



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF M.A. AND OTHERS v. GREECE

(Applications nos. 15192/20 and 3 others – see appended list)

JUDGMENT

STRASBOURG

3 October 2024

This judgment is final but it may be subject to editorial revision.

In the case of M.A. and Others v. Greece,

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

Stéphanie Mourou-Vikström, *President*,

Lado Chanturia,

Kateřina Šimáčková, *judges*,

and Sophie Piquet, *Acting Deputy Section Registrar*,

Having regard to:

the applications against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by the applicants listed in the appended table, (“the applicants”), on the dates indicated therein;

the decision not to have the applicants’ names disclosed;

the decision to give notice of the complaints under Articles 3 and 13 of the Convention to the Greek Government (“the Government”) represented by the delegates of their Agent, Mr. K. Georghiadis, counsellor at the Council of the State, Ms. A. Dimitrakopoulou, Ms. O. Patsopoulou and Ms. S. Trekli, senior advisors at the Council of the State, and Ms. I. Kotsoni, legal representative at the Council of the State;

the decisions to give priority (Rule 41 of the Rules of Court) to the applications and the decisions to indicate interim measures to the respondent Government under Rule 39 of the Rules of Court;

the observations submitted by the respondent Government and the observations in reply submitted by the applicants;

the comments submitted by the AIRE Centre, the Dutch Council for Refugees and the European Council on Refugees and Exiles, who were granted leave to intervene by the President of the Section;

the decision to reject the Government’s objection to the examination of the applications by a Committee;

Having deliberated in private on 12 September 2024,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The present case concerns the living conditions in the reception and identification centres (RIC) for the applicants, who were asylum seekers arriving to Greek islands in 2019.

THE COURT’S ASSESSMENT

I. JOINDER OF THE APPLICATIONS

2. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

3. The applicants complained under Article 3 about their living conditions in the reception centres during the periods indicated below.

4. The Government argued that the applicants had failed to exhaust domestic remedies. The applicants disagreed stating that the Government's arguments were largely theoretical and that the remedies were not available in their particular circumstances.

5. The Court reiterates that the Government claiming non-exhaustion must demonstrate that the remedy was an effective one available in theory and in practice at the relevant time, that is to say, that it was accessible and capable of providing redress in respect of the applicant's complaints, and offered reasonable prospects of success (see *Selmouni v. France* [GC], no. 25803/94, §§ 76-77, ECHR 1999-V). Having regard to the facts that no relevant national case-law examples has been provided by the Government to demonstrate effectiveness of any remedy, the Government's objection must be dismissed.

6. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. It must therefore be declared admissible.

7. The general principles concerning the living conditions of asylum-seekers were previously summarised in *M.S.S. v. Belgium and Greece* [GC] (no. 30696/09, §§ 251-53, ECHR 2011) and *Khlaifia and Others v. Italy* [GC] (no. 16483/12, §§ 158-61, 15 December 2016) and in respect the special conditions of minors in *Tarakhel v. Switzerland* [GC] (no. 29217/12, § 99, ECHR 2014 (extracts)).

8. The applicants in their submissions alleged that the Greek authorities had failed to ensure to them the adequate living conditions and assistance in the RICs. The Government in their observations highlighted that at the relevant time Greece was facing an international migration crisis challenging the ability of the authorities to deal with the exceptional number of incoming migrants. In their opinion the applicants in the present case had been timely identified, accepted to the asylum procedure and provided with the living conditions to the best of the authorities ability and within a reasonable time-frame pre-determined by the material conditions in the RICs.

9. The applicant in the case *M.A. v. Greece*, no. 15192/20, who was twenty-five years old at the relevant time, suffers from chronic hepatitis B. Shortly after his arrival to Chios Vial RIC the applicant underwent registration and identification procedure and initiated asylum proceedings. He was placed in a temporary tent installed outside of overcrowded accommodation containers. According to the available information he left Chios Vial RIC in August 2020.

10. The Court takes note of the fact that according to statistical reports from the Greek Ministry of Migration and Asylum (see e.g. *National*

Situational Picture Regarding the Islands at Eastern Aegean Sea (18/10/2019) and (25/03/2020)) the nominal capacity of Vial RIC was 1,014 persons, while between 4,452 and 5,300 individuals had found themselves there during the relevant period. While the parties disagree whether the applicant had signalled to the authorities his special needs after his arrival in October 2019, the impact of the RIC's overcrowding by 400 to 500% and him having to live in a temporary tent for over nine months had a deleterious effect on his living conditions and access to medical and sanitary facilities. It is best illustrated by the fact that he had to share 20 "Wash and WC" installations and 55 portable toilets with at least 4,500 other individuals. Accordingly, there has been a violation of his rights under Article 3 of the Convention as far as it concerns his living conditions in Chios Vial RIC between 21 October 2019 and 21 December 2020.

11. In the case *C.K. v. Greece*, no. 15728/20 the applicant, 15 years old unaccompanied minor, arrived to Samos RIC on 06 October 2019. He was placed on 07 October 2020 in the safe zone for minors and stayed there until his transfer to Aghios Andreas facility in Attica on 25 September 2020.

12. According to reputable international and domestic sources the situation in Samos RIC during this period was characterised by severe overcrowding, lack of access to medical and sanitary facilities, insufficient food supply, lack of security and high crime rates (see the material cited in *A.D. v. Greece* (Committee), no. 55363/19, §§ 14-20, 04 April 2023). The situation for unaccompanied minors in the RIC had been equally grave. According to the submissions of 9 August 2019 by the United Nations High Commissioner for Refugees to the European Committee of Social Rights (complaint no. 173/2018) supported by numerous reputable reports the conditions for the unaccompanied minors in Samos RIC had been dire. The majority of minors had resided with adults in makeshift shelters, while the conditions in the "safe zone" designed to house the minors had been equally patently inadequate and characterised by overcrowding, sleeping in shifts, lack of sanitary facilities and incidents of unauthorised adults' entry to the safe zone.

13. The Court notes that the conditions in the safe zone were comparable to the rest of the Samos RIC and there is no evidence that the applicant was placed in the conditions appropriate for an unaccompanied minor prior to 25 September 2020, that is the date of his transfer to a facility in Attica and almost one year after his registration as an unaccompanied minor seeking asylum.

14. In the case *A.G.D. and D.M. v. Greece*, no. 16094/20 the first applicant – A.G.D., 17 years old pregnant unaccompanied minor – arrived to Samos RIC on 31 October 2019. She was immediately placed in the safe zone for minors. After giving birth to the second applicant – D.M. – on 27 December 2019 they continued to stay in the safe zone until relocation to Lesbos on 29 April 2020.

15. The Court notes that the conditions in the safe zone were comparable to the rest of the Samos RIC and there is no evidence that the applicants were placed in the conditions appropriate for unaccompanied minors prior to 29 April 2020, that is the date of their transfer to a facility in Lesbos and almost six months after the first applicant's registration as a pregnant unaccompanied minor seeking asylum.

16. After their arrival to Greece the applicants in the application *F.J. and Others v. Greece*, no. 16511/20 – two parents aged twenty one and their two children under the age of two – stayed in Samos RIC between 23 December 2019 and 30 April 2020. The applicants' and, notably, the two infants' four-months placement in the living conditions of Samos RIC (see paragraph 12 above) had not been compatible with the Convention guarantees. Accordingly, there has been a violation of their rights under Article 3 of the Convention as far as it concerns their living conditions in Samos RIC between 23 December 2019 and 30 April 2020.

17. In all of the above cases the applicants found themselves in Samos and Chios RICs in the conditions incompatible with the Convention standards. There has accordingly been a violation of Article 3 of the Convention in the applicants' cases.

III. OTHER ALLEGED VIOLATION UNDER WELL-ESTABLISHED CASE-LAW

18. The applicant in the case *C.K. v. Greece*, no. 15728/20 also raised a complaint under Article 34 of the Convention, which is covered by the well-established case-law of the Court.

19. The applicant alleged that the Greek authorities had failed to comply with the interim measure indicated by the Court by transferring the applicant from the RIC or ensuring conditions compatible with his status and age. The Government in their submissions stated that on the date of indication of the measure the applicant was already in the safe zone for minors, i.e. compatible with his status and age, and that in the months until the applicant's relocation they had been pursuing asylum, relocation and family reunification procedures.

20. This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. Accordingly, it must be declared admissible.

21. The Court notes that on 4 April 2020 it indicated under Rule 39 of the Rules of Court to the Government of Greece that the applicant should be transferred from the current facility or guaranteed an accommodation with reception conditions compatible with Article 3 of the Convention and his particular status and age. At the same time the applicant remained in the same facility and the same conditions for the next six months until his transfer on 25 September 2020. An indication of an interim measure is intended to

address an “imminent risk of irreparable harm” to Convention rights (see *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, § 104, ECHR 2005-I) and the above period is patently incompatible with it. The Court notes the authorities’ efforts in pursuing asylum, relocation and family reunification procedures, but these efforts have no bearing on the fact that the applicant had continued to stay in the unacceptable living conditions of the safe zone of Samos RIC (see paragraph 12 above) despite indication of the above measure.

22. Having examined all the material before it and the parties’ submissions, the Court concludes that they disclose a breach of Articles 34 of the Convention in connection with the failure of the Greek authorities to timely comply with an interim measure indicated by the Court under Rule 39 of the Rules of Court (see *Mamatkulov*, cited above. § 125, *Paladi v. Moldova* [GC], no. 39806/05, §§ 90-92, 10 March 2009).

IV. OTHER COMPLAINTS

23. The applicants in the cases *C.K. v. Greece*, no. 15728/20 and *A.G.D. and D.M. v. Greece*, no. 16094/20 also complained under Article 8 of the Convention about the reception conditions for unaccompanied minors. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

V. REMAINING COMPLAINTS

24. The applicants lodged further complaints under Articles 2, 3 and 34 in the case *M.A. v. Greece*, no. 15192/20, under Article 8 in the case *C.K. v. Greece*, no. 15728/20 and under Articles 5, 13 and 14 in the case *F.J. and Others v. Greece*, no. 16511/20.

25. The Court has examined that part of the applications and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

26. It follows that this part of the applications must be rejected in accordance with Article 35 § 4 of the Convention.

27. The interim measures previously indicated to the Government of Greece in these applications therefore ceases to have any basis.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

28. The applicants claimed between 5,000 and 13,000 euros (EUR) in respect of non-pecuniary damage.

29. The Government contested these claims.

30. The Court, having regard to the nature of the violations of the applicants' rights and acting on equitable basis, awards the applicants the amounts indicated in the appended table in respect of non-pecuniary damage plus any tax that may be chargeable to the applicants.

31. The applicants made no claim in respect of costs and expenses and, therefore, the Court makes no award in this regard.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaint under Article 3 of the Convention concerning living conditions in the RICs of Chios and Samos, as well as the complaint under Article 34 of the Convention in the case *C.K. v. Greece*, no. 15728/20 admissible and the remainder of the applications inadmissible;
3. *Holds* that there has been a violation of Article 3 of the Convention on account of the living conditions in the RICs of Chios and Samos;
4. *Holds* that in the case *C.K. v. Greece*, no. 15728/20 there has been a breach of Article 34 of the Convention in connection with the failure of the Greek authorities to timely comply with an interim measure indicated by the Court under Rule 39 of the Rules of Court;
5. *Holds* that there is no need to examine the admissibility and merits of the complaint under Article 8 of the Convention in the cases *C.K. v. Greece*, no. 15728/20 and *A.G.D. and D.M. v. Greece*, no. 16094/20;
6. *Holds*
 - (a) that the respondent State is to pay the applicants within three months, the amounts indicated in the appended table, plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 3 October 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sophie Piquet
Acting Deputy Registrar

Stéphanie Mourou-Vikström
President

APPENDIX

List of cases:

No.	Application no. Case name Lodged on Applicant's initials Year of birth Nationality Represented by	Period and place of placement/residence Other relevant information	Article 41 award
1.	<p>15192/20 M.A. v. Greece 25/03/2020</p> <p>M.A. 1994 Syrian</p> <p>Niki GEORGIU</p>	<p>19/10/2019 – unspecified date in 08/2020. Chios Vial RIC.</p>	<p>EUR 2,500</p>
2.	<p>15728/20 C.K. v. Greece 02/04/2020</p> <p>C.K. 2004 Congolese</p> <p>Jenny FLEISCHER</p>	<p>06/10/2019 – 25/09/2020 Samos RIC</p> <p>25/09/2020 transferred to Aghios Andreas facility in Attica.</p> <p>06/10/2019 the applicant, a Congolese national born in 2004, arrived to Samos RIC at the age of 15. Immediately registered as an unaccompanied minor.</p> <p>7/10/2019 placed in the safe zone for minors in Samos RIC.</p> <p>06/04/2020 interim measure by the Court ordering transfer of the applicant or his placement in conditions compatible with Article 3, his status and age.</p>	<p>EUR 6,500</p>
3.	<p>16094/20 A.G.D. and D.M. v. Greece 13/04/2020</p> <p>A. D. 2002 Cameroonian</p>	<p>31/10/2019 – 29/04/2020 Samos RIC.</p> <p>29/04/2020 transferred to a facility in Lesol, Lesbos.</p>	<p>EUR 5,000 to each of the applicants</p>

M.A. AND OTHERS v. GREECE JUDGMENT

	<p>D. M. 2019 Cameroonian</p> <p>Jenny FLEISCHER</p>	<p>31/10/2019 the applicant, a Cameroonian national born in 2002, arrived to Samos RIC at the age of 17.</p> <p>Immediately registered as an unaccompanied pregnant minor and placed in the safe zone for minors.</p> <p>27/12/2019 gave birth to the second applicant D.M.</p>	
4.	<p>16511/20 F.J. and Others v. Greece 16/04/2020</p> <p>F. J. 1998 Syrian</p> <p>F. H 1998 Syrian</p> <p>M. J. 2018 Syrian</p> <p>R. J. 2019 Syrian</p> <p>Chariklia-Ismini PAPAGEORGIU</p>	<p>23/12/2019 – 30/04/2020 Samos RIC.</p> <p>30/04/2020 – unspecified date in 07/2020. NGO-managed guesthouse on Samos.</p> <p>unspecified date in 07/2020 – 23/07/2020. Hotel on Samos.</p> <p>28/07/2020 and subsequently Filippiada refugee facility on the mainland.</p> <p>02/11/2020 -granted refugee status.</p>	<p>EUR 2,500 to each of the applicants</p>