



## How the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece

Correspondence - 09/03/2023

**Case** OI/3/2022/MHZ - **Opened on** 11/07/2022 - **Institution concerned** European Commission |

Dear President,

The Commission is involved in the construction and running of the MPRICs on the basis of a memorandum of understanding with Greece signed in December 2020. [1] In carrying out this role, as with all of its activities, the Commission must uphold the Charter of Fundamental Rights.

The Commission is also tasked with monitoring that Greece uses the EU funds covering the MPRICs in compliance with EU law, including the Charter, EU case-law on the need for dignified conditions in reception centres for migrants [2] , and relevant EU legislation, in particular the Reception Conditions Directive [3] , the Return Directive [4] and the Asylum Procedures Directive [5] .

I recognise that the EU investment into the MPRICs has led to improvements in the conditions in which refugees are accommodated in Greece, when compared to the previous facilities (hotspots). I also understand that the Commission considers the construction of the MPRICs to be a pilot project, under the New Pact on Migration and Asylum [6] . In the future, EU funds might be used for the establishment of similar reception centres, not only in other parts of Greece but also in other EU Member States.

Even in advance of their being created, the EU Fundamental Rights Agency raised concerns with the Commission that, as conceived, the MPRICs posed potential fundamental rights risks. [7] With three MPRICs now operational on Greek islands, various civil society organisations have raised concerns about the conditions faced by refugees accommodated in these facilities, which they contend undermine fundamental rights.

Against this background, I have decided to launch an own-initiative inquiry into the Commission's role in the construction and running of the MPRICs. Given the Commission's duty to ensure EU funds are spent in compliance with the Charter, it is important to examine



whether the Commission has adequately evaluated the fundamental rights impact of the MPRICs and to what extent it is properly monitoring fundamental rights compliance in the implementation of these EU-funded projects.

I have decided that, as the first step, it is necessary to meet with the representatives of the European Commission, preferably in September/October 2022, to get answers to specific questions and inspect documents relevant in this context. The questions are set out in an annex to this letter.

In the course of this inquiry, I would like to publish the report from the inspection of the Commission's documents and meeting (with confidential information withheld) on my website. I may also give interested stakeholders the opportunity to make observations. Information or documents that the Commission considers to be confidential will not be disclosed to the complainant or any other person without the prior agreement of the Commission. [8]

Should you require any further information or clarifications concerning this inquiry, including how to arrange for the inspection of documents, please do not hesitate to contact Marta Hirsch-Ziembinska (+33 388 17 27 46), Principal adviser on Charter compliance, who is responsible for the inquiry.

Yours sincerely,

Emily O'Reilly

European Ombudsman

Strasbourg, 11/07/2022

Enclosure: questions for the European Commission for the discussion during the inspection/meeting

[1] Europol, the European Border and Coast Guard Agency (Frontex) and the EU Fundamental Rights Agency are also parties to the memorandum of understanding.

[2] C-179/11 Cimade, Groupe d'information et de soutien des immigrés (GISTI) v Ministre de l'Intérieur, de L'Outre-mer, des Collectivités territoriales et de l'Immigration : C-79/13, Federaal agentschap voor de opvang van asielzoekers v Selver Saciri and Others ; C-411/10



N.S. v Secretary of State and C-493/10 M.E. and Others v Refugee Applications Commissioner and Minister of Justice .

[3] Directive 2013/33/EU laying down standards for the reception of applicants for international protection

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>

[4] Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0115>

[5] Directive 2013/32/EU on common procedures for granting and withdrawing international protection <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0032>

[6]

<https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/new-pact-migr>

[7] *The Establishment of the MPRICs: Aide memoire on issues to consider from a fundamental rights point of view*

[https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2021-initial-reception-facilities-external-borders\\_](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-initial-reception-facilities-external-borders_)

[8] Please clearly mark such material 'Confidential'. Encrypted emails can be sent to our dedicated mailbox [eo-secem@ombudsman.europa.eu](mailto:eo-secem@ombudsman.europa.eu). Please contact [eo-secem@ombudsman.europa.eu](mailto:eo-secem@ombudsman.europa.eu) beforehand. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended.

Annex

### **Questions for the European Commission for the discussion during the inspection/meeting**

**1.** Has the Commission replied to the concerns raised by the FRA about the potential for fundamental rights violations in the MPRICs? If so, could the Commission share with the Ombudsman the related documents, including internal exchanges among parties to the Memorandum of understanding.

**2.** Did the Commission carry out a fundamental rights impact assessment, or review the fundamental rights impact assessment made by the Greek authorities, before the call for tenders for constructing the MPRICs was launched? Has there been a fundamental rights impact assessment since the MPRICs were created? If so, could the Commission share these documents with the Ombudsman?

**3.** Did the Commission consider measures for improving the material conditions of migrants, while ensuring the protection of their fundamental rights?

**4.** Could the Commission state which EU funding programmes were used to finance



surveillance systems in the MPRICs? Is the Commission aware of the investigation by the Hellenic Data Protection Authority concerning the use of the surveillance systems at the camps? [1]

**5.** Why does the Commission website indicate that all MPRICs are open [2] , whereas reports by independent organisations and the relevant Greek law indicate that they are not?

**6.** On its website, the Commission has published the Memorandum of understanding concerning the MPRIC in Lesbos, but it has published no documents concerning its involvement in or the funding for the remaining four MPRICs. Could the Commission share with the Ombudsman the agreements on which the EU's involvement with the other MPRICs is based?

**7.** What are the exact duties of the staff of the Task Force Migration Management in Greece in relation to MPRICs?

**8.** According to the Commission's website [3] , the duties of the Task Force include overseeing a number of 'actions'. Could the Commission explain how, in practice, the Task Force implements its tasks related to (a) improving *the link between key processes including asylum and return or integration supported by the EU Asylum Agency and the European Border and Coast Guard Agency (Frontex)* , and (b) increasing the amount of voluntary returns?

**9.** The Memorandum of understanding states that the steering committee "*assesses the need for corrective actions, on the basis of a commonly agreed set of indicators aimed at ensuring, among others, that the site capacity is not exceeded, reception conditions remain fully satisfactory for the various categories of persons and procedures are correctly and effectively carried out*". Could the Commission share with the Ombudsman the results of these assessments and the indicators used for the assessment? Could the Commission share with the Ombudsman the minutes of the meetings of the steering committee that have taken place so far?

**10.** Given the prospect of the establishment of MPRICs in other Member States, has the Commission considered more dignified alternatives to camp-like structures for the registration and reception of refugees?

[1] <https://www.homodigitalis.gr/en/posts/11024>

[2] FAQ section, 5th question concerning all MPRICs ( *Will the new reception facilities be a 'closed' structures?*) and reply:

<https://ec.europa.eu/home-affairs/policies/migration-and-asylum/migration-management/task-force-mig>

[3] [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_1728](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1728)