

Decision to exclude Core Civic and GEO Group

1 Introduction

KLP and the KLP Funds (KLP) have excluded the companies Core Civic and GEO Group due to documented human rights and labour rights violations at refugee reception centres in the USA. KLP has been contacted by multiple human rights organisations in connection with such allegations. Both Core Civic and GEO Group have the lowest human rights rating from MSCI Controversies, and have been given the rating 'Fail' by the UN Global Compact.

2 Background

The companies operate refugee reception centres in several US states. In the USA, refugees may be detained in such reception centres against their will, even though they have not been accused or suspected of any criminal act. Such arbitrary detention is, in and of itself, a violation of international law. The International Covenant on Civil and Political Rights ("ICCPR"), Article 9, states that:

"No one shall be subjected to arbitrary arrest or detention".¹

The term "arbitrary detention" means detention without legal cause or due process.

According to the UN Refugee Agency (UNHCR), "*asylum-seekers should not be detained*" and that "*the use of detention is, in many instances, contrary to the norms and principles of international law*".²

Furthermore, the UN Working Group on Arbitrary Detention (WGAD), which has studied the USA's practices with respect to refugees over many years, asserts that: "*Any form of administrative detention or custody in the context of migration must be applied as an exceptional measure of last resort, for the shortest period.*"³

WAGD visited several refugee reception centres in the USA in 2016 and described the conditions as degrading. The companies Core Civic and GEO Group are among the largest providers of security services to the refugee reception centres, and they have been accused of human rights abuses at the centres for which they are responsible. Human rights groups such as Human Rights First, Amnesty and Human Rights Watch are among the organisations that have documented such abuses. Much of the information has also emerged through federal hearings and court cases in the USA. There have been a number of civil suits as well as follow-up by state-level authorities, such as the Washington Attorney General, that are attempting to hold the companies accountable for the abuses. The Washington Attorney General has decided that GEO must pay the minimum wage for work performed at the

¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

² "<https://www.unhcr.org/3b66c2aa10>

³ https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/RevisedDeliberation_AdvanceEditedVersion.pdf

refugee reception centres. The work was previously paid at the rate of USD 1.00 per hour, while the minimum wage was USD 13.69 per hour.

The allegations against the companies encompass:

- Poor living conditions at the centres, including inadequate healthcare, physical assaults and the isolation of refugees.
- Multiple cases of fatally inadequate healthcare for chronically ill residents, including HIV-positive residents.
- Slave-like working conditions, where residents must work for little or no wages, while residents who refuse to work are threatened with punishment.
- Inadequate follow-up of residents with mental health issues.
- Poor routines and inadequate personal protective equipment (PPE) during the Covid-19 pandemic.
- The separation of families and restrictions on meeting family members (GEO Group only).
- Sexual abuse (GEO Group only).

In many of the cases, the facilities are described as chronically understaffed, with employees lacking the competences needed to provide the proper care to residents. The cases span the period 2011 to 2022.

3 Information from the companies

KLP has contacted both Core Civic and GEO Group. The companies were notified of KLP's guidelines and criteria with respect to human rights abuses. The companies were asked to disclose:

- What kind of training the refugee reception centre staff receive and how their conduct is evaluated.
- How possible violations of company guidelines are notified, dealt with and resolved.
- How the companies ensure that the minimum wage is paid and good working conditions maintained across their operations and facilities.

Core Civic and GEO Group have replied to KLP's queries. The companies refer to their ESG reports for the last few years, particularly the sections covering whistleblowing routines, training and voluntary work programmes for residents. The descriptions contained in the reports are thorough and show that the companies have, at least at the policy level, an adequate focus on the problematic issues. The companies consider that they operate all their facilities in a responsible manner and that the accusations against them should be seen in light of an agenda to change the USA's prison/refugee reception system. Core Civic also refers to its responses to the allegations on its website. The responses follow the same pattern. The accusations are labelled untrue and baseless, and the actors making them described as politically motivated.

The companies have responded to some of the human rights organisations' allegations. Core Civic rejects the allegations and claims that since it is a service provider for the US Immigration and Customs Enforcement (ICE) agency, it has a duty to comply with the guidelines for detaining refugees. The company also claims that the reports coming out are false and that such conditions would have been revealed in audit reports if they had been true. GEO Group says that it has worked for the authorities and therefore should have immunity on those grounds. This statement referred to the separation of families.

4 KLP's assessment

Both Core Civic and GEO Group operate reception centres which, in and of themselves, constitute a violation of international law provisions concerning arbitrary detention. Statements by the UNHCR and WAGD leave little room to doubt that the practice of detaining refugees without legal cause and without their rights being safeguarded is highly censurable. In addition, the allegations against the companies are of a serious nature. They span a long period of time and are documented in reports by human rights organisations and litigation in the courts. In many cases, the residents themselves are the source of the information that has come to light.

In KLP's assessment, there is a considerable risk that the human rights abuses will continue. The companies show little understanding of the allegations levelled against them and have repeatedly denied that censurable conditions exist in their operations. The companies have responded to KLP's queries and can document that policies relating to working conditions, discrimination, healthcare and staff training are in place. However, they can show scant evidence that these policies are actually enforced. At the same time, the companies vehemently reject the existence of any censurable conditions, preferring instead to attack those making the allegations. If the allegations against the companies had come solely from civil litigation, this attitude could have sown doubt about the actual state of affairs. However, when censurable conditions are also uncovered by UN working groups and state authorities, claims that every single allegation has been fabricated or incorrectly presented have little credibility. This dismissive attitude undermines confidence in the companies' ability to change their practices and improve the conditions in question over time. As such, there is a risk of future norm violations.

5 Conclusion

KLP and the KLP Funds are excluding Core Civic and GEO Group from investment due to violations of fundamental human and labour rights.