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Date: 15/01/2013

DH-DD(2013)32

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Meeting: 1164 DH meeting (5-7 March 2013)

Item reference: Communication from the authorities (10/01/2013)

Communication from Greece concerning the case of M.S.S. against Belgium and Greece (Application No. 30696/09).

Information made available under Rule 8.2.a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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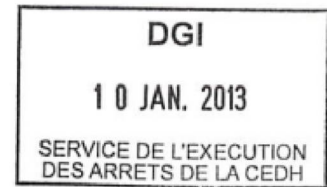
Réunion : 1164 réunion DH (5-7 mars 2013)

Référence du point : Communication des autorités

Communication de la Grèce relative à l'affaire M.S.S. contre Belgique et Grèce (requête n° 30696/09) **(anglais uniquement)**.

Informations mises à disposition en vertu de la Règle 8.2.a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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## **Communication of the Greek Government**

### **Case M.S.S v. Belgium and Greece (application number 30696/09)**

Further to our previous communications concerning the state of execution of the MSS judgment we would like to inform you as follows:

The Agent of the Government in his coordinating role on the execution of the judgments of the Court transmitted by separate letter the Greek version of the Memorandum of 29 May 2012 (CM/inf/DH (2012)19) prepared by the Department for the Execution of Judgments of the European Court of Human Rights to all competent authorities, which disseminated it to all officials involved in the asylum/international protection regime.

In said letter the issues on which the interest of the Committee of Ministers is focused were highlighted and was specified the information that needs to be provided. All competent authorities were asked to provide the requested information before 10 January 2012.

More specifically A) the Ministry of citizen's protection and the Greek Police were asked to provide information

1. On the number of the irregular immigrants who applied for International Protection during detention from 21.1.2011 to present in relation to the total number of immigrants who applied for International Protection during the same period.
2. On the number of unaccompanied minors who were detained from 21.1.2011 to present and the number of them for whom placement in legal custody has been requested.
3. On the state of operation of the newly established Asylum Service, First Reception Service and Appeals' Authority.
4. On the number of the new First Reception Centres that have been constructed and their specifications.

5. On the rate of registration and first level examination of asylum applications at Petrou Ralli Aliens Directorate and the airport of Athens.
6. On the number of voluntary returns and return orders issued from 21.1.2011 onwards.
7. On the number of decisions granting international protection in relation to the total numbers of applications lodged.

The Ministry of Labour were asked to provide information

1. On the funds spent on adequate reception conditions
2. On the number of beneficiaries, especially members of vulnerable groups and

The ministry of Justice were asked to provide information on the number of unaccompanied minors who were placed in legal custody.

So far the Asylum Service, the First Reception Authority and the Directorate for Social Care and Solidarity within the Ministry of Labour and Social Security have responded to the above letter providing the following information:

**As regards reception conditions**

1. The Director of the First Reception Service informed the Agent that the construction of a First Screening Centre has almost been completed in the region of Fylakio, near Orestiada on a site of 17.164 sq.m area. The centre comprises buildings of 1.812 sq.m of which 1.812 sq.m are intended to house 240 people in six wings of a capacity of 60 persons each. In the complex are included sanitary facilities, restaurant and recreation areas. The centre is expected to be fully operational by the beginning of 2013.

The planning for the construction of a second reception centre of capacity of 300 persons in Karoti, Evros is going to be finalized soon. The First Reception Authority is seeking a site on an eastern Aegean island for the construction of a third reception centre.

2. The Directorate General for Social Care and Solidarity within the Ministry of Labour and Social Security informed the Agent as follows:

By virtue of Decision no 573/2007/EC of the European Parliament and Council was established the European Refugee Fund for the period from 2008 to 2013 as part of the General Program "Solidarity and Management of Migrant Flows".

In the frame of said decision the European Union and Greece co-finance various programs in order to grant appropriate reception conditions to asylum seekers (accommodation, legal aid, interpretation, social protection) and tackle emergency situations.

By virtue of Article 28 Law 2617/2007 said Directorate was designated as responsible authority for the monitoring of the above programs. For the programming period 2008-2012 Greece was allocated 39.5 million euro from the European Refugee Fund (ERF), including emergency support of 20.7 million euro (2008-2011). Around 99 per cent of the EU co-financing approved for the implementation of the 2011 ERF emergency measures is committed to grant recipients.

For the years 2009 to 2011 the beneficiaries were as follows:

1. Accommodation and subsistence services 6.896 persons
2. Provision of material aid 11.169 persons
3. Medical and psychological assistance 91.193 persons
4. Provision of legal aid and interpretation services 57.168 persons
5. Advice and assistance on housing and integration to labor market 2.421 persons
6. Assistance for adaption to Greek Society in socio-cultural terms 1.445 persons
7. Assistance on education, vocational training and acquisition of language skills 8.665 persons.

For the year 2012 the estimated number of beneficiaries is as follows:

1. Accommodation and subsistence services 768 persons
2. Medical and psychological assistance more than 20.000 persons
3. Provision of legal aid and interpretation services more than 30.000 persons
8. Advice and assistance on housing and integration to labor market 170 persons
9. Assistance on education, vocational training and acquisition of language skills 3.510 persons.

The number of the unaccompanied minors who were beneficiaries of services rendered in the frame of the above programs for the period from 1.1.2009 to 31.12.2011 amounts to 9.317 persons. 2.921 minors were provided with accommodation and subsistence means. During 2012 it is estimated that that 335 minors were provided with accommodation and subsistence means, while another 2000 minors were provided with medical treatment, legal aid and interpretation services.

**As regards the reformed asylum/international protection regime**

1. The Asylum Service informed the Agent that a draft law has been finalized in cooperation with the UN Refugee Agency, by which transposition of Directive 2005/85/EC has been amended and a common procedure on granting asylum is established. Asylum service has so far recruited 48 persons out of the 292 planned due to administrative constraints on recruitment. Nevertheless the authorities are considering alternative solutions to overcome staffing problems and render the Service fully operative.
2. The European Asylum Support Office (EASO) in its annual report of 2012 assessing the progress made in the implementation of

the Greek Action Plan as well as on issues of border management and return mentions:

- *"The actions of the Greek government also with support of the ASTs deployed by EASO and the assistance of UNHCR produced significant results:*
  - *the numbers of examined asylum cases (first instance) almost doubled and this shows increased administrative processing capacity;*
  - *the examined appeal cases have increased from very low to substantial numbers;*
  - *the backlog cases have decreased by nearly 30 % as non-active cases have been screened out and archived (NB a new legislative amendment in 2012 will allow for the further decrease of the backlog at 2nd instance (Article 18 of Law 4058/2012);*
  - *the quality of the written decisions at second instance is, according to UNHCR, fully compliant with international and European standards;*
  - *the provision of interpretation services is improved with the cooperation of a local NGO (partner of UNHCR); apart from the physical presence of trained interpreters the use of tele/video-conference is established at the Regional Asylum Police Services, which enhances efficiency;*
  - *the technical specifications for the detention centres and initial reception centres have been finalised;*
  - *standard operating procedures for reception centres, management of the centres and staffing have been drafted with the assistance of UNHCR;*
  - *guidelines for referral of vulnerable groups, unaccompanied minors and age assessment have been drafted;*

- *a system for screening, identification and data analysis is being set up;*
- *a system of Country of Origin Information including training in Country of Origin Information is being set up, with the active support of UNHCR;*
- *a training plan building on the EAC has been elaborated upon by the new Services in cooperation with EASO;*
- *translation of six EAC training modules into Greek;*
- *preparation of EASO training of staff of new Services.*

*More specifically:*

- *in February 2012 the actual training of Greek staff started. Sixteen staff were trained in the EAC 'Inclusion' module. Evaluation of this training session supported the establishment of the long-term EAC training plan for Greece mentioned above;*
- *accordingly, several training sessions are planned by June 2012, some of them being train-the-trainer modules. One training session will be undertaken by Greek EAC certified trainers supported by EAC certified trainers from the EASO Trainers Pool;*
- *up to 20 Greek trainers will be trained as trainers on the Modules 'Inclusion', 'International Refugee Law and Human Rights' and 'Evidence Assessment'. This is the first step to setting up a Greek internal training system;*
- *further training material is being translated into Greek with the active engagement of staff of the new Services.*

*In May 2011, the EU Commission stated: 'Following the submission of an action plan to the European Commission in August 2010, Greece has embarked on a comprehensive overhaul of its asylum and migration system, and has received support from the Commission, the Member*

*States, Norway, the UNHCR and other EU partners. Asylum Expert Teams coordinated by the EASO are now deployed there. Important new legislation has already been adopted by Greece in 2010, and its implementation is under way.'*

*At the JHA Council of 27 October 2011, the EU Commission reported on the state of play of the implementation of the Greek action plan.*

*As a major actor in the implementation of the asylum-related aspects of the Greek Action Plan and an international organisation with a specific mandate for the monitoring of the implementation of the 1951 Geneva Convention, UNHCR made the following general assessment at the end of 2011:*

*'Well into the transitional period and in the second phase of the reform, which is the implementation of the adopted legislation, Greece has already significant progress to present, despite the adverse political and economic context. With regard to the asylum procedure, this progress is noted mainly in an improved quality of the asylum decision-making process, in particular at second instance, as well as in the backlog clearance, where a first review of pending files has been completed, separating active from non-active appeal cases.*

*However, systemic deficiencies in the Greek administration, coupled with constraints imposed by austerity measures, render progress in implementation of the reform more challenging and significantly impact on its pace.'*

*For its part, the EU Commission made an evaluation mission to Greece in December 2011 and, while noting some progress in certain areas, as corroborated by UNHCR, reported a number of shortcomings.*

*Although important steps have been taken, such as the appointment of the Directors of the initial Reception Service, the new Asylum Service, the Appeal Authority and the establishment of these three new services in office facilities of their own, the Greek government had to extend for*

*another 6 months till 1 July 2012 the 'transitional period' — where the rules of Presidential Decree 114/2010 of 22 November 2010 stili apply till the new services are able to take over.*

*Moreover, due to cross-cutting issues such as exceedingly heavy national administrative procedures and the effective freeze on recruiting in the State administration in order to meet fiscal consolidation rules, the implementation of several elements of the Action Plan remain delayed, with the most serious one relating to the staffing of the new services. Lack of competent staff means not only that their start of operations will be further delayed, but also that EU-provided assistance by means of funding and human resources, such as ASTs, cannot be absorbed as effectively as desired.*

*By the end of December 2011, there was stili a long way to go before the situation could be regarded as corrected with regard to the EU acquis on asylum and to the criteria outlined in the M. S. S. ruling of the ECtHR.*

*One of the main concerns in 2012 remains the lack of Greek staff and consequently the risk of progress, in particular the transition to the new asylum procedure under the responsibility of the Asylum Service and Appeals Committee as well as for the continuity. The capacity in the asylum and reception Systems of a Member State remains in the end the prime responsibility of a Member State. The support provided by EASO is and has to be in this respect temporary by nature.*

*Regardless the abovementioned challenges with recruitment, the three services are attracting new staff: the Asylum Service, now a director and 13 staff, plans to recruit 262 staff; the Initial Reception Service, now a director and 8 staff, plans to recruit 40 staff (regional staff) and start operations on 1 September 2012; and the Appeals Authority now a director and one member of staff plans to recruit 30 staff and appoint members for additional appeals committees.*

*Part of the support to the Greek asylum authorities comes through EU funding and by assisting the authorities in optimising the application and utilisation of funding within the Greek budget System, the effect of ail support will be magnified. Ongoing Member State and EASO support has been set up”.*

As soon as further requested information is provided we are going to submit it promptly to the Committee of Ministers.

Dimitrios Kalogiros

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