

ELDH report on the activities of the Lesvos Legal Centre

The protests that preceded the blazing fire in the Moria refugee camp in mid September 2016 had been well attended boisterous affairs. On Friday 16 September a pro refugee march led by students in Lesvos ended in Sapho Square, Mytiline, the capital of the island. The evening had begun with a film recounting the murder of a Greek anti fascist rapper, which was being shown to mark the 3 year anniversary of his death.

The following Monday, a fascist march went through the city in the morning, ostensibly calling for the refugees to be removed from the Island. Chants heard throughout the demonstration included 'throw them in the sea' and 'Greece is for the Greeks'.

Later in the evening a fire in the 'Reception and Identification Centre' located in Moria, 5 kilometres from Mytiline, began. Moria is a detention centre where all individuals who arrive irregularly to the island are brought. They are kept there as a matter of course for 25 days, though this period of detention can and often is extended.

At the time of writing, it remains unclear who exactly is responsible for the fire. The mixture of refugee uncertainty and desperation, detention in inhuman conditions, extreme delay, discrimination by nationality in the processing of applications, economic austerity and far right resurgence creates a toxic situation where many groups of individuals could be to blame. What is certain is that the fire has served only to worsen what are already terrible living conditions for the inhabitants of the camp.

It is within this context that ELDH executive member Carlos Orjuela, as well as jurists from Sweden, France and a lawyer from the US have chosen to open a legal clinic, assisting a Greek lawyer in providing legal information, advice, assistance and representation. We are based in the Mosaik Support Centre, a project in the centre of Mytilini which provides services to refugees, including language, arts and crafts classes.

Since the opening of the Legal Centre we have identified various serious breaches of human rights which are primarily the result of an unresponsive and intransigent EU asylum system that refuses to place the needs of refugees at the centre of its approach.

Delay

The most endemic issue in the Greek hotspots is the inhumane periods of time people are expected to wait for their asylum procedures to be concluded.

Upon application for asylum, applicants undergo a registration process which is kafkaesque in its operation. Article 6 of the Recast Procedures Directive 2013 states that registration of an application for international protection should take no longer than 3 days, extendible to 10 days in situations where there are large numbers of applications at the same time. Greek law 4375 however, interprets these provisions by introducing a new concept of 'simple' and 'full' registration. In situations such as Lesvos, where there are various individuals applying for asylum at the same time, 'full registration' does not have to meet the time periods contained within the directive. The Greek Asylum Service is simply required to register the individuals '...as soon as is rendered possible'. (Article 36, Greek Law 4375). Thousands of people, men, women, children, disabled, mentally unwell amongst others, have been kept waiting over half a year awaiting to be registered because of the application of this provision.

Without lodging an application, an individual does not have the ability to be considered for family reunification either under Dublin III or the national schemes of other European Member States, cannot be considered for relocation under the two Council Decisions of September last year and of course cannot have their application for asylum determined by the Greek Asylum Service. Delay, without any foreseeable end, awaits those who arrive here.

Reception Conditions

The severely inadequate standard of reception conditions, coupled with the amount of delay facing all asylum seekers on the island, creates a toxic and often dangerous mix, the effects of which are obvious to volunteers who spend a little time on the island.

The situation in Moria detention centre is illustrative. The camp is surrounded by high fences and barbed wire. Inside, space is scarce, with crowded tents inhabited by whole families, including children. Unaccompanied minors are detained as a matter of course in a separate part of the camp, whose facilities are barely able to cope with the amount of children contained there. Despite being recognised by the Greek Asylum Service as vulnerable, individuals face huge obstacles accessing assistance for medical conditions. Victims of torture struggle to gain access to mental health services, heavily pregnant women are left to lie on the floor in tents for months awaiting receipt of adequate pre natal care, medical attention is severely restricted to a few who are able to exhibit severe symptoms, amongst other issues. Riots are therefore an unfortunately frequent phenomenon.

Once individuals are allowed to leave Moria, they face another form of detention, as the vast majority of asylum seekers are unable to leave the Island. They are either moved to one of the other camps on the Island or are given the 'option' to stay in Moria. Those who only have access to the latter tend to sleep on the streets of Lesvos rather than remain in such conditions.

The tragic truth is that Europe is well aware of these conditions and does little to ameliorate them. Since the case of *MSS v Belgium* in 2011, it has long been accepted by the European community that reception conditions for refugees in Greece are inhumane and degrading for asylum seekers.

The central issue, unsurprisingly, is political. The current 'Common European Asylum System' ('CEAS') and the Dublin III regulation in particular, passes the majority of the responsibility for dealing with the influx of asylum seekers to 'frontier' member states. The principle contained within the Dublin regulation is that an asylum seeker's application for international protection should be processed in the first EU country they enter. This has placed immense pressure on Greece and Italy in particular, where individuals fleeing persecution on the African and Asian continents will seek to gain entry into Europe.

Infuriatingly, the EU has deemed it appropriate for the country least able to allocate resources to the refugee problem by virtue of the Memorandum of Understanding, which is decimating public services in Greece, to be one of the principle Member States to deal with the crisis.

Turkey EU Agreement

Rather than attempt to distribute the responsibility of processing asylum claims to other Member States, the EU Commission has deemed it appropriate to designate Turkey a 'safe third country' to which Greece can return 'irregular migrants'.

This is particularly worrying considering Turkey's highly controversial hierarchy of protection, which allows Europeans to claim full protection as refugees, but only provides limited and temporary protection to Syrians claiming international protection. This alongside the well reported instances of push back (often violently) of refugees at the Syrian border, refoulement, detention in atrocious conditions and the state's recent decision to suspend the application of the European Convention of Human Rights, leads many to conclude that the EU is simply attempting to outsource its responsibilities under the 1951 Convention and Protocol to a politically volatile country that is actively hostile to refugees.

To the credit of the Greek appeal committees, prior to their reconfiguration by the Greek state, the vast majority of appeals against decisions to return to Turkey were allowed for the very reasons outlined above. Since the changes to the committees however, which increase the state's presence from 1 representative to 2 on a 3 person committee, the appeals have now begun to reject appeals which has led to returns to Turkey.

Legal Aid - The Denial of Access to Justice

As it stands, legal aid is not provided at 'first instance', i.e. for the asylum interview stage. Until recently, no legal aid was available for 'second instance' appeals to the appeals committee for rejections of asylum. Legal aid is also absent for those who wish to dispute their designation as adults, a crucial decision which greatly impacts the options an asylum seeker has in the procedure. Appeals to the Administrative Court are also not funded, leaving asylum seekers with the burden of paying thousands of euros in court and lawyers' fees if they wish to submit an application.

Considering these restrictions in legal aid, the legal centre has attempted to support asylum seekers by providing vital information, advice, assistance and representation at various stages of the asylum process. This includes assistance with reunification efforts with families across Europe. The intention of the legal centre is to develop litigation strategies and legal campaign work from the information gathered which will attempt to highlight and change the dire situation of asylum seekers on the Island.

How you can help

The Legal Centre needs lawyers and legally graduates to give a month or more of their time to help provide legal information, assist in the preparation of cases, write reports and provide general paralegal support to our Greek lawyers. If you are interested in volunteering with us, please contact legalcentresbos@gmail.com

The Legal Centre also requires donations in order to keep the project going. Please visit <https://chuffed.org/project/legalcentresbos>

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