

Decision No AP 36 /17-12-2021 Administrative Court of Syros

With his "Objections" the Applicant requests his de facto detention, presumed by the exit ban from the Closed Controlled Facility (CCF), to be lifted

[...]

1. The Objections under consideration have been admissibly lodged.
2. [...] According to the case file, including the certification of residence No [...] issued by the CCF of Samos, it is apparent that: the Applicant [...] following the notification of the second instance negative decision regarding his asylum application, submitted on [...] -11-2021 a subsequent application, which is still pending before the competent authority (Regional Asylum Office of Samos). Since then, the possibility to exit the CCF of Samos (Zervou) has been prohibited and the measure to remain inside the facility has been imposed, without any written decision with this context to be communicated to him. Further, in response of a relevant document of the Greek Council for Refugees (GCR) by which it has been requested by the competent Authorities to provide information with regards said measure, it is mentioned "with regards the request made by your e-mail as of 25.11.2021, we inform you that our Service applies the General Regulation with regards the Functioning of Samos CCF, pursuant to Gov. Gazette B' 3191/20-7-2020 [...] In case of legal assistance or if medical reasons exist send the relevant request for approval to the administration of CCF of Samos"
3. [...] with the Application under consideration, the Applicant requests his de facto detention to be lifted and to be allowed to exit Samos CCF. He complains that due to the exit ban by said facility, without any relevant decision, all the activities he had developed during his 2 years stay in Samos, which allow him to preserve a feeling of normal life and mental wellbeing, have been interrupted. In support of his allegation, the Applicant refers to the medical opinion [...] as of [...] -12-2021 issued by Samos Public Hospital/Samos Center for Mental Health, which found "symptoms of anxiety, including somatisation of anxiety, stemming from reported traumatic events experienced in his country of origin, and the harsh living conditions currently experienced in the RIC [reception facility]" and he was prescribed medication.
4. [...] the Court by taking into account that, first, following the conclusion of the Reception and identification procedures of international protection applicants, they move freely within the territory of the host Member State or within an area assigned to them by a regulatory Decision of the Minister for Citizen's Protection (article 45 l. 4636/2019, A' 169 and article 7 of Ministerial Decision 25/118832, B' 3191/20-7-2021) [...] secondly, their detention is only allowed on the basis of a Decision issued by the competent Police Director, as an exception and only for one of the grounds exhaustively prescribed by article 46 of said Law, a precondition which is also not met, as no decision with such content has been issued and lastly that the exit of the Applicant from Zervou Samos CCF is prohibited, finds that the Head of said CCF illegally took the measure in question (exit ban) against the Applicant.

It is for these reasons that [the Court]

- accepts the Objections
- orders the lift of the Applicant's prohibition to exit the Closed Controlled Facility of Zervou Samos