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4.8.3. Detention conditions

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icon presenting conditions in detention facilities

Access to rights and conditions in detention facilities were at the centre of criticism by NGOs and independent monitoring mechanisms. In many countries, deficiencies in accessing rights were brought to the forefront. Overall, civil society organisations highlighted the importance of free legal representation for all persons who are detained,731 especially in light of frequent errors in detention orders and the high number of detention cases found to be unlawful by courts.732 In addition, difficulties were reported for detained asylum seekers to receive visits from family members or NGOs, which impeded the effective provision of information on the asylum process.733,734

Concerns were raised about access to information or legal aid for detained asylum seekers in Croatia (for materials distributed in reception centres under the “Legal advice in the process of granting international protection”, *see Section 4.10.4*),735 Greece,736 Italy (Milan),737 Lithuania738 and Poland.739 The Ministry of the Interior in Croatia described the applicable legislation, noting that according to the law, when an applicant’s freedom of movement is restricted, the applicant is informed about the right to legal aid and presented with a list of lawyers to choose the representative. The law also requires a court to evaluate the legality of the restriction.

Other concerns were voiced about the psychological health of detained applicants in Lithuania740 and Italy (Milan),741 access to documentation in Malta,742 and overcrowded conditions and practices in general in Czechia,743 Denmark,744 Greece,745 Lithuania,746 Poland,747 Sweden748 and Switzerland.749

In an effort to improve conditions, the Detention Services in Malta launched a large-scale refurbishing and restructuring process of all detention facilities in Malta in 2020. This involves the creation of new detention facilities (for example, a new detention compound in the Safi Detention Centre was built in 2020, the construction of a new female compound started in 2023), the improvement of detention conditions (refurbishment of several sections, recruitment of a welfare officer in 2020, the creation of a specialised medical section in 2021 operating from the Detention Service and increased accountability (setting up a new control room and refurbished areas equipped with CCTV cameras).

In Italy, an inspection report of the Milan Centre for Stay and Repatriation (CPR) was released by Senators together with the No CPR Network.750 It confirmed that the conditions inside the centre worsened since the first visit in 2021. The report underlined serious violations of resorting to detention and the inhuman and degrading sanitary conditions. Similar issues were noted in other CPR centres, for example in Turin, for which civil society organisations reported on protecting the rights of prisoners, with an emphasis on health, the right to defence and the freedom of correspondence.751

For conditions at the borders, ASGI noted shortcomings in the Lampedusa hotspot, including detention, isolation, restrictions on access to information and the right to defence, overcrowding, degrading sanitary conditions and insufficient health care.752 These findings were also reflected in the annual report of the Ombudsperson for the Rights of Detained Persons to the Parliament for the situation on the quarantine vessels, the Centre for Stay and Repatriation (CPR) and hotspots, which violate the human rights of detained persons.753

In Poland, the profiles of applicants residing in certain detention centres have changed over time, with the Commissioner for Human Rights expressing the opinion that conditions in detention centres were not always adapted to the changed profiles. Nevertheless, after a visit conducted in July 2022, the UN Special Rapporteur on the Human Rights of Migrants observed that efforts had been made by Polish Border Guards in improving the conditions of stay for asylum seekers in closed facilities.754

Within their reviews, the courts set minimum standards for detention conditions and indicated measures to the authorities. In this regard, the ECtHR ordered interim measures under Rule 39 of the Rules of the Court to the government of Malta, requesting the authorities "to ensure that the applicants' conditions are compatible with Article 3 of the Convention and with their status as unaccompanied minors". In another case concerning Hungary, the ECtHR held that the use of handcuffs and a leash on an asylum applicant amounted to inhuman and degrading treatment.

The obligation of Croatian authorities to protect the life of a Moroccan applicant held at a police station was brought before the ECtHR. The court found a violation of Article 2 of the European Convention under both substantive and procedural aspects, due to the failure to protect the applicant when a fire had broken out, leading to his severe injury and death of other persons, and due to the lack of an effective investigation of the incident. The Croatian Ministry of the Interior underlined that the case was not yet final and there was a possibility of filing a legal remedy against the judgment.

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