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A year on since the *M.S.S.* Judgment: Greece continues to violate asylum-seekers' human rights

While over a year has passed since the landmark ruling by the Grand Chamber of European Court of Human Rights (ECtHR) in the case of *M.S.S. v. Belgium and Greece*, Amnesty International remains profoundly concerned about the treatment of asylum-seekers in Greece.

The organization is deeply concerned that asylum-seekers are routinely detained for prolonged periods of time that can reach up to six months. In particular, the detention of unaccompanied or separated asylum-seeking children continues. Such children are held routinely for prolonged periods while a place is found for them in a reception centre for minors.

Further, detention conditions in various immigration facilities and police stations where asylum-seekers, including unaccompanied or separated children, are being held remain of most serious concern to Amnesty International. At the end of November 2011, the organization's delegates visited the immigration detention facility of Amygdaleza for unaccompanied or separated male children. The inmates, all minors, were held for prolonged periods and detention conditions were very poor. The children were sleeping on plinth beds, with no pillows and with dirty and old mattresses. They told Amnesty International's delegates that they were only allowed to exercise outside once a week. A month prior to the delegates' visit, some of the children set fire to their mattresses in protest at their prolonged detention. As a result, seven children needed to be hospitalized. Earlier, in May 2011, Amnesty International visited the border guard stations of Ferres, Soufli and Tyhero, the immigration facility of Fylakio in Evros region and the Exarheia, Omonoia and Aghios Panteleimon police stations in Athens. In Soufli, Tyhero and Fylakio and in one of the cells in Exarheia, the organization's delegates witnessed detention conditions which were both inhuman and degrading, and found the remainder elsewhere to be very poor.

Moreover, the vast majority of asylum-seekers, including unaccompanied minors, are left destitute, denied of any support from the authorities. As a result they find themselves sleeping rough or in severely inadequate accommodation. This is also happening against a background where in the past eight months racially motivated attacks against refugees, asylum-seekers and migrants have increased significantly.

In the light of the above, Amnesty International is also profoundly concerned about the paucity of reception facilities and their overall insufficient capacity to accommodate asylum-seekers, including unaccompanied or separated children. The organization considers that -- despite the reported creation of two new reception centres in Athens -- the overall number of beds available continues to remain extremely limited in relation to the actual needs.

Amnesty International remains concerned over instances of *refoulement*. For example, it appears that in September and October last year seven asylum-seekers were forcibly returned to Turkey on different dates despite having expressed their wish to apply for asylum and notwithstanding the fact that the Greek Council of Refugees had notified the authorities about their intentions.

Amnesty International is profoundly concerned over the continuing serious obstacles in access to asylum procedures. The organization has received reports that, each Saturday outside the gates of the Attika Aliens' Police Directorate in Athens, despite the very high number of asylum-seekers queuing to register their claims, the authorities at the Directorate continue to lodge only a very small number of claims from those waiting. Very recently, Amnesty International received reports from the President of the Afghan community in Greece, that in the past two months police in the Attika Directorate have failed to register any applications from asylum-seekers waiting outside the building except from the very few who are able to pay a lawyer to prepare and submit an asylum application for them. The organization is also concerned over recent reports that the Directorate has refused to accept the submission of asylum applications by 25 asylum-seekers who were accompanied by NGO representatives.

While the organization considers as positive the enactment of new legislation providing for the establishment of a new asylum determination authority, it remains concerned that Greece's financial difficulties and the hiring freeze in the civil service may affect its effective operations. Further, until the new asylum authority starts operating, the continued role of the police as the sole authority responsible for the first stage examination of international protection claims continues to give rise to concern.

Amnesty International remains conscious of Greece's economic difficulties and the challenges it has faced from 'mixed migration' flows in recent years. However, the organization is concerned about the reported inability of the Greek authorities to make proper use of the resources made available to Greece by the EU to help providing adequate reception conditions to arrivals and in assessing their protection needs.

Background

In its ruling in the case of *M.S.S. v Belgium and Greece* of 21 January 2011, which concerned an Afghan asylum-seeker, M.S.S., whom the Belgian authorities had returned to Greece under the Dublin II Regulation, the ECtHR concluded -- among other things -- that Greece did not have an effective asylum system in place. In particular, the Court considered that M.S.S. was denied effective determination of his asylum claim because of major structural deficiencies in the Greek asylum procedure. The ECtHR also ruled that M.S.S.'s detention conditions and the circumstances of destitution in which he was left in Greece upon his release amounted to degrading and inhuman and degrading treatment respectively.

The findings in *M.S.S.* were reiterated by the Court of Justice of the European Union (CJEU) in judgements delivered on 21 December 2011. In two linked cases, the CJEU found that asylum-seekers transferred to Greece under the Dublin II Regulation faced a serious risk of grave human rights violations there.