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# TRIAL OBSERVATION REPORT

## THE 'MORIA 35' CASE

20 April 2018 to 27 April 2018  
Chios, Greece

**Report about the trial of 35 people arrested in Moria camp (Lesbos, Greece) in July 2017,  
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**June 2018**



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## 1. INTRODUCTION

### 1.1. Context

A brief look at the background and legal context is needed to understand the trial of the “Moria 35”, held on the Greek island of Chios on 20-27 April 2018.

Under Greek Law 4375 which implements the EU 2013 ‘Procedures Directive’,<sup>1</sup> upon arrival in the Greek islands, migrants must be registered within a Reception and Identification Centre and have their requests for asylum considered by the Greek authorities on an individual basis.

**Migrants who do not request asylum, or whose requests for asylum are deemed unfounded or inadmissible, face the prospect of being returned to Turkey or their country of origin.**

Since the EU-Turkey deal of 18 March 2016,<sup>2</sup> the number of asylum requests from people arriving on the Greek islands increased dramatically.<sup>3</sup> Asylum procedures in the proceeding 2 years have been widely reported as painfully slow.

The deal itself has provoked many strong protests, including by migrants in the overcrowded Moria camp on Lesbos island (more than 7,000 people were being held in the camp, which had a maximum capacity of 2,500).

On 18 July 2017, 35 residents of Moria were arrested after a large demonstration in the camp against inhumane living conditions, restriction of movement and the slowness of the asylum process.

The 35 were all jointly charged with the following identical offences which were alleged to have been committed during the protest:

1. **Arson with intent to endanger life** – contrary to Article 264 of the Greek Penal Code
2. **Dangerous bodily harm** – contrary to Article 309
3. **Damage of foreign property** – contrary to Article 382
4. **Using or threatening violence to force an authority or public official to execute an act within his capacities or to refrain from a legitimate act** – contrary to Article 167

Five of the defendants were released on bail with restrictive measures. Thirty remained in custody awaiting trial pursuant to Article 282 of the Greek Code of Criminal Procedure on the grounds that they would fail to attend court for trial because of the seriousness of the charges and the lack of an appropriate address.

The trial finally began on 20 April 2018 in front of a ‘Mixed Jury Court’ on the island of Chios. There were 4 days of proceedings, ending on 27 April 2018. All the defendants were acquitted of charges 1, 3 and 4. 3 were acquitted of the remaining charge, whilst 32 were found guilty of charge 2.

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1 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 relative to the common procedures for the granting and withdrawal of international protection, under the “procedures” Directive.

2 Under the deal, anyone arriving irregularly on Greek islands would be returned to Turkey. In exchange for accepting these people, Turkey received money and other benefits. The deal effectively prevented arrivals on the islands from continuing to the mainland.

3 According to figures in the second report on the progress made in the implementation of the EU-Turkey Statement published by the European commission on 15 June 2016 (COM (2016) 349), there were 8.450 on June 2016.

## 1.2. Trial observation aims

Comprising five members from six human rights organizations, the Trial Observation Committee ('TOC') included people who are lawyers and jurists from different parts of the world.

The creation of the Committee followed the call from Legal Centre Lesbos ('LCL') for independent legal observers to attend the trial.<sup>4</sup> Once the Committee was formed, LCL provided information regarding the arrests of the 35 migrants in Moria.

The purpose of the TOC was to ensure international oversight and to observe the proceedings in view of the right to a fair trial, in particular:

- **the right of all persons to equality before the law and the courts;**
- the right of all persons to a public hearing with all due guarantees before **a legally constituted, competent, independent and impartial tribunal.**

A further aim was to produce a report containing the findings of the Committee, which would assess whether there had been breaches of the above rights.

In order to fulfil these aims, the Committee made efforts to interview various actors within the trial process.

## 1.3. Pre-trial observations

Prior to attending Chios, the committee was provided with information from LCL outlining the history of proceedings leading up to the trial.<sup>4</sup>

Whilst not present to witness the pre trial proceedings in this case, the following preliminary observations could be made from the information we received:

- For the preliminary hearings at the Mytilini Court in Lesbos, one lawyer had represented 34 of the 35 suspects.
- Some of the defendants were released from pre-trial detention because there was no interpreter available who could speak their language at the Mytilini Court.
- Thirty suspects were kept in detention for 10 months because they were seen as a flight risk.
- In Greece, arson with an intent to endanger life is a crime for which more than six months' provisional detention is permitted. The hearing in this case took place after nine months.
- In the "Moria 35" case, pre-trial detention was reviewed after six months. Despite petitions advocating that the defendants should be released, the court renewed pre-trial detention.

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<sup>4</sup> See 'LCL – Pre trial Legal Observers Summary of Moria 35 Case' in the Appendix

## **2. THE 'MORIA 35' TRIAL**

### **2.1. Introduction**

Three of the observers arrived the night before the trial began. A further two lawyers arrived the night before the second day of the trial. Throughout proceedings the TOC were able to observe and make notes regarding the proceedings with the assistance of two Greek-English interpreters.

This section contains an outline of the different aspects of the trial the Committee found particular relevant, followed by a chronological exposition of events.

#### **2.1.1 The Chios Court**

The trial took place on Chios, not Lesbos island where the alleged offences were said to have taken place. The defence lawyers petitioned for defence witnesses with travel restrictions to be allowed to leave Lesbos to attend the trial and give evidence. This was granted.

The courtroom was crammed with defendants, police, lawyers, judiciary, interpreters, international observers, media and members of the public. The 35 defendants had to sit in seven rows of five people in the public gallery.

During the trial, there were no break times for defendants. Throughout the day the defendants were not provided with any food by the authorities. When they had to go to the toilet, as often happened, the trial simply continued without them.

The defendants were surrounded by approximately 15 policemen and prison guards. Outside the building and on the street there were a further 20 policemen and guards.

Throughout the proceedings, people entered and left the courtroom. Indeed, the courtroom remained open and accessible throughout the trial.

The defendants had nowhere to consult with their lawyers in private. Any discussion, and there was very little, took place where they were sitting in full view and earshot of everyone in the court.

#### **2.1.2. The President of the Court**

The President of the Court did not introduce herself or the other judges, the prosecutor or the court clerk to the defendants. As nobody was dressed in a robe, it was confusing for the defendants.

On the first day of the trial, the observation committee gave the President a letter in Greek to introduce themselves. She refused the letter, simply responding that it was a public hearing.

The President of the Court generally maintained a good rapport with the defence lawyers, the prosecutor and interpreters. Her approach towards the defendants was markedly different.<sup>5</sup> Most notably, the President systematically interrupted defence witnesses and hurried their evidence. This approach was made more apparent by her treatment of prosecution witnesses, who were given significantly more time to present their evidence.

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<sup>5</sup> On 23 April 2018, she ordered a man to leave the court but the committee did not understand the reason

**It was abundantly clear from the outset that the President intended to severely restrict the evidence of each defendant.**

In almost all cases the President only asked the defendant three questions:

*What time were you in the camp?*

*Did you see stones being thrown or fires being lit?*

*Where were you when you were arrested?*

She then told the defendants to step down. Some defendants protested that they had more to say, but were only able to speak for a few seconds more. For example, when defendants attempted to explain where they were on the morning of the alleged offences (which were supposed to have happened between 12.00 and 16.00) she quickly prevented him from finishing his response.

Throughout the proceedings the President appeared to make very few notes. The committee did not observe her making any notes with respect to defendants' evidence.

Lawyers for the defendants sought to introduce video evidence concerning the events of the disturbance. The President indicated that the video was of no interest to her and appeared not to watch it.

The President in open court, appeared to take most decisions and ask questions without consulting her colleagues or the jurors. She never asked for their opinion or if they had any questions for the witnesses or defendants.

This was the case even when the defence lawyers asked to change the charges at the beginning of the trial. This was a crucial issue upon which she should have consulted with the other Judges.

Above all, the committee noticed that the President:

- offered no explanation of the different stages of the procedure throughout the trial;
- failed to check that the defendants had understood translations of the decisions;
- gave no explanation about several withdrawals of the bench to chambers.

### **2.1.3. The Prosecutor**

The three judges and four jurors sat on a bench in an arc. The prosecutor sat at the end and was not separated from the others. **This made it difficult to distinguish between the prosecutor and others on the bench and made it difficult for the defendants to understand who she was.**<sup>6</sup> Some defendants couldn't see the prosecutor as she was sitting partly behind a pillar.

On many occasions the prosecutor raised her voice at defendants or defence witnesses in a manner the Committee found to be intimidating and disrespectful. The committee could see no reason for such behaviour.

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<sup>6</sup> See to that effect the declarations of five defendants (Appendix – interview).



#### 2.1.4. The interpreters

During the trial a total of five interpreters<sup>7</sup> were present:

- one for seven English speaking defendants,
- one for 20 French speaking defendants,
- one for one Spanish speaking defendant,
- one for one Farsi speaking defendant,
- one for six Bambara and Wolof speaking defendants.

It was immediately clear that there were not enough interpreters for the French and English speaking defendants, and there would be neither simultaneous translation nor individual translations.

The committee had the following serious concerns about the interpreters:

- none were professional interpreters;<sup>8</sup>
- none had received any training in interpretation;
- none were told what was expected of them;
- the English interpreter, who was a local teacher, asked to be excused on Thursday, halfway through the trial, because she said that she was not sufficiently competent. She was replaced by a police officer in uniform who sat with the other interpreters, approximately 2m from the defendants as they gave evidence. The following day, the English speaking police officer was replaced by another police officer, this one dressed in civilian clothing.

In summary the translation and interpretation facilities at the court were chaotic and hopelessly inadequate.

#### 2.1.5. The Lawyers

**The 35 defendants shared six lawyers, which meant they lacked the necessary individual attention during proceedings and were at risk of conflicting legal interests.** The Greek legal aid system does not provide for a lawyer of one's own choice for every defendant. Because of the costs, defendants were forced to share six lawyers, who were paid by third parties.

During the trial, the defence lawyers were:

- unable to cope with problems relating to translation;
- unable to sit next to their clients;
- unable to take their clients instructions during proceedings;
- unable to spend sufficient time pleading their clients' cases. Each lawyer was limited to 11 minutes for the multiple client's they were representing.

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<sup>7</sup> The international delegation had two English speaking translators during the entire trial who came especially from Athens.

<sup>8</sup> They were supposed to be paid 18 euros per day but they declared that they were doing it just to help, not for the money.

### 2.1.6. The Defendants

After their arrest on 18 July, 30 of the defendants remained in custody awaiting trial:

- 10 were detained in Chios;
- six were detained in a youth facility in Avlona;
- one was detained in Malandrino prison in central Greece;
- 13 were detained in Korydallos prison in Athens.

According to information given to the committee by the lawyers and the defendants themselves, at least eight of the defendants had severe psychological problems for which they were receiving medication or other form of treatment, or were at least considered vulnerable by the Greek asylum service.

Lawyers gave medical statements to the court detailing these problems. **However, in the indictment, there was no reference to these or any other personal circumstances of the defendants.**

The five other defendants who had travel restrictions imposed remained in Moria camp. They went to Chios with the financial support of volunteers.

The defendants are from:

- |               |                      |
|---------------|----------------------|
| – Ivory Coast | – Dominican Republic |
| – Senegal     | – Sierra Leone       |
| – Mali        | – Haiti              |
| – Ghana       | – Nigeria            |
| – Gambia      | – Guinea             |
| – Cameroon    | – Iran               |

One of the principle concerns the committee had was the clear racial overtones present throughout the trial process. Several hundred refugees of all races and from many countries participated in the protest and confrontation.<sup>9</sup> **Of great concern to the committee is that 34 of the 35 protesters arrested and tried were black.**

Then there was evidence of racist remarks by the police during arrest, such as "black dog" and "This is not Africa". Moreover, the search for perpetrators only in the part of the camp occupied by people from African countries was obviously racially biased.

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<sup>9</sup> For instance, one of the defence witnesses declared on Thursday 26 April 2018 « *At noon, Arabic families with children joined us during the peaceful demonstration* ».

## 2.2. Day by day observations of the trial

### 2.2.1. Friday, 20 April 2018 – First day of the trial

Three members of the trial observation committee attended the hearing: Mr Gaasbeek (Netherlands), Mrs Gaasbeek-Wielinga (Netherlands) and Mrs Ducci (France).

The Committee had notified the Chios Mixed Jury Court and the Chios Bar in advance that the trial would be observed. Neither body had acknowledged receipt of our communications. Consequently at the start of the trial the representative of the committee, Mrs Gaasbeek-Wielinga, announced the Committee's presence.

The President checked that all 35 defendants were present by checking their names. Two of the defendants had not arrived due to a ferry strike.

The court started to choose and install jurors. The defence lawyers had the opportunity to make representations regarding the selection of jurors.

After that, the prosecutor read out the charges to the defendants.

**All the defendants faced the same charges.** All had received exactly the same indictment with the same four accusations. The indictment was long and complex; the reading of the accusations took about 10 minutes.

**During the trial it became clear that the prosecution had not prepared a case against each defendant: they were treated as a "guilty group".** The same applied to the evidence provided by prosecution witnesses – no individualized proof was given of the involvement of each defendant in the acts they were charged with.

The indictment was provided in Greek. When the charges were read out, there was no simultaneous translation. The President only allowed the interpreters to provide the defendants with a very short summary of the charges.

The defendants sitting in the last row could not even hear the interpreted summary of the charges, especially that provided by the English speaking interpreter who spoke very softly.

The defence lawyers stated that they had serious objections about the arbitrary nature of the arrests. No investigation was made to ensure that there was reasonable suspicion that the accused were involved. The fact that all 35 defendants protested their innocence and many denied they were even present during the demonstration seemed of little importance to the court.

The lawyers spelled out some of the problems with the arrests:

- the accused were arrested a long time after the disturbances;
- those involved in the disturbances covered their faces and therefore made it very difficult for them to be recognized;
- the official guidelines for identification and recognition were not followed.

The lawyers stated that several of the defendants could prove they were not in the vicinity of the demonstration and the disturbances because at the time they had an appointment with or questions for one of the EASO (European Asylum Support Office) officials in their office.

Following the above representations by the defence lawyers, the case was postponed until 22 April in order to include the two absent defendants who could not be present because of the ferry strike.

### 2.2.2. Monday, 23 April - Second day of the trial

Two more observers arrived, Mr Nichol (UK) and Mrs Nicolet (France).

The President did not check herself if all the defendants were present, and instead asked the lawyers to do so.

Considering the difficulties which the defendants had had in hearing the proceedings on the first day, the court had installed speakers connected to microphones which amplified the voice of the judge, prosecutor and witnesses giving evidence. However, in the morning the audio equipment did not function adequately so it was difficult for anyone to hear properly.

Nevertheless, the court continued by hearing the evidence of witnesses for the prosecution.

Six policemen and one fireman were sworn in and heard. All but one of them were questioned by the President, the prosecutor and the defendants' lawyers.

One police officer told the court that he recognized 16 defendants as having participated in the demonstration/disturbances. **The committee finds this highly unlikely**, especially given the prosecution evidence that the perpetrators were subjected to repeated tear gas attacks and had their faces covered. There do not appear to have been any identification procedures with respect to any defendant.

Of concern too was the attitude of some of the police. Referring to the protesters, one police officer said, "*They all looked much the same*".

Prosecution witnesses received no instructions about their role as a witness. **The committee considers this a serious problem**: the witnesses gave hearsay evidence based on what they had heard from their colleagues or learned from other sources, which should have been ruled inadmissible by the President.

**The committee was seriously concerned that no direct evidence presented to the court by prosecution witnesses was translated for the defendants throughout the entire proceedings.**

At best, with some prosecution witnesses, the President ordered the interpreters to provide a short summary of the evidence presented, lasting just a few seconds.

The summary given by the English interpreter was completely wrong. The interpreter could not even give an exact translation when it was dictated by the President.

Later, the President asked if there was a policeman present who could translate in English, and the first interpreter was replaced by a policeman.

The committee spoke about the huge translation problems with the interpreters and with different lawyers. Indeed, the only one with trial experience was the Spanish speaking translator. The problems included:

- The English and French interpreters were teachers and this was their first trial.

- The Farsi translator was an asylum seeker without any experience in translating.
- The Wolof interpreter was an asylum seeker from the camp on Chios and had no experience. He had been asked by a police officer to do the interpretation; on the last day he was sick but the police asked him to assist in any case.
- During the trial it became clear that one of the defendants who was supposed to understand Wolof did not understand it at all but instead spoke Bambara (also named Bamanankan). Although the interpreter reported this several times, he was initially ignored. Another defendant ended up translating for this defendant.
- Later in the trial, the same defendant was translating the statement of the Bambara speaking defendant into Wolof; then the "official" Wolof interpreter translated his words into English; and then a policeman, who volunteered from the audience, translated the statement – or what was left of it – into Greek.

The committee could not understand why neither the President, the prosecutor nor the defence lawyers insisted on having the trial simultaneously translated. During the course of the proceedings, the prosecutor said that there were not enough funds to provide sufficient translation.

It should be noted that the translators all did their best to translate as well as they could, but it was clear that their level of knowledge and experience was below any professional standard.

Finally, around noon, the President postponed the trial until Thursday without explanation.

### **2.2.3. Thursday, 26 April – Third day of the trial**

The lawyers presented written evidence of the personal circumstances of their clients, as well as alibi evidence. The President instructed that the documents should only be translated in summary. This was regrettable because the defendants could not be sure if their lawyers had produced all their evidence and arguments to the court.

The prosecutor showed, on a small screen that not all defendants could see, photographs of the camp to prove the damage said to have been caused by the defendants. The screen was positioned at an angle that allowed the judges, jury, lawyers and interpreters to see the photographs, but only some of the defendants (approximately 10 to 12).

The police commander explained the pictures although he was not put under oath or asked to reconfirm his earlier oath.

The lawyers protested against these photographs and the presentation because it was not clear who took the pictures, at what place and when. The Judge President dismissed the complaint without explanation.

After long discussion, the defence was allowed to show only a part of the videos they wanted to present as evidence. During the showing, the President expressed anger at the time it was taking and refused to look at the video any longer.

The films showed that the camp was completely quiet an hour before the arrests, contrary to what the prosecution witnesses had stated. Despite this, the President refused to agree to the showing of more videos, even when the lawyers argued that these showed images of the unlawful arrests of the defendants. Later on, when questioned, approximately 10 of the defendants stated – as their lawyers

had already done - that they were beaten, some of them many times, and otherwise mistreated during arrest.

The defence then called their witnesses (eight in total).

The first witness suffered serious problems with the English translation. Due to the bad translation (the committee had good interpreters and several members understood French and English themselves), the witness were totally misunderstood. The prosecutor became extremely angry and treated the witness badly.

The President and the lawyers, all English speakers, let this pass and the witness was not protected from unfounded attacks. Of particular concern is that his statement was hindered, interrupted, misunderstood and not corrected afterwards by the interpreter.

Later, one of the other interpreters was replaced at the request of the prosecutor. This was the responsibility of the President, who should have acted sooner. The committee also notes that the defence lawyers did not ask for a competent translator. The President agreed with the replacement, but failed to investigate whether or not the defence had been hindered or the defendants harmed by the earlier lack of proper interpretation.

The prosecutor frequently made cynical remarks about the defendants when they gave their statements. At one point, she made jokes with the juror sitting next to her, exposing her lack of professionalism. The President should have forbidden such behaviour.

As mentioned previously, the new interpreter was a local policeman. The committee believes the choice of a policeman was highly questionable, particularly as it meant the defendants had to speak to and trust an interpreter who "belongs to the other side".

The committee noted that the President allowed the prosecutor to repeat the same questions many times during the hearing, but forbade the defence lawyers from doing the same.

Such intimidating behaviour by the prosecutor breached the rules of a fair hearing as the defendants could not defend themselves against it and it could have influenced unfairly their answers and the outcome of the trial.

The long trial day ended with the evidence of the first five defendants.

The committee noticed that:

- the President asked all the defendants if they had seen people throwing stones;
- she asked them if they wished to say anything more to the court; those who did were given only a minute or so;
- only the prosecutor asked a few questions; the defence lawyers asked nothing except in the case of the last defendant and this concerned a translation issue;
- again, there was no translation of evidence for the benefit and understanding of other defendants.

#### 2.2.4. Friday, 26 April – Last day of the trial

The evidence of defendants continued. The defendants were only given a very short time each. They had to answer the same four or five questions from the Judge President and the prosecutor, and were hurried when answering. **The defendants were not given the opportunity to speak in their own defence in an appropriate way with sufficient time.**

The committee recorded the time and length of evidence given by each defendant:

Defendant n°1 – 14.24 → 6 minutes	Defendant n°19 – 11.33 → 7 minutes
Defendant n°2 – 14.30 → 4 minutes	Defendant n°20 – 11.40 → 8 minutes
Defendant n°3 – 14.34 → 8 minutes	Defendant n°21 – 11.48 → 3 minutes
Defendant n°4 – 14.42 → 9 minutes	Defendant n°22 – 11.51 → 5 minutes
Defendant n°5 – 14.51 → 7 minutes	Defendant n°23 – 11.56 → 6 minutes
Defendant n°6 – 9.52 → 11 minutes	Defendant n°24 – 12.02 → 10 minutes
Defendant n°7 – 10.03 → 7 minutes	Defendant n°25 – 12.24 → 4 minutes
Defendant n°8 – 10.10 → 15 minutes	Defendant n°26 – 12.28 → 8 minutes (He spoke in Greek)
Defendant n°9 – 9.14 → 9 minutes	Defendant n°27 – 12.36 → 5 minutes
Defendant n°10 – 10.25 → 4 minutes	Defendant n°28 – 12.41 → 5 minutes
Defendant n°11 – 10.29 → 9 minutes	Defendant n°29 – 12.46 → 5 minutes
Defendant n°12 – 10.53 → 9 minutes	Defendant n°30 – 12.51 → 3 minutes
Defendant n°13 – 11.02 → 7 minutes	Defendant n°31 – 12.54 → 4 minutes
Defendant n°14 – 11.09 → 5 minutes	Defendant n°32 – 12.58 → 5 minutes
Defendant n°15 – 11.14 → 5 minutes	Defendant n°33 – 13.03 → 9 minutes
Defendant n°16 – 11.23 → 11 minutes	Defendant n°34 – 13.12 → 8 minutes
Defendant n°17 – 9.25 → 7 minutes	Defendant n°35 – 9.32 → 20 minutes
Defendant n°18 – 11.28 → 5 minutes	

TOTAL SPEAKING TIME → 255 minutes

AVERAGE SPEAKING TIME → 7 minutes

When taking into account that half of the time they were giving evidence was taken up in interpretation, it is difficult to see how any of the defendants could meaningfully present their case to the court. This was particularly concerning considering all 35 defendants faced a maximum prison sentence of 10 years.

#### 2.2.5. Other observations

In addition to the points noted above, the failings included:

The lack of a good map/model/picture of the camp was a serious impediment to justice. At times it made the testimonies unclear. Some points became vague or confusing when the defendants tried to explain what had happened when and where.

According to their statements, many of the defendants were not even present at the demonstration, let alone at the disturbances afterwards, and said they could prove so. However, they were not questioned adequately on this point.

Other defendants said they fled before the disturbances and only returned to the camp and their container after the situation had calmed down. These defendants were not questioned adequately on this.

According to the evidence the police used violence during the arrests. Many defendants said they fled because of the police violence, not because they were guilty. These statements were barely heard by the court. The defendants were not questioned on their content and it was clear that their statements were not taken seriously.

Defendants submitted eight official complaints about ill-treatment. It is not clear what has happened to the complaints.

According to the defendants, after their arrest the investigating judge, at one of the preliminary hearings promised that during trial they would be given the opportunity to speak out and explain their alibis and their personal circumstances, including illnesses, schooling, family situations, etc. No such opportunity was given to them.

The President explicitly prevented most of the defendants from speaking about their asylum situation. Some of them said that they had already been granted asylum and therefore would never have risked their status by taking part in violence.

During the hearings of some defendants, several times another defendant asked the court if he could provide additional information. Mostly, this was refused.

Only the more assertive defendants were able to make some remarks they considered important for their defence.

At no point were the defendants asked about their individual circumstances, though such information is crucial as mitigation for the purposes of sentencing.

### **2.2.6. End of the trial**

During her summing up, the prosecutor started by commenting on the last defendant's statement, who had apologized about the events and referred to a link with the poor living conditions in the Moria camp.

She acknowledged the shortage of interpreters and said it was due to lack of funds. She concluded that they had tried to do their best.

Then, the defendants' lawyers were allowed to speak on behalf of their clients. They took less than 2 minutes for each defendant.

The committee recorded the speaking time of each lawyer:

Lawyer n°1 – 14.45 → 24 minutes

Lawyer n°2 – 15.09 → 8 minutes

Lawyer n°3 – 15.17 → 8 minutes

Lawyer n°4 – 15.35 → 8 minutes

Lawyer n°5 – 15.47 → 12 minutes

Lawyer n°6 – 16.00 → 5 minutes

TOTAL SPEAKING TIME → 65 minutes

AVERAGE SPEAKING TIME → 11 minutes

AVERAGE SPEAKING TIME PER DEFENDANT → 108 seconds



The main arguments of the defence lawyers were:

- the lack of evidence to convict;
- the peaceful character of the demonstration;
- evidence that most of the 35 accused were outside the camp during the events.

The committee noticed that the prosecutor did not react to the defence arguments about the lack of evidence against the defendants.

The prosecutor also denied the peaceful character of the demonstration and spoke about the police's right to self-defence.

The prosecutor submitted that there was no evidence against three of the 35 on any charge, and that they should therefore be acquitted. She said that the other 32 should be found guilty of bodily harm against policemen.

The prosecutor was aware that all the defendants were black, whereas the demonstration involved people of all races. She tried to undermine any suggestion of racism by saying that Greek people were also arrested in Lesbos on 22 April. The committee was not convinced.

No translation of her summing up was ordered by the Judge President.

The committee noted that, other than during the indictment, the court clerk took no notes during the oral pleadings of the lawyers and was looking uninterested and sleepy.

After this, the court withdrew for 30 minutes.

**The verdict: All 35 defendants were found not guilty of :**

- 1. Arson with intent to endanger life** – contrary to Article 264 of the Greek Penal Code
- 3. Damage of foreign property** – contrary to Article 382
- 4. Using or threatening violence to force an authority or public official to execute an act within his capacities or to refrain from a legitimate act** – contrary to Article 167

**32 of the 35 defendants were found guilty of:**

- 2. Dangerous bodily harm** – contrary to Article 309

In the verdict, no mention was made of individual defendants.

After some discussion between the Judge President, the prosecutor and the defence lawyers about the sentence, the lawyers put forward the defendants mitigating circumstances. These included the young age of some defendants, and the fact that one defendant had been hospitalised for a week due to police ill-treatment.

The court then withdrew to chambers.

**The sentence: all the convicted defendants were given a 26-month suspended prison term.**

### 3. BREACHES OF HUMAN RIGHTS STANDARDS IN THE ‘MORIA 35’ TRIAL

As a party to the European Convention on Human Rights<sup>10</sup>, Greece is legally obligated to ‘secure to everyone within (its) jurisdiction the rights and freedoms defined in section 1 of this Convention.’<sup>11</sup>

For our purposes, the most relevant sections are Articles 5, 6 and 14, which we reproduce below:

#### **ARTICLE 5 - Right to liberty and security**

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- f. the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he or she understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

#### **ARTICLE 6 - Right to a fair trial**

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of

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10 Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (Adopted 4 November 1950, EIF 3 September 1953) 2889 UNTS 213, Ratified by Greece 28 November 1974  
<https://treaties.un.org/pages/showDetails.aspx?objid=080000028014a40b>

11 *ibid*, Article 1

the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and the facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

## **ARTICLE 14 - Prohibition of discrimination**

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

### **3.1 Breaches at the pre trial stage**

#### **3.1.1 The arrests in Moria**

Most of the suspects were arrested on 18 July 2017 long after the disturbance had subsided for at least one hour. The police were ordered to make arrests. The police went looking for the suspects. The evidence disclosed that the protest involved all races and nationalities. **However, they only searched areas of the camp where black Africans lived.** This strongly suggests that black Africans were unjustifiably targeted for arrest.

The committee therefore finds there was breach of Article 14, in that there was no justification for almost exclusively targeting individuals residing in the 'black african' section of the camp. The results of this policy became painfully clear at the trial, where at the centre of the court room sat the 35 defendants, 34 of whom were black.

Considering the arbitrary nature of the arrests, the committee also finds that there was a breach of Article 5(1)(c), in that it cannot be said their deprivation of liberty was justified on the basis of a reasonable suspicion the specific individuals involved had committed an offence.

### 3.1.2 Proceedings prior to Trial

#### 3.1.2.1 Detention

In accordance with the right to liberty and the presumption of innocence, there is a presumption that people charged with a criminal offence will not be detained while awaiting trial<sup>12</sup>. In our assessment, the decision by the Mytilini Court to detain 30 of the 35 defendants pending trial constitutes a breach of Article 5(1)(c) of the Convention, as detention could not be ‘reasonably considered necessary to prevent’ the defendants ‘committing an offence or fleeing after having done so’. None of the defendants had previous convictions for offences committed in Greece and similarly none had a history of not attending proceedings previously. Furthermore, what is more astonishing is the idea that the Defendants could flee at all, considering Lesbos has become an incredibly controlled island by the Greek Authorities following the implementation of the EU – Turkey statement. The decision to detain 30 of the Defendants reflects the disproportionate overuse in Greece of pre-trial detention against detainees of foreign nationality which again points to a further violation of Article 14<sup>13</sup>.

#### 3.1.2.2 Delay

The Committee also finds that 9 month delay between the time of the arrests and the trial itself constitutes a breach of Article 6(1) of the Convention. The need for a final hearing within a reasonable time is applicable to anyone facing criminal proceedings, but is particularly so for those detained awaiting trial<sup>14</sup>. This right is based on the presumption of innocence and on the right to liberty, which requires that detention should be an exception and should last no longer than is necessary in a particular case. It means that anyone held in pre-trial detention is entitled to have their case given priority and to have the proceedings conducted with particular expedition.<sup>15</sup> Various factors are to be taken into account when examining the reasonableness of the length of pre-trial detention, including the complexity of the case, the special diligence displayed by the authorities in the conduct of proceedings considering the complexity and special characteristics of the investigation, whether delays are due in large part to the conduct of the accused or the prosecution and the measures taken by the authorities to expedite proceedings<sup>16</sup>. Factors relevant to determining the complexity of a case include the nature of the offence(s), the number of alleged offenders, and the legal issues involved.<sup>17</sup> It is correct to state that the proceedings were rendered more complicated by virtue of the number of defendants, however it cannot be suggested that the prosecution acted with any ‘special diligence’ in the conduct of proceedings. If anything, the reverse is true. The committee noted that the evidence presented by the prosecution at trial was gathered in the first few days following the incident. There was nothing to indicate that further enquiries had been made, let alone any complex investigative procedures conducted, which would justify the lengthy delay. The Committee found this particularly concerning considering the Defendants, many of whom suffered from severe mental and physical health problems, were sent to prisons across Greece which were ill equipped to deal with non-Greek speakers and inaccessible to friends and family.

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12 ECHR, 18 March 2018, n°39726/10, Pouliou / Greece

13 Fair Trials International, ‘A Measure of Last Resort? The Practice of pre-trial detention decision making in the EU’

14 *Tomasi v France* ECHR 1992

15 *Wemhoff v Germany* (2122/64) ECHR(1968) The Law §§4-5

16 *Kalashnikov v Russia* (47095/99), (2002) §§114-120 and *O’Dowd v United Kingdom* (7390/07), (2010) §§68-70.

17 *Van der Tang v Spain* (19382/92), European Court (1995) §§72-76.

### 3.1.2.3 Translation

In what became a permanent feature of the proceedings relating to this case, none of the Defendants were ‘informed promptly, in a language which he understands and in detail of the nature and cause of the accusation against him’<sup>18</sup>. Considering that all the Defendants were foreign nationals with little to no understanding of Greek, the authorities also failed to fulfill the obligation to provide the accused with translation of the relevant documents containing the case against him<sup>19</sup>. This is even more so the case for those Defendants who suffer from mental health difficulties<sup>20</sup>.

## 3.2 Breaches during the trial

### 3.2.1 Assistance of an interpreter

Everyone charged with a criminal offence has the right to the assistance of an interpreter, free of charge, if he or she does not understand or speak the language used in court<sup>21</sup>. The failure to provide an interpreter for an accused who does not speak or understand the language used in court violates the accused’s right to a fair trial<sup>22</sup>.

It has been noted that 5 interpreters were provided for the 35 defendants. However, none of these interpreters provided simultaneously translation. They only provided summaries of sections of the proceedings when prompted to do so by the judge, which themselves were very limited. The vast majority of the trial was therefore not understandable to the Defendants, something which they repeatedly made clear to the court, their lawyers and the members of the Committee<sup>23</sup>. For the vast majority of the trial, the Committee finds therefore, that the court did not provide the assistance of an interpreter in contravention of the Convention.

Of the little interpretation the Defendants did receive, a further blatant breach was identified by the Committee in relation to the quality of interpretation. The ECtHR has ruled that a central part of the obligation contained in Article 6(3)(e) is that the interpreter be ‘competent’<sup>24</sup>. Yet, none of the interpreters were professional interpreters. None had received any training in interpretation. None had experience of interpreting in court proceedings and none had been informed what was expected of them by the court.

The English interpreter, who was a local teacher, asked to be excused, on Thursday, halfway through the trial because she said that she was not sufficiently competent. She was replaced by a police officer in uniform who sat with the other interpreters, approximately two meters, away from the defendants as they gave evidence. The following day, Friday, the English-speaking police officer was replaced by another police officer in civilian clothing.

Moreover, the Bambara speaking defendant in particular was not provided with any interpretation by the court, even after he had made it clear that he could not understand Wolof, again constituting a flagrant breach Article 6(3)(e).

18 Article 6(3)(a) of the ECHR.

19 *Brozicek v. Italy*, 19 December 1989, n° 10964/84 § 41; *Tabai v. France*, 17 February 2004, n° 73805/01

20 *Vaudelle v. France*, 30 January 2001, n° 35683/97, § 65

21 Article 6(3)(e) ECHR.

22 *Bozbev v Turkmenistan*, HRC, UN Doc. CCPR/C/100/D/1530/2006 (2010) §7.2.

23 The international legal team of observers interviewed the five defendants who were on bail. All confirmed that they were unable to understand any of the proceedings, and said they were anxious and distressed because of this. They confirmed that the 30 defendants in custody suffered the same anxiety and distress.

24 *Cuscani v United Kingdom* (32771/96), European Court (2002) §39.

The systematic disregard of this right undermines a central overarching principle of the right to a fair trial, that of the participation of the accused in their own defence before during proceedings. According to the ECtHR, the principle that the defendant should be able to participate in proceedings is not sufficiently met when the accused's lawyers know the language used by the court.<sup>25</sup> The violation of this principle has a knock on effect on other rights such as the effective exercise of the rights to assistance of counsel, adequate facilities to prepare and present a defence, equality before the law and courts and the principle of equality of arms.

### 3.2.2 Ability to present case

As part of the right to a fair hearing contained within Article 6(1) of the convention is the respect for the concept of equality of arms. It requires that each party be given a reasonable opportunity to present his case under conditions that do not place him at a substantial disadvantage *vis-à-vis* his opponent<sup>26</sup>. It ensures that the defence has a genuine opportunity to prepare and present its case<sup>27</sup>. The ability to present one's case also forms part of the right to defend oneself when charged with a criminal offence<sup>28</sup>, whilst also implicitly being recognized in the right of a person to be present at trial<sup>29</sup>.

The right of the Defendants to present their case was undermined during the course of the trial. Of particular significance was the incredibly limited time the Defendants were given to give their testimonies at court (as explained in section 2.2.4). None of the Committee had ever witnessed a trial which in many instances gave, when taking into account interpretation, only 3 minutes to a Defendant to present their testimony. This was particularly shocking considering the seriousness of the offences involved. Another significant example of breach of this right was the President's refusal to allow the vast majority of potentially exculpatory video evidence to be played in court. These breaches are in stark contrast to the treatment of the prosecution in the presentation of its case, the Judge providing ample to time to prosecution witnesses (on average 45 minutes per witness) to present their evidence.

This treatment of the Defendants was symptomatic of a wider problem, the inability of the Defendants to participate effectively in their own trial through lack of interpretation, their geographical positioning within the court which meant they were physically incapable of instructing their representatives during proceedings and the small number of defence lawyers relative to the Defendants.

### 3.2.3 Presumption of innocence Art 6(2) and the impartiality of the tribunal 6(1)

The requirement that the accused be presumed innocent means that the burden of proving the charge rests on the prosecution. A court may not convict unless guilt has been proved beyond reasonable doubt. If there is reasonable doubt, the accused must be acquitted.

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25 *Kamasinski v. Austria*, 19 December 1989, n° 9783/82, § 74; *Cuscani v. the United Kingdom*, 24 September 2002, n° 32771/96, § 38.

26 *Foucher v. France*, § 34; *Bulut v. Austria*; *Bobek v. Poland*, § 56; *Klimentyev v. Russia*, § 95.

27 HRC General Comment 32, §13; *Jasper v the United Kingdom* (27052/95), European Court Grand Chamber (2000), §51.

28 Article 6(c) ECHR.

29 Article 14(3)(d) of the ICCPR.

The conduct of the trial must be based on the presumption of innocence. Judges must conduct trials without previously having formed an opinion on the guilt or innocence of the accused and must ensure that the conduct of the trial conforms to this. In accordance with the presumption of innocence, the rules of evidence and conduct of a trial must ensure that the prosecution bears the burden of proof throughout a trial.

The Committee has serious concerns as to whether this presumption was applied in the present case. The prosecution case suffered from serious weaknesses. One of the principle problems with the prosecution case was the inability of any of the prosecution witnesses to identify any of the defendants. Not one of the prosecution witnesses was able to identify any of the individuals as being present during the incident nor specify what any of the Defendants had individually done. The prosecution case rested on the premise that everyone within the African section of the camp had been involved in the riot and had committed identical offences. They were said to have been rioting the whole afternoon and then had all run into a separate section of the camp.

This was despite the following facts which were consistently put forward by the defence during trial:

1. The incident took place over the course of hours and people could have walked into and out of that section of the camp either through the main entrance or through holes in the fences that surrounded it.
2. There was an hour long pause between the time the riot ended and the police violently arrested the individuals within the camp. This lapse in time put in serious doubt the idea that all those who were found within the 'african section' of the camp were those who were said to have committed the alleged offences.

The conviction of 32 of the 35 Defendants on the basis that they were one large indistinguishable black criminal mass committing identical offences not only leads the Committee to conclude that the presumption of innocence was not employed in this case, but also that proceedings were not presided over by an impartial tribunal in contravention of Article 6(1) of the Convention. This conclusion is reinforced by the tribunals failure to address the breaches of the Defendants rights mentioned in the previous paragraphs. It is also reflected in the manner in which the President conducted the examination of defendants and defence witnesses, in contrast to her treatment of prosecution witnesses.

## 4. CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE

Several aspects of the trial breached the international fair trial standards required by the ECHR.

### 4.1. The right to have an interpreter

The defendants did not get proper translation during the trial.

The President only asked from time to time for the interpreters to translate for the defendants. For example, on the second day, the Judge President asked the interpreters to translate fewer than 10 sentences.<sup>30</sup>

The lack of competence of the interpreters was obvious (see 2.4.).

The defendants did not have proper translation in a language they understood during the whole trial. They could not understand what people in court were saying, including their own lawyers.

The committee recommends the use of professional interpreters in order to respect the right of defendants to understand what is happening during their own trial. It also recommends that everything is translated for defendants, not just occasional short summaries.

### 4.2. The right to an impartial tribunal (Article 6§1) and the principle of non-discrimination (Article 14)

The fair trial principle implies the impartiality of the judge i.e. the absence of prejudice or bias by the court.

The 35 defendants were not treated in the way other defendants are treated before the Greek courts, or in the way the ECHR specifies that defendants should be treated in Europe.

The defendants were treated as guilty from the moment of their arrest and during the trial, not only by the prosecutor but also by the court.

### 4.3. Respect of the prohibition of inhuman treatment (Article 3)

The physical layout and facilities of the court were totally inadequate. The defendants complained that they were not given any food during the hearing or an opportunity to exercise. They were only given water.

The Committee believes that the treatment of the defendants did not respect the prohibition of inhumane treatment.<sup>31</sup>

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30 One of these sentences was the summary of the statement of a witness, a police officer: “The witness declared that he couldn’t recognize any of you precisely but he knows that you were all present at the moment of the demonstration”.

31 See, for example, *Colesnicov v. Roumanie*, 21 December 2010, n° 36479/03; ECHR, *Florea v. Romania*, 14 September 2010, n° 37186/03; ECHR, *Shuvaev v. Greece*, 29 October 2009, n° 8249/07.



## 5. UPDATES

All of the “Moria 35” went back to Moria camp. Their legal status varies :

- 9 are still awaiting interview or they are still awaiting their decision ;
- 12 have appealed against the rejection of their applications ;
- 7 have been rejected in the second instance; they have petitioned to be allowed to file a subsequent application for international protection, which was accepted by the police (and so a scheduled deportation was suspended) ;
- 5 have been granted international protection (some refugee status, some subsidiary protection);
- 2 have been deported in Turkey ; one of them was deported on the morning of 13 June 2018 and this was despite the fact that for days he had been expressing to the police his desire to appeal the rejection of his asylum claim so his deportation was clearly illegal.

**Regarding the 32 defendants who were found guilty of dangerous bodily harm, all of them have appealed against the original sentence.**

On 11 May, another trial began concerning 10 other migrants who live in Moria camp, accused of similar offences. But this time, all were acquitted and discharged.

## Brief for Legal Observers

What follows is a summary of the information contained within file 183/2017 of the Judicial Council of Mytilini, provided to the Defence on 13 December 2017. This summary has been prepared for legal observers who will be attending the Moria 35 trial and is not for public distribution.

### **The Defendants**

The Moria 35 are the following individuals:

- 1.
- 2.
- 3.
- 4.
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- 33.
- 34.
- 35.

### **The charges**

The 35 were jointly charged with the following:

1. Arson with intent to endanger life – contrary to Article 264 of the Greek Penal Code
2. Dangerous bodily harm – contrary to Article 309
3. Damage of foreign property – contrary to Article 382
4. Using or threatening violence to force an authority or public official to execute an act within his capacities or to refrain from a legitimate act – contrary to Article 167

### **History of proceedings**

The Defendants were arrested on 18 July 2017 following an incident in Moria Reception and Identification Centre ('RIC'). 34 of the 35 were brought before the Judicial Council of Mytilini on the same day and remanded in custody. Defendant 5 was taken to the hospital due to the injuries he had suffered during his arrest.

On 21 July Defendants 1 to 4 and 6 to 18 were produced and provided 'apologies' (A procedure whereby the Defendants are interrogated by an investigative Judge and Prosecutor to give an initial account which serves as a basis for the consideration of bail).

On 22 July Defendants 19 to 35 were brought to court and underwent the same procedure as the first 18. Defendants 5, 9, 17, and 35 did not go through this procedure as there was no interpreter provided by the state in their languages.

On 27 July Defendant 11, who had been hospitalised for a week due to injuries sustained during arrest, was released with restrictive measures, in which he is prohibited from leaving the island of Lesbos, and must report to the police twice per month.

On 29 September, after an interpreter was provided by the defence team, Defendant 5 was brought before the investigative judge and provided his apology, following which he was released with restrictive measures.

On 2 October Defendants 9, 17 and 35 were brought before the investigative judge after the defence team provided an interpreter, and they provided their apologies, and were released with restrictive measures.

On 5 October investigations by the Judicial Council concluded.

On 13 December the Judicial Council decided that there was sufficient evidence to place the case before the Mixed Jury Court in Chios for trial. (These courts are reserved for the most serious felonies, typically involving murder, serious violence or sexual offences. The court is composed of 3 judges and 4 jurors). No changes were made to the position regarding bail.

#### **Summary of Case as Presented by the Police**

At 09.30 on 18 July 60-65 people mostly of African origin gathered outside European Asylum Support Office ('EASO') offices. A significant number had their faces covered. The crowd were yelling slogans against the police that were present in their official capacity as well as EASO and Greek Asylum Service ('GAS') employees.

The crowd started to increase in number. Members of the crowd started collecting rocks and other objects, preparing for the commission of unlawful acts.

At around 12.30, the number had increased to approximately 300 mostly African people. They moved from outside the EASO office towards the exit of the RIC and then returned to the office again. This movement was repeated once more. After that a significant part of the protestors started to riot.

These protestors were said to have committed the following unlawful acts:

1. Caused a fire from which danger to the lives of staff, police and the camps inhabitants resulted. Specifically set fire to bins within tents in the camp.
2. Attacked police officers and attempted to attack fire service personnel in a way that endangered their lives and risked causing serious bodily damage, which in the end resulted in 'light injuries' (directly quoted from Judicial Council paperwork) to 12 police officers. Specifically:
  - a. Threw rocks, wooden debris, bottles of urine and assaulted with crowbars, thereby causing bodily harm to 12 riot police officers. Also attempted to do the same to the 30 fireman who arrived later on the scene.
  - b. Injuries inflicted to thumbs, wrists, forearms, elbows, feet, knees, ankles, chests, shoulders and collarbones of the officers.
3. Committed criminal damage
  - a. Completely destroyed 3 tents, 3 containers and bins through arson
  - b. Damaged nearby olive fields through arson
  - c. Caused damage to container windows; a police officer's car inside the RIC and the front signal lights, grate and wing mirrors of a fire truck outside the RIC.
  - d. Damaged 2 police officers' shields, 2 boots, a shin pad, a helmet, two gloves, two gas masks and 1 visor.
4. Whilst having their faces covered by towels, shirts and scarves, resisted officers through violence and created roadblocks on the northern side of the camp by setting bins on fire, in order to prevent police from making arrests and the fire service personnel from putting out the fire.

At 16.30 police officers worked together to respond to the intensity of the attacks employing necessary and proportionate use of gas for their own protection and the protection of the camp staff, police and refugees who were not involved in the riot.

Following this coordinated police action, the 35 Defendants were arrested as their involvement 'was clear'.

### **Pre-Trial Detention**

Since 18 July 30 of the Defendants have been remanded in custody awaiting trial pursuant to Article 282 of the Code of Criminal Procedure. They were all detained due to the Judicial Council's belief that they would fail to attend Court for trial on the basis of the seriousness of the alleged offences and the absence of an appropriate address. Arguments involving the health of particular Defendants and the suitability of hospital prisons in Greece were dismissed, as were arguments regarding the good character of all the Defendants.

Defendants 1, 2, 3, 6, 7, 8, 10, 12, 13, 14 are detained in Chios

Defendants 4, 22, 23, 24, 29 and 32 are detained in a youth facility in Avlona

Defendant 26 was first detained in Avlona, and since been transferred to Malandrino prison in central Greece.

Defendants 15, 16, 18, 19, 20, 21, 25, 27, 28, 30, 31, 33 and 34 are detained in Korydallos prison in Athens

### **Summary of Defence Case**

The specific defences being put forward naturally vary depending upon the Defendants in question, however broad themes can be identified.

#### Lack of individualised evidence

Aside from three defendants who were arrested outside of the camp allegedly trying to set fire to olive trees, the evidence provided thus far by the Prosecution is general in nature and does not substantially single out the direct involvement of the individuals on trial.

#### Arbitrary arrest of individuals not participating in protest

Many of the arrests, which occurred at least an hour after the protest had finished, were of individuals who had nothing to do with the protest but were simply within the 'African' section of the camp when the riot police entered. Many of the Defendants describe being detained directly after disclosing their nationality to police.

#### The Protesters Were Behaving Peacefully

The protestors were not using or threatening violence. They were legitimately exercising their right to freedom of expression to demand freedom of movement and protest the deplorable conditions within the camp and the incredible length of asylum procedures on the island.

#### Excessive use of force

The police used excessive force against individuals in the African section of the camp, hours after the protest had finished. Beating inflicted on the Defendants by the police continued at Mytilini police station. The use of force resulted in the hospitalisation of one Defendant, and need for medical care for several others.

### **Context**

This all occurs against the now well-known backdrop of the EU Turkey 'deal', which has turned Lesbos into an open-air prison that subjects asylum applicants to inhumane and degrading conditions, with the looming threat of return to equally deplorable conditions in Turkey and a chain of refoulement back to the countries they fled from.

It is within this context that the criminalisation of refugees has occurred, as a way to quell protest and dissuade others from entering Europe by making their stay increasingly unbearable.



Moria Camp, 19.04.2017

**Opening of the « Moria 35 » trial on 20 April on Chios Island (Greece)  
Statement from the Trial Observation Delegation**

*Ouverture du procès des « Moria 35 » le 20 avril prochain sur l'île grecque de Chios  
Communiqué de la délégation des observateurs au procès*

On the 18th of July 2017, 35 residents of Moria hotspot on Lesbos Island in Greece were violently arrested after a peaceful demonstration organised in the camp earlier in the day. Hundreds of the camp's inhabitants took part in this protest against their inhumane living conditions.

*Le 18 juillet 2017, 35 résidents du hotspot de Moria sur l'île de Lesbos en Grèce ont été brutalement arrêtés à la suite d'une manifestation pacifique organisée quelques heures plus tôt dans le camp et à laquelle plusieurs centaines d'exilés avaient participé pour protester contre leurs conditions de vie indignes et inhumaines.*

A few days later, Amnesty International [have called on Greek authorities](#) to immediately investigate the allegations of excessive use of force and ill-treatment allegedly committed by the police. This police violence has been filmed and [disseminated in the media](#) in the days that followed the demonstration.

*Quelques jours plus tard, Amnesty International appelait, dans une [déclaration publique](#), les autorités grecques à enquêter immédiatement sur les allégations de recours excessif à la force et de mauvais traitements qui auraient été infligés par la police aux personnes arrêtées. Ces violences policières ont été filmées et les images [diffusées](#) dans les médias dans les jours qui ont suivi la manifestation.*

However today these same individuals stand in the dock.

*Ce sont pourtant aujourd'hui ces mêmes personnes qui se retrouvent sur le banc des accusés.*

The « Moria 35 » trial, begins on 20 April on Chios Island in Greece.

*Le procès des « Moria 35 », s'ouvre le 20 avril prochain sur l'île de Chios en Grèce.*

Prosecuted for arson, resisting arrest, attempted assault, rioting, damage to private property and disturbing the public peace, they risk up to 10 years in prison, exclusion to the right of asylum and deportation to countries which they fled. 30 of them are in custody since July 2017.

*Poursuivis pour incendie volontaire, rébellion, dégradation de biens, tentative de violences ou encore trouble à l'ordre public, ils encourent des peines de prison pouvant aller jusqu'à 10 ans, leur exclusion du droit d'asile et leur renvoi vers les pays qu'ils ont fui. Trente d'entre eux sont en détention provisoire depuis juillet 2017.*

The signatories of this Statement consider it essential that the trial has an international public audience. Our organisations will be attending hearings for the entire duration of the trial in order to ensure international oversight and observe the proceedings in view of the principles of independence and impartiality of courts and the right to a fair trial.

*Il a semblé essentiel aux organisations signataires de ce texte de ne pas laisser ce procès se dérouler sans témoins. C'est pourquoi chacune de nos organisations sera présente, tour à tour, sur toute la durée du procès afin d'observer les conditions dans lesquelles il se déroulera au regard notamment des principes d'indépendance et d'impartialité des tribunaux et du respect des règles relatives au procès équitable.*

Signatory organisations / Organisations signataires :

- International Association of Democratic Lawyers
- European Association of Lawyers for Democracy and Human Rights
- European Democratic Lawyers (Avocats Européens Démocrates)
- Migreurop
- Avocats Sans Frontières France
- Dutch League for Human Rights
- Gisti (Groupe d'information et de soutien des immigré·e·s)
- Swiss Democratic Lawyers / Juristes démocrates de Suisse (DJS – JDS)

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On the living conditions in Moria camp and on the consequences of the EU-Turkey Deal:

- See [GISTI Mission report](#) « EU-Turkey Statement: The Great Deception », July 2016

Sur les conditions de vie dans le hotspot de Moria et sur les conséquences de l'accord UE-Turquie :

- Voir le [rapport du Gisti](#) « Accord UE-Turquie, la grande imposture - Gisti », juillet 2016

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# **basta!**

<https://www.bastamag.net/Poursuites-baillons-contre-35-refugies-de-Lesbos-le-camp-insalubre-qui>

Devoir d'asile

## **Poursuites-bâillons contre 35 réfugiés de Lesbos, le camp insalubre qui déshonore la Grèce et l'Europe**

par [Anne-Sophie Simpère](#) -

Ils viennent d'Afrique ou du Moyen-Orient. Ils fuient la guerre, la terreur djihadiste ou les persécutions de régimes totalitaires. Ils ont osé protester contre leurs conditions d'internement indignes au sein du camp, surpeuplé, de l'île grecque de Lesbos. En guise de réponse, ils ont été la cible de violences policières et de punitions collectives. Le procès de 35 de ces demandeurs d'asile s'ouvre aujourd'hui en Grèce. Des associations françaises sont présentes pour surveiller l'impartialité des juges.



Le procès de 35 demandeurs d'asile, les "Moria 35", s'ouvre ce 20 avril en Grèce. Les prévenus encourent jusqu'à dix ans de prison. Un procès sous tension : les accusés ont été très brutalement arrêtés en juillet dernier lors d'un raid de la police. Des réfugiés protestaient alors contre leurs conditions de vie dans le camp de Moria, sur l'île de Lesbos. Les inculpés sont accusés d'incendie volontaire, de rébellion, de violences ou de dégradation de biens. Des charges graves et identiques pour chacun des accusés.



Aux yeux de leurs avocats, cela démontre le caractère totalement arbitraire des poursuites, davantage basées sur une volonté d'intimider que sur des preuves concrètes. Outre la prison, les réfugiés pourraient aussi perdre leur droit à l'asile et être renvoyés vers des pays qu'ils ont fui, au Mali, en Gambie ou en Côte d'Ivoire, souvent parce qu'ils y risquaient leur vie. Pour les associations qui les défendent, ces arrestations visent à réprimer toute forme de contestation chez les demandeurs d'asile.

## **Le raid de la police vise le quartier africain du camp**

Le 18 juillet dernier, en représailles à un sit-in devant le Bureau européen d'appui en matière d'asile (EASO), le camp de Moria fait l'objet d'une violente descente de police. Arrivés environ une heure après la fin de la manifestation, les policiers grecs s'attaquent à tous ceux qu'ils croisent, sans distinction. On les voit jeter des pierres, des vidéos montrent des hommes qui fuient, d'autres roués de coups alors qu'ils sont à terre. Une femme enceinte est brutalisée. L'un des demandeurs d'asile arrêté ce jour là venait de rentrer au camp après un rendez-vous médical avec Médecins sans frontière (MSF). Alors qu'il n'avait participé à aucune des actions, il est tabassé jusqu'à en perdre conscience et ne se réveillera qu'à l'hôpital.

Le raid de la police vise le quartier africain du camp. Les agents forcent les portes des containers, arrêtent les hommes qui tentent de se cacher. Plusieurs seront encore sévèrement battus dans l'enceinte du commissariat, loin des regards, alors qu'ils sont menottés. Au point qu'[Amnesty international demande une enquête](#) pour recours excessif à la force, certains passages à tabac pouvant constituer des actes de torture. Trente-cinq réfugiés sont finalement inculpés et trente d'entre eux gardés en détention.

## **Une tactique pour briser toute forme de contestation**

Plus de 6000 personnes vivent dans le camp de Moria, construit pour en héberger 3000. Depuis des mois, les réfugiés pris au piège sur l'île grecque de Lesbos, à dix kilomètres des côtes turques, [tentent de s'organiser](#) pour dénoncer leurs conditions de vie indignes et attirer l'attention internationale sur leur sort. Le camp est surpeuplé, insalubre et l'attente insupportable. Les procédures d'asile s'éternisent et les migrants ne sont pas autorisés à quitter l'île. Au cours de l'hiver 2016-2017, plusieurs personnes succombent à cause du froid. Les autorités empêchent des malades d'aller se faire soigner à Athènes.

*« Les réfugiés ont commencé à s'organiser, que ce soit en écrivant aux autorités, aux députés européens, ou en organisant des manifestations pacifiques », explique Lorraine Leete, coordinatrice du [Lesbos Legal Centre](#) qui assure la défense de six des accusés. « Nous sommes face à une tactique pour briser toute forme de contestation. Les autorités portent des accusations de plus en plus graves, avec très peu de preuves. Les réfugiés sont arrêtés, ils peuvent être gardés en détention préventive pendant des mois. C'est extrêmement compliqué pour eux de comprendre le droit local, de trouver un avocat, des témoins... »*

## **« Une centaine d'arrivées par jour en moyenne »**

Il y a quelques semaines, suite à des tensions entre la police et des réfugiés irakiens et syriens, la police est venue arrêter des exilés pris au hasard. Deux d'entre eux ont démontré qu'ils n'étaient pas

présents pendant les affrontements : l'un travaillait comme interprète pour un médecin du camp et l'autre accompagnait une femme enceinte à l'hôpital. Pour Lorraine Leete, « *La police les a ciblé parce qu'ils étaient de la communauté concernée. Ils ciblent les communautés, pas les individus.* »

Malgré ces punitions collectives, il y a peu de chances que la situation ne s'apaise à Lesbos. Les autorités grecques ont certes autorisé plusieurs milliers de demandeurs d'asile à quitter le camp insalubre cet hiver, mais l'île est de nouveau bloquée alors que les arrivées d'exilés connaissent un pic. 2856 nouveaux réfugiés sont arrivés à Lesbos en janvier et février 2018, dont une majorité de Syriens, 60% de femmes et enfants [1]. « *En ce moment, on constate une centaine d'arrivées par jour en moyenne* », estime Lorraine Leete. Fin mars, un Syrien de 26 ans a [tenté de s'immoler](#) par le feu après que sa demande d'asile aie été rejetée.

## **Des associations françaises surveilleront l'impartialité du procès**

La plupart des "Moria 35" n'étaient pas présents à la manifestation du 18 juillet, ni aux affrontements qui ont suivi. Tous ont fui leur pays. Certains cherchent à échapper à une guerre, d'autres aux djihadistes, certains ont vu leur famille mourir, d'autres étaient persécutés pour leurs orientations politiques ou religieuses. L'un d'entre eux a vu sa demande d'asile acceptée depuis son arrestation. Lui, et tous les autres, pourraient perdre ce droit à la protection si les juges grecs le condamnent.

« *Le dossier du parquet est presque vide. Cela n'a pas empêché les juges de garder trente des réfugiés en détention préventive. On espère que la présence internationale au tribunal les empêchera de condamner ces 35 personnes sans preuves.* », espère Lorraine Leete. Des associations françaises – Gisti, Migreurop et Avocats sans frontières – feront parti des [observateurs internationaux présents](#), pour s'assurer de l'impartialité du tribunal. Les audiences se tiendront sur l'île de Chios, toujours aux frontières de l'Europe. Le procès devrait durer trois semaines. Une enquête contre X a également été ouverte suite aux plaintes de certains demandeurs d'asile contre les violences policières. Mais de ce côté là, la procédure a l'air d'avancer bien plus lentement.

Anne-Sophie Simpère

Photo : CC Itchyklikfinger

## **Notes**

[1] <https://reliefweb.int/sites/reliefweb.int/files/resources/63019.pdf>

# Op-Ed: Moria 35 – Trial at the Gates of Fortress Europe

20th April 2018 | [News](#)



Op-ed by Carlos Orjuela and Lorraine Leete of [Legal Centre Lesbos](#).

*“On the 20 April, we are scheduled to attend trial in Chios after waiting nine months, trapped on Lesbos, while 30 of our brothers unjustly have waited in prison for this same time period. Our humanity has been denied since we stepped foot in Europe, the supposed cradle of democracy and human rights. . . We are treated like criminals, simply for crossing a border that Europeans can freely cross.”* An excerpt from the [Statement by 5 of the Moria 35 Defendants](#).

Today begins the trial of the Moria 35, which will determine the fate of 35 individuals arrested following a protest outside the European Asylum Support Office (EASO) in Moria Refugee Camp on 18 July 2017. The stakes are high in this inherently political trial. The 35 face criminal charges for which they may receive 10 years in prison and probable deportation if found guilty.

As the largest of the ‘hotspot’ islands in Greece, Lesbos has been directly affected by the EU-Turkey Statement of 18 March 2016. Since its implementation just over two years ago, the island has transformed into a place of hostile containment. The direct effect of the ‘deal’ has been to prevent those who have irregularly entered Greece from continuing to the mainland. Applicants remain on the island whilst their applications for asylum are considered and determinations made regarding the suitability of their return to Turkey.

Whilst we welcome Tuesday's [decision](#) by the Greek State's Council to lift geographic restrictions for new arrivals to the Greek islands, the practical application of this decision remains to be determined.

Since the EU-Turkey deal was implemented, examples of deplorable reception conditions on the island of Lesbos include [chronically overcrowded](#) refugee camps and [fatally inadequate housing](#) which have, amongst other things, created a [mental health crisis](#).

These extreme problems are exacerbated by the myriad of issues associated with the island's asylum procedures, which result in excessive delays and the increased likelihood that an applicant's case is not [properly considered](#). A policy of prioritising the applications of some nationalities whilst creating [pilot schemes](#) which remove the rights and procedural safeguards of others, also creates a hierarchy where black African communities finish at the bottom.

All of this, with the spectre of return to Turkey – a 'safe third country' where [mass refugee deportations](#), [refugee child labour](#) and the imprisonment of [human rights defenders](#) have become the norm.

This situation is of the EU's own making. These policies exist precisely to make it incredibly difficult for refugees to stay. The systematic breaches of domestic, European and International Asylum and Human Rights law in the hotspots makes it difficult to conclude otherwise.

It is within this context that hundreds of peaceful protesters gathered outside of EASO in Moria on 18 July 2017, demanding that Greece and the EU comply with its own laws.

Greek state authorities responded to the peaceful protest [with violence](#). Humanitarian actors were evicted from the camp, which was put on lockdown. Police used quantities of teargas that made it painful to breathe even from outside of the camp. Clashes between riot police and a handful of protesters ensued though these did not last long.

An hour after the disturbance had ceased and everything appeared calm in the camp, armed riot police entered Moria. They targeted and violently raided the 'African section' of the camp: forcibly entering isoboxes, dragging people out, shooting teargas at close range, and brutally assaulting people, including a pregnant woman.

35 people were arrested in this violent, arbitrary raid. We have previously [reported on](#) the graphic and shocking details of the arrests, which an Amnesty International report concluded could have [amounted to torture](#).

Despite the Greek Criminal Procedure Code describing pre-trial detention as a 'measure of last resort', 30 of the 35 defendants have been detained since their arrest on 18 July 2017, within four different prisons spread across Greece.

This is despite the weakness of the evidence against the defendants; well documented concerns regarding their physical and mental wellbeing; the near impossibility of their leaving Lesbos; the absence of previous convictions; and the absence of any evidence suggesting they would abscond or commit offences whilst awaiting trial. This case exemplifies the [disproportionate overuse](#) in Greece of pre-trial detention against detainees of foreign nationality.

We are convinced, as a Legal Centre that had the benefit of having legal observers present and filming the events as they unfolded, that the criminal charges brought against the Moria 35 are baseless.

Nevertheless, all the 35 defendants are charged with 4 identical offences: damage to property, use or threat of violence against a public official, dangerous bodily harm and arson with intent to endanger life.

What is most striking about the charges, is that there is minimal attempt made to differentiate between the alleged conduct of the individuals involved. The evidence provided against the 35 is incredibly generalised, making it difficult to discern what the alleged role of each of the defendants had supposedly been.

It is as if the police could have arrested any individuals in the camp and included them on the charge sheet.

Why then, despite the inherent weakness of the case and the overwhelming evidence of police brutality, has this managed to even come to trial?

We believe this prosecution is part of an ongoing policy to criminalize and silence those who question their hostile containment. It is the refugee and migrant community of Lesvos that is on trial, to collectively punish and provide a deterrence to anybody who dares to challenge a system which seeks to dehumanise and deny them their rights.

A call for international solidarity with the Moria 35 is not therefore just a call to support 35 individuals who are victims of cynical criminalization, it is a call to support a politically aware community demanding its rights.

***ECRE publishes op-eds by commentators with relevant experience and expertise in the field who want to contribute to the debate on refugee rights in Europe. The views expressed are those of the author and does not necessarily reflect ECRE positions.***

*Photo: (C) Legal Centre Lesbos*

# Grecia, il processo punitivo ai 35 ribelli dell'hotspot di Moria

di Alysia Urrutia e Carmen Ayllon

19 aprile 2018

Lottare per una vita dignitosa è un diritto, non un crimine

Il 18 luglio 2017, 35 migranti sono stati arbitrariamente arrestati dopo una serie di proteste a Lesbo, davanti alla sede dell'EASO (Ufficio europeo di sostegno per l'asilo), organizzate dall'interno del centro di detenzione di Moria. Provenienti da diverse parti del mondo ma intrappolate nelle stesse circostanze, molte persone si sono unite e mobilitate per denunciare sia i ritardi illegittimi delle loro domande di asilo, sia le terribili condizioni in cui sono state costrette a vivere nel frattempo. 34 dei 35 arrestati sono neri. Tutti sono stati accusati degli stessi identici reati, nonostante la mancanza di prove della loro partecipazione individuale alle manifestazioni. Uno degli imputati è stato ricoverato in ospedale per oltre una settimana a causa della brutalità della polizia, quattro hanno ricevuto un ordine restrittivo e gli altri 30 sono stati sparsi tra Chios e Atene, l'Attica e la Grecia centrale, dove sono stati e continueranno a essere trattenuti fino al giorno del processo. Dopo nove mesi di attesa, è stato deciso che il processo si svolgerà il 20 aprile di fronte a una giuria mista – composta anche da membri della società civile – nel tribunale di Chios.

Questo caso particolare non dovrebbe essere considerato come un evento isolato, ma come parte di una più ampia politica repressiva, portata avanti dallo Stato greco e dalle misure anti-immigrazione dell'UE. Gli internazionali come quello tra UE e Turchia promuovono l'esternalizzazione delle frontiere per impedire ai migranti di raggiungere il territorio europeo, trasformando le isole dell'Egeo in prigioni dove questi devono essere contenuti in uno stato di limbo. Come risultato di questa politica di contenimento, gli hotspot sulle isole sono diventati insopportabilmente sovraffollati e mancano dell'infrastrutture necessarie per soddisfare i bisogni più elementari. Imprigionare le persone per lunghi periodi di tempo in condizioni disumane non è solo una violazione sistematica dei diritti umani. È anche una misura contraria alle leggi greche e a quelle dell'Unione europea, così come ai suoi presunti valori. Questo è esattamente ciò che i manifestanti denunciavano quando sono stati arrestati. Chiedevano alle autorità di riconoscergli il diritto a vivere una vita dignitosa. Chiedevano alle autorità di rispettare le loro stesse regole.

Questa violazione sistematica dei diritti umani e gli abusi che le politiche anti-immigrazione infliggono in generale ai migranti sono esemplificati in questo particolare caso giudiziario. Un'ingiustizia manifesta su più fronti, a cominciare dalla repressione portata avanti dalle forze di polizia locali, a cui danno seguito gli altri rami dello Stato. Le violente incursioni del 18 luglio hanno portato a 35 arresti arbitrari, dettati da discriminazioni razziali e condotti con l'utilizzo di forza eccessiva. Le forze di polizia hanno preso di mira la "sezione africana" del campo di Moria, dove hanno aggredito e arrestato persone a caso, o meglio: solo a causa della loro collocazione

all'interno del campo. Questa azione illecita è stata giustificata con le accuse sproporzionate rivolte contro gli arrestati e ulteriormente confermata dalle pene richieste. Le conseguenze che gli incriminati dovranno affrontare non comprendono solo una probabile reclusione, ma sicuramente il respingimento nei Paesi di origine, da cui sono fuggiti.

L'entità delle pene – che non si adatta al crimine – è in linea con la politica di criminalizzazione dei migranti, nel tentativo di giustificare la loro esclusione dal diritto alla protezione internazionale. Inoltre gli imputati sono stati deliberatamente separati, in modo tale da interferire con la preparazione della loro difesa. Molti degli arrestati sono stati privati di traduttori adeguati durante questa procedura. Per nove mesi sono stati detenuti in modo preventivo, evocando inevitabilmente un senso di isolamento e la mancanza di alcun tipo di sostegno. Infine, la sede del loro processo è stata trasferita a Chios: un'altra manovra istituzionale che mina l'efficacia della difesa, limitando l'accesso ai testimoni. Complessivamente, la coerenza delle azioni dello Stato rivela una politica unanime di intimidazione e paura, intesa a smantellare i movimenti auto-organizzati da parte dei rifugiati, e dissuaderli da azioni future. La loro strategia è quella di mettere a tacere i rifugiati e i migranti per nascondere la realtà crudele delle isole. Una realtà che non solo è resa possibile, ma addirittura legittimata sia dall'Unione Europea che dallo Stato greco attraverso queste pratiche di violenza, razzismo e palese disumanità.

### [Moria 35](#)

Moria 3535 men who were arrested on Lesbos Island are awaiting their trial on 20th of April 2018. If convicted, they could be sentenced for up to ten years."From what I understand, I was only arrested because I am a black man."Didier Ndiay, SenegalPlease like our page Joinda production and visit our website<https://joindaproductions.wordpress.com/>

Pubblicato da [Joinda production](#) su lunedì 16 aprile 2018

Come è possibile che questo esplicito disprezzo dei diritti umani fondamentali venga portato avanti dai funzionari delle forze dell'ordine? Il trattamento degradante che questi 35 uomini hanno subito dal loro arrivo in Europa a oggi manifesta una netta distinzione delle persone, tra una prima e una seconda "classe". Questa divisione si basa unicamente su un fattore: entro quali confini si nasce. In altre parole, come si svolgerà il proprio incontro con la Fortezza Europa è già scritto nella propria nazionalità. Gli africani ricevono il trattamento peggiore. La retorica amministrativa che tenta di normalizzare questo criterio di giudizio, arbitrario e parziale, svela un razzismo radicato e profondo. Per tutto il tempo in cui sono stati all'interno dei confini europei, i 35 detenuti hanno subito discriminazioni, in primis la negazione automatica del loro diritto di chiedere asilo, a causa della loro nazionalità. Per reiterare questo rifiuto e mandare un messaggio dissuasivo ad altri possibili migranti, i migranti sono contenuti negli hotspot, che potrebbero essere facilmente scambiati per prigionieri e possono rimanervi più a lungo della durata di alcune condanne penali effettive. Questo approccio intollerante portato avanti dall'UE offusca deliberatamente il confine tra centri di detenzione e prigionieri, vittime e criminali. Più sfocata è la linea di demarcazione, più facilmente può essere oltrepassata.

Il razzismo strutturale è ciò che giustifica l'emarginazione e le condizioni brutali dei campi greci. I 35 di Moria erano già dietro le sbarre prima di essere realmente accusati di qualcosa. I loro carcerieri stanno cercando di utilizzare le proteste – che denunciavano la loro prigionia – come una scusa per continuare a privarli della loro libertà.

Il razzismo strutturale è ciò che marchia queste persone, che sono state private del diritto di rimanere sul territorio europeo, come essenzialmente “illegali”. Questa etichetta li criminalizza senza che abbiano commesso alcun crimine. Li rende vulnerabili e imprigionabili: facilmente soggetti a incarcerazione e respingimento verso Paesi tutt'altro che sicuri. Tutti gli uomini arrestati quel giorno erano africani. Tutti loro erano “illegali”. Una delle punizioni che probabilmente affronteranno è la deportazione in Paesi dove la violenza è una realtà diffusa. Le azioni legali sono più convincenti dei soliti vaghi motivi che l'UE usa per giustificare i respingimenti. Tuttavia, nessun essere umano merita questo destino.

Quindi, come è possibile? È possibile solo perché ogni fase di questo caso è stata immersa nelle radici profonde del razzismo che pervade lo Stato e dell'Unione europea. Dato il livello di razzismo istituzionale in tutto il mondo, non possiamo aspettarci che la stessa giuria nel tribunale di Chios possa emettere un verdetto equo. Questi 35 uomini saranno giudicati legalmente da una legge che è loro estranea, in una lingua straniera, per mano delle stesse autorità che li hanno messi in quelle condizioni. Da coloro che li hanno discriminati, li hanno criminalizzati e li hanno imprigionati. Il tipo di gestione del caso dei 35 di Moria è possibile solo a causa della arbitraria rappresentazione di rifugiati e migranti come gente di seconda classe, che li priva dei loro diritti fondamentali. Sarebbe successo se fossero stati europei?

Non crediamo che le autorità siano giuste e imparziali il 20 aprile. L'unica possibilità per questi 35 uomini si basa sull'evidenza delle ingiustizie che stanno affrontando. Queste ingiustizie impunte non devono essere trascurate, nonostante gli sforzi dello Stato per ridurre i rifugiati al silenzio e per nascondere la realtà delle loro storie. Dove c'è il silenzio non si vedono i problemi e il razzismo sembra appartenere al passato. La storia di questi 35 mostra il contrario. La loro esistenza è resistenza. Solo la resistenza sconfiggerà il silenzio.



## Libertà per i 35 di Moira. Campagna di solidarietà ai migranti accusati della rivolta nel centro di detenzione a Lesbo

20 Aprile 2018 | in [MIGRANTI](#).

Pubblichiamo la traduzione del documento dell'Assemblea #freethemoria35 che invita a dare solidarietà ai 35 migranti sotto processo per avere partecipato ad una rivolta all'interno del centro di detenzione di Moria a Mitilene, sull'isola di Lesbo. Nell'hotspot di Moria sono trattenuti migliaia di migranti, uomini, donne e minori che, dopo gli accordi tra Turchia e Unione Europea e la chiusura della rotta balcanica nel marzo del 2016, rimangono bloccati in Grecia per mesi, aspettando che la propria domanda di asilo, di protezione umanitaria o di ricongiungimento familiare sia valutata dalle autorità europee. Contro la lentezza delle procedure per esaminare le richieste d'asilo e le spaventose condizioni di vita all'interno del campo, l'hotspot di Moira è spesso scenario di rivolte portate avanti dai migranti che vi sono rinchiusi. In seguito alla protesta del 18 luglio 2018, repressa duramente dalla polizia greca, sono stati arrestati 35 migranti che sono ora sotto processo e rischiano diversi anni di carcere. In calce all'appello, pubblichiamo anche un video-reportage che documenta la situazione delle 35 persone sotto processo, ma anche le condizioni delle migliaia di migranti che si trovano imprigionati a uno dei tanti confini della Fortezza Europa.



Dopo la conclusione delle indagini preliminari, la data della prima udienza del processo per i 35 migranti accusati di aver partecipato alla rivolta che si è svolta nel centro di detenzione di Moria il 18 luglio 2017, è stata fissata per il 20 aprile nella Corte, a giuria mista, di Chios. Qualche parola sugli incidenti di quel giorno:

Da mesi i rifugiati si organizzavano per i loro diritti a causa dei grandi ritardi nel trattamento delle loro domande di asilo e delle misere condizioni in cui sono costretti a vivere nel centro di detenzione di Moria.

Il 17 luglio un gruppo di migranti, principalmente di origine africana, aveva annunciato che avrebbe continuato la protesta con azioni ripetute.

La protesta annunciata è il risultato di varie proteste più piccole e più impulsive, che hanno avuto luogo nel centro di detenzione e nella città di Mitilene. In quel periodo, molti dei migranti, che si stavano organizzando per resistere alle politiche repressive dello stato, erano stati minacciati dalla polizia, la quale aveva affermato che avrebbe presto scoperto “chi era il capo del centro di detenzione”, pertanto, i lavoratori delle ONG li avevano esortati ad interrompere le proteste in fretta.

Martedì 18 luglio, durante un sit-in di protesta al di fuori dell'ufficio europeo di supporto per l'asilo (EASO), protesta che ha portato i dipendenti dello stesso a lasciare i loro uffici, le autorità sottolineavano che i migranti che protestano, erano a loro volta responsabili del trattamento ritardato delle domande di asilo, facendo sì che un altro gruppo di migranti si rivoltasse contro di loro. Successivamente, i migranti in fuga lasciavano il campo per bloccare la strada principale all'esterno. Mentre urlavano slogan fuori dal campo, le forze dell'ordine dall'interno e dall'esterno del centro di detenzione li hanno attaccati con pietre, gas lacrimogeni e granate stordenti.

I migranti risposero lanciando pietre contro la polizia e dando inizio a piccoli incendi. Dopo il conflitto, l'interno del centro di detenzione era tornato alla “normalità”, ma le forze di polizia hanno iniziato una vera e propria purga all'interno di Moria. I migranti si sono trovati a dover affrontare la minaccia della polizia antisommossa, che ha preso d'assalto i container, picchiando chiunque in modo indiscriminato per poi arrestare 35 persone a caso, arbitrariamente.

L'unico criterio usato dalla polizia era il colore della pelle, poiché si rivolgevano a persone di origine africana. Gli arrestati sono stati portati al dipartimento di polizia centrale di Lesbo, dove sono stati trattenuti senza alcun aiuto medico nonostante avessero subito gravi percosse. Solo uno degli arrestati è stato portato con un'ambulanza all'ospedale direttamente dal centro di detenzione, a causa della perdita di coscienza, dopo aver subito un colpo potenzialmente mortale alla nuca. Durante il mese seguente, circolavano voci su arresti complementari che terrorizzavano ancora di più i migranti intrappolati e che hanno portato molti di loro a lasciare le loro tende e i loro container per paura di essere presi di mira. La situazione di insicurezza creava, quindi, un'atmosfera di impotenza, passività e un sentimento di disfatta generale.

#### I dati giudiziari

Dopo essere stati picchiati e terrorizzati, i 35 accusati sono stati portati di fronte ad un investigatore, accusati di gravi accuse, tra cui in particolare il cosiddetto “incendio doloso aggravato dalla messa in pericolo della pubblica incolumità”. Questa accusa può portare ad una condanna a molti anni di reclusione e simultaneamente esclude gli accusati dal processo di asilo, le quattro accuse in totale sono le seguenti:

Incendio doloso con messa in pericolo per la pubblica incolumità, in concorso.  
2. Lesioni aggravate, tentato oltre che eseguito a danno della polizia e dei vigili del fuoco, in concorso.

3. Danneggiamento aggravato compiuto tramite incendio doloso di proprietà straniera e di oggetti ad utilizzo pubblico, in concorso.

Resistenza aggravata, travisamento, trasporto di oggetti potenzialmente pericolosi.

La corte ordinava la detenzione preventiva per 30 degli accusati, mentre i rimanenti cinque (il ferito grave e altri quattro migranti, che non hanno avuto un interprete per un mese e mezzo) hanno visto ordini di residenza restrittivi sull'isola e l'obbligo di presentarsi al dipartimento di polizia due volte al mese con obbligo di firma.

Dei 30 detenuti, 10 sono in carcere sull'isola di Chios, 13 a Korydallos (Atene), sei nei centri di detenzione minorile di Avlona (Attica) e uno è stato trasferito da Avlona alla prigione di Malandrino (Grecia centrale). I problemi seri sono derivati dalla loro separazione, poiché sono stati imprigionati lontano dai loro avvocati e dai loro amici, aggravando enormemente il loro isolamento e la loro incertezza, mentre ponevano ostacoli significativi alla loro preparazione per il prossimo processo. Questa pratica è stata applicata ai prigionieri politici in passato, così come in un caso analogo riguardante otto immigrati perseguitati per i fatti di Petrou Ralli. Inizialmente, la loro difesa era stata assunta da avvocati attivi nelle ONG dell'isola e dal momento in cui il caso ha iniziato ad attirare l'attenzione pubblica, altre ONG sembravano intenzionate ad adottare alcuni dei casi giudiziari.

Tuttavia, solo pochi giorni prima della data del processo, le ONG Solidarity Now, Metadrasi e Synyparxis Lesbos hanno annunciato il loro ritiro dal processo.

Di conseguenza, la situazione già problematica risultava gravemente aggravata, dal momento che gli imputati dovevano trovare nuovi avvocati.

Oltre ai migranti rappresentati da avvocati di organizzazioni non governative, nove dei migranti perseguiti saranno rappresentati da avvocati appartenenti a gruppi di solidarietà. Il ruolo che le autorità giudiziarie svolgono nelle pratiche anti-insurrezionali diventa anche chiaro nella sede del tribunale scelto.

Il trasferimento del processo a Chios è in contraddizione con la decisione della corte di imporre ordini restrittivi a cinque imputati. Nonostante i giudici siano consapevoli della precaria situazione finanziaria degli imputati, il processo si svolgerà a Chios e dovrebbe durare diversi giorni, il che comporta enormi costi di residenza oltre alle spese di viaggio.

Inoltre, l'ubicazione del processo crea gravi limitazioni alla presenza di testimoni in loro difesa. Poiché gli eventi hanno preso parte al centro di detenzione di Moria, molti dei testimoni oculari sono migranti sottoposti a restrizioni amministrative, che non hanno la possibilità di lasciare Lesbo. Lo stesso si può dire per molti testimoni locali.

A causa del trasporto limitato tra le due isole, la presenza quotidiana è resa impossibile, per cui i testimoni dovrebbero mettere in pausa i loro lavori per un periodo di tempo indefinito e a qualsiasi costo. La rimozione delle testimonianze essenziali funge da comodo pretesto per l'atteggiamento vendicativo e premeditato delle autorità giudiziarie nei confronti dei migranti perseguitati.

Politiche anti-migrazione

Mentre le contestazioni geopolitiche globali continuano, senza alcun segno di diminuzione, l'espansionismo economico prospera e vari regimi autoritari e fondamentalisti appaiono in ogni angolo del mondo, Fortress Europe implementa la gestione da parte delle polizie militari del flusso migratorio.

Sempre più organizzata, prende forma la decisione per la creazione di spazi di eccezione ai confini europei; spazi in cui tutti coloro che non hanno perso la vita durante i loro passaggi saranno trattenuti e subiranno gravi violazioni e violenze.

Per mezzo di un sistema di continuo degrado umano, i migranti saranno classificati come “voluti” o “indesiderati”.

Quelli voluti serviranno come nuova forza lavoro necessaria dell'Europa, mentre allo stesso tempo forniranno un alibi per le politiche sulla morte contro la migrazione. Il resto sarà inevitabilmente criminalizzato, poiché la loro unica possibilità possibile sarà quella di viaggiare più lontano possibile senza documenti, dopo di che saranno sfruttati come forza lavoro a basso costo, che è fondamentale per la riproduzione delle strutture di potere manifestate nel capitale locale e globale. La loro unica altra opzione è la deportazione nei loro paesi di origine o in paesi terzi. Inoltre, le popolazioni migranti sono diventate il nuovo “nemico interno”.

I media aiutano nella costruzione di una realtà sotto minaccia in modo da giustificare l'esistenza del totalitarismo come “socialmente necessario”. I migranti sono ritratti biologicamente e culturalmente inferiori o come portatori di malattie contagiose, mentre sono collocati in campi privi di strutture sanitarie.

L'uso di una retorica militarista con la quale i migranti vengono presentati come invasori, giustifica le forze armate greche ed europee a prendere posizione ai confini ma anche oltre il loro territorio per difendere la Fortezza Europa.

Uno “stato di emergenza” è stato introdotto in sempre più parti d'Europa. Una dottrina che viene fuori, evocando allo stesso tempo la necessaria coesione nazionale e il consenso necessari per la continuazione delle politiche di svalutazione del “fondo” della società. Tuttavia, “guerra contro i migranti” significa denaro. L'industria sviluppata a causa della governance delle popolazioni migratrici non dovrebbe essere trascurata. Il capitale continua a essere riprodotto sia attraverso attrezzature militari che servono la protezione e la sorveglianza dei confini o attraverso il capitale umano, come conseguenza della diffusa dottrina dell'umanitarismo militare.

Dato il contesto, Lesbo è stata scelta, per la seconda volta nella sua storia recente, come il campo principale per l'applicazione delle politiche di confine anti-migrazione all'inizio della cosiddetta “rotta del Mediterraneo orientale”. Di conseguenza, sono emerse nuove forze militari di polizia e diversi tipi di centri di detenzione, oltre all'incoraggiamento di un distacco sociale cruciale al fine di generare consenso per la politica della morte che si sta svolgendo.

Il totalitarismo getta un'ombra sulla vita sull'isola con poche crepe aperte dalla resistenza dei migranti, ma anche da parti di una contro sommossa internazionale diffusa, che ha mostrato un'azione multipla e continua. Questi momenti di resistenza che forniscono un'autonomia di breve durata, fanno sì che i migranti siano sottoposti ad ancora più terrore e violenza per frenarli e isolarli da quelli che li sostengono in solidarietà.

Solidarietà per ogni ragione nel mondo

La decisione di schierarsi con i 35 arrestati non ha nulla a che fare con qualsivoglia criterio di innocenza, né indica una lotta antirazzista unidimensionale. La persecuzione subita dai 35 può essere capita solo se vista solo come un altro aspetto delle politiche anti-insurrezionali che sono state stabilite da diversi governi e che ora sono messe in pratica dal governo di “sinistra” di SIRYZA. Il declino dei movimenti per la lotta di classe e dei movimenti sociali porta all’approvazione e all’accettazione di attacchi per le persone che si trovano nel fondo della società. Una pletera di strumenti oppressivi, di natura poliziesca, giudiziaria, amministrativa ed economica sono utilizzati contro coloro che cercano di resistere.

La crescente militarizzazione delle forze di polizia. La creazione di spazi di eccezione, come i campi di concentramento dei migranti. La nuova riforma del codice penale e gli attacchi contro i prigionieri resistenti. L’Uso di multe come ricatto, come nel caso degli obiettori alla leva obbligatoria.

La Persecuzione criminale delle lotte sindacali. Il Degrado ambientale e la persecuzione di chi resiste. Tutti questi sono aspetti dello stesso attacco stato-capitalista contro coloro che si trovano nel fondo della società. Attacchi che vanno oltre i confini tradizionali degli stati nazionali. Attraverso la riforma dei quadri giuridici, vi è un tentativo di cooperazione transnazionale per frenare le resistenze. Cooperazione giudiziaria transnazionale e sviluppo di politiche europee comuni sulla gestione della popolazione. Ma le risposte saranno date a tutti i livelli. (IE Hamburg G20, Salonicco’s Balkan Demo Against Nazionalism, No Border Movement). Lotte oltre le frontiere, gli stati, le nazioni e i nazionalismi. Il processo contro i 35 migranti può essere visto come un processo contro la società che resiste alla continua svalutazione e repressione della propria vita.

Le autorità vogliono effettuare il processo utilizzando un buco nero spazio-temporale per limitare ogni azione di solidarietà.

Per questo motivo, più urgente che mai, è essenziale rendere pubblico un altro esempio di utilizzo arbitrario del potere diretto verso uno dei gruppi sociali più oppressi. Chiediamo a singoli, gruppi e organizzazioni solidarietà di organizzare iniziative. L’account twitter [freethemoria35](#) e [#freethemoria35](#) è stato creato per lo scopo della campagna di solidarietà, mentre i media auto-organizzati saranno utilizzati per informazioni e aggiornamenti più precisi.

L’Assemblea di solidarietà per i 35 migranti perseguitati di Moria [#freethemoria35](#) “



## Ouverture du procès des "Moria 35" : des migrants de Lesbos face à la justice grecque

Par [Laure Blanchelande](#) Dernière modification : 20/04/2018

**Le procès de 35 migrants s'est ouvert vendredi 20 avril sur l'île de Chios, après leur arrestation en juillet dernier suite à une manifestation pacifique dénonçant leurs conditions de vie dans le camp de Moria.**

Ils sont migrants, bloqués sur l'île de Lesbos depuis plusieurs années et se retrouvent aujourd'hui devant la justice grecque. Les 35 prévenus faisaient tous l'objet des mêmes nombreux chefs d'accusation, parmi lesquels incendie volontaire, rébellion, dégradation de biens, tentative de violence ou encore trouble à l'ordre public. Ces accusations ont été déposées par plusieurs officiers de police et pourraient conduire à des peines de prison allant jusqu'à 10 ans mais aussi une exclusion du droit à la protection internationale et un renvoi à destination du pays d'origine. Le "Legal center" a qualifié ces accusations d'arbitraire et dénoncé la dimension discriminatoire du procès. Cette association apporte un soutien juridique gratuit aux réfugiés de Lesbos depuis août 2016. Elle a notamment accompagné ceux qu'on appelle également les "Moria 35" depuis leur arrestation et financé deux des six avocats assurant leur défense.

"Arbitraire" et "discriminatoire" sont aussi les mots qui ont été utilisés pour décrire la descente de police du 18 juillet 2017, celle qui a conduit aux 35 arrestations. La journée avait commencé par une marche pacifique qui s'est terminée devant les bureaux de l'EASO (European Asylum Support

Office), l'instance européenne auprès de laquelle sont déposés les dossiers de demande d'asile. Séparés par une grille de celles et ceux qui pourraient faire avancer leur situation, les migrants ont demandé ce jour-là qu'on les autorise à pouvoir quitter l'île de Lesbos, entamant des chants et criant "Liberté !".

[>> À lire sur InfoMigrants : Grèce : les nouveaux demandeurs d'asile pourront désormais circuler dans tout le pays](#)

Les forces de police grecques ont répondu par une pluie de gaz lacrymogène et de cailloux, faisant fuir la majorité des manifestants. Quelques personnes, étouffées par le gaz, sont arrêtées à ce moment-là. En début d'après-midi, alors que le calme revenait et que la journée reprenait son cours normal, plusieurs unités de police ont fait irruption dans la section africaine du camp. Des habitants sont sortis de force des containers où ils vivent, certains encore en sous-vêtements ou sortant de leur salle de bains. Beaucoup tentent alors de fuir la police ou de riposter face aux démonstrations de forces et se font brutaliser.

Le documentaire "Moria 35", tourné par Joinda Productions au moment des faits, fait même état d'une tentative d'agression sur une femme enceinte. D'autres images du film montrent des policiers frapper des hommes sans défense. Des dizaines de personnes seront donc arrêtées au cours de ce raid. Parmi elles, plusieurs sont sévèrement blessées, leur état nécessitant des soins médicaux. L'une d'elle restera hospitalisée une semaine. L'ONG Amnesty International a appelé les autorités grecques à enquêter sur cet usage jugé excessif de la force, qui peut, selon elle, constituer des actes de torture. Une enquête a été ouverte pour blessures corporelles graves commises par des officiers de police non identifiés.

[>> À lire sur InfoMigrants : Migrants en Grèce : les associations dénoncent la "restriction géographique"](#)

Suite à leur arrestation, les 35 ont été placés en détention provisoire dans l'attente de leur procès. Le lendemain de la descente de la police, ils sont présentés au tribunal pour témoigner. Sur des images de l'arrivée à la Cour figurant dans le documentaire "Moria 35" on peut voir les accusés pieds nus pour certains et avec encore des traces de sang sur le visage. Après des audiences préliminaires menées à huis clos, cinq des accusés sont remis en liberté à Moria, par manque de preuve concernant leur présence sur les lieux de la manifestation du 18 juillet. Les autres sont emprisonnés.

Après le procès qui s'ouvre vendredi 20 avril, il reviendra aux observateurs internationaux du procès de faire état de l'équité de la procédure. L'association du Gisti (Groupe d'information et de soutien des immigré·e·s) a recensé onze de ces observateurs, dont beaucoup regroupent des avocats européens.

[>> À lire sur InfoMigrants : En Grèce, la détresse psychologique des migrants parqués dans les camps](#)

Le but initial de la protestation du 18 juillet 2017 était de défendre les droits fondamentaux de chacun à vivre dans la dignité. Des droits mis à mal depuis l'entrée en vigueur de l'accord entre l'UE et la Turquie en mars 2016, et dont témoignent de nombreux habitants du camp de Moria. Coincés entre leur pays d'origine qui ne leur offre plus de vie convenable et une Europe qui limite les accueils, les réfugiés demandent le respect : des tentes où dormir sans être entassés, des soins médicaux accessibles, du travail, de l'éducation pour leurs enfants.

## On Lesbos, police violence crushes refugees' peaceful resistance: justice for the Moria 35

[Maya Thomas-Davis](#)

At the edge of Fortress Europe, violence, arbitrary raids and arrests, racist profiling, exaggerated criminal charges and punitive detention are scandalous – but by no means an aberration from the logic of borders and their enforcement.



*Justice for the Moria 35. Photo: Zaid. All rights reserved.*

Since the EU-Turkey ‘deal’ came into force in March 2016, thousands of people fleeing all forms of violence have been trapped on the Greek islands, at the outskirts of fortress Europe, as a ‘containment’ measure. The [deal](#) means European states line the pockets of Erdogan’s repressive authoritarian regime and turn a blind eye to well-documented human rights violations committed systematically against activists, lawyers, journalists, LGBTQI+ folk, Kurdish people, and Syrians; to [breaches](#) of *non-refoulement*; to the fact Turkey is not even a signatory to the 1968 Protocol to the Geneva Convention extending international protection to non-EU nationals.

European powers [cite](#) dodgy diplomatic assurances in order to designate Turkey a ‘[safe third country](#)’ and externalise European borders there. Meanwhile, the islands of Lesbos, Samos, Chios, Kos and Leros have been transformed into sites of indefinite confinement – where individuals seeking freedom, safety and dignity have instead been held in limbo for up to 20 months; enduring abject inhumane and degrading conditions in dangerously overcrowded ‘hot-spot’ facilities, under the constant threat of deportation.



Women sleep in adult diapers to avoid having to make a trip to the toilets in the night.

Lesvos is the largest of these ‘open-air prisons’ in the eastern Aegean. With its northernmost tip only eight kilometres from the Turkish coast, hundreds of people survive the perilous journey across the Mytilene strait to arrive at its shores on a daily basis. The ‘hotspot’ camp in Lesvos – Moria – is a former army base built to accommodate a maximum of approximately 1,800 people. There are currently nearly four times that number – around 7,000 – crammed within the confines of its razor-wire topped fences in conditions unfit for human habitation.

This includes unaccompanied minors, pregnant women, disabled folk, the wounded, the elderly, people with serious mental illness, survivors of all forms of trauma. Around 4,000 people are currently sleeping in flimsy summer tents, or on the bare ground, as temperatures drop to single digits and below. At least five people perished in Moria last winter. Two people, including a five-year-old child, have died there in the past two months.

A toxic combination of inadequate shelter, lack of access to healthcare, information or legal advice, unhygienic facilities, queues for hours for appalling food, restricted access to water, fascist attacks, institutional racism, and interminable waiting in fear have created a desperate situation that *Medecins Sans Frontieres* is calling a [mental health emergency](#). There are regular suicide attempts and self-harm is endemic.

Sexual exploitation of minors and adults is a reality. So is violence, particularly against [women](#), [girls](#) and [LGBTQI+ folk](#). Women sleep in adult diapers to avoid having to make a trip to the toilets in the night. Such conditions make the UNHCR’s insistent use of the word ‘beneficiary’ to refer to people accommodated in the camp a sick joke. Moria was recently called a [concentration camp](#) by a Human Rights Watch worker. It is a living hell.

Article 7 of the Recast Reception Conditions Directive, part of the Common European Asylum System, authorises European member states to restrict the free movement of applicants for international protection within their territories only where ‘*the assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under this Directive*’. Given the abysmal conditions in Lesvos, it is clear that other ‘benefits’ under the directive, including ‘*material reception conditions [which] provide an adequate standard of living for applicants... guarantee their subsistence and protect their physical and mental health*’ are not ‘*guarant[eed]*’, to say the least. Even without examining the legality of the EU-Turkey agreement, or the ‘safe third country’ concept more broadly, geographical restriction to Lesvos should be regarded unlawful. It compounds every systematic human rights violation already taking place.

Such conditions make the UNHCR’s insistent use of the word ‘beneficiary’ to refer to people accommodated in the camp a sick joke.

In this context, the hundreds of peaceful protesters who gathered outside the European Asylum Support Office in Moria for the second day in a row on the morning of July 18th 2017, demanding free movement to the mainland, were simply asking that Greece and the European Union comply with their own laws. The protests were organised to take place while a week-long Amnesty conference examining the consequences of the EU-Turkey deal had brought some international attention to Lesvos, which has long since fallen out of the mainstream media spotlight. Community

leaders spoke on local radio, participated in talks and workshops and reached out to authorities in the hope of negotiating a modest demand that those held on the island for over six months be permitted to leave. Protesters in the camp held hand-made banners denouncing conditions, and chanted “Liberté!” in the face of a growing police presence.

Greek state authorities responded to this peaceful exercise of the right to protest with repressive violence. Humanitarian actors were evicted from the camp, which was put on lockdown: trapping the majority of protesters outside and imprisoning a small group within, along with other residents resting in their isoboxes who had not participated in the demonstration. Police used quantities of teargas that made it painful to breathe even at the distance of the hill overlooking the camp. Officers were filmed gathering rocks from the ground and throwing them at protesters, who attempted to resist: taking shelter between the rows of isoboxes and trying to extinguish tear gas canisters with UNHCR buckets filled with water.

By around 3pm everything appeared to be calm, and people were observed walking calmly around the camp again. Then, an hour later, armed riot police entered Moria. They targeted and violently raided the ‘African section’ of the camp: forcibly entering isoboxes, dragging people out, shooting teargas at close range, and brutally assaulting seemingly every individual they came into contact with, including a pregnant woman. From the hilltop overlooking the camp you could hear disturbing screams and shouts. You could see terrified people fleeing the ‘African section’ in every direction, only to be intercepted in the open space to the left of the isoboxes, or on the main pathway through the camp, and beaten to the ground by an officer soon joined by three or four more. For approximately 10 minutes, everywhere you looked groups of police officers in full riot gear were gathered around individuals already lying on the floor – some barefoot or in their underclothes – kicking and beating them with their boots and truncheons.

35 people were arrested in this violent, arbitrary raid. One of the arrestees was beaten so brutally he was hospitalised for a week. In the days following the arrests, Amnesty International carried out interviews with arrestees and witnesses, and published a [report](#) demanding Greek authorities launch an investigation into the police’s excessive use of force amounting to possible torture. The report indicates arrestees were subject to racist abuse and beaten again in police custody. When arrestees were brought to Mytilene court on Friday 21st and Saturday 22nd of July, many were still barefoot. Some were bleeding from injuries that had been left untreated in the days spent in prison, and doctors from *Medicins Sans Frontieres* came to court at the urgent request of the [Legal Centre Lesvos](#) team to dress injuries including head wounds and provide pain relief. The defendants brought to court on Friday morning had not been given food.

35 people were arrested in this violent, arbitrary raid.

Many of the 35 arrested in Moria were not even present at the morning’s peaceful protest, let alone the clashes between a small number of protesters and riot police that ensued. 34 of the 35 men arrested are black. This led observers to conclude arrests were racially profiled and arbitrary: people were targeted solely because of their race and their location within the camp at the time of the police raid. Such a conclusion is only compounded by the apparent absence of individualised evidence against any of the 35, who were all charged with a catalogue of identical offences during preliminary hearings: arson, attempted assault, resisting arrest, rioting, damage to private property and disturbing the public peace.

In light of the dawn police raids that took place in Moria camp the following Monday, 24th July, it seems clear that these arrests were part of a policy of collective punishment and intimidation: calculated to instil fear in the camp and prevent organising to expose the realities of structural violence and inhumanity European policies have spawned in Lesvos.

However, it is also clear that while the violence perpetrated by law enforcement officials, arbitrary raids and arrests, racist profiling, exaggerated criminal charges, punitive detention and lack of access to due process in this case are scandalous, these forms of state violence are by no means an aberration from the logic of borders and their enforcement. There has been a disturbingly successful effort to cast people who cross borders irregularly as inherently criminal, inherently imprisonable, subjects.

This ideological work – which precludes engagement with imperialist Europe’s past and present exploits as causes of the many forms of violent dispossession that force human movement – renders migrants inherently imprisonable, legitimising incarceration without charge in detention centres for periods longer than some criminal sentences, inherently deportable to contexts of danger and death without any semblance of due process or effective remedy. Were you surprised when you read that the fences of Moria camp – supposedly built to accommodate people seeking safety – are topped with razor wire?

The racially profiled Moria 35 arrests also took place in a context where discrimination on the basis of nationality is official policy. In Lesvos and other Greek ‘hotspot’ islands, applicants for international protection arriving from countries with asylum recognition rates of below 25% are categorised as ‘economic profile’, ‘undesirable aliens’ as opposed to ‘refugee profile’ applicants. Those are the explicit words of a police circular describing the pilot project.

On this basis, people are held in closed detention for the duration of a ‘fast-track’ border procedure. Individuals subject to this fast-track process [reportedly](#) undergo their asylum interviews in handcuffs. The policy clearly constitutes arbitrary deprivation of liberty, precludes due process and effective remedy, and is in flagrant violation of the prohibition of discrimination on the basis of race or nationality under Article 3 of the Refugee Convention. Yet, in many ways, it is the logical conclusion of the ‘victim or criminal’ binary produced by toxic narratives on migration. 28 countries of origin are considered ‘economic profile’ under the policy, including many of the West African nations defendants in the Moria 35 case originate from.

While the violence perpetrated in this case is scandalous, these forms of state violence are by no means an aberration from the logic of borders and their enforcement.

In his concurring opinion in the ECtHR case *Hirsi Jamaa v Italy* – which found that Italy’s pushback of migrant boats to Libya violated international human rights law – Judge Pinto de Albuquerque observed that the "ultimate question...is how Europe should recognise that refugees have 'the right to have rights', to quote Hannah Arendt".

The mechanisms by which brutal European ‘deterrence’ policies systematically strip thousands of human beings of such a ‘right to have rights’ is acutely apparent in the Moria 35 case. Long before the 35 defendants were brutally assaulted and arbitrarily arrested by police, they had already been denied the substantive right to seek asylum, to freedom from discrimination on the basis of nationality, the right to freedom from cruel, inhuman or degrading treatment. The right to have

rights was precisely what the women and men from many different countries who gathered outside the European Asylum Support Office on Tuesday 18th July 2017 were calling for: collectively insisting on human dignity in the face of a brutal divide-and-rule system.

But the systemic injustices that are being perpetrated against thousands of people imprisoned out of sight on the geographical margins of Europe, in restricted access camps beyond the scrutiny of local populations or media, are easily invisibilised. Racist violence against refugees at the hands of law enforcement officials is [frequently met with impunity](#). Pretrial detention is [overused](#) in Greece, for excessively long periods and disproportionately for foreign nationals: despite many having serious mental and physical health conditions which should preclude pretrial incarceration, 30 of the defendants in this case have now been in prisons in Athens and Chios for six months.

And the stakes could not be higher for each of the 35 defendants. Not only do the criminal charges against them carry disproportionately heavy sentences if convicted – up to 10 years in prison – but conviction is also likely to mean exclusion from the right to international protection. This would mean deportation back to places these individuals risked everything to flee.

Without sustained political pressure and international oversight, what hope of any semblance of equality of arms – let alone justice – can there be in the Moria 35 case, which essentially sets the claims of Greek state police forces against those of foreign migrants already cast as inherently criminal? They will face the case against them in an unknown language, under an unknown legal framework. Understandable fears about their own safety may prevent witnesses from coming forward. For these reasons, the [Legal Centre Lesvos](#) is building a solidarity campaign alongside coordinating the criminal defence team of Greek lawyers who will represent the Moria 35 at trial. Please support the campaign however you can. Raise awareness, donate, act as an international trial observer: <https://www.justgiving.com/fundraising/justice-for-the-moria-35>

*A version of this article originally appeared in the October issue of the [Socialist Lawyer](#).*

## Observation mission of the « MORIA 35 » Trial

### Interview with 5 defendants - Tuesday the 24th of April 2018 -

Observers present:

- Solène DUCCI from *Gisti* ;
- James NICHOL from *Haldane Society of Socialist lawyers* ;
- Domitille NICOLET from *Avocats Sans Frontières France*.

Were present 5 defendants who were not in detention :

- **Bokari C.** ; malian ; he speaks bambara ; first rejection of his asylum application (in appeal) ; Vasilis is his lawyer;
- **Mamadou S.** ; malian ; he speaks bambara ; his asylum application was rejected twice ; Vasilis is his lawyer;
- **Ali S.** ; gambian ; he speaks wolof and a little english ; his asylum application was rejected twice ; Vasilis is his lawyer;
- **Fidé S.** ; malian ; he speaks bambara and a little french; his asylum application was rejected twice ;Vasilis is his lawyer
- **Nyang Abdul** ; senegalese ; he speaks french and wolof ; he has been given the refugee status ; Dimitri is his lawyer;

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### **Background :**

We met them in a café near the Court of Justice at 6 p.m.

We explain our role as trial observers and ask for their permission to quote their words in our report (they all agreed).

They are housed since Tuesday the 19th of april 2018 in Chios in two different hotels – payed by Lebos inhabitants who support them ; they inform us that those expenses should be refunded by the greek government.

During their arrest in July 2017, only one lawyer came to represent them at the police station (Stephanos ; lawyer in the Legal center). Since then, their privileged if not only contact is Lorraine LEITTE (the coordinator of the Legal Center Lesbos).

They have contacts with a few defendants detained since their arrest ; they brought clothes to some of them.

Since the beginning of the trial, they are not aware of the role of the different participants – we explain to them who is the prosecutor and what she embodies for example.

Although on this subject, they will all say :

« *the judge (the judge President) is not good but the lady with the glasses (the prosecutor) is great !* »

- **Bokari C. and Mamadou S.** (their words were translated by Fidé S.)

They were the most private persons during this interview ; they shared with us having the same feeling :

« *I am really scared since the trial started on Friday ; its the first time that I am in front of a court* »

The question of the translation and interpretation is quickly raised ; they all say that the Bambara translator is difficult to understand (Bambara doesn't seem to be his mother tongue).

Their lawyer (Vasilis) is apparently trying to bring the Gambian translator that they had in the police station for the resumption of trial (Thursday) and whom they understood really well.

James Nichol explains the significance of translation insisting that the law provides and impose this need to understand and to be understood (one of the component of a fair trial).

Mamadou will later had:

*"I am 100% sure that we will win because we are in their country"*

And Bokari:

*"If the judge lets me speaks then I'll talk about what I have seen and know"*

- **Nyang A.**

He used to be the leader of the Senegalese community at the Moria camp so he knew pretty well the camp authorities.

He spent a week in the hospital after his arrest (he is subject to medical expertise).

He pressed charges against the officers (11 out of the 35 defendants also pressed charges); he explained that a few months ago he was summoned at the Mytilini police station (Lesbos) and he was told that if he withdrew his complaint it could help him in the trial – He refused and confirmed his complaint.

Nyang would be the more vocal during this exchange:

*"We need to know everything that is going on in order to defend ourselves"*

*"I bring forward the problem of translation, of communication"*

*"I notice nevertheless that here there is a democracy"*

Nyang explains having participated as a witness or party to multiple trials in Senegal; for him, the fact that the greek police is present and standing up when they are seated is a sign of respect.

*"I am not scared – it's a way to learn about life!"*

*"We will win, they don't have any evidence"*

Nyang gives several examples: all the police officers said thursday that they only arrested people who were protesting however how do we explain the arrest of a naked person who was showering or better yet of a person who accepted to go back to his country in possession of the evidence, during his arrest, of the return documents – this people were protesting?

*“Me, I have the evidence showing that I wasn't in the camp at the hours specified<sup>1</sup> »*

*“Since, the events we notice however that Moria has improved (more water, quantity of food etc..). Our revolution allowed that at least”*

*“It is only a real racial discrimination!”*

*“I would like compensation”*

- **Fidé S.**

*“I thought that I would have been able to communicate more freely with my lawyer. it's difficult to see him. Since the beginning everything is in Greek, I don't understand anything”*

*“I'm also afraid. I was recognized by the firefighter who testified<sup>2</sup> but I don't recognize him, I was arrested by another firefighter”*

*“I would like to thank the Greeks who supported us”*

*“We would like to go to France because I speaks a little French integration will be easier”*

*“I am not 100% sure to win because the system seems biased”*

Fidé asks us several questions:

- *“What did you think of the trial?”* We talk again about the question of translation and James comments that very few evidence was brought;

- *“What did you think of the testimony of the firefighter?”*

- *“What will happen after the trial for us?”* We tell them that it is also one of our great concerns. James tells them that even in the case of criminal conviction, the sentences in Grece would only rarely be executed entirely.

- *“Will we be able to take the stand?”* We answer that it will depend on the will of the judge President.

- **Ali S.** (his words were translated by Nyang A.)

*« I am not afraid, I trust my lawyer ! »*

*« We will win! »*

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1 Nyang was with the MSF psychologist

2 Fidé was part of the 3 people who were recognized by one of the witnesses on Monday  
**NB** : however there was a confusion at the time between 6 persons

No translation in Wolof was scheduled during the trial; Ali et Abdoulaye T. (in detention) are directly concerned by this lack of translator.

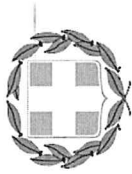
Ali asks us at the end:

*“After the trial, will there be a better answer from Europe to our problems?”* (We explain that sadly European states seems to tighten their migration policies; James talks then about what he saw in Calais like blankets opened with knives by law enforcement officers).



## Moria Camp





**HELLENIC REPUBLIC**  
**MINISTRY OF INTERIOR**  
**NATIONAL COORDINATION CENTER FOR**  
**BORDER CONTROL, IMMIGRATION AND**  
**ASYLUM (N.C.C.B.C.I.A.)**

Athens, 7/7/2018

**NATIONAL SITUATIONAL PICTURE REGARDING THE ISLANDS AT EASTERN AEGEAN SEA (06/07/2018)**

PLACE/LOCATION	LESVOS		CHIOS		SAMOS		LEROS		KOS		OTHER ISLANDS		TOTAL	
	OCC.	CAP.	OCC.	CAP.	OCC.	CAP.	OCC.	CAP.	OCC.	CAP.	OCC.	CAP.	OCC.	CAP.
R.I.C.	7325	3000	1855	1014	3598	648	806	860	918	816			14502	6338
OTHER ACCOMMODATION FACILITIES	1161						117	120					1278	
HELLENIC POLICE FACILITIES	107	210							99	500			206	710
DETENTION FACILITIES	4	40	16	18	9	24	0	6	1	36	38	63	68	187
U.N.H.C.R.	583	681	183	248	236	240	111	116	171	189	57	105	1341	1579
N.C.S.S.	153	168	18	18	10	12							181	198
OTHER N.G.O.s	98												98	
MAKESHIFT CAMPS	0		0		0		0		0		0		0	
<b>MIGRANTS PRESENT ON THE ISLAND</b>	<b>9431</b>		<b>2072</b>		<b>3853</b>		<b>1034</b>		<b>1189</b>		<b>95</b>		<b>17674</b>	
ARRIVALS	47		0		0		0		1		0		48	
TRANSPORTS TO THE MAINLAND	13		10		2		0		2		2		29	
DEPARTURES (EU-TURKEY STATEMENT)	4		1		0		0		2		0		7	
DEPARTURES (I.O.M.)	0		0		0		0		7		0		7	
<b>TOTAL DEPARTURES FROM THE ISLAND</b>	<b>4</b>		<b>1</b>		<b>0</b>		<b>0</b>		<b>9</b>		<b>0</b>		<b>14</b>	

CAP. CAPACITY

OCC. OCCUPANCY

R.I.C. RECEPTION AND IDENTIFICATION CENTRE

N.C.S.S. NATIONAL CENTRE FOR SOCIAL SOLIDARITY

P.D.C. PREDEPARTURE DETENTION CENTRE