

**HELLENIC REPUBLIC**  
**GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS**

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<p><b>Proposals for the Reception of Asylum Seekers and their Access to Asylum Procedures in Greece</b></p>
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The National Commission for Human Rights (NCHR) in its proposals of 8 June 2001 and 20 September 2001 on the protection of refugees and asylum-seekers in Greece drew attention to a series of issues which the Greek State should regulate in order to restructure and modernise the legal and practical framework of protection of refugees and asylum-seekers.<sup>1</sup> In the above proposals, the NCHR gave particular emphasis, *inter alia*, to the serious problems which exist in connection with the reception of asylum-seekers in Greece, the briefing of asylum-seekers in connection with the Greek asylum procedure, access of asylum-seekers to the asylum procedure, the lack of trained state interpreters, etc. Non-governmental organisations and those for the protection of refugees or human rights generally come up against the above particularly serious issues on a day-to-day basis. Certain specific issues relating to the reception and access of asylum-seekers to the asylum procedure were put afresh before Sub-Commission C of the NCHR by a representative of the High Commission of the United Nations for Refugees and representatives of the Ombudsman, at a session of Sub-Commission C of the NCHR on 21 March 2002.

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<sup>1</sup> See the relevant proposals in the Annual Report of the NCHR 2001, Athens 2002, pp. 119-130 and 169-177. See also Greek Ombudsman, *Έκθεση αποψίας στα κρατητήρια της αστυνομικής διεύθυνσης Χίου την 6-7-2001* [Report on an in situ inspection at the detention centre of the Chios police directorate on 6 July 2001], 29.10.2001, Ref. No. 7099/01/2.2, and *Έκθεση αποψίας στους χώρους κράτησης οικονομικών μεταναστών στην Κω (6-7/9/2001)* [Report on an in situ inspection of the premises for detention of economic immigrants and refugees on Cos (6-7/9/2001)], 12.11.2001, Ref. No. 12280/01/2.2] ([www.synigoros.gr](http://www.synigoros.gr)).

The Greek Council for Refugees (GCR) informed Sub-Commission C of the NCHR that in early February 2002, organs of the Ministry of Public Order (MPO) prevented a legal representative of the GCR and a Cos lawyer working with the GCR from coming into contact with a group of 14 Afghans in detention who had entered illegally and landed on the island of Cos. These individuals were in the end refouled to Turkey by organs of the MPO on Cos. The GCR representative also drew attention at the meeting of Sub-Commission C on 21 March 2002 to the fact that after 11 September 2001 there were two more instances of prevention by organs of the MPO of access of members of the legal service of the GCR to aliens who had arrived en masse at Igoumenitsa and on Samos.

Related issues of access of asylum-seekers to the asylum procedure were also raised by the Ombudsman in its recent findings after the visit of its associates to Cos.<sup>2</sup> At the meeting of Sub-Commission C of the NCHR on 21 March 2002, there was agreement between the representatives present of the refugees' protection organisations and the Ombudsman that in practice, the inability of the MPO to ensure the necessary transparency of approach of alien asylum-seekers to the relevant procedure is apparent, and that frequently in practice individuals of specific age-groups (such as young men) are refouled from border areas, while children and women are detained. It was also noted that sometimes 'applications' for asylum by aliens who do not wish to seek asylum are drawn up by organs of the MPO.

The NCHR, in its Decision of 31 January 2002, expressed its concern over the "conditions of refoulement [of aliens illegally entering the country] ... [which] give rise to disquiet as to the guarantee of the safety and respect for the human rights of all the persons who seek to enter this country, including illegal immigrants." Similar serious concern over the refoulement by the Greek authorities of asylum-seekers has been repeatedly expressed publicly by international non-governmental

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<sup>2</sup> Greek Ombudsman, *op. cit.*

organisations such as Amnesty International and the World Organization against Torture (OMCT).<sup>3</sup>

Also noted as a problem in this connection at the above meeting of Sub-Commission C of the NCHR was the lack of an adequate infrastructure for the reception and provisional stay of alien asylum-seekers, particularly in cases of mass arrivals. Those attending the above meeting stressed that there should be without fail at all reception centres basic services for the provision of medical and social care, under the constant supervision of the State. The Ministry of Health and Welfare recently began, in collaboration with the Centre for the Control of Special Infections (CCSI), to provide medical services in this connection in cases of arrivals of aliens in border areas. As to the premises for the detention of aliens / asylum-seekers entering illegally, the MPO, given the inadequacy and unsuitability of the cells at police stations, has stressed the need for the activation of Article 48 of Law 2910/2001, which transposes the responsibility for places of detention for aliens to undergo administrative expulsion on to the Regions.

In this instance, it should be made clear that in accordance with Article 44, para. 3 and Article 48, para. 1 of Law 2910/2001, as amended by Law 3013/2002, an alien facing administrative expulsion may be held, for a period which may not exceed three months, with the local police authority only if he/she "from the general circumstances, is judged to be in danger of escaping or a danger to public order". Until the procedure of expulsion is completed, the alien "may remain on special premises" for detention, which Article 48, para. 1 of Law 2910/2001 foresees will be set up by a decision of the General Secretariat of the Region. These special premises will function on the responsibility of the Region but will be guarded by the Hellenic Police (Article 48, para. 2 of Law 2910/2001).

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<sup>3</sup> See Amnesty International, *Greece: 55 Iraqi Kurds and Afghans - Other foreign nationals denied the opportunity to apply for asylum*, AI Index: EUR 25/011/2001, 07.12.2001 and 25/12/2001, 11.12.2001; World Organisation against Torture (OMCT), Press Release, *Illegal deportation of asylum seekers from Greece to Turkey and fear of further deportation to Iraq*, 11.12.2001. See also Amnesty International, *Greece: Fear for safety / fear of forcible return / fear of torture or ill-treatment - Greece Omer Berber, Mehmet Genn*, AI Index: EUR 25/10/2002, 15.04.2002.

On 2 May 2002, the NCHR received a written denunciation from nine Greek lawyers whose chief addressee was the European Committee for the Prevention of Torture,<sup>4</sup> according to which, 128 alien asylum-seekers, including eight women and ten children below the age of ten, were held at Karystos, Evvia, from 25 February 2002. Their conditions of detention were described by the lawyers as "inhuman and degrading treatment", given that they were held in an old warehouse of the Agricultural Bank of Greece measuring approximately 150 sq. metres, without absolutely any hygiene or water supply infrastructure suitable for the housing of human beings. According to the same report, many of the detainees were suffering from infectious diseases.

Finally, on 15 May 2002, the NCHR received from the Greek Council for Refugees a communication dated 10 April 2002<sup>5</sup> in connection with the case of eight citizens of Somalia, asylum-seekers in detention until 14 May 2002 on Cos, and subsequently to be expelled after their transfer to Athens. The GCR, in the same communication, expressed fears over the expulsion or refoulement of the above asylum-seekers and stressed that "the investigatory procedure [on Cos] by the competent police authorities as to the reasons why they had left was defective, because of the large number of cases and a shortage of staff".

II. Sub-Commission C of the NCHR was informed by its communication of 13 May 2002<sup>6</sup> by the Ministry of Public Order that it works directly with the Ministry of Health and Welfare for the provision of accommodation and the satisfaction of the other needs at the reception centres which operate, "which, because of the large number of asylum-seekers, are not sufficient, so that the detention premises of the police stations have been converted in many instances into reception centres, with all the consequences of that".<sup>7</sup> In the same communication, the MPO stressed that "provided that the alien presents him/herself to the

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<sup>4</sup> NCHR Ref. No.: 113/02.05.02.

<sup>5</sup> NCHR Ref. No.: 116/15.05.02.

<sup>6</sup> MPO ref. No.: 4591/13-558437.

<sup>7</sup> Ibid.

competent authorities without fail and expresses the wish to submit an application from asylum ... the services [of the MPO] will provide him/her with, or help him/her to find, legal assistance, through the High Commission or the [GCR]".

As concerns more particularly the provision of legal assistance, the MPO stressed in the same communication that "the phenomenon" had been observed "of certain lawyers of the NGOs intervening with [its] services, invoking the need for legal assistance for aliens who either had not expressed up to that moment a desire for an application for asylum, or who in certain cases are still in a neighbouring country. This ... forces [the MPO] to [refuse] the provision of legal assistance in the asylum procedure in the specific cases because in this way we create asylum-seekers and, at the same time, violate the relevant provisions of Presidential Decree 61/99 [concerning the procedure for the recognition of an alien refugee]."<sup>8</sup> The MPO further stressed that it makes great efforts over the sensitisation and training of its personnel by means of seminars or day conferences or orders in this connection.

### III. *The NCHR, having taken in to consideration all the above*

1. Expresses its particular concern over the serious problems which were already been noted by it in its annual report for the year 2001 and have been stressed afresh by the above-mentioned organisations for the protection of refugees in connection with the reception of asylum-seekers and their access to the asylum procedure in Greece.

2. The NCHR reiterates its concern over the denunciations of 11 December 2001 of international non-governmental organisations, such as Amnesty International and the World Organisation against Torture, of the "forcible return" to Turkey of asylum-seekers by the Greek authorities in border areas without it being made possible for these individuals to submit an application for asylum, in violation of relevant fundamental

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<sup>8</sup> Ibid.

rules of international law<sup>9</sup> and of the principle of non-refoulement (Article 33, para. 1 of the Convention of 1951 on the status of refugees, Legislative Decree 3989/1959 (*Official Journal of the Hellenic Republic* A' 201)).<sup>10</sup>

3. The NCHR would stress that the competent organs of the MPO, chiefly in border areas,<sup>11</sup> must always inform asylum-seekers in detention of the framework of their rights and the relevant procedure, in accordance with Greek law and the internationally recognised rules. The NCHR calls upon the MPO to bear in mind and to implement the relevant standards which the Commission of the European Union has formulated as to *the procedures by which the member states grant and revoke the status of refugee*.<sup>12</sup>

4. The detention of asylum-seekers should be an exception and should be carried out only for the necessary period of time and on the following conditions:

(a) the grounds for detention are expressly stipulated by a provision of law, the chief purpose being to verify the identity of the persons in question;

(b) the asylum-seekers have destroyed their travel documents or their identity cards or have used forged documents in order to mislead the authorities of the host state and thus the verification of the particulars of the asylum-seekers is necessary;

(c) the purpose of the detention is the determination of the data on which the application for asylum is based, which in other conditions could 'be lost'.<sup>13</sup>

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<sup>9</sup> Article 14, para. 1 of the Universal Declaration of Human Rights, 10.12.1948 (Resolution 217 A (III) of the General Assembly of the UNO): "Everyone has the right to seek and to enjoy in other countries asylum from persecution."

<sup>10</sup> *Op. cit.*, see also the Annual Report of the NCHR 2001, *op. cit.*, p. 234 and the Decision of the NCHR on the Protocol on the application of Article 8 of the Greece-Turkey Co-operation Agreement on the combating of crime, etc. (see above Part B, II - 1).

<sup>11</sup> See UNHCR, Global Consultations, *Asylum Processes (Fair and Efficient Procedures)*, Doc EC/GC/01/12, 31.05.2001, paras 21-23.

<sup>12</sup> Doc 500PC 0578, *OJ* 062E, 27.02.2001, pp. 231-242.

<sup>13</sup> See findings of the Executive Committee of the High Commission of the United Nations for Refugees (UNHCR), No. 44 (XXXVII) - 1986, *Detention of Refugees and Asylum-Seekers*.

5. As to asylum-seekers detained following arrest for illegal entry to the country, the NCHR would stress that the refugee, who usually leaves his/her country of origin in haste, rarely is in a position to enter a third country legally for the provision of asylum. The punishing of illegal entry of a refugee conflicts with the foundations of territorial asylum itself, an institution which has as its purpose the provision of *effective protection* to individuals who are fleeing following a dissolution of the legal bond of protection between themselves and the state of their nationality or origin.<sup>14</sup>

6. Asylum-seekers who are arrested for illegal entry must always be briefed by the competent organs of the MPO, and the exercise of the fundamental right of asylum-seekers to legal assistance in accordance with the principles of international and European human rights law must be ensured by the same organs.<sup>15</sup> Information in this connection should always be posted in places of detention in at least three foreign languages of the three principal national groups of asylum-seekers in Greece.

7. More specifically, it is proposed to the MPO that it should be an established institution for there to be a telephone in all the places of detention of alien asylum-seekers (with relevant information in at least three foreign languages spoken by the three largest national groups of asylum-seekers in Greece) for communication of the above aliens with organisations and non-governmental organisations which provide social services and free legal assistance.

8. The NCHR would stress that in accordance with the Recommendation of the Commissioner for Human Rights (2001) 1 *concerning the rights of aliens on their arrival in a member country of the*

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<sup>14</sup> See also Article 31, para. 1 of the Convention of 1951 on the status of refugees: "The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened ... enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence." See also UNHCR, Global Consultations, Geneva Expert Round Table 8-9.11.2001, *Summary Conclusions on Article 31 of the 1951 Convention relating to the Status of Refugees - Revised* (www.unhcr.ch).

<sup>15</sup> See Annual Report of the NCHR 2001, *op. cit.*, proposals on legal assistance, pp. 133-142.

*Council of Europe and the execution of decisions on expulsion*<sup>16</sup> on the arrival of the above aliens, and where the legality of their entry is contested, these aliens must be examined by the competent authorities and there should be a state interpreter at their disposal, so that, in cases of asylum-seekers, the beginning of the asylum procedure can be facilitated. This entails the right of the above aliens to set in motion the relevant procedures when they have been informed, in a language which they understand, of these procedures (para. 1.2 of the Recommendation). Furthermore, the High Commissioner in his same Recommendation stresses that aliens in detention must be able to come into contact with anyone they wish and inform them of their situation (para. 1.4 of the Recommendation). Finally, the High Commissioner emphasises, *inter alia*, the obligation of states to guarantee the highest possible levels of transparency in the operation of the reception centres for aliens, ensuring, at the least, access to these centres of independent national human rights committees, the Ombudsman, and Non-Governmental Organisations, lawyers, and close relatives of the aliens detained (para. II. 10 of the Recommendation).

9. The NCHR proposes the immediate setting up of new permanent state reception centres for asylum-seekers, as provided for by Article 24, para. 2(a) of Law 1975/1991, as amended by Law 2646/1998, where there will be, without fail, an adequate infrastructure for the provision of basic medical and social services and for the investigation by the competent organs of the MPO of whether there are asylum-seekers and their separation from the rest of the aliens, so that an immediate start on the asylum procedure can be made. The NCHR calls upon the competent services of the Greek State, and particularly the Ministry of Public Order and the Ministry of Health and Welfare to take into account the relevant minimal standards which have been brought to the attention of the

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<sup>16</sup> Recommendation of the Commissioner for Human Rights concerning *the rights of aliens wishing to enter a Council of Europe member State and the execution of expulsion orders*. CommDH/Rec (2001) 1, Strasbourg, 9.9.2001.

European states by the Commission of the European Union by the proposed Directive on the *minimal standards for the reception of asylum-seekers in the Member States*.<sup>17</sup> The NCHR would also stress the immediate need for the activation of Article 48 of Law 2910/2001, as amended by Law 3013/2002, which provides for the possibility of setting up in the Regions premises for the detention of aliens subject to administrative expulsion orders, by a decision of the Region's General Secretary.

10. Finally, the NCHR proposes the immediate creation of a central co-ordinating inter-ministerial organ for immigration and asylum issues, which will have a double *raison d'être*:

(a) the establishment of general principles of operation and intervention of all the state organs jointly competent (chiefly of the MPO and the Ministry of Health and Welfare) in cases of mass arrivals of aliens;

(b) the effective co-ordination of the above competent state organs in cases of mass arrivals of aliens, for the safeguarding of the principles of the recording of asylum-seekers which the High Commission of the United Nations for Refugees has adopted,<sup>18</sup> of the transparency of any asylum procedures, and of the provision of effective social and legal services to those aliens in need of these.

6 June 2002

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<sup>17</sup> Doc COM (2001) 181 final, Brussels, 3.4.2001.

<sup>18</sup> See Findings of the Executive Committee of the UNHCR No. 91 (LII) - 2001, *Conclusion on Registration of Refugees and Asylum Seekers*.