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**TO: THE COMMISSIONER OF THE EUROPEAN UNION MS MALMSTOM**

**PETITION**

Ms. Commissioner,

We would like with this petition to set out our views concerning the European Asylum Policy and the situation in Greece.

**The European Asylum Policy**

The European asylum policy presents aspects, both in European as well as member-states level, which do not comply with the international humanitarian law and especially to the Geneva Convention for the Refugees of 1951 and the European Convention on Human Rights.

More specifically:

The emphasis given in stopping the mixed flows of migrants and refugees from entering the European territory through the activities of organizations such as FRONTEX and the national borderguards as well as the transnational agreements for combating illegal migration (like the one between Italy and Libya), result in eliminating the refugees' possibilities to enter the European territory and to apply for asylum. At this point we should also mention that hundreds of migrants and refugees die in their effort to enter the European territory.

In addition, refugees who manage to enter European territory are deported either to their countries of origin or to third countries that do not respect human rights and in turn deport them to their countries of origin.

More particularly there are cases of:

1/ Informal deportations, like the push-backs of refugees by the Greek authorities at the Greek-Turkish border.

2/ Deportations under transnational readmission agreements, like the Greek-Turkish Readmission Protocol.

(For both these cases see NOAS, NORWEGIAN HELSINKI COMMITTEE and AITIMA report “Out the back door: The Dublin II Regulation and illegal deportations from Greece”)

3/ Deportations of refugees back to their countries of origin where they face grave persecution following rejection of their claims for international protection. Typical cases of deportation of Iraqi refugees by Denmark, UK and Sweden despite the

warnings and protests of the United Nations High Commissioner for Refugees (see <http://www.un.org/apps/news/story.asp?NewsID=35816&Cr=Iraq&Cr1>)

Both the prevention of refugees' entry at the European territory and their deportation constitute a flagrant violation of the Principle of Non-Refoulement.

Moreover, the 343/2003 Regulation, also known as Dublin II Regulation, apart from being unfair to European countries which border on Asia and Africa, also violates the rights of refugees in many ways:

- It doesn't recognize them the right to choose their country of asylum
- In many cases, it results in their detention even up to five months, till their transfer to the recipient country take place.
- It returns refugees to European countries which do not respect their rights and in which they face even the danger of refoulement. The case of Greece is typical in this respect. That is why the United Nations High Commissioner for Refugees has recommended the suspension of the asylum seekers' returns to Greece according to the Dublin II Regulation.

In conclusion the European policy on asylum and migration as well as the European Asylum System, which comprises of the relevant directives and regulations, fail to offer refugees the full protection which is prescribed by the international humanitarian law and which the member states are legally obliged to offer.

There is, therefore, a need of reviewing both the European Policy and the EU legislation, so that they fully conform to the fundamental rights which are prescribed in Geneva Convention for the Refugees of 1951 and the European Convention on Human Rights.

### **The situation in Greece in the asylum field.**

Now as far as Greece is concerned the situation in the asylum field is dramatic, since:

#### **A/ The asylum system is practically not working.**

More specifically:

Refugees are arrested at the border and then they are under administrative detention and deportation. The detention conditions are squalid and they constitute inhuman and degrading treatment. They have no access to telephone and legal support.

Access to the asylum procedure is almost impossible: due to the practices of the Hellenic Police asylum applications are not filed at the border areas while the Athens Asylum Department accepts only 10-20 asylum applications per week.

The asylum process in first (and last) instance is very slow, because of the Committees' insufficient formation, and almost always results in the rejection of the asylum applications.

There is no possibility for a second instance examination, and so asylum seekers are deprived of their right to an effective remedy.

There is a backlog of about 50.000 asylum applications pending in second instance (some of them have been filed 10 years ago!).

There is no organised legal support system to meet the needs of the thousands of refugees. Three Non Governmental Organizations financed by the European Refugee Fund, including ours, are trying hard to provide support to as many as possible.

### **B/ The serious deficiencies in reception conditions result in a humanitarian crisis**

More specifically:

There are only few reception centers offering about 800 beds while there are tens of thousands of asylum seekers. As a result, it is not always possible to find shelter even for all vulnerable asylum seekers (unaccompanied minors, families, disabled, torture victims etc)

No financial support for the daily expenses is provided.

As a result, the majority of the asylum seekers, included the ones that belong to vulnerable groups, remain homeless and poverty-stricken, receiving no support.

At the same time, it is very difficult for the asylum seekers to find jobs due to the high unemployment in our country.

### **Governmental announcements that haven't been materialised**

The government elected in October 2009 announced that it plans a big reform of the asylum system and more specifically, that:

- It will take from the Hellenic Police the responsibility for asylum and it will create a new asylum service
- It will create new reception centers as well as new screening centers at the entry points in order to identify people who are in need of international protection.

One year has passed and nothing has materialised and the situation at the asylum field has deteriorated.

There were Committees of experts who drafted new presidential decrees. The first that would pass was the one concerning the transitional period till the new asylum service would be in place. According to the draft presidential decree the responsibility for asylum would remain in the Police, despite the fact that everybody admits that is completely unsuitable. On the other hand the second instance examination of the asylum claims would be restored. Although it was announced that this presidential decree would pass in September, there was a reshuffle of the government and so it was postponed.

### **Required changes**

In our opinion the dramatic situation in the asylum field should be addressed immediately. We propose the following measures:

- The government should take from the Police the responsibility for asylum and should assign it to a civil service. This measure should be taken now and not after a transitional period.
- Access to the asylum process should be ensured to both entry points and the rest of the Greek state.
- Fair examination of the asylum applications and the right of a second instance should be guaranteed.
- Creation of a sufficient number of Appeals Committees so that the backlog of the 50.000 cases would be dealt with soon.
- Creation of a sufficient system for free legal aid.
- Creation of a sufficient number of reception centers.
- Providing of an allowance for the daily expenses to all asylum seekers.

At the same time it is necessary to solve the problem of undocumented migrants. The government should legalize these migrants, so that they won't resort to the asylum system.

At this point we would like to note that between those migrants are people who where unable to renew their residence permits because of the relevant strict legal system. Moreover there are people whose deportations are impossible and people who leave in our country for many years. These undocumented migrants are led to poverty and the humanitarian crisis is getting worse.

### **The role of the European Union**

In our view the European Union should use all of its power and authority in order to put pressure to the Greek government so that it proceeds immediately to these changes and to conform to the international and EU law.

Of course it should be recognized that the materialisation of these changes needs the allocation of funds, that the Greek side does not command under the present circumstances of the economic crisis and the policy that the European Union itself has imposed to Greece. So the European Union should either relax the pressure on Greece on financial issues and contribute in funding these changes or fund entirely these changes.

Athens. September 27<sup>th</sup> 2010

Spyros Rizakos  
Legal Representative