

“The situation in Greece is out of control”

Research into the situation of asylum seekers in Greece

Carried out by Karl Kopp, PRO ASYL's Director of European Affairs, from October 20th to 28th 2008

My research focused on the situation of asylum seekers and individuals returned to the Greek capital on the basis of the Dublin II Regulation. I spoke personally to many refugees as well as representatives of civil society, the UNHCR and the Ministry for Health between October 20th and 28th 2008.

Time and again I was told, “the situation is out of control“. Whatever the position or function of the Greeks I spoke to, there was total agreement on one point: Greece is unable to meet current asylum requirements. Greek critics of the government's asylum policy also say that this small country could not cope with the current humanitarian crisis, even if the political will was there.

Facts and figures from an overstretched Greek asylum system in permanent crisis

The Attica's central asylum department ¹: locked doors and police guards

The Central Asylum Department in Athens locked its doors to asylum applicants from September 21st to October 26th 2008.² When people were finally allowed to make appointments again on Sunday October 26th, around 3000 individuals were waiting at the doors of the Attica Aliens Directorate at 24 Petrou Ralli Street. There were tussles with the police, officers using their batons and panic amongst people waiting. More than ten people

¹ According to data provided by UNHCR Greece based on data provided by the Ministry of Interior/Aliens' Directorate, in 2007 93.99 percent of all asylum applications in Greece were made at the Asylum Department at the Attica Aliens Directorate.

² Daily newspaper Kathimerini, edition of 14.10.2008: Greece 'rebuffing' asylum seekers

were injured during these incidents.³ 29 year-old Mohammed Ashraf Montaser, a Pakistani asylum seeker, died near the Directorate in unclear circumstances.⁴

Claiming asylum made impossible: asylum seekers facing arrest

For months, thousands of protection seekers had tried in vain to claim asylum – they were turned away. “Come back in two months,” asylum seekers were told at the entrance. This policy of closed doors means that people wishing to claim asylum cannot enter the building and, therefore, have no access to asylum procedures. As a result, people seeking protection are at risk of arrest.⁵

Example: On September 29th, H.M., an Iranian asylum seeker, went to lawyer Jota Massouridou. He reported that he had not been permitted to apply for asylum. Ms Massouridou informed the Greek Ombudsman. On October 6th 2008 H.M. was arrested and served a deportation order. To date, on 13.11.2008, H.M. is still being detained at an Athens police station.⁶

The Ombudsman⁷, asylum organisations and UNHCR want guaranteed access for all asylum seekers

How matters will continue is completely unclear following the incidents occurring on October 26th when people were queuing up for appointments. It scarcely seems possible to go back to the disgraceful system of allocating appointments on Sundays only, given the events of 26.10.2008.

Looking back: The Greek authorities set up a special procedure to issue appointments as long ago as autumn 2007. Asylum seekers had to queue up on Sundays in order to obtain an appointment for the following week. Queues were usually in excess of 1,000, of which approximately 300 randomly selected individuals managed to obtain an appointment. The

³ Weekly newspaper Athens Plus, edition of 31.10.2008. The Pakistani community spokesperson, Javad Aslan, spoke of more than 15 cases of bad injury and at least 40 of slight injury.

⁴ Kathimerini of October 27th 2008: Police deny any part in migrant's death; ap vom 27.10.2008: Greece: Migrants protest over alleged police violence; weekly paper Athens News of 31.10.2008: Pakistani's death under investigation; daily newspaper Die Welt of 29.10.2008: Greece is the new destination for illegal immigrants.

⁵ Press release of 13.10.2008 by the Group of Lawyers for the Rights of Refugees and Migrants

⁶ Telephone conversations with lawyer Jota Massouridou on 8.10.2008 and 13.11.2008 plus face-to-face interview on 20.10.2008

⁷ The Ombudsman, an independent administrative authority established under Act 2477/97 (Official Gazette 59/A/97), has as its mission to mediate between citizens and the public sector services, as defined in Act 2477/97, as this applies every time, for the protection of the rights of the citizens, the combat of mal-administration, and the observance of the laws. http://www.synigoros.gr/en_law.htm

others were forced to come back a week later and go through the same degrading procedure all over again.

Lawyers and UNHCR Greece stated that there was no regular access to the building and, therefore, to asylum procedures. The Ecumenical Refugee Program, the Greek Council for Refugees, the Group of Lawyers und UNHCR Greece all say that, apart from appointments obtained on a Sunday, the only other asylum seekers gaining access to the building were accompanied or supported by lawyers or organisations.

Asylum organisations have been saying, “enough is enough“ (Efthalia Pappa)⁸ following the radical deterioration of the situation on 26.10.2008. “We discovered that the central Immigration and Asylum authority was deliberately using tactics which utterly violated a refugee’s lawful right to seek asylum.”⁹ Organisations found the outcome of such practices easy to predict; the refusal to allow people to apply for asylum for five weeks “*led to an appalling, inhuman crush of around 3,000 asylum seekers on the weekend of October 25th/26th 2008. The police reacted harshly to this massive crowd, beating back the people waiting and causing many injuries*”.¹⁰

Organisations are no longer willing to look on as asylum procedures are completely invalidated and protection seekers deprived of their rights at the very doors of the central Immigration and Asylum Authority. Clearly, as long as the police are in charge of asylum, restrictions of this kind are bound to reoccur. “*In any case, there is obviously scant political will to protect refugees.*”¹¹

The humanitarian crisis: structural shortcomings exposed

On 27.10.2008, the Greek Ombudsman published a 13-page document showing how access to asylum is denied or obstructed. The current „humanitarian crisis“ says the report, has, above all, exposed the impotence and structural shortcomings of the Greek administration. This “structural malfunction” was particularly incomprehensible because Greece had been processing refugee and migrant claims for some 15 years now. Coincidentally, an Ombudsman delegation visited Petrou Ralli Street on 3.10.2008 and found that the Central Immigration and Asylum Authority had ceased to accept asylum applications for “an

⁸ Telephone conversation with Efthalia Pappa, director of the Ecumenical Refugee Program (ERP) on November 5th 2008

⁹ ibidem

¹⁰ Press release of 10.11.2008 signed by ARSIS (Organisation helping young people); the Athens Group of Lawyers for the Rights of Refugees and Migrants; Thessaloniki Group for the Rights of Refugees and migrants ; Ecumenical Refugee Programme; etc

¹¹ ibidem

unspecified period“. The Ombudsman had already criticised the obstruction of access to asylum procedures in a number of previous reports. Asylum seekers had a basic right to enter the building and use asylum procedures. Refusals to accept asylum applications placed those seeking protection in great danger. These individuals faced arrest and deportation. The centralised Greek system for asylum applications and processing “ran completely counter to the basic principle of political asylum“. ¹²

The German embassy in Athens ignores the dispute and reports official opening times

In a notification dated 4.11.2008 to the Federal Office for Migration and Refugees, Peter Hofmann, Head of the German Embassy’s consular and legal service in Athens writes: *“We contacted the Central Asylum Department in Attica and they gave a clear answer, i.e. the Attica Central Asylum Department must be available around the clock. Outside the normal opening hours of 07.00 to 15.30 there is an emergency telephone number. The Authority’s offices have not been closed for any length of time in recent months (e.g. for building work) and it has been possible to enter them the whole time.”*¹³

The following must be said concerning Mr Hoffman’s letter concerning access to the Central Asylum Department offices in Attica: The official opening times are correct. However, access has not been guaranteed, not because of building work, but because asylum seekers are simply not allowed in. Extensive research is not required to ascertain this fact; reading the Greek press suffices. The issue has been at the heart of an ongoing public debate in Greece since autumn 2007 and the policy of denying entry became even more generalised in September and October 2008.

First instance: 8,387 decisions = 8,387 rejections¹⁴

In Greece, 10,165 asylum applications had been lodged by June 2008. At first instance, 8,387 decisions were issued, all negative. UNHCR Greece emphasised that structural shortcomings in Greek asylum procedures result in a *“violation of the principles and protection standards anchored in the Geneva Refugee Convention”*.

¹² Statement dated 27.10.2008 by Andreas Takis, deputy Ombudsman
The Greek original, file number 15913.08.2., is available at PRO ASYL. Extracts from the statement have been translated into German by Salinia Stroux.

¹³ Email of 4.11.2008, sent at 11:44. PRO ASYL has copies of the exchange of letters on the issue of access to the Central Asylum Department

¹⁴ UNHCR office in Greece refers to refugee status granted for an „ab initio“ application not included in the statistics on decisions examined and negative decisions

“The right to fair and efficient processing of asylum claims is seriously affected, especially during the first instance procedure, since fair evaluation of asylum claims is not guaranteed. Procedural safeguards regarding access to the asylum procedure, the way interviews are conducted, and the legal reasoning behind decisions, do not meet Geneva Convention standards.” stressed Giorgos Tsarbopoulos¹⁵, UNHCR representative in Greece. Alexia Vassiliou of the Greek Refugee Council believes that the first instance simply does not exist for asylum. *“All it is, in reality, is a screening procedure where police officers decide whether an asylum application is rejected as “manifestly unfounded” or merely “unfounded”. Details of the application are not examined. It is impossible to comprehend what criteria govern the officers’ decisions.”*¹⁶

In Greece, individual reasons are not given for rejecting asylum applications. A study¹⁷ carried out by the UNHCR has proved that negative decisions never refer to the reasons why asylum was requested. There is no discussion of the facts, no detailed legal reasoning. In 2007, 25,113 asylum applications were filed in Greece. A first instance decision was issued in 20,692 cases. In 20,684 cases, the decision was negative. Refugee status was granted in just eight cases. In a further 52 cases “humanitarian status“ was extended. This status must be extended annually. The Greek Ministry of the Interior, for its part, includes such extensions in its statistics but the UNHCR does not include them in its recognition rate data.

Second instance decisions

During the first six months of 2008, 2,886 appeal decisions second instance decisions were issued. In 61 cases, refugee status was granted under the Geneva Refugee Convention (recognition rate: 2.11 percent) and, in 10 cases, „humanitarian status“ (0.34 percent). 6,448 second instance decisions were taken in 2007; 5,544 applications were rejected or dismissed. Refugee status was granted in 132 cases, as well as “humanitarian status“ for a further 23 cases. That corresponds to an overall recognition rate of 2.40 percent (2.05 percent falling under the Geneva Refugee Convention and 0.35 percent humanitarian Status).

When protection was granted on appeal, it was for longstanding cases, i.e. people whose asylum procedure had already gone on for years.

¹⁵ Conversation with Giorgos Tsarbopoulos, UNHCR, on 21.10.2008

¹⁶ Conversation with Alexia Vassilou, Greek Council for Refugees, on 29.10.2008

¹⁷ UNHCR, Asylum in the European Union, A Study of the implementation of the qualification directive, Nov. 2007

The number of second instance decisions pending rises to 21,643

The number of second instance reviews pending rose from 19,015 to 21,643 between the end of 2007 and the beginning of June 2008.¹⁸ At the beginning of July 2008, the second instance - the Appeals Board - stopped meeting.¹⁹ Once the presidential decree had been announced, which transposes the EU Asylum Procedures Directive into national law, no further sessions were convened. The presidential decree stipulates that the Appeals Board may also issue binding decisions in the future, and not simply recommendations. Athens Bar Association representative, Eleni Spathana²⁰, states that the Ministry of the Interior, which is responsible, made no contact with the members of the old and new Board for over three months following publication of the presidential decree. It was only on November 5th 2008 that a telephone call came from the ministry to say that the new Appeals Board should commence work at the end of November. The Board is due to hold 20 hearings a day three days a week, or a total of 60 cases a week. There are also plans to divide the Board into three sections.²¹

Transposal of the EU directive: Asylum procedures and recognition of refugees

Presidential decrees transferred the Asylum Procedures Directive, as it is known, into Greek law on July 11th 2008²² and the Qualifications Directive on July 30th 2008²³. Nothing can be said concerning the legislation's impact because transposal has not yet taken place. The way the legislative process was conducted shows that the presidential decrees were rushed and contain many major legal and technical flaws. For example, the legal remedy deadlines for "fast-track procedures" were omitted. It is already apparent that the errors in the legislative process and the presidential decrees will need to be corrected very soon.²⁴

¹⁸ Conversation with Kalliopi Stefanaki, Protection Officer UNHCR Greece, on 24.10.2008 – data based on information sent by the Ministry of the Interior to the UNHCR.

¹⁹ Conversation with Giorgos Tsarbopoulos, UNHCR, on 21.10.2008

²⁰ Conversation with Eleni Spathana, member of Athens Bar Association, on 21.10.2008. Ms Spathana sat on the old Consultative Asylum Committee and will also be a member of the new one.

²¹ Telephone conversation with Eleni Spathana on 6.11.2008

²² Presidential Decree No 90/2008

²³ Presidential Decree No 96/2008

²⁴ Conversation with Eleni Spathana, Athens Bar Association, on 21.10.2008

The law and reality: homelessness is the general rule

The presidential decree²⁵ was published on November 13th 2007 and was supposed to transpose the binding rules of the EU Reception Conditions Directive into national law.²⁶

According to the decree, the state is supposed to ensure that asylum seekers are provided with accommodation and a daily allowance sufficient to cover their basic needs. Neither accommodation or a daily allowance have been forthcoming in practice.

The Ministry for Health is responsible for housing asylum seekers and, by following its internal list of priorities, is endeavouring to house at least the homeless children and families in Athens. Nonetheless, by October 22nd 2008, more than 100 of the individuals classified as top priority, i.e. families with children, were homeless.²⁷ This figure only reflects a small part of the situation. Even the countless squalid private lodgings, such as the “Afghan hotels“, are full. Up to three families including children live in one room.²⁸

Asylum seekers live in parks, in derelict buildings, sleeping rough in city squares and public gardens. They have no chance of being allocated accommodation or having a hotel room paid for temporarily. “The situation is hopeless,” according to Kalliopi Stefanaki of the UNHCR, given the high numbers of homeless asylum seekers and the few places available.²⁹ There are currently a total of 924 reception places³⁰ in the whole of Greece. The Ministry of Health has managed to provide some new accommodation over recent months as well as closing one dwelling that was in an appalling state.

There are no budget resources to provide a daily allowance for asylum seekers. Dublin returnees are not given special treatment. As far as accommodation is concerned, there are

²⁵ Presidential Decree No 220/2007

²⁶ Maria Panezi: A Description of the Structure of the Hellenic Republic, the Greek Legal System, and Legal Research, “Delegation of legislative power is generally allowed, unless the Constitution provides for a situation where a Law (Nomos) is required. The most significant form of delegation is the Presidential Decree (Proedriko Diatagma). It is based on statutory delegation and it is issued after a ministerial initiative. It is also published in the Gazette of the Government. A draft has to be checked by the Council of State (Symbolio tis Epikrateias).” <http://www.nyulawglobal.org/globalex/Greece.htm>

²⁷ Conversation with Sotiria Goula, Adviser to the General Secretary, am 23.10.2008. Ms Goula is responsible for migrant and refugee affairs at the Ministry for Health and Social Solidarity

²⁸ Conversation with Mubarak Shah on 25.10.2008. He has been in Greece for seven years and has a Red Card. The Red Card, also known sometimes as the Pink Card, states that the bearer's asylum application is being processed. Shah has spent over five years waiting for his second instance hearing. Together with other refugees, he has founded the „Noor Cultural und Art Society“, which aims, among other things, to support Afghan refugees. In addition to its advisory function, the association offers language courses (mother tongue, Greek and English) for children.

²⁹ Conversation with Kalliopi Stefanaki, UNHCR, on 24.10.2008

³⁰ Situation on 13.11.2008 - Email from Sotiria Goula dated 13.11.2008

no formal or informal agreements between the member states returning people in need of protection and the Greek government or relevant ministries.³¹

Homeless, destitute and vulnerable

A male streetwalker scene has established itself close to the health ministry. It is easy to see that minors from Afghanistan are also prostituting themselves there. Mubarak Shah said to me during an interview *„How can people talk about human trafficking and say nothing about the causes? People who are homeless and broke are easy to blackmail and exploit. If Greece and Europe want to protect unaccompanied refugee children, young women and youths from slavery, then they have to start by creating decent reception conditions for these especially vulnerable people.“*³²

The situation at Athens airport: No interpreters and poor detention conditions

The situation at Athens airport remains unchanged. All Dublin returnees arrive at Eleftherios Venizelos airport. There are still no interpreters present when police question asylum seekers; asylum interviews and legal counsel are in Greek.

The accommodation situation in the detention centre is still precarious. The K family, Iraqi Christians, were deported from Frankfurt to Athens with a six week-old baby and a 1½-year girl on 27.10.2008.³³ We spoke to the married couple during a visit to the airport detention centre and they described their arrival. “We were locked in a cell with 20 adults and 12 children. There wasn’t even a mattress for the last family to arrive.”³⁴ These detainees are Dublin II cases from various European states.

Closure of the only centre treating torture victims

The only centre to treat torture victims in Greece closed down at the end of September. The Medical Rehabilitation Centre for Torture Victims (MRCT) in Athens had to cease its work

³¹ Conversation with Sotiria Goula on 23.10.2008

³² Conversation with Mubarak Shah on 25.10.2008.

³³ The Federal Office for Migration and Refugees sent a letter on 29.10.2008 apologising to lawyer Lex, who represents Family K. in asylum and Dublin procedures. Das Federal Office for Migration and Refugees undertook to bring Family K. „back to Germany as quickly as possible.“

³⁴ Telephone conversation with the brother and refugee advisor Thomas Ratjen in Landshut on 27.10.2008 and a visit accompanying lawyer Marianna Tzeferakou into the airport detention centre on 28.10.2008 from 20 - 21 hours.

because government funding could not be guaranteed. The MRCT is set to disappear even though state agencies and Greek MPs have praised its work and believe the centre to be essential.³⁵

Overcrowding in detention camps – 11, 001 new arrivals on the island of Lesbos alone

Detention camps at the external borders are full to overflowing. The Greek Ombudsman estimates that around 58,000 refugees and migrants arrived in Greece in the first half of the year.³⁶ Between January and the end of September 2008 alone, well over 15,000 people were being detained in regular and ad hoc camps across the Greek Aegean Islands. The island of Leros (53 square kilometres, 8000 inhabitants) registered 3,500 refugees in the first nine months of the year.³⁷

The prefecture on Lesbos reported 11,001 new refugees arriving in the first ten months of 2008. In 2007 that figure was still 5,995 and in 2006 1,766 people. All these individuals were held in the Pagani camp. Mitilini prefecture³⁸ says it has a capacity of 436 beds - on 4.11.2008, there were no fewer than 862 detainees.³⁹ I have visited Pagani more than ten times over the last twelve months. Even when 200 people were held there it was exceedingly cramped and the sanitation facilities had broken down.

Inhuman detention conditions – e.g. Pagani in Mitilini, Lesbos

600 refugees at Pagani detention centre on Lesbos suffered poisoning in mid October because dilapidated drinking water pipes were contaminated.⁴⁰ Already, on 30.09.2008⁴¹, the 'Doctors without Frontiers' organisation had called on the Lesbos authorities to provide the boat people with immediate assistance.

"On several occasions, the medical teams had to treat patients through bars because detainees were not permitted to leave their cells (...). It took three months and much pressure from Doctors without Frontiers, and others, for the camp inhabitants to be allowed

³⁵ Conversation with Maria Piniou-Kalli, director of the Medical Rehabilitation Centre for Torture Victims, on 23.10. 2008

³⁶ Statement by Andreas Takis, deputy Ombudsman, dated 27.10.2008

³⁷ Kathimerini of 21.10.2008: Leros provides refuge to migrants

³⁸ The prefectures concerned are responsible for the buildings, social amenities at the camps, food and hygiene articles. The Prefecture also decides about issuing transport tickets after release. The police are responsible for transport to the camps and guard duties.

³⁹ Daily newspaper Embros of 5.11.2008 und daily newspaper Eleftherotipia of 5.11.2008

⁴⁰ News agency Reuters from 15.10.2008: Hundreds of immigrants poisoned at Greek centre

⁴¹ Doctors without Frontiers, Press release of 30.09.2008: The authorities must provide all-round assistance to boat people on Lesbos. Doctors without Frontiers terminated its project due to lack of support.

*to use the inside courtyard regularly, for the camp to receive an extra doctor and for basic repair work to begin. The simple repairs that we carried out would have substantially improved living conditions. However, the authorities were not even able to guarantee minimal maintenance and cleaning. Women, minors and children are still held together with men in unacceptable conditions and with no consideration for their special needs."*⁴²

A deteriorating situation in Patras⁴³

At the port of Patras, "the gateway to Italy", the situation is worsening. Over 1000 people, including a large number of afghan minors, are living in cardboard shanties or sleeping rough. Conditions are inhuman – no toilets, no water and no electricity.

What can go wrong for Dublin II returnees⁴⁴

The initial application after being returned:

Asylum interviews continue to take place without interpreters at Athens airport. As a rule, returnees are released from detention after three or four days and provided with a Red Card⁴⁵, with the "address" box left empty. The asylum seekers are then given written instructions in Greek or told in Greek to go to the Central Asylum Department in Petrou Ralli Street in order to have their address registered in their Red Cards.

If the Red Card does not contain an address, a postal address or official confirmation of homelessness, it is invalid, with the result that public notification of a negative decision is a real risk. Anyone not registering in Petrou Ralli Street - because, for example, access to the building is denied - risks having the foreseeable first instance rejection of their claim posted publicly, according to lawyers Marianna Tzeferakou and Jota Massouridou. This means that notice of the decision is hung in the town hall without the asylum seeker's knowledge.

Consequently, he or she cannot meet the deadline for legal remedy. As a result, the individual may be detained and served with a deportation order. If deportation is technically feasible, it is carried out. Applicants are never given the interview they are entitled to and have no opportunity to explain why they fled or to have their reasons written down. If the procedure is not interrupted, the asylum seeker can end up on the streets with years of

⁴² Ibidem

⁴³ Kathimerini of 14.10.2008: Migrants in Patras fight over ferry access; International Herald Tribune of 7.11.2008: Greece a "prison" for migrants amid EU policy mess

⁴⁴ Several conversations with Efthalia Pappa, Rechtsanwältin Marianna Tzeferakou and Rechtsanwältin Jota Massouridou

⁴⁵ The Red Card states that the bearer's asylum application is being processed. It permits the holder to stay in Greece for six months and can be extended for six months at a time.

waiting ahead until the case reaches second instance - in practice, the first real hearing in Greece.

Social and legal implications of registering "no fixed address"

Homelessness is only "official" when it is registered by the police and the Ministry for Health and Social Solidarity has been officially notified that a person is in need of lodgings.

However, there is one major disadvantage. An asylum seeker registered as homeless receives no tax ID number and no work permit and, therefore, no opportunity of working legally. Thus, according to Marianna Tzeferako, although 90 percent of all asylum seekers in Greece are, de facto, homeless, many of them give slum-level accommodation (Afghan hotels, etc) as their postal address or place of residence in order to obtain a work permit.

Negative first instance decisions handed out on arrival

Dublin returnees are handed a negative first instance decision at the airport, there having been no prior public notification of the negative decision concerned. The text comprises a few lines of standardised language providing no reasons as to why the claim is „manifestly unfounded“ or „unfounded“ (fast-track procedure). Asylum seekers whose claims are rejected must confirm that they have received legal counsel. This is done without interpreters. They then receive a document in Greek informing them of their right to appeal within 10 or 30 days.

Asylum seekers wanting legal remedy must go to the Central Asylum Department within 10 days if the claim is „manifestly unfounded“, 30 days if it is “unfounded”, in order to lodge an appeal.

Asylum seekers who have received a negative decision are generally released after three or four days with no Red Card. If the deadline for lodging an appeal is met, then, in theory, a Red Card is indeed issued. In practice, matters are far more complicated, not least because of the difficulties, already described, of getting into the building at all.

When asylum procedures are deemed concluded

This is the case for Dublin returnees who have no further access to asylum procedures, because their asylum procedure is deemed concluded. Returnees are handed a deportation order instructing them to leave the country within 30 days. They are at risk of immediate detention and deportation where this is technically feasible. “These Dublin returnees are

completely under the police's control. They are detained without any oversight by the courts."⁴⁶

Summary and conclusions

As my research progressed, it seemed increasingly impossible to attempt any systematic portrayal of the way Greek asylum procedures work, particularly vis-à-vis Dublin returnees. In Greece, the rule of law simply does not apply to the asylum system. Interviews at the airport are conducted without interpreters. The first instance is not an asylum instance, merely a mechanism for issuing negative decisions. The second instance has not been convened since July 2008. Access to the Central Immigration and Asylum Authority is denied to asylum seekers. I spoke to lawyers at asylum organisations whose main task consists of writing letters for refugees so that they can get past the asylum authority's door. All the Dublin returnees from Germany whom I spoke to are homeless with no means of subsistence. The reception system offers no prospect of a decent life or fair asylum procedures to these individuals. It is impossible to assess whether transposing several EU directives has had an impact because the directives concerned have not yet been implemented. There is no shortage of laws or presidential decrees, more a lack of implementation. No purpose is served by analysing the various presidential decrees, since the reality on the ground bears no relation to them.

It does not matter whether you take a trip to Athens, go round Eleftherios Venizelos airport or the Central Immigration and Asylum Authority in Petrou Ralli Street, visit the parks, public squares and derelict buildings where homeless asylum seekers live; it is plain to see that Greece is currently incapable of meeting its legal obligations concerning refugees.

I can conceive of no justification for returning asylum seekers to Greece, a country where the reception system is extremely limited and of help to few refugees, and where asylum procedures are unlawful.

The UNHCR representative in Greece, Giorgos Tsarbopoulos, has called for greater "European solidarity" given the "humanitarian crisis" in the country. It is deeply unfair, he says, to pass responsibility for refugee reception to member states on the EU's external borders.⁴⁷

⁴⁶ Conversation with lawyer Jota Massouridou on October 20th 2008

⁴⁷ Conversation with Giorgos Tsarbopoulos on 28.10.2008

However, ceasing to return refugees to Greece will not be enough, given the dramatic situation there. Not only must the Dublin II Regulation be radically reformed, action is urgently required now. European states, particularly those lying at the EU's centre, must accept asylum seekers from Greece immediately.

Halfway through October 2008, the EU heads of state and government undertook to provide concrete support to "*Member States facing specific and disproportionate pressure on their national asylum systems, due, in particular, to their geographical or demographic situation.*" Such solidarity must also consist of "better reallocation of beneficiaries of international protection from such Member States to others" „on a voluntary and coordinated basis." ⁴⁸

Particularly vulnerable asylum seekers should be identified with the help of the UNHCR and other local civil society organisations in order to be allocated to other EU member states via large-scale reception programmes. Measures are especially urgent for unaccompanied minors, the numerous homeless families with children and traumatised refugees from war-torn and crisis regions such as Iraq, Afghanistan und Somalia.

Frankfurt, November 13th 2008

by Karl Kopp

⁴⁸ European Pact on Immigration and Asylum (Doc. 13440/08), adopted by the European Council on 15/16 October 2008 in Brussels

Appendix

Case studies

Mr P., an asylum seeker from Iran, sent back from Frankfurt to Athens on January 23rd 2008; asylum interview at Athens airport

Mr P. is an Iranian national. Fleeing from Iran, he spent four days in Greece on his way to Germany, chosen as a destination because his parents and sister had been living in Frankfurt for many years. His father was given refugee status by Germany in 1988 in accordance with the Geneva Refugee Convention. Mr P. was stopped on arrival at Frankfurt airport and spent four months in detention awaiting deportation. Then, on January 23rd 2008 P. was deported to Athens.

Once there, he spent ten days from January 23rd to February 1st 2008 in detention at Athens airport. There was no legal basis for his detention. An asylum interview without interpreters took place at the airport detention centre. It was impossible for the police officer doing the questioning and Mr P. to communicate. Mr P. was released on February 1st 2008 and was not informed in a language he could understand, orally or in writing, where he should go in order to register. Since then, he has been living homeless in Athens with no state benefits.

I was able to meet up with him several times during my visits. Since being sent back to Greece, Mr P. has spent the last few months sleeping rough in parks and living in a derelict building. P. still has no work permit because he has no fixed address. He has visibly lost weight since February 2008.

Z.R. , an asylum seeker from Iraq – returned by Germany on 25.03.2008; asylum interview at Athens airport

One year ago Z.R. and his brother P. fled Iraq for Munich because, as Christians, they had been threatened by islamist groups. P.R. was granted refugee status but Z.R. was deported to Greece on 25.03.2008 by the German authorities. Z.R.'s plight has achieved sad notoriety in the German media. He receives no medical care and has long been homeless, sleeping

rough on a traffic island in Athens. His Red Card ⁴⁹ has now expired. He did not manage to extend his leave to stay within the deadline. This means that he could be redetained if the police pick him up. If he attempts to obtain an extension on his Red Card he also risks instant arrest. Z.R. is still living homeless in Athens and can only survive thanks to private donations of food, clothing and money.

Akbar H., an asylum seeker from Afghanistan, was returned to Greece by Great Britain on October 26th 2008; asylum interview at Athens airport

Akbar H. was returned to Greece by Great Britain on September 26th 2008. The asylum seeker landed at Athens airport carrying an extensive case file in English. The Home Office's UK Border Agency had sent a fax on August 6th 2008 correctly naming the asylum seeker as "Mohammad Akbar H."

Following an asylum interview at the airport with no interpreter present, he was issued a Red Card with Akair, and not Akbar, given as his first name. The asylum seeker immediately pointed out the mistake, still at the airport. He emphasised that it was important for him to have his name spelt correctly. The police officer responsible answered, "If you carry on like that, we'll keep you here for a week." Following his release, Akbar went to the Ecumenical Refugee Program (ERP) offices. Lawyer Massouridou, who works for the ERP, wrote a letter for him in order to guarantee him entry into Attica Police Department. The letter contained two requests: to correct the spelling mistake in the Red Card and to register Akbar H. as having no fixed address. Mr H. was turned away several times. He continued to turn up at the relevant office, each time equipped with a new letter from the ERP. At his third attempt he was informed that the name entered on his Red Card could be corrected if he had his English documents translated into Greek.

⁴⁹ Conversation with Z.R. am 21.10.2008 via an Arab-speaking interpreter

S.I., an asylum seeker from Afghanistan, born. 1.1.1990, sent back to Greece by Germany on October 6th 2008⁵⁰, handed a negative first instance decision at Athens airport

S.I. was deported to Greece from Germany on October 6th. When I spoke to him, he was unable to say which airport he had departed from in Germany. He was presented with two documents in Greek at Athens airport.

“Four police officers brought me to the airport. I was put in handcuffs on the plane. At Athens airport I received two documents, one of which I had to sign. Both police officers spoke to me in Greek. I waited from three until six o’clock and kept asking for my things.”

“They abused me.” Further questions revealed that the officers insulted him with pejorative terms like ‘Malaka’. They did not hit him but threatened, by means of sign language, to do so. Mr I. left the airport buildings carrying both documents and was invited to share an acquaintance’s lodgings at an ‘Afghan hotel’. He lives in a tiny room along with nine other refugees. There is no shower. The same acquaintance advised him to go to the Ecumenical Refugee Program.⁵¹

From the documents examined by the ERP it emerged that the Afghan refugee had applied for asylum on 28.01.2008. This was rejected on 31.07.2008. According to lawyer Marianna Tzeferakou, the decision consists of several lines of standard phrases and gives no reason for deeming the claim “accelerated procedure”. He was handed notice of the negative decision on October 6th 2008, the day he was sent back from Germany, and the document he had to sign was a confirmation of receipt. The two police officers conducting the interview signed the notice, as well as a third person - also a police officer, believes lawyer Tzeferakou. By signing the document, the Afghan asylum seeker confirmed that he had been informed in English. The document gave him ten days in which to appeal. In addition, he was instructed to register his address at Petrou Ralli Street within two days.

S.I. speaks no English. We needed the services of a professional interpreter in order to communicate when I interviewed him on 27. 10.2008.

⁵⁰ Conversation with lawyer Jota Massouridou on October 20th 2008 und with Efthalia Pappas on 25.10.2008. They represent asylum seekers on behalf of the Ecumenical Refugee Programme. Face-to-face conversation with the asylum seekers on 27th October 2008, assisted by an interpreter.

⁵¹ Conversation with Efthalia Pappa am 25.10.2008

Mr I. went to the Central Immigration and Asylum Authority following an advice session on October 10th. He reported, *“I took a letter from the Ecumenical with me to Petrou Ralli Street, but the police officer at the entrance was unfriendly and sent me away. I went back to Ecumenical. The lawyer wrote a second letter. I was sent away again. Then I found a refugee who spoke Greek. The police officer at the door just laughed about organisations like the Ecumenical Refugee Program and Greek Council for Refugees and told us to get lost”*. S. was let through at his third attempt. He lodged his appeal in person and received written confirmation that he had done so. However, he was not issued with a new Red Card (he had lost his old one). After several letters and phone calls from the director of ERP, Efthalia Pappa, he went again to Petrou Ralli Street. He did not receive a new Red Card this time either but, astonishingly, was handed the same negative decision that he had received on October 6th 2008 at the airport.

„It was pure coincidence that Mr S.I. came into contact with us. Asylum seekers have no chance if they do not get to an advisory centre and obtain legal assistance. They are given documents in Greek which they do not understand. They have to go in person to the offices, but are not allowed in. If we did not constantly intervene, handing out letters, protesting to the Ombudsman and the Ministry of the Interior, asylum seekers would not have any hope of success. They go through procedures never being permitted to explain why they seek protection and often the procedures are already legally over without their knowledge.“⁵²

S., an asylum seeker from Syria

Mr S., an asylum seeker from Syria, sent back from Frankfurt to Athens on January 22nd 2008 – procedure deemed concluded on arrival

Mr S. was returned from Frankfurt to Athens in a Lufthansa aircraft on January 22nd 2008 and was subsequently detained for three months at the old Athens airport. He is a Syrian national. He was returned under Dublin II with the Greek authorities' agreement. The Greek authorities had informed the German federal authorities by letter that Mr S. had previously applied for asylum in Greece as a Palestinian, using an alias, and that the first instance decision had been negative. Nonetheless, the German authorities decided to proceed with his return. *“The applicant can explain any obstacles to his deportation which may prevent his return to Syria, to the Greek asylum authority”* (Extract from the Federal Office for Migrants and Refugees letter of January 22nd 2008).

⁵² Conversation with Efthalia Pappa am 25.10.2008.

Mr S. was served a new deportation order at Athens airport. This states that Mr S. was arrested at Athens airport on 22.01.2008 at 12:00 because of illegal entry. Lawyer Tzeferakou sought Mr S.'s whereabouts on behalf of a German advisory centre and applied for asylum procedures to be resumed. The application was turned down and no reason given. Mr S. spent precisely three months in detention and was then released with instructions to "leave the country within three months". Mr S. has since been living in Athens, homeless and destitute. According to his lawyer, his physical and mental state is desperate.