suicidal thoughts,"* which was *"related to his existing psychopathology and the social situation of the detainee (stay at the detention Center),"* according to his medical certificate dated 09/10/2015. The doctor of the Amygdaleza Pre-Removal Detention Center had repeatedly informed the authorities on the seriousness of the situation of the above mentioned person, with his extensive reports dated on 12/10/2015, 13/10/2015, 15/10/2015 and 10/11/2015, in which he mentioned his long-standing psychiatric record and his deviant self and hetero-destructive behavior, *"something which raises the question of whether he should be detained in the Center"*. Besides, the seriousness of his condition was obvious during our visit at the Amygdaleza Pre-Removal Detention Center on 05/11/2015, as this person could not communicate with anyone. At last, he was released on 19/11/2015, after he was given a 6-month postponement of removal, but without being referred to a facility that would be appropriate for his situation.

3. R.H., Irani national, was detained for half a month in the Athens Airport Police Department and a return decision was issued against him on 06/12/2015 and 12/12/2015, although he had been granted refugee status in Greece. More specifically, as the aforementioned person had been returned from Norway, there had been previous correspondence between the Norwegian and the Greek authorities and, therefore, his file included an accompanying document of the Norwegian authorities, stating that the person was readmitted to Greece because he was a recognized refugee while mentioning the relevant decision of the Asylum Service. We note that the second return decision stated that the asylum application of the aforementioned person had been rejected (!). Moreover, the police authorities transferred the recognized refugee to the consular authorities of his country –by which he is persecuted– in order for him to be recognized as a citizen of Iran and be returned to his country. After a written intervention of our organization, he was released with a six-month removal postponement decision (!)

4. Afghan national G.Y., detained at the Pre-Removal Detention Center of Tavros, expressed his will to apply for asylum on 25/5/2016. On 29/6/2016, our Organization submitted an application for acceleration of the registration at the Asylum Unit of Amygdaleza because the above-mentioned person suffered from serious health problems. The date of registration of his asylum application had been set on 29/8/2016, when it was postponed for reasons not related to the detainee.

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