

COMMENTS

CONSTANT BARRIERS TO CHALLENGING IMMIGRATION DETENTION IN GREECE

APRIL 2024

Submission to the Council of Europe Committee of
Ministers in *M.D. v. Greece*

Introduction

1. Refugee Support Aegean (RSA) wishes to submit an addendum to its October 2024 contribution to the Committee of Ministers of the Council of Europe (hereafter “the Committee”) on the supervision of the execution of the *M.D. v. Greece* group,¹ pursuant to Rule 9.2 of the Rules of the Committee. This submission offers up-to-date information on immigration detention applied by Greece in the context of deportation, return, screening and asylum procedures, drawing on analysis of latest official statistics, as well as RSA casework and documentation of detention practice.
2. The measures supervised by the Committee under the *M.D. v. Greece* group are directly linked to Greece's compliance with its European Union (EU) law obligations, monitored *inter alia* in the context of Schengen evaluations. In its April 2025 report on the state of the Schengen area, the European Commission noted that a “revisit” to Greece was carried out in November 2024 to assess serious deficiencies in the area of return of irregular migrants. The European Commission noted that “Given the serious deficiencies identified in 2021 concerning processes and safeguards in the return of third-country nationals with no legal right to stay, the aim of the visit was to assess the implementation of the remedial measures. Considering the limited progress made by Greece, the evaluation team concluded that the serious deficiencies persist.”²
3. The observations made in our October 2024 submission regarding systemic deficiencies in immigration detention in Greece remain valid, unless otherwise stated.

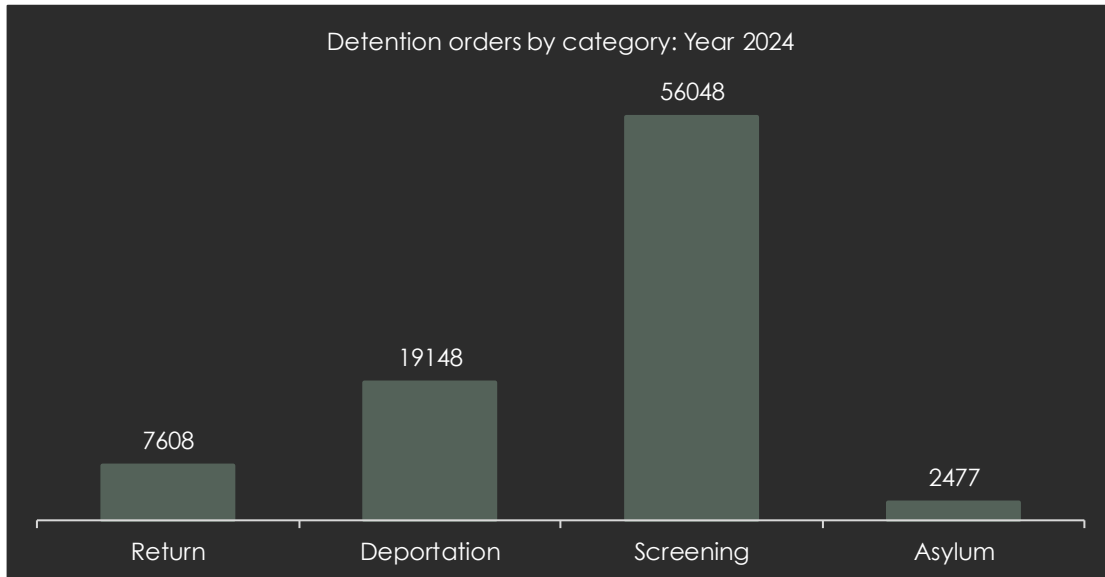
Lawfulness of detention

Procedure	Domestic designation	Authority ordering detention	Legal basis
Deportation	Detention	Hellenic Police	Article 76 L 3386/2005
Return	Detention	Hellenic Police	Article 30 L 3907/2011
Screening	Restriction on freedom	Reception & Identification Service	Article 40 L 4939/2022
Asylum	Detention	Hellenic Police	Article 50 L 4939/2022

4. We recall that Greek law sets out four discrete forms of immigration detention, applied by the Greek authorities in practice. Detention orders were issued in 2024 as follows:

¹ App No 60622/11, 13 November 2014. DH-DD(2024)1235.

² European Commission, *Annex to the 2025 State of Schengen Report*, COM(2025) 185 ANNEX 1, 23 April 2025, 6, available [here](#).



5. The majority of detention orders in 2024 took the form of “restriction on freedom” inside Reception and Identification Centres (RIC) and Closed Controlled Access Centres (CCAC) of the Reception and Identification Service (RIS) of the Ministry of Migration and Asylum for a five-day period for the purpose of **screening**, according to official figures.³
6. During the same period, the RIS issued 25,892 “extensions of restriction on freedom”, prolonging *de facto* detention inside RIC / CCAC for another 20 days.⁴ However, throughout the past year, even the maximum 25-day time limit was well exceeded in locations such as RIC Malakasa, CCAC Samos and CCAC Leros. Asylum seekers have thereby remained under *de facto* deprivation of liberty inside RIC / CCAC for periods often longer than two months. Unaccompanied and separated children have been subjected to *de facto* detention therein for even longer periods, exceeding six months.⁵
7. Importantly, the “extension of restriction on freedom” orders issued by RIC / CCAC take the form of a standardised decision, solely stating that screening procedures have not been completed. The orders offer no further motivation or reference to the reasons for ordering an extension or to the expected date of completion of screening.⁶
8. The practice of *de facto* immigration detention beyond the maximum time limits laid down in domestic law, coupled with the absence of any reasoning on the delays in administrative proceedings as grounds for prolonging detention, raises critical

³ Ministry of Citizen Protection, Reply to parliamentary question, 7017/4/27283-στ', 1 April 2025, available [here](#); Ministry of Migration and Asylum, Reply to parliamentary question, 37902/2025, 27 February 2025, available [here](#).

⁴ *Ibid.*

⁵ Administrative Court of Athens, AP538/2025 and AP539/2025, 31 March 2025. See Equal Rights Beyond Borders, 'Court Declares Unlawful Detention of Two Minors in Malakasa Camp in Athens', 7 April 2025, available [here](#).

⁶ Despite an express obligation to give due reasons for such extensions: Article 40(a) Greek Asylum Code, L 4939/2022, Gov. Gazette A' 111/10.06.2022. See also Administrative Court of Athens, AP2200/2024, 14 November 2024, available [here](#).

questions relating to Article 5(1) of the Convention in light of relevant Court findings in recent cases such as *Mirzai v. Greece*.⁷

9. As for detention orders taken by the Hellenic Police, up-to-date data confirm that most concerned **deportation** procedures. 99.5% of deportation orders in 2024 were accompanied by detention, whereas the detention rate in **return** decisions was 61.4%.

Pre-removal detention against newly arrived asylum seekers

10. The latest available official figures confirm again that the Hellenic Police systematically issues pre-removal detention orders against newly entrants who enter screening proceedings in RIC / CCAC, apply for asylum and thereby enjoy a right to remain on the territory under domestic law.⁸ That is despite its continued admission that “all – almost – foreigners entering our country make an asylum application during the reception and identification procedure” in practice.⁹
11. The 19,148 persons notified detention orders under **deportation** proceedings in 2024 originated primarily from Afghanistan (6,788), Syria (4,807), Eritrea (1,380) and Palestine (1,012) according to Ministry of Citizen Protection statistics. These in fact correspond to the main nationalities of people granted international protection by the Asylum Service in 2024: Afghanistan (13,642), Syria (13,094), Palestine (3,101) and Eritrea (2,085).¹⁰
12. Up-to-date official figures also confirm the persisting practice of systematic pre-removal detention orders even in the absence of removal prospects. For instance, more than 12,000 such detention orders were issued in **deportation** and **return** proceedings against nationals of Syria and Afghanistan, even though forced removals to the two countries have been suspended as of 9 April 2013 and 8 July 2021 respectively,¹¹ while forced removals of third-country nationals to Türkiye have been completely suspended since 16 March 2020.¹²

⁷ App No 44312/13, 23 November 2023, paras 42 and 47.

⁸ Article 73(1) Greek Asylum Code.

⁹ Ministry of Citizen Protection, Reply to parliamentary question, 7017/4/27283-σ', 1 April 2025; 7017/4/26888-γ', 13 August 2024, available [here](#); 7017/4/25899-γ', 16 March 2022, available [here](#).

¹⁰ Ministry of Migration and Asylum, Reply to parliamentary question, 43015/2025, 10 March 2025, available [here](#).

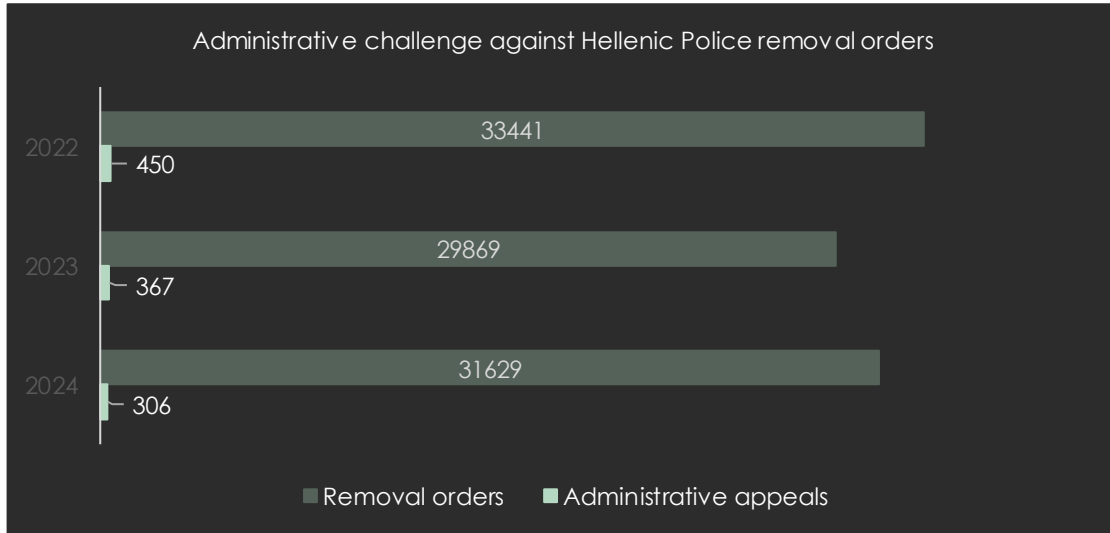
¹¹ *Inter alia*, European Commission, *Assessment of third countries' level of cooperation on readmission in 2023*, COM(2024) 340, 23 July 2024; Greek Council of State, 177/2023, 3 February 2023, para 41.

¹² On the former, *S.Z. v. Greece* App No 66702/13, 21 June 2018, paras 28 and 56. On the latter, see e.g. CJEU, C-134/23 *Elliniko Symvoulío gia tous Prosfyges*, 4 October 2024, para 27; Administrative Court of Corinth, Π2087/2024, 25 June 2024; Administrative Court of Kavala, AP394/2024, 24 May 2024.

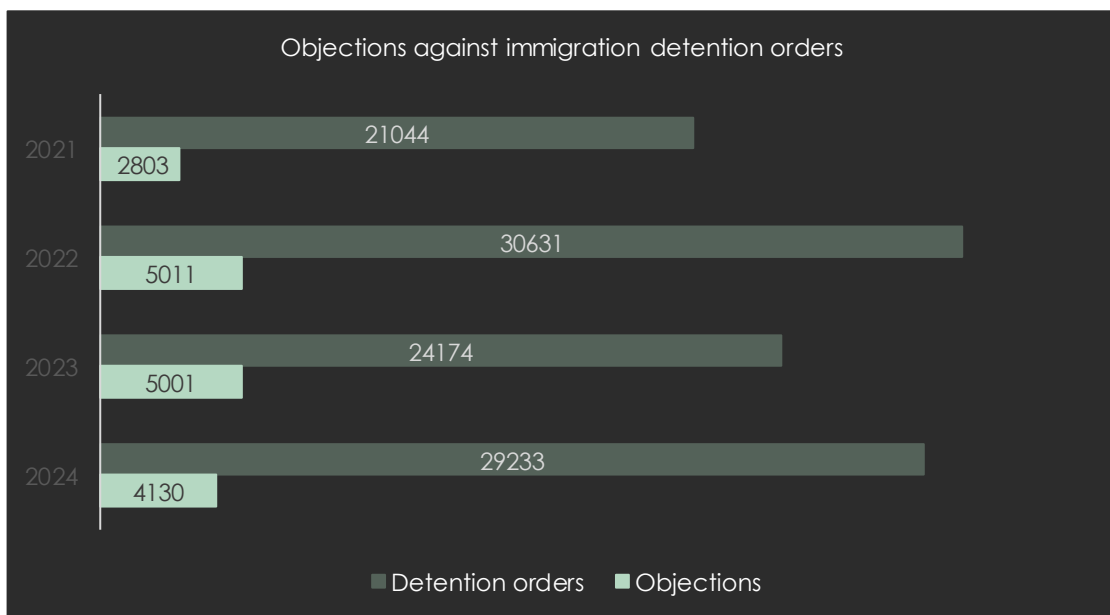
Remedies to challenge the lawfulness of detention

1. Accessibility

13. **Administrative appeals** before the Hellenic Police against removal orders are still at near-zero levels. The share of deportation and return decisions challenged via an appeal before the Hellenic Police was no more than **1.3%** in 2022, **1.2%** in 2023 and just **0.97%** in 2024:



14. As for **objections** against detention before the administrative courts, official statistics still demonstrate that **less than one out of five** detention orders on average are challenged through objections before the courts:



15. In the particular case of **screening**, we remind that initial “restriction on freedom” orders are not amenable to judicial review at all. Only the “extension of restriction on freedom” may be challenged through objections.¹³

Absence of free legal assistance

16. Domestic law provisions on the right to free legal assistance to challenge pre-removal and asylum detention orders¹⁴ remain ‘dead letter’ since there is still no state legal aid scheme for persons in immigration detention across all four categories (deportation, return, screening, asylum). The Greek government has yet to adopt the necessary secondary legislation required by Article 39(2) L 3907/2011 to define the terms of such a scheme in the **return** context.

17. Importantly, in the **screening** context, an additional barrier imposed by the authorities on the access of persons *de facto* detained in RIC / CCAC to remedies stems from arbitrarily denial of the possibility to authorise a legal representative in line with domestic law formalities.

18. Specifically, domestic law provides that signature of an authorisation to a lawyer (*εξουσιοδότηση*) shall be certified (*θεώρηση γνησίου της υπογραφής*) before any public authority.¹⁵ Express provisions of domestic law specify that in the case of asylum seekers remaining in RIS facilities such as RIC and CCAC, the responsible authorities shall certify their signature based on their declared personal details.¹⁶

19. However, RIC and CCAC consistently refuse to certify the signature of persons remaining within the facilities so long as they have not received an asylum seeker card upon completion of screening procedures and registration of the asylum claim. As mentioned earlier, this can take several months in practice. In most cases known to us, the authorities communicate such a refusal only orally, citing internal instructions.¹⁷

20. Regrettably, the position of domestic authorities contravenes domestic law and appears to defy reason, prompting criticism from both domestic courts¹⁸ and the Greek Ombudsman.¹⁹ We highlight in this regard that persons *de facto* detained in RIC and CCAC at that point have already had their declared personal details recorded and their biometric data collected and have been assigned a six-digit Asylum Case Number. All of the above figure in the “restriction on freedom” orders notified to them.

¹³ Article 40(b) Greek Asylum Code.

¹⁴ Article 28(4) L 3907/2011; Article 50(7) Greek Asylum Code.

¹⁵ Article 11(1) Administrative Procedure Code; Article 76(1) Greek Asylum Code.

¹⁶ Article 74(8) Greek Asylum Code.

¹⁷ By way of exception, a written response received on 4 February 2025 from the Regional Asylum Office of Samos states: “Since the procedure of full registration of the asylum application of... has not yet been completed, our Service does not certify the signature. The certification of signature is done upon presentation of the card.”

¹⁸ Administrative Court of Athens, AP2200/2024, 14 November 2024, referring to the practice as “unjustified”.

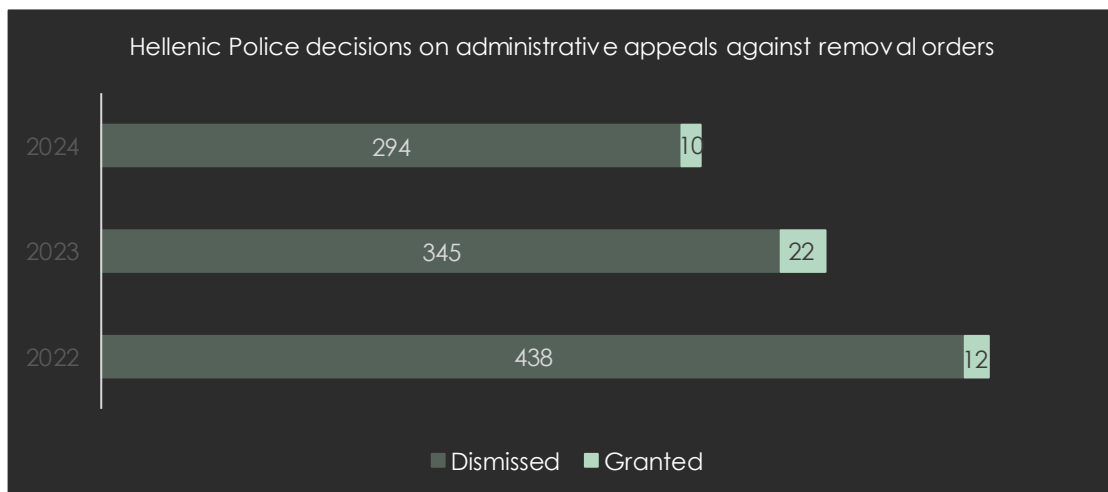
¹⁹ Ombudsman, ‘Μη θεώρηση γνησίου υπογραφής ελλείπει δελτίου αιτούντος διεθνή προστασία’, 365845/22201/2025, 14 April 2025 concerning CCAC Samos and CTRC Sintiki; 361250/63190/2024, 10 December 2024 concerning RIC Malakasa.

21. As a result of this practice, people *de facto* detained in RIC and CCAC during **screening** procedures not only lack access to a legal aid scheme but are also deprived of the means to authorise a lawyer and thereby to be represented before domestic administrative and judicial authorities for the purpose of complaining against their detention.²⁰

2. Effectiveness

Administrative review by the Hellenic Police

22. The extremely few **administrative appeals** lodged against removal orders, most of which include detention, are overwhelmingly dismissed by the Hellenic Police. Figures of the Ministry of Citizen Protection show that the acceptance rate of administrative appeals against deportation and return decisions stood at no more than **2.6%** in 2022, **6%** in 2023 and **3.2%** in 2024:

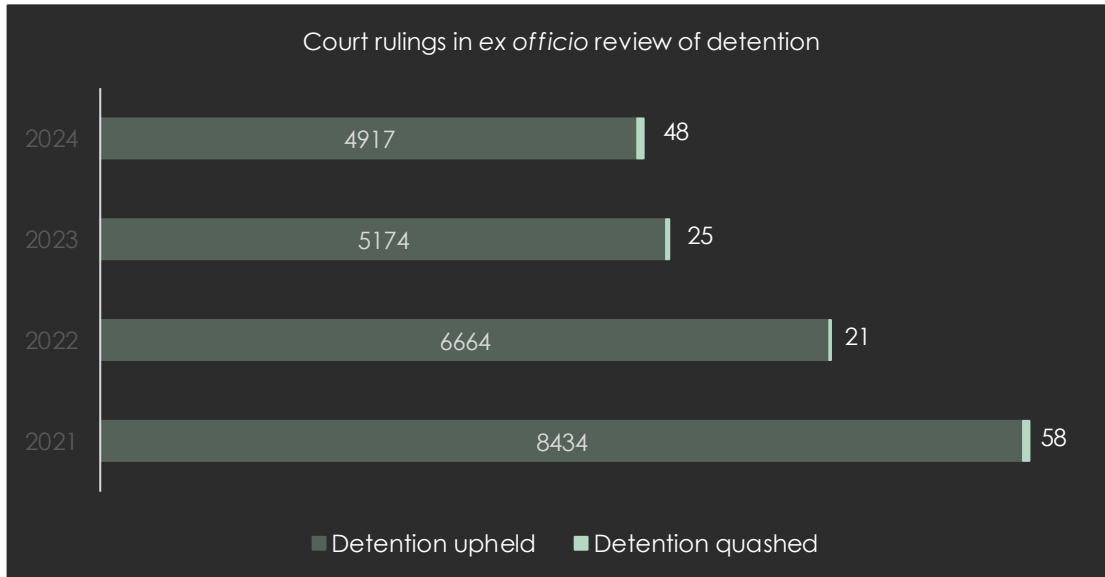


Judicial review by the administrative courts

23. The rate of detention orders quashed upon judicial review following objections against detention at the administrative courts stood at **41.6%** in 2021, **40.3%** in 2022, **45.6%** in 2023 and **2.2%** in 2024.

24. In sharp contrast, the rate of detention orders quashed upon *ex officio* judicial review by the same courts was no more than **0.7%** in 2021, **0.3%** in 2022, **0.5%** in 2023 and **0.96%** in 2024:

²⁰ Note the pending case **S.A. and others v. Greece** App No 34380/24.



Recommendations to the Committee

Drawing on our October 2024 contribution and present addendum, we urge the Committee to continue the supervision of the execution of the **M.D. v. Greece** group of cases, on account of persisting evidence of systemic deficiencies in compliance with Article 5 of the Convention. We would invite the Committee to consider requesting concrete measures from the Greek government in order to address:

- ❖ The persisting, systematic use of pre-removal detention orders against newly arriving asylum seekers with well-founded claims, originating mainly from Syria and Afghanistan where removal is neither legally nor practically feasible.
- ❖ The generalised lack of linguistic assistance and complete absence of free legal assistance from the state to detained persons, resulting in less than 1% of removal orders appealed before the Hellenic Police and less than one in five detention orders challenged before the courts through objections.
- ❖ The absence of domestic law remedies against initial *de facto* detention in RIC / CCAC.
- ❖ The refusal of RIC and CCAC to allow persons *de facto* detained therein to authorise a lawyer according to domestic law formalities and its impact on access to remedies.
- ❖ The staggering disparities in decision-making in *ex officio* review (less than 1% of orders quashed) compared to objections (over 40% of orders quashed), performed by the same courts based on the same legal standards.



<https://rsaegean.org/constant-barriers-to-challenging-immigration-detention-in-greece/>



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