

Press Release

The European Court of Human Rights examines possible inhuman and degrading treatment of a gay unaccompanied minor in Greece

Athens, 11 November, 2021 - in a case recently communicated to Greece (S.I. v. Greece, App. No. 48244/20), the European Court of Human Rights is examining whether the quarantine and reception conditions imposed on a gay unaccompanied minor in Lesbos amounted to “inhuman and degrading treatment” (Article 3 of the European Convention on Human Rights “ECHR”) and whether the unaccompanied minor had at his disposal an “effective remedy” to complain about his living conditions (Article 13 of the ECHR).

The case of S.I., represented by HIAS Greece, concerns a gay man from Uganda, who was an unaccompanied minor at the time of his arrival in Greece in March 2020, and who is at a heightened risk of serious illness from Covid-19 due to his asthma.

Despite S.I. identifying himself as a minor on arrival, the Greek authorities did not inform the Prosecutor, who acts by law as the temporary guardian for unaccompanied minors, nor EKKA (National Centre of Social Solidarity - competent authority for the placement of unaccompanied minors in appropriate accommodation) about his presence. S.I. was placed in a small tent in a remote and unprotected area near the beach where he had arrived, without any prior medical screening. Additionally, he had to sleep together with 14 unrelated adults, making it impossible to practice social distancing. The area was full of snakes, and there were no sanitary facilities, running water or electricity. There was not enough food or water. The refusal by the authorities to treat S.I. as a minor, and to provide appropriate reception conditions, exposed S.I. to the risk of physical and sexual violence. S.I.'s asthma was also exacerbated by some adults smoking inside the tent in order to keep themselves warm. S.I. was isolated in such conditions for 35 days, despite the fact that there were no grounds for keeping him in quarantine for more than the 14-day period recommended by the World Health Organization.

When he was eventually transferred to Moria camp, the competent authorities (Police, FRONTEX) incorrectly registered S.I. as an adult, despite his repeated statements that he was a minor. As a result, he was not placed in an appropriate accommodation and was not assigned a guardian. Therefore, S.I. had to stay in an improvised and unsafe accommodation in the Olive Grove "jungle", next to the Moria camp where he was repeatedly assaulted. When he was finally referred for age assessment, after the intervention of his lawyer, he continued to be treated as an adult, contrary to the principle of presumption of minority. The applicant was eventually recognized as a minor in the end of June 2020.

The refusal of the authorities to provide S.I. with adequate living conditions left him exposed to repeated racist and homophobic attacks, during which he was beaten, verbally abused, and robbed of his belongings. Members of Lesbos LGBTIQ+ Refugee Solidarity, a collective in which S.I. was active, have documented how LGBTIQ+ migrants in Lesbos continue to be the targets of the same forms of homophobic and transphobic violence they have often fled. This is especially the case in the camps, where there is a total lack of privacy, exposing thus people to violence and sexual assault. Moreover, they are often excluded from solidarity networks with other migrants, and either cannot access the minimal assistance provided by official institutions or civil society in Greece or face homophobic and transphobic behaviors while making use of such support.

“We are a big community, but we are mostly invisible because we have to be, for reasons of safety and vulnerability. We experience a lot of abuse and discrimination. Once we are exposed as members of the LGBTIQ+ community we cannot continue to live inside the camp, because we are threatened and harassed, abused, and raped. We left our countries because of this. Here in Europe, where we came to live the right of our life, we see the same discrimination again. The misery is not ended. Difficulties are not removed. Europe has no solution to this. We feel the same pain, as refugees, as LGBTIQ+ people, as humans. As LGBTIQ+ refugees. We stand in solidarity with S.I. and each member of our community” – Lesbos LGBTIQ+ Refugee Solidarity.

Thus, despite being a minor who was exposed to repeated violence because of his sexual orientation and whose underlying health condition put him at an increased risk for Covid-19, S.I. had to remain in these unsafe, overcrowded, and unsanitary conditions for almost 5 months. The authorities did not take the reasonably expected steps in order to meet their obligation of taking charge and protecting the child, especially in view of his multiple vulnerabilities. S.I.'s living conditions led to his great physical, emotional and mental suffering, as a result of which he developed frequent panic attacks while his asthma deteriorated dramatically.

“Unfortunately, S.I. is one of the many cases we are aware of, where children who insist they are minors are incorrectly registered as adults and abandoned to their own devices, instead of being referred to age assessment procedures. It is shocking to see how a child who travelled all the way to Europe in search of protection eventually found himself sleeping next to snakes, was exposed to a heightened risk of COVID-19, and was repeatedly assaulted and revictimized within the very facility that is meant to receive people fleeing persecution. HIAS Greece trusts that the European Court of Human Rights will hold the Greek authorities accountable for their actions and omissions in the present case and that S.I.'s case will serve as an important precedent for the protection of unaccompanied minors and LGBTIQ+ asylum seekers in Europe” - Elli Kriona Saranti, Managing Attorney at HIAS Greece and legal representative of S.I.

Organizations:

HIAS Greece

Greek Transgender Support Association (GTSA)