

[non-professional translation from original in French, which summarises the request]

Paris, 16 June 2016.

ECHR Court Service

By fax.

Article 39 – Urgent

51 individual plaintiffs: risks of serious and irreversible harm to their physical and psychological integrity + inhumane and degrading treatment. “So as to spare the Court both the reading and the examination of numerous requests drafted in a similar fashion, the presentation of the situation as well as the urgency of their situation are hereby presented in a single documents” but this is a set of individual requests brought before the court.

Summary: migrants who entered Greece irregularly between 20 March and 15 April 2016. Detained on Chios island and are, at present, held there under constraint pending the examination of whether their asylum claim is admissible or not. They are assisted by people mandated by EU member states. They are held against their will on Chios territory where they face poor living conditions and denial of their rights which put both their physical and psychological integrity at risk in an irreversible manner, which constitute inhumane and degrading treatments. Food and access to health care are deeply insufficient, conditions in which these people are held against their will on the island are dangerous for all of them specifically for children and women.

Arbitrary decisions + time spent held for an indefinite period in the absence of any prospect in line with Art.5 of the ECHR and the Geneva Convention, which results in despair, while some people already attempted to commit suicide.

Request: put an end to above-mentioned violations, stop illegitimate deprivation of liberty, as well as inhumane and degrading treatment. To be given effective and legal means to leave Chios and be received in dignified conditions, that asylum claims be examined (individually and on the substance of the claim) within a reasonable period and without being at risk of deportation.

Mandate:

Eve Shahshahani is acting as the representative of the GISTI. She is a legal practitioner in migration and refugee law in France. She does not work as a lawyer in France or Greece at the time of this request. She went to Chios from 23 to 29 May, 2016, as a member of the fact-finding mission organised by the GISTI, a French NGO defending the rights of foreigners. She entered the reception centres of VIAL and Souda in Chios where she spent 5 days in total and was able to meet individually and personally with each of the plaintiffs as well as humanitarian workers. All plaintiffs have expressly mandated Eve S. to take a copy of their documents and use their photograph for the purpose of the litigation. She is in regular contact with

them (email, Facebook, phone), in the context of uneven access to communications from Chios by the plaintiff, and was sent additional pieces of documentation since she left Greece by these people. They all agreed, upon a collective decision, that their fears and situation are presented to the court in a mutualised albeit not collective fashion. Mrs. Shahshahani is acting as the individual legal representative of each of the plaintiff. She is addressing the court in their name and can be contacted as their legal representative. Plaintiffs have not been able to obtain the application form to lodge a request to the Court at the time when their legal representative was with them. It will most probably prove very difficult for them to download it, print it, and return it signed to the Court or to the legal representative in the coming weeks, precisely because of the conditions and hardship they are facing in Greece and which have led them to lodge this request. They hereby mandate Mrs. Eve Shahshahani and the Gisti to initiate the proceedings before the Court on their behalf.

Burden of proof:

Violations exposed and especially living conditions in the camps in addition to the complete absence of effective access to basic civil rights for plaintiffs in Chios makes it very difficult for them to prove their claims with written pieces of evidence. Most of them do not speak either English or French and they have no interpreter. Some of them cannot write, the others can in Arabic or Dari. They have no financial means at all. Bringing forth to the Court evidence in writing in support to their claims is therefore extremely difficult to them. It would thus be unfair - and contrary to the *nemo auditur* principle - that too heavy a material burden of proof is imposed on them when referring to Greek authorities, for, if so, access to rights would be ineffective.

The plaintiffs have reported on their suffering, their fears and their claims orally to their legal representative (with the support of some fellow nationals able to speak English and French). Some were able to write a statement and have sent photographs of it. Virtual communication is only possible through Internet access. The cost of SIM cards, to be paid with their own means, make phone calls very difficult. Photographs, written testimonies by text (cell phone), info from independent humanitarian NGOs and direct witness reports are also brought to the court to support the cases.

Re. the constraint exerted on the plaintiffs by Greek authorities and their responsibility in the violations they face

The plaintiffs have been deprived of liberty. They remain, to date, in a situation where their liberty is restricted and which obliges them to stay on Chios island. They argue that this situation is in breach of Art.5 of the Convention (case law *Guzzardi v/ Italy*, 1980) which they will elaborate once the complaint is raised in substance before the Court. Nevertheless, constraint referred to as having been exerted by Greek authorities constitute a key fact contributing to violations of Art. 2 and 3 which justify that the present request for urgent measures is lodged.

Plaintiffs have entered Chios irregularly by sea from Turkey since 20 March 2016. They come from Syria, Iraq, and Afghanistan and all ask for international protection.

- Plaintiffs n° 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 23, 26, 27, 28, 34, 41, and 42 arrived on 20 March 2016
- Plaintiffs n° 2, 36, 40 et 44 arrived on 21 March 2016
- Plaintiffs n° 29, 43, 45, 46, 47, 48, 49, 50, 51 arrived on 22 March 2016
- Plaintiffs n° 21 et 22 arrived on 26 March 2016
- Plaintiff no. 16 arrived on 28 March 2016, n° 33 on 29 March 2016, plaintiff n°6 on 30 March 2016.

- Plaintiffs n° 4, 5, 7, 8, 24, 25 arrived on 31 March 2016, n°12 on 1st April and n° 30, 31, 32 on 15 April 2016.

Plaintiffs were apprehended upon arrival in Chios by the Greek police and put under arrest. They were all brought to Chios First Reception Centre, called VIAL, where they have been deprived of liberty with no formal and explicit justification. They have been issued a basic registration number and an electronic wrist bracelet was tied to them.

As they arrived, some plaintiffs had to fill in themselves a rudimentary form, in which they had to give their name, surname, nationality and whether they intended to claim asylum or not without any interpretation or legal support although some of them do know how to write. Others have not filled in any form but were issued an A7 document with their name, surname and number without explanation on what the latter stands for.

Some, but not all of them, have been “registered” by the Greek staff employed in the First Reception Centre inside VIAL camp, but not proof of registration or receipt was given to them. None of the plaintiff has, to date, been able to express his/her need for international protection to the European and the Greek authorities active in the First Reception Centre.

Between 20 March and 31 March 2016, all plaintiffs except n°12, 30, 31, 32 (arrived on 1 April 2016, 15 April and 15 Mai) were detained in VIAL camp with no possibility to exit the camp which was guarded by the Greek army and police. Information signs on the administration containers’ walls inside VIAL inform migrants on the rules applicable to their holding in the First reception centre. In particular, it states that this is in application of the EU-Turkey arrangement, and that they are maintained here because they arrived on Chios after 20th March 2016.

Starting from the 1st days of April 2015, plaintiffs n° 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 33 and their children were transferred in Souda “camp” which is an encampment set up by the Greek authorities, in the very city of Chios, in the old moats of the medieval castle. These moats take the shape of a circular basin between a down town street until a waste ground on the sea side. Entry to the camp is restricted. A third makeshift camp, Dipethe, has been set up down town in Chios, and is tolerated by the municipality.

Plaintiffs n° 1, 2, 3, 34, to 51 and their children stayed in VIAL.

Plaintiffs n° 12, 30, 31 32 arrived after this transfer and were directly brought to Souda camp.

During April, the Greek authorities responded to the overcrowding in the camps by finally authorising migrants (irrespective of their arrival date) to leave the campagne and move freely by their own means on the island.

However, it is prohibited for all plaintiffs to leave Chios island.

Plaintiffs who attempted to leave the island were arrested by the police and sent back to the camps. It is impossible to leave the island by boat or by plane without authorisation from the Greek authorities. To date, the latter agreed to transfer only a very limited number of migrants who arrived in Chios as of 20 March 2016, without any clarity on the procedure and criteria to exit the island. The customs services and the Greek police both control access to the port and the airport. A passport must be provided for boat ticket purchase and for any exit of the island.

Even those plaintiffs who may want to go back to Turkey cannot return in dignified conditions with the support of the IOM; Information boards in VIAL First Reception centre and on administration containers in Souda camp all state that this is not possible.

All plaintiffs have expressed their suffering in detention. They have unanimously and repeatedly formulated it in these terms

: « *This is not a camp, this is a jail. The whole island is our jail. We don't know why we are in jail here. What have we done wrong? How long must we rot here?* »

Such deprivation of liberty, which blocks plaintiffs on an isolated island with restricted territory that is only accessible to mainland Greece and neighbouring islands after hours of boat sailing or by plane, is tantamount to plaintiffs being under the supervision of Greek authorities (Keenan v. UK), which, then, should be regarded as responsible/liable for any violation of the right to life and of the prohibition of inhumane and degrading treatment they may face.

It is that very specific context that there plaintiffs are hereby willing to denounce by demonstrating violations of Articles 2 and 3 of the Convention directly attributable to the Greek authorities and which it should urgently stop.

Re. the non-exhaustion of domestic remedies:

Plaintiffs cannot be reproached with not having exhausted domestic remedies.

Many plaintiffs were only official documentation in Greek language without any translation or information on possible applicable remedies (although these documents exist, see annexes 1 to 54). The others received no notification of the detention order or of any decision to limit their freedom. In any case, none of the plaintiffs was notified the issuance of such a decision with full respect of the material and legal conditions that should apply pursuant to Art. 5 of the Convention, especially 5(1)f and 5(4).

The above mentioned documents were briefly translated: they notify the administration deportation order, which execution would be suspended by the Greek administration itself, and compel the person to stay in Chios, more specifically in VIAL centre.

- Plaintiffs do not know how to read Greek and do not understand Greek. They received no assistance to challenge their detention/restriction of liberty
- Notification was only made in Greek language
- The decision was not accompanied by the notification of possible remedies and with no information that would effectively help challenge such decision
- There are no lawyers in Chios
- Greek authorities do not provide free legal assistance to migrants they maintain on the island
- Greek authorities do not give the possibility to migrants to make free calls to a lawyer
- There is no legal counseling by lawyers in the camps
- There is no legal aid accessible to migrants in Chios
- The Internet website of the Bar Association is exclusively in Greek language
- Humanitarian NGOs accredited to enter VIAL, in particular the UNHCR, are in a position to provide no information or counsel, no legal assistance to any detained migrants held in the centre and willing to challenge their detention.

- there is no administrative court in Chios
- VIAL camp is located 10km away from the city centre, with which it has no connection with public transports. Any external person willing to enter the camp should be formally authorised to do so, based on a preliminary written request sent to the Greek authorities.
- The material conditions inside the camp are so precarious that no quality interview with a minimum level of confidentiality can be guaranteed.

Under such circumstances, the complete ineffective access to procedural rights as well as the arbitrary nature of detention and restriction of liberty make it impossible for the plaintiffs to appeal to the Greek judicial authorities and constitute, as such, a ground for addressing the Court pursuant to Art.39 of its Rules.

Moreover, the Court already declared that the claim lodged by Mister JR and his sister NR (plaintiffs No.40 and 44) was admissible in substance, even though they had not exhausted all domestic remedies. The Greek authorities were recently informed of this case n°22693/13, registered on 3 May 2016.

Mister JR and his sister NR face multiple violations of their rights and arbitrary decisions similar to that faced by all plaintiffs in the hereby submitted request, i.e. detained people in Chios after the closure of the First Reception Centre as of 20 March 2016. The reasoning of the Court in the case of JR and NR regarding admissibility in substance can apply to all plaintiffs in the current request for interim measures.

Why it is urgent to call for interim measures: risk of serious, immediate and irreversible consequences on physical and psychological integrity

On violations of Art. 2 and 3

The Greek authorities have forced the plaintiffs to remain on Chios island, and especially in the camps placed under the control of the army, the police, the prefecture and Chios municipality (and more broadly of the European authorities that have agreed on the implementation of the “agreement” between the EU and Turkey) which puts them in dire material, psychological, sanitary and legal conditions which put their life in danger and should be considered as inhumane and degrading treatments in the meaning conveyed by Art.2 and 3 of the Convention. Measures should be urgently taken for this situation to stop.

Whereas provisions provided for by Art. 2 and 3 of the Convention are invoked, the Court already called on some governments to take interim measures pursuant to Art.39 of its Rules in cases that did not have to do with people at risk of deportation or urgent extradition. Especially, the Court already decided on interim measures with reference to Art. 2 and 3 in detention or deprivation of liberty cases, when the health of the physical integrity of the victims was seriously threatened by conditions in which the person was detained.

The plaintiffs insist on the multiple factors which put at immediate risk their physical and psychological integrity.

1- Food

Examples, pieces of evidence: quality of food, people malnourished
Insufficient food with respect to World Health Organisation’s standards

2- Health

Insufficient support despite presence of Doctors of the World, Waha and Red Cross.
Specific cases of people with special medical needs which are not addressed

3- Undignified living conditions

4- Insecurity for specific categories of people

Sexual harassment

Children

Unaccompanied minors

5- Arbitrary, despair, suicidal behaviour

Specific examples provided such as denial of the right of asylum

Misleading information provided by authorities: people left in limbo, impact on mental health

Example of suicide attempts

Conclusion:

By maintaining them under constraint on an island territory, based on opaque procedures and without any effective access to the most basic procedural rights, while submitting them to undignified, degrading and dangerous treatments, Greek authorities are falling short of their very least security obligations towards the plaintiffs, who they put in danger.

According to these elements and given the risk of serious, imminent and irreversible damage they may cause for their life as well as their physical and psychological integrity, the plaintiffs ask the Court :

To call on Greek authorities to take all urgent measures which are necessary to effectively put an end to the inhumane and degrading treatment they are inflicted, as well as to the dangers for their life and health which they are exposed to, and to effectively guarantee that their physical and psychological integrity is protected without delay.