

Please cite as: EUAA, '7.7.3 Jurisprudential developments' in *Asylum Report 2020*, January 2022.

7.7.3 Jurisprudential developments

Decisions by the European Court of Human Rights

The role of ECtHR jurisprudence related to detention is crucial for reception as well, as it sets standards through the interpretation and application of the law. The ECtHR[liii] reviews cases related to reception conditions based on Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights. In 2019, the Court on various occasions assessed the conditions in the hotspots in Greece, in particular in Vial and the safe zone for unaccompanied minors in the Diavata Centre, as well as the Calais camp in France. In Greece, the Court ruled that remedies proposed to detained migrants in emergency reception centres were neither accessible nor sufficient. In another case, the ECtHR indicated interim measures to be implemented in Greece regarding the living conditions of a vulnerable applicant (pregnant woman) which should be compatible with her state of health.

In Calais, the Court found France in violation of its obligations concerning the conditions in the makeshift camps and failure to enforce the court order to secure protection for applicants. It concluded that the severity threshold of Article 3 had been reached. Other complaints concerning conditions in a temporary tent camp on Metz's Avenue de Blida in 2014 was declared inadmissible by the Court.

In *Szurovecz vs Hungary*, the Court confirmed the freedom of the press to access and report on conditions in reception facilities (in line with ECHR, Article 10) as reporting on the refugee crisis was sufficiently justified as a matter of public interest.

Decisions by national courts

In 2019, national courts took urgent action to address deficiencies in national reception systems. For example, the Council of State in France ordered the *Préfecture du nord* to install, within eight days, sufficient water points, showers and sanitary facilities. It also reviewed the framework of the emergency facilities regarding to data exchange between various institutions, which was necessary to coordinate the management of the accommodation and enable the emergency shelter system.

Some national judges reviewed reception standards beyond national borders in the context of Dublin transfers. The German Federal Constitutional Court reviewed the accommodation of families with children in Italy and ruled on its suitability. The Dutch Council of State ruled on the suitability of transfers in conjunction with existing reception conditions in Greece and Italy. Similarly, the Court of Hague underlined the need to further investigate the actual care provided by Italy to families with children in various temporary reception centres *(Centri di Accoglienza*

Straordinaria) and first reception centres. The Court named UNHCR as the most suitable organisation to conduct the assessment.

[liii] To avoid issues on arbitrary presentation or interpretation of cases, wording is similar to official press releases.

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