



# Border Violence Monitoring Network

December 2023

## **Teneqexhi v Greece** **Application no. 22144/23**

**Third Party Intervention to the  
European Court of Human Rights**





**Border Violence  
Monitoring Network**

EUROPEAN COURT OF HUMAN RIGHTS  
Council of Europe  
67075 Strasbourg  
Cedex France  
BY FAX and POST

Date: 15 December 2023

**Application no. 22144/23**

**Teneqexhi v Greece**

**Third party intervention on behalf of Border Violence Monitoring Network**

*Pursuant to the Registrar's notification dated 24 November 2023 that the President of the Section has granted leave, under Rule 44(3) of the Rules of the European Court of Human Rights*

## Summary

1. Border Violence Monitoring Network (BVMN) is a network of non-governmental organisations situated along the Balkan and Greek migration route, whose purpose is to monitor, document and advocate against human rights violations at European borders.<sup>1</sup> Since 2017, BVMN has collected over 1,800 testimonies of pushbacks and border violence. Furthermore, BVMN regularly records and publishes comprehensive reports that track and investigate trends in internal violence perpetrated by states or by individuals with the acquiescence of the state. These reports also document and cover both the detention of migrants and cases of inhuman and degrading treatment of detainees.

2. This intervention seeks to assist the Court in providing an impartial and evidence-based insight into the treatment of people on the move detained in police stations in Greece. BVMN's intervention is based on the testimonies from detainees at the Agios Athanasios and Metagogon police stations, collected by field reporters and member organisations present in Northern Greece. Most of these testimonies have been collected for the purpose of a wider report, but have yet to be made public.

### I. General information on detention in police stations in Greece

3. The European Council for Refugees and Exiles (ECRE) issues updated reports on Greece regarding the general situation of people on the move, undocumented migrants, asylum seekers and refugees in Greece. Equally, BVMN member organisations, in the context of monitoring border violence, record incidence of unlawful detention, violence in detention, and other types of human rights violation in detention. BVMN's first report on violence perpetrated within state borders was published in February 2022<sup>2</sup>, and an updated report is pending to be published. In our submission we have extracted accounts from the report that are currently not public but that reflect direct knowledge recorded by BVMN reporters.

4. According to ECRE's report, 316 foreign nationals were detained in other detention facilities in the country, such as police stations, border guard stations and others, at the end of 2022<sup>3</sup>.

5. Regarding detention conditions, police stations and other police facilities continue to fall short of basic standards for detainees. Detainees are held in police stations for more than 24h. The Greek authorities continue to fall short in providing interpretation services in detention facilities and force detainees to sign documents in Greek, when they do not understand nor speak the language. Access to information continues to be limited, together to a lack of access to legal support. This is also evidenced through testimonies of people stating that their mobile devices are being removed which limits communication with legal aid providers.<sup>4</sup>

6. The Greek Ombudsman reported in 2021 that in detention facilities there is overcrowding, especially in police stations, a lack of medical staff, a total lack of interpretation services, poor structure, unsanitary and unhygienic conditions, lack of light and heating, inadequate cleaning, lack of

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<sup>1</sup> BVMN is represented under the legal framework of Rigardu e.V., Wurzner Str. 34, 04315 Leipzig, Germany.

<sup>2</sup> BVMN. *Violence Within State Borders: Greece*. 28 February 2022. Accessed 15/12/2023. Available from: <https://borderviolence.eu/reports/violence-within-state-border-greece/>

<sup>3</sup> ECRE. AIDA Report. Country Report: Greece. Contribution by the Greek Council for Refugees. 2022 Update. Accessed 15/12/2023. Available at:

[https://asylumineurope.org/wp-content/uploads/2023/06/AIDA-GR\\_2022-Update.pdf](https://asylumineurope.org/wp-content/uploads/2023/06/AIDA-GR_2022-Update.pdf)

<sup>4</sup> Ibid.

clothing and lack or limited possibility of access to open air spaces. The Greek Ombudsman reiterated in its report that the mass detention of foreigners in police stations is not compliant with the legislation on ensuring decent living conditions for foreigners detained administratively, and that evidence indicates that the violations of a series of human rights, especially Article 3 ECHR.<sup>5</sup>

7. Between 2020 and 2021, the Greek Ombudsman investigated 8 suicide cases in detention facilities, out of which 7 occurred in police stations, one in the Metagogon police station.<sup>6</sup>

8. In 2022, the Greek Council for Refugees (GCR) visited more than 30 police stations, including Metagogon and Agios Athanasios. Their report concluded that police stations remain unsuitable for detention over 24 hours, but nonetheless they are used for prolonged migration detention. GCR found that detainees in police stations live in substandard conditions as a rule, with no outdoor access, in unsanitary conditions, without sufficient natural light, without the provision of sanitary products, insufficient food, no interpretation services, and without access to medical care. Detention in Greece in police stations can, at times, be prolonged to several months.<sup>7</sup>

9. The last visit from the Committee on the Prevention of Torture (CPT) to these facilities, from 2016, record identical issues. The CPT reports that facilities were inadequate for holding and that detainees were left alone for weeks or months. Detainees in Metagogon were held in unsanitary conditions for up to four months and more, in cramped conditions for deportation purposes. The report attests to conditions that are recorded by GCR and the Greek Ombudsman more recently: insufficient beds, infested mattresses on the floor, flea-infestations, lack of outdoor access, denial of access to personal belongings, lack of heating or fresh air, unhygienic conditions and insalubrious toilets, and absence of access to medical care. In 2016, the Greek authorities were providing 5.87 euros per day to cover all the needs of a detainee, which was insufficient even at the time.<sup>8</sup>

10. Respondents interviewed by BVMN between 2020 and 2023 report similar conditions. For the purpose of this submission, we have disaggregated the information on the police stations mentioned in the application.

## **II. BVMN Reports on Agios Athanasios**

11. BVMN collected data concerning the Agios Athanasios police station and assessed the challenging conditions within the detention facilities. In 2020, BVMN recorded the case of a 20-year-old Tunisian national who after having experienced several pushbacks, was apprehended in Thessaloniki by two plain clothed police officers.<sup>9</sup> After being asked to provide his documents, he

<sup>5</sup> Greek Ombudsman. Annual Special Report 2020-2021. National Preventive Mechanism Against Torture and Ill-Treatment. Accessed 15/12/2023. Available from: <https://www.synigoros.gr/en/category/ekdoseis-ek8eseis/post/annual-special-report-2020-2021-or-national-preventive-mechanism-against-torture-and-ill-treatment>

<sup>6</sup> Ibid.

<sup>7</sup> ECRE. AIDA Report. (n 3)

<sup>8</sup> Council of Europe. Report to the Greek Government on the visits to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 18 April and 19 to 25 July 2016. CPT/Inf (2017) 25. 26 September 2017. Accessed on 15/12/2023. Available at: <https://rm.coe.int/pdf/168074f85d>

<sup>9</sup> The term “pushback” itself is a definition that came to initially describe the unfolding events along the EU borders of Hungary and Croatia with Serbia in 2016, after the formal closure of the Balkan migration route. BVMN understands pushbacks as state practices by which people on the move are forced across a border - at times immediately after crossing, - at times regardless of whether they have transited through that border,

reported to have been pushed against the wall and cuffed, which made him feel treated “like an animal”. The officers brought him to Agios Athanasios where he remained detained for 16 days. During this period, no information was provided about the legal grounds for his detention, despite his continuous inquiries and the legal obligation of the Greek authorities to provide information. This consequently had serious adverse effects on his mental health, as reported: “When we asked the police officers what’s the problem?, they said ‘we don’t know’. Every day the same [...] My mind started to crack because it is a very tight place ... there is no sun. There is nothing.”<sup>10</sup>

12. The widespread lack of information given to people on the move has emerged from other field reports and has been described in the 2022 AIDA Country Report on Greece. In the latter, it is stated that foreign nationals detained in facilities across the country are deprived of their right to be informed in a language they could understand and that the lack of sufficient interpretation services brings detainees to sign documents in Greek without knowing their content.<sup>11</sup>

13. More specifically on Agios Athanasios, the testimony of six Pakistan nationals recorded by BVMN highlights the practice of Greek authorities of transporting migrants from one police station to another, giving them false or no information as well as little food and water, before taking them to the border with Turkey and pushing them back.<sup>12</sup> BVMN has outlined how in Agios Athanasios and in other detention facilities in Thessaloniki, lack of information is also accompanied by denied access to legal aid.<sup>13</sup> Another respondent stated that in Agios Athanasios, the police confiscated his asylum paper, without allowing him to get it back.<sup>14</sup>

14. While the testimonies referred to facts that occurred in 2020, internal reports as well as field testimonies collected, show that the same conduct is continuing today.<sup>15</sup> According to the 2022 AIDA Report on Greece, at the end of that year, 316 third-country nationals were detained in administrative detention in police stations or other facilities countrywide, despite commitments from the Greek authorities to phase out detention in police stations.<sup>16</sup> Nevertheless, as already highlighted in 2016 by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Report, police facilities, which are by nature not suitable for detention exceeding 24 hours, continue to be used for longer periods of detention and fall short of basic standards.<sup>17</sup>

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without consideration of their individual circumstances and without the possibility to apply for asylum or to object against the measures taken.

<sup>10</sup> BVMN. 2020. *Austrian police officers implicated in pushback to Greece* [Online]. Accessed 10/12/2023. Available from: <https://borderviolence.eu/testimonies/june-15-2020-0000-gevgelija-north-macedonia/>

<sup>11</sup> ECRE. AIDA Report. (n 3) p 140.

<sup>12</sup> BVMN. 2020. *We will release you soon, just wait*. Accessed 10/12/2023. Available from: <https://borderviolence.eu/testimonies/november-8-2020-0000-near-ipsala/>

<sup>13</sup> BVMN. 2020. *Balkan Region Report- October 2020* Accessed 10/12/2023. Available from: <https://borderviolence.eu/app/uploads/BVMN-Monthly-Report-October-2020.pdf>, p 8.

<sup>14</sup> BVMN. 2023. *Balkan Region Report - September 2023* Accessed 10/12/2023. Available from: <https://borderviolence.eu/app/uploads/BVMN-Monthly-Report-September-2023-.pdf-1.pdf>, p 7.

<sup>15</sup> see, for example: Ibid; BVMN. 2023. *Balkan Region Report - April 2023* Accessed 10/12/2023. Available from: <https://borderviolence.eu/app/uploads/Copy-of-Monthly-Report-April-1.pdf> pp 10-11; BVMN. 2023. *Balkan Region Report - March 2023* Accessed 10/12/2023. Available from:

<https://borderviolence.eu/app/uploads/Monthly-Report-March-2023.pdf> p 14; BVMN. 2022. *Balkan Region Report - March 2022* Accessed 10/12/2023. Available from:

<https://borderviolence.eu/app/uploads/MonthlyReportMarch2022-1.pdf> p 5; BVMN. 2021. *Balkan Region Report - June 2021* Accessed 10/12/2023. Available from:

<https://borderviolence.eu/app/uploads/BVMN-Monthly-Report-June-2021.pdf> pp 4-7

<sup>16</sup> ECRE. AIDA Report. (n 3) pp 202-213

<sup>17</sup> Ibid 22; CPT. Report to the Greek Government (n 8) p 31

### III. BVMN Reports on Metagogon

15. BVMN field reporters collected information regarding the Metagogon Centre describing the harsh conditions the detainees are exposed to. Different testimonies collected between 2020 and 2022 indicate the presence of thirty people inside the same cell where, consequently, mattresses had to be placed on the floor.<sup>18</sup> The overcrowding in Metagogon has been denounced by the police officers themselves. In particular, the suicide committed by a detainee in the toilets of the facility in November 2021,<sup>19</sup> provoked a series of police protests outlining the unbearable situation in which the incident occurred, the serious shortage of staff and the overcrowding of prisoners.<sup>20</sup> More specifically, the Union of Police Officers in Thessaloniki highlighted that 92 prisoners were being held in cells with a capacity of 54, with 40 of them supposed to be in Diavata prison, but were transferred to Metagogon.<sup>21</sup> The police station has been described as an “informal prison” without essential hygiene and safety measures, thus creating, particularly in the midst of a pandemic, twofold risks concerning the health of both police and prisoners.<sup>22</sup> Already in a 2017 report, the Greek Ombudsman had defined the site as “unsuitable both as a place of detention and as a place of work” as the conditions were particularly burdensome.<sup>23</sup> The ongoing overcrowding in police stations has been reconfirmed by the Ombudsman in 2021.<sup>24</sup>

16. BVMN testimonies highlight how, as well as being too small and crowded, the facilities were described as extremely unclean. The 2016 CPT Report specifically mentions Metagogon Centre, highlighting the prolonged detention of foreign nationals in unsanitary and poor conditions. This has been supported by a 22-year-old Libyan man, whose testimony was collected in 2021, stating that some preferred not using the showers as they were too dirty and unhygienic. In another testimony from 2020, the respondent added that the inmates had to purchase the cleaning products themselves which was not feasible, given that detainees received only 6 euros per day to buy food.<sup>25</sup>

17. As the last example shows, the absence of adequate financial assistance for detainees exacerbates the rough detention conditions. The 2016 CPT Report stated that providing only €5.85 per day to cover all the necessities and purchases of a detained person is completely insufficient. This current provision was established to cover financial needs of criminal suspects held in police stations for a short period of time, and it is highly inadequate to meet those of immigration detainees who are

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<sup>18</sup> see for example BVMN. 2020. *Because they don't want to leave injuries or wounds in your face. So they can beat you wherever they want..* [Online]. Accessed 12/12/2023. Available from:

<https://borderviolence.eu/testimonies/may-21-2020-1800-near-soufli-greece/>

<sup>19</sup> *Thessaloniki: A 37-year-old prisoner committed suicide in Metagogon with a homemade rope.* (2021)

Accessed 14/12/2023. Available in Greek from:

<https://www.voria.gr/article/thessaloniki-aftoktonise-37chronos-kratoumenos-sto-metagogon-me-aftoschedio-skini>

<sup>20</sup> Police protest in Metagogon, Thessaloniki. (2021) Accessed 14/12/2023. Available in Greek from:

<https://www.protothema.gr/greece/article/1180765/diamarturia-astunomikon-sto-metagogon-tis-thessalonikis/>

<sup>21</sup> Thessaloniki: Police protest against the Directorate of Transfers - "It's an informal prison" (2021) Accessed 14/12/2023. Available in Greek from:

<https://www.voria.gr/article/thessaloniki-atipi-filaki-i-ipodieftinsi-metagogon-katangeli-i-eafth-foto>

<sup>22</sup> Thessaloniki: 3 police officers of Metagogon on leave - "The police director is on permanent official immunity" (2022) Accessed 14/12/2023. Available in Greek from:

<https://lawandorder.gr/thessaloniki-se-diathesimotita-3-astunomikoi-tou-metagogon-isonse-monimi-upiresiaki-a-sulia-o-dieuthuntis-astunomiassin/>

<sup>23</sup> Ibid.

<sup>24</sup> ECRE. AIDA Report. (n 3) p 215

<sup>25</sup> BVMN. 2023. *We were without clothes and it was so cold.* Accessed 12/12/2023. Available from: <https://borderviolence.eu/testimonies/april-23-2020-0000-greek-turkish-border-near-ipsala/>

confined for a longer period.<sup>26</sup> This has been corroborated by a recent testimony of a 24-year-old Moroccan man who was deprived of liberty at the Metagogon police station for a total of 2 months and a half. The interviewee indicated that 5,85 euros per day represented his only way to access food. As his phone was confiscated upon his arrival at Metagogon, the sole possibility to make phone calls was to use the fixed phone of the facility that required the purchase of a card with those same 5,85 euros daily allowance necessary to buy food. The 24-year-old man also confirmed the unsanitary and unhygienic conditions of the facility, recalling the presence of bed bugs in his mattress and blanket due to which he suffered health problems. He reported that he had to insist for three days before being taken to the hospital and receiving medical care.

18. Similarly to Agios Athanasios, testimonies from Metagogon highlight a systematic lack of information on the length of their detention and the impossibility to access legal support. For instance, BVMN recorded the experience of a 30-year-old Algerian man who was not provided with a translator and was forced to sign documents he could not understand in Greek. The authorities not only failed to provide any information, but also verbally derided the respondent by stating that the length of his detention would depend on their will, implying the absence of any legal grounds to determine the duration of his detainment.<sup>27</sup> This not only violates the right to information but also constitutes an abuse of power and institutional violence. The same respondent additionally reported other instances of abuse: “[...] they treat us as not human beings. They took the clothes off the people and they took pictures of them. A lot of bad things happened inside.”

19. Various field reports corroborate the widespread use of physical, verbal and psychological violence inside Metagogon. A specific instance was described by a 21-year-old Algerian interviewee whereby officers restrained detainees by fastening their hands to the cell bars and subsequently subjected them to beating. The officers were described to place a motorcycle helmet on the detainee's head to avoid causing facial harm but rather focused on causing injuries to other parts of their body.<sup>28</sup> Repeated physical violence with batons has been recalled also by a minor detainee who never received medical support, despite asking recurrently for it.<sup>29</sup>

20. A detailed episode of violence was described by the above-mentioned 22-year-old Libyan respondent. He reported that when he was apprehended by the police in Thessaloniki, he had stitches to cover a large wound from the left side of his nose to his right cheek. Nevertheless, he was hit in the face by the police officers and started bleeding. The man was then brought to Metagogon, and not to the hospital as the police officers falsely said. He was not only prevented from receiving immediate medical assistance as he wished and was told to, but he also had to wait an hour and a half before being visited by a doctor inside the facility. He recounted that the medical care consisted in a forced injection in his shoulder, that he was not willing to have, but finally took, knowing that he had no choice: “they would force me to do it anyways if I don’t want to do it gently”. The injection made him fall asleep for 18 hours. When he woke up, he felt very weak and dizzy but was released, having received back his personal belongings, but not his documents.

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<sup>26</sup> CPT. Report to the Greek Government (n 8) p 32

<sup>27</sup> Ibid.

<sup>28</sup> BVMN. 2020. *Because they don't want to leave injuries or wounds in your face. So they can beat you wherever they want..* Accessed 12/12/2023. Available from: <https://borderviolence.eu/testimonies/may-21-2020-1800-near-soufli-greece/>

<sup>29</sup> BVMN. 2020. *The police, they come to the room and they just beating people, beating [...] they didn't do anything.* Accessed 12/12/2023. Available from: <https://borderviolence.eu/testimonies/july-20-2020-0200-at-the-greek-turkish-border-near-meric/>

21. As the two last testimonies showed, detainees rarely have access to adequate medical care. As indicated by the AIDA Report, this is also due to the fact that the provision of medical services by AEMY - a public limited company under the supervision of the Ministry of Health - concerns only pre-removal detention centres and does not cover persons detained in police stations.<sup>30</sup> This, together with the highly limited, if not impossible, outdoor access has serious repercussions on the physical and psychological health of detainees.<sup>31</sup>

22. The internal resources and field testimonies collected by BVMN on Agios Athanasios and Metagogon clearly indicate an ongoing practice of unlawful detention in inhuman and degrading conditions. The cases reported on the material conditions of detention show a manifest infringement of Article 3 of the European Convention on Human Rights.

#### IV. Statement of Relevant Law

23. Article 3 of the European Convention on Human Rights states “no one shall be subjected to torture or inhuman or degrading treatment or punishment”.<sup>32</sup> The European Court of Human Rights further expands on this concept by distinguishing between torture and the other categories of maltreatment.<sup>33</sup>

##### 1. Inhuman Treatment

24. The ECtHR defines “inhuman” treatment or punishment as treatment that is premeditated, applied for hours, and causes actual bodily injury or intense suffering, either physical or mental.<sup>34</sup> In *Orhan v Turkey*, the treatment of the applicant was found to be inhuman due to the applicant suffering uncertainty and apprehension for a continuous and prolonged period of time.<sup>35</sup> In *Chember v Russia*, treatment was deemed inhuman because the applicant was subjected to excessive physical exercise as a punishment, when he was suffering from health issues.<sup>36</sup>

25. The courts must also debate the context in which the ill-treatment was inflicted and take into consideration factors such as an atmosphere of heightened tension, emotions and the courts must also take into account whether the victim is in a particularly vulnerable situation.

26. In the case of a Tunisian national where it was found that the respondent (who was already particularly vulnerable due to facing numerous pushbacks) was detained for 16 days in a facility (Agios Athanasios) where he stated had little sunlight, no space and claimed his mind started “to crack”<sup>37</sup>. The extent of uncertainty regarding his time in custody, paired with the lack of basic human amenities and the respondent's heightened vulnerability, leads to the assertion that this case is

<sup>30</sup> ECRE. AIDA Report. (n 3) p 215

<sup>31</sup> Ibid.

<sup>32</sup> European Convention on Human Rights. Available [Online](#). Accessed 12/12/2023.

<sup>33</sup> European Court of Human Rights. 2022. *Guide on Article 3 of the ECHR, Prevention of Torture*. Available [Online](#). Accessed 12/12/2023, p 8

<sup>34</sup> See ECtHR. *Labita v. Italy* [GC]. Application no.. 26772/95. 6 April 2000 Available at: <https://hudoc.echr.coe.int/?i=001-58559>, §120 and ECtHR. *Kudla v. Poland* [GC], Application no. 30210/96. 26 October 2000. Available at: <https://hudoc.echr.coe.int/?i=001-58920>, § 92

<sup>35</sup> ECtHR. *Orhan v. Turkey*, Application Application no. 25656/94. 6 November 2002. Available at: <https://hudoc.echr.coe.int/?i=001-60509>, § 360

<sup>36</sup> ECtHR. *Chember v. Russia*, Application no. 7188/03. 1 December 2008. Available at: <https://hudoc.echr.coe.int/?i=001-87354>, § 57

<sup>37</sup> BVMN. 2023. *Austrian police officers implicated in pushback to Greece*. Accessed 13/12/2023. Available from: <https://borderviolence.eu/testimonies/june-15-2020-0000-gevgelija-north-macedonia/>



inherently comparable to *Orhan's*<sup>38</sup>. In *Orhan's* case, the courts determined that the prolonged state of anxiety constituted inhuman treatment, emphasising the induced suffering over an extended duration<sup>39</sup>. The level of apprehension is certainly comparable to the case at hand.

27. The testimony of another respondent outlined the fact that those at the Metagagon facility were merely given 6 euro a day for food. These facts were corroborated (who also confirmed the lack of cleanliness) by another man who not only confirmed the 6 euro a day allowance, but that the allowance was also to be used to pay for phone calls to loved ones. The constant financial hardship is certainly inhumane by creating persistent mental strain.

## 2. Degrading Treatment

28. Treatment that is “degrading” “humiliates or debases an individual, showing a lack of respect for, or diminishing, his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual’s moral and physical resistance”.<sup>40</sup> The fact that the victim is only personally humiliated, not in the eyes of others, is irrelevant.<sup>41</sup> Also, there does not necessarily have to be an intention or purpose to humiliate the victim for a violation of Article 3 to be found.<sup>42</sup> The assessment of whether a treatment has reached the level of degradation depends on the facts of each case and the context of the punishment.<sup>43</sup> A punishment does not become acceptable simply because it succeeds in deterring crime, and having a punishment run contrary to Article 3 is impermissible regardless of its impact on crime.<sup>44</sup>

29. There is a strong link between what is “degrading treatment” within Article 3 and the concept of respect for dignity.<sup>45</sup> Treatment was found to be degrading in the case of *Vincent v France* where the applicant could not leave his cell or move about independently due to a lack of accommodation for his disability.<sup>46</sup> In *Kalashnikov v Russia*, the Court found treatment to be degrading when the applicant was detained in a severely overcrowded and unsanitary environment for a lengthy amount of time.<sup>47</sup> In *Tabesh v Greece*, the applicant’s detention for three months on police premises without access to recreation and proper meals was found to be degrading.<sup>48</sup>

30. With this in mind the testimonies BVMN and its partners have obtained are even more daunting. The harsh treatment observed in Agios Athanasios is not an occasional occurrence; rather, it is a

<sup>38</sup> ECtHR. *Orhan v. Turkey*. Application no.. 25656/94. 6 November 2002. Available at: <https://hudoc.echr.coe.int/?i=001-60509> § 360

<sup>39</sup> Ibid

<sup>40</sup> European Court of Human Rights. 2022. *Guide on Article 3 of the ECHR, Prevention of Torture*. Available [Online](#). Accessed 12/12/2023 , p 9

<sup>41</sup> ibid

<sup>42</sup> See ECtHR. *Gäfgen v. Germany* [GC]. Application no. 22978/05. 1 June 2010. Available at: <https://hudoc.echr.coe.int/?i=001-99015> , §89; ECtHR. *Ilaşcu and Others v. Moldova and Russia* [GC], Application no. 48787/99. 8 July 2004. Available at: <https://hudoc.echr.coe.int/?i=001-61886> , §425

<sup>43</sup> ECtHR. *Tyrer v. The United Kingdom*. Application no. 5856/72. 25 April 1978, Available at: <https://hudoc.echr.coe.int/?i=001-57587> , § 30

<sup>44</sup> Ibid at § 31

<sup>45</sup> ECtHR. *Bouyid v. Belgium* [GC]. Application no. 23380/09. 28 September 2015. Available at: <https://hudoc.echr.coe.int/?i=001-157670> , § 90

<sup>46</sup> ECtHR. *Vincent v. France*. Application no.6253/03. 26 March 2007. Available at: <https://hudoc.echr.coe.int/?i=001-77641> , §§ 101-103

<sup>47</sup> ECtHR. *Kalashnikov v. Russia*. Application no. 47095/99. 15 October 2002. Available at: <https://hudoc.echr.coe.int/?i=001-60606> , § 102

<sup>48</sup> ECtHR. *Tabesh v. Greece*. Application no. 8256/07. 26 February 2010, Available at: <https://hudoc.echr.coe.int/?i=001-95892> , §§ 38-44

recurring pattern. In BVMN reports we see that a respondent claimed that police there confiscated his asylum papers without any opportunity to obtain it again, further demonstrating the cruel degrading treatment people face in the facility and further highlighting the authoritative abuse of power.<sup>49</sup>

31. The situation in Agios Athanasios is akin to the treatment many receive at the Metagogon Centre. The circumstances in Metagogon are characterised by overcrowding, cramped quarters, and insufficient sanitation. With reports indicating that individuals are experiencing physical skin issues due to the unsanitary conditions, with some even opting not to use the showers due to their unhygienic state. Testimonies describing such occurrences are not uncommon. In the past, the courts have determined that excessively overcrowded and unsanitary conditions constitute degrading treatment and a breach of Article 3 of the convention as seen above in the *Kalashnikov* case.<sup>50</sup>

### 3. Detention as Degrading or Inhuman Treatment

32. For a violation of Article 3, the suffering and humiliation must “go beyond the inevitable element of suffering and humiliation connected with the deprivation of liberty itself”.<sup>51</sup> Authorities must ensure that the conditions of detention are compatible with respect for human dignity, and that the manner in which the detention is carried out does not subject the person to distress or hardship that exceeds the inherent unavoidable suffering of the situation.<sup>52</sup> When assessing detention, the conditions must be assessed cumulatively and also assessed as per the specific claims of the applicant.<sup>53</sup> Length of time must also be considered.<sup>54</sup> In *S.Z. v Greece*, the Court notes that in cases where a violation of Article 3 was found for the conditions of a detention at police stations, there were specific deficiencies that made the detention a violation.<sup>55</sup> Such conditions were instances of overcrowding, a lack of outdoor space for exercise, poor quality food, and unhygienic living conditions.<sup>56</sup> The Court also based its findings on the fact that police stations are only designed for short stays, so detention lasting from one to three months within a station was contrary to the Convention.<sup>57</sup> Significantly, the Court has found on numerous occasions that aside from shortcomings in the detention relating detention conditions, the very nature of detention in police stations, which are

<sup>49</sup> BVMN. 2023. *Balkan Region Report - September 2023* Accessed 13/12/2023. Available from: <https://borderviolence.eu/app/uploads/BVMN-Monthly-Report-September-2023-.pdf-1.pdf>, p7.

<sup>50</sup> ECtHR. *Kalashnikov v. Russia*. Application no. 47095/99. 15 October 2002. Available at: <https://hudoc.echr.coe.int/?i=001-60606>, § 102

<sup>51</sup> European Court of Human Rights. 2022. *Guide on Article 3 of the ECHR, Prevention of Torture*. Available [Online](#). Accessed 12/12/2013, p 16

<sup>52</sup> ECtHR. *Neshkov and Others v. Bulgaria*, Nos.36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13, 1 June 2015. Available at: <https://hudoc.echr.coe.int/?i=001-150771>, § 227 and ECtHR. *Muršić v. Croatia* [GC]. Application no. 7734/13. 20 October 2016. Available at: <https://hudoc.echr.coe.int/?i=001-167483>, § 99

<sup>53</sup> European Court of Human Rights. 2022. *Guide on Article 3 of the ECHR, Prevention of Torture*. Available [Online](#). Accessed 12/12/2013, p 16

<sup>54</sup> See ECtHR. *Ananyev and Others v. Russia*. Application nos. 42525/07 and 60800/08. 10 April 2012. Available at: <https://hudoc.echr.coe.int/?i=001-108465>, § 142; ECtHR. *Idalov v. Russia* [GC]. Application no. 5826/03. 22 May 2012. Available at: <https://hudoc.echr.coe.int/?i=001-110986> § 94 and ECtHR. *Muršić v. Croatia* [GC]. Application no. 7734/13. 20 October 2016. Available at: <https://hudoc.echr.coe.int/?i=001-167483>, § 101

<sup>55</sup> ECtHR. *S.Z. v Greece*. Application no. 66702/13. 21 June 2018, Available at: <https://hudoc.echr.coe.int/?i=001-183816>, § 40

<sup>56</sup> See *Siasios and Others v. Greece*, 2009; *Vafiadis v. Greece*, 2009; *Shuvaev v. Greece*, 2009; *Tabesh v. Greece*, 2009; *Efremidi v. Greece*, 2011; *Aslanis v. Greece*, 2013; *Adamantidis v. Greece*, 2014; and *Kavouris and Others v. Greece*, 2014

<sup>57</sup> See the above cases

places intended to hold persons for short periods, is in violation of Article 3 (*Siasios and Others*<sup>58</sup>, *Vafiadis*<sup>59</sup>, *Shuvaev*<sup>60</sup>, *Tabesh*<sup>61</sup>, *Efremidze*<sup>62</sup>, and *S.Z. v. Greece*<sup>63</sup>, *H.A. and Others v Greece*<sup>64</sup>).

33. In the *S.Z.* case itself, the Court found that since the applicant was detained for fifty-two days in a police station lacking necessary amenities, there was indeed a violation of Article 3.<sup>65</sup> Similarly, in *Tousios v Greece*, a violation of Article 3 was found due to testimonies from the Committee on the Prevention of Torture attesting to the bad material conditions of the prison, specifically noting the lack of exercise yard, which made the facility unsuitable for more than a twenty-four hour stay.<sup>66</sup> Similar findings came about in *H.A. and Others v Greece*, where a violation was found when applicants stayed for periods of up to thirty-three days in an overcrowded, unheated, poorly ventilated police station with no possibility for outside exercise.<sup>67</sup> The Court specifically noted that without exercise and recreational capabilities, the police station presents characteristics that could foster feelings of “solitude”.<sup>68</sup> In *Iatropoulos and Others v Greece*, applicants detained at the Metagogon Transfer Centre for over one and a half months were found to have sustained treatment in violation of Article 3 of the Convention because the Transfers Department of Thessaloniki had inadequate facilities for long-term stay.<sup>69</sup> The conditions commented on by the Court reflect similarities to testimonies from Northern Greece collected by BVMN, who report things such as overcrowding, unhygienic conditions, a lack of exercise space, and long stays in police stations that the Court found unfit for long-term stays.<sup>70</sup>

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<sup>58</sup> ECtHR. *Siasios and Others v Greece*. Application no. 30303/07. 4 September 2009. Available at: <https://hudoc.echr.coe.int/?i=001-92859>

<sup>59</sup> ECtHR. *Vafiadis v Greece*. Application no. 24981/07, 2 October 2009. Available at: <https://hudoc.echr.coe.int/?i=001-93280>

<sup>60</sup> ECtHR. *Shuvaev v Greece*. Application no. 8249/07. 29 January 2010. Available at: <https://hudoc.echr.coe.int/?i=001-95462>

<sup>61</sup> ECtHR. *Tabesh v Greece*. Application no. 8256/07. 26 November 2009. Available at: <https://hudoc.echr.coe.int/?i=001-95892>

<sup>62</sup> ECtHR. *Efremidze v Greece*. Application no. 33225/08. 21 June 2011. Available at: <https://hudoc.echr.coe.int/?i=001-105212>

<sup>63</sup> ECtHR. *S.Z. v Greece*. Application no. 66702/13. 21 June 2018. Available at: <https://hudoc.echr.coe.int/?i=001-183816> §§ 41-42

<sup>64</sup> ECtHR. *H.A. and Others v Greece*. Application no. 19951/16. 7 April 2016. Available at: <https://hudoc.echr.coe.int/?i=001-191278>

<sup>65</sup> ECtHR. *S.Z. v Greece*. Application no. 66702/13. 21 June 2018. §§ 41-42

<sup>66</sup> ECtHR. *Tousios v Greece*, Application no. 36296/19. 10 May 2022. Available at: <https://hudoc.echr.coe.int/?i=001-215555> §§ 26-27

<sup>67</sup> ECtHR. *HA and Others v Greece*,. 19951/16. 28 May 2019, §§ 168-170

<sup>68</sup> *Ibid*, §168

<sup>69</sup> ECtHR. *Iatropoulos and Others v Greece*. Application no. 23262/13. 20 April 2017, Available at: <https://hudoc.echr.coe.int/eng/?i=001-172854> , §§ 39-41

<sup>70</sup> See, for example: BVMN.. 2023. *We were without clothes and it was so cold*. Accessed 12/12/2023. Available from: <https://borderviolence.eu/testimonies/april-23-2020-0000-greek-turkish-border-near-ipsala/>; BVMN. 2020. *Austrian police officers implicated in pushback to Greece* Accessed 12/12/2023. Available from: <https://borderviolence.eu/testimonies/june-15-2020-0000-gevgelija-north-macedonia/>