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**PROGRAMME FOR THE PROVISION OF LEGAL AND SOCIAL SUPPORT TO  
ASYLUM SEEKERS TRANSFERRED TO GREECE UNDER DUBLIN II  
REGULATION (22 FEBRUARY – 14 APRIL 2010)**

12 May 2010

**FIRST CONCLUSIONS AND RECOMMENDATIONS**

**A. Concise Programme Description**

The project was delivered by a team of seven, including a Project Coordinator, a Lawyer, a Social Worker and four Interpreters. As part of this project, our team was in daily contact with the Athens Airport Police Department in order to provide legal and social support to asylum seekers returned to Greece under Dublin II. At the same time, we provided referrals to the Ministry of Health and Social Solidarity with the aim of finding accommodation to our beneficiaries and we accompanied asylum seekers to the Athens Directorate of Aliens, to reception centres and hospitals, while also referring them to public services for the issuing of work permits

During the life of the project from the 22<sup>nd</sup> of February 2010 till 14<sup>th</sup> of April 2010, the project provided support to 173 beneficiaries.

**Legal Support**

Given that the project was only funded for a short period of time, the legal services we provided were limited to the provision of legal support for the initial stages of regularizing the status of the asylum seekers. In particular:

- informing asylum seekers about the legal framework, their rights and obligations
- informing asylum seekers about the legal proceedings
- providing advice and recommending course of action
- conducting interviews and supporting asylum seekers to undertake procedural actions (e.g. asylum applications, appeals)
- supervising the procedures at the Airport Police Asylum Department to ensure the rights of asylum seekers were upheld
- escorting asylum seekers to the Athens Directorate of Aliens to ensure they were issued with the correct asylum seeker pass
- reporting potentially inappropriate implementations of the Dublin II Regulation to the Hellenic Police Headquarters

### Social Support

The services provided in the context of social support included efforts to meet the essential needs of beneficiaries and in particular:

- Identifying vulnerable persons in order to provide them with the necessary support
- Contacting the Ministry of Health and Social Solidarity to identify accommodation for vulnerable persons
- Informing asylum seekers of Greek conditions and issues regarding welfare, housing and employment
- Accompanying asylum seekers to reception centres
- Booking appointments in hospitals to deal with medical issues and arranging for our interpreters to escort clients in order to facilitate communication with the health professionals
- Referring beneficiaries to the Public Fiscal Service to issue a tax number and a work permit

For statistic analysis see appendix

### Interventions for the improvement of asylum procedures

During the time the project was funded for, we proceeded to the following interventions for the improvement of asylum procedures:

- Intervention to the Ministry of Health and Social Solidarity to abolish the practice of detaining at the airport Dublin II returnees who are applying for asylum in Greece for the first time.
- Intervention to the Ministry of Health and Social Solidarity for the establishment of a flexible system of emergency accommodation for vulnerable persons
- Intervention to the diplomatic delegations of European countries to ensure they inform Greek authorities of cases of vulnerable persons being returned.

### B. Basic Conclusions

1. Asylum seekers returned to Greece and applying for asylum for the first time in this country were being detained. This detention has no legal basis.
2. There is no reception system for returned asylum seekers to Greece, and as a result, returnees are seldom offered protection upon their arrival in this country.
3. About 30% of returnees belonged to vulnerable groups. Unfortunately on most occasions, there was no prior warning from the European countries returning these persons. This fact combined with the lack of a reception system for returned asylum seekers to Greece results in a deterioration of their already vulnerable status.

### C. Procedures followed for asylum seekers returned under the Dublin II regulation

## 1/Lack of information for vulnerable persons

A significant number of returnees (a total of 50 out of 173 individuals) belonged to vulnerable groups, including minors, families (including single parent families), single women, pregnant women, torture victims or people with disabilities or health problems.

In particular, in the cases of disabled persons or torture victims on most occasions there was no warning given from the European countries to the Greek authorities prior to the transfer.

Some of the returnees who were suffering from health problems had medical files with them upon their arrival in Greece.

But even in the cases where there was prior briefing of the Greek authorities and specifically of the Hellenic Police, the latter often failed to inform the Ministry of Health about these cases.

Specifically in the case of families and single mothers being returned there was no contact between the Hellenic Police and the Ministry of Health in order to provide care for these persons.

**The case of minors** is particular as article 6 of the Dublin II regulation specifies that their asylum applications are to be examined by the European country in which they submit it and not by the first European country they entered.

However, we found five cases of minors who had been assessed by other European countries (UK, Belgium and Finland) as adults and were returned to Greece, despite being obviously underage or possessing documents that proved their date of birth and confirmed they were minors. Obviously, in these cases as well the Greek authorities received no prior warning.

## 2/ Airport Police Department procedures for Dublin returnees

The Hellenic Police Headquarters inform the Asylum Service of the Airport Police Department on a daily basis about scheduled arrivals of asylum seekers returned under Dublin II.

Returnees fall under three categories which are treated accordingly:

- **Asylum seekers whose claim for asylum is pending:** returnees under this category receive an interagency note with which they are required to present themselves to the Asylum Department of the Athens Directorate of Aliens, and are then set free.
- **Asylum seekers who have not applied for asylum in Greece before:** returnees under this category are required to apply for asylum upon their arrival at the airport, and specifically to write a short paragraph explaining the reasons for their persecution. These asylum seekers are fingerprinted and remain in detention until their fingerprints have been examined and their file has been found.
- **Failed asylum seekers whose claim for asylum has been decided at 2<sup>nd</sup> instance:** returnees under this category are no longer considered asylum seekers and are under deportation.

From the above it becomes clear that the procedure followed at the Airport Police Department is considerably improved compared to practices of the past, when asylum seekers were being detained as a result of their asylum claim having been interrupted. In that respect, there has been an improvement in the implementation of the Dublin II regulation in Greece.

However, two significant problems persist:

α. With the exception of the two-months duration of our project, **the Airport Police Department provides no interpreters and no legal or social support to returnees.** Obviously, in the absence of interpreters it is impossible to establish communication between the police officers and the asylum seekers returned under Dublin II. The police officers try to find inmates who are in a position to aid in the communication with the returnees, but this is obviously not an appropriate solution. At the same time, without legal support, the returned asylum seekers receive no information or guidance about their claim. Finally, without social support returnees are unable to communicate their problems and seek solutions. At the same time, returnees receive no financial support to deal with their urgent expenses, so that the majority of them do not even have money to pay for their bus fare to Athens.

As a result of all the above:

- Returned asylum seekers do not understand the procedure followed at the airport with regards to their claim (as an example, asylum seekers who were being returned to Greece for the second time did not realize that they had made an asylum claim at the airport the first time they were returned)
- Returnees are not aware of their rights and obligations
- Vulnerable persons are not identified.

It becomes apparent that the consequences of the above are very grave. Asylum seekers are not informed about the procedures followed at the airport or at the Athens Directorate of Aliens. As a result, they are not aware of their rights and obligations (such as their obligation to appear at the Directorate of Aliens within two days) and their asylum claim is often refused as a consequence of their failure to comply with the procedures.

At the same time, vulnerable persons are usually set free without being given any care, which places them into serious dangers including homelessness, exploitation and deterioration of their health.

b. **Asylum seekers** who apply for asylum in Greece for the first time **are subject to detention in very bad conditions until their fingerprints have been examined to establish that they do not already have a file. This detention has no legal basis.** According to the asylum legislation in Greece (presidential decree. 90/2008 article 9) asylum seekers have to be fingerprinted. Based on this legal requirement, the airport police authorities fingerprint returned asylum seekers who are applying for asylum in Greece for the first time. However, these individuals are subsequently detained at the airport until their fingerprints have been examined and until it has been established that they don't already have a file. The length of detention can range from a few hours up to four days. Detention under these circumstances is particularly reprehensible for vulnerable persons, whose condition further deteriorates as a result.

With regards to the legality of this detention, we would like to raise that the only legal requirement for the detention of asylum seekers is that foreseen in article 13, par. 2 of p.d. 90/2008. However, this requirement is not applicable in this case.

Specifically, according to paragraph 2 of article 13 of the presidential decree 90/2008 (which transposes article 18 of the European Directive 2005/85 on asylum procedures)

*The relevant Police Chief, and specifically for the Athens and Thessaloniki General Headquarters, the responsible for aliens Police Chief or a superior officer appointed by the relevant General Police Chief, may, by his decision and in cooperation with the responsible department of the Ministry of Health and Social Solidarity, confine the asylum seekers in a suitable space, when, and for however long, this is required, in order to determine their conditions of entry, the identity and country of origin of mass-migrating asylum seekers illegally entering the country, or when there are reasons of public interest or order or when this is judged to be necessary for the quick and effective processing of the above procedure.*

It is obvious that the above provision relates to asylum seekers arriving in groups through our borders and not to those returned under Dublin II. The latter come to our country after communication between the responsible authorities of Greece and the country returning them has taken place, the Greek authorities have already conducted an investigation about the asylum seekers to be returned and have subsequently accepted responsibility for them. Therefore, in the case of asylum seekers being returned under Dublin II, the country of origin, conditions of entry and identity of the asylum seekers are already known. As a result, the aforementioned presidential decree is not applicable in this case. Besides, the Greek authorities do not apply the procedure prescribed in paragraph 2 of article 13 (i.e. they don't issue the relevant decisions) in the cases of asylum seekers transferred to Greece under Dublin II Regulation

From the above, it becomes apparent that the detention of asylum seekers returned to Greece under Dublin II has **no legal basis**.

At this point, we have to note that **the conditions of detention of asylum seekers in the space of the airport police department are very bad**, as the available space is inadequate for the numbers of detainees kept there. On average, the number of detainees exceeds the ten existing beds (in some cases we were informed that 40 asylum seekers were being detained in that space), and as a consequence there is overcrowding with several asylum seekers being forced to sleep on the floor. What is more, detainees have no access to open air throughout the period of their detention.

### 3. The practice followed by the Athens Directorate of Aliens

Asylum seekers returned to Greece under Dublin II are released from the airport police department after being given an interagency note with which they are required to present themselves to the Asylum Department of the Athens Directorate of Aliens within two to three days, in order to state their address and obtain a Special Asylum Seeker Pass (the so-called red card)

Every day, a large number of asylum seekers gather outside the Athens Directorate of Aliens for a range of issues (renewing their pass, reporting a change of address, undertaking interviews etc). The Asylum Department does not have the capacity to service this crowd effectively and as a result, a number of asylum seekers are sent away. The same applies to those returned under Dublin II. Provided that they manage to be seen, these asylum seekers have to state their address or that they are homeless, and subsequently wait until the afternoon for their pass to be issued.

At this point, we have to note that even on the occasions when our staff escorted the asylum seekers to the Directorate of Aliens, there were occasions when they were not serviced, and as a result the Project Coordinator had to intervene.

The asylum seekers who manage to get their pass are also given an appointment for an asylum interview. The appointments given to Dublin returnees during the life of our project were for the end of 2010 or the beginning of 2011.

#### 4. The procedure for dealing with the housing issue facing asylum seekers returned under Dublin II

All returnees under Dublin II are homeless and, according to the Directive 2003/9/EK and the presidential decree. 220/2007 which transposed this directive, Greece has the legal obligation to provide them with accommodation.

However, there are a number of obstacles to resolving this problem

- Asylum seekers are not aware of the requirement to apply for housing support according to p.d. 220/2007

- If they declare themselves homeless, this is written on their Special Asylum Seeker Pass, and as a result the Public Fiscal Service does not issue them with a tax number, which in turn leads to them being unable to get a work permit. For that reason, asylum seekers are reluctant to declare that they are homeless.

- **The main hurdle is, of course, that the existing beds can only accommodate 850 individuals, when the numbers of asylum seekers are in the tens of thousands.**

During our communication with the Ministry of Health and Social Solidarity, it was made clear that due to the limited numbers of reception centres, only the vulnerable cases would be provided with accommodation.

Nevertheless, despite the best efforts of both our team and the personnel of the Ministry of Health and Social Solidarity, **it was not possible to provide accommodation for all the vulnerable persons** we came in contact with during the two-month project. As an example, two persons with severe health problems, one who had recently undergone surgery and suffered from pains, and a person suffering from heart-disease, remained homeless at the end of the project.

## D. RECOMMENDATIONS FOR THE DEVELOPMENT OF A RECEPTION SYSTEM FOR ASYLUM SEEKERS RETURNED UNDER DUBLIN II

### Ongoing provision of interpreters, legal and social support at the airport Eleftherios Venizelos

It is obvious that the consistent provision of interpreting services as well as legal and social support at the airport:

- Secures the rights of asylum seekers and contributes to the smooth transition into their new state
- Facilitates the work of the police authorities, as it resolves the communication problems with asylum seekers and frees them from having to inform asylum seekers about legal issues and having to manage vulnerable persons.

### Abolition of the practice of detaining asylum seekers following their asylum claim

Following the process of fingerprinting and photographing asylum seekers as well as informing them about legal and social support issues, asylum seekers should be released immediately, since their detention has no legal basis.

### Provision of financial support to cover asylum seekers' immediate needs, including a phone card and a free transport pass.

The majority of asylum seekers being returned to Greece have no money, which results in their inability to cover their most basic needs. In fact, asylum seekers are unable to even pay for their transport from the airport to the centre of Athens. At the same time, they are unable to contact family and friends who are based in Greece or to contact the programme of legal and social support.

For these reasons, it is essential to provide asylum seekers with basic financial support (within the framework of article 1 par.96 and article 12, par. 5 of p.d. 220/2007) as well as a phonecard and a free transport pass.

### Provision of short-stay accommodation to returned asylum seekers

As mentioned above, our country has the legal obligation to house asylum seekers. However, given the present inability to comply with this requirement, we propose the development of a system of short-stay reception of all asylum seekers in hotels. Such a system would enable asylum seekers to settle in and seek solutions for their future housing needs, such as through community support networks.

### Protection of vulnerable persons

As a first step, it is necessary to develop an **immediate briefing system for imminent arrivals of vulnerable persons**. The Greek authorities, and specifically the Hellenic Police Headquarters, should demand that relevant authorities in other European countries inform them of imminent arrivals of vulnerable asylum seekers.

At the same time, our country should create a **protection system for vulnerable persons**.

Information on imminent arrivals of vulnerable persons should be communicated between the Hellenic Police Headquarters to the Asylum Service of the Airport Police and the Ministry of Health and Social Solidarity.

The Ministry of Health and Social Solidarity should have available accommodation for vulnerable persons and provide escort services for these persons to the reception centres, as well as subsequent provision of support services. The above escort services to reception centres should be provided at the time of arrivals of returnees (12.00-21.00).

## APPENDIX

### Statistic Data

#### **Country of Origin**

Afghanistan	79
Somalia	15
Iraq	13
Iran	11
Eritrea	8
Palestine	5
Myanmar	1
Sudan	1
Ethiopia	1
Cameroon	1
Algeria	6
Syria	15
Bangladesh	1
Guinea	2
Nigeria	2
Pakistan	3
Ghana	1
DRC	1
Ivory Coast	1
Liberia	4
Georgia	2
Total	173

#### **Legal Status**

Pending Claims	54
First-time applicants	117
Failed applicants	2

**Vulnerable Persons**

Families	11
Disabled	23
Minors	5
Single women	5
Torture / abuse victims	6
Total	50

**Legal Provision**

Consultation / information	173
Completion of asylum claim	117
Escorting to Aliens Department	34
Referrals for change of address	2
Drafting of appeals	3
Drafting of subsequent claim	1
Reporting procedural violations	2

**Social Support**

Referrals to the Ministry for housing matters	31
Escorting to reception centres	11
Booking appointments with health services	20
Escorting to health services	14
Referrals to specialist on torture victims	3
Referrals for issuing of tax number	4

**Housing Statistics**

Referrals to the Ministry of Health	31
Provision of accommodation from the Ministry	23