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Meeting: 1294th meeting (September 2017) (DH)

Communication from the authorities (07/09/2017) following a communication from a NGO in the case of M.S.S. v. Belgium and Greece (Applications No. 30696/09)

Information made available under Rule 9.2 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 : 1294^e réunion (septembre 2017) (DH)

Communication des autorités (07/09/2017) suite à une communication d'une ONG dans l'affaire M.S.S. c. Belgique et Grèce (Requête n° 30696/09) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DGI

7 Sept 2017

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

HELLENIC REPUBLIC

Case M.S.S. v. Belgium and Greece

Application No. 30696/09

1294th Meeting of the CM-DH (19-21 September 2017)

Regarding the communication sent by the Open Society Justice Initiative to the Committee of Ministers of the Council of Europe in June 2017 in accordance with Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of Judgements and of the terms of friendly settlements, and, in particular, on the execution of Judgement of 21.01.2011 of the Grand Chamber in the Case of M.S.S. v. Belgium and Greece (Application No. 30696/09), the Asylum Service of the Ministry of Migration Policy of Greece would like to comment on the thematic areas criticized in the communication that fall under its competence, most importantly, the issue of access to the asylum process as well as the fair and timely processing of the asylum claims.

1. With regard to the reference made in the second paragraph on page 3 of the communication stating: "[...] *Access to the asylum procedure remains obstructed and asylum decision-making is substantially lengthier than required by Greek law*" summarizing the criticism put forward in the communication, we would like to note the following:

Greece's intake of asylum seekers in 2016 was one of the highest in Europe, both in absolute figures and especially in terms of the ratio between asylum seekers and permanent residents. The Asylum Service registered 51,092 international protection applications in 2016. Similarly, by the end of July 2017, 31,973 applications were already registered by the Asylum Service, revealing that the rate of registrations remains at least as high as the previous year.

The **recognition rate** reached 44% during the first seven months of 2017. Indicatively, for Syrian asylum seekers it stands at 99,5% , for Iraqis at 72,8% and for Afghans at 63,6%.

As of the end of July 2017, the Asylum Service operates ten Regional Asylum Offices (RAO's) and twelve Asylum Units (AU's)¹ which means that adequate **regional coverage** is provided, contrary to the relevant comment of the communication. The Service's staff, consisting of 673 permanent and contracted employees, has tripled in size within four years and is being assisted by EASO's deployments (by around 140 members of own staff and experts from the Member States) as well as from 20 members of staff deployed by UNHCR. Moreover, the work of the Asylum Service is assisted by 25 police officers and around 300 interpreters from the NGO METAdrasi and the EASO. Asylum seekers may register an international protection application at the Asylum Service by presenting themselves at the nearest Regional Asylum Office or Asylum Unit. Nevertheless, the use of "Skype" for the registration of applications, despite occasional technical difficulties, has contributed significantly to facilitating access to the asylum procedure as well as to the breaking down of the exploitation rings asylum seekers used to resort to to access the asylum procedure before 2013. Moreover, as of 1st August 2017, the Skype line is available 25 hours per week for applicants who fall under the competence of the RAO of Attica and 23 hours for applicants who reside in the rest of the mainland.

2. Regarding concerns raised on delays in the decision making process, we would like to note that by the end of July 2017, the number of applications awaiting a first instance decision was 27,545, down from 33,038 in March 2017. It should also be noted that the percentage of asylum claims which have been fully registered and the examination of which is pending for less than six months, is 64,8%. The 'border procedure', adapted to facilitate the implementation of the EU-Turkey

¹ As of the end of July 2017.

statement, is indeed more complex, given that an additional layer of examination, namely, the 'admissibility test', has been added. Despite this, the **average duration** of the asylum procedure of first instance in the hotspots is two and a half months.

3. Furthermore, by Law 4375/2016 (art.44, par.3), the provision of **legal assistance** free of charge was regulated at second instance before the Appeals Authority.

With regard to implementing provisions of the law regarding legal assistance free of charge at second instance before the Appeals Authority, the roster of lawyers of the Asylum Service has been constituted. In addition, legal aid free of charge has been provided to applicants through UNHCR, by virtue of a Memorandum of cooperation between the Ministry of Migration Policy and the UNHCR.

4. Regarding the reference to the legality of the provisions of the Law 4399/2016 (amending Law 4375/2016) for the establishment of the "Independent Appeals Committees" and on the composition of these Committees, we would like to note that Judgements No 1237 and 1238/2017 of the Plenary of the Council of the State affirmed that the establishment and composition of the Independent Appeals Committee is constitutional.

5. Finally, with regard to the recommendations addressed to the Council of Ministers, we note the following:

- Greece's asylum procedure is one of the leanest in the European Union. One example of this is that, as a general rule, the decision makers are the same as the caseworkers conducting the interviews with asylum seekers. Where Greece had the discretion to simplify implementation of the EU Asylum Procedures Directive, it has done so.

-In the last four years Greece has never been accused for violating the principle of non-refoulement as regards persons who have made asylum applications.

-As regards the further expansion of the Asylum Service, as explained above, this expansion has already been achieved. We consider that since Greece is bearing a grossly disproportionate share of the responsibility for the adjudication of asylum claims, NGO advocacy efforts should be rather directed towards the establishment of a fair burden-sharing arrangement in the EU. If this does not materialize, Greece will never be in a position to handle all asylum applications by persons seeking protection in the EU who enter the EU through Greece, irrespective of all its good faith efforts.