

URGENT

Athens, November 22nd 2007
Protocol No.2915

To the
Minister of Mercantile Marine
Mr.George Voulgarakis
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Deputy Minister of Interior
Mr. Panayotis Hinofotis
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Dear Ministers,

A report of the N.G.O. «PRO ASYL» which records a large number of incidents of breaches of human rights against foreigners who have entered the country illegally, particularly by sea, often seeking asylum, was recently brought to the attention of the Greek Ombudsman. Complaints, allegations and statements by victims and social welfare support groups related to preventative actions which resulted in deaths by drowning, multiple atypical refoulement without recording of names or without any efforts being made to locate those whose return endangers their basic rights, even cases of torture, involving, where applicable, in a particularly disquieting manner, officers of the Port Authority to begin with and secondly, members of the Greek Police. This report was widely published in the Greek and foreign media and has already been lodged with the relevant authorities of the Greek Government, the European Union and the Council of Europe, provoking the instruction by the first for an immediate administrative investigation.

Unfortunately our Institution has for some time become familiar with complaints related to such incidents, sometimes originating from the victims themselves, often from N.G.O.s acting in the domain of providing protection to asylum seekers. The complaints have been brought to the attention of the relevant authorities of your ministries.

Indicatively, I would mention the tragic incident of the drowning of foreigners who were trying to enter this country by sea – reported by survivors on Turkish land – intentional desertion and/or abandonment at sea by officers of the Greek Port Authority on 26th September 2006 in Greek territorial waters. This incident was widely covered by the international and local press; the veracity of the complaints and investigation into determining responsibility met with the complete refusal/acknowledgement by the relevant department of the port authority as well as the Ministry of Foreign Affairs and particularly in the absence of witnesses or other evidence, apart from what the plaintiffs themselves claimed.

On another occasion, complaints of atypical refoulement of foreigners entering the country by crossing the Evros border, in which authorities deny any involvement, carry grave indications of such involvement. Specifically, a foreigner of Iranian origin states that she tried, together

with her child to enter the country illegally in order to meet up with her husband who was residing in Greece as an asylum seeker; however she was arrested and atypically was 'refouled' to Turkey. The party in question's allegations are supported by phone conversations with her husband and by a third party who participated in the illegal entry into Greece successfully, ie without being arrested at the border. Taking into account the fact that the husband in Greece has already been recognised as a refugee, an attempt is now being made for legal entry from Turkey of the above mentioned members of his family so that it can be possible to unite the family members of said refugee and also to re-examine the entire incident.

Equally worrying is the judicially proven case of violation of the dignity of a foreigner of Turkish origin who in 2001 suffered violent abuse while in custody by officers of the Port Authority. The recent conviction of the perpetrators by the Review Naval Court to 6 and 3 months imprisonment, despite the acknowledgement by the court of the gravity of the violation, pre-empted the possibility of repeating the disciplinary hearing which initially was based on less serious incidents. And yet, the Greek Ombudsman has tried over the least six months repeatedly to point out to the Port Authority and the Ministry of Mercantile Marine that this conviction provided the opportunity for a public recognition of such incidents as actual problems and their simultaneous condemnation, an initiative which would act as a commitment to avoid similar incidents in the future and also provide a basic moral satisfaction to the victim who resorted to our Institution. Regrettably, despite the initial positive attitude atypically indicated, the Ministry of Mercantile Marine appears, by its silence, not to share our Institution's desire to reinstate the honour and dignity of the Authorities which has been seriously damaged by these events.

The continuing complaints by individuals and organizations and also the existence of serious indications pertaining to the truth of the allegations contained in cases of similar context handled by the Ombudsman give rise to serious reservations as to the adequate protection of human rights of foreigners entering the country illegally, particularly by sea. Serious reservations that are not only local but also European and are not only focused on the Greek border authorities but also on other countries within the EU having sea borders with countries of origin or passage for illegally entering foreigners.

In the complaints themselves, it is extremely difficult to determine the actual details of the incidents. The allegations of the plaintiffs' conflict with the allegations of the officers involved, without, in many cases, having the option of basing one's judgment on safe criteria validating the allegations of both parties. To a large extent this is due to the fact that these incidents occur at the border, ie in an area where publicity and "social control" of authority actions is to a large extent non-existent and mostly not on Greek soil. In certain cases it becomes apparent that an attempt is being made for a political promotion by a neighbouring country so that Greece is brought to the fore for violating human rights. And yet, the political justification of using these complaints cannot on its own be enough to justify a non in-depth investigation of the complaints.

Further, in the PRO ASYL report, officers of the Port Authority, well-known or anonymous, appear to accept that said authority carried out illegal refoulements in order to contain the illegal entry of foreigners by sea. One of these, well-known, appears to have declared that Europe accepts, through illegal entry, an Islamic invasion by persons who are well trained and fighters (the Eleftherotypia newspaper edition dated Tuesday 30/10/2007). The Greek Ombudsman deems that the development of an attitude of fighting measures by officers of the border control is particularly dangerous for the protection of human rights of foreigners trying

to enter the country illegally as they would possibly be treated as “national enemies” and as such not be granted any level of protection in accordance with their basic human rights.

The Greek Ombudsman does not take the above allegations and complaints on their own as proof of serious violations of human rights of foreigners trying to enter Greek territory illegally. If there are no serious indications to the contrary, it can but deem that in principle the officers of the border control are acting within the framework of legality and respect of human rights towards the individuals coming into contact with them. However, the regularity of the complaints, the cross-reference and relevance of witness’ reports of the incidents suggest, at the very least, that the prevention – containment of illegal entry of foreigners occurring at the county’s borders, particularly by sea, consists one of the most controversial activities of the Greek authorities with regard to the satisfactory protection of the specific individuals’ human rights. Taking into account the fact that the Greek and European public opinion, as a result of the developed awareness regarding the protection of human rights, is increasingly focusing on these procedures, Greece must examine very carefully each case involving a violation of human rights with the departments involved and communicate satisfactory reports to the public.

This monitoring procedure must not only double-check the allegations of the plaintiffs with those of the officers involved but also carry out an exhaustive investigation when the complaints are cross-referenced or appear to have similar narratives or simply have just indications. In these cases the monitoring procedure must aim to prove the innocence of the officers involved in order to reach a verdict of not guilty. And this is because, as mentioned above, prevention – containment of illegal entry of foreigners at the county’s borders is carried outside the public eye and that of “social monitoring” which usually are areas which provide serious indications or proof for justifying the allegations of complaints. Further, our Institution feels that the participation of independent authorities whose mission is to protect human rights would enhance objectivity and provide weight to the monitoring procedure.

In addition, the Greek Ombudsman deems it essential that a code of conduct be prepared immediately, to be followed by border officers in the prevention of illegal entry of foreigners into the country. The Greek Ombudsman would happily contribute in the preparation of such a protocol.

In anticipation of the notification of your initiatives, I thank you in advance for your cooperation and assure you that I and my colleagues are at your disposal for any further information or assistance you may require.

Yours sincerely,

Yorgos B.Kaminis

cc

Minister of Foreign Affairs, Mrs.Dora Bakoyanni
Minister of Interior, Mr.Prokopis Pavlopoulos
National Committee for Human Rights
United Nations Refugee Agency