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Greece: Out of the spotlight: The rights of foreigners and minorities still a grey area Summary

Amnesty International's report, *Out of the spotlight: The rights of foreigners and minorities are still a grey area*, documents the failure of the Greek 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. The report documents the mechanisms that contribute to this failure and makes a series of recommendations to remedy it.

The report focuses specifically on the failure of the state to comply with human rights law and standards regarding access to the asylum process, the detention of migrants, and the protection from discrimination and ill-treatment. The cases and allegations presented in the report 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 2005 and collected further information about these violations. Over the course of 2003-2005, 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.

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

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. Presidential Decree 61/1999 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". An asylum seeker is issued first a red and later a yellow card defining his/her status and rights. However, gaps in the legislative framework 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 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) it lacks provisions explicitly safeguarding against the risk of *refoulement*.

The Greek authorities are failing to offer irregular migrants access to the asylum process at the point of entry into the country. Officials stationed at border areas, and particularly in the area of the Greek-Turkish

border, have been allegedly 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.

H.B., a Turkish national in his thirties, applied for refugee protection and 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 by the authorities of his country because of his race, religion, ethnicity, social class or political convictions". In July, having received no news regarding his appeal against this decision, 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. Upon his return, he was informed that his application had been closed and that he would be forcibly returned to 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. H.B. said he was tortured while in prison on various occasions and had gone on hunger-strike in protest about the living conditions. During a widespread protest of political prisoners in November 2002, H.B. set himself alight and suffered serious burns. 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 and refugee law.

DETENTION AND ILL-TREATMENT OF MIGRANTS

According to official information, in the 1990s the population of non-citizens in Greece grew from 167,276 to 797,091. The migration from European countries increased seven-fold, while migration from Asian countries tripled. Large sections of the migrant population in Greece are nationals of neighbouring countries (Albania, Turkey, Cyprus).

Amnesty International has recorded 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 lack of adequate access to justice available to migrants who have suffered such ill-treatment. The organization is 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.

Eighteen-year-old Vullnet Bytyci from 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 Bytyci and another man fled. One of the guards fired after them, fatally wounding Vullnet Bytyci. The guard was at first charged with "reckless homicide"-- a charge which was subsequently changed to the lesser offence of "manslaughter". He was sentenced to a suspended sentence of two years and three months' imprisonment.

On 13 December 2004, a plainclothes police officer entered a guesthouse in Athens, where a number of Afghan migrants were staying and showed them a photograph of another man who had earlier escaped from police custody. 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 reportedly 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. An internal police investigation was subsequently launched and torture charges were brought against two policemen.

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

Official documents such as the government's Integrated Action Plan for the Social Integration of the Roma People (IAP) estimate a Roma population of around 300,000 in Greece, roughly 3.5 per cent of the total population of Greek citizens. Around 15 per cent of these (40,000) are estimated to be tent-dwelling, although this estimate is limited to Greek citizens. 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. The Christian Roma were afforded Greek citizenship in the mid-1970s -- prior to that they were classified as "aliens of Gypsy descent".

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. However, there is a lack of emphasis on creating stopping places for the transient Roma. It has also been reported that some Roma families were forcibly evicted. There is also a pattern emerging of targeting Albanian Romani homes for demolition. In a number of cases, the residents in the neighbourhood of sites proposed for building permanent settlements for the Roma were reported to 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. Police and judicial authorities have allegedly used racist remarks against the Roma in the process of examination of their complaints.

The tent-dwelling Roma of Patras are Greece's third largest urban Romani community. Some families were settled there for many years, others were transient. Some 15 to 20 families of Albanian Roma had settled in the area at different points since 1999. The first recorded forced eviction of the Roma living in the region took place on 29 August 2001, when two inhabited sheds were destroyed. 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, targeting only the Albanian Roma. At the time the residents were away employed in seasonal work in other regions of the country. To Amnesty International's knowledge, no alternative accommodation had been offered. Ever since the Albanian Romani families settled there, police officers have been reportedly pressuring them, as well as the Greek Roma residents, to leave.

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

The "Muslim minority of Thrace" constitutes the only group of Greek citizens who are recognized specific rights as members of a minority -- these rights were granted under the 1923 Treaty of Lausanne. Since then, a number of other groups of Greek citizens have claimed the right to minority protection -- groups in the region of Florina claim their right to self-identification as "Macedonians", and members of the "Muslim minority of Thrace" claim their right to self-identification as "Turks". This dispute led to a number of human rights violations, specifically relating to the rights to freedom of expression, and to freedom of association and assembly.

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 on the basis that Greek courts had refused the application of the complainants to register "the Home of Macedonian Culture" as a non-governmental organization. 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. On 19 December 2003 the Court rejected the application.

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 and sentenced him to three months' imprisonment. The defence's argument that the law under which Archimandrite Nikodimos Tsarknias was charged, 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.

On 7 February 2005 the Supreme Court banned the "Turkish Union of Xanthi" on the basis that its "aim is illegal and contrary to Greek public order". The "Turkish Union of Xanthi" association was founded in 1946 and was 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.

Whilst there is no internationally accepted definition of a minority, arbitrary distinctions based around recognition or non-recognition are discriminatory. In this regard, the Human Rights Committee has stated 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". 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.

The Greek authorities also fail 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. They continue to refuse to re-issue citizenship documents to members of 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 emigrated to another country. People from the Muslim minority in western Thrace were classified as "non-citizens". Some of them had 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 most cases, the authorities did not take adequate steps to ensure that the people concerned were informed of the decision to withdraw their citizenship in time to appeal these decisions. Such people are also denied access to state benefits and institutions -- social security benefits, access to specific health care provisions, pension allowances, provision of identification documents, etc.

RECOMMENDATIONS

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 refugee rights in particular. Amnesty International recommends that this revision also includes a review of the government's legislation regarding refugee protection. Legislation should be applied in a way that ensures that the protection of the human rights of refugees is upheld, including providing access to an independent review of asylum applications in the event of negative decisions and maintaining respect for the fundamental principle of *non-refoulement*. Amnesty International urges the authorities to review their policies of detaining migrants. The organization strongly recommends that violations suffered by minority individuals as a result of discriminatory legislation is addressed. The organization also calls on the authorities to review the policies relating to the recognition of minorities with a view to stopping the practice of listing recognized minorities.

See: *Greece: Human rights violated on the margins of society* (AI Index: EUR 25/021/2005)

<http://web.amnesty.org/library/index/engneur250212005>

Out of the spotlight: The rights of foreigners and minorities are still a grey area (AI Index: EUR 25/016/2005)

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