



GREECE

OUT OF THE SPOTLIGHT:

The rights of foreigners and minorities are still a grey area

October 2005
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Cover: People being ushered into a container used to detain “illegal immigrants” on the island of Chios in 2005 © Επιτροπή Αλληλεγγύης στους Πρόσφυγες [Refugee Solidarity Committee, Chios]

amnesty international

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Summary

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In recent decades, Greece has transformed from a country of emigration to one marking the border between the global south and the European Union. As a result of this transformation the country's migration policy has undergone dramatic changes. Overall, the information collected by Amnesty International suggests that the self-confessed ineffectiveness with which authorities have responded to migrants' needs in the last few years has had a negative impact on the way in which 'foreigners' are perceived in Greece. For this reason, Amnesty International recommends that the reform of the current framework guiding the authorities' migration-related practice should be complemented by policies addressing the problems of discrimination, racism and xenophobia within the wider Greek population.

The current legislative framework relating to refugee protection, while guided by the principle of protecting human rights, presents a number of gaps. As a result, the application of the law often results in violations of human rights, including the right of refugees not to be returned to a country where they face being subjected to torture or other serious human rights violations. Specifically, the framework fails to adhere to international human rights law and standards mainly in two respects: (i) at no stage of the process does it provide for an independent review of a rejected application on the substance of the claim; and (ii) the lack of provisions explicitly safeguarding against the risk of *refoulement*. The human rights violations resulting from these failures are documented in chapter one of the report.

Another main area of Amnesty International's concern about human rights violations in Greece during the last two years has been the alleged ill-treatment of individuals during arrest and detention. During this period, the organization has received a number of reports regarding ill-treatment during arrest and cruel and inhuman treatment arising out of poor conditions of detention, as well as allegations regarding the arbitrary arrest and detention particularly of foreign nationals. The organization's primary concerns relate to the detention of people charged with "illegal entry". The information collected by Amnesty International during visits to detention centres suggests that at least some of the detainees may be refugees in need of international protection, and therefore, their detention could be in contravention of international law. Amnesty International's findings further suggest that detainees may in fact be prevented, directly or indirectly, from seeking such refugee protection even while in detention. Factors conducive to the authorities' failure to uphold the principle of *non-refoulement* enshrined in international law include the lack of access to information and lack of communication facilities, as well as the limitations on access to lawyers and the asylum determination process. Furthermore, Amnesty International is concerned that the conditions of detention in particular areas of the country do not adhere to international law and standards. In Chios, for example, the

authorities have used metal containers to detain people, in flagrant violation of international law and standards. Repeated detentions, detention of particularly vulnerable individuals such as pregnant women and children, and failure to protect women and children who were victims of trafficking were also reported. Some migrants, and especially nationals of Albania, Afghanistan, and Pakistan, also suffered ill-treatment at the hands of police officers. These violations are documented in chapter two of the report.

Another aspect of discrimination was manifested in the human rights violations suffered by Roma and other minority groups. In Athens and Patras, Romani residents were forcibly evicted from their settlements, and have been forced to live in inadequate alternative accommodation, bearing much of the financial burden of this resettlement themselves. The Roma of Patras have also been the target of racist abuse, which authorities appear to have dealt with inadequately. The failure of the state to respect, protect and fulfil the economic, social and cultural rights of the Roma is, to a large extent, owed to the gaps in national anti-discrimination legislation, as well as the failure to adopt relevant international legislation and standards. These failures are documented in the third chapter of the report.

A further concern with regard to Greek policies towards marginalized groups has been the framework guiding policies towards minorities. During the last two years, Amnesty International has received information on violations of human rights, arising from the state's failure to respect, protect and fulfil the rights to freedom of expression, religion, and association that members of minorities are entitled to, as well as from its failure to provide redress to people who, as members of minority groups, have suffered human rights violations perpetrated as a result of discriminatory legislation that has since been withdrawn.

In light of these concerns, this report documents the mechanisms that contribute to the failure of the authorities to ensure that persons residing in Greece who are not members of the Greek majority group enjoy the human rights to which they are entitled, whether they be asylum-seekers, migrants or members of minorities. In the final part of the report Amnesty International makes a number of recommendations to the Greek authorities, covering the four areas of human rights violations covered in the report.

KEYWORDS: discrimination, refoulement, detention, trafficking, minorities, Roma
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This report summarizes a 70-page document (38,045 words): Greece, Out of the spotlight: The rights of foreigners and minorities are still a grey area (AI Index: EUR 25/016/2005), issued by Amnesty International in October 2005. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

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Greece

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INTRODUCTION

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.”

Article 2, Universal Declaration of Human Rights

Freedom from discrimination is the basis upon which the protection of human rights rests. The failure to guarantee freedom from discrimination is thus a fundamental failure in such protection practices. Amnesty International has documented various aspects of this failure around the globe. This report outlines the situation in Greece. It documents a consistent pattern of human rights violations across a range of fields that stem from the failure of the state to combat discrimination, in the practices of its representatives as well as of non-state actors. These practices range from the denial of protection to refugees and the ill-treatment of migrants, to the forced eviction of Roma from their settlements and the inadequate protection of minority rights.

In a previous report on Greece, published jointly with the International Helsinki Federation in 2002,¹ the persistence of human rights violations, and ill-treatment in particular,

was documented. One of the major findings in that report was that “Roma and immigrants are particularly at risk of abuses at the hands of law enforcement officials” and that “the pattern is sufficiently clear to leave little room for doubt that xenophobia and racial profiling have played a part in the human rights violations suffered by members of these groups”.

Since 2002, there has been little change to this pattern, despite the fact that new domestic legislation has been put in place to deal specifically with the areas of concern highlighted in that report, as well as with various other aspects of discrimination. The legislation relates to the use of firearms, access to justice, combating trafficking in human beings, and immigration control. The reports received by Amnesty International of human rights violations in the period between 2002 and 2005 show that many of the provisions of this legislation, especially those designed to protect human rights and to safeguard freedom from discrimination, are yet to be implemented.

¹ *Greece: In the Shadow of Impunity: Ill-treatment and the Use of Firearms*, Amnesty International and International Helsinki Federation joint publication (AI Index: EUR 25/022/2002)

This report contains an indicative sample of the cases of alleged human rights violations received by Amnesty International in the last three years. It is neither exhaustive, nor does it cover all aspects of human rights violations in Greece. It rather focuses on violations affecting marginalized populations in the country, such as migrants and minorities.

Discrimination comes in a variety of forms, even in this context. Its colours are often those of distinction between different types of marginality. The legalization documents used by the state to classify foreign nationals into different categories of regularity are coloured red, yellow, and green. These are the colours of a legal system with a number of provisions on human rights protection, but the implementation of which often leaves individuals in a state of prolonged irregularity and vulnerable to ill-treatment by state agents and non-state actors alike. Discrimination has also cast a dark shadow over the local authorities' treatment of their Roma constituents whom they forcibly evicted shortly before the Summer Olympic Games of 2004, and just as the organizers extolled visitors to "catch the light" through walks in the centre of Athens, the main Olympic site. This was not the only occasion in which Greece came under the international spotlight. In 2003, it presided over the European Union. And away from the spotlight, Greece's record of human rights protection came under the scrutiny of the UN Committee against Torture in 2004 and of the UN Human Rights Committee in 2005. As an appraisal of this period, the current report aims to shed light on this record by outlining Amnesty International's concerns regarding the treatment of those outside of the spotlight in Greece, the members of the many marginalized groups in the country.

The report focuses specifically on the failure of the state to comply with human rights law and standards regarding access to the asylum process and *non-refoulement*, the detention of migrants, and the protection from discrimination and ill-treatment. The reports and allegations presented here have been brought to the attention of Amnesty International by lawyers, doctors, journalists, activists and international and locally-based non-governmental organizations (NGOs) as well as by migrants, detainees, and victims of human rights violations. Representatives of Amnesty International visited Greece in January 2005 and June 2005 and collected further information about these violations. Over the course of 2003, 2004 and 2005, the organization has raised its concerns in these areas of human rights protection with authorities in Greece, but in most cases has not received any reply. In addition, Amnesty International has published a number of documents outlining examples of such violations and raising its concerns publicly. Concerns have also been raised by inter-governmental bodies, such as the European Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CPT), the UN Committee against Torture (CAT), the UN Human Rights Committee (HRC) and the European Committee on Social Rights.

1. RED, YELLOW (AND GREEN): NAVIGATING THE MIGRATION MAZE

“No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

Article 33.1, Convention relating to the Status of Refugees

“States Parties shall assure to everyone within their jurisdiction effective protection... against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention.”

Article 6, International Convention on the Elimination of All Forms of Racial Discrimination

1.1 Background

Greece's “rapid transformation from a traditional emigration country to a pole of attraction of immigrants” over the last two decades, has brought to the surface the country's lack of an “adequate legislative framework of migration policy”.² This was stated in the initial report submitted by Greece to the United Nations (UN) Human Rights Committee, which examined the country's compliance with the International Covenant on Civil and Political Rights (ICCPR) in March 2005. However, despite assurances that such a framework is now in place, migrants in Greece continue to suffer human rights violations at the hands of state authorities and non-state actors. For reasons that are explained below, the system currently in place fails to guarantee adequate levels of protection to migrants, including vulnerable groups such as refugees.

In this report, “migrants” is the general term used to refer to people who are in Greece either temporarily or permanently. It includes those migrants who move voluntarily and those who feel impelled to leave because of the economic and social hardships they face in their home country as well as refugees.

Asylum is a process whereby anyone fleeing persecution seeks protection *after* arriving in another country.

Greece is a party to the Convention relating to the Status of Refugees of 1951 (known as ‘the Refugee Convention’), and the Protocol relating to the Status of Refugees of 1967 (known as ‘the 1967 Protocol’), which requires states to cooperate with the UN in the protection of refugees in their territory. The Office of the UN High Commissioner for Refugees (UNHCR) has documented a sharp decrease in the rate of recognition of refugees in the last two years. According to the UNHCR, by the end of 2004, 5328 asylum applications were pending at first instance and around 2500 at the review stage, while another 100 applications were pending before the Council of State for administrative review. Of those applications, 4469 had been lodged during 2004. Another 50,000 people had expressed their wish to file an application but had not been able to lodge their applications

² International Covenant on Civil and Political Rights, Human Rights Committee, *Consideration of Reports Submitted by the State Parties Under Article 40 of the Covenant: Initial Report, Greece, 5 April 2004* CCPR/C/GRC/2004/01: 12.

yet. During that year, 11 people were recognised as refugees under the Refugee Convention and 22 were granted protection under humanitarian status, while two were naturalized.³ Another 3731 applications were rejected and in 623 cases the examination was stopped before a decision was reached. In total, the refugee recognition rate for the first nine months of the year was 0.3 per cent while the granting of protection status (refugee or otherwise) was 0.9 per cent. Both of these figures were the lowest of all the 148 countries considered by UNHCR in its global overview of refugee populations in 2004.⁴ At the same time, comparative research shows that Greece has some of the lowest asylum application rates in Europe.⁵

In fact, the local branch of UNHCR in Greece expressed great concern at the sharp drop in the rates of recognition in recent years, having documented a figure of 0.06 per cent recognition rate for the previous year and 0.3 per cent for 2003, a 370 per cent drop from the 11.2 per cent rate of 2001.⁶ Commenting on these low rates of recognition in a position paper published in November 2004,⁷ the UNHCR urged the Greek authorities to review their refugee status determination procedures and pointed to a series of problems in the current implementation of national and

international legislation on this issue. These practices were also documented in January 2005, during Amnesty International's visit to Greece. The legal framework currently in force is briefly reviewed in the next section.

Article 1 of the UN Convention relating to the Status of Refugees adopted in 1951 (known as 'the Refugee Convention') defines a "refugee" as a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it." Under this Convention states have an obligation to protect people who risk being subjected to serious human rights abuses if they are forcibly returned to their country of origin, i.e. the principle of *non-refoulement* (under Article 33.1). In addition, *General Recommendation No.30: Discrimination Against Non Citizens* of 01 October 2004 of the UN Committee on the Elimination of Racial Discrimination (CERD), which clarified the application of the International Convention on the Elimination of All Forms of Racial Discrimination to non-citizens, noted the obligation of states parties to "ensure that non-citizens are not returned or removed to a country or territory where they are at risk of being subject to serious human rights abuses, including torture and cruel, inhuman or degrading treatment or punishment."

1.2 The legal framework

Greece has ratified both the Refugee Convention and the 1967 Protocol. In addition, it has ratified other relevant international conventions such as:

³ Εντυπωσιακή Μείωση των Αιτήσεων Ασύλου: Τι λένε οι Αριθμοί για την Ελλάδα [Impressive Reduction on Asylum Applications: What the Figures Say About Greece], UNHCR, Greece Press Release, 1 March 2005

⁴ UNHCR, "2004 Global Refugee Trends: Overview of Refugee Populations, New Arrivals, Durable Solutions, Asylum-seekers, Stateless and Other persons of concern to UNHCR", 17 June 2005, Population and Geographical Data Section Division of Operational Support, UNHCR, Geneva.

⁵ "Why Greece is Not a Safe Host Country for Refugees", Skordas and Sitaropoulos, *International Journal of Refugee Law*, 2004 (16:1), pp 27, 49.

⁶ Στατιστικά Ασύλου για την Ελλάδα (1997-2004) [Asylum Statistics for Greece (1997-2004)], UNHCR, Greece 2005.

⁷ UNHCR, *Position on important aspects of refugee protection in Greece*, November 2004: 4.

- the International Covenant on Civil and Political Rights (ICCPR)
- the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- the International Convention on the Elimination of All Forms of Racial Discrimination
- the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture)
- the Convention on the Rights of the Child (CRC).

At the time of writing, Greece had yet not signed or ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the UN General Assembly in 1990, which came into force on 1 July 2003.

Greece ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in 1974 and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 1991. As a member of the European Union (EU), Greece is also bound by EU Directives pertaining to refugee protection.⁸ As of 2000 Greece has also been part of the Schengen area.

⁸ The main EU directives/regulations are: (i) *Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof*, Official Journal n° L 212, 20 July 2001; (ii) *Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum -seekers*, Official Journal N° L 31, 6 February 2003 (iii) *Council Regulation 343/2003/EC of 18 February 2003* Official Journal n° L 50, 25 February 2003; (iv) *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international*

The fundamental principle of *non-refoulement*, elaborated in some of these instruments and which is also recognized as a norm of customary international law, prohibits the return of anyone, regardless of their legal or other status, to a country or territory where they would be at risk of torture or other serious human rights violations. The national legal framework of Greece is also guided by this principle.

Presidential Decree 61/1999 (PD 61/99) sets out the procedures for refugee status determination in Greece. The Decree defines as an asylum-seeker, and prohibits the removal from the country of, any foreigner “who declares, orally or in writing, to any authority on the entry points or inside Greek Territory, that they request asylum in [the] country or in any way asks not to be expelled to a country out of fear of persecution on account of race, religion, ethnicity, social class or political convictions” (Article 1.1). This is in compliance with international law, whereby asylum-seekers are assumed to be refugees unless or until they are found *not* to be in need of international protection.⁹ The Decree further stipulates that asylum applications are to be examined at Security Police Departments and Aliens Departments within three months and further stipulates that in cases where the applicants are detained in areas within ports or airports, the examination of the applications should take place on the same day. The

protection Brussels, Official Journal n° L 304, 30 September 2004; (v) *Amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status on 29 April 2004*, 8771/04 Asile 33.

⁹ UNHCR’s *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees* notes in this regard that “a person is a refugee within the meaning of the 1951 Convention as soon as he fulfils the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined.” UNHCR, Geneva, p. 7.

examination of a claim includes an interview with the applicant with the help of an interpreter provided by the Ministry of Public Order. The interview aims to establish the applicant's identification details, the precise route followed into the country (including the overall itinerary of the asylum-seeker, including transit through safe third countries or EU Member States) and the reasons for flight from the applicant's country of residence. The Decree notes that the applicant should be given enough time before the interview to prepare their presentation and to consult a lawyer. The interview is conducted by one or two civil officers and a report is prepared, which is read, via the interpreter, back to the applicant at the end of the interview and signed by them. The opinions of the officer(s) are then added, the applicant and their families fingerprinted and photographed.¹⁰

Upon completion of this process the individual is issued with a document certifying that they have lodged an asylum application and that this is being examined. This document is commonly known as the "RED (or PINK) CARD". Its holder has a right to reside in the country for a period of six months and to have

the card renewed, at six-monthly intervals, until a decision about their application has been made. Holders of the "red card" can then apply for a work permit, which is granted if they are "not residing in the Temporary Residence Centre¹¹ for foreign asylum-seekers" and on the basis that "job market research has established that there is no interest in the specific position by a national, an EU citizen, a recognised refugee, or a repatriate".¹² The same work permit is available to applicants who have not been recognized as refugees under the Refugee Convention but have been granted asylum for humanitarian reasons (PD 189/1998, Article 4.1).

Throughout the period of examination of the application, the applicant is not allowed to change residence without informing the authorities – in such cases the examination of their application is "interrupted" and the applicant appropriately informed. A request for the "interruption" decision to be revoked can be lodged within a period of three months. In the absence of such a request, at the end of this period, "interrupted" applications are automatically rejected.

Following the issuing of the "red card" (i.e. the identification of the applicant as an "asylum-seeker"), the application file is passed on to the regional Police or Aliens Authority, who provide comments on the interviewer's recommendations and ascertain the suitability of Greece to examine the claim according to the Dublin II Regulation (i.e. that the applicant

¹⁰ As an EU member, Greece is bound by the *Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities* (the Dublin Convention). This inter-governmental convention has now been replaced by the Council Regulation (EC) n° 343/2003 of 18 February 2003, the so-called "Dublin II Regulation". In order to aid the application of this Convention, member states use the "Eurodac" and the DubliNET systems. Eurodac is a common database where fingerprints of all asylum applicants and apprehended undocumented migrants are contained. DubliNET is an electronic network of transmission channels between the national authorities dealing with asylum applications. The network became operational on 1 September 2003 in the EU Member States and in Norway and Iceland. It allows the national authorities responsible for examining asylum applications to exchange data on asylum applicants in order to determine the responsible Member State.

¹¹ A report published in 2004 by UNHCR listed 12 such centres, also known as "Reception Centres" in the country, 10 of which were still in operation at the time of publication (*Πρακτικές Υποδοχής Αιτούντων Άσυλο στην Ελλάδα με Ιδιαίτερη Έμφαση σε Μητέρες Μόνες, Γυναίκες Μόνες και Παιδιά που έχουν χωριστεί από τις Οικογένειές τους* [Reception Practices for Asylum-Seekers in Greece with special emphasis on Single Mothers, Unaccompanied Women, and Children separated from their Families], Tsovoli and Voutira, 2004)

¹² Article 4.1 of Law 1975/1991 regulating foreigners' rights.

has not travelled to another EU destination prior to entering Greece).

A decision on the application is made by the General Secretary of the Ministry of Public Order and on the basis of recommendations of the Ministry's National Security Directorate. Other authorities and organizations, including UNHCR, may be invited to provide information on the case. In cases of positive decisions, the individual is issued with a refugee identification document, commonly known as "the YELLOW CARD", on the basis of which the individual can reside in Greece for five years.¹³ A work permit can also be issued for the same period of time, upon a second application on the basis of this refugee identity. These are renewable for a further five years and upon the completion of ten consecutive years of residence, an individual can apply for naturalization.

In cases where the application is rejected, the rejection must be fully justified and the applicant is informed, in a language which they can understand, of their right to appeal this first-instance rejection within 30 days. The appeal is examined by the Minister of Public Order and a decision taken within 90 days of it being lodged, upon the Minister's consultation with the six-member Board, consisting of the Legal Adviser to the Ministry, who acts as its President, a diplomatic officer and a legal adviser of the Ministry of Foreign Affairs, a high-ranking officer of the Greek Police, a representative of the Athens Bar Association, and the Legal Protection Officer of UNHCR in Greece. The Board hears the applicant's case in their or their lawyer's presence and a final decision is made by the Minister and conveyed to the applicant. UNHCR is informed of all the decisions taken.

¹³ The "Green Card" is the third major document in the migrant legalization process, and is given to migrants who are not refugees and who have been granted residence and work permits.

A second *ab initio* re-examination of a rejected asylum application is only undertaken in exceptional circumstances and where an applicant has provided additional new evidence to support their claim after receiving the negative decision on review of their application by the Minister and the Consultative Board. Such re-examinations of applications are also undertaken where the process through which the final decision was reached was found to be flawed on administrative grounds. The body that undertakes this procedural review of the decision-making process is the Council of State (Συμβούλιο της Επικρατείας). In the absence of the application of the "exceptional circumstances" stipulation regarding re-examination, this is the only possibility of appeal available in practice against a final negative decision and it is an appeal on procedural grounds.

In cases where the application has been rejected at this second stage but the applicant cannot be returned to their country of origin (due to health reasons, inaccessibility or adherence to the principle of *non-refoulement*), they may be granted the right to remain in the country for a one-year period, renewable on application, under "humanitarian" status (ανθρωπιστικό καθεστώς).

There is a parallel process of "fast-track procedures of examination". These procedures are applied in cases where the fear of persecution is deemed "unfounded" or where the applicant has arrived from a "safe third country". People whose claims are processed through these procedures are generally held in detention in special closed facilities for "illegal entrants" in airport / port zones. The application of these designations (of an "unfounded" claim and "safe third country") is decided by the Police Superintendent upon the recommendation of the National Security Directorate of the Ministry of Public Order. In such cases, the applicant must appeal a negative first-instance decision within 10 days and a final decision must be reached within 30

days by the General Secretary of the Ministry of Public Order. If the applicant is in detention in the transit area of a port or airport, these periods are shortened to five and 15 days respectively.

Amnesty International is concerned that gaps exist in this legislative framework which lead to violations of the right to seek asylum under international refugee and human rights law. Specifically, the framework fails to adhere to international human rights law and standards in two respects: (i) at no stage of the process does it provide for an independent review of a rejected application on the substance of the claim; and (ii) it lacks provisions explicitly safeguarding against the risk of *refoulement*. In addition to these shortcomings, in practice, a number of the provisions outlined above are either not adhered to or implemented in a ways that put individuals at risk of *refoulement*. The next two sections provide a review of the major problems arising from the implementation of this framework. The first section outlines concerns relating to the lack of provisions in the legislation to guarantee that the principle of *non-refoulement* is adhered to. The second section outlines the authorities' failure to apply the provisions of the legislation.

The research presented here has not covered a second area of refugee protection, which concerns the provisions of the Refugee Convention relating to the social integration and long-term assistance that state parties are required to afford recognized refugees within their territory. On this issue, academic research,¹⁴ as well as UNHCR documents show that there are currently no legislative or policy provisions in Greece relating

specifically to this area of human rights protection, although in this field research is still sketchy. In law, recognized refugees are afforded the same rights as anyone legally present on Greek territory.¹⁵ UNHCR has researched and issued recommendations in October 2004 on the protection and integration schemes which should be provided to individuals who are especially vulnerable during the asylum examination process (single women and children who are "red card" holders).¹⁶ Amnesty International is not aware of specific policy schemes aimed at aiding the integration of recognized refugees, as vulnerable individuals, into the wider society, however, and has data obtained from interviews with experts in Athens which suggest that "once refugees are recognized, they are lost" (i.e. not monitored by social welfare bodies).

1.3 Areas of concern regarding the legislative provisions

1.3.1 Limitation of the scope of the review process

A major source of concern is the absence of access to an independent review in substance of a rejected application. Amnesty International has noted a lack of safeguards in the national legislation to guarantee access of asylum applicants to such an independent review of their application. These arise mainly from the fact that neither of the two possibilities for review offered throughout the examination process provides for an independent review on the substance of the case. On the one hand, the review of a negative decision at first instance, which is undertaken upon appeal, does not involve an independent authority, but is directed by the Ministry of

¹⁴ Nicholas Sitaropoulos, "Refugee Welfare in Greece: Towards a Remodelling of the Responsibility-Shifting Paradigm?" in *Critical Social Policy* 22(3): 436-455, 2004 and Achilleas Skordas, "The case of recognized refugee families in Greece: The 'undesirable' integration" in *Quarterly on Refugee Problems (AWR-Bulletin)* 40(49) Number 4/2002: 210-221.

¹⁵ Eleni Spathana, Νομική Συνδρομή σε Πρόσφυγες και Αιτούντες Άσυλο στην Ελλάδα [Legal Assistance for Refugees and Asylum-Seekers in Greece], Greek Refugee Council, Athens, 2004: 135.

¹⁶ Tsovili and Voutira, *ibid*.

Public Order, which is the same body responsible for first instance decisions. On the other hand, the procedural review undertaken by the Council of State following a final negative decision does not cover the substance of the application, but examines only the administrative aspects of the decision-making process. The non-compliance of the Greek system with international standards was heavily discussed during the European Union (EU) negotiations on common minimum standards for asylum procedures. At the time, the Greek delegation acknowledged this problem and announced that it would look at a reform of its appeal system. The data presented in this report shows that the lack of substantial reforms in this area has led to serious violations of the human rights of applicants.

The first instance examination of applications is carried out by the Ministry of Public Order, which is also charged with guarding the country's borders and preventing the entry of undocumented migrants. Given the fact that many of these individuals subsequently seek asylum, it is likely that of some the first instance decisions of the Ministry of Public Order could be tainted with subjective bias against the applicants, and that these decisions could be inaccurate. An independent review of the substance of rejected asylum applications would help to ensure that asylum applications are not rejected without due cause, and those asylum-seekers who would be at risk of torture or other serious human rights violations are not returned to their countries of origin. Instead, under the current provisions, the Ministry is also charged with reviewing decisions to reject an asylum claim. The intervention of UNHCR in these decisions is severely limited – at first instance, the UNHCR may provide information relevant to the case, while at the review stage an expert sits on the “Appeals Board” but effectively has no vote, since the Board is not a decision-making, but a consultative body.¹⁷

¹⁷ This limitation has in fact been cited as one of the contributing factors rendering Greece “an unsafe host country” (Skordas and Sitaropoulos, *ibid*).

A re-examination *ab initio* of an application, which is available to applicants who have been rejected at the second stage, can be ordered by the Council of State. However, the scope of the Council of State's review of the case is restricted by the fact that it is solely a procedural review, which examines the preceding process of examination but not the substance of the claim. Amnesty International believes that the assessment of asylum claims should include an independent review of negative decisions that would allow the application to be considered by an independent body on both points of law and facts.

Absence of such a review constitutes a violation of international refugee law because it exposes individuals to the risk of *refoulement*. The European Court of Human Rights has clearly stated that “the authority referred to in article 13 may not necessarily be a judicial authority but, if it is not, its powers and the guarantees that it affords are relevant in determining whether the remedy before it is effective” (ECHR, *Silver and others v. United Kingdom*, judgment 25 March 1983). In the case of *Klaas and others v. Germany*, 6 September 1988, the European Court has further developed its ruling. According to this jurisprudence, “a remedy before a national authority is considered effective when that authority is judicial; or, if it is a quasi-judicial or administrative authority, it is clearly identified and composed of members who are impartial and who enjoy safeguards of independence; [...] The remedy is accessible for the rejected asylum-seeker; and the execution of the expulsion order is suspended until a [final] decision is taken.” The Court further stated that the appeal authority must have competence both to decide on the existence of the conditions provided by Article 3 of the ECHR and to grant appropriate relief. This jurisprudence has been codified in the Recommendation n° R (98) 13 of the Committee of Ministers to Member States on the right of rejected asylum-seekers to an effective remedy against decisions on expulsion in the context of Article 3 ECHR. It

should also be noted that the right to an effective remedy before a court of law or a tribunal is also embedded in article II-47 of the EU Charter of Fundamental Rights and Article 38 of the draft EU directive on asylum procedures.¹⁸ The present system falls short of these provisions.

1.3.2 Lack of access to professional interpreters

Another major problem faced by applicants is the inability to communicate with the authorities.¹⁹ A key factor contributing to this is the lack of adequate interpretation provisions. On the day of Amnesty International's visit to the Asylum Unit in Athens, one Mandarin-speaker was conducting interviews with all of the applicants, regardless of nationality, often with the help of other applicants acting as interpreters in a second or third language. The Unit's representatives present used Greek to communicate with the applicants, interspersed with English, in which the representatives displayed minimal competence.

Furthermore, the organization is concerned that authorities, especially in border areas, may actively be impeding refugees' access to asylum through the refugee's inability to communicate in Greek. Detainees interviewed by the organization's representatives claimed that upon arrival at the detention centres where they were held (and where the representatives met them), police officers asked them to sign papers which they could not read but perceived to be documents relating to the legalization of their status (see section 1.4.1). Further

corroboration of this practice was provided by detainees in other centres and former detainees residing in Athens, as well as a report published in 2002 by the Nordic Organisation for Asylum-seekers, NOAS, claiming that Chechen asylum-seekers had been asked by the Greek authorities to sign documents that they were not claiming asylum in Greece.²⁰ These allegations of detainees being asked to sign documents they do not understand raise serious concerns about the access to the asylum process at points of entry.

This practice is in breach of the European Court of Human Rights, which has firmly held in the case of *Conka v. Belgium* that the communication with an asylum-seeker must take place in a language that this individual understands since the rights guaranteed under the Convention are not "theoretical or illusory, but practical and effective", (ECHR, *Conka v. Belgium*, 5 February 2002; see also ECHR, *Matthews v. UK*, case 24833/1994). Besides, Article 9(b) of the draft EU directive on asylum procedures states that asylum-seekers "must receive the services of an interpreter for submitting their case to the competent authorities whenever necessary". While this directive has not yet been enforced, it should be reminded that the right of asylum-seekers to be properly informed about their rights and obligations under the asylum procedure is already an obligation under EC law as per article 5.2 of the directive EC 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum-seekers.²¹ The European Commission should closely monitor the shortcomings in the Greek system, and take any relevant legal action, given that Greece

¹⁸ *Amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status on 29 April 2004*, 8771/04 Asile 33.

¹⁹ Conclusion No. 8 (XXVIII) of UNHCR's Executive Committee states that "the [asylum] applicant should receive the necessary guidance as to the procedure to be followed" and that he "should be given the necessary facilities, including the services of a competent interpreter, for submitting his case to the authorities concerned."

²⁰

<http://www.noas.org/Dbase/pub/TheTransferofChechenAsyl3.shtml>

²¹ Article 5 of this Directive requires states to ensure "that applicants are provided with information on organisations or group of persons that provide specific legal assistance and organisations that might be able to help or inform them concerning the available reception conditions, including health care".

had the obligation to bring its national laws in full compliance with this directive by 6 February 2003.

1.3.3 Lack of legal aid

Legal aid is not available to applicants at any stage of the process, apart from the aid provided by the Greek Council for Refugees and which only provides legal representation for applicants whose applications have been rejected at the second stage and whose applications are to be subject to a procedural review by the Council of State. In fact, the European Court of Human Rights ruled against Greece in two cases because of the total absence of legal aid for aliens in cassation proceedings.²² Even after the introduction of legal aid provisions for aliens through Law 3226/2004, asylum litigation is still exempt because it is an administrative procedure.

The absence of legal aid means that some lawyers take up asylum litigation cases *pro bono*²³ while others charge fees for their services. This latter practice creates distrust of lawyers by officials, who often claim that “lawyers are corrupt and exploit the migrants” – such comments were also made during their interviews with Amnesty International’s delegation. In turn, these claims are used as grounds to arbitrarily reject the evidence or statements provided by lawyers on behalf of their clients and to arbitrarily restrict lawyers’ access to detention centres.

Another factor further limiting the ability of applicants to communicate with authorities is due to the failure to fully comprehend the complex legal process involved in the processing of their applications. Amnesty International is not aware of any documents in

any language available to the applicants, which outline the process simply and clearly.

1.3.4 “Interruption” of the examination

One of the most worrying aspects of the asylum legislation in Greece is the provision which allows the authorities to “interrupt” the examination of asylum claims. Article 2.8 of the Presidential Decree (PD) 61/99 states that “in case of arbitrary departure [of the applicant from their stated place of residence], the procedure for the examination of his asylum claim is interrupted following relevant decision issued by the Secretary General of the Ministry of Public Order, which is notified to the asylum-seeker, [henceforth] considered as a person ‘of unknown residence’.” The Decree further stipulates that a period of three months is allowed for an appeal to be lodged against the decision of “interruption” and for the decision to be annulled if it is proven that the relocation was due to reasons beyond the applicant’s control. In that case, the asylum application can be examined on its substance. Furthermore, the Article also stipulates that the local representative of UNHCR is to be informed in such a case as to further developments. In the absence of an appeal within the three-month period, the application is automatically rejected. The most commonly stated reason for such “interruption” appears to be a change of residential address, including cases where asylum applicants have travelled to other European destinations and have been returned to Greece under the Dublin II Regulation.²⁴

²² European Court of Human Rights, *Twalib v. Greece* (application number 42/1997/826/1032), Judgment, 9 June 1998 and *Biba v. Greece* (application number 33170/96), Judgment, 26 September 2000.

²³ All of the lawyers contacted by Amnesty International in the preparation of this report stated that they work on this basis.

²⁴ Article 3 of the *European Union Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national* (Dublin II Regulation): “Member States shall examine the application of any third country national who applies at the border or in their territory to any one of them for asylum. The application shall be examined by a single Member State which shall be the one which [according to

The Greek Council for Refugees (GCR) expressed concern in October 2004 over the rising number of “interruptions” to the asylum applications of individuals being “returned” to Greece under the Dublin II Regulation. According to the GCR, there has been a sharp increase of such “interruptions” since January 2004. The GCR further expressed concern that such “interruptions” could lead to unfounded decisions of rejection and put at risk individuals who upon being returned to their countries could be persecuted and tortured. Academic research has also questioned the compatibility of such practices of “interruption” with the obligations of the Greek authorities to uphold the principle of *non-refoulement* and has concluded that “in fact, the Greek authorities appear to subordinate [this] obligation ... to procedural minutiae aiming to reduce the number of asylum applicants” and that “Greece demonstrates bad faith in the way in which it implements the provisions of the Dublin-II Regulation”.²⁵

With regard to these findings, Amnesty International has expressed concern about the lack of specific stipulations in this Decree that would guarantee the rights of applicants to have their application examined in full following their transfer back to Greece on the basis of the Dublin II Regulation. The organization is concerned that the provisions of Article 2.8 of PD 61/99 are applied in ways that render it impossible for the applicant to know that the examination of their application has been “interrupted” (the process through which persons of “unknown residence” are informed is not clear) and thus effectively limit their right to appeal a decision of “interruption”. This then leads to a decision of rejection by the authorities after the lapse of

the criteria of the Regulation is deemed] to be responsible.”

²⁵ Panayiotis N. Papadimitriou and Ioannis F. Papageorgiou, 2005, “The New ‘Dubliners’: Implementation of European Council Regulation 343/2003 (Dublin-II) by the Greek Authorities”, *Journal of Refugee Studies* 18 (3): 312.

the designated three-month period of appeal, and in such cases the authorities refuse to examine in full asylum applications upon the applicant’s return to Greece and instead issue immediate deportation orders. Thus, Amnesty International is concerned that the Greek authorities officially “interrupt” the process of examination of some asylum applications in ways that might expose persons to a risk of human rights violations. Amnesty International wrote to the authorities regarding one such individual who was at risk of being returned to the Darfur region of Sudan (see below). Amnesty International was also informed by local experts during its visit to Greece in June 2005 that on account of this practice, Norway has stopped returning asylum-seekers to Greece under the Dublin II Regulation.

1.4 Areas of concern in the application of the legal framework

1.4.1 Access to the application procedure

While the definition of asylum-seeker in Article 1.1 of PD 61/99 makes it clear that protection may be requested (i) in writing, (ii) orally, or (iii) indirectly, in practice the last two methods are not taken into account by authorities. During Amnesty International’s mission to Greece in January 2005, the organization’s delegation met with police officers at stations in regions where foreigners had been detained on charges of illegal entry.²⁶ In all of the four stations visited (Mytilini, Ferres, Didimoticho, Soufli), the officers claimed that all of the detainees were “economic migrants”. However, interviews in the two stations, where the delegates were

²⁶ Article 31(1) of the Refugee Convention prohibits the imposition of penalties “on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened (...), enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence”.

allowed to conduct them in private with the detainees, revealed that the provisions of this Article had not been fully adhered to.

In one case (Soufli), two male detainees, who were Turkish nationals, claimed that they had verbally requested to file an asylum application to the police officers who had arrested them upon entry into Greece a few days before Amnesty International's visit, but had not been presented with any forms. They further claimed that they were requesting protection on account of the fact that they had been imprisoned and tortured in neighbouring Turkey because of their political beliefs and that they had communicated this persecution to the police officers at the station. While Amnesty International is not in a position to assess this specific claim for protection, it appeared that the police officers, in classifying the detainees as "economic migrants", did not take into account the oral request for asylum of the Turkish men, and thus disregarded the provisions of the Presidential Decree.

In another case (Ferres), two Somali female detainees, claimed to be "economic migrants" at the beginning of the interview. However, when asked about whether they would like to return to their country at a later date, they claimed, in tears, that they could not return on account of the fact that their houses had been burnt by Somali authorities and their fear that they would be imprisoned because of their support for opposition parties. They further claimed that they had not communicated these fears to the police officers who arrested them because they had not been asked and because they had been told by the police officers that following their sentence for illegal entry they would be given residence permits. The specific police station, which doubles as a detention centre for female migrants, is used to detain individuals before administrative expulsion papers are issued. Thus, while this case also cannot be assessed by Amnesty International, the detainees' account of events raised concerns both about the authorities' adherence to the provisions of PD 61/99 and about the

apparent failure to inform detainees of their rights (see below).

The authorities' failure to offer people access to the asylum process at the point of entry into the country according to PD 61/99 is also illustrated by the discrepancy in the numbers of asylum applications filed in border police stations and in Athens. During interviews with regional police administrators it has emerged that only about 0.2 per cent of the detainees accommodated at detention centres in the border regions file applications for asylum. Yet there are reports suggesting that a number of former detainees from border-region centres, often released on deportation orders, apply for asylum in Athens. This fact raises concerns about access to the asylum process provided in these areas.²⁷

Further allegations received by Amnesty International suggested that officials stationed at border areas, and particularly in the area of the Greek-Turkish border, have been expelling migrants from the territory of Greece without providing those in need of international protection with the opportunity to seek asylum or providing all migrants with an opportunity to challenge their removal on other grounds, including human rights grounds. Such practices are in flagrant violation of PD 61/99, and could be in violation of the fundamental principle of *non-refoulement* as well as the prohibition on arbitrary and collective expulsion. These practices are very difficult to document and the problem is compounded in border areas by the fact that these expulsions allegedly take place in areas which are under military control and thus access to them is restricted. Despite this, the organization received information during its visit to the country in January from a number of individuals (expellees who have since re-entered as well as individuals who have spoken with expellees), who were in agreement about the methods by which this practice takes place.

²⁷ Amnesty International has raised these concerns in its briefing to the UN Human Rights Committee.

Undocumented migrants were allegedly put in military trucks, taken to the banks of the river Evros, on the land border with Turkey, and left to swim to the other side.

As fundamental human rights, including the right to life and freedom from torture of individuals may be at stake, the responsibility of decision-making must be taken by an appropriate body and adequately qualified officials. In this regard, the Greek system is confusing regarding the actual role of the border guards. In order to avoid "pre-screening" by border officials, Amnesty International recommends that the role of border authorities should be restricted to registering asylum applications and forwarding them and relevant information to competent authorities. As far as training is concerned, the organization recommends that Greece ensure its practice is in compliance with the provisions of Recommendation n° R (98) 15 of the Committee of Ministers of the Council of Europe on the training of officials who first come into contact with asylum-seekers, in particular at border points.

Another incident involved 106 persons, who arrived on the island of Crete on 1 April 2005. While refusing requests by representatives of local authorities, lawyers and non-governmental organizations (NGOs), including members of Amnesty International's section in Greece, to meet the people in question and offer assistance, the Deputy Minister, Christos Markoyiannakis, is alleged to have stated that they would be expelled immediately. At the same time the Chania Police Chief, Antonis Proestakis, allegedly announced the introduction of a new administrative policy of immediate expulsion of all undocumented migrants arriving on Crete, effective immediately. However, the people in question were allowed to remain on the island and on 7 April, one local authority representative, one lawyer and two NGO representatives were able to meet them. The foreigners reportedly stated to the lawyer, Demetrios Fourakis, that they were Palestinians and that they intended to

seek asylum in Greece. On the evening of 10 April they were escorted by the police onto a ship bound for Athens, where they were taken to the Attica Aliens Department's detention centre and other police stations in the area of Attica, and detained until the following day. On 12 April members of Amnesty International's section in Greece were allowed to speak with detainees in the Attica Aliens Department. They reported that only two of the approximately 30 people held there could speak English and that no interpreter was available at the Centre. The organization's members also reported poor conditions of detention and allegations of ill-treatment by police officers. The detainees had not been informed of their rights or of the reasons for their detention. When representatives of other NGOs and lawyers subsequently requested to meet the detainees in order to be able to provide information about their rights to them, the police officers in charge refused to allow them access to the detention area, claiming they had received orders from their superiors to block such access. It appears that all 106 detainees were instead escorted onto a ship the same afternoon and expelled to Egypt. Amnesty International wrote to the authorities expressing concerns that should this account of events be true, the rights of those detained from 1 to 12 April were systematically violated and asking for precise information about the authorities' actions in this case, but had not received a reply by September. On 16 August, the organization received information that another 95 people were expelled to Egypt without being given access to the asylum process, after their boat was shipwrecked off the coast of Crete ten days earlier.

The secrecy surrounding the authorities' practices throughout the different stages of the asylum determination process is a source of concern about the degree to which human rights standards are upheld during the process. During Amnesty International's visit to the country, access to some of the detention centres on the island of Mytilini was denied, while in other detention centres and police

stations (Vrysika, Didimoticho, intermittently in Amygdaleza) officers refused to remain outside hearing range throughout the interviewing process²⁸ and in one of these (Didimoticho) also refused to answer a number of questions including whether the police personnel at the station had received training in human rights. Following the organization's visit to the country, Amnesty International wrote to the Ministry of Public Order in January requesting information regarding the detention of asylum-seekers, including the number and locations of currently operating detention centres and the facilities available in them but received no reply.

1.4.2 Length and complexity of the process

In practice, the major problem in the asylum determination process is the length of time taken for reviewing applications. Because of the backlog of applications, a secondary procedure exists that precedes the formal lodging of an asylum application, whereby prospective applicants are asked to visit the Athens Asylum Department often for months before their applications can be lodged.

Lawyers interviewed by Amnesty International's representatives have stated that it takes about a year on average before asylum applicants are issued with a "red card", despite the fact that PD 61/99 sets the maximum period of first instance examination at three months (Article 2.2). During this time, they are provided with a document stating that they have handed in an application for asylum and indicating identification details. This does not mean that their application is being examined, but merely that it exists. This document allows its holder to remain in Greece while waiting for their application to be placed in the review process and is usually valid for three months (although periods may vary, as stated in a recent report published by the Ombudsman's

office).²⁹ The document can be extended if the application has not been forwarded for examination in this space of time and if the applicant presents the document to the Asylum Department officers for renewal. In practice, many individuals who state their intention to apply for asylum and request forms from the Athens Asylum Department are turned away many times before they can actually obtain a form and then again before their form is accepted. One lawyer interviewed by the organization claimed that one of her clients, who had entered Greece as a minor, waited for two years before his fingerprints were taken (and thus the application logged for examination and a "red card" given to him).

This secondary process is not provided for in PD 61/99 and thus its application in practice is often arbitrary. For example, because the details on the document only record the information the applicant has provided, they are subject to confirmation by the police e.g. through visits to the address the individual has provided to ensure that they reside there. If the details are found to be false, further access to the asylum process is denied. Yet the assessment of the veracity of such information is not always transparent. Applicants may reside in hostels or in temporary lodgings along with other co-nationals where the turnover of residents is high; consequently neighbours are not always able to confirm the individual's residence there if the individual is not present at the time of the police check. Officials are aware of this problem and as a result, often refuse access to the asylum application process to individuals who provide "suspect" addresses, such as of hostels known to accommodate individuals from specific countries. On the day of the delegation's visit to the Athens Asylum Department, the

²⁸ In these cases, Amnesty International representatives refused to proceed with the interviews.

²⁹ Προβλήματα στην Παραλαβή και Εξέταση Αιτημάτων Ασύλου στο Τμήμα Αλλοδαπών Αθηνών [Problems in the Logging and Examination of Asylum Applications in the Athens Alien's Unit] Report prepared by Andreas Takis, Calliope Stephanaki, and Chrysa Hatzis, Human Rights section, Ombudsman's Office, June 2005.

registration official refused to register all applicants who claimed residence at one of these hostels, well-known for housing Afghan migrants, rejecting it as a “false” address. The relevant Ombudsman’s report has shown that another arbitrary measure, of requiring a rental agreement as proof of residence before an application could be lodged, was also instituted at the beginning of the year. Reports of access to lawyers arbitrarily being restricted during this phase of the asylum process have also been received. Lawyers interviewed by Amnesty International have claimed that officials refused to process applications completed by them on behalf of their clients on the basis that if the personal details of the applicant had not yet been verified, their signature authorizing the lawyer to act on their behalf could not be accepted.

As stated in the introduction, rejection rates in Greece are the highest throughout Europe. As this additional pre-application procedure is not taken into account in the authorities’ figures on asylum applicants and refugee recognition rates, its existence creates an additional concern over the high rate of rejection of requests for asylum.

Following this process, the actual examination of an application can take up to two years, with an average of one year being the usual case. Officials at the Department recognize the serious backlog problem and have been working hard to reduce it. However, they have pointed out that extreme staff shortage makes this task impossible.³⁰ In January 2005, when Amnesty International’s delegation visited the Department, there were two officials in charge of renewing the pre-application documents and three reviewing the applicants’ files. On the same day, there were about 150 individuals

waiting to be seen by the officials, the vast majority of them turned away by police outside the building before they could be seen by an officer and told to return the next day. Lawyers present on the day stated that this is a daily phenomenon, so that many individuals who want to request asylum, as well as individuals who are seeking to renew their pre-application documents before they expire, are repeatedly turned away. As a result, they run the risk of appearing as “not having presented themselves to the authorities without delay”, or if they did, of having their authorization to remain in the country expire and of being at risk of arrest and detention of up to three months for overstay.

1.4.3 Blanket rejection of applications at first instance

According to a 2003 report published by the European Council for Refugees and Exiles (ECRE) “the number of first instance decisions granting Convention or humanitarian status are extremely rare and, as far as the Greek Council for Refugees is aware, they do not exceed one or two cases per year... In 2003, no refugee status was granted [at first instance].”³¹ In an article in the daily *Eleftherotipia* in July 2004, UNHCR’s Officer for Protection in Greece noted that “almost no one has been granted asylum at first instance in the last four years”.³² This apparently blanket rejection of applications at first instance exacerbates the delay in processing the applications and effectively renders this first stage of the examination process discountable: all of the lawyers and NGO personnel interviewed referred to “examination” in reference solely to the review stage and mentioned first instance examination only when specifically asked.

1.4.4 Failure to fully explain the reasons for rejection

In fact, many of the lawyers interviewed in Athens noted that contrary to the provisions of PD 61/99 for a “full explanation” on the

³⁰ UNHCR’s reports suggest that this is in fact a chronic problem, as it was raised in reports in 2002 and 2003 (UNHCR BO for Greece *Annual Report on Refugee Protection in Greece in 2001*, Athens, April 2002: 4; UNHCR BO for Greece *UNHCR Positions on Crucial Issues Relating to Refugee Protection in Greece*, Athens, October 2003).

³¹ ECRE *Country Report 2003: Greece*, p.68

³² Stavropoulou, in *Eleftherotipia*, 26 July 2004.

grounds for rejection, rejection documents often contain one of a set of uniform phrases, the most common of which is “the evidence provided does not prove being subject to persecution – left the country in search of employment” (προς εξεύρεση εργασίας). Amnesty International has received reports of cases where this explanation was provided despite the great amount of evidence provided to the contrary (see section 1.5). Academic literature has also pointed to the difficulty lawyers face in obtaining access to the files on their clients, where details of the reasoning behind the rejection are included, which in turn diminishes the applicants’ ability to defend their case on appeal following a rejection at first instance.³³

The failure to fully explain the reasoning behind the rejection decision, which is also the case for decisions made at the review (second) stage, also raises concerns about the extent to which the recommendations of the experts of the Athens Bar Association and UNHCR on the consultative panel, who provide comments at the review stage of the examination following an appeal of the first instance decision, are taken into account. As the Minister of Public Order makes the ultimate decision in this review process, full detailed accounts of the experts’ recommendations would also require an explanation of the reasoning in case of a differing decision being made. Thus the lack of such detailed records and explanations raises concerns about the lack of accountability of the authorities in making decisions. The UNHCR’s Protection Officer’s article cited above concerns one such case, where she expressed fear of the rejected applicants being subjected to ill-treatment upon return and requested a re-examination of the case *ab initio*.

1.5 Cases illustrative of the above-cited concerns

The cases cited below are a small fraction of those received by the organization in the last two years. They have been chosen because they are indicative of how the problems identified above combine to create a procedural maze through which refugees are denied access to international protection and are put at risk of *refoulement*.

1.5.1 H.B., in his thirties, Turkish national³⁴

H.B. applied for refugee protection and was given a “red card” in October 2003. His application was rejected at first instance in February 2004 on the basis that “none of the evidence provided proves that he was subject to persecution in person (ατομική δίωξη) by the authorities of his country because of his race, religion, ethnicity, social class or political convictions. It seems that he left the country in search of work and betterment of working conditions.” H.B. appealed this first instance decision. In July, having received no news regarding his appeal and unable to work (due to health reasons) and to continue to live in Greece (due to lack of medical welfare provisions), he travelled to Germany clandestinely and lodged an application for protection there. His previous request for asylum in Greece was discovered, and he was returned to Greece under the Dublin II Regulation in December 2004. Upon his return, he was informed that his application had been closed and that he would be forcibly returned to Turkey. The decision to “interrupt” the examination of his application had been taken in October 2004, upon the authorities’ contact with the authorities in Germany who had requested and received assurances regarding his return to Greece. He was arrested on arrival and detained at the Athens airport

³³ Skordas and Sitaropoulos, *ibid*: 34.

³⁴ His full details are known to Amnesty International but have been concealed in order to protect his identity in light of the precariousness of his current status in Greece.

detention centre for two weeks. In that period he was taken to the Turkish Embassy. Afterwards, he was told that the Turkish Republic had accepted to take him back. His expulsion was postponed after his lawyers from the Greek Council of Refugees appealed to the Council of State against the decision to “interrupt” the examination of his case.

Amnesty International representatives met with H.B. in January and received the following account of his treatment in Turkey:

H.B. is of Kurdish origin and since 1994 had been a member of a party which is banned in Turkey (DHKP/C). He was imprisoned between 1995 and 2002 in various locations around Istanbul, some of which were “F-type” prisons. Amnesty International has on numerous occasions expressed concerns about the isolation conditions in “F-type” prisons in Turkey as well as concerns related to the killings and torture of prisoners during transfers to “F-Type” prisons in the Operation “Return to Life” in December 2000.³⁵ H.B. said he was tortured while in prison on various occasions and had gone on hunger-strike in protest about the living conditions in the prison. During the clashes with police authorities that ensued due to the widespread protest of political prisoners in “F-type” prisons across the country that escalated in November 2002, H.B. set himself alight and suffered serious burns all over his body (65 per cent of his body surface). As a result, he was allowed to convalesce in hospital while a new arrest warrant was issued by the Turkish authorities because of his role in the protest – it was at this time that he escaped to Greece.

H.B. provided evidence to support his claims of the following nature:

- A medical report issued by the Centre for Rehabilitation of Victims of Torture in Greece,³⁶ which confirmed that the physical symptoms noted by the Centre’s doctors were consistent with the type of torture he had described being subjected to in prison.
- A series of news reports publicized at various points since 2001 on the prison protests, identifying H.B. as one of the protesters and detailing the events that led to his self-inflicted burning.
- A series of documents issued by Turkish prison authorities and Courts confirming H.B.’s conviction for his membership of the said party and imprisonment.

In light of this evidence, Amnesty International is concerned about the reasoning of the Board’s decision at first instance. In particular, the organization is concerned about the lack of clarity provided in the Board’s statement regarding the non-substantiation of the applicant’s claims through the evidence provided. The organization believes that the evidence provided by the applicant to the organization, and which he claims to have made available to the authorities during their examination of his application, leads to the strong presumption that should he be returned to Turkey he would be at risk of torture, and persecution. Amnesty International is aware that members of the specific organization, which played a major part in the 2001-2002 protests against detention conditions in “F-type” prisons (and in which H.B. actively took part), have in recent years successfully sought asylum in a number of EU member states.

On this basis, Amnesty International believes that the decision of the authorities to forcibly return H.B. to Turkey upon his return from Germany would be in contravention of the norm of *non-refoulement* and Greece’s obligations under international human rights

³⁵ Turkey: Call for immediate steps against isolation in “F-Type”, AI Index: EUR 44/024/2002; Turkey: “F-Type” prisons - Isolation and allegations of torture and ill-treatment, AI Index: EUR 44/025/2001.

³⁶ This Centre is explicitly mentioned in PD 61/99 as one of the institutions from which authorities may request information relevant to the claims under consideration.

and refugee law, including the Refugee Convention. Further, the authorities' decision to take H.B. to the Turkish Embassy in Athens and allegedly divulge details of his asylum application in Greece has seriously compromised the applicant's safety and has increased his risk of being tortured and imprisoned if returned to Turkey.

1.5.2 M.M., Sudanese national

In August 2004 Amnesty International expressed concern that M.M., a Sudanese national in his early 40s, was at risk of forcible return from Greece to Sudan where his rights would be at serious risk of being violated. Amnesty International considered his forcible return to Sudan would be a violation of Greece's international obligation to uphold the principle of *non-refoulement* under international refugee and human rights law.

M. M. fled Darfur in 2003 because his village had been destroyed. He is married and has two daughters but has lost contact with his family. He arrived in Greece in June 2003, was detained on arrival and was released after three months. Living without social support, he decided to travel to the UK, where he claimed asylum in October 2003. In the UK, the Home Office determined that on the basis of the Dublin II Regulation Greece would be the country responsible for deciding on his asylum claim and he was returned to Greece in June 2004. He submitted a new asylum application which was rejected on the grounds that he had left Greece. A decision of administrative deportation was issued. A new application based on fresh information about the situation in Darfur was declared inadmissible. Amnesty International believes that asylum-seekers from Darfur would, if returned to Sudan, be at risk of serious human rights violations.³⁷ Following

³⁷ In a letter addressed to the authorities in August 2004, Amnesty International had stated: "More than one million people have fled rural areas and taken refuge in settlements around towns in Darfur in 2003 and 2004. More than 30,000 people have been killed, thousands of women have been raped, and at

Amnesty International's intervention in August 2004, M.M.'s deportation was postponed. However, he was arrested in March 2005 and detained for a further three months. His appeal against the deportation order opened in June 2005 by the Council of State and his application is to be examined by the Ministry of Public Order *ab initio*.

1.5.3 Former hunger strikers

Amnesty International has also been informed of five cases of Turkish nationals who have applied for asylum in Greece in the period 2002-2005. These individuals arrived in Greece at different stages and were arrested upon entry by border patrols and at the police stations where they lodged their asylum claims. All of the individuals concerned claimed membership of organizations which are banned in Turkey,³⁸ and imprisonment in "F-type" prisons around the country. Four of them provided documents issued by the prison authorities, confirming their imprisonment. The individuals also claimed to have been tortured in these prisons by methods including electroshock to private parts, mock executions, beating on the soles of the feet, and cold showers. They were all examined by doctors at the Centre for Rehabilitation of Torture Victims in Greece and were issued documents confirming that the scars on their bodies were consistent with the torture they had described. The individuals also claimed to have taken part in the hunger strikes at various periods, protesting against the conditions of detention

least 170,000 people are now living as refugees on the Chad border or inside Chad. The people in the camps in Darfur are among the most vulnerable: they receive less assistance and protection from the international community than the refugees in Chad. They still face serious human rights violations by government forces and the *Janjawid* militia, including armed attacks and rape. See *Too many people killed for no reason* (AI Index: AFR 54/008/2004) and *At the mercy of Killers - destruction of villages in Darfur* (AI Index: AFR 54/072/2004)".

³⁸ Some of these are armed groups.

in the high-security prisons in Turkey. Their medical certificates confirmed that these individuals were suffering from symptoms consistent with the Wernicke-Korsakoff condition, a condition afflicting hunger-strikers and resulting in permanent loss of memory, loss of coordination, and vision impairment.

Despite these claims, the asylum applications of all five individuals were rejected at first instance. In one case, the authorities stated that the examination of the application was “interrupted” because the applicant had changed address, in spite of the fact that in this case, the applicant had informed the authorities upon arrival at Athens of his intention to relocate there from the area where he had filed the application in order to have access to the medical treatment that his condition necessitated. In three other cases, police authorities issued administrative deportation orders while the individuals’ asylum applications were still pending. These orders were suspended on the intervention of the local judicial authorities and their applications assessed by the Ministry’s Committee. However, in these cases, as well as in the case of the fifth individual, although the majority of the members of the Consultative Committee (Appeals Board) recommended that refugee status be granted, their applications were rejected by the Ministry on the grounds that the applicants had not “provided evidence that substantiated the claims for fear of persecution” and that instead they “had left the country for economic reasons”.

In light of the medical evidence made available to Amnesty International as well as interviews carried out in Greece with the individuals concerned, as well as personnel at UNHCR, GCR and the Centre for Rehabilitation of Victims of Torture who had dealt with these cases, the organization believes that the rejection of these applicants’ request for asylum puts the individuals at risk of torture and persecution if they are returned to Turkey. Amnesty International believes that the reasoning of the Committee’s decision does

not indicate due examination of the substance of these applications, a failure that has jeopardized the protection to which the organization believes these individuals are entitled.

The organization is further concerned that lawyers in Greece claimed that in their contacts with authorities about clients suffering from Wernicke-Korsakoff syndrome, they were told that this was not recognized as a valid medical condition. Should this be the case,³⁹ the rejection of asylum applications of Wernicke-Korsakoff sufferers on the basis of inadmissibility of the medical evidence they provide is of great concern. Amnesty International considers such approaches to be in breach of international law and standards and to seriously endanger the lives of individuals.

1.6 Conclusion

This chapter has sought to outline some of Amnesty International’s main concerns arising from research carried out on access to refugee protection in Greece since 2002. Most of these concerns have been communicated to national authorities and international human rights bodies in the course of that time. The concerns highlight the failure of the authorities to provide effective international protection to refugees, in compliance with their obligations under international human rights and refugee law and standards.

³⁹ This disease is recognized by the World Health Organization and mentioned in its 2004 publication *Vitamin and Mineral Requirements in Human Nutrition*, 2nd edition. The syndrome is associated with thiamine deficiency.

2. DETENTION AND ILL-TREATMENT OF MIGRANTS

“Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”

Article 11, Convention against Torture

“States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of... the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.”

Article 5, International Convention on the Elimination of All Forms of Racial Discrimination

2.1 Background

Irregular migrants - also known as “undocumented” migrants or “illegal” immigrants - are people who enter and are present in a country of which they are not nationals, without the legal authorization to enter or remain there. Some are people who are working or looking for work in that country but who do not have a valid work permit for the country; others are victims of trafficking for sexual exploitation or forced labour; some are people who once had a permit to reside in the country, but whose residence permit is no longer valid; some are rejected asylum-seekers who have not left the country, although they are legally obliged to do so.

Migrants should enjoy the full range of human rights, including the right to be free from arbitrary detention and from torture and other cruel, inhuman or degrading treatment or punishment, as well as some specific rights outlined in some international legal instruments, including treaties of the International Labour Organization. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Family, which entered into force on 1 July 2003, represents an important milestone in the recognition of migrants’ rights. Greece had, by September 2005, neither signed nor ratified the Convention.

The practices of the authorities outlined in the previous chapter were scrutinized in terms of their failure to adhere to the principle of *non-refoulement* and to protect refugees from the risk of serious human rights violations, including torture and other ill-treatment, if returned to their countries of origin. This chapter focuses particularly on human rights violations arising from the conditions under which irregular migrants are detained, the treatment of particularly vulnerable detainees such as women and minors, alleged ill-treatment of migrants by police outside

detention centres, and the access to justice available to migrants who have suffered such ill-treatment. The data contained in this chapter has been obtained by Amnesty International in the last three years, through sustained contact with local NGOs and activists, as well as during the organization’s visit to Greece in January 2005 and interviews with migrants who have been victims of human rights violations, detainees at border detention centres, lawyers, and NGOs representing migrants. As in the previous chapter, the concerns outlined here are not exhaustive of

the types of violations reported to Amnesty International in the last few years, nor are the cases outlined a complete list of those received by the organization. Rather, what is presented here is data that illustrates the most serious of the organization's concerns.

According to the Migration Policy Institute, between 1950 and 1975 a total of 678,000 people emigrated from Greece to other countries, while between 1975 and 2000 a total of 935,000 immigrated into the country.⁴⁰ National authorities have argued that this shift was unexpected given the country's tradition of exporting, not receiving, migrant labour and that it was this unexpectedness that accounted for the initial failure of the authorities to bring effective legislation into place to ensure that the rights of migrants into Greece were respected.⁴¹ However, while the authorities argue that such legislation is now in place, reports received by Amnesty International suggest that in order for the government to comply with its obligations to respect, protect, and fulfil the human rights of migrants, further measures need to be taken. Amnesty International believes that the lack of a tradition of policy-making on immigration issues should under no circumstances undermine the implementation of international human rights law and standards with regard to the protection of vulnerable groups from persecution. The information in this report suggests that the self-confessed ineffectiveness with which authorities have responded to migrants' needs in the last few years has had a negative impact on the way in which 'foreigners' are perceived in Greece. For this reason, it is suggested that the reform to the current framework guiding the authorities'

migration-related practice should be complemented by policies addressing the problems of discrimination, racism and xenophobia within the wider Greek population.

The official figures provided by the Migration Policy Institute show that in the early 1990s (figures provided for 1991) most 'foreigners' in Greece were nationals of Albania (12.3 per cent), Cyprus (8.8 per cent), the US (8.3 per cent), the Former Soviet Union (7.7 per cent), the UK (6.6 per cent), Turkey (6.6 per cent), and Germany (5.1 per cent). A decade later (figures for 2001) 55.6 per cent of them were nationals of Albania.⁴² In absolute numbers, the official population of non-citizens in Greece grew in this decade from 167,276 to 797,091. The migration from European countries increased seven-fold during this time, while migration from Asian countries tripled. While these numbers include estimates of the numbers of irregular migrants, it is thought that the numbers of individuals in this category are underrepresented in these statistics. However, what is clear is that large sections of the migrant population in Greece are nationals of neighbouring countries (Albania, Turkey, Cyprus), while others represent migration flows under the post-1989 repatriation policies instituted by the Greek state for "ethnic Greeks" of the Former Soviet Union (FSU).⁴³

⁴² According to a report published in October 2003 by the European Monitoring Centre on Racism and Xenophobia (EUMC) "in Greece, Albanian migrants are mainly employed in low-skilled jobs in agriculture and construction, whereas Poles and Romanians work as skilled manual labourers, Filipinos as domestic workers, Pakistani, Indians, Bangladeshi as unskilled labour in small factories and Africans as small traders and street vendors" (*Migrants, Minorities and Employment: Exclusion, Discrimination and Anti-discrimination in 15 Member States of the European Union* :36).

⁴³ Voutira Effie: "Pontic Greeks today: migrants or refugees?", *Journal of refugee studies*, 4 (4), 1991, p. 400-420 and "Refugees: whose term is it anyway? Emic and etic constructions of 'refugees' in Modern Greek" in *The Refugee Convention at fifty: a view from forced migration studies* (2003), Joanne van Selms, Khoti Kamanga, John Morrison,

⁴⁰ "Greece: Estimates of the net number of migrants by five-year intervals, 1950 – 2000", Migration Information Source, Migration Policy Institute; original information obtained from UN Population Division (2001) "World Population Prospects: The 2000 Revision" (POP/DB/WPP/Rev) 2000/1/F10 and <http://www.un.org/esa/population/unpop.htm>.

⁴¹ Greece's initial report to the UN Human Rights Committee (CCPR/C/GRC/2004/1).

Reports by local NGOs as well as international bodies⁴⁴ show a rise in the number of racist incidents in recent years, but at the same time suggest that these incidents are targeted at members of specific groups of migrants (e.g. Albanian nationals) as well as Greek citizens (e.g. Roma). In this report, emphasis will be placed on the infringement of the rights of non-nationals primarily by the authorities.

2.2 Arbitrariness and conditions of detention

One of the main areas of Amnesty International's concern over human rights violations in Greece over the last two years has been the alleged ill-treatment of individuals during arrest and detention.⁴⁵ During this period, the organization has received a number of reports regarding ill-treatment during arrest and arising out of poor conditions of detention, as well as allegations regarding the arbitrary arrest and detention particularly of foreign nationals. In 2001, the European Court of Human Rights found Greece guilty of violating Articles 3 and 5 of the ECHR, relating respectively to the conditions and lawfulness of detention of a Syrian national awaiting deportation.⁴⁶ Concerns, specifically about overcrowding and poor conditions of detention, were also expressed by the

Committee against Torture (CAT) in November 2004.⁴⁷ Following the publication of these concerns an Amnesty International delegation visited a number of detention centres for aliens in January 2005 and noted poor conditions of detention that may amount to cruel, inhuman or degrading treatment.

The centres visited were those in the border region of Evros, namely Vrysika, Ferres (which is also a police station) and Peplo, and the Amygdaleza centre in Athens. In addition, two border police stations (*συνοριακές φυλάξεις*) in Evros, namely at Didimoticho and Soufli, where migrants and asylum-seekers are detained, were also visited. While access to the actual dormitory rooms where detainees are held was denied to Amnesty International delegates in all of the centres visited, interviews with some of the detained individuals were allowed, as well as a view of the exterior of the buildings. In all of the centres, interviews with staff and police officers were also conducted. Interviews were conducted with police officers at the Directorates at Alexandroupoli, Orestiada and Mytilini, as well as with representatives of the Evros prefecture, which is under the Ministry of Interior, Public Administration and Decentralization, which is responsible for the maintenance of the detention centres. Permission to visit the detention centre in the area of Pagani, on the island of Mytilini, was sought from the Ministry of Public Order and from local authorities, but was not granted. Delegates were only able to travel to the centre and view it from the outside. A number of observations made during these visits raise concerns, the most serious of which are outlined below.

2.2.1 Arbitrariness of detention

Even though none of the detention centres visited is officially classified as a prison, the conditions under which they operate are

Aninia Nadig, Sanja Spoljar Vrzina and Loes van Willigen (eds), Lexington Books.

⁴⁴ These include the locally-based Greek Helsinki Monitor, and Antigone, the European Monitoring Centre on Racism and Xenophobia (EUMC), the European Roma Rights Centre (ERRC) as well as the Council of Europe's European Commission against Racism and Intolerance (ECRI).

⁴⁵ *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region January - June 2004* (AI Index: EUR 01/005/2004), *Europe and Central Asia: Concerns in Europe and Central Asia: July - December 2003* (AI Index: EUR 01/001/2004), *Amnesty International Reports 2004 and 2005*.

⁴⁶ European Court of Human Rights, *Dougoz v. Greece* (application number 40907/98), Judgment of 6 March 2001.

⁴⁷ Committee against Torture, *Conclusions and recommendations: Greece* published on 10 December 2004, (Convention against Torture/C/CR/33/2).

undoubtedly prison-like.⁴⁸ Detainees are not allowed access to the outside, apart from exceptional occasions (e.g. for medical emergencies, when they are transferred under police escort to the nearest hospital). Access of outsiders to the centres is severely restricted: of all the civil society organizations that Amnesty International met with during its visit to Greece, only UNHCR reported unfettered access, while the Greek Council for Refugees reported that visits of its representatives to the centres had been allowed only after prior permission had been secured by the central police authorities in Athens. No other NGO claimed to have visited the centres, despite reports (for example, from the Greek Helsinki Monitor) of repeated requests for permission. Amnesty International understands that local lawyers are generally allowed to visit detainees only if they provide the names and details of the specific detainees. This practice adheres to the regulations guiding prison visits. However, in some instances, lawyers claimed that they had been denied access to the detainees, even after having provided these details.

The organization's primary concerns about detention at these centres relate to the grounds on which detainees are held. According to the authorities, the detainees held at the centres are detained on charges of illegal entry into the country, after they had been arrested (usually at the border or in towns and villages close to the border). The maximum period of detention is three months. The organization understands that this maximum period is applied in all but exceptional cases.⁴⁹ Officially, this is detention

pending expulsion, and upon release, detainees are served deportation orders requiring them to leave the country of their own accord within 15 days. In practice, the vast majority of detainees head for Athens upon release and attempt to regularize their status there. In light of the problems highlighted in the previous chapter regarding access at border regions to the asylum process, it appears that a large number of detainees at these centres in fact file asylum applications in Athens subsequent to their release. Officers at border detention centres are aware of this trend and have stated that they sometimes help "vulnerable" detainees including by providing them with tickets to Athens.⁵⁰ This suggests that at least some of the detainees may be refugees in need of international protection, and therefore, their detention on charges of illegal entry could be in contravention of Article 31.1 of the Refugee Convention which states that "the Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened... enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence".

Amnesty International's findings from its visits to the centres further suggest that detainees may in fact be prevented, directly or indirectly, from seeking such protection even while in detention. As exemplified above by the case of the Somali detainees who were falsely given the impression of gaining a "residence permit" upon release, it appears that a considerable

had at some previous point been detained (in which category the two belonged), reported detention of a shorter period of time.

⁵⁰ It is understood that the criteria of such "vulnerability" are inconsistent but the statement in itself suggests that at least some of the detainees may be deemed by their guards as worthy of protection, strengthening the concerns about the lack of access to the asylum process at these locations.

⁴⁸ In 2003, the European Economic and Social Committee stated, in its *Opinion on the Communication from the Commission to the Council and the European Parliament on a Community return policy on illegal residents* (COM(2002) 564 final), that "there should be a strict prohibition on returnees being held in jails, since illegal immigrants awaiting expulsion are not criminals" (§ 3.5).

⁴⁹ In fact, only two out of a total of about 40 individuals with whom representatives of the organization met, who were detained at the time or

number of persons detained had not been adequately informed of the reasons for their detention and about their rights while in detention, i.e. regarding their entitlement to take proceedings before a court on the lawfulness of their detention and to appeal against deportation on human rights or asylum grounds. In addition, Amnesty International is also concerned that once released and issued deportation orders, detainees may be denied the right to appeal against deportation because they are not made aware of the fact that they are required to leave the country.

One factor conducive to this failure to communicate information adequately to detainees regarding their detention appears to be the inadequate interpreting services available. During interviews with detainees and police officers at the centres, the organization's delegation learnt that most of the interpreting needs in the centres are covered in an ad hoc manner by other detainees who may share a common language with the police officers (e.g. English) and another with the detainee. In addition, the organization is concerned that this lack of information contravenes international law and standards of fair trial, including the provisions of Article 9 of the ICCPR, which require that anyone who has been arrested, charged or detained, who does not adequately understand or speak the language used by the authorities, has the right to be notified in a language they understand what their rights are and how to exercise them, why they have been arrested or detained, and any charges against them. They are also entitled to have an interpreter to help them with the legal proceedings after the arrest, free of charge if necessary. This information is essential to allow the person to challenge the lawfulness of their arrest or detention and, if they are charged, to start the preparation of their defence.

The lack of information and communication facilities in detention centres, where irregular entrants are held pending deportation, also limits detainees' access to lawyers, and the

asylum determination procedures. With regard to this, the delegation of Amnesty International noted the absence of any information about refugee protection and ways to access it (e.g. UNHCR leaflets, phone numbers of relevant NGOs) nor any multilingual material providing information about the rights of refugees and migrants in Greece.

This practice is in breach of Article 5(2) of the ECHR that requires States to provide the applicants with information as to the reason for their detention. In a relevant case, of *Amuur v. France*, involving asylum-seekers held in the transit zone at Paris-Orly airport, the European Court of Human Rights concluded that there was a breach of Article 5 since the French authorities did not provide for legal, humanitarian and social assistance.⁵¹ This practice seems also to fall short of the requirements of Article 35 paragraph 3 of the EU draft directive on asylum procedures, which state that even where border procedures apply, Member States shall ensure that asylum-seekers are immediately informed of their rights and obligations, have access to an interpreter and can consult a legal adviser.

Amnesty International is also concerned about reports regarding repeated detentions. The organization has received information that individuals who have been detained for the maximum period in border areas and have

⁵¹ The Court considered that the confinement of asylum-seekers was acceptable under the undeniable sovereign right to control aliens' entry into and residence in their territory. However, "such confinement, accompanied by suitable safeguards for the persons concerned, is acceptable only in order to enable States to prevent unlawful immigration while complying with their international obligations, particularly under the 1951 Geneva Convention and the ECHR. States' legitimate concern to foil the increasingly frequent attempts to get round immigration restrictions must not deprive asylum-seekers of the protection afforded by these Conventions", *Amuur v. France*, (judgment 25 June 1996, application number 19776/92) § 43.

subsequently attempted to file asylum applications in Athens, but have been unable to secure a “red card” (certifying that their application has been received and is being examined), have been arrested by police authorities and placed in detention a second time and for a further three months. One such case is that of M.M. cited in the previous chapter, who was detained both upon entry into Greece in July 2003 and after being arrested in March 2005, while his claim to have his “interrupted” application reconsidered was pending.

2.2.2 Conditions of detention

During the visits to the detention facilities, Amnesty International’s delegates noted a number of concerns about the conditions of detention, which in some cases amounted to cruel, inhuman and degrading treatment. In all of the centres, interviews with detainees as well as local police authorities confirmed that overcrowding remains a serious problem.

As a result, authorities fail to provide living conditions in accordance with international law and standards - such as those outlined in Recommendation (2003)5 of the Council of Europe’s Committee of Ministers to member states on the detention of asylum-seekers. Furthermore, detention under these conditions is in contravention of the general spirit of the EU Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum-seekers. Under this directive, Member States may hold asylum-seekers in detention only under limited circumstances, such as threat to their public order. In any case, they are obliged to ensure “dignified standards of living”. Article 7 of the Directive ensures the right to move freely within the territory of the host Member State; Articles 14 and 15 concern the State’s obligations to ensure adequate living conditions and necessary health care respectively; Article 17 provides specific safeguards for vulnerable groups such as pregnant women, elderly and disabled persons, and victims of trauma; Article 19 spells out

specific guarantees for unaccompanied minors. The Directive was due to be transposed in national legislation on 6 February 2005. The conditions of detention recorded by Amnesty International’s representatives in these centres are in contravention of all the above-mentioned articles of the Directive.

In some centres detainees reported lack of beds and mattresses. In nearly all of the centres, detainees, as well as their guards, reported health problems - especially scabies - which are exacerbated by lack of hygienic conditions. The limited hot water available for bathing, which was reported by a number of detainees, is another result of overcrowding in the centres, which restricts the ability to observe hygienic practices.

The detention centres of Vrysika, Peplo and Mytilini comprise old building complexes formerly used for other purposes (Vrysika was a former grain warehouse) and converted over the last few years. In all three cases a large building is used as the main detention area, divided into two or three large dormitory rooms, each of which may hold 50 individuals. At the time of the interviews, police directors claimed that a total of around 500 people were being detained in the Thrace area, out of which 313 were detained at Vrysika and around 200 at Peplo (another 17 detainees were reportedly held at the women’s detention centre at Ferres). Each of the dormitory rooms measures around 60m² (although there is a degree of variability) and has one or two shower and toilet facilities - the detainees are provided with a ration of toiletries upon entry to the centre. Detainees at police stations claimed that they were detained in groups of five to seven in cells measuring 2m by 4m. The centres are staffed by armed guards, who are stationed in separate offices within the complex (e.g. Peplo) or outside the perimeter fence of the centre (e.g. Vrysika). The wards are kept locked apart from when detainees are allowed into the yard. Interviews with detainees at different centres suggest that the length of this time is extremely variable as is

the size of the space of the yard. In Vrysika, as in Mytilini, this area is relatively large, while in Peplo it consists of a raised, concrete, covered veranda, fenced with iron bars, which stretches along the length of the wards and is about three to four metres wide. Such overcrowding and lack of facilities fall below international guidelines as set out in the UN's Standard Minimum Rules for the Treatment of Prisoners.

Even though detainees complained about problems relating to overcrowding, including reporting widespread depression and suicidal tendencies, by far the most urgent problem they emphasized was lack of communication, both with their families and with lawyers. Police officers in charge at the centres confirmed the lack of phone booths inside the detention areas. In some of the centres, such booths were located outside the boundaries of the centre and detainees were occasionally taken out with police escort and allowed to use nearby phone booths. In other cases, however,

such booths were unavailable in the vicinity and thus detainees reported that they had been unable to contact their families and relatives since their arrest.

Y.S., an Iraqi national of 24, who had been arrested and detained upon entry into Greece stated:

“there is no phone here and I have not spoken to my parents since I came here... they do not know whether I am dead or alive... my mother has a heart problem, and I have not been able to phone and let her know... we have not died but I wish I had.”

He claimed that for the first month of his detention he slept on a carton and that people in his dormitory room had “insects” on their skin. He said that they had nothing to do all day and spent a lot of time playing chess with pieces they had cut out of cardboard.



View of the detention centre in the area of Pagani, Mytilini island © Amnesty International

Concerns about overcrowding, as well as about poor conditions in detention facilities, were

also expressed in November 2004 by the CAT in its conclusions and recommendations (Committee against Torture, *Conclusions and Recommendations: Greece, 10 December 2004*, Convention against Torture/C/CR/33/2). Similar concerns were also expressed by the CPT in its report published in 2002, regarding conditions of detention in centres for aliens in Athens (*Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 September to 5 October 2001*, Strasbourg, 20 November 2002). In its examination of Greece's initial report in March 2005, the UN Human Rights

Committee expressed concern that "undocumented aliens are detained in overcrowded facilities with poor living and sanitary conditions, are not informed of their rights, and lack any effective means of communication with their families and their lawyers", in contravention of Article 10 of the ICCPR. In this respect, the Committee concluded that "the State party should ensure that undocumented aliens are held in facilities with adequate living and sanitary conditions, are informed of their rights, including the right to appeal and to lodge complaints, and are afforded effective means of communication with their families and counsel."



The container used to detain “illegal immigrants” on Chios island (photos taken on 19 April 2005 by protesters)
© Refugee Solidarity Committee, Chios

In May 2005 the organization received further reports about conditions in which migrants

were being held on the island of Chios. The reports claimed that on 19 April 2005 a number of people who had arrived on the island in previous days were being detained in a metal container in the area near Chios harbour; detention in containers would amount to cruel, inhuman and degrading treatment. On this date local human rights activists complained to the authorities about the conditions under which the detainees were being held. The organization was seriously concerned about allegations by the local activists that detention in the container had been practised by the authorities on Chios for some time. Amnesty International wrote to the authorities requesting further information about these reports and assurances that the container would no longer be used to detain people. The organization received no response from the government and instead received further reports in June that migrants had again been detained in the container.

2.2.3 Detention of children

Another main area of concern to the organization is the reported detention of minors, and the authorities' treatment of unaccompanied minors as adult irregular migrants. In connection with this, the organization had sought to visit the centre on Mytilini to investigate, among other things, reports that in December 2004, a large number of children were found to be detained there, despite legislation that requires minors to be placed under the protection of the "Prosecutor for Minors" (*Εισαγγελέας Ανηλίκων*). Article 19 of the above-mentioned EU directive on the reception of asylum-seekers requires Member States to ensure the representation of unaccompanied minors by a legal guardian or an organization responsible for the care and well-being of minors, as well as to regularly assess this representation.

Since 2003, the Athens-based Greek Helsinki Monitor has reported 14 cases of unaccompanied minors who were detained with adults for three months and subsequently released without the prosecutors for minors

being notified and thus without their safety having been secured. The NGO also expressed concern that many minors might have been trafficked after their release as a result of this failure to ensure their protection. In November 2004, the local branch of UNHCR issued a series of guidelines and recommendations to the authorities, which emphasized the prohibition on detaining children set out in the Convention on the Rights of the Child (Articles 22 and 37). The UNHCR called "on the Greek Government to adapt its national legislation to the EU directive on reception conditions (which contains specific provisions for unaccompanied minors), in particular as regards the appointment of legal guardians". The UNHCR also called on "the Ministries of Public Order, Justice and Health and Social Solidarity, together with the Office of the Ombudsman, to adopt the draft UNHCR guidelines on the treatment of separated children seeking asylum, including the establishment of a system that will ensure their early identification and referral to competent service providers in Greece" (Recommendations 11 and 12).⁵² The UNHCR further stated that:

"among 325 unaccompanied/separated children registered as asylum-seekers in 2003, only a few effectively reside and are assisted at reception centres in the country. Only twenty children can be accommodated in the Anogia Centre, operated by the National Youth Foundation, funded by the Ministry of Health and Social Solidarity and recognised as an excellent facility and model of its kind. Furthermore, an increasing number of separated children are not identified as such, are placed in detention, and when released are not referred to any protective institution. The whereabouts of most are thereafter unknown. Gaps in Greek legislation remain on the identification of newly arrived persons (accompanied or

⁵² *UNHCR Position on Important Aspects of Refugee Protection in Greece*, November 2004.

unaccompanied) below the age of 18, the appointment of a legal guardian and the search for durable solutions.”

In December 2004, following a visit to the Mytilini detention centre by the Greek Council for Refugees, its representatives stated that they had found “186 unaccompanied minors-refugees [detained] in dangerous and illegal conditions, which deny their basic rights, even those relating to their basic protection”.⁵³ Amnesty International expressed concerns about these reports. The organization recalls that such detention contravenes the provisions of the Convention on the Rights of the Child, which Greece has ratified.⁵⁴ In particular, Article 22 stipulates that children seeking refugee status should be afforded special protection.⁵⁵ In addition, Article 37 of the

Convention specifies that the detention and imprisonment of a child should only be practised as a “last resort” and prohibits the arbitrary and unlawful detention of children. Amnesty International opposes the automatic/mandatory detention of minors on account of illegal entry or irregular migration status, and opposes the detention of unaccompanied minors under any circumstance.⁵⁶ The organization considers such detention to have detrimental effects on the physical and psychological health of the detainees, to be contrary to the principle of the best interests of the child, and therefore to seriously undermine the obligation of states to protect children within their territories.

During the organization’s visit to Greece, delegates also visited the detention centre of Amygdaleza for women and minors who are awaiting deportation. At the time of the visit, six unaccompanied male minors were detained at the centre. The detainees were held in a special dormitory room in the centre, which was separated from the women’s wing, in prison-like conditions. The dormitory room had no access to the open air and the delegates learnt that because the fenced space available for the detainees’ use could only be accessed from the women’s wing, the minors were never allowed into the open air. One of these detainees⁵⁷ showed clear signs of stress: sweaty palms, nervousness (twitching of the fingers), unwillingness to communicate,

⁵³ “Και Δεύτερο Κέντρο Υποδοχής Προσφύγων; [A Second Refugee Reception Centre?]", article by Stratis Balaskas in the local daily *Empros*, 19 January 2005. According to the same article, the local prefect also reported that around 60 women were also being held at the same centre.

⁵⁴ Greece has also ratified the Protocol to the Children’s Convention, on the Involvement of Children in Armed Conflict and has signed but not yet ratified the Protocol on the Sale of Children, Child Prostitution and Child Pornography.

⁵⁵ Paragraph 1 states that “States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties” and paragraph 2 states that “for this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or

her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.”

⁵⁶ The Working group on Arbitrary Detention has stated that unaccompanied children should never be detained. See Working Group on Arbitrary Detention, *Report on the Visit of the Working Group to the United Kingdom on the Issue of Immigrants and Asylum-Seekers*, E/CN.4/1999/63/Add.3, 18 December 1998.

⁵⁷ Identification details have been omitted because of the small number of individuals in this group.

difficulty concentrating, intermittent crying. The delegation was told by both detainees and guards that the centre is visited by a doctor once in every two weeks and that medical care is available in emergencies. However, psychological support was not offered.⁵⁸ The detained minor further claimed that this was the second time he had been detained in Greece, having been detained once upon arrival and then after being arrested in Athens and failing to produce documents confirming his legal stay in Greece (he claimed that he was in fact in possession of a “red card” but had lost it and that the authorities had failed to follow up his claim with the Aliens Department). The minor had allegedly fled his conflict-ridden country, after becoming separated from his parents and had not been able to communicate with them for months. His comments during the interview indicated resignation regarding his future:

“my father told me ‘you have to become a doctor; you must not fight’ –and that’s what I wanted to do; I don’t want anything now. I want to be left alone.”

2.2.4 Ill-treatment of women prisoners

In July 2004 the national daily *Ta Nea* reported that a 13-year-old female victim of trafficking and sexual exploitation had in fact been held in Amygdaleza under deportation orders but was released and placed in a special hostel when an adult inmate alerted the local representatives of *Mèdecins sans Frontières* to her pregnancy.⁵⁹ In light of Amnesty International’s opposition to the detention of unaccompanied minors, the absence of any attempts by the authorities to protect this minor, who was in a particularly vulnerable state, is doubly worrying. The organization has no information about whether an investigation into the circumstances that led to this unlawful detention has been launched.

In addition to its concerns about minors held at Amygdaleza, the organization has also received allegations that some of the male guards in that detention centre may have engaged in practices that violate rules regarding the treatment of prisoners. In particular, the organization received allegations that within the past year, male guards at the centre have entered the women’s dormitory rooms at night, offered alcohol to detainees and demanded sexual favours.⁶⁰ The organization has not been informed as to whether any investigations into these allegations were initiated.

In March 2005 a number of local human rights NGOs staged a demonstration outside the centre and called for the centre’s closure due to further allegations of detainees’ ill-treatment including overcrowding, lack of facilities, beatings by police officers and rape. The organization calls on the authorities to investigate them in a thorough, prompt, and impartial manner that will ensure that if the allegations are substantiated, the perpetrators will be brought to justice and the victims of these violations will be granted full reparation.

The organization is additionally concerned about the provisions available at the centre for children who are detained in the women’s dormitory rooms along with their mothers. Amnesty International considers the detention of vulnerable people, and in particular women with their children, unnecessary and should only take place as a measure of last resort.⁶¹

⁵⁸ This was also the case for Reception Centres for Asylum-Seekers, where the absence of such support for vulnerable individuals such as single women and children was a major concern in UNHCR’s 2004 report (Tsovili and Voutira, *ibid*: 9).

⁵⁹ Takis Kampylis, “Ενστάσεις [Objections]”, *Ta Nea*, 10 July 2004

⁶⁰ Similar claims had been made in previous months by a former detainee in a report prepared for the national television network NET (Kouvaras, *Transit*, broadcast on NET on 16 November 2004).

⁶¹ *United Kingdom: Seeking Asylum is Not a Crime: Detention of People who Have Sought Asylum*, AI Index: EUR 45/015/2005.

2.3 Failure to protect victims of trafficking

Some of the cases outlined above also raise concerns about another aspect of the state's failure to protect the rights of another particularly vulnerable group of migrants: women and children who are victims of trafficking. In fact, a number of reports received in the last few years claim that a large proportion of the women detainees at Amygdaleza are victims of trafficking. In two cases, the organization has learnt that victims were detained even after they had testified against their traffickers and while judicial proceedings were underway and these were mentioned in its briefing to the UN Human Rights Committee in February 2005. Amnesty International has welcomed new legislation to combat trafficking of human beings and forced prostitution ("economic exploitation of sexual life") (Law 3064/2002), which introduced provisions for the protection of victims willing to testify during the trial. However, the organization remained concerned about the way in which such protection is ensured.

In particular, the organization made reference to four cases in which victims of trafficking and rape (Olga B., Gina M., Kamelia P., and Tatiana A.⁶²) have not been accorded state protection during the trial proceedings against the traffickers, despite having received a number of threats. Instead, the organization learnt that two of these victims, Tatiana A. and Kamelia P., have had deportation orders issued against them while trial proceedings were still on-going. The organization notes that while Law 3064/2002 allows for the suspension of such deportation orders by order of the Misdemeanours Prosecutor and approval by the Appeals Prosecutor (Article 12.2), such deportations are not unequivocally prohibited. The organization also expressed concern about the time taken to try cases against persons suspected of involvement in trafficking and the

compatibility of this legislation (Law 3064/2002) with legal provisions about statutory limitation. The case of the two trafficking victims mentioned above, Gina M. and Kamelia P., who were minors at the time when the offences were allegedly committed in 1998, was heard by the court in December 2004. By that time, the charges against those suspected of having committed offences of pimping and pandering had been dropped because of the five-year lapse (ruling Ref. No 2252/2203 of the Appeals Council of Athens). Keeping in mind concerns that the organization has previously raised about the length of judicial proceedings in Greece, the organization is concerned that such limitations may hinder access to justice of trafficked victims.

In the case of Olga B., the organization had expressed concerns in 2003 and 2004 about the repeated failures of the court to call the complainant to testify in the trial against a police officer she had accused of raping her in 1998, while she was working in a bar. At the initial stage of the trial, two persons were convicted for trafficking and procurement in 2003 in relation to the victim's claims, and the police officer was given a two-year suspended sentence for breach of duty for failing to report his knowledge of the trafficking offences. He was eventually acquitted of the rape charges in 2004, in a trial that the complainant attended, on the grounds that the victim had consented to sexual intercourse.⁶³

Reports were also received concerning the trafficking of children and the state's failure to ensure their protection. In particular, Amnesty

⁶² These details of the victims have been widely publicized in the national press.

⁶³ *Greece: Amnesty International calls for re-trial of police officer acquitted of alleged rape of a Ukrainian woman* (AI Index: EUR 25/006/2003) and entries in *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region January - June 2004* (AI Index: EUR 01/005/2004), *Europe and Central Asia: Concerns in Europe and Central Asia: July - December 2003* (AI Index: EUR 01/001/2004) as well as entries in *Amnesty International Reports 2004 and 2005*.

International expressed concern about the disappearance of 502 children, the vast majority of whom (i.e. at least 457) were foreign, from a state institution that had been charged with their protection. The organization received reports that despite the announcement in 1998 of a programme to protect the rights of street children, 502 children, who had been accommodated in the Aghia Varvara institution in Athens within the framework of a children's protection programme, went missing between 1998 and 2002.⁶⁴ Most of the children were Albanian Roma, who were forced by traffickers to work by begging and selling trinkets on the street. The children had been taken to the Aghia Varvara institution by security police. In March 2004 the Greek Ombudsman issued a report that identified a number of gaps in the design and implementation of the child protection programme, which had resulted in the disappearance of the children.⁶⁵ Specifically, the report concluded that the programme had failed to reach its stated goals and thus to ensure that the street children it was targeting would not be subjected to further trafficking and forced labour, primarily because of the absence in the planning stages of regulatory provisions to ensure the success of the programme. The report noted that in the plan of the programme, there had been no provision for any form of extra funding from the state. As a result, the programme lacked from the outset necessary resources, in equipment and

personnel, to deal with the specific requirements of the programme. The children were simply collected from the street by police and placed in an institution (Aghia Varvara) that had been operating as a female boarding school since 1948 and which had been under-subscribed. In addition, the authorities had not taken measures to protect the children in the institutions from abduction and had failed, in the absence of provisions in the plan for children above 12 years of age, to observe the age limit set out in the plan. In their recommendations, both the Ombudsman and 'Terres des Hommes' emphasized the importance of ensuring the security of minors in institutionalized care and the need for substantial revisions to the existing legislative and policy framework for combating child trafficking. Specifically, the Ombudsman's report noted that "protection and social care for victims of child trafficking should not be provided through one-off and perhaps even opportunistic programmes, but within the framework of a unified and organized national policy".

Amnesty International has urged the Greek authorities to conduct a thorough, prompt and impartial judicial investigation in order to establish the fate and current whereabouts of the children and to ensure their safety. After a preliminary investigation, on 1 December 2004 the prosecutor pressed felony charges "against anyone involved" in the "abduction of children less than 14 years of age". An investigative judge was assigned to carry out the main investigation. In April 2005 the Greek Ombudsman met with the Albanian Ombudsman and provided him with a list of the missing children. The latter launched an effort to locate them or their families. Amnesty International has since been informed that more than a dozen children were already located in Albania. In addition, an agreement has been drafted between Greek and Albanian authorities regarding cooperation in combating child trafficking between the two countries and providing more effective mechanisms for the protection of unaccompanied children,

⁶⁴ These reports were initially publicized by the international NGO 'Terres des Hommes' in 2003 (*The trafficking of Albanian children in Greece*, January 2003). The claims made in this publication, were subsequently investigated by the Greek Ombudsman and the findings published in a report in March 2004.

⁶⁵ *Υλοποίηση του Προγράμματος: Προστασία και Κοινωνική Φροντίδα των Παιδιών στο Δρόμο* [Implementation of the Programme 'Protection and Social Care for the Street Children'] Report by George Moschos, Olga Themeli, Stamatina Poulou and Samantha Stratithaki for the Rights of the Child Department, Ombudsman's Office, Greece, March 2004.

trafficked children and children at risk of being trafficked.⁶⁶ According to information that was published in the Albanian press in August 2005,⁶⁷ the Albanian Prosecutor General's Office addressed their Greek counterpart on five occasions about this case in the last two years, but received no reply.

2.4 Police ill-treatment

In addition to these observations, the delegation of Amnesty International also received a number of complaints about the ill-treatment of migrants by police officers. The most widely publicized incident of such ill-treatment took place in December 2004.

On 13 December 2004 a number of men in plain clothes entered a guesthouse in Athens, where a number of Afghan migrants were staying, identified themselves as police officers and showed the Afghan migrants a photograph of another man who had earlier escaped from police custody in the Agios Panteleimonas police station. The Afghan men stated they knew nothing of the man in the photograph, whereupon the policemen reportedly began to beat them. The police returned to the guesthouse that afternoon and evening, and again after midnight on 14 December and in the afternoon on 15 December. On the day of their last visit, the policemen put the Afghans into one room and allegedly began to punch, kick, and hit them with their truncheons. One policeman allegedly took out his revolver and threatened one of the victims with execution. Following this, the police took two of the men away to the local police station separately and ill-treated them there. One of them reported that the police officers at the station beat him

with a piece of rubber on the soles of the feet, threw cold water on him, spat in his mouth and twisted his genitals. The other was a minor, whom the police spotted outside the building at 2pm that day and, pointing a revolver at him, dragged him along the ground and took him to the Agios Panteleimonas police station. The 17-year-old said that they transferred him to the basement and held him there for an hour; that four policemen asked him about the person they were looking for and allegedly beat him severely, threatened him with a gun, undressed him and took photographs with a mobile telephone. During this time they were all laughing and ridiculing him with insults. He said that one of the police officers was giving the orders and the other three were carrying them out. Representatives from Amnesty International and other NGOs, during their visit to the guesthouse in the afternoon of 15 December, saw injuries that the Afghan men say were inflicted by the police. A doctor from the Medical Centre for the Rehabilitation of Victims of Torture examined the Afghan men and considered that the injuries were a result of serious beating with both sharp and blunt instruments. Photographs of the beaten men were released in the press.

At the time, all the Afghan men in question were in the process of seeking asylum in Greece. Very few of them had their "red card", many having preliminary documents, while others, having come from Mytilini after three months' detention, had not yet been allowed to submit their asylum claims. In addition some had been returned from other European countries in accordance with the Dublin II Regulation and did not have any legal documentation while others had their applications denied. In addition to this ill-treatment, the police also took documentation from three of the Afghan men and failed to return their papers to them. Because of this, and because of the absence of papers for people in the last two categories, many of the victims were in effect "persons without papers" and thus in an extremely vulnerable position. Although they complained to lawyers

⁶⁶ *Draft Cooperation Agreement between the Government of the Republic of Albania and the Government of the Republic of Greece on the protection of unaccompanied children, trafficked children and children at risk of being trafficked.*

⁶⁷ "Athina si përgjigjet Tiranës për zhdukjen e 300 fëmijëve", *Metropol*, 31 August 2005.

and activists of ill-treatment by the police officers during these incidents, they refused to file formal complaints or provide evidence of the abuse they had suffered for fear of retribution.



One of the pictures released in the press showing bruising on the leg of one of the victims © Amnesty International

An internal police investigation was subsequently launched and charges under Article 137 of the Penal Code prohibiting torture were brought against two policemen. The investigation was concluded by May 2005, but the results not made public. At that time, a criminal investigation was still underway. Amnesty International wrote to the authorities urging them to ensure that, if enough evidence was gathered, the suspected perpetrators of these human rights violations should be brought to justice. The organization had also received information that despite the allegations of ill-treatment of a number of minors, the Prosecutor for Minors had not been involved in the investigation.

In a landmark decision in October 2004, the naval court in Chania, Crete, found five Greek coastguard officers guilty of physically and sexually abusing a group of migrants in 2001, under Article 137 of the Penal Code. All the officers received suspended sentences.⁶⁸

In another case the same year, the Judicial Council of the Misdemeanours Court of Athens (*Συμβούλιο Πλημμελιοδικών*) on 13 October 2004 accepted the Prosecution's proposal not to refer to trial three police officers, who were accused of ill-treating two migrants of Pakistani origin in Athens in 2000. The incident had been recorded and shown in the newsreport of a private TV station in Greece in December 2000.⁶⁹ The footage showed one police officer beating, punching and swearing at one of the handcuffed migrants, while the other two police officers stood by watching and laughing. The cameraman who recorded the incident also claimed that he had seen a fourth police officer punching the second migrant inside the police car. Following this publicity, Lawyers Without Borders, an NGO, filed a complaint with the Prosecutor of the Misdemeanours Court of Athens against the police officers allegedly responsible for the ill-treatment under Article 137 (§§ 1 and 2) of the Penal Code and a criminal investigation was undertaken. The Judicial Council, in its written decision ruling that the police officers should not be referred to trial, cited evidence from the Prosecution's proposal which referred to a police officer "beating [one of the migrants] lightly on the back while trying to usher him into the police vehicle", "kicking him without reason in front

of the police station without causing damage or endangering his physical integrity", to another police officer "beating him inadvertently, once, on the back of the head, without causing damage or endangering his physical integrity" and to a third police officer "slapping him on the right cheek".

2.5 Excessive use of force and persisting ill-treatment of Albanian nationals

The organization has received a number of further allegations relating to ill-treatment of migrants detained by Greek police. Among these, an exceptionally large number of the alleged victims are Albanian migrants working or seeking work in Greece. Many were arrested by police and military forces operating in border districts as they sought to enter Greece clandestinely on foot by mountain paths. Others were migrants who had found work or seasonal labour, and who were detained in the course of routine checking of documents or in organized police round-ups of irregular migrants (colloquially referred to as "sweeps"), before being forcibly deported (summarily expelled) by the Greek authorities to Albania.⁷⁰ In February 2001 the Deputy Ombudsman criticized the summary expulsion of Albanians in the latter circumstances as illegal and humiliating: "*When an immigrant has settled in a place, there is a deportation procedure that is regulated by law. Summary expulsion is illegal.*"⁷¹

In addition to its concerns about allegations of police ill-treatment, Amnesty International has also raised with the Greek authorities its concerns with regard to several incidents in which Greek law enforcement officials are alleged to have used firearms against unarmed Albanian citizens who had entered Greece clandestinely. Both the above areas of concern

⁶⁸ One of the officers, Stylianos Dandoulakis, was found guilty of sexually abusing a man in the toilet. He was sentenced to 30 months in prison suspended for five years. Constantine Vardakis, who was charged with abetting Dandoulakis, received a 12-month suspended prison sentence. Ioannis Florakis, Ioannis Lefakis and Athanassios Moumtzis, were charged with physically abusing many of the migrants. All three received an 18-month suspended prison sentence.

⁶⁹ 'Alpha' main news bulletin, 16 December 2000.

⁷⁰ This procedure is carried out on the basis of a "Re-admission clause" under a Police Cooperation Agreement between Greece and Albania.

⁷¹ *Eleftherotypia*, 5 February 2001.

have previously been documented in the 2002 joint Amnesty International/ International Helsinki Federation report, *Greece: In the Shadow of Impunity – Ill-treatment and the misuse of firearms*.

Since the publication of that report, Amnesty International has learned of at least three incidents in which Greek border guards or other police officers allegedly resorted to the use of firearms against Albanian citizens, apparently in violation of international law and standards. Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials prohibits the use of firearms against persons, except “in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”⁷² The organization notes the introduction of new Greek legislation on the use of firearms (Law 3169 of July 2003), which was intended to clarify and limit the circumstances in which law enforcement officials can resort to arms, in line with international law and standards, but it remains concerned about the lack of safeguards guaranteeing the implementation of this legislation.

In the most serious of these incidents, an 18-year-old Albanian national was shot dead by a border guard. Vullnet Bytyçi, from the village of Muç-Has in the Has district of Albania, was shot on the evening of 23 September 2003 while clandestinely crossing the border into

Greece together with five other Albanian citizens in search of work. According to official reports the group was observed by three border guards, who called to them to stop. Four members of the group complied, and were arrested, while Vullnet Bytyçi and another man fled. One of the guards fired after them, fatally wounding Vullnet Bytyçi, who was pronounced dead on being admitted to Kastoria hospital the same evening. On 14 October 2003 Amnesty International wrote to the Greek authorities expressing its concern that this incident indicated that border guards might be continuing to use firearms as a means to repel people seeking to enter Greece clandestinely, even in circumstances in which the latter did not present an imminent threat of death or serious injury.

Pavlos Papageorgiadis, the guard in question, was at first charged with “reckless homicide”-- a charge which was subsequently changed to the lesser offence of “manslaughter”. Amnesty International wrote again to the authorities on 27 October 2004 and urged them to take all necessary steps to ensure that the proceedings comply with international law and fair trial standards, including that the statements of all witnesses should be thoroughly examined. The organization has since learnt that Vullnet Bytyçi’s parents, as well as crucial witnesses who were with Vullnet Bytyçi on the night of the incident, had not been given permission to enter Greece to attend the trial and give evidence. On 8 June 2005 the Misdemeanours Court of Kastoria found Pavlos Papageorgiadis guilty of manslaughter and sentenced him to a suspended sentence of two years and three months’ imprisonment. The Court also convicted *in absentia* one of the young men who had crossed the border with Vullnet Bytyçi of “illegal entry” and sentenced him to three months’ imprisonment suspended for three years and a fine of €1500.

After learning about the fatal shooting of Vullnet Bytyçi from the Albanian media, another Albanian, Gani Rama, a 35-year-old from Mafsheq village, Krujë district, informed

⁷² UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders in September 1990.

the press that some months previously he too had been shot at by Greek police officers.⁷³ According to his account, he had crossed into Greece clandestinely on 25 May 2003 and two days later, when he was in the area of Veria (northern Greece), Greek police fired at him, wounding him in the arm, after he failed to respond to their call to stop. They then arrested him, and brought him to hospital in Edessa for treatment. He was subsequently convicted by a Greek court of “illegal entry” and given a suspended sentence before being deported to Albania. On 29 September 2003 Gani Rama was medically examined in Tirana by a physician for the Albanian Rehabilitation Centre for Torture and Trauma (ARCT) who confirmed the marks of a bullet wound on his right arm.

The third such incident concerned Çlirim Aliu, aged 30, from Panajë village, Vlorë district, who entered Greece clandestinely in early April 2005. According to his account, “We had nearly reached Trikala ... [when] the Greek police noticed us because we had lit a fire beside the railway tracks ... we tried to make a run for it, but we didn’t succeed, because the police opened fire. We stopped because they might have killed us. They began to beat us – they punched and kicked us and hit us with their pistol butts. They gave me a violent kick in the stomach and I lost consciousness. .. I don’t know what happened afterwards. When I recovered consciousness I was in [Kalambaka] hospital ...and I saw I had a wound in my stomach. From the doctors and some patients in the hospital I learned that the police had brought me urgently to the operating theatre because my stomach was ruptured.” When Çlirim Aliu recovered he was returned by Greek police to Albania at Kapshticë border point where on 16 April he made a statement concerning these events which was forwarded to Korçë Prosecutor’s Office. The scar from

his stomach operation and some bruises were reportedly still visible.⁷⁴

The type of allegations of police ill-treatment made by Çlirim Aliu repeatedly occur in other reports, indicating that police officers in such circumstances frequently do not restrict themselves to the minimum necessary force required for arrest, but “punish” migrants who have attempted to avoid or otherwise resist arrest by brutally beating them *after* they have been captured and brought under control – in other words in circumstances in which there is no longer a justification for the use of force.

The cases outlined below are only some of the incidents about which Amnesty International learned between September 2003 and April 2005, generally from reports in the Albanian press. It should be emphasized that these reports were in almost all cases based on written statements which the alleged victims gave to Albanian police and prosecuting authorities at the border after they were forcibly returned by the Greek authorities to Albania.

In the early hours of 15 September 2003 Ligor Halili (aged 43), his brother Mili Halili (41), and a friend Rrahman Pashollari (62), three men from Elbasan district, were returning on foot to Albania from Greece after working for 10 days for a farmer in the area of the Prespa lakes near the border. According to their account, near the village of Microlimni they were confronted by a Greek police patrol (six police officers wearing camouflage uniforms), who ordered them to lie on the ground and began to kick them and beat them brutally with truncheons. They also searched their pockets and confiscated the money they had earned. The three men were then taken to Pili police station where they were held for a few hours before being returned to Albania at Kapshticë border point. After travelling back by bus to Elbasan, Ligor Halili was urgently admitted to

⁷³ *Gazeta Shqiptare*, 29 September 2003.

⁷⁴ Reports in *Gazeta Shiptare* and *Shekulli* of 17 April 2005.

hospital complaining of severe stomach pains and nausea. The same day (15 September) he underwent an operation for the removal of a ruptured spleen. (His brother and his friend received first-aid treatment for bruising.) Unusually, the Albanian Foreign Ministry formally protested to the Greek embassy about this incident, and reportedly received assurances that the Greek authorities would identify the police officers allegedly responsible and hold them to account. The incident was also investigated by the Albanian Ombudsperson who in March 2004 reported that the Greek police officers were under investigation. However, Amnesty International has not been informed of the outcome of any such investigation.⁷⁵



Ligor Halili after the operation he underwent for

removal of his ruptured spleen © Albanian Rehabilitation Centre for Torture Victims

One effect of the above incident was that Albanian border police were ordered to rigorously implement instructions to take statements from any returning nationals who wished to complain about the excessive use of force or ill-treatment in Greece (or who showed clear signs of injury) and to forward these statements to Korçë Prosecutor's Office. Where appropriate, victims are also provided by the Albanian police or prosecuting authorities with a document authorizing them to receive a medical forensic examination. However, in practice, it seems that this procedure rarely, if ever, leads to an investigation by the Greek authorities, although such cases are reportedly regularly raised by the Albanian police authorities in the border areas at meetings with their Greek counterparts.

The following allegations of ill-treatment were made by a mother, Kozeta Çopani, aged 36 from Tirana. She was arrested early on 17 November 2004 after crossing into Greece together with her two small daughters with the intention of joining relatives already living in Greece. Following her arrest she was taken to Kastoria police station. She claimed that she and her daughters were held in a cell with no heating, next to the communal toilet which was constantly blocked and emitted a suffocating stench. They slept on the floor with only blankets to cover them, and they were not given water or food. She also alleged that a senior officer struck her in the face and kicked her legs when questioning her. Several other police officers present laughed and mocked her. According to her account, the same day she was convicted of "illegal entry" at a trial which lasted some five minutes, at which she was not defended by a lawyer, although an Albanian interpreter was present. On 19 November she and her daughters were forcibly returned to Albania. There she gave a statement to police at Devoll and received a

⁷⁵ Albanian press reports, interviews carried out by ARCT and by the Albanian Group for Human Rights (AHRG), and the Albanian Ombudsperson's Annual Report for 2003 presented to parliament in March 2004.

medical forensic examination, which reportedly recorded bruising on her legs.⁷⁶

Reports have also been received of police ill-treatment of Albanian migrants in urban centres. A number of these incidents appear to have taken place following police checks of immigrants' documents; in some cases it is alleged that the documents presented were in order.

- In November 2003, Shpëtim Shabani, aged 28 from Fier-Shegani, Lushnjë district, was drinking coffee in a bar in Agrinio when three police officers in camouflage uniforms entered, checked his papers, which he says were in order, and then asked him to follow them outside, where they allegedly assaulted him in public view. "They began to hit me with the butts of their guns and to punch and kick me; they knocked me to the ground and continued to beat me without any explanation until a police car came and took me away". He was held for three days at a police station in Oinoi before being forcibly returned to Albania, where he and two other men, Albert Prifti and Vetihak Mane (irregular migrants arrested separately) gave statements to the Albanian police about their ill-treatment in Greece.⁷⁷

- Alfons Cenika, aged 30, a resident of Laç, was forcibly returned to Kapshticë border point on 30 March 2005, where he reported having been severely beaten and injured by Greek police officers. According to his account, he had been working on farms in the area of Larissa when he was stopped by Greek police officers on his way to work and asked for his documents. "I didn't have a residence permit, but I was in the process of trying to obtain one." He was taken to Karditsa police station: "There I was brutally ill-treated by two Greek police officers – they punched and

kicked me and beat me with rubber truncheons until I lost consciousness. When I came to myself I saw that I was in hospital. I wanted to contact my cousin, but they wouldn't let me. The next day they brought me to Kapshticë." At Kapshticë, Albanian police officers took his statement and photographed his injuries (bruises on his back and chest, arms and legs). He was then taken to hospital in Bilisht for medical examination and treatment.⁷⁸

Other reports received of ill-treatment of Albanian migrants by police suggest that some of these incidents may have been motivated by xenophobia and racism:

- Gurali Dikellari, a 43-year-old father of two from Pogradec, and Besnik Leka, a 19-year-old from Durrës entered Greece clandestinely via Macedonia on the evening of 11 December 2003. According to Gurali Dikellari his Greek documents were in order but his Albanian passport had expired. Not far from Evzoni they and a small group of Moroccans were arrested by Greek police, who ordered them all to lie down and then proceeded to beat and kick them. In an interview to the Albanian media Gurali Dikellari said: "They beat us savagely, telling us 'You want Greater Albania. You want Cameria.'" Gurali Dikellari momentarily lost consciousness after a particularly sharp blow to the genitals. They were then taken to the local police station where, according to Gurali Dikellari, police checked their records on computers and confirmed that their documents were in order. By the morning Gurali Dikellari had a temperature and was suffering from severe swelling in the genital area. He was taken from the police station to hospital, where he was given tranquilizers after he confirmed that he did not have enough money to pay for an operation. He and Besnik Leka were forcibly returned on 14 December 2003 to Kapshticë border point. They were subsequently examined by a forensic doctor

⁷⁶ Reports in the Albanian press on 20 and 21 November 2004; interview by the Albanian Helsinki Committee (AHC) on 23 November 2004.

⁷⁷ *Shekulli*, 13 November 2005

⁷⁸ *Shekulli*, 1 April 2005

from Korçë who found that Besnik Leka had injuries to a rib and one of his legs. The doctor also recommended that Gurali Dikelari return to Pogradec to be operated on. A surgeon at Pogradec hospital informed the press the following day that Gurali Dikellari had undergone an operation for internal haemorrhaging, an injury resulting from being kicked in the genitals.⁷⁹

- Artan Kaculi, aged 21, from Rushkull village, Durrës district, clandestinely crossed the border into Greece on foot, together with his brother, on the night of 30/31 October 2004. He knew the way well, having previously spent periods of up to 18 months working in Greece. Early in the morning of 31 October he was observed by a Greek police patrol: “I ran into a wood on the outskirts of Florina but the police managed to catch me. They were angry and began to beat me... They punched me, kicked me and beat me with rubber truncheons. I was lying on the ground yelling, but they struck me without mercy. I was frightened they would break my leg or hand, and I curled up into a ball and covered my head with my hands. Perhaps they would have killed me, but by good luck one of their superiors came and told them to stop beating me. They took me to the police cell, where they held me for a night and day... and from Florina police station they took me to Kapshticë [border point]”. According to an interview which Artan Kaculi gave to the newspaper *Shekulli*, as the police officers arrested him, they shouted: “Thrown down your pistol, grenade, whatever you have on you” [he was unarmed], and then struck him, saying: ‘You damned Albanian, we’ll kill you!’. He arrived at Kapshticë on the evening of 1 November 2004, where Albanian police officers, who observed that he was bruised and injured, took a statement from him and drove him to Korçë hospital. After receiving first-aid he returned home, the last section of the journey on foot, despite his injuries, because

he did not have the money to pay for transport. He later remarked to *Shekulli*: “Why did they have to ill-treat me? I’m not a criminal, just a poor guy forced to cross the border to earn his bread. Why did they have to insult me? I’m proud to be Albanian. If they wanted to sentence me for crossing the border illegally, that’s OK.” On 5 November 2004, when Artan Kaculi was interviewed by a representative of the Albanian Helsinki Committee (AHC), bruises on his head and parts of his body were still visible, he felt pain when he stood up or sat down and could not use his left arm. He complained that he could not afford to buy medicines.⁸⁰

- On the night of 21 March 2004 Valter Begolli, aged 43, from the village of Menkulas village (Devoll district), near the Greek frontier strayed over the border while looking for his 13-year-old son, who had disappeared some hours previously. Just inside the border he was observed by a Greek border guard patrol who called out to him to stop. He was frightened and tried to run back into Albanian territory, but the patrol set their dogs after him, who attacked and bit him. When the border guards reached him, they called off the dogs, but according to Valter Begoli, they then punched and kicked him, and allegedly forced him to say that Macedonia was Greek. He lost consciousness and was taken first to a police station and then to Kastoria hospital where he remained for two days before being returned to Albania. At home he found his son waiting for him.⁸¹

- Reshat Bullari, aged 27, from Cengelas village, Peqin district, left for Greece on 25 January 2005 and was reportedly ill-treated by police in Ioannina during a police check. He reported that three police officers dragged him from the car in which he was being driven, beat him, injuring one of his legs, and swore at him, saying “You take us hostage, you’re

⁷⁹ *Koha Jone*, *Shekulli* and *Panorama*, 16 December 2003; *Shekulli*, 17 December 2003.

⁸⁰ *Shekulli*, *Korrieri*, *Panorama*, 3 November 2004.

⁸¹ *Korrieri*, *Shekulli*, *Gazeta Shqiptare*, *Panorama*, 26 March 2004.

nationalists”.⁸² They then took him to the police station where he was held overnight. During the night his leg became very swollen but his requests to see a doctor were apparently ignored. The next day he was forcibly returned to Albania at Kakavijë border point. A driver from Gjirokastër took him to Lushnjë hospital where he received first aid, and from there he was taken by his family to Elbasan for further hospital treatment for injuries to his leg and to a rib.⁸³

Other reports of racist violence by police and non-state actors against Albanians were received following a World Cup qualifying football match between the national teams of Albania and Greece on 4 September 2004 in Tirana. According to Albanian press reports, some 60 Albanians were treated for injuries at hospitals in Athens that day.

- Olsi Lako, from Tirana, was allegedly beaten by Greek police after the end of the match which he had been watching at the Albanian Immigrants’ Forum in Athens. According to his account: “the police had blocked the street and didn’t allow people to go into Omonia [Square]. Seeing that the crowd was advancing, the police began to beat those in front. I went to the front and asked the police to stop beating. They stopped. But I made a few more steps and a car suddenly drew up in front of me. Four men got out and began to beat me savagely all over my body. When they stopped, officers from the Special Forces branch arrived and began to beat me. They tore the red jacket⁸⁴ I was wearing and tied it around my throat – they nearly strangled

me.” Although he was injured and bleeding, he was taken to a police station. Later his friends took him to hospital where he reported seeing other Albanians with knife injuries and bruises from beatings.

- Kristo Xhibro alleged: “As soon as the match ended, I and my brother made for Omonia. I had an Albanian flag round my neck; a police officer took it away by force. Other police hit me with truncheons and kicked me. I fell to the ground. The police walked away leaving me to a group of Greeks who beat me without mercy... An ambulance at first did not want to help me, but then took me to the Laiko hospital“. Kristo Xhibro reportedly suffered injuries to his face and his two front teeth were broken.

2.6 Conclusion

This chapter outlined a number of concerns raised by Amnesty International in recent years, with national and international bodies, which relate to violations of the rights to life and to physical integrity by law enforcement officials (police officers and military carrying out border duties), perpetrated against migrants. Cases of ill-treatment of Greek citizens were also received but were relatively few in number and have been addressed elsewhere.

According to the report submitted by Greece to the UN Committee against Torture in February 2004,⁸⁵ in the period between 1996 and 2000, 163 complaints of ill-treatment were made, out of which 24 (15 per cent) resulted in the imposition of disciplinary sanctions following an internal administrative investigation.

In a report published in July 2004, dealing with the internal administrative investigation of complaints against police officers, the Ombudsman listed 164 cases of complaints lodged with the Ombudsman between 2000 and 2004, 25 of which concerned ill-treatment. Of these cases, 17 (68 per cent) were dismissed

⁸² This is presumably a reference to three incidents in recent years, in which Albanian nationals hijacked buses in Greece. On one occasion (15 December 2004) the hijackers were two Albanian nationals who requested safe passage to Russia in exchange for the travellers in the bus whom they had taken hostage. The hijackers surrendered later that day. Two similar hijackings had also occurred in 1999.

⁸³ *Korrieri, Koha Jone*, 2 February 2005

⁸⁴ Red is the dominant colour in the Albanian flag.

⁸⁵ Convention against Torture/C/61/Add.1

after internal investigations concluded that there were no indications of misconduct. Of the rest, three cases were still being investigated while disciplinary sanctions had been imposed in five cases (20 per cent), although in one of these the accused were eventually acquitted on review.⁸⁶ The report noted that many of the complaints of ill-treatment referred to the police authorities had been rejected by them as unfounded, although the authenticity of the complaints was supported by their credibility and narrative coherence, and above all by documents and other convincing forms of proof, such as medical certificates from state hospitals, confirming recent injuries, issued shortly after the complainants' release from police stations.

Among other problems, the report noted a lack of trust by the citizens in the willingness of police authorities to investigate complaints against police officers, which it found justified in the lack of rigour exhibited by investigating police authorities in some of the internal investigations it examined. The report also noted that "not infrequently the conduct of some of the members of the Greek Police goes beyond mere lack of professionalism and clearly enters the domain of activities that are not merely irregular but squarely illegal ... e.g. involvement of police officers in 'protection' networks, issuing of fake documents, trafficking of foreign women ... [as well as] the largely unknown number of incidents of illegal conduct which take place in the course of the daily contact of police officers with citizens – and in violation of the rights of the latter – through various police actions, especially in the form of unjustified resort to measures of physical constraint."

In light of the information presented in this chapter, Amnesty International remains

concerned about the authorities' failure to effectively address human rights violations perpetrated by police officers, by instituting prompt, effective and impartial investigations into allegations of such violations and bringing perpetrators to justice.

⁸⁶ *Πειθαρχική – Διοικητική Διερεύνηση Καταγγελιών σε Βάρος Αστυνομικών Υπαλλήλων [Disciplinary – Administrative Inquiry of Complaints Against Police Personnel]* Report by Andreas Takis et al, Ombudsman's Office, July 2004.

3. AN OLYMPIC SHADOW:

VIOLATIONS OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF THE ROMA

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

Article 11, International Covenant on Economic, Social and Cultural Rights (ICESCR)

“States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of... the right to housing.”

Article 5, International Convention on the Elimination of All Forms of Racial Discrimination

“The practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing.”

Article 1, UN Commission on Human Rights resolution 1993/77

3.1 Background

The previous two chapters documented a series of human rights violations perpetrated by the authorities against asylum-seekers and migrants in Greece. This chapter focuses on the authorities' failure to respect the economic, social and cultural rights of the Roma, and most importantly the right to adequate housing.

Official documents such as the government's Integrated Action Plan for the Social Integration of the Roma People (IAP) estimated a Roma population of around 300,000 in Greece, which represented roughly 3.5 per cent of the total population in 1996. The National Commission for Human Rights (NCHR) estimated, in 2001, that around 15 per cent of these (40,000) were tent-dwelling, although this estimate was limited to Greek citizens.⁸⁷ The vast majority of the Roma

population is Christian (Orthodox), while a group of about 35,000 are members of the officially recognized “Muslim minority” group, protected by the 1923 Treaty of Lausanne (see next chapter). The Christian Roma were afforded Greek citizenship in the mid-1970s, having been classified as “aliens of Gypsy descent” prior to that time.⁸⁸

Currently, the IAP is the main policy reference document relating to the authorities' treatment of the Roma. The plan includes specific guidelines for bettering the living conditions of the tent-dwelling Roma, including “that by the end of 2005 no Greek Roma will be living in tents or makeshift accommodation” (objective 3.c.a, IAP). Alongside concerns about a lack of emphasis in the IAP on creating stopping places for the Roma who choose to follow an itinerant lifestyle, reports received by Amnesty International in recent years concerning forced eviction practices raise further concerns about

⁸⁷ *The State of Roma in Greece*, 29 November 2001 (Research Rapporteur: Lena Divani)

⁸⁸ *Cleaning Operations: Excluding Roma in Greece*, Country Report Series No. 12, ERRC and GHM, April 2003

the impact on human rights of the implementation of these guidelines. Amnesty International understands that in some cases local authorities have expended great efforts in relocating the Roma in prefabricated housing in alternative locations, following their evictions. However, the organization is concerned about the authorities' failure to adhere to procedures for ensuring evictions do not amount to forced evictions. These procedures include providing adequate warning, meaningful participation in the identification of adequate alternative accommodation, adequate remedies including respect for due process in the determination of eviction notices, and the right to a degree of security of tenure for all irrespective of the "legality" of residence. Moreover, the organization is concerned about reports received that in a number of cases, the residents in the neighbourhood of the proposed sites have exerted pressure on the local authorities to reverse the decision of settling Roma in their area, often making public statements that raised concerns about incitement to racism. Further concerns were subsequently raised about the authorities' concessions to such pressure, which has resulted in leaving the evicted Romani communities stranded in temporary and inadequate accommodation, sometimes having to bear the financial burden of this resettlement themselves.

Under the ICESCR Greece is obliged to respect the right to adequate housing, including the prohibition on forced evictions, as guaranteed under Article 11(1). Evictions can only occur in exceptional circumstances and must conform to a strict set of criteria set out by the UN Committee on Economic, Social and Cultural Rights in General Comment No. 7. The criteria require that there must be special justification for an eviction and it should be carried out only after examination of alternatives has shown that no other alternatives are available. In such a case, the affected community should be given adequate

notice and an opportunity to contest the grounds for eviction.

The guidelines further require that no one may be left homeless as a result of an eviction and that alternative accommodation must be provided as far as possible in a location near a person's place of work or education together with reasonable access to essential services. Any eviction must be carried out humanely.

3.2 The legislative framework

In this regard, a major impediment to the authorities' effectiveness in taking measures against such racist statements has been the lack of legislation that adheres to international standards relating to economic, social and cultural rights, including anti-discrimination legislation. Until recently, anti-discrimination legislation consisted only of Law 927/1979, amended by Laws 1419/1984 and 2910/2001, which criminalizes overtly discriminatory practices on racial, ethnic or religious grounds. The law consists of articles prohibiting incitement of racially / religiously discriminatory activities, expression of racially/religiously offensive ideas, and racial/religious discrimination in the provision of services or goods by private persons.⁸⁹ Concerns have been raised about the limitations of this legislation because it does not explicitly provide for racial and ethnic equality. Currently, incidents of discrimination on the basis of this law can be reported to the Ombudsman if the discrimination is perpetrated by state actors, or can be used to initiate criminal proceedings in the case of non-state actors.⁹⁰

Furthermore, Greece's failure to sign or ratify a number of relevant European treaties poses

⁸⁹ Ioannis Ktistakis and Nicholas Sitaropoulos, report on Greece to the EU Commission's Employment, Social Affairs and Equal Opportunities Directorate, Anti-Discrimination and Relations with Civil Society Department, *Executive Summary: Greece*, 22 June 2004.

⁹⁰ Ktistakis and Sitaropoulos, *ibid.*

another difficulty in the protection of Roma rights. Under international law Greece is bound by the European Social Charter and the ICESCR to respect the economic, social and cultural rights of the Roma in its territory. However, a number of treaties containing detailed stipulations regarding the protection of these rights are yet to be ratified. To date, Greece has not signed:

- Protocol 4 to the European Convention on Human Rights Securing Rights and Freedoms Other than Those Already Included in the Convention and the First Protocol Thereto;
- the European Charter for Regional or Minority Languages;
- the Council of Europe's Convention on Action Against Trafficking in Human Beings.

It has signed, but not ratified:

- the Framework Convention for the Protection of National Minorities;
- the Revised European Social Charter;
- Protocols 12 and 14 to the European Convention on Human Rights;
- the Additional Protocol to the Convention on Cybercrime Concerning Criminalisation of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems.

The situation created by these gaps in national legislation on specific provisions protecting the economic, social and cultural rights of minority groups in Greece has an adverse effect particularly on the Roma population. These are furthermore compounded by the authorities' implementation of specific pieces of national legislation in ways that violate the fundamental human rights of this group. In particular, a Ministerial Decree adopted in 1983 (known as the Sanitary Regulation) concerning itinerant Roma, has been used by the authorities in a number of instances against itinerant and non-itinerant groups of Roma as a way of bringing charges against individuals,

making them vulnerable to police arrest, and thus forcing them to relocate to areas outside the jurisdiction of those police departments. It should be noted that in fact this regulation had been amended in 2003 because it was considered to be a discriminatory law.⁹¹ In relation to this representatives of the Greek state explicitly admitted, in the course of the proceedings before the European Committee of Social Rights (see below), that "Regarding the content of the sanitary provision and the obligations attaching to it, the State has never doubted the fact that certain parts of the provision in question could operate after all as a factor of social exclusion... For this reason, it proceeded to the substantial modification of the provision."⁹² The reports received by Amnesty International in the last two years suggest that despite this modification, this Law continued to be applied by police authorities in ways that violated the economic, social, and cultural rights of the Roma.

Furthermore, Amnesty International has also received reports of police and judicial authorities having made racist remarks against the Roma in the process of examination of complaints filed by Romani individuals. These reports, outlined below, evidence further the need to review the legislative framework currently in force with a view to introducing new legislation that would guarantee the economic, social and cultural rights of the Roma in compliance with international law and standards, as well as combating the biases that might be held by representatives of state institutions.

⁹¹ European Committee of Social Rights, *ERRC v. Greece*, decision of 8 June 2005. Observations of the Hellenic Government on the substance of the Collective Complaint 15/2003, Doc Ref. No. 70600, Athens, 14 November 2003, at p. 3.

⁹² Ministry of Employment and Social Welfare document to the Secretariat of the European Social Charter, Ref. No. 70545, dated 5 November 2004, page 30.

3.3 Applying, interpreting, and enforcing International Law

In the last two years, a number of international organizations have expressed concern over Greece's failure to respect the right to housing of the Roma.

On 11 June 2003, in a letter of urgent appeal, the UN Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living inquired about alleged forced evictions carried out by the municipal authorities against the Roma population living in Aspropyrgos, near Athens. In the letter, the Special Rapporteur expressed concern about such forced evictions violating international law and standards related to the enjoyment of economic, social, and cultural rights, including access to running water and other essential services.⁹³ The authorities responded a month later, with a letter providing general information on the housing situation of Roma people in Greece and on the IAP, a policy framework put in place in 1996 to address the serious problems that Greek Roma face regarding health, education, vocational training, social insurance and housing.

In fact, reports of the European Roma Rights Centre (ERRC) and the Greek Helsinki Monitor (GHM) show that many of the Romani groups in Greece have been forcibly evicted from their settlements in the last ten years.⁹⁴ In a report on Roma and Sinti rights published in 2003, the Office of Democratic

Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE) stated that "Greece is unfortunately a bad example in this field [as one of the]... old member states of the EU, that created the Copenhagen criteria and the Helsinki Guidelines for the new member states, [that] do not comply with these standards in their own country."⁹⁵

The European Commission against Racism and Intolerance (ECRI), in its December 2003 report, expressed concern "over allegations that forcible collective evictions of Roma families have taken place without any resettlement alternative being proposed". It further found "especially alarming reports to the effect that some of these evictions are unlawful and/or are followed by immediate destruction of the camps by bulldozer, despite the fact that all the personal possessions of the families remain there". ECRI recommended "that the Greek authorities maintain and increase their efforts to end all the direct or indirect discrimination suffered by the Roma". It also urged "the Greek authorities to raise the awareness of local authorities, such as municipalities or local administrative agencies, to the need to respect the rights and the culture of the Roma" and "to impose sanctions on municipal councillors who make racist remarks or do not comply with the regulations and decisions that bind them".⁹⁶

The UN Committee on Economic, Social and Cultural Rights (CESCR) in its review of Greece's report in 2004 stated that it was "gravely concerned about numerous reports on the extrajudicial demolition of dwellings and forced evictions of Roma from their settlements by municipal authorities ... frequently without payment of adequate compensation or provision of alternative

⁹³ For a summary of this communication see "Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, Addendum: Summary of information transmitted to Governments and replies received" E/CN.4/2005/48/Add.1, published on 17 January 2005.

⁹⁴ *Cleaning Operations: Excluding Roma in Greece*, Country Report Series No. 12, ERRC and GHM, April 2003.

⁹⁵ OSCE Supplementary Human Dimension Meeting on Roma and Sinti: Report, Vienna, 10-11 April 2003, p.51.

⁹⁶ ECRI, *Third Report on Greece Adopted on 5 December 2003*, Strasbourg, 8 June 2004, document reference number: CRI (2004) 24.

housing”.⁹⁷ Furthermore, the CESCR recommended that Greece “take measures towards providing for all the Roma, including itinerant and non-Greek Roma, adequate and affordable housing with legal security of tenure, access to safe drinking water, adequate sanitation, electricity and other essential services, and meeting their specific cultural needs”. The CESCR also recommended that Roma representatives are included in the assessment of the IAP and requested information “on the practical effects of the implementation of the Plan, as well as its applicability to non-Greek Roma legally residing within the State party’s territory”.

In June 2005, the European Committee of Social Rights (ECSR) found, in a landmark decision on a collective complaint (*ERRC v. Greece*), that the Greek policies with respect to housing and accommodation of Roma violated Article 16 of the European Social Charter.⁹⁸ The ECSR had found that the numbers of dwellings of an acceptable quality to meet the needs of settled Roma, and of stopping places for Roma who choose to follow an itinerant lifestyle or who are forced to do so, were insufficient, and that there was evidence of systematic forced eviction of Roma from sites or dwellings occupied by them. The Committee of Ministers, which adopted the decision, found “that Greece has failed to take sufficient measures to improve the living conditions of the Roma and that the measures taken have not yet achieved what is required by the Charter, notably by reason of the insufficient means for constraining local authorities or sanctioning them... [and] that a significant number of Roma are living in conditions that fail to meet minimum standards and therefore the situation is in breach of the obligation to promote the right of families to

adequate housing laid down in Article 16 [of the European Social Charter]” (ResChS(2005)11: § 42). The Committee of Ministers also made specific reference to the IAP, noting the authorities’ attempt to reform it in order to ensure more effective coordination between the partners involved, as well as to the Sanitary Regulation, noting that both its original version adopted in 1983 and its amendment of 2003, resulted in the Roma having “an insufficient supply of appropriate camping sites” (§ 46).

The data presented in this chapter focuses on the concerns raised by the organization about forced evictions of Roma groups from two locations near Athens and Patras in 2004 and 2005. The forced evictions appear to have been associated with the country’s preparations for hosting the Summer Olympic Games of 2004 – both locations were Olympic sites and the eviction in the Athens area had taken place prior to the building of Olympic structures on the site.⁹⁹ Patras has also been chosen as the cultural capital of Europe for 2006 and urban planning to prepare the city for hosting events around this theme has been underway since 2001. In order to investigate reports received about the forced evictions of Roma from sites in Athens and Patras, Amnesty International’s delegation visited a number of settlements in January 2005. The delegation visited the settlements of Makriyianni and Riganokampos in the area of Patras in southern Greece and the settlements in the areas of Agia Paraskevi, Maroussi, and Aspropyrgos near Athens. In this report, data collected during this research is presented, which focuses on documenting the authorities’ practices of forced eviction and the failure to protect the right to adequate housing of the Roma living in Greece. Subsequent to concerns raised about the cases outlined here, the organization has received information of further eviction orders having been served to Romani inhabitants of the

⁹⁷ CESCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights : Greece*, 07/06/2004, E/C.12/1/Add.97.

⁹⁸ ECSR, Collective Complaint number 15/2003, *ERRC v. Greece*, decision adopted by the Committee of Ministers on 8 June 2005, ResChS(2005)11.

⁹⁹ Amnesty International report, *Greece: Preparing for the Olympic Games: Evicting the Roma* (AI Index: EUR 25/004/2004).

Athens area of Votanikos, which has been proposed as the site for building a new stadium for the Athens football team Panathinaikos, and which will also be the central site in a bid to host the 2012 European Football Championship. According to information received by August 2005, 70 Romani families were threatened with forced eviction in Votanikos in the absence of any offers of alternative accommodation.



Romani residents of Votanikos area, Athens, threatened with eviction (above) and their dwellings (below). © GHM



3.4 Failure to honour relocation contracts

In July 2004 Amnesty International expressed concern about the failure of local authorities in the area of Athens to honour an agreement they had signed with Roma residents, on the basis of which the latter had agreed to relocate. The organization had learnt that on 1 August 2002, as part of the ongoing preparations in the Athens suburb of Maroussi for the 2004 Olympic Games, the Mayor of Maroussi, and a representative of a group of 50 Romani families, some of whom had been living close to the site for over 30 years, signed an agreement which stipulated that the families would leave their homes on condition they would receive subsidies to help them rent new accommodation. This was to be a temporary measure, as, under the terms of the agreement, the Municipality of Maroussi also undertook to

find a plot of land and relocate the Roma in heavy-duty prefabricated houses, while undertaking to work towards their permanent re-housing in houses / apartments.¹⁰⁰ The main motive behind the agreement was the necessity to vacate the plot of land where the Roma had been living, in order for a road to be widened and for a parking lot for the adjacent Olympic stadium to be built.

The agreement, which affected a total of 137 people, guaranteed a monthly payment for each family with payments varying according to family size. Shortly afterwards the families moved into rented accommodation or into accommodation that other members of their wider family group had rented. However, there were reports that by October 2002 they had already begun making complaints that they were not receiving payments, or that the payments were erratic. Some families alleged that they faced discrimination whilst looking for new accommodation and when they did finally find a house to rent they would lose it through lack of funds, caused by the non-punctual payment of the rent subsidies by the Maroussi Municipality. This prompted the Greek Helsinki Monitor (GHM), the NGO overseeing developments in the case, to file a criminal complaint report with the Athens Misdemeanours Prosecutor's Office who ordered the launch of two preliminary inquiries into the allegations.¹⁰¹ Both Roma and GHM members have been called to testify. Despite this intervention, the families' persistence, and the interventions of the Greek Ombudsman and of the former Deputy Minister of the Interior, the public authorities had, up to July 2004, failed to honour their commitments, and the competent authorities had failed to intervene, leaving some families unable to afford rent

¹⁰⁰ It should also be noted that the agreement was not extended to encompass Albanian Roma legally residing in Greece, who some years ago proceeded to set up a settlement next to the one where the Greek Roma were living.

¹⁰¹ Amnesty International acknowledges GHM's assistance in providing information relevant to the concerns raised in this section.

elsewhere. Amnesty International was concerned that the Greek authorities, by forcibly evicting Roma from their settlement and failing to facilitate their move to alternative appropriate accommodation, were violating Article 11 of the ICESCR, as well as the objectives of the IAP.

An example of the effects of these failures on the daily lives of the Roma was provided by the story of Prokopis Nikolaou, one of the evictees, who brought his case to the attention of local organizations. He has two young sons and a baby daughter. To support his family, he sells seasonal fruit and vegetables, holly at Christmas time or scrap metal. Since being evicted from the settlement, he has had to find money every month to cover his share of the rent, water and electricity. He also shared his new house with his mother and father-in-law, his sister-in-law and her two small children, and other friends or relatives in need of a place to stay. Prokopis Nikolaou became a de facto representative of the group of families; with the assistance of GHM he wrote letters to newspapers about their situation, went regularly to the Mayor's office to fight for the money owed, and has testified before the judicial officer conducting a preliminary inquiry into the issue of non-punctual payments of the subsidies. He has also given numerous interviews to Greek and foreign media, highlighting the problems the Roma face due to the non-implementation of the agreement by the Municipality of Maroussi.

The Mayor has admitted that there have been considerable delays in the payments of the monthly rent subsidies. Thus, according to Amnesty International's sources, only 14 families had been paid by the beginning of July 2004; the remaining 36 families had not been paid since November 2003. The Municipality argued that the main reason behind these delays was the fact that the Ministry of Interior (which was not a signatory to the agreement) had not provided him with the necessary funds. The Municipality also noted that they should be in a position "soon" to inform the Roma as

to the plot of land where they would be relocated. Furthermore, they stated that the Roma should proceed to file applications for a special loan scheme for Greek Roma. The Municipality would reportedly then use the money to build houses for the Roma. The Municipality also undertook to pay off the loans granted to the Roma.

Notwithstanding these commitments, the Mayor of Maroussi reportedly informed the Roma that no further subsidies would be forthcoming until all the families filed loan applications – a condition not included in the initial contract, nor yet approved by the Maroussi Municipal Council and the state Auditor's Board.¹⁰² The Roma were concerned that were they to shoulder a significant economic burden, the only guarantee they would receive was a document from the Mayor to the effect that the Municipality would pay the loan on their behalf.

¹⁰² Interviews with Roma families, January 2005.



A temporary settlement where Roma evicted from Maroussi are housed (January 2005) © Amnesty International

During a meeting with the affected Romani families in January 2005, Amnesty International was informed that the local authorities of Maroussi had yet to comply with their obligations under the agreement, despite assurances received by the organization as late as September 2004 from the municipality that the problem would “soon” be solved. In particular, the organization was told that payments of subsidies for rent were still due, in January 2005, for the previous eight months and that the families had yet to receive news about the allocation of plots for permanent residence. In addition, the organization was told that only a quarter of the families had been able to secure temporary rented accommodation, and that because of the delayed payment of subsidies, half of these were at that time facing threats by the owners of being forced to leave the houses. As of August 2005, the Municipality of Maroussi had still not informed the Roma as to where they will be relocated.

3.5 Forced evictions of Roma in Patras

In the summers of 2004 and 2005, Amnesty International received information about a series of attempts to forcibly evict, as well as of forced evictions, perpetrated against Romani communities in Patras. The organization has also been in close contact with local NGOs, such as the Greek Helsinki Monitor (GHM) and the Coordinated Organizations and Communities for Roma Human Rights in Greece (Συντονιστής Οργανώσεων και Κοινοτήτων για τα Ανθρώπινα Δικαιώματα των Ρομά στην Ελλάδα, SOKADRE), who have been following the attempted and forced evictions.

The tent-dwelling Roma of Patras are Greece’s third largest urban Romani community. They live in the three areas of Riganokampos, Akti Dimeon and Makrigianni. According to the findings of research conducted by the

Municipality of Patras in October 2001, there were 15 families of Greek Roma living in Riganokampos, 29 in Akti Dimeon and eight in Makrigianni. Research carried out by the local authorities in 2001 in preparation for the IAP stated that the Roma of Riganokampos and Makrigianni had been settled there for many years, the Roma living in Akti Dimeon were transient and that another 15 to 20 families of Albanian Roma had settled in the area of Riganokampos opposite the Greek Roma settlement, at different points since 1999. An updated document stated that in the summer of 2004, there were 19 families of Greek Roma and 35 families of Albanian Roma living in Riganokampos. The plot of land where the Albanian Roma had settled belongs to the University of Patras, while the plot of land where the Greek Roma built their sheds, opposite the University plot, belongs to the state’s Real Estate Agency (Κτηματική Υπηρεσία Δημοσίου, REA). The head of the Quality Directorate, which is under the Prime Minister’s Office, spoke to local media in January 2004 about the settlement and described it as “the worst of a total of 75 [Roma settlements] scattered around the country”, adding that the living conditions there “insult our humanity” and that its inhabitants would soon be resettled in new prefabricated dwellings in another location.¹⁰³

The first recorded forced eviction of the Roma living in Riganokampos took place on 29 August 2001, when two sheds were destroyed. According to the local authorities, the demolition crew was a “cleaning crew” hired by the municipality to clear the area. The Roma residents had not been informed and were thus not able to stop the forced eviction. Soon after the forced eviction, one Romani man died of a heart attack reportedly from the shock of seeing his family’s shed destroyed.

On 17 August 2004 a second forced eviction took place at Riganokampos, targeting only the

¹⁰³ *Eleftherotipia*, 15 January 2004.

Albanian Roma settlement.¹⁰⁴ At the time the residents were away employed in seasonal work in other regions of the country. In correspondence with GHM, the authorities argued that this absence indicated that the Roma had resettled elsewhere and that their sheds had been torn down as part of a “cleaning operation” and that these constituted “concerted action, in cooperation with the Police Directorate of Patras [aiming at] the ousting of Albanian-speaking gypsies who, in addition to the prolongation of the problem [of inhumane living conditions], were illegally in our country and constituted the main source of origin for the street children. 35 families of Albanian speaking gypsies were ousted, the sheds were demolished and the whole area of about 70,000m² was cleaned up in order to be landscaped, for the benefit of the residents of the area.”¹⁰⁵



The bulldozing of the Riganokampos settlement on 24 June 2005 © GHM

It is to be noted that the legal owner of the land, i.e. Patras University, had not requested the eviction. According to press reports, the municipality of Patras had informed the Roma about this operation and had in fact issued them with an ultimatum. To Amnesty International's knowledge, no alternative accommodation had been offered. The Albanian Roma, however, denied that they had been informed of the operation. No documents were provided by the authorities proving that the Roma had been served eviction orders. Eight of these Albanian Romani families proceeded to set up their tents or sheds in two neighbouring settlements (where Greek Roma had already been settled) in the Makrigianni area of Patras. It is noted that another

¹⁰⁴ In fact, it has been reported that two Greek Roma families living on the same plot were financially encouraged to reconstruct their sheds in the opposite plot, where the rest of the Greek Roma were located.

¹⁰⁵ Municipality of Patras document, GHM Ref. No. 13/351, 9 September 2004

approximately 15 Greek Romani families, permanently residing until then in Akti Dimeon, were relocated to the Makrigianni area, after an agreement with the local authorities.

In its General Comment No. 30 on “Discrimination Against Non-Citizens”, the CERD has clarified that states should, “remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health” and “guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing and ensuring that housing agencies refrain from engaging in discriminatory practices.”

Ever since the Albanian Romani families settled in these two neighbouring settlements in Makrigianni, police officers have been reportedly pressuring them, as well as the Greek Roma residents previously settled there, to leave. On 30 October 2004, a bulldozer, rented by the municipality and escorted by the police, demolished four sheds. The bulldozing crew then forced the other Romani families to dismantle their sheds. According to a municipality of Patras press release dated 4 October 2004, the operation was not aimed against the Albanian Roma as the municipality was not officially aware of their presence there; but rather was concerned the “...removal of Greek Gypsies who are not registered in the municipal rolls of Patras”, who should return to the municipalities where they are registered in order to claim benefits. Despite the authorities’ claims that these evictions did not target Albanian Romani residents of Makrigianni, Amnesty International remains concerned about the statement made by the Patras Municipality, in particular that the operation was directly aimed at the forcible eviction of that area’s Greek Roma. This

statement suggests that the authorities violated Article 11 of the ICESCR.¹⁰⁶

In a later attempt to forcibly evict the Romani communities from the Makrigianni area on 14 January 2005 the Prefect of Achaia called upon the Appeals Prosecutor of Patras, as well as the municipality of Patras and the Western Greece Region, to facilitate the clearing of the Makrigianni area in order to address what he claimed was “uncontrolled settlement of *athingani* [Roma], both Greek and non-Greek”. A month later the state’s REA served eviction orders to six families of Greek Roma living there. On 2 March the Prosecutor of Patras held that the Roma should not be allowed to perform any other work (e.g. building of sheds) on the plot of land they were squatting but did not order their eviction. The Roma filed injunctions against the forced eviction and the case was to be heard in September 2005. In addition, the six Romani families were called to present themselves, on 24 May 2005, to the local magistrate in connection with a preliminary investigation allegedly concerning violation of the 1983 Sanitary Regulation.

In June 2005 Amnesty International expressed its concerns after receiving information that 11 of the 20 sheds belonging to Albanian Roma had been levelled.¹⁰⁷ Ten of the sheds were empty at the time because their owners were temporarily employed on the island of Zakynthos, while the other one contained the family’s belongings. The local authorities claimed that they had “cleaned up” deserted sheds. However, the Roma present in the area at the time denied the authorities’ allegations that they had been consulted by the “cleaning” crew about which sheds should be torn down. The authorities have not responded to date to these concerns.

¹⁰⁶ Following extensive media coverage of the incidents, the Albanian Roma have been allowed to resettle in the two settlements in the Makrigianni area.

¹⁰⁷ *Greece: Albanian Roma targeted for evictions and attacks* (AI Index: EUR 25/011/2005).

The organization was further informed that on 7 June 2005, police visited the settlements of Riganokampos, Makrigianni and Petroto (a locality close to Makrigianni) and informed the residents that the municipality had requested their details (I.D. numbers and family size) in order to proceed with plans to relocate them. The police were reportedly asked and denied that this data would be used in order to bring charges against them. However, during a later contact with SOKADRE, the deputy commander of the 5th Police Station (in charge of the area) stated that 10 Romani families had been informed that charges were being brought against them under the amended 1983 Sanitary Law. These actions are contrary to the above

cited ruling of the CECSR in the case of *ERRC v. Greece*. Two weeks later, on 25 June, representatives of the police and local electricity authority visited the Riganokampos settlement and cut the electricity connections to it. GHM, the NGO monitoring the situation, has expressed concerns that such practices of bringing charges against Romani families were also implemented by the local authorities in the Romani settlements in the Athens region, prior to the residents' agreement to be relocated in remote locations. According to GHM's information, the Romani residents of Patras have never been consulted on the authorities' relocation plans.



The Greek Roma settlement in Riganokampos, Patras, in January 2005 © Amnesty International

3.6 Racism and discrimination against Roma

In addition to the concerns about the manner in which the forced evictions have been enforced upon the Romani population, without guarantees of alternative accommodation being provided, Amnesty International is also concerned about the persisting pattern of excluding the Roma from consultations in the process through which authorities decide and execute evictions, as well as the process through which they implement relocation policies. In this regard, it is further worrying that residents' associations, who express racially-biased views about these policies, appear to exert considerable influence on the ways in which such policy is shaped. This consultation process appears to be discriminatory against the Roma on two fronts: both through their exclusion from it, as well as through the authorities' failure to address practices of non-state actors that appear to be inciting racial discrimination. This section of the report exemplifies this latter concern.

In November 2001 the local daily *Peloponissos* published a Letter of Protest which bore the signatures of 1200 residents of the area neighbouring the settlement of Riganokampos, from which the Albanian Roma had been forcibly evicted two months previously. The letter referred to the Roma as *Athingani*¹⁰⁸ and blamed them for breaking into the gardens, desecrating the local cemetery, swearing, and violence. The letter also made reference to "increased pollution" arising from the installation of fresh water facilities in the Roma settlement by the authorities and warned that "any postponement or delay in resolving the problem we face will lead to militant action from the residents of the areas of Eglykada,

Perivola, Neo Souli – Riganokampos".¹⁰⁹ In March 2002, Maria Vassilari and Eleftheria Georgopoulou, two Romani women residents and representatives of the Riganokampos settlement, filed a criminal complaint against the signatories to the letter. A year later, the Prosecutor indicted the authors of the Letter and the owner and editor of the newspaper for the public expression of offensive ideas (Law 927/1973) but considered that the Letter of Protest did not constitute incitement to discrimination, hatred or violence under Article 1 of Law 927/1979 as the Romani women claimed. In June 2003 the local Three-Member Misdemeanours Court acquitted the defendants of violating Article 2 of the anti-racist law on the basis that "doubts remained regarding the... intention to offend the complainants by using the expressions referred to in the indictment".¹¹⁰ During the hearing the judge reportedly made prejudiced comments about the Roma: in response to a comment made by the defence counsel that the Roma commit many crimes, she replied "it is true" and added that there were "currently many cases pending against Roma in the courts of Patras"; furthermore, when one of the complainants stated that the Letter of Protest had offended her, the judge responded "you have to admit though, you Roma do steal".

In a more recent incident, there were reports that on the night of 21 June 2005 a number of persons on motorcycles threw at least one firebomb against the Albanian Roma living in Makrigianni. A complaint was made and the police recorded the incident, but reportedly failed to initiate an investigation (including carrying out an on-site forensic examination and eye-witness interviewing). Romani residents also reported a second attack the

¹⁰⁸ This is a derogatory term used in Greece to refer to the Roma, although not as offensive as *γύφτοι*.

¹⁰⁹ "Letter of Protest-Denunciation to the Dean of the University of Patras and the Rector's Council of the University of Patras", *Πελοπόννησος* newspaper, 17 January 2001.

¹¹⁰ Minutes and Decision of the Three Member Misdemeanours Court of Patras, Decision No. 3080/2003.

following evening, in which firecrackers had been thrown into the settlement by motorcyclists, which the police had similarly failed to investigate. The local police had also reportedly failed to intervene in an incident on 10 January 2005, when a number of people attacked a Romani man outside a local TV station. The station's crew filmed the incident, documenting the failure of police officers present nearby to intervene.

On 10 June 2004 owners of restaurants and cafes in the central square in Patras sent a letter to their association in which they complained of the "extreme" situation prevailing in the square whereby

"dozens of young *athingani* beggars ... litter [the square] with rubbish... defecate in the children's playground, in the water fountain and wherever they please. These little beggars, in addition to being exploited, also commit petty thefts at the expense of our customers and try, by blackmailing them with drum-playing, to extract money from them or whatever else they want, in an effort to 'increase' their earnings."

The local media later reported that in response to this letter representatives of its signatories met with municipal and police authorities and that it was decided to increase the police patrols at that square among others, which was described as "overrun in the afternoon by *athingani*", in light of the Olympic Games. In December 2004, GHM filed a criminal complaint on behalf of the Roma against the signatories and authorities for the violation of Law 927/1979 – the police responded that since the prosecutor's office had ordered these actions there were no grounds for an investigation.¹¹¹ Meanwhile the shopkeepers'

¹¹¹ In addition, Amnesty International has also learnt that in February 2004 the Police Directorate of Achaia had issued a circular entitled "Proposed measures for shop owners in view of the forthcoming carnival festivities", which included advice to shopkeepers "not to exchange money with

organization wrote a second letter to the authorities in May 2005 urging them to clear the square of garbage and bird litter but made no mention of the Roma, who had stopped frequenting the square since the police action the previous year. To date, the authorities have failed to act on this second complaint.

Amnesty International has also received reports of ill-treatment of Romani youths by police authorities¹¹² and of inadequate access to education for Greek Roma.¹¹³

3.7 Conclusion

Amnesty International has noted a number of serious concerns regarding Greece's failure to comply with international human rights law and standards in its practices towards the Romani communities within its territories.¹¹⁴

private citizens, especially Gypsies" (point 4). Following public outcry, the circular was withdrawn; the police apologized and imposed unspecified disciplinary penalties on the police officers involved.

¹¹² Concerns arising from such reports were raised with the authorities in 2004, specifically regarding the trial of police officers who had allegedly ill-treated two Romani youths in 2001 – see *Greece: The alleged ill-treatment of two young Roma, Theodoros Stephanou and Nikos Theodoropoulos, by police on the island of Cephalonia* (AI Index: EUR 25/005/2001) and Greece entry in *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region January - June 2004* (AI Index: EUR 01/005/2004). A list of 23 cases of Roma ill-treated by the police was compiled by three local organizations in coordination with the World Organization Against Torture (Organisation Mondiale Contre la Torture, OMCT) in October 2004 in a report entitled *State Violence in Greece: An Alternative Report to the United Nations Committee against Torture*.

¹¹³ For Amnesty International's concerns regarding access to education see Greece entry in *Amnesty International Report 2004*.

¹¹⁴ *Greece: Albanian Roma targeted for evictions and attacks* (AI Index: EUR 25/011/2005), July 2005.

These concerns relate to two aspects of international human rights law:

- (i) violations of economic, social and cultural rights
- (ii) discrimination.

In this regard, the organization was particularly concerned about reports received that the economic, social and cultural rights of particular Roma groups were being violated. In particular, the organization noted that a pattern of targeting Albanian Romani homes for demolition was emerging and in July 2005 urged the Greek authorities to extend the measures for relocating Romani families to those who are not of Greek nationality, particularly to Albanian Roma legally residing in the country.

In addition, the organization called for an investigation into the attacks against the Roma of Riganokampos, noting that through failure to carry out such an investigation, the Greek police were encouraging the attackers in their discrimination against Romani people, particularly against Albanian Roma and that the Greek authorities were further perpetuating the discrimination by failing to comply with their obligations to investigate the allegations against the police.

Based on the information presented in this chapter, Amnesty International believes that the authorities are violating the country's obligations to eliminate all forms of racial discrimination. The organization is further concerned that the pattern of forced evictions described above are characterized by attempts to force the Roma to vacate their dwellings in the absence of alternative accommodation by charging them with offences under the Sanitary Regulation, which has been deemed discriminatory by State authorities.

4. BETWEEN EXISTENCE AND OBLITERATION: THE (IN)VISIBILITY OF MINORITY GROUPS

“Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

Article 18, ICCPR

“State Parties undertake... to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of... the right to nationality... the right to freedom of opinion and expression.”

Article 5, International Convention on the Elimination of All Forms of Racial Discrimination

4.1 Background

A persisting concern of human rights observers over the last three decades has been the flawed framework guiding the government's policies on minorities. The basis of this framework is the state's assertion that “the only officially recognized minority in Greece is the Muslim minority in Thrace”, most recently stated in the country's initial report to the UN Human Rights Committee.¹¹⁵ Indeed, the “Muslim minority of Thrace” constitutes the only group of Greek citizens who are guaranteed specific rights as members of a minority – these rights were granted under the 1923 Treaty of Lausanne.¹¹⁶ Since then, a number of other

groups of Greek citizens have claimed the right to minority protection. The most widely publicized cases have been of groups of individuals living in the region of Florina claiming their right to self-identification as “Macedonians”, and members of the aforementioned officially recognized minority group claiming their right to self-identification as “Turks”.¹¹⁷ The Greek state has in response denied the existence of any minorities other than the “Muslim” one within its territory. This dispute has had repercussions on the state's ability to comply with its obligation to respect, protect and fulfil the human rights of individuals adopting political positions that are not in line with the official policy on the matter, most notably the rights to freedom of expression and to freedom of association and assembly.

¹¹⁵ UN Document CCPR/C/GRC/2004/1, p.165.

¹¹⁶ This was the Treaty signed on 24 July 1923 that formally ended the first world war, signed between the Allies and Turkey and regulated territorial borders (Articles 1-45), the Ottoman public debt (Articles 46-57) and other matters, among which the compulsory exchange of Muslim and Orthodox populations between Greece and Turkey respectively (Article 142). Annexed to this Treaty was the Convention Concerning the Exchange of Greek and Turkish Populations, signed earlier, on 30 January 1923, which also designated “The Greek inhabitants of Constantinople” and “The Moslem inhabitants of Western Thrace” in addition to the inhabitants of the islands of Imbros and Tenedos, as groups exempted from the exchange (Article 2 of Convention, Article 14 of Treaty). A number of articles in the Treaty stipulate that the groups

exempted from the exchange are to enjoy the same civil and political rights as other citizens, as well as additional protection of their rights in the areas of language and religion (Articles 37-45).

¹¹⁷ Estimates of the minority population in Thrace suggest a figure of 100,000, roughly half of which are thought to be “Turks”, the other half comprising “Pomaks” and “Roma” groups (according to locals as well as official terminology), many members of which, however, classify themselves as “Turks”. Estimates of the “Macedonian” population are more divergent: the authorities estimate “Slav-speakers” to be 10,000, while estimates from international Macedonian associations raise the estimate up to 200,000.

Amnesty International believes that the existence of a minority is a question of fact to be determined on the basis of reasonable and objective criteria. Whilst there is no internationally accepted definition of a minority, arbitrary distinctions based around recognition or non-recognition are discriminatory, and so states should avoid listing the groups to whom minority rights apply, as these lists tend to be exclusive. Membership of a minority should be by choice, and the subjective element of membership should be retained in order to avoid the forcible assimilation of individuals into groups. In the absence of other criteria, the existence of a minority should be determined by self-identification.¹¹⁸ In this regard, the Human Rights Committee has stated, in its General Comment 23 that “the existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by the State party but requires to be established by objective criteria”.¹¹⁹

This part of the report outlines recent developments in this area of human rights practice in Greece. During the last two years, Amnesty International has received information on these issues from locally-based

as well as international NGOs, monitoring bodies and individuals belonging to non-officially-recognized minority groups. During the visit of Amnesty International’s delegation to Greece in January 2005, delegates were also in contact with members and representatives of the “Muslim” minority group in Thrace. The organization has also been able to collect information about further violations of human rights, arising from the state’s failure to provide redress to victims of discrimination perpetrated as a result of legislation that has since been withdrawn. These findings are also included in this chapter of the report.

4.2 The non-recognition of minorities

In 1998 the European Court of Human Rights found Greece to be in violation of the right to freedom of association in the case of *Sideropoulos and others v. Greece*¹²⁰ on the basis that Greek courts had refused the application of the complainants to register “the Home of Macedonian Culture” as an NGO.¹²¹ Contrary to the views of the domestic courts that the stated goals of the association threatened public order, the European Court of Human Rights had concluded that “the refusal to register the applicants’ association was disproportionate to the objectives pursued”.

Following this decision, the applicants attempted to re-register their association by filing an application with the Single-Member Court of First Instance in Florina in June 2003.

¹¹⁸ The CERD has stated, in its General Recommendation 24 that “a number of states parties recognize the presence on their territory of some national or ethnic groups or indigenous peoples, while disregarding others. Certain criteria should be uniformly applied to all groups, in particular the number of persons concerned, and their being of a race, colour, descent or national or ethnic origin different from the majority or from other groups within the population.” On this basis, it has declared under its General Recommendation 8 that “having considered reports from states parties concerning information about the ways in which individuals are identified as being members of a particular racial or ethnic group or groups, [CERD] is of the opinion that such identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned.”

¹¹⁹ HRC, *General Comment No. 23: The rights of minorities* (Art. 27): 8 April 94. CCPR/C/21/Rev.1/Add.5: § 5.2.

¹²⁰ European Court of Human Rights, *Sideropoulos and others v. Greece* (Case number 57/1997/841/1047), Judgment of 10 July 1998.

¹²¹ AI press releases, *Greece: Amnesty International welcomes the acquittal of four members of ethnic Macedonian minority party*, AI Index: EUR 25/045/1998, *Greece: Charges against members of the “Rainbow” party should be dropped*, AI Index: EUR 25/044/1998, and *Greece: Amnesty International will adopt members of “Rainbow” party as prisoners of conscience in case of imprisonment*, AI Index: EUR 25/010/1997.

On 19 December 2003 the Court rejected the application because of

“the unclear wording of the articles [which] has led to confusion concerning the activities of the association. More specifically, the word ‘Macedonian’ – defining the culture to be preserved – implies that this culture is something particular and self-contained, so that it is not clear whether the word is being used in its historical sense to refer to an integral part of Greek civilisation with its local specificities, or in its geographical sense, in which case it is left undefined which part of the broader region of Macedonia is meant, as its territory took shape after the Balkan Wars. This lack of clarity is not only not removed by the name of the association, which insists on the indiscriminate use of the term, but is in fact exacerbated by the association of this culture with a non-existent language, claimed to be ‘Macedonian’, despite the fact that in the geographical area of Macedonia it is the Greek language which is spoken, except by a small portion of the population, which also speaks – in addition to Greek – an idiom which is essentially Slavic. Thus the confusion caused by the general use of the terms Macedonia and Macedonian, without distinction as to geographical or historical reference – a confusion existing in the mind of the states with which the association will be dealing, in pursuit of its objective through demarches to and collaboration with these states, and in the mind of persons interested in participating in the work of the association in pursuit of this objective – contains a direct danger to public order and provides an opportunity for exploitation by external agents who have tried from time to time, unsuccessfully, to

create a historically non-existent ‘Macedonian nation’.”¹²²

The reasoning of this decision is similar to the reasoning presented to the European Court of Human Rights, which had found Greece to be in violation of Article 11 of the ECHR, relating to the right to freedom of association.

In this sense it would appear that the authorities have failed, through this new decision, both to uphold the provisions of Article 11 of the ECHR, as well as those of Article 53 of the same Convention stating that “the High Contracting Parties undertake to abide by the decision of the Court in any case to which they are parties”.

In addition to this case, Amnesty International has also been informed that on 11 May 2004, the Single-Member Aridea Criminal Court of First Instance found Archimandrite Nikodimos Tsarknias guilty of establishing and operating a house of worship without the authorization of the local religious and educational authority, as required by Law 1363/1938, and sentenced him to three months’ imprisonment. The defence’s argument that Article 1 of this Law, which requires places of worship to be registered with the authorities before they are given permission to operate, contravened Article 9 of the ECHR regarding freedom of religion was rejected.

In 1997 Greece was found guilty of violating the provisions of the ECHR because of the stipulations of Law 1363/1938.¹²³ Thus, these recent decisions appear to similarly violate both the provisions of the ECHR regarding freedom of religion, and those regarding the treaty obligation to abide by the European Court of Human Rights’ rulings. It should be noted that the National Commission for

¹²²

http://www.greekhelsinki.gr/bhr/english/special_iss/ues/home_of_macedonian_civilization.html

¹²³ European Court of Human Rights, *Manoussakis and Others v. Greece [Manoussakis et autres c. Grèce]*, Judgment of 26 September 1996, 23 E.H.R.R. 387

Human Rights has also expressed the view that the provisions of this Law are contradictory to those of the ECHR.¹²⁴

In a very similar case, on 7 February 2005 the Supreme Court banned the “Turkish Union of Xanthi” on the basis that it poses a threat to public order and national security and that its

“aim is in contradiction with the international treaties signed in Lausanne, as it is attempted openly to present that in Greece (the area of Western Thrace) there is an ethnic Turkish minority, while according to these treaties only the presence of a religious Muslim minority is recognized in the area... The reference to the Turkish identity is not used to denote some remote Turkish origin but a current quality [of the members of the Association] as members of a Turkish minority that would exist in Greece and would pursue the promotion within the Greek state of state interests of a foreign state and specifically Turkey... The appellant [association] with through its insistence in keeping the adjective ‘Turkish’ in the Union’s name, in contradiction to the international treaties mentioned above, not only fails to contribute to the peaceful coexistence amongst the citizens of the area, which is necessary for the general well-being of the two Greek communities, Christian and Muslim, but also raises a non-existent minority problem of ‘Turks’.”¹²⁵

¹²⁴ Sisilianos and Ktistakis, *Προτάσεις για Θέματα Θρησκευτικής Ελευθερίας (Ιδίως Ζητήματα Συμμόρφωσης με τις Αποφάσεις του Ευρωπαϊκού Δικαστηρίου Ανθρωπίνων Δικαιωμάτων [Proposals on Issues of Freedom of Religion (especially relating to matters of alignment with the decisions of the European Court of Human Rights)]*, NCHR, March 2001.

¹²⁵ Motion to the Plenary Session by the Supreme Court Prosecutor Dimitris Linos, 23 September 2004, adopted by the Hellenic Supreme Court, case of “Turkish Union of Xanthi” and Others v. Xanthi Nomarch and the “Panhellenic Federation of

The “Turkish Union of Xanthi” association was founded in 1946 and was initially dissolved in 1984, on the basis that it constituted a danger to national security, since which time the case has been examined by the courts.

Amnesty International considers that the failure to lift the ban on such associations’ operations violates international law and standards on the right to freedom of association, and specifically, Article 22 of the ICCPR as well as Article 11 of the ECHR. Despite the fact that the authorities maintain that “the refusal of the denomination of an association which includes the word ‘Turkish’ is not an unconditional one”,¹²⁶ the fact that no such associations have as yet been given permission to operate in Greece raise further concerns about the failure of the authorities to comply with the obligation to respect, protect and fulfil the rights of members of minorities. These concerns are raised particularly in light of the fact that these judgments concern a recognized minority group, even though the word used to identify it is disputed by the authorities.¹²⁷ Thus, there are additional concerns that the decisions are in contravention of Article 2.4 of the UN Declaration on Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, under which “persons belonging to minorities have the right to establish and maintain their own associations”.¹²⁸

Associations in Thrace”, decision number 4/2005 of 7 February 2005, para. 9.

¹²⁶ 11th Session of the Working Group on Minorities, Statement of the Delegation of the Observer Government of Greece, Permanent Mission of Greece, Geneva, 30 May 2005.

¹²⁷ In fact, the HRC’s General Comment on Article 27 (protection of minorities) of the ICCPR states that “the existence of minorities does not depend on the state decision but is to be established by objective criteria; and that non-citizens and even non-permanent residents of state qualify for protection under Article 27”.

¹²⁸ UN General Assembly resolution 47/135, 18 December 1992.

4.3 The failure to address the legacy of discriminatory policies

Another area of concern in relation to the state's obligation to respect, protect and fulfil the rights of members of minority groups is the failure to provide redress for violations perpetrated under laws that have since been judged to fall short of international human rights law and standards as well as national legislation on non-discrimination.

In this context, the organization is concerned about the continuing denial of the authorities to re-issue citizenship documents to individuals belonging to the Muslim population of western Thrace. According to Article 19 of the Greek Citizenship Code, which was abrogated in 1998, Greek citizens who were not of ethnic Greek origin could have their citizenship withdrawn, if they were believed by the authorities to have immigrated to another country. A number of individuals belonging to the Muslim minority in western Thrace were classified as "non-citizens" (αποθαγενείς) under the old Article 19 of the Code. They lost their citizenship because they, at some point in their lives, left the country and have to date not been able to regain it. In practice, the application of the old Article 19 of the Citizenship Code was never transparent, and thus resulted in withdrawing citizenship from individuals who had never intended to emigrate. For example, in a number of cases, individuals who had reportedly only travelled to nearby Turkey for a short holiday had their Greek citizenship withdrawn. Furthermore, in most cases, authorities did not take adequate steps to ensure that the individuals concerned were informed of the decision to withdraw their citizenship in time to appeal these decisions, and thus the right to appeal was lost. Some of the people who lost their citizenship under the old Article 19 might still be unaware of it even today. People belonging to the Muslim minority in western Thrace who have lost their citizenship in this way and who have lost their right to appeal are also denied access to state

benefits and institutions that other Greek citizens enjoy (e.g. social security benefits, access to specific health care provisions, pension allowances, provision of identification documents, etc.).¹²⁹

While Article 19 of the Citizenship Code was withdrawn in 1998 because it was considered discriminatory, Amnesty International remains concerned that the Greek authorities have to date failed in their obligation to respect, protect and fulfil the rights of persons belonging to the Muslim minority in western Thrace, both by failing to inform those affected of their loss of citizenship in a prompt and effective manner that would secure their right of appeal and by refusing to reconsider the cases of all people who had lost their citizenship under the old Article 19 of the Citizenship Code and to recognize their claims to citizenship.

In a report published in February 2004 by the Ombudsman's office,¹³⁰ the procedure to examine the claim for naturalization of one such "non-citizen" was found to be inadequate. The case concerned a young woman who had applied for naturalization in 1999, along with her parents and her three sisters, upon the withdrawal of the old Article 19 of the Citizenship Code. The family had all lost their citizenship in 1984, when the woman in question was two years of age. While the rest of the family was apparently granted citizenship anew, the applicant was only informed in 2003, that in order for her naturalization application to be examined further, she had to pay the fee of around €1500, levied on aliens applying for naturalization. Yet in a subsequent communication with the Ombudsman, the Ministry of Interior responsible for examining the application stated that the examination of the application had been cancelled because at the time it was filed the applicant was a minor.

¹²⁹ It should be noted that under the CERD's General Recommendation 30, these provisions should not be limited to citizens.

¹³⁰ Document number 7547.03.2.2

After examination of the case, the Ombudsman concluded that this reasoning contradicted national legislation which states that married minors (which the young woman in question was, at the time) have a right to pursue activities in order to maintain and improve their personal welfare. In addition, the report also found that the requirement of a fee in order to process the application fell foul of international law and standards as it contravened the provisions of Article 32 of the UN Convention relating to the Status of Stateless Persons, which Greece has ratified. The article states that “the Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.”

4.4 Conclusion

In its third report on Greece published in 2004, ECRI encouraged the authorities “to ensure that all groups in Greece, Macedonians and Turks included, could exercise their rights to freedom of association and freedom of expression in accordance with international legal standards”, further noting that:

“the Greek authorities are more ready to recognise the existence of minority groups in Greece, such as the Pomaks or the Roma, including the fact that certain members of these groups have a native language other than Greek. However, other groups still encounter difficulties, the Macedonians and Turks for example. Even today, persons wishing to express their Macedonian, Turkish or other identity incur the hostility of the population. They are targets of prejudices and stereotypes, and sometimes face discrimination, especially in the labour market.”¹³¹

¹³¹ ECRI, *Third Report on Greece*.

This chapter is not exhaustive of the human rights concerns around the issues of minority protection. However, Amnesty International continues to be concerned about the authorities’ failure to address these issues. The organization also continues to receive reports of the authorities’ failure to fully address issues of religious freedom pertaining to the minorities, including the well-publicized controversy over the mufti appointments.¹³²

In addition, while the organization welcomes the steps taken to address past violations against minority members arising from discriminatory legislation such as the repeal of the old Article 19 of the Citizenship Code, it is seriously concerned about the violations that victims of such past policies continue to suffer at present.

¹³² The controversy arose when the authorities arrested and imprisoned Emin Agga, a Muslim cleric and minority member for declaring himself the “mufti of Xanthi”. See previous report on this issue *Greece: Freedom of religion and expression on trial - the case of Mehmet Emin Aga, Mufti of Xanthi* (AI Index: EUR 25/001/2000). The European Court of Human Rights has found Greece in violation of Article 9 of the ECHR (freedom of thought, conscience and religion) – see *Agga v. Greece* (No. 2) (50776/99) [2002] ECHR 671 (17 October 2002).

5. CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

Throughout this report an interconnecting thread has been the documented failure of the authorities to ensure that persons residing in Greece who are not members of the Greek majority group enjoy the human rights to which they are entitled, whether they be asylum-seekers, migrants or members of minorities. This report has documented the mechanisms that contribute to this failure. Although Amnesty International has also received reports of violations of the rights of members of the majority Greek population, it is of grave concern that such reports were vastly outnumbered by the number of similar violations of the rights of foreigners and members of minorities. There is thus an urgent need for the Greek government to meet its obligations to respect, protect and fulfil the rights of marginalized groups and individuals. In this final chapter, Amnesty International makes recommendations to the Greek authorities, covering the four main areas of human rights violations covered in the report.

5.2 Recommendations regarding the protection of the rights of refugees

Amnesty International has been informed that the Greek government is currently in the process of revising its migration policy. Such revision could have a profound impact not only on migrants' rights in general, but also on refugee rights in particular. In this regard, the organization recommends that this revision also includes a review of the government's legislation regarding refugee protection to ensure that:

- Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms is ratified;
- the role of experts on refugee protection, such as UNHCR and Lawyers' Association representatives, in the assessment of asylum applications is enhanced;
- access to free, independent and competent legal advice at all stages of the asylum process is made available, including the provision of trained and independent interpreters in order to enable the lawyer to communicate effectively with the asylum-seeker;
- adequate interpretation facilities, including written information on the asylum procedure in a language which they understand, are made available to applicants throughout the asylum process as well as to detainees in border police stations and detention centres;
- the asylum determination procedure meets international standards of fairness, timeliness and impartiality. In this respect, closer scrutiny of first instance decision-making should be introduced in order to counter the current practice of blanket rejection of applications at first instance;

- the current legislation and its application do not contravene the spirit of the Dublin II Regulation. To this end, the revised legislation should explicitly state that “interruption” of the examination process does not mean rejection. In cases where there is an intent on the part of the Greek authorities to deport individuals outside the EU after readmission from an EU country on the basis of the Dublin II Regulation, this intent to deport should be communicated to the authorities of the third country and the lawyers responsible for the case abroad;
- access to an independent review of asylum applications in the event of negative decisions is available. The scope of this review should cover the substance of the claim so as to ensure effective appeal, with suspensive effect, of negative decisions;
- the legislation includes specific provisions ensuring that unaccompanied minors are offered guidance throughout the asylum determination process by child experts. The minors should be consulted throughout this process. Child welfare agencies should also be notified of impending transfers of unaccompanied minors to their countries of origin.

In addition, measures should be introduced to ensure that legislation is applied in a way that ensures that the protection of the human rights of refugees is upheld, including maintaining respect for the fundamental principle of *non-refoulement*. To this end:

- a statutory presumption against detention should be introduced as well as mechanisms to ensure that each decision to detain an asylum-seeker is automatically and regularly reviewed as to its lawfulness, necessity and appropriateness by means of a prompt, oral hearing by a court or similar competent independent and impartial body, accompanied by the appropriate provision of legal aid, in line with UNHCR Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers. The detention of vulnerable people who have sought asylum, including minors, torture survivors and pregnant women is prohibited;
- mechanisms should be introduced to monitor border-policing practices and to ensure that *refoulement* is not practised. These mechanisms should also provide access to full investigation procedures in case of allegations of such practices;
- arrested migrants are informed in a language they understand of their rights upon arrest, including the right to seek asylum. Access to refugee status determination procedures should be available in all regions where migrants are detained;
- police personnel serving in border regions and particularly on the country’s eastern and southern borders should receive thorough training in human rights standards, as well as in the principles and standards of refugee protection in order that they can adequately identify and refer people who are requesting asylum to the appropriate authorities;
- a strict division of tasks is implemented and maintained between border guards and officers involved in refugee status determination procedures;
- medical personnel in the border detention centres should be trained with regard to the specific features of the provision of health care in a detention facility and the particular needs of asylum-seekers, including psychological needs;

- training of law enforcement officials should include training on the use of force, and should be designed to address racist or discriminatory attitudes and behaviour among officers;
- a permanent, independent monitoring and inspection body should be mandated to make regular, unannounced and unrestricted visits to all facilities in which asylum-seekers are detained and to ensure that international and domestic law and standards are adhered to.

Amnesty International calls on the EU Commission responsible for reviewing the application of the Dublin II Regulation to consider the responsibilities of Greece for the *refoulement* of persons who may have suffered persecution upon return to their countries because they have been denied the right to have their applications re-examined in substance following a decision of “interruption”.

Amnesty International also calls on the EU Commission responsible for monitoring the application of the Directive on Reception Conditions to consider the responsibilities of Greece for not providing: adequate living conditions to persons in detention; adequate access to interpreters; and adequate legal assistance.

5.3 Recommendations regarding the protection of the rights of migrants

Amnesty International urges the authorities to review their policies of detaining migrants with a view to ensuring that:

- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is ratified;
- detention of unaccompanied children is prohibited and there is a presumption against the detention of individuals such as women with children;
- mechanisms are put into place to ensure the right of all migrants to challenge the lawfulness of their detention, including the right to appeal, and compensation is made available to those found to have been unlawfully detained;
- any allegations of racism, ill-treatment and other abuses of those held in detention should be investigated immediately in compliance with relevant international law and standards and those allegedly responsible should be dealt with appropriately by being brought to justice. To this end, mechanisms should be introduced to ensure that detainees have regular access to independent bodies able to process such complaints, including criminal courts;
- a permanent, independent monitoring and inspection body is mandated to make regular, unannounced and unrestricted visits to all facilities in which migrants are confined and to ensure that international and domestic law and standards are adhered to;
- female staff are used in centres where women are housed, in order to ensure the physical protection of women in the centres;

- officers and other staff involved in the running of detention centres "as well as possessing well-developed qualities in the field of inter-personal communication ... [are] familiarised with the different cultures of the detainees and at least some of them... have relevant language skills. Further they should be taught to recognize possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural change) and to take appropriate action" (recommendations of the CPT).

Regarding the ill-treatment of migrants, Amnesty International urges the authorities to ensure that:

- thorough, prompt and impartial investigations are carried out into the human rights violations perpetrated against the individuals arrested and detained in the locations mentioned in this report (Amygdaleza, Chios, Crete, Mytilini, Peplo, Soufli and Vrysika);
- thorough, prompt and impartial investigations are carried out into the human rights violations perpetrated against Afghan migrants in December 2004; that if enough evidence is gathered the alleged perpetrators of these violations are brought to justice and that the victims are afforded full reparation, including restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition;
- thorough, prompt and impartial investigations are carried out into the human rights violations perpetrated against the Albanian migrants mentioned in this report; that, if enough evidence is gathered the alleged perpetrators of these violations are brought to justice and that the victims are afforded full reparation, including restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition.

5.4 Recommendations regarding the protection of the rights of the Roma

Amnesty International urges the Ministry of Interior to take all necessary measures in liaising with local authorities in order to ensure that:

- a moratorium on evictions is implemented until such time as adequate safeguards are put in place to ensure consistency with international law;
- Romani residents are not forcibly evicted from their dwellings. This implies, inter alia: that no such dwellings are demolished without the residents' prior knowledge; that Roma who are evicted are resettled in accommodation which is in accordance with their right to an adequate standard of living, as provided by the provisions of the ICCPR, the ICESCR, and the International Convention on the Elimination of all Forms of Racial Discrimination; that agreements made with Romani individuals prior to their relocation are fully honoured; and that decision-making processes ensure the meaningful participation of Romani representatives in the search for alternatives to eviction and to their current accommodation;
- stopping places are made available for Roma who choose to be itinerant;

- programmes are set up to combat anti-Roma prejudice among the population at large and within communities neighbouring Romani settlements in particular.

Amnesty International also calls on international bodies such as the Union of European Football Associations, which are assessing Greece's applications for hosting international events to seek assurances from the authorities that the hosting of events will not be at the expense of the human rights of the residents of areas proposed to be developed.

Amnesty International reiterates ECRI's recommendation to the authorities to "provide training to police, public officials, Ombudsman, prosecutor and judges with an appreciation of problems of racism against Roma, and the need to verify, on each occasion, whether or not an offence has a racist character in order to take appropriate action." In this regard, the organization also urges:

- police authorities to ensure that racist attacks against Romani individuals perpetrated by non-state actors, as well as complaints of ill-treatment of Roma by police officers, are fully investigated and that if enough evidence is gathered suspected perpetrators are brought to justice;
- the relevant authorities to ensure that Roma, who are migrants from Albania, are not subjected to discriminatory treatment.

5.5 Recommendations regarding the protection of the rights of minorities

Amnesty International urges the authorities to ensure that the provisions of Articles 9, 10 and 11 of the ECHR are fully implemented by:

- ratifying the Framework Convention for the Protection of National Minorities, which Greece signed in 1997;
- reviewing the legislation currently in place with regard to the operation of non-governmental organizations with a view to safeguarding, in a non-discriminatory way, the rights to freedom of religion, expression and association.

The organization strongly recommends that violations suffered by minority individuals as a result of discriminatory legislation is addressed. This includes:

- ensuring that all of the individuals who, under such legislation have had their citizenship rights withdrawn, are fully informed about the conditions under which these decisions were taken;
- facilitating the naturalization of individuals who have lost their citizenship rights in this way, including by removing relevant fees and by introducing procedures to speed up the naturalization process;
- ensuring that all individuals who have lost their citizenship rights in this way regain access to the full range of social benefits they would be entitled to as Greek citizens.

The organization also calls on the authorities to review the policies relating to the recognition of minorities, specifically with a view to:

- stopping the practice of listing recognized minorities;
- establishing mechanisms to ensure that the government complies with its obligation to respect, protect and fulfil the right to self-identification according to established clear and objective criteria.