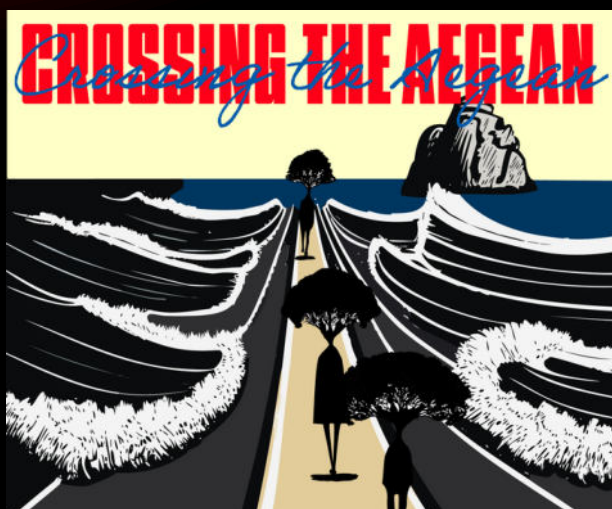




LEGAL  
CENTRE  
LESVOS



Photos: Our Podcast “Crossing the Aegean”, Solidarity Demonstration with Palestinian People, and Press Conference on Büyüksu’s Case (Sources: AP / Alberto Bezelli, Gazete Duvar)

# LEGAL CENTRE LESVOS NEWSLETTER OF OCTOBER – DECEMBER 2023

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Following the escalation of Israel's assault on Gaza, several protests in solidarity with Palestinians were met with discriminatory repression in Greece, and throughout the world. In a time of crisis for human rights and international humanitarian law, the Legal Centre Lesvos joined initiatives calling on EU leaders to act in the face of the Israeli government's ongoing apartheid and genocidal policies against the Palestinian people, and the EU's continued political support for Israel.

In parallel, the end of 2023 was marked by **several deeply concerning developments which will further obstruct migrant and asylum seeker's rights** in the EU over the following years. On 28 November 2023, the European Commission presented a Proposal for a new Directive to counter migrant smuggling (COM(2023) 755 final) as part of a new Facilitator's Package which will replace the current legal framework on facilitation of unauthorised entry, transit and residence in the EU. Under the guise of tackling migrants' smuggling networks, the new Facilitator's Package also includes a proposal for a Regulation to reinforce police cooperation and Europol's role (COM(2023) 754), which increase the powers of policing authorities to conduct massive and intrusive surveillance of people on the move and those who support them, a practice which is already a cause for concern.

This new legislation will also lead to the **further criminalisation of people on the move and those in solidarity with them**, instead of addressing the root causes of irregular migration, namely Fortress Europe's racist and violent border regime and exclusionary migration policies. The criminalisation of people on the move is often invisible, and their voices are silenced by detention and long prison sentences. According to a recent study by Borderline Europe, more than 2000 migrants are currently in Greek prisons, accused or convicted of "smuggling".<sup>7</sup>

On 20 December, the European Commission, the European Parliament, and EU member states also reached a worse-than-expected political agreement on the EU Pact on Migration and Asylum, originally proposed in 2020. The new system will establish cruel policies of border management, asylum procedures, and data collection, in full disregard of the fundamental rights of migrants and asylum seekers. The Pact will lead to the **reproduction and legalisation of abusive and harmful racist policies (both official and unofficial) which have already been tested for years in border zones** such as Lesvos and the Aegean islands, including detention upon arrival, fiction of non-entry, accelerated asylum procedures and a series of derogations to key human rights obligations, including the right to asylum and the prohibition of refoulement.

In the face of the expected implementation of increasingly draconian policies, the Legal Centre Lesvos will continue its work to fight against border violence, criminalisation of people on the move, and Europe's inherently discriminatory migration policies. **If you are interested in our work, check out our website, which has gone through a recent revamp, and join us to smash Fortress Europe!**

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## 1. Updates from Lesvos Closed Control Access Centre (CCAC)



*Photo: Lesvos CCAC area from a hill overlooking the camp, January 2024.*

### 1.1. Detention upon arrival, lack of medical access, and restrictions of food distribution

As per the Greek Asylum Service [statistics](#), arrivals of migrants to Greece increased by 98% in November 2023 compared to the same month in 2022. In October 2023, nearly 4,000 people were residing in the Lesvos CCAC, **over a fourth of whom (around 1.300 people) were unlawfully detained inside the camp**, awaiting the registration of their asylum claims. As documented in past reports, the new arrivals to Greece are housed inside large rub-halls inside the 'quarantine area', where insufficient numbers of beds are crowded together, without separation, housing unrelated men, women, and children all together without any privacy or safety measures. The conditions reported in these rub-halls are deplorable, with no electricity and insufficient bedding, food, and water, leaving people constantly hungry and without proper clothing.

It is worth noting that this area is unofficially still commonly known as the 'quarantine area', despite the lack of any legal basis to quarantine new arrivals to Greece - an unofficial policy which has continued in place long since the end of pandemic-era restrictive policies. The restriction of movement of migrants in Lesvos is not limited to new arrivals. In general, residents of Lesvos CCAC are under curfew and can only leave the camp between 8am and 8pm, when security staff at the entrance are working. Additionally, starting the week of 9 October, people reported to the LCL that they were prohibited from leaving the camp for several days, supposedly because their asylum cases had been rejected.

The automatic detention of all new arrivals in the Lesvos CCAC violates both Greek and EU law, which stipulate that detention should only be used as a last resort and be accompanied by an individualised detention order. It is also leading to violation of the right to liberty under

Article 5 of the European Convention on Human Rights (ECHR) and risks infringing upon Article 3 of the ECHR's prohibition against torture and inhuman or degrading treatment.

During the reporting period, the **disastrous situation of people not having access to appropriate health services in and outside the camp continued**, and a scabies outbreak was observed at the end of 2023. The National Organisation for Public Health (EODY) does not have a doctor available for general medical consultations in the camp and only carries out the summary medical screenings during the reception and identification procedures when people first arrive in Greece and apply for asylum. Residents of the camp in need of medical care can therefore only rely on the few NGOs providing basic health care inside the camp, such as Boat Refugee Foundation (BRF), and Crisis Management Association (CMA). EODY, which is officially responsible for making referrals to the Mytilene General Hospital, is not supporting people in this, leaving most camp residents to rely on other organisations such as MSF and Caritas to do so.

**The denial of food distribution for residents considered to be officially outside of the asylum procedure continued.** As a result, both people whose asylum claim is rejected with a final decision (normally on appeal) and people who obtained international protection are cut off from the government distribution of food and water in the Lesvos CCAC. This situation persists since at least the start of May 2023 and forces – as we have seen on many other occasions in the hotspot structures – non-profit organisations to attempt to cover for the Greek State's obligations.

On 11 October 2023, a Palestinian man from Gaza, resident of the camp died in the Lesvos CCAC of unknown causes. His death is one more death to add to the mounting [death toll of migrants](#) who have lost their lives in Lesvos' camps, as highlighted in the recent report "[Deadly End](#)" published by the CPT- Aegean Migrant Solidarity in September 2023.

## **1.2. Lesvos Regional Asylum Office forcing displaced Eritrean nationals to change their nationality to Ethiopian**

Since mid-September 2023, the Legal Centre Lesvos and other legal actors on the island received a number of testimonies from Eritrean clients who, during their asylum interview with the Regional Asylum Service of Lesvos, were requested to sign a document to change their nationality to Ethiopian. Those who refused to sign had their asylum interviews immediately stopped without any further possibility to express the details of their fear of persecution in their country of origin. Some of them received a rejection afterwards, others were later scheduled a new appointment for an interview, while others are still waiting for their decision.

This policy specifically affects displaced Eritrean nationals who grew up or were living in Ethiopia or do not have identification documents from either Eritrea or Ethiopia. Given that both countries are culturally and religiously connected, and that Ethiopia has been hosting displaced Eritreans for decades without providing them with identification documents, this group is arbitrarily and automatically being assessed as Ethiopian upon arrival.

Read more [here](#) about protests organised against this policy, and the Legal Centre Lesvos' work advocating for the rights of Eritrean nationals in Lesvos.



*Photo: Adults and children waiting outside of the Lesvos Regional Asylum Office (RAO) in Pagani for their asylum interviews, in close to freezing temperatures given the absence of any adequate indoor waiting area.*

### **1.3. Protests in Samos, Leros following the escalation of Israel's assault on Gaza**

In Greece, several migrant-led protests in solidarity with Palestinians were met with discriminatory repression. On 12 October, over 100 Syrians and Palestinians in Leros island were prevented from boarding a ferry for Piraeus. There was speculation that the group was attempting to join Palestine solidarity demonstrations in Athens scheduled over the following days. Security officials framed this as an attempted response to [“the call made a few days ago by the Palestinian organisation Hamas for a holy war”](#). The National Information Service (ΕΥΠ) and Anti-Terrorism unit warned of the risk of uprisings in the Aegean island camps, and the Ministry of Migration and Asylum decided to [“temporarily suspend the possibility of exit of the residents”](#). Meanwhile the Governmental Council for External Affairs and Defence (ΚΥΣΕΑ) decided to strengthen security measures in response to the risk of [“riots”](#) in the island's camps, [leading to the deployment of reinforcements of riot police](#) to various hotspot islands with camps including Kos, Leros and Samos.



*Photo: Migrants demonstrating against the Israeli assault on Gaza in Samos CCAC, 18-10-2023 (Source: [Dnews](#)).*

On 17 October, the police in Samos broke up a demonstration of around 700 people in the CCAC of Samos, who were demonstrating in solidarity with Palestinians. Five people were arrested on charges of incitement, resistance and breach of the peace. [Kathimerini](#) newspaper described the gathering as a “demonstration of support for Hamas”. A few days

later, on 20 October 2023, the exit of Arabic-speaking people from Schisto and Malakasa camps in mainland Greece was prohibited as an emergency measure, during a period in which Islamophobic attacks against Arabic-speakers increased.

The common response to all of these separate incidents shows that the discourse of state actors and mainstream media, in Greece just like in many other countries, continues to vilify protesting Palestinian migrants and their supporters, falsely portraying them as a threat to public order, and an anti-Semitic, terror-sympathising enemy within.<sup>1</sup>

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<sup>1</sup> See more, Open assembly against border violence, 'From Gaza to Lesbos', December 2023, available at: <https://borderviolencelesvos.noblogs.org/files/2023/12/From-Gaza-to-lesvos.pdf>

## 2. Overview of Legal Centre Lesvos' work to defend the rights of migrants

### 2.1. Our legal assistance work in numbers

LCL's lawyers and legal volunteers continued providing legal support to migrants throughout their asylum procedure, including through legal consultations and representation.

#### **Between October and December 2023, the Legal Centre Lesvos' lawyers represented:**

- ★ 10 individuals in the asylum procedure, including cases of family reunification;
- ★ 14 individuals on appeal of their asylum claims;
- ★ 8 detained individuals facing criminal charges or administrative detention; and
- ★ 6 cases in civil and criminal procedures in Greece.

Over the same time period, volunteer caseworkers, under the supervision of Greek attorneys, actively worked on over 227 cases. People who received legal assistance from the Legal Centre this quarter were mainly from Afghanistan (23.8%), Eritrea (23.8%), Sierra Leone (19.0%), Guinea (6.3%), Syria (3.2%), and Somalia (3.2%).

#### **Legal Centre Lesvos' legal assistance provided included :**

- ★ 506 newly arrived asylum seekers who requested legal support in order to register in Lesvos CCAC, access the asylum procedure and avoid illegal pushback to Turkey;
- ★ 114 individual legal consultations;
- ★ 61 asylum interview preparations;
- ★ 10 cases in which a legal memo was prepared;
- ★ 10 persons accompanied to the police or to other administrative services; and
- ★ 14 referrals to alternative housing services or protection services.

### 2.2. Successful appeal decision for an Haitian national

On 22 November 2023, the appeal of one of Legal Centre Lesvos' clients from Haiti was granted by the Appeals Committee and the client was granted subsidiary protection.

The Haitian man was rejected in the first instance on 22 September 2023 following his interview with the Greek Asylum Service. In the first instance rejection, the Asylum service argued that despite indiscriminate violence in the capital of Haiti, Port-au-Prince, where the



applicant was born and lived, due in part to the fact that the applicant was a healthy young man, the levels of violence were not high enough to establish that he would face real risk of serious harm if returned there within the context of Article 15(c) EU Directive 2004/83/EU and Article 14 of the Greek law 4939/2022.

This decision was issued despite the fact that organisations, such as [Human Right Watch](#), are calling on states not to deport people from Haiti back because of humanitarian and human rights crises in the country. **On 17 October 2023, the Legal Centre Lesvos' lawyers filed an appeal to challenge this decision**, demonstrating that [internal armed conflict](#) has consumed Port-au-Prince, and armed criminal gangs now control almost the entire city and are constantly expanding to other areas of the country. This [instability](#), and climate change induced insecurity throughout the country impacts the entire population - regardless of age, gender, or physical health, meaning that there is nowhere in the country that our client would be free from risk of serious harm. Thankfully, the Appeal Committee agreed, and granted our client international protection.

We welcome this decision, particularly since the European Union Agency for Asylum (EUAA) statistics show that Haitians have an extremely low rate of recognition for international protection. Despite the insecurity in Haiti, in all of Europe, only 3 percent of Haitian nationals receive international protection – demonstrating once again both the racist and discriminatory application of the Common European Asylum System.

### 2.3. Collaborations and events to advance migrants' rights

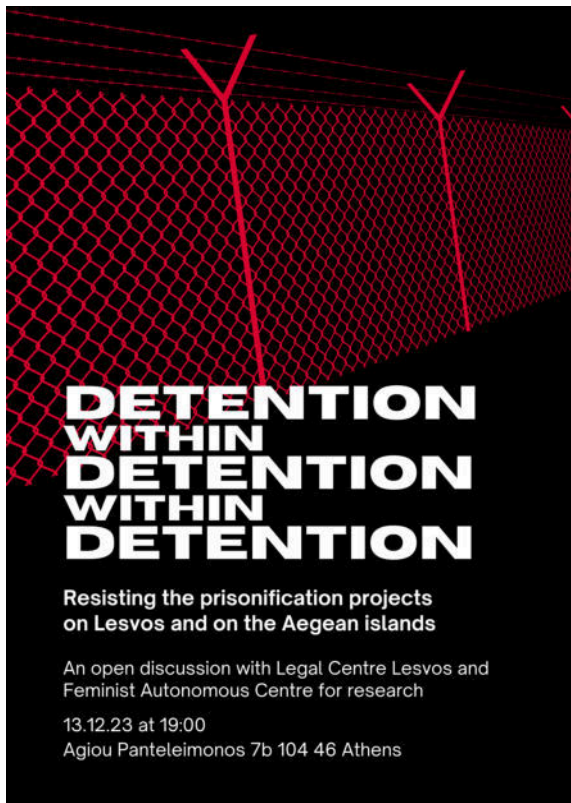
#### ★ **Crossing the Aegean Podcast** ★

Following months of delicate research and labour, [Hafiza Merkezi](#) and the Legal Centre Lesvos, in collaboration with Community Peacemaker Teams - Aegean Migrant Solidarity, have joined forces to release a joint podcast “Crossing the Aegean”, which delves into the 1923 Population Exchange between Greece and Turkey, a landmark event that occurred a century ago. The political, social, and economic shifts preceding and following the Population Exchange set the stage for the contemporary rise in xenophobic, anti-migrant, and racist sentiments. Recognised as the first internationally sanctioned forced migration process, the exchange played a pivotal role in shaping the modern concept of refugeeness. It also established exclusionary norms for managing forced migration in these two countries situated on crucial migration routes.



At a time when crossborder solidarity is needed more than ever, the podcast envisions a transnational Aegean that opposes xenophobia, racism, and anti-migrant rhetoric stemming from the concept of national borders. Crossing the Aegean is available in three languages (English, Greek and Turkish), and new episodes will be released bi-weekly on Tuesdays. and can be found on our [webpage](#), on [Spotify](#), and through the following hashtag: #HakikatAdaletHafiza.

★ **Open Discussion: Resisting the “prisonification” projects on the Aegean islands** ★



On 13 December, the Legal Centre Lesbos and the Feminist Autonomous Centre for research (FAC) organised a joint event to present some of the findings of our joint research report, **A Pandemic of Abuses**, published in August 2023 - documenting the intensification of multiple forms of detention to which migrants were exposed throughout the pandemic on Lesbos island. The evening discussion was also the occasion for an open discussion to share and discuss important updates about the current situation of people on the move in Lesbos, as well as to reflect on ways to collectively organise around the normalisation of detention imposed on migrants.

Our research report can be found [here](#).

## 2.4. Fact-finding missions, conferences and legal seminars to promote human rights

Between October and December 2023, the Legal Centre Lesbos had the opportunity to take part in several important events aimed to raise awareness and build movements to promote human rights, and specifically migrant’s rights.

- On 3-5 November 2023, the Legal Centre Lesbos team joined the **International Human Rights Academy of the Aegean (HRAA)** organised by Lawyers for Freedom (ÖHD), Izmir Solidarity and Scientific Research Association, European Association of Lawyers for Democracy and Human Rights (ELDH) and European Democratic Lawyers (AED).



Photo: LCL team members together with colleagues from ÖHD and ÇHD, at the HRAA.

- Between November 6-10, the Legal Centre Lesvos joined [ELDH's](#) lawyers in a **week-long fact-finding mission in Istanbul, Turkey**. At this occasion our lawyers visited political prisoners, accused by the Erdogan's regime of being "part of a terrorist organisation", all of which are members of the Turkish lawyers' organisation ÇHD (Progressive Lawyers of Turkey), held in Tekirday Prison, Kandira Prison and Marmara Prison (in Silivri).
- On 9 November, the Legal Centre Lesvos' lawyers also attended, as **international trial observers**, [Gülhan Kaya's trial](#) at Çağlayan court, a lawyer who was released after being detained for six months. Finally, they visited Ebru Timtuk's grave and met with colleagues of the Istanbul Bar Association, including lawyers of imprisoned Can Atalay.



Photo: ELDH Lawyers, including members of LCL in front of Çağlayan Courthouse in Istanbul.

- On 29-30 November, LCL took part in a **legal seminar on racial profiling, policing and immigration control in Brussels** organised by PICUM and Equinox. This event was also an opportunity to meet with MEPs and allies in Brussels to advocate against the criminalisation of migrants.
- On 4-5 December, LCL presented its work against border violence in the Aegean during the **Human Rights Week organised by Würzburg University**. As part of this event, **students of Würzburg University** collectively organised a fundraising campaign which gathered 1,245 € for LCL. We wish to extend our gratitude to the students and staff of Würzburg University for their generous act of solidarity!



*Photo: LCL's Presentation in Würzburg University, Germany.*

- On 7 December, LCL took part in a **workshop on "Camp Studies"** organised by the Institute for Migration Research and Intercultural Studies (IMIS) of Osnabrück University to present our latest report "A Pandemic of Abuses". The event aimed to portray forms of resistance against the detention of migrants in camps, as well as to imagine alternatives challenging the existing discourse.

### 3. Challenging border violence

#### 3.1. EU Ombudsman opens an inquiry into the Commission's administration of EU funding used in the illegal expulsion of migrants

Following a joint submission of a complaint brought by the Legal Centre Lesvos, de:borde//migration justice collective, HIAS Greece, Equal Rights Beyond Borders, and Mobile Info Team, the European Ombudsman opened an [inquiry into the administration of Greece's EU-funded border operations](#).

The complaint demonstrates that, since at least 2018, EU funds were repeatedly allocated, mismanaged and misused by Greek authorities. Additionally **it highlights how these funds are, both directly and indirectly, contributing to serious and systemic breaches of EU law at the EU's external border in Greece**. Since the Commission knew this for years and failed to take appropriate enforcement actions to restrict or suspend funding and instead continued to approve ever increasing sums of money to Greece, the complainants argue that the EU Commission is responsible for maladministration.

This latest inquiry is a much-welcomed opportunity to critically examine the Commission's role in providing material and operational support to Greece's pushback policies, with a view to its systemic reform. The European Ombudsman is the only forum before which civil society can contest the manner in which EU funding is allocated and managed. European civil society organisations do not have standing to challenge the Commission's financing decisions before the Court of Justice of the EU. **In this initial phase of the inquiry, the European Commission is required to respond to a set of questions presented to it by the Ombudsman by 15 February 2024**. Read our joint press release [here](#).



Photo Credit (below): AFP, Demonstration against pushbacks in Syntagma, Athens, 2023.

### 3.2. Justice for Barış Büyüksu

Legal Centre Lesvos and the Progressive Lawyers Association (ÇHD) took on the representation of the family of Barış Büyüksu, a Turkish citizen who was found unconscious in a life raft off the coast of Bodrum on 22 October 2022 and later died, following an apparent pushback operation by the Greek authorities.

In November 2023, [a joint press conference](#) with the family members of Büyüksu was held in Izmir Bar Association in order to inform the public about the current status of the case and the several obstacles experienced by the lawyers to locate the whereabouts of Büyüksu's case file (See photo on the cover page). This file –which includes a detailed forensic report linking Büyüksu's death to ill-treatment and torture following an investigation in Turkey– was shared by the Chief Public Prosecutor of Bodrum with the Greek authorities with an official cooperation request to shed light on the case, but remained “lost” in the bureaucratic channels of both countries.

More than a year after Büyüksu's death, and following months of unsuccessful attempts to reach various departments of the Ministry of Foreign Affairs of Greece, on 12 December 2023, [Legal Centre Lesvos finally located the missing case file of Büyüksu](#). The important support of the DEM Party MP Ömer Faruk Gergerlioğlu in Turkey to this end should be mentioned. **Our collaboration with the family of Büyüksu and ÇHD continues in pursuit of justice and we will release further updates on the progression of the case [here](#).**

### 3.3. Successful interim measures ordering Greece not to remove a group of LCL clients, newly arrived in Lesvos from Turkey

On 5 December 2023, the Legal Centre Lesvos filed an [emergency petition for interim measures to the European Court of Human Rights \(ECtHR\) under Rule 39 of the Court](#), on behalf of 21 unregistered asylum seekers recently arrived on Lesvos. The group of 21 unregistered asylum seekers, including 10 children (2 unaccompanied), had arrived in Lesvos from Türkiye on a dinghy in the early hours of 5 December 2023. The Greek authorities, including the Coast Guard, the Police, the Reception and Identification Centre of Lesvos (RIC) and the Greek asylum service – as well as UNHCR, MSF and Frontex – were informed about the group's presence on the island and about their desire to seek asylum from the early afternoon of 5 December. Nonetheless, they were left unattended, without food or water, nor medical assistance until late in the evening, despite feeling cold and dehydrated, with some of the children in the group being sick with fever and a woman suffering from pain in her kidney. The group was also at imminent risk of being unlawfully expelled from Greece, given the fact that they were not registered as asylum seekers and that **Greek authorities continue carrying out a widely documented policy of unlawful pushbacks to Türkiye, including when migrants have reached the Greek islands.**

On the same day, the ECtHR granted the petition, ordering “Greek authorities to locate the applicants, not remove them from Greece, provide them with food, water and medical care and to give them access to international protection procedures” (O.B. and Others v. Greece, Application no. 41926/23). Following this, the group was finally attended by the Greek authorities and apparently taken to the Lesvos Reception and identification Centre (RIC) around 8pm, as reported by one of the Applicants afterwards.

Similar interim measures were granted by the ECtHR in favour of Legal Centre Lesvos' clients in the past (e.g. in [October 2021](#) and in [February 2022](#)) and allowed for the individuals represented to be registered in the Lesvos RIC and apply for asylum. In other cases, however, successful interim measures did not prevent migrants from being pushed back in the Aegean Sea and at the Evros border – demonstrating, once more, the reality and gravity of the risks faced by migrants arriving in Greece, as repeatedly acknowledged by the ECtHR.

#### 4. Continued efforts to fight criminalisation of migrants

The systematic criminalisation of migrants arriving to Greece as “smugglers” continues, despite noticeable civil society and political efforts to denounce the current laws and procedures often used to cover up the state’s own violent and illegal anti-migrant policies at its borders. On 28 November 2023, the European Commission presented a Proposal for a new Directive, supposedly to counter migrant smuggling as part of a [Facilitator's Package](#) which will replace the current legal framework on facilitation of unauthorised entry, transit and residence in the EU. This new legislation will lead to the **further criminalisation and extended powers to the government to surveil people on the move and those in solidarity with them**, instead of addressing the root causes of irregular migration, namely Fortress Europe’s racist and violent border regime and exclusionary migration policies.

Legal Centre Lesvos will continue denouncing these efforts and is working in several coalitions to request the withdrawal of the new piece of EU legislation.

##### 4.1. Updates about the investigation into the Pylos shipwreck and the persecution of the Pylos 9

Following the tragic Pylos shipwreck of 14 June 2023, civil society, activists and human rights organisations, including the Legal Centre Lesvos, have repeatedly called for a transparent and independent [investigation](#) into the circumstances of the tragedy.

Several entities [have in fact initiated investigations](#) into the circumstances of the shipwreck, including the Greek Ombudsperson’s Office, which opened an investigation at its own initiative after learning that the Hellenic Coast Guard [would not carry out its own internal investigation](#). The European Ombudsperson’s Office also opened an investigation at its own initiative, [into the role of Frontex](#) in search and rescue operations in the Mediterranean.

In Greece, representatives of 40 survivors of the shipwreck [filed a criminal complaint](#) in September 2023 against responsible Greek authorities before the Naval Court of Piraeus. Additionally, in December 2023, Amnesty International and Human Rights Watch [published a report](#) documenting that the Hellenic Coast Guard’s actions and omissions contributed to the shipwreck and loss of life in the Pylos shipwreck, in which they call for additional investigation into the actual causes of the shipwreck.

In parallel, however, the prosecution of nine survivors of the shipwreck continues to progress, with limited investigation into the actual causes of the massacre. The government, as is its custom, immediately following the shipwreck, attempted to shift the blame from its own responsibility, and scapegoat nine survivors of the shipwreck: commonly known as the Pylos 9. Just days after surviving one of the deadliest shipwrecks in recent history, the nine were arrested and charged with causing the shipwreck, facilitating unauthorised entry (or smuggling), and membership in a criminal organisation. Lawyers from the Legal Centre Lesvos have [taken on representation of two of the Pylos 9](#). Despite multiple applications submitted by defence lawyers requesting that additional relevant evidence be included in the case file, the investigation phase in the persecution of the nine was [closed by the responsible judge in December 2023](#). This means that the nine could be



called to trial at any time, and before the investigations into the responsibility of the Hellenic Coast Guard and Frontex have concluded. **Read more and follow our regular updates about the case of the Pylos 9 on our [website](#).**

The Legal Centre Lesvos is also part of the [Captain Support Network](#) which launched a [campaign](#) in November 2023 to raise awareness and funds for the criminal defence of the Pylos 9. **To support, have a look [here](#).**