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COMMISSAIRE AUX DROITS DE L'HOMME



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## REPORT

**by Thomas Hammarberg**  
**Commissioner for Human Rights of the Council of Europe**

Following his visit to Greece  
on 8-10 December 2008

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Issue reviewed:  
Human rights of asylum seekers

## **Executive Summary**

Commissioner Thomas Hammarberg and his delegation visited Greece from 8 to 10 December 2008. In the course of this visit the Commissioner held discussions with state authorities and non-governmental, national and international organisations on certain human rights issues, including refugee protection. The Commissioner also visited the Feres border guard station, the Kyprinos (Fylakio) holding facility for irregular migrants and a mined area in the Evros department. Among the state authorities that were contacted was the Minister of Interior Prof. Pavlopoulos.

In the present Report, following an overview of the main features of the Greek asylum system, the Commissioner focuses on the following major issues relating to the protection of the human rights of asylum seekers:

**I. Asylum seekers' entry and access to the asylum procedure, especially in the Evros department:** Whilst the Commissioner commends the latest legislation aimed at providing a comprehensive protection regime for asylum seekers, he notes the persistence of grave, systemic deficiencies in the Greek asylum practice that put at risk the fundamental right to seek and to enjoy asylum and call for the establishment of a coherent and adequately resourced action plan on refugee protection. The Commissioner calls upon the authorities to effectively incorporate in asylum practice international and Council of Europe standards on foreign nationals' detention and forced return and to revisit the existing readmission agreement with Turkey in order to fully align it with the Council of Europe human rights standards.

**II. Reception capacity for refugee applicants (including minors):** The Commissioner notes with concern the existing insufficient reception capacity for asylum seekers, a fact that harshens even further their lives, especially those of children, be they accompanied or not. The Commissioner's special attention and concern focus on the cases of unaccompanied migrant (asylum seeking) minors and the persistence of serious deficiencies particularly in the practice relating to their guardianship. The Commissioner recalls and the Greek authorities are called upon to implement the European standards regarding refugee reception and protection of unaccompanied migrant minors.

**III. Centralisation of the asylum procedure and human resources involved in the processing of asylum applications:** The Commissioner notes with serious concern the centralisation of the asylum procedure in Athens where almost the totality of the asylum applications are received and processed. This situation has led recently to the suspension of the reception of asylum applications. The Commissioner welcomes the Minister of Interior's acknowledgment of the urgent need for creating more asylum processing centres and calls on the authorities to promptly decentralize the asylum system and appoint sufficient and fully qualified personnel.

**IV. Interpretation and legal aid for asylum seekers:** The Commissioner takes note with grave concern of the chronic problem of lack of sufficient interpretation in the Greek asylum system and of the non-availability of state legal aid in the first stages of the asylum procedure. The Commissioner recalls the Council of Europe human rights standards and recommends that asylum seekers be properly informed on existing remedies against detention measures and on legal aid while qualified interpreters and translators should be available in all major entry areas and asylum offices. Special attention should also be paid by the authorities to the reinforcement of the initial and on-going training of all asylum officers, police and border guard staff members.

**V. Independence of second instance in the asylum procedure:** The Commissioner notes that the composition and operation of the Appeal Committee, acting as second instance in the asylum procedure, raise serious concerns as to the independence that should characterize any adjudicating organ bound to offer an effective remedy under Council of Europe human rights standards. The authorities are urged to review promptly the Asylum Committee's composition and

create internal regulations in order to align its operation with the requirements of European human rights law.

**VI. Reasoning in first and second instance asylum decisions:** The Commissioner notes with serious concern evidence showing the lack of proper reasoning in first and second instance asylum decisions. The Commissioner believes that the adoption of the measures that are proposed above for the improvement of the asylum system in Greece would benefit greatly also the quality of the decision making both in first instance and on appeal.

**VII. The protection of migrants' physical security in the mined areas of Evros:** The Commissioner remains deeply concerned at the existence of mined areas in the Evros department, one of the major areas of entry of irregular migrants including asylum seekers, and at the significant number of foreign nationals who have lost their lives or limbs on the minefields. The Commissioner recalls Greece's obligation under the Ottawa Convention to complete the clearance of the mined areas and to effectively protect migrants' physical security, in line with Article 2 of the European Convention on Human Rights. The authorities' attention is drawn in particular to the need to provide promptly and generously assistance to all mine victims, especially migrants, in accordance with the international human rights standards.

The Greek authorities' comments are appended to the present Report.

## Introduction

1. The present Report follows a visit to Greece by the Commissioner for Human Rights (the Commissioner) from 8 to 10 December 2008,<sup>1</sup> during which he held constructive consultations with a number of state authorities, including the Minister of Interior, Prof. Prokopis Pavlopoulos and the Minister of State for Public Order Mr Panagiotis Hinofotis, as well as with representatives of non-governmental, national and international organisations. Before Athens, the Commissioner visited Alexandroupolis (Evros department, north-eastern Greece), the Feres border guard station, where irregular migrants subject to deportation are detained, the mined area at Kastanies and the Kyprinos (Fylakio) holding facility for irregular migrants.
2. The Commissioner sincerely wishes to thank the Greek authorities in Strasbourg, the Evros department and Athens for the assistance which they provided in facilitating the independent and effective conduct of his visit. The visit to the Evros department, which borders Bulgaria and Turkey and is one of the major areas of entry into Greece of irregular migrants, including asylum seekers, and the discussions that the Commissioner held there with state authorities and migrants in detention have been particularly appreciated by the Commissioner.
3. Greece, one of the oldest member states of the Council of Europe, has ratified and is bound by the vast majority of the major international and European human rights instruments, including the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The Commissioner noted with satisfaction the clear determination that was expressed both by Minister Pavlopoulos and by Secretary of State Hinofotis for improving the immigration and asylum regimes in Greece, in full compliance with the Council of Europe human rights standards. The Commissioner wishes also to note and welcome the Greek authorities' openness to dialogue and their readiness to receive and implement his recommendations.
4. In his capacity as an independent and impartial institution of the Council of Europe, the Commissioner wishes to continue his sincere and constructive dialogue with the Greek

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<sup>1</sup> During his visit the Commissioner was accompanied by his Advisors Mr Nikolaos Sitaropoulos and Ms Silvia Grundmann.

authorities and to assist them in their efforts to ameliorate the existing refugee protection framework, in line with Council of Europe human rights standards.

5. The Commissioner is deeply interested in the protection of the human rights of migrants (asylum seekers, refugees and immigrants) in general. Whilst mindful of the member states' prerogatives in shaping migration policies, he considers that the treatment afforded by member states to foreigners wishing to enter Europe, and in particular to asylum seekers in need of international protection, constitutes a litmus test for states' effective observance and respect of fundamental human rights principles.
6. The present Report concentrates on asylum seekers, the most vulnerable group of migrants. After an overview of the main features of the Greek asylum system (section II), the Commissioner focuses on the following major issues pertaining to the protection of the human rights of asylum seekers: their entry and access to the asylum procedure, especially in the Evros department (section III); reception capacity for refugee applicants (including minors) (section IV); centralization of the asylum procedure and human resources involved in the processing of asylum applications (section V); interpretation and legal aid for asylum seekers (section VI); independence of second instance in the asylum procedure (section VII); reasoning in first and second instance asylum decisions (section VIII) and the protection of migrants' physical security in the mined areas of Evros (section IX), followed by the Commissioner's conclusions and recommendations (section X).

#### **I. Main features of the Greek asylum system**

7. The Commissioner has been following developments relating to migration, and especially asylum, in Greece, one of the '44 industrialised countries' registering the highest numbers of asylum claims: In the first half of 2008 it ranked seventh, with a percentage of 6.2%, following the United States, Canada, France, the United Kingdom, Sweden and Germany.<sup>2</sup> From 2004 to date there has been a sharp increase of asylum applications in Greece: 2004: 4 469, 2005: 9 050, 2006: 12 267, 2007: 25 113.<sup>3</sup> It is also noted that during these years there has been a high increase of irregular migration into Greece. The numbers of irregular entrants arrested are: 2004: 44 987, 2005: 66 351, 2006: 95 239, 2007: 112 364. In the first semester of 2008 the relevant number was 57 623.<sup>4</sup> Minister Pavlopoulos noted during his discussion with the Commissioner that irregular migrants' entries in 2008 were expected to reach the number of approximately 150 000 by the end of the year.
8. In the first half of 2008 10 164 applications for asylum were registered.<sup>5</sup> The top eight countries of asylum seekers' origin from January to June 2008 were Pakistan, Iraq, Afghanistan, Bangladesh, Syria, Iran, Nigeria and Georgia (in the second quarter of 2008).<sup>6</sup>
9. The Commissioner has noted with interest that in 2007 and 2008 there have been certain positive developments in Greek refugee legislation: In November 2007 Presidential Decree 220 transposed Directive 2003/9/EC concerning the reception of asylum seekers. In July 2008 Presidential Decrees 90 and 96 amended Presidential Decree 61/1999 (the major piece of legislation regulating until then asylum procedures) and transposed respectively

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<sup>2</sup> See UNHCR, *Asylum Levels and Trends in Industrialized Countries, First Half 2008*, 17/10/2008, pp. 4-6, available at: [www.unhcr.org](http://www.unhcr.org).

<sup>3</sup> *Statistical information on asylum in Greece (1997-2007)*, provided by UNHCR.

<sup>4</sup> Information note (based on Ministry of Interior data) provided on 10/12/2008 by the UNHCR Office in Greece.

<sup>5</sup> See UNHCR, *Asylum Levels and Trends in Industrialized Countries, First Half 2008*, 17/10/2008, Table 13, p. 23, available at: [www.unhcr.org](http://www.unhcr.org)

<sup>6</sup> *Ibid.* Tables 10, 11, pp. 19-20.

Directive 2005/85/EC concerning the asylum procedures and Directive 2004/83 concerning the qualification of refugee or subsidiary protection.

10. However, the Commissioner regrets to express his serious concern at the lack of evidence indicating any positive developments in the practice relating to refugee protection. The refugee status recognition rate in Greece in 2007, similarly to 2006, was 0.04% at first instance and 2.05% on appeal. In a meeting with the Commissioner, Ministry of Interior authorities noted that in the first eight months of 2008 the refugee status recognition rate was 0.03% at first instance while on appeal this rose to 11.3%. In April 2008 the United Nations High Commissioner for Refugees (UNHCR) commented that '[c]ompared to other EU Member States with similar numbers of asylum applications, recognition rates [in Greece] remain disturbingly low'. In three other European countries (the United Kingdom, Sweden and Germany) with similar numbers of asylum applicants the first instance and appeal rates in 2007 ranged from 14% to 94%.<sup>7</sup> Of particular serious concern to the Commissioner has been the fact that in 2007 the first instance recognition rate for Iraqi refugee applicants in Greece was zero while in seven other western European countries these rates ranged from 1.4% (in Sweden) to 63.4% (in Germany).<sup>8</sup>
11. The Commissioner has taken note in particular of the Position of UNHCR dated 15 April 2008 which stressed the persistence in Greece of structural shortcomings in the asylum procedure as a result of which 'asylum seekers continue to remain effectively in limbo, unable to exercise their rights, for prolonged periods of time'.<sup>9</sup> In this Position UNHCR advised EU states 'to refrain from returning asylum-seekers to Greece under the 'Dublin Regulation' (EC Council Regulation N° 343/2003) until further notice'.<sup>10</sup>
12. The Commissioner is aware that certain European states have halted transfers of asylum seekers to Greece through the 'Dublin Regulation'. For example, in April 2008, the Giessen Administrative Court in Germany ruled that an Afghan asylum seeking family should not be transferred from Germany to Greece for at least six months on the ground that the family would be at risk of facing an unfair asylum procedure in Greece, not respecting international human rights and European standards. The court reportedly ruled that it could not be guaranteed that the family would receive adequate housing in Greece and they would also face the risk of being detained.<sup>11</sup> Norway has also suspended all returns to Greece; Finland has done the same with regard to vulnerable groups, such as families with children, and Sweden with regard to disabled asylum seekers.<sup>12</sup>

## II. Asylum seekers' entry and access to the asylum procedure, especially in the Evros department

13. During his visit to Greece the Commissioner was informed of a number of serious concerns expressed in 2008 by, among others, the Greek National Commission for Human Rights, the Greek Ombudsman and the UNHCR Office in Greece with regard to the entry and access of asylum seekers to the asylum procedure in Greece:<sup>13</sup> the existence of complaints

<sup>7</sup> UNHCR, *UNHCR Position on the Return of Asylum-Seekers to Greece under the « Dublin Regulation »*, 15/04/2008, p. 5, available at: [www.unhcr.org/country/grc.html](http://www.unhcr.org/country/grc.html).

<sup>8</sup> UNHCR, *2007 Global Trends*, June 2008, p. 17, available at: [www.unhcr.org](http://www.unhcr.org).

<sup>9</sup> UNHCR, *UNHCR Position on the Return of Asylum-Seekers to Greece under the « Dublin Regulation »*, 15/04/2008, p. 7, available at: [www.unhcr.org/country/grc.html](http://www.unhcr.org/country/grc.html).

<sup>10</sup> *Ibid.* p. 9.

<sup>11</sup> European Council on Refugees and Exiles, ECRAN electronic weekly update, 12/05/2008. Two more similar decisions by administrative courts in Schleswig and Karlsruhe have been reported, information note by UNHCR, Strasbourg, received on 06/11/2008.

<sup>12</sup> Information note by UNHCR, Strasbourg, received on 06/11/2008.

<sup>13</sup> See Greek National Commission for Human Rights, *Comments on the Asylum Procedure and Issues relating to Relevant Legislation*, Athens, 17/01/2008, in Greek, available at: [www.nchr.gr](http://www.nchr.gr). See also Greek

concerning 'instances of informal refoulement at entry points in Evros and in the northern Aegean Sea and rejection by the police authorities of asylum applications'; delays in receiving asylum applications at entry points by authorities that claim to apply the 2001 Readmission Protocol between Greece and Turkey (Law 3030/2002);<sup>14</sup> refugee applicants being routinely detained in detention centres for three months (the maximum period provided for by Greek law for irregular entrants subject to deportation).

14. During the meeting with the Commissioner, the authorities in Evros department informed him that as at 1 December 2008 there were 449 irregular migrants detained by the police in six different places of detention in that department.<sup>15</sup> The five most common nationalities were: Iraq (215), Afghanistan (62), Georgia (49), Pakistan (37) and Palestine (27). On 9 December 2008, date of the Commissioner's visit, at the two separate warehouse-type detention rooms of the Feres border guard station, which dates from 2000, there were 45 young, male, irregular migrants in detention, most of them Iraqis. On the doors of the detention rooms a two-page 'information bulletin' was taped in various languages informing the detainees, inter alia, that they were subject to deportation and that during their detention they had the right 'to engage, at [their] own expense, a lawyer of [their] choice...to receive his/her visits and to consult him/her'. A leaflet entitled 'Basic information for asylum seekers' in five languages (English, French, Turkish, Iranian and Arabic) was noticed by the Commissioner at a table at the entrance to the detention centre, outside of the detention rooms. The Commissioner noted with concern that there was no telephone available inside the detention area at Feres, while inmates complained that they hardly ever left their detention rooms. They were in fact crammed in the rooms, sleeping and stepping upon mattresses that had been placed on the floor and on a cement platform, one next to the other. In the bathrooms the conditions were squalid. Some detainees had obvious skin rashes on their arms and one with bare feet complained that the authorities did not provide him with shoes and clean clothes.<sup>16</sup> The authorities did not inform the Commissioner of the existence of any refugee applicant either at the Feres station or at the Kyprinos (Fylakio) special ('model') holding facility for irregular migrants, which was established in April 2007 with a capacity of 374 inmates. On 9 December 2008 the police authorities informed the Commissioner that at Kyprinos (Fylakio) there were 320 inmates in seven detention rooms, the majority of them being of Iraqi and Afghan nationalities.<sup>17</sup>
15. The Commissioner is aware that the Greek Deputy Ombudsman had earlier identified a 'serious deficiency' in the provision of proper asylum-related information to detained aliens, potential asylum seekers, in areas visited by members of his Office in the Evros and Rodopi departments (north-eastern Greece). In one aliens' detention centre (Vena) the Deputy Ombudsman characteristically identified a 'serious ignorance of asylum legislation' by the

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Deputy Ombudsman, *Reports of Visits in situ in the Departments of Evros and Rodopi*, 29-31/05/2007, 25-30/06/2007, in Greek, available at: [www.synigoros.gr](http://www.synigoros.gr), UNHCR Office in Greece, *Suggestions and Points raised by UNHCR Office in Greece regarding Key Protection Issues*, 08/05/2008.

<sup>14</sup> According to the Greek Minister of Interior this Protocol has not been applied in a satisfactory manner: from July 2002 until June 2008 there had been 3,131 readmission requests from Greece to Turkey concerning 41,290 persons; Only 2,093 were readmitted, Minister of Interior, *Information note on the surveillance of the external EU borders and control of irregular migration*, 10/06/2008, in Greek, available at: [www.ypes-dt.gr](http://www.ypes-dt.gr).

<sup>15</sup> These places of detention are five border guard stations (Feres, Soufli, Orestiada, Didymoticho, Metaxades) and the 'Model centre for holding irregular migrants' at Kyprinos (Fylakio).

<sup>16</sup> The European Committee for the Prevention of Torture (CPT) visited the Feres board guard station during its 'ad hoc visit' in September 2008 and its Report is forthcoming.

<sup>17</sup> CPT visited the Kyprinos (Fylakio) facility during another 'ad hoc visit' in February 2007 and commented as follows: 'The four [warehouse-type] rooms are packed with bunk-beds and, at full capacity, each detainee would only have about 2 m<sup>2</sup> of personal space. As the rooms all have open metal grilles leading onto the corridor, there is no privacy. Moreover, there are no association rooms for activities. To sum up, the design is not appropriate for the needs', Report by CPT to the Government of Greece, 08/02/2008, paragraph 27, available at: [www.cpt.coe.int/en](http://www.cpt.coe.int/en).

police staff members in charge of that centre. Also, in all cases examined it became clear that access to judicial protection was dependent on the existence in Greece of an acquaintance of the alien detainees.<sup>18</sup>

16. The Commissioner is also particularly concerned by reports by specialist NGOs of instances of 'secret detention by the Greek authorities of refugees who have entered Greece via its [Evros department] land border, without official registration of these individuals'. A particularly disturbing case has been reported concerning the expulsion in March 2007 from Greece to Turkey through the Evros river of an Iranian irregular entrant who attempted to reach her refugee husband in Greece with her 6-year old child who suffered from heart problems. Reportedly she was later recognized as a refugee by UNHCR in Turkey and subsequently family reunification occurred in Greece.<sup>19</sup> During the Commissioner's discussions with alien detainees at the Feres border guard station on 9 December 2008 one of them reported that of the group of 65 persons who were arrested in 2008, having crossed the Evros river, 50 of them were 'immediately deported'. In this context, it is noted that Greece has not as yet acceded to the 1963 Protocol No 4 to the European Convention on Human Rights which, inter alia, proscribes the collective expulsion of aliens, while Turkey still adheres to the geographical limitation of the 1951 UN Refugee Convention, thus excluding from refugee status persons coming from outside of Europe.<sup>20</sup>

### III. Reception capacity for refugee applicants (including minors)

17. As of May 2008 there were seven established and fully functioning reception centres for asylum seekers in Greece with a total capacity of 630 persons. They are located in various areas in Greece, two are in Athens (including one for 20 unaccompanied asylum seeking minors), one in Lavrio (Attica, the oldest and largest, with a capacity of 320 persons), one in Thessaloniki, one on Crete (for 25 unaccompanied asylum seeking minors), one in Makrinitza, Pelion (for 30 unaccompanied asylum seeking minors) and one in Sperhiada (Fthiotida department, mainland Greece). All of them are managed by non-governmental organizations or a municipality and financially supported by the state.<sup>21</sup> In July 2008 a new reception centre for unaccompanied migrant minors was opened in Ayasos, on the island of Lesbos, funded by the Ministry of Health, with a reported capacity of 80 persons, its operation supported mainly by NGOs and volunteers.<sup>22</sup>
18. Given the fact that yearly asylum applications between 2004 and 2007 ranged from 4 469 to 25 113, the above reception capacity is considered as far from satisfactory. The

<sup>18</sup> Greek Deputy Ombudsman, *Reports of Visits in situ in the Departments of Evros and Rodopi*, 29-31/05/2007, 25-30/06/2007, in Greek, available at: [www.synigoros.gr](http://www.synigoros.gr). NGOs that met the Commissioner during his visit indicated that the material conditions of detention in the centre at Vena are considered as 'the worst' in Greece.

<sup>19</sup> Förderverein PRO ASYL, Stiftung PRO ASYL, Group of Lawyers for the Rights of Refugees and Migrants, Athens, *'The Truth may be Bitter, but it Must be Told' – The Situation of Refugees in the Aegean and the Practices of the Greek Coast Guard, October 2007, Frankfurt/Main, pp. 17-18*, available at: [www.proasyl.de](http://www.proasyl.de). Similar very serious concerns have been expressed and documented in Amnesty International, *Report 2008*, entry: Greece, available at: [www.amnesty.org](http://www.amnesty.org) and in Human Rights Watch, *Stuck in a Revolving Door – Iraqis and other Asylum Seekers and Migrants at the Greece/Turkey Entrance to the European Union*, November 2008, available at: [www.hrw.org](http://www.hrw.org).

<sup>20</sup> UNHCR, under its Statute, provides 'mandate refugee status' to persons in need of international protection who find themselves in Turkey.

<sup>21</sup> UNHCR Office in Greece, information note on reception structures for alien asylum seekers in Greece, May 2008. There was also reported the existence of a reception centre for 10 unaccompanied minors in Athens, run by a minors' welfare association and another one for 10 refugees in need of psychiatric treatment, run by the Greek Council for Refugees, idem.

<sup>22</sup> UNHCR, Office in Greece, press release of 11/07/2008, available at: [www.unhcr.gr](http://www.unhcr.gr).

Commissioner regrets to note that such a serious deficiency in the asylum seekers' reception capacity harshens even further the lives of thousands of asylum seekers and their families, children in particular, and raises serious issues with regard to the protection of, inter alia, their right to social and medical assistance and their right to benefit from social welfare services, as provided for notably by the European Social Charter which has been ratified by Greece, as well as by the 'Refugee Reception Directive' (2003/9/EC, transposed by Presidential Decree 220/2007).

19. During his visit to Greece, the Commissioner's attention was drawn by almost all of his interlocutors to the alarming situation of the illegal settlement of migrants, the majority reportedly of Iraqi and Afghan nationality, including asylum seekers and minors, that has existed at the port town of Patra (north-western Peloponnese) for approximately ten years. According to the UNHCR Office in Greece, an estimated 3 000 persons now live there in conditions that have been described by that Office as 'unacceptable from the points of view of living and hygiene standards'. The Minister of Interior Prof. Pavlopoulos conceded that the situation was serious and informed the Commissioner that efforts are made by state authorities for providing the migrants of the settlement with basic welfare and medical services. The Commissioner has been also informed of a plan to create an irregular migrants' detention centre of 1 000 persons capacity at Drepano-Rio, near Patra.
20. The Commissioner has been especially concerned by reports issued by, among others, UNHCR showing grave deficiencies in the Greek asylum regime concerning protection of unaccompanied (asylum seeking) minors. In April 2008 the UNHCR Office in Greece issued a study on unaccompanied asylum seeking children where it was stressed, inter alia, that the statistics on unaccompanied minors 'provided by the available official data [are] incomplete...and inadequate (the study established calculation mistakes and errors in recording the age of the minor and/or the fact that the minor is not accompanied)', noting that 'it is intolerable that the authorities ignore the actual number of unaccompanied minors in the country'. In the same study UNHCR mentioned that 'the Greek authorities maintain the practice to issue [sic] deportation orders for minors arrested for illegal entry into the country' and submitted a number of recommendations for improving the quality of protection services available to these minors.<sup>23</sup> During his visit to Greece the Commissioner was also informed by the Greek Council for Refugees of a disturbing case of a 15-year-old Afghan boy who in September 2008 was reportedly arrested in Greece, immediately deported back to Turkey and subsequently to his home country.
21. Of particular concern to the Commissioner have been the serious deficiencies still existing in the practice relating to the guardianship of unaccompanied asylum seeking minors. According to Article 19, paragraph 1, of Directive 2003/9/EC (transposed in Greece by Presidential Decree 220/2007) states should take measures to ensure as soon as possible the necessary representation of unaccompanied minors by legal guardianship or, where necessary, representation by a competent organization. Special protection measures for unaccompanied alien children, including those seeking asylum, are also provided for by the 2005 Council of Europe Convention on Action against Trafficking in Human Beings (signed by Greece on 17 November 2005 but not as yet ratified) and the UN Convention on the Rights of the Child (especially Article 22), which was ratified by Greece on 11 May 1993. UNHCR has expressed serious concerns notably at 'the fact that [Greek] Prosecutors General, despite being designated by law as the temporary guardians of asylum-seeking minors, have rarely intervened in respect of issues linked to welfare or reception arrangements'.<sup>24</sup>

<sup>23</sup> UNHCR Office in Greece, *Unaccompanied Minors Asylum Seekers in Greece*, April 2008, passim, esp. pp. 97-106, available at: [www.unhcr.gr](http://www.unhcr.gr).

<sup>24</sup> UNHCR, *UNHCR Position on the Return of Asylum-Seekers to Greece under the « Dublin Regulation »*, 15/04/2008, p. 8, available at: [www.unhcr.org/country/grc.html](http://www.unhcr.org/country/grc.html); see also UNHCR Office in Greece, *Unaccompanied Minors Asylum Seekers in Greece*, April 2008, pp. 50-57, available at: [www.unhcr.gr](http://www.unhcr.gr).



#### IV. Centralisation of the asylum procedure and human resources involved in the processing of asylum applications

22. The Commissioner has been informed that the Central Police Asylum Department at Petrou Ralli Street, Athens in 2008 had only 11 qualified Asylum Officers, even though the above Department receives in fact 94% of all asylum applications lodged in Greece.<sup>25</sup> It has also been reported that even the small number of asylum applications received in Thessaloniki are forwarded to Athens for examination.<sup>26</sup> In this context, the Commissioner was disturbed by the serious public disorder that was created on 26 October 2008, widely reported subsequently in the press, in front of the premises of the above Asylum Department where approximately 3 000 aliens were reportedly queuing in order to submit an asylum application. The public disorder led to police intervention, the death of one and the injury of a number of other asylum seekers. During his visit the Commissioner was informed by the Group of Lawyers for Migrants and Refugees that at weekends asylum seekers continue to queue up *en masse* in front of the above Asylum Department waiting for a 'ticket' for an appointment in order to lodge an asylum application. It was also reported that on occasion policemen arbitrarily provide 'tickets' to certain persons who are in the queues.
23. In 2007 asylum applications pending at first instance were 7 150 and on appeal 19 015.<sup>27</sup> By September 2008 the respective numbers were 5 713 and 26 115.<sup>28</sup> The serious, aforementioned increase in 2008 of asylum applications (reportedly made also by migrants as a means to prolong their residence in the country) led the Ministry of Interior's General Secretariat of Public Order<sup>29</sup> to suspend the reception of asylum applications at the end of September 2008. The Greek Deputy Ombudsman has made known to the Ministry of Interior his position that the suspension of reception of asylum applications at the above central Asylum Department is 'problematic' from a legal point of view.<sup>30</sup>
24. The Minister of Interior acknowledged the urgent need for creating more asylum processing centres and informed the Commissioner during their discussion on 10 December 2008 that two more centres were scheduled to be established soon. The Commissioner welcomes this information and calls upon the Greek authorities to proceed urgently to the creation of new asylum processing centres, in and out of the capital, that should be accompanied by the appointment of sufficient and fully qualified personnel.

#### V. Interpretation and legal aid for asylum seekers

25. The Commissioner has noted with grave concern that the problem of lack of sufficient interpretation has been a chronic problem in the Greek asylum system. Already in 2001 the Greek National Commission for Human Rights publicly stressed that the lack of official, state interpreters in the asylum procedures has been a fact that 'violates the elementary procedural principles of the rule of law and fundamental principles of international human rights law'. The National Commission had also recommended to the Greek state to

<sup>25</sup> UNHCR, *UNHCR Position on the Return of Asylum-Seekers to Greece under the « Dublin Regulation »*, 15/04/2008, p. 4 fn. 10; UNHCR, Office in Greece, Briefing Note, June 2007, p. 7.

<sup>26</sup> Greek Deputy Ombudsman, letter to the Ministry of Interior concerning the suspension of reception of asylum applications at the Asylum Department of Attica Aliens' Directorate, 27/10/2008, in Greek, available at: [www.synigoros.gr](http://www.synigoros.gr).

<sup>27</sup> *Statistical information on asylum in Greece (1997-2007)*, provided by UNHCR Office in Greece.

<sup>28</sup> Asylum statistics of the Greek police concerning the first 8 months of 2008, available at: [www.astynomia.gr](http://www.astynomia.gr).

<sup>29</sup> Therein there is an Asylum Department, part of the Aliens' Directorate. In 2007 the Ministry of Public Order merged into the Ministry of Interior.

<sup>30</sup> Greek Deputy Ombudsman, letter to the Ministry of Interior concerning the suspension of reception of asylum applications at the Asylum Department of Attica Aliens' Directorate, 27/10/2008, in Greek, available at: [www.synigoros.gr](http://www.synigoros.gr).

introduce by law legal aid to asylum seekers for all stages of the asylum procedure<sup>31</sup>. In its Position of April 2008, mentioned earlier, UNHCR recalled that '[d]ue to a lack of interpretation and legal services, asylum-seekers are often interviewed in a language they do not understand and without being counseled on their rights during the asylum process'.<sup>32</sup>

26. The first legal aid statute (Law 3226) in Greece was introduced in 2004. It is noteworthy that in two earlier cases the European Court of Human Rights had found Greece to be in breach of the right to a fair trial because the applicant aliens did not have access to legal aid in order to appeal to the Greek Supreme Court (Areios Pagos) in the context of criminal proceedings in which they had been involved.<sup>33</sup> Legal aid under the above-mentioned Law has been provided for low income persons only with regard to civil and criminal cases. Administrative law proceedings had not been covered even though the Greek Supreme Administrative Court (Council of State) has recognized the right of a lawyer's assistance for persons without means in proceedings before it.<sup>34</sup> The Commissioner notes with regret that Article 11 of the Presidential Decree 90/2008 that transposed Directive 2005/85/EC provides that asylum seekers have the right to consult a legal or other counsel 'at their own expense'. It provides for legal aid only for the judicial review cases brought before the Council of State, the last domestic judicial instance in Greek refugee law.

## VI. Independence of second instance in the asylum procedure

27. First instance decisions taken by the Asylum Department of the Greek Police Aliens Directorate (part of the Ministry of Interior) may be appealed before an 'Appeal Committee', as provided for by Presidential Decree 90/2008 of 11 July 2008<sup>35</sup>. This Committee is established by a decision of the Minister of Interior and is based in the Ministry of Interior (General Secretariat of Public Order). It consists of six members: a State Legal Counsel serving in the General Secretariat of Public Order of the Ministry of Interior (acting as President), a Legal Counsel of the Foreign Minister, an officer of the Foreign Ministry diplomatic corps, a representative of the above-mentioned first decision-making authority, a representative of UNHCR and a representative of the Athens Bar.
28. The positive novelty introduced by the above-mentioned Presidential Decree is that the Appeal Committee has now a decision-making power, while its predecessor, the 'Consultative Asylum Committee', had a purely consultative competence. Nonetheless, the Commissioner was informed during his visit and is particularly concerned that no internal regulations have been in place to govern in detail the operation of the Appeal Committee. In addition, the Commissioner notes that the composition and the general legal framework regarding the establishment and operation of the Appeal Committee raise serious concerns as to the independence that should characterize any adjudicating organ ('court or tribunal') bound to offer an 'effective remedy', as provided for by Article 39 of the Directive 2005/85/EC which the above Presidential Decree aims to transpose.
29. According to the European Court of Human Rights the independence of a 'tribunal' may be judged by three basic criteria: a) the manner of appointment of its members and their term of office, b) the existence of safeguards against outside pressures and c) whether it presents an appearance of independence.<sup>36</sup> The Commissioner notes with particular

<sup>31</sup> Greek National Commission for Human Rights, 'Proposals for the promotion of a modern, efficient framework of refugee protection in Greece', *Report 2001*, Athens, National Printing Office, 2002, pp. 125, 128, in Greek, available at: [www.nchr.gr](http://www.nchr.gr).

<sup>32</sup> UNHCR, *UNHCR Position on the Return of Asylum-Seekers to Greece under the « Dublin Regulation »*, 15/04/2008, p.3, available at: [www.unhcr.org/country/grc.html](http://www.unhcr.org/country/grc.html).

<sup>33</sup> *Twalib v Greece*, judgment of 09/06/1998, *Biba v Greece*, judgment of 26/09/2000.

<sup>34</sup> Judgments 515/2000 and 521/2000.

<sup>35</sup> Currently there are three 'Appeal Committees'.

<sup>36</sup> See, inter alia, *Çiraklar v Turkey*, judgment of 28/10/1998, paragraph 38.

concern that the Appeal Committee may not be considered as independent under any of the above basic criteria. Similarly to the previous Council of Europe Commissioner for Human Rights.<sup>37</sup> UNHCR in 2008 also recommended to the Greek authorities to 'review the composition of the Asylum Committee to ensure its independence from the first instance'.<sup>38</sup>

30. The Commissioner is aware that the final remedy available to asylum seekers is the 'application for annulment' before the Council of State which is competent for judicial review of administrative decisions. Certainly the Council of State as the Supreme Administrative Court offers safeguards of independence and impartiality as an *ultimum remedium* in the asylum process. However, given the well-known, chronic problem of excessively lengthy proceedings in Greek administrative courts, especially in the Council of State,<sup>39</sup> it is impossible to consider this remedy as effective in the context of refugee protection which by definition requires prompt decision-making by all competent authorities.

## VII. Reasoning in first and second instance asylum decisions

31. The Commissioner has noted with serious concern that according to a UNHCR study published in November 2007, none of 305 first instance decisions reviewed in their research 'contained any reference to the facts and none contained any detailed legal reasoning', using instead a standard phrase. According to the same study, '[n]ot only was it impossible to deduce the interpretation of the law applied by the [then] Ministry of Public Order from these first instance decisions, but it was impossible to deduce from the decisions alone whether the law was applied at all'.<sup>40</sup>
32. The above study revealed a similar situation with regard to the 45 second instance case files that were reviewed and contained a recommendation adopted through majority voting by the former 'Consultative Asylum Committee'. UNHCR has noted in this respect that '[g]enerally, there was no further information relating to the facts or legal reasoning, and there were no recorded minutes of the hearing. This is in breach of the Greek Code of Administrative Procedure and the Council of State case-law which requires a full recorded evaluation of the appellant's case, and recorded minutes of the hearing before the Consultative Asylum Committee. Only 12 of the 45 second instance case files reviewed contained a brief analysis of the Committee's legal reasoning'.<sup>41</sup>

## VIII. The protection of migrants' physical security in the mined areas of Evros

33. The Commissioner is deeply concerned at the existence of mined areas, since 1974, in the Evros department, even though Greece has been bound, as from 1 March 2004, by the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction ('Ottawa Convention').<sup>42</sup> The Commissioner was informed during his visit that mined areas have already been cleared in certain regions, including Evros, in accordance with Greece's undertakings under the Ottawa Convention.

<sup>37</sup> *Follow-Up Report on the Hellenic Republic (2002-2005)*, 29/03/2006, paragraphs 81 and 82.

<sup>38</sup> UNHCR, *UNHCR Position on the Return of Asylum-Seekers to Greece under the « Dublin Regulation »*, 15/04/2008, p.7, available at: [www.unhcr.org/country/grc.html](http://www.unhcr.org/country/grc.html).

<sup>39</sup> See Council of Europe Committee of Ministers Interim Resolution CM/ResDH(2007)74 *on excessively lengthy proceedings in Greek administrative courts and the lack of an effective domestic remedy*, 06/06/2007, available at: [www.coe.int/t/cm](http://www.coe.int/t/cm).

<sup>40</sup> UNHCR, *Asylum in the European Union – A Study of the Implementation of the Qualification Directive*, November 2007, pp.31-32, available at: [www.unhcr.gr](http://www.unhcr.gr).

<sup>41</sup> *Ibid.* p. 33.

<sup>42</sup> Greece ratified the Ottawa Convention in 2002 by Law 2999 and deposited the ratification with the United Nations on 25/09/2003 jointly with Turkey.

Under this Convention, Greece is bound to destroy all anti-personnel mines until 1 March 2014.

34. Reports have indicated that as at 2007 104 irregular migrants had been killed and another 187 severely injured in border minefields since 1995, while in early 2008 there were 'five registered amputee mine survivors' in the country, all of them being foreign nationals.<sup>43</sup> In September 2008 four more irregular migrants were reportedly killed in the mined area near the village of Kastanies (Evros department), on the Greek-Turkish border (opposite Edirne). From the remains of two of the victims it was suggested that they were Georgian nationals.<sup>44</sup> The Commissioner visited the mined area in Kastanies on 9 December 2008, having been kindly received and guided by Colonel Tomkos of the 32<sup>nd</sup> Mechanised Brigade 'Rimini'. The Commissioner was informed that the Georgian migrants had crossed during the night the barbed-wire fence of a height of approximately 1.60 metres, rather assuming that they were crossing the Turkish-Greek border which is guarded by military forces on both sides and is not in fact divided by fences.<sup>45</sup> On the fence of the mined area, where the latest fatal accident took place and seen unchanged by the Commissioner, there were triangle-shaped red signals indicating the existence of mines in Greek and English. The Commissioner also noticed the existence of a red, rectangular signal on the fence in Arabic. The Greek military authorities informed the Commissioner that the clearance of all anti-personnel mines in the area, under the Ottawa Convention, was expected to be concluded by the end of 2009.
35. The avoidable human tragedies in mined areas should cease. The Commissioner wishes to stress that, under Article 2 of the European Convention on Human Rights, Greece is bound to take positive measures for the effective protection of 'everyone's right to life'. This includes measures to prevent the avoidable losses of life.<sup>46</sup> Migrants who try to enter the country in an irregular manner are also fully protected by the above fundamental provision of the European Convention.
36. Finally, according to the Ottawa Convention, Greece is under an obligation to provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programmes. The Commissioner has noted with satisfaction that in 2006 and early 2007 the Greek authorities assured support for the rehabilitation of mine survivors, all of them migrants.<sup>47</sup> However, reports have indicated that in the past migrants who were maimed by mine explosions in the Evros department have not been able to receive appropriate aid in the country,<sup>48</sup> while in 2008 inter-ministerial coordination, in this area where speedy victim assistance is required, had not progressed as initially planned.<sup>49</sup>

## IX. Conclusions and Recommendations

37. The Commissioner is fully cognizant of the serious, mixed migration (immigrants and asylum seekers) flow pressures that have been exerted on Greece, similarly to other

<sup>43</sup> *Landmine Monitor Report 2008*, entry on Greece, available at: [www.icbl.org/lm](http://www.icbl.org/lm).

<sup>44</sup> Reuters, press release of 29/09/2008, available at: [www.reuters.com](http://www.reuters.com). The victims' nationality was confirmed by the Greek military authorities whom the Commissioner met during his visit.

<sup>45</sup> The length of the Greco-Turkish border in Evros is approximately 210 kms; approximately 12 kms are on land while the rest are on the Evros river.

<sup>46</sup> See e.g. European Court of Human Rights, judgments in the cases of *Osman v United Kingdom*, judgment of 28/10/1998, *Öneryildiz v Turkey*, GC judgment of 30/11/2004.

<sup>47</sup> *Landmine Monitor Report 2007*, entry on Greece, available at: [www.icbl.org/lm](http://www.icbl.org/lm).

<sup>48</sup> *Landmine Monitor Report 2005*, entry on Greece, available at: [www.icbl.org/lm](http://www.icbl.org/lm); Swissinfo.ch, press release of 07/11/2008, available at: [www.swissinfo.ch](http://www.swissinfo.ch), where it is reported the case of a Moroccan asylum seeker who lost both his legs and the use of one arm in Evros in 2002 without receiving aid in Greece.

<sup>49</sup> *Landmine Monitor Report 2008*, entry on Greece, available at: [www.icbl.org/lm](http://www.icbl.org/lm).

Mediterranean Council of Europe Member States, for many years. The serious increase of irregular migration into Greece that occurred particularly in the last four years has further strained this country's resources.

38. The Commissioner considers that other Council of Europe member states and European intergovernmental organizations, especially the European Union, should urgently consider the possibility of increasing their assistance to Greece in order for her to reduce pressure and elaborate and implement an efficient immigration and asylum system. Nonetheless, the complex, international phenomenon of migration should be dealt with by Greece and all other Council of Europe member states concerned in a manner which is not only efficient but also effectively respects the Council of Europe human rights standards.
39. The Commissioner has noted Greece's interest in hosting the FRONTEX 'Regional Centre for the Eastern Mediterranean' in order to 'facilitate more effective control of the EU's external borders'.<sup>50</sup> The Commissioner, while recognising states' sovereign right and interest in controlling their borders, wishes to underline that migration control mechanisms aimed at preventing migrants' irregular entry into Europe may not be considered on their own as effective.
40. The Commissioner strongly feels that Council of Europe member states should undertake further, strenuous efforts in order to view and tackle migration as a complex, transborder social issue. Migration requires comprehensive, long-term and sustainable, national and inter-state action plans in which host, transit and origin states should form partnerships and establish systematic consultations, having as their priority the effective protection of the human rights of the people who feel themselves obliged to migrate for a better life. Also a priority should be the creation by host states of clear immigration mechanisms and procedures which can respond to labour demands through regular migration channels.<sup>51</sup> This may also contribute to the alleviation of the asylum system which currently seems to be overburdened by asylum applications reportedly lodged by migrants as a means for prolonging their residence in the host state.
41. The Commissioner wishes to underline that he remains extremely concerned at the persistence of grave, systemic deficiencies in the Greek asylum practice, despite the series of wide-ranging recommendations that have been made in the past by the previous Council of Europe Commissioner for Human Rights<sup>52</sup> and a number of other competent national and international organizations, such as the Greek National Commission for Human Rights, the Greek Ombudsman and UNHCR. These serious deficiencies seem to have seriously corroded, in practice, the right to seek and to enjoy asylum, one of the fundamental rights enshrined 60 years ago in Article 14 of the Universal Declaration of Human Rights.
42. The Commissioner urges the Greek authorities to proceed urgently, in collaboration with competent national and international organizations, to a serious overhaul of the needs and prospects of the national asylum system in order for it to attain a quality level that would effectively safeguard the human rights of all persons in need of international protection.
43. The Commissioner recommends, in particular, the prompt creation and application by the Greek authorities of a coherent, comprehensive and adequately resourced action plan on asylum, preferably in the context of a national human rights action plan, aimed principally at reinforcing and ameliorating the existing infrastructures and resources relating to asylum

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<sup>50</sup> Greek Ministry of Foreign Affairs, press release of 31/10/2008, available at: [www.mfa.gr](http://www.mfa.gr).

<sup>51</sup> See Viewpoint by Council of Europe Commissioner for Human Rights, 'It is wrong to criminalize migration', 29/09/2008, available at: [www.coe.int/t/commissioner](http://www.coe.int/t/commissioner).

<sup>52</sup> Council of Europe Commissioner for Human Rights, *Report on his Visit to Greece, 2-5 June 2002*, 17/07/2002, section IV.C and *Follow-Up Report on the Hellenic Republic (2002-2005)*, 29/03/2006, section 4, paragraph 73 ff.

seekers' reception and to the asylum claim examination procedures on first instance and on appeal. The national refugee protection action plan should be monitored and evaluated regularly by the competent authorities; feedback from competent national and international organizations would be beneficial. In this context, the creation of an Asylum Directorate (in lieu of the current Asylum Department) and of regional, sufficiently staffed asylum offices would be particularly advisable, in order to improve the quality of the asylum procedures.

44. The Commissioner commends the latest legislative developments in 2007 and 2008 aimed at providing a comprehensive protection regime for asylum seekers in Greece. Indeed the new refugee legislation seems able to offer, in principle, better protection to persons in need thereof. Nonetheless, it is beyond doubt that the grave deficiencies that are still in place are alarming, raise very serious issues of human rights protection, thus necessitating urgent, concerted and sustained action by the competent domestic authorities.
45. In particular, in view of the fact that asylum seekers are occasionally detained with other irregular migrants who are not in need of international protection, the Commissioner stresses that the international refugee law principle of *non-detention of asylum seekers* should be firmly established in domestic law and strictly applied. Their detention may occur only exceptionally, for the shortest possible time and only for the following purposes: (a) to verify the identity of the refugees;(b) to determine the elements on which the claim to refugee status is based, which, in the absence of detention, could not be obtained (c) to deal with cases where refugees have destroyed their travel and/or identity documents or have used fraudulent documents to mislead the authorities of the country of refuge; (d) to protect national security or public order.<sup>53</sup>
46. The authorities' special attention is drawn also to the standards concerning detention of foreign nationals established by the European Committee for the Prevention of Torture (CPT)<sup>54</sup> as well as to its recommendations to the Greek authorities with a view to improving the conditions of detention particularly in police and border guard stations as well as in holding facilities for aliens.<sup>55</sup> In any event, the Commissioner wishes to stress that detention of migrants in squalid, degrading conditions like the ones he observed at the Feres border guard station should cease immediately and not reoccur.
47. Alternatives to detention measures should be expressly provided for in the law and effectively applied in practice. Relevant reports and guidelines by UNHCR and specialist NGOs may be helpful in this respect.<sup>56</sup>
48. In cases where asylum seekers remain in detention they should always be informed promptly, in a language they understand, of the reasons of their arrest and detention, in conformity with Article 5, paragraph 2, of the European Convention on Human Rights.<sup>57</sup>

<sup>53</sup> See also the Commissioner's Viewpoint, *States should not impose penalties on arriving asylum-seekers*, 17/03/2008, [www.coe.int/t/commissioner/Viewpoints/080317\\_en.asp](http://www.coe.int/t/commissioner/Viewpoints/080317_en.asp), Council of Europe Committee of Ministers Recommendation Rec(2003)5 *on measures of detention of asylum seekers*, 16/04/2003, available at: [www.coe.int/t/cm](http://www.coe.int/t/cm).

<sup>54</sup> CPT, *The CPT Standards*, CPT/Inf/E (2002) 1 - Rev. 2006, esp. pp. 39-43, available at: [www.cpt.coe.int/en/documents/eng-standards.doc](http://www.cpt.coe.int/en/documents/eng-standards.doc)

<sup>55</sup> See latest Report by CPT to the Government of Greece, 08/02/2008, pp. 14-20, available at: [www.cpt.coe.int/en](http://www.cpt.coe.int/en). See also relevant judgments against Greece by the European Court of Human Rights in the cases of *Dougoz* (06/03/2001), *Peers* (19/04/2001) and *Kaja* (27/07/2006), available at: [www.echr.coe.int](http://www.echr.coe.int) and Council of Europe Committee of Ministers' Interim Resolution ResDH(2005)21, available at: [www.coe.int/t/cm](http://www.coe.int/t/cm).

<sup>56</sup> See UNHCR, *Alternatives to Detention of Asylum Seekers and Refugees*, April 2006, available at: [www.unhcr.org](http://www.unhcr.org), N. Chmelickova (ed), *Survey on Alternatives to Detention of Asylum Seekers in EU Member States*, 2007, available at: <http://alternatives-to-detention.org>.

49. The law should expressly proscribe the application of detention and accelerated asylum procedures to particularly vulnerable persons, such as asylum-seeking unaccompanied minors and persons with regard to whom there are reasonable grounds to believe that they are victims of torture, sexual violence or human trafficking, cases whose examination and analysis require *de facto* more time. In particular, Greece should urgently proceed to the creation of an efficient protection system of all unaccompanied migrant minors, including asylum seekers, who arrive in the country in a regular or irregular manner, in accordance with the principles established by the UN Convention on the Rights of the Child and the recommendations issued notably by UNHCR.<sup>58</sup> The Commissioner recalls the Council of Europe human rights standards and urges the Greek authorities to adopt immediately measures for the effective protection of all migrants, including asylum seekers and in particular unaccompanied minors, who find themselves for a long period in unacceptable, squalid conditions in the settlement of the port of Patra.
50. In this regard, the Commissioner recalls the Council of Europe Committee of Ministers' Recommendation CMRec(2007)9 *on life projects for unaccompanied migrant minors*.<sup>59</sup> According to this Recommendation, Council of Europe Member States have been encouraged to develop 'life projects' aimed at developing the capacities of minors, allowing them to acquire and strengthen the skills necessary to become independent, responsible and active in society. In order to achieve this, national life projects, fully in accordance with the best interests of the child should pursue objectives relating to the social integration of minors, personal development, cultural development, housing, health, education and vocational training, and employment.
51. Moreover, the Commissioner urges the Greek authorities to proceed, as soon as possible, to the ratification of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings (in force as from 1 February 2008), which was signed by Greece on 17 November 2005. This treaty contains significant provisions for the promotion and protection of the rights of victims of trafficking, including children, such as those regarding age disputes, protection of private life, trafficked children's access to education and their special protection in court proceedings.
52. The Commissioner notes, in particular, Article 10, paragraph 4, of the above Convention which prescribes that, as soon as an unaccompanied child is identified as a victim of trafficking, States parties should: a) provide for representation of the child by a legal guardian, organization or authority which shall act in the best interests of that child; b) take the necessary steps to establish the child's identity and nationality; c) make every effort to locate the child's family when this is in the best interests of the child.
53. As regards in particular the Readmission Protocol (Law 3030/2002) that exists between Greece and Turkey, the Commissioner calls upon the authorities of both countries to revisit promptly this agreement and introduce into it provisions that would provide clear safeguards for the effective protection of the human rights of all irregular migrants, including asylum seekers, with special attention being paid to unaccompanied minors.
54. Moreover, the Commissioner recalls that Turkey adheres still to the geographical limitation of the 1951 UN Refugee Convention, thus excluding from refugee status persons coming from outside of Europe. This fact calls for, additionally, the Greek authorities' extreme

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<sup>57</sup> See also judgment of the European Court of Human Rights in the case of *Saadi v the United Kingdom*, 29/01/2008, where a violation of Article 5, paragraph 2, was found due to a delay of 76 hours in providing reasons for detention to the applicant asylum seeker who was held at an Immigration Removal Centre.

<sup>58</sup> See also Council of Europe Parliamentary Assembly Recommendation 1596 (2003), *Situation of young migrants in Europe*, <http://assembly.coe.int>.

<sup>59</sup> Adopted on 12/07/2007, available at: [www.coe.int/t/cm](http://www.coe.int/t/cm).

cautiousness when proceeding to forced returns of irregular migrants to Turkey. In this context, the Commissioner urges also Greece to accede promptly to the 1963 Protocol No 4 to the European Convention on Human Rights that, inter alia, proscribes the collective expulsion of aliens.

55. The Commissioner is also particularly worried about the non-existence of a comprehensive legal aid scheme available to asylum seekers. Information on existing remedies against detention measures and legal aid to, detained or not, asylum seekers in need of it should be provided *ex officio*, as soon as an asylum application is lodged. Qualified interpreters and translators should also be always available in all major entry areas and in the police departments dealing with asylum applications.
56. The above measures would certainly be beneficial also to the quality of the work of the first two instances in the asylum procedure, whose efficiency should be urgently strengthened. As regards in particular the Appeal Committee, the Commissioner urges the Greek authorities to review promptly its composition and create internal regulations in order to make it an efficient, independent instance offering safeguards of an effective domestic remedy.
57. As regards asylum staff training, initial and on-going training in human rights law and standards, especially those concerning the rights of the child, should be substantially reinforced in the Ministry of Interior's curricula of all police staff dealing with children. High priority should be urgently provided to police and border guard staff members who deal with irregular migrants, including asylum seekers and unaccompanied minors, in the border areas of Greece.<sup>60</sup> The Ministry of Interior is also urged to provide for training of all staff members of NGOs who manage asylum seekers' reception centres.
58. Particularly useful would be the translation into Greek and dissemination to all competent administrative and judicial organs of the Council of Europe Committee of Ministers *Twenty Guidelines on Forced Return* (2005),<sup>61</sup> as well as Recommendation CommDH/Rec(2001)19 of the Council of Europe Commissioner for Human Rights *concerning the rights of aliens wishing to enter a Council of Europe member state and the enforcement of expulsion orders*.<sup>62</sup> These documents could be usefully included also in the above-mentioned staff training courses.
59. Finally, the Commissioner urges the Greek authorities to proceed immediately to the completion of clearance of the mined areas in the area of Evros department that have led to date to the tragic deaths and very serious injuries of a significant number of persons, most of them migrants, including asylum seekers. Until the conclusion of the mine clearance, the Greek military authorities are called upon to promptly reinforce the existing fencing system of all mined areas so that trespassing by irregular migrants is prevented. The Commissioner wishes to reiterate and emphasise that this obligation emanates not only from the Ottawa Convention, which has been ratified by Greece, but also from the fundamental provision of Article 2 of the European Convention on Human Rights where *everyone's* right to life has been enshrined and corresponds to positive obligations on the part of all states parties.
60. In addition, the Commissioner urges the Greek authorities to improve inter-ministerial coordination and provide promptly and generously assistance for the care and rehabilitation of all mine victims, in particular of migrants who are in a most vulnerable situation. In this

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<sup>60</sup> See also Council of Europe Committee of Ministers Recommendation R(98)15 *on the training of officials who first come into contact with asylum seekers, in particular at border points*, 15/12/1998, available at: [www.coe.int/t/cm](http://www.coe.int/t/cm).

<sup>61</sup> Available at: [www.coe.int/t/cm](http://www.coe.int/t/cm).

<sup>62</sup> Available at: [www.coe.int/t/commissioner](http://www.coe.int/t/commissioner).



context, the Commissioner calls upon Greece to ratify promptly the UN Convention on the Rights of Persons with Disabilities (signed on 30 March 2007) and to sign and ratify its Optional Protocol providing for the competence of the Committee on the Rights of Persons with Disabilities to receive communications from or on behalf of individuals or groups of individuals who claim to be victims of a violation by a state party of the provisions of the Convention.

## **Appendix Comments by the Greek Authorities**

### **I. INTRODUCTION**

The objective of the Greek State, according to the recent legislative framework in force (Presidential Decree 220/2007, Presidential Decree 90/2008, Presidential Decree 96/2008 and Presidential Decree 167/2008), is to ensure the unrestricted submission of an asylum request by each third country national, who declares orally or in writing before any Greek authority at the entry points or within the Greek territory, that he / she requests asylum in our country, or requests, in any way whatsoever, not to be deported to a certain country, due to a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.

The aforementioned clause is also valid for any alien who is transferred to our country under the Dublin Regulation, as long as the relevant definition of the asylum seeker in the Directive 2005/85/EC (P.D. 90/2008) is applicable. That is "a third country national or stateless person who has made an application for asylum in respect of which a final decision has not been taken yet".

### **II. MAIN CHARACTERISTICS OF THE GREEK ASYLUM SYSTEM (POINTS 7-10)**

The constant engagement of the Greek State to securing the protection of asylum seekers is demonstrated by the fact that the number of asylum applications has significantly increased during the last four years in our Country, as compared to the respective decreasing data in other countries of the European Union. The Greek State has received: 4.469 requests in 2004, 9.050 requests in 2005, 12.267 requests in 2006, 25.113 requests in 2007 and 19.884 requests in 2008.

The vast majority of applications examined are the result of abuse of the right to seek asylum, a fact proven by the content of the interviews which follow the submission of the applications. This practice is very common among aliens in order for them to prolong their stay in the Greek territory for economic reasons (especially by third country nationals from Bangladesh, Pakistan, Georgia, etc.). This fact is the reason why the asylum examination procedure takes much longer, due to the enormous amount of requests, and the constant increase of the number of persons staying irregularly in the Greek territory. In this way, third country nationals prolong their stay in our country. Despite the fact that a great effort is made to grant protection to those who are really eligible for it and the grants of asylum status have increased, the percentage of the total examined is misleadingly recorded as low, due to the massiveness of the abusive asylum requests.

Especially in 2007, it is obvious that the most of the applications for asylum were unfounded, since - besides the first degree examination- the applicants that presented themselves before the Asylum Committee (9% did not appear at all to support their application), declare that they abandoned their homeland solely for economic reasons. As a result of that, the Committee has delivered a negative opinion on the overwhelming majority of the applications (85.98%). It should be noted that the members of that Committee were, among others, representatives of the Athens Bar Association and the U.N.H.C.R.

The relevant statistical data are shown below:

YEAR	2004	2005	2006	2007	2008
APPLICATIONS	4,469	9,050	12,267	25,113	19,884
REJECTIONS	3,744	4,585	10,414	20,684	29,525
GRANTS	11	39	64	140	358
HUMANITARIAN STATUS (SUBSIDIARY PROTECTION)	43	85	129	75	55

### - POINTS 13-15

The asylum procedure, according to the provisions of P.D. 90/2008 (Asylum Procedures) and 220/2007 (Reception Conditions), initiates for every third-country national who arrives or is transferred to our country and wishes to submit an asylum application (single procedure). As long as an asylum seeker has lodged his application, he is entitled to a list of rights and obligations such as protection from deportation until the finalisation of the examination procedure, free access to labour, accommodation, public education, healthcare etc.

It is noted that when the third country nationals arrive at the Country's borders and specifically to the islands of the Aegean Sea, although they have full information and access to the asylum procedure, most of them do not submit the relevant application. However, this is mainly the result of their free will and choice and is not due to any obstruction by the Greek authorities or anyone else. This appears to be true especially in the area of wider Athens. It is estimated that their above mentioned choice is connected either to the information supplied to them by traffickers (that is to avoid the national procedure in order to maintain the right to abstain from the Dublin procedure) or, during their stay in Athens, by other members of their communities, regarding ensuring legality of residence by the asylum procedure. The two main reasons for lodging an asylum application, especially in the area of Attica, is to obtain the free access to labour market, which is the foremost concern of economic migrants, and for this reason applicants move to the mainland, or to depart for another country of the European Union. This is why they do not submit their applications for asylum at the entry points of the Greek territory.

Moreover, the asylum requests are examined on their merits and on a case by case basis, according to the national legislation on asylum procedures on first and second instance, without the submission of any evidence required, while, after the final rejective decision, the submission of subsequent application is provided for, by the law, since new evidence arises.

### III. ACCESS OF NGOs (POINT 16)

It is provided that NGOs and other organizations who specialize in migrant issues have free access in temporary detention centers, such as lawyers

from support groups for the rights of migrants and refugees, the Greek Council for Refugees, Amnesty International, the Ecumenical Refugee Program, the Social Support Network for Immigrants and Refugees, the UN High Commissioner for Refugees, the Initiative for the rights of detainees etc. Any allegations made for the return of third country nationals in Turkey through Evros river, according to complaints made by aliens, are not justified, given that such methods and procedures are not covered by the existing legal framework, laws and orders of the Hellenic Police. Any returns of illegal immigrants in Turkey, are only made on the sole basis of the Readmissions Protocol signed between the two countries (apparently this is the process according to which the recorded returns were made and the complaints were lodged without justification).

#### **- Points 17 - 18**

The Ministry of Health and Social Solidarity is the organization responsible for the material reception conditions of the asylum seekers.

The existing centers are the following:

**1. - Arsis - Social Youth Organization:** Its aim is to improve the situation and conditions of stay of unaccompanied minors and wives of asylum seekers and to provide legal aid within the asylum procedure.

a. It includes the operation of a hostel in Magnesia for unaccompanied minors who seek asylum. The benefit society Hellenic Care in Magnesia, owns a private hostel where the actions of the program are being applied. The hostel can host 30 guests.

b. It involves running a guesthouse in Oreokastro (Thessalonica), with a reception capacity of 10 persons.

**2. - Social Solidarity in Thessalonica:** It operates since 2000 as a Reception Center of asylum seekers and recognized refugees. Since 01-11-2005, it has been implementing the project «Accommodation and support of asylum seekers in the Refugee Reception Center in Northern Greece». The capacity of the Center is 70 persons and one of its target groups are unaccompanied minors and single women. Within the framework of the E.R.F. Program of 2007, the creation of an establishment for 30 persons is approved (exclusively for unaccompanied minors), and it shall soon be fully operational.

**3. - PRAKSIS:** The organization implements the program «Stegi». It constitutes a program for the reception and integration of asylum seekers, through the creation of organized and supervised housing, i.e. 7 flats of 2-3 rooms, in which newly arriving asylum seekers reside, in groups of 5-6 persons.

**4. - Lavrion Refugee Reception Center (Established in 1949):** Since 2003 the administration of the Center has been assigned to the Hellenic Red Cross. The aim of the Center is the reception and accommodation of single persons and families of asylum seekers. The capacity of the center is at 300 people.

**5. - Reception Center in Ano Kallithea Spercheiada:** The Center operates since 2000. The administration has been assigned the Hellenic Red Cross. The aim of the Center is the reception and accommodation of single women as well as, families of asylum seekers. Its capacity is 130 persons.

**6. - Unit in Anogeia Crete:** The Center operates since 2000 under the National Youth Foundation. The Center's mission focuses exclusively on the reception of unaccompanied minors seeking asylum and its capacity is 25 persons. Its main objectives are: accommodation, healthcare, creative activities (Greek language

courses, community work, painting courses, pottery, cultural courses, and financial aid).

**7. - Paidopoli in Agria Volos:** The 24 person capacity Center for unaccompanied minors has been operating since the beginning of 2008. This project has been commissioned by Contract to the Hellenic Red Cross.

**8. - Foundation «Theomitor» in Agiasos Mitilini:** The 83 person capacity Foundation operates for unaccompanied minors and it is included in the «emergency measures» of the European Refugee Fund 2008.

**9. - Doctors of the World:** The Reception Center became fully operational in October and the funding Program completes at the end of this year. It has a 60 person capacity and is co financed by the European Refugee Fund under the Annual Plan 2007.

**10. - Child Care Center in Konitsa:** The Center will host unaccompanied minors and has a 20 person capacity. It belongs to the 6th HealthCare Region and is ready to become fully operational later this year.

**11. - -Additional Reception Establishments:** Additional institutions are included in the future plans of the Division and two additional structures will become operational for asylum seekers and unaccompanied minors.

#### **IV. ILLEGAL IMMIGRATION IN PATRAS (POINTS 19 AND 49)**

A. - It is common knowledge that the phenomenon of illegal immigration in our country indicates a significant and continuous increase, despite any measures taken for its combating, and it tends to take alarming dimensions, thus constituting a significant national problem.

B. - Most aliens stay in Patras hoping to find the means to transit to the countries of Western Europe. Due to this fact, very few of them resort to the asylum procedure, in order for them to be eligible for any project of European or U.N. funding, although they were invited to do so by the State in cooperation with the cooperation of U.N.H.C.R. and other stakeholders. Besides, they admit in person that Greece is not their final destination.

C. - Moreover, most illegal immigrants originate mainly from problematic countries concerning their expulsion, thus the accomplishment of the relevant procedure is very difficult and most of the times impossible.

Specifically: These people enter our country in most cases without any travel documents or other evidence confirming their identity or country of origin or third country, making it often impossible to remove them from the country, since they themselves are not willing to cooperate with the consular authorities of their country, in order to obtain valid travel documents.

Most foreign Consular Authorities in our country do not respond in time or do not issue any travel documents for the extradition of nationals (Pakistan, India, Iraq etc.), while others require the payment of fees (Georgia, Armenia, Moldova etc.) for the issuance of such documents. It is extremely hard to identify or issue travel documents for third country nationals whose countries do not have a diplomatic representation in Greece (Afghanistan, Sudan, Mauritania, Somalia etc.).

Please note that no airline carrier accepts a passenger without travel documents.

D. - Nevertheless, we are concerned about the humanitarian aspect of the issue at local level and therefore we make every effort possible and have already activated the co - competent organizations, which are responsible for each case. To achieve this, we work with the services of other Ministries, such as the

Ministry Health and Social Solidarity, the Ministry of Mercantile Marine, The Aegean and Island Policy, the General Secretariat of Western Greece, the local authorities, the U.N.H.C.R. and NGOs.

In this framework, the selection of the site where the new Center For illegal immigrants in Patras (Area of Drepano Rio) will be constructed will constitute one step closer to a satisfactory resolution to the problem of immigrants who have irregularly entered the country and are found in the wider area.

This concludes the first phase towards the resolution of a chronic problem that has been troubling the wider region of Patras and it is a solution in full conformity with our international and European obligations as well as respects the culture and history of our country. The relevant cost, in this case too, will be taken up by the Ministry of Interior, in compliance to its commitment towards the local authorities that the Center will be situated in the outskirts of Patras or any other municipality. The main priority remains the Protection of Human Rights, in cooperation with local factors, as well as the guarantee of social peace and security for the local habitants.

Finally, the «Médecins Sans Frontières» is actively involved in supporting the ad hoc camp near the port of Patras (this is not within the competence of the Ministry of Interior / Hellenic Police Headquarters) from 12-05-2008, by providing one a doctor, one psychologist and one technician.

#### **V. SPECIAL CARE FOR UNACCOMPANIED MINORS (POINTS 20-21)**

The reception conditions of unaccompanied minors are a matter where particular attention and sensitivity are demonstrated in every case. Article 19 of the Presidential Decree 220/2007 sets the basis for the solution of a chronic problem, concerning the treatment of unaccompanied minors and in particular those who have not applied for political asylum.

More specifically, it is provided that the competent authorities take immediately all necessary measures to guarantee the legal representation of the minors. They inform the Public Prosecutor of the Juvenile Court and where there is no such Public Prosecutor, the competent Public Prosecutor of the local Court, who acts as temporary guardian and proceeds to the required actions for the appointment of guardian a for the minors.

Certainly the protection of unaccompanied minors asylum seekers is continued as before; moreover, it is provided that the competent authorities which receive and examine the asylum applications submitted by unaccompanied minors, take immediate measures as follows:

a. They ensure that the housing needs of the minor are met by accommodation close to adult relatives, foster families, Reception Centers which provide special infrastructure for minors or other accommodation establishments suitable for minors and that such an arrangement is sufficient enough to protect the child against the threat of human trafficking and exploitation.

b. They focus their efforts towards the housing of siblings under the same roof, by taking into consideration the age, maturity and the best interest of each minor.

c. They try to locate the members of the minor's family as soon as possible.

d. Any relocation of unaccompanied minors must be reduced to the minimum.

e. In the event that there is a life threatening situation or a threat against the physical safety of the minor or his close relatives, especially if they live in the country of origin, the collection, process and transmission of information concerning the above persons is made confidentially, so that their safety may not be endangered.

Furthermore, it is seen that the personnel managing unaccompanied minor cases have received the appropriate training regarding dealing with the minors' needs. This personnel has the duty of confidence when it comes to the personal data of which they are informed while exercising of their responsibilities. The procedures of examination of asylum requests and their residence in our Country are governed by the principle of the protection of the child's best interest, on the basis of the international regulations and the national legislation.

The Aliens Law has not included an individual provision for the exclusion from arrest and detention for deportation of unaccompanied minors who violate the migration legislation. Besides, the prospect of an opposite provision would increase the problem of the "children of traffic lights" and child labour in general.

Whenever it is proven that the minor is a victim of human trafficking, article 47 of the Law 3386/2005 is applicable. To this end, the appropriate guidelines have been set out by the competent Public Security Directorate / Hellenic Police Headquarters.

At the sites where illegally entered third country nationals are detained, any unaccompanied minors are separated from the rest of the detainees, until the all the Police procedures for the determination of their age, their origin, their eligibility to the asylum status and the relevant information of the judicial authorities are concluded.

Furthermore, the competent Agencies of the Ministry of Health and Social Solidarity take particular measures for securing accommodation in the special Reception Centers and the creation of a favorable and safe environment for the minors seeking political asylum for the whole duration of examination of their request.

Major importance is paid to the information of the minors concerning their rights and their requests are examined as top priority cases in the presence of an interpreter in their own language or in a language which they understand, with absolute confidence.

In addition, instructions have been given to all of our Services to facilitate the work of Agencies and NGOs which assist in the legal aid and psychosocial support of the minors.

Finally, the sensitive issue of minors and more specifically unaccompanied minors is not only a "police challenge". It is therefore dealt with in cooperation with other Services and agencies, such as the Public Prosecutor's authorities, the Ministry of Health and Social Solidarity and other competent authorities of the Ministry of Interior (besides the Police Headquarters, that is the former Ministry of Interior, Public Administration and Decentralization), the Ministry of National Education and Religious Affairs, the Ministry of Justice, several Non Governmental Organizations and other associations (To hamogelo tou paidiou, Association for missing and sexually abused children etc.).

They always remain in especially created facilities, separated from other adults, according to the special status of hospitality and protection. The Police Directorates of the Country inform the Ministry of Health and Social Solidarity

accordingly, so that the minors are transported to reception centers for unaccompanied minors (open centers), which are available. The unaccompanied minors are transferred there for their own protection from other adults and their entitlement to programs of mental support and improvement of living conditions.

Indicatively, we mention the center for the accommodation of minors in Amygdaleza of Attica, with a capacity of 40 persons (with the possibility of accommodating 14 persons more), which has been operating since 16-04-2008 and includes, apart from the lodging and personal hygiene rooms, there are special recreational sites (closed and open sports courts, library, a computer room) as well as a medical center - infirmary room. Following to the intervention of the Hellenic Police, the Ministry of Health and Social Solidarity has been asked to provide, apart from the proper equipment, for the staffing of the medical center with the necessary medical and nursing personnel (pathologists, psychiatrists), social workers and psychologists, as well as for the provision of first instance medical care, as well as psychosocial support of the underaged aliens.

When the deportation of the unaccompanied minors is unfeasible, due to the lack of airline connection with the country of origin, e.g. Afghanistan or other problems arise, e.g. Iraq etc., the unaccompanied minors are discharged with restrictive order, according to article 78 of Law 3386/2005, as soon as the competent Public Prosecutor of the Juveniles Court is informed and they are accommodated in special establishments, in cooperation with Non Governmental Organizations.

The Hellenic Police Headquarters shows particular concern regarding such cases and deals with them in priority. It makes all necessary efforts in order to ensure the special protection for the children and diminish or vanish any abuse or exploitation of minors.

#### **- POINTS 22 - 24**

The Aliens Division of Attica / Department of Political Asylum (Petrou Ralli) is the competent authority responsible for the receipt and consideration of requests for asylum, the further service of the asylum seekers throughout the examination of their request, until the finalization, and the service of recognized refugees as well as third-country nationals who remain in the Greek territory for humanitarian reasons (subsidiary status), for the region of Attica.

It was decided that the submission of all requests for asylum be made on Sunday 14-09-2008 for the purpose of security of the facilities, hygiene, health and safety of both the police personnel and the incoming foreigners during the registration of requests, since the number of incoming third country nationals was rather increased. In particular, 1.583 requests for asylum were filed and the asylum seekers were all registered and supplied with the same document setting an appointment for interview until 07-11-2008. In this way, all asylum-seekers were served and any inconvenience was eliminated for their benefit.

Yet, until 07-11-2008 the Aliens Division was understandably unable to receive and consider any additional requests for asylum, with the exception of requests coming from members of vulnerable social groups. On 26-10-2008 the Department of Political Asylum - Aliens Division of Attica, responding to protests made by the U.N.H.C.R. and several NGOs, re-established the regular process and received approximately 430 requests for asylum. From 04-11-2008 until 15-11-2008 and, in order to avoid overcrowding by a large number of



incoming asylum seekers as well as for the better service of asylum seekers nationals of countries in difficult situation, and who were being stalled, because of the great number of improper asylum requests, it was decided that all asylum requests be submitted very day per country of origin, initially on a trial basis. It should be noted that the U.N.H.C.R. was not totally opposite to this procedure. This process led to daily mass turnout of asylum seekers who reside outside Attica and were waiting for the submission of asylum claims. Since this process did not convey the expected results, since 22-11-2008 the Department of Asylum / Aliens Division of Attica resorted to only registering initial asylum applications, which were submitted every Saturday.

It should be underlined that the process of filing asylum applications was never suspended, a fact which is proven by the large number of asylum interviews given daily at the Department of the Asylum Directorate.

## **VI. INCIDENTS DURING THE REGISTRATION OF THIRD COUNTRY NATIONALS AT ATHENS ASYLUM DEPARTMENT**

Regarding any minor incidents during the registration process of the asylum seekers outside the Aliens Division of Attica, we would like to bring to your attention that they are due to the extremely increased number of incoming persons and the lack of understanding on their behalf for the difficulties that the responsible officials are facing everyday when receiving and taking interviews. In particular, the Aliens Division of Attica takes all the necessary police measures to tackle with problems, when third country nationals arrive to submit an initial request for political asylum. It is for this reason and that this division disposes police personnel in two shifts (15.00 - 23.00 and 23.00 -07.00) in order to serve incoming persons in the best way.

### **- POINTS 25-26**

Each asylum seeker is given an information leaflet explaining the asylum procedures in five (5) main languages which are usually understood by asylum seekers (Arabic, Turkish, Persian, English and French). This leaflet was issued in cooperation with the U.N.H.C.R., in the framework of the European Programme "Equal" and was distributed to all competent Police Services for the purpose of informing aliens. This leaflet is distributed along with all the information documents to each third country national who is arrested for illegal entry waiting for expulsion.

The decision related to the case of application for international protection is served in accordance with our national legislation. The third-country nationals are informed in a language they understand and they sign in the presence of an interpreter the content of the decision and their further rights to appeal, either to the Appeals Committee (independent decisive Body which has replaced the Asylum Committee, Art. 26 PD 90/2008) or the Council of State, or the right to make a subsequent application.

Furthermore, the translation of the main part the decisions in several languages of the main aliens nationalities, has been initiated.

Each alien applying for asylum may attend with his / her attorney every stage of the asylum procedure, as provided for in the provisions of our national legislation in relation to the guarantees on asylum seekers. It is noted that the illegal immigrants detention centers are often visited by representatives or

lawyers of the U.N.H.C.R. for refugees and NGOs who make a positive assessment of the efforts that are being made.

When an appeal for annulment is exercised against the second degree rejecting decision at the Council of State (highest administrative Court), the asylum seeker is provided with legal aid free of charge, in accordance with the procedure prescribed in the provisions of law 3226/2004 (A'-24), provided the appeal for annulment was not clearly inadmissible or clearly ungrounded, in the judge's estimation.

The presence of an interpreter is also provided for in the relative legislation and efforts are being made to cover the needs of interpretation aid in all Services involved, with the cooperation of NGOs.

**- POINTS 27-32**

The Appeals Committee was enacted for the examination of asylum claims on 2nd Instance. It is an independent body with decision competence. It consists of: One member from the Legal Council of State personnel, serving at the Legal Advisor's Office of the Secretariat General of Public Order of the Ministry of Interior, and who is appointed by an act of the Head of the same Office, as Chairman, and ii) one representative of the Special Legal Service of the Ministry of Foreign Affairs, iii) one representative of the Diplomatic Branch of the Ministry of Foreign Affairs, iv) one representative of the Asylum Department / Aliens Division, v) one representative of the UNHCR and vi) one representative of the Bar of Athens, as members.

The Committee invites the alien, who is informed on time and in language that he / she understands, regarding the place and date of the examination of the appeal, as well as the right to present himself with a lawyer, in order to express orally in presence of an interpreter, the arguments about the case, give clarifications or submit any additional evidence.

During the meetings of the Committee, the questions of each member and the answers of each applicant are registered in written. The fully justified decision of the Committee, which is issued by majority, is notified to the applicant shortly.

The Committee operates according to the Rules of the Administrative Procedure Code.

The applicant can submit an appeal to the Council of State, when the second instance decision is rejective.

**VII. DECENTRALIZATION OF THE ASYLUM PROCEDURE**

In the framework of amending the existing Presidential Decrees 220/2007, 90/2008 and 96/2008, the decentralization of the whole procedure is proposed with the establishment of suggestive committees regarding asylum applications in the Athens Asylum Department, the Thessalonica Asylum Department and in the rest of the Police Directorates in every Region. They will consist of one member from the Legal Council of State personnel, who is appointed by an act of the Head of the same Office, as Chairman, one representative of the local Police Directorate, who is appointed by an act of the Head of the Directorate and one representative of the U.N.H.C.R., or their legal substitutes, as members.

**VIII. THE PROTECTION OF REFUGEES' SECURITY IN THE MINE FIELDS IN THE MUNICIPALITY OF EVROS (POINTS 33-38)**

In accordance with the obligations deriving from the implementation of the "Ottawa Convention", our country has proceeded to the following:

1. - The mine fields in the region of will be cleared within a specific time period, which can not exceed 8 years.
2. - By 2011 all mine fields will have been cleared (including those located in the municipality of Evros).
3. - Since Greece has already put forth great efforts to this effect, it is foreseen that all mine fields will have been cleared within 2010.

#### **IX. DETENTION CONDITIONS AT THE BORDER GUARD DEPARTMENT IN FERRES (POINT 46)**

The great number of detained aliens results from the operations being taken place at the Special Center for illegal alien in Peplo and to recent large number of arrests.

The maximum time limit for detention is up to 3 months. Every detainee is granted with special information leaflets regarding their rights.

After the arrest, they are all examined by a doctor as precaution. This doctor visits the premises of the Department often.

#### **X. GREECE TURKEY READMISSION PROTOCOL(POINTS 52 - 54)**

This Protocol was signed on 08-11-2001 in the framework of Police Cooperation. It was ratified by Law 3030/2002. From the data listed below, it results that the Turkish side does not fulfill its obligations. Especially:

Until today 3.936 requests were submitted regarding the readmission of 56.730 illegal immigrants of various nationalities. The Turkish Authorities accepted the return of 7.442 aliens, from whom only 2.170 were transferred.

Unfortunately, the Turkish side neither complies with the obligations deriving from the Protocol nor cooperates in readmission issues.

Specifically: Their answers are usually rejective, despite the submission of strong evidence (i.e. arrest of Turkish smugglers, passport Visas, Turkish currency and transportation tickets, photographs in Turkish sites etc.).

They choose to reply a long after the deadlines without any justification, the deny receiving illegal aliens, when these persons state on purpose different nationality, with obvious scope the annulment of the readmission.

**None of the asylum applicants are removed from our country, unless the relevant procedure is finalized, according to article 33, par. 1 of the Geneva Convention, article 3 of the E.H.R.C. and other international legal instruments. Additionally, after the finalization of the asylum procedure, no alien is transferred to an third country, where it is presumed that their lives or liberties are endangered (nor refoulement clause).**

#### **XI. CONCLUSIONS**

The Police Authorities, entrusted with the aforementioned competences, paying particular attention to the "right to asylum" and the clause of "non-refoulement", do not proceed to the removal of third country nationals from our country, if the below procedures have not been completed :

The screening of all cases, in order to verify the real causes for which they have left their country and examine the possibility of some of them

pursuing protection through the grant of asylum. Priority is always given to the cases of minors and people belonging to vulnerable groups such as the elderly, those suffering from health conditions and women.

Providing information to third country nationals on their rights, especially on the right to interpretation services, the right to communicate with a lawyer and to receive legal services, the right to communicate with international organizations, such as the U.N.H.C.R. or other Non Governmental Organizations.

However, it is, indeed, a fact that a great number of third country nationals of unknown nationality enter illegally and massively the Country, bearing no travel or other documents proving their identity and country of origin and seek asylum. It has been noted that more often than not, as it is later confirmed, many of them give false identity and nationality details, invoking the nationality of a country suffering from civil conflicts or authoritative regimes, aiming at favorable treatment by the Greek authorities.

In these cases and exactly for these reasons (unknown identity, nationality and thus intentions for entering irregularly the Country) give rise to questions of public order and security and until all claims have been examined in detail, our services are justified first to arrest and then to put under detention of these third country nationals, abiding to the provisions for administrative deportation decision included in the migration legislation (Law 3386/2005).

However, in any case, according to our national legislation, the detention of third country nationals and asylum seekers (originally arrested for irregular entry), in application of Administrative deportation decision, is subject both to judicial (Court of First Instance) and administrative (Ministry of Interior) review, so that the possibility of the detainees to be discharged is secured, when it is formally deemed that there are no grounds for detention. No asylum seeker is removed from the Country if the claim examination procedure has not been completed in application of article 33 par. 1 of the Convention of Geneva, article 3 of the European Convention on Human Rights and other International Conventions.

## **XII. MEASURES FOR IMPROVING THE CURRENT PRACTICES**

- The Community Directives on Reception Conditions, the procedures for granting the international protection status and the minimum requirements for recognizing and revoking the refugee status have been incorporated into the national legislation.
- The Asylum Services have been upgraded by the establishment of independent asylum services for jurisdiction of the Directorates of third-country nationals of Attica and Thessaloniki and their infrastructures have been improved.
- The Refugees Committee was enacted for the examination of asylum claims at 2<sup>nd</sup> instance. It is an independent body with decision competences.
- The persons involved in the asylum procedure receive training through seminars and education programs co-financed by the EU, with the cooperation of the UNHCR and Non Governmental Organizations, addressed both at the Asylum Service of Attica and at the Services in other parts of the country.
- A fully computerized application has been created, offering national coverage, to record the claim progress..

- A Documentation Office was established to collect information about the situation in the asylum seekers' countries of origin and it is located at the Asylum Department of the Directorate of third-country nationals at the Hellenic Police Headquarters. The aforementioned information is being recorded on a Hellenic Police website (INTRANET) to which only authorized personnel has access.
- An updated informative leaflet has been published in more than 70.000 copies about the asylum procedures in the five (5) most frequently used languages of asylum seekers (namely Arabian, Turkish, Persian, English and French), with the cooperation of UNHCR within the framework of the EU programme "Equal". This leaflet has been distributed to all competent Police services to the interests of third country nationals. The aforesaid leaflet is distributed along with all other information forms to all third country nationals arrested to be deported.
- An informal ad hoc team has been established and operates towards the solution of problems which arise in relation to asylum. In this team participate also, representatives of the UNHCR.
- We have initiated the procedure of issuing new traveler documents for those bearing the refugee status according to the 1951 Convention of Geneva for the stateless persons according to the 1954 Convention, and in harmonization with the EU Law, for those entitled to subsidiary protection (humanitarian status).