

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

12 June 2009
AI Index: EUR 25/006/2009

Greece: Amnesty International reiterates its serious concerns about detention conditions for asylum-seekers following ruling of the European Court of Human Rights

Amnesty International reiterates its serious concerns about the detention conditions for asylum-seekers in Greece and the failings of the asylum procedures following the judgment of the European Court of Human Rights on the case of *S.D. v. Greece* (Application No. 53541/07) on 11 June 2009.

The applicant, a Turkish national who was a journalist applied for asylum in Greece on 12 July 2007. He was arrested, detained for two months in the holding facilities of Soufli and Petrou Rali while deportation proceedings were initiated against him by the authorities. He alleged that his treatment by the authorities violated his rights to be free from torture and inhuman and degrading treatment, his right to liberty and to challenge the legality of his detention guaranteed under Articles 3 and 5 § 1 and 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

In its ruling issued yesterday, the European Court of Human Rights concluded that the conditions of the applicant's detention, including the lack of medical assistance, the lack of his ability to exercise, and the impossibility of establishing contact with the outside world, combined with the excessive length of his detention as an asylum-seeker in such conditions, amounted to degrading treatment. The Court noted that the applicant's allegations about the detention conditions in the Soufli holding facility were corroborated by the findings of several international institutions and non-governmental organisations; these allegations were not expressly contradicted by the Government. The Court also concluded that the conditions of the Petrou Rali holding facility, as they are described by the European Committee for the Prevention of Torture, were in its view unacceptable.

In relation to the applicant's claim that his detention was unlawful, the Court noted that his asylum application was not registered until his third attempt to do so on 17 May 2007 and that when arresting and detaining him the authorities had failed to take his status as an asylum seeker into account. The Court held that pending the outcome of his application for international protection, the applicant could not be deported and that his detention, with the view to expelling him, had no legal basis in Greek law, at least after the date that his asylum application was officially registered. Thus, the Court held that the applicant's detention was unlawful in violation of Article 5 § 1 of the ECHR, guaranteeing the right to liberty.

The Court considered that people like the applicant, who could not be expelled pending the decision of their asylum application and who could not challenge lawfulness of their detention before a court found themselves in a legal vacuum. The Court concluded that the lack of possibility for the applicant to obtain a decision regarding his detention constituted a violation of Article 5 § 4 ECHR, which guarantees the right of all detained individuals to take proceedings before a court to challenge the legality of their detention.

The Court's ruling is consistent with long-standing concerns of Amnesty International about the treatment of asylum-seekers and migrants in Greece. Amnesty International has documented appalling unhygienic and overcrowded conditions of detention under which some migrants and asylum-seekers continue to be held in Greece. The organization has expressed its concerns

that such conditions may amount to cruel, inhuman or degrading treatment in violation of international human rights law.

Amnesty International has also expressed its concern about weaknesses of the asylum system in Greece, including the failure of the authorities to offer people access to the asylum process, the blanket rejection of asylum applications at first instance and the arbitrariness of the detention of migrants and asylum-seekers.

The organisation is also concerned that, under the current legal regime, asylum applications must be filed immediately upon entry into the country, without specific provisions ensuring access to the procedure for people detained on arrival.

Amnesty International is opposed to the detention of asylum-seekers except for in the most exceptional circumstances as prescribed by international law. It should only ever be used as a last resort after consideration of alternative non-custodial measures and must be necessary and proportionate to the objective to be achieved. Any asylum-seeker held in detention must be brought promptly before a judicial authority and be provided with an effective opportunity to challenge the lawfulness of the decision to detain.

Amnesty International calls on Greece to fulfil its obligations under international human rights law by improving the conditions in the detention facilities for asylum-seekers and migrants to an acceptable standard, and to implement the ruling of the European Court of Human Rights in the case of *S.D. v Greece*, which becomes final in three months, unless it is referred to the Court's Grand Chamber for review.

Public Document

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[For further information about Amnesty International's concerns about the treatment of asylum-seekers and migrants in Greece, see:](#)

Greece: Out of the Spotlight: The rights of foreigners and minorities are still a grey area, AI Index: EUR 25/016/2005

Greece: Call to protect the rights of the most vulnerable, AI Index: EUR 25/008/2006 (Public)

Amnesty International Report 2008, The State of the World's Human Rights

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