



Athens, December, 2012

Detention of foreign nationals

Confronting the issue of mixed immigration flows has been, in the past decade, one of the most significant problems faced by Greece as a country of first entry in the European Union. Indeed, the volume of immigration flows is such that it has led to a series of malfunctions and problems in the Greek administration. It simultaneously has had a severe impact on the treatment of these persons, especially with regard to the terms and conditions of their detention, under the auspices of the framework of return procedures of foreigners to their country of origin.

The detention conditions of foreign nationals in Greece have been the subject of numerous reports by relevant organizations and international bodies. It is certainly true that the existing detention conditions do not credit Greece or Europe. In the “M.S.S. vs Belgium and Greece” case which was heard by the European Court of Human Rights in Strasbourg in 2011, the Court not only ruled that the detention conditions of foreign nationals in Greece contravenes article 3 of the European Convention on Human Rights, but it also deemed that the return of foreigners to Greece, in compliance with Regulation Dublin II, constitutes an infringement of the aforementioned provision of the ECHR.

The Greek Ombudsman’s own assessments on this issue have ensued from on-site investigations which the Authority has performed in detention centers and camps throughout Greece, on a regular basis, for over a decade.

The main findings of an on-site investigation of the Authority in the detentions centers of the area of Evros carried out in March 2011, can be summarized in the following conclusions:

- The practice of imposing administrative deportation and detention to foreigners who have entered the country illegally is applied unconditionally and in most cases until the maximum detention time is reached; upto six months and recently upto twelve. (Detention time varies depending on the pressure and size of incoming foreigners in the area).
- Overpopulation (at the time of the visit, the number of prisoners amounted to three times the capacity of the sites).
- Criminal prisoners are held in the same areas with those who are detained under administrative expulsion orders.
- Men, women and children are often detained in the same areas.
- Lack of fresh open-air exercise of prisoners
- Limited health care or psychological support

- The detention centers lack adequate infrastructure and are unsuitable even for short-term detention.
 - lack of ventilation and lighting
 - non-compliance with the rules of hygiene and cleanliness
 - shortage of basic essential items (sanitary ware, bed sheets)
 - insufficient cleaning services and/or feeding

In view of this situation, the Greek State submitted to the European Commission a specific action plan in 2010, which it is attempting to implement with the help of the Commission. In the context of this plan, law 3907/2011 was adopted. Its provisions provide for: a) the creation of an Asylum Service, b) the creation of a Service of First Screening, c) the operation of Detention Centers for foreigners under the aegis of the Hellenic Police and d) incorporation of Directive 2008/115/EC regarding the return of foreigners.

A provision in the aforementioned law assigned the Greek Ombudsman with the responsibility of overseeing the operation of an external monitoring system of the forcible removal procedures. The assignment of this responsibility, although in terms of substance is not unfamiliar to our Authority, it opens up a field for more active involvement on the critical issue of returns of foreign nationals and detention conditions.

For its part, the Authority continues to carry out on-site investigations in the places of detention of foreigners, especially those which started operating following the adoption of law 3907/2011 and the intensification, lately, of police operations against illegal foreigners in Greece. In October 2012, the Greek Ombudsman visited the recently established detention centers in Amygdaleza (Attica) and in Corinth. In both these detention centres, conditions are markedly improved, compared to those of the older detention centres, and correspond satisfactorily to international standards of reasonable decent living. However, it was determined that the practice of unconditional detention, despite the relevant provisions of Directive 2008/115/EC and law 3907/2011, continues to constitute the first choice of the competent authorities, when they implement the return procedures prescribed there. The detention time of the under return foreign nationals also continues to exhaust the margins set by the law. Thus, the Greek Ombudsman fears that soon, as the capacity of the new centres is exceeded, serious problems may arise, similar to those which have previously been identified and still persist in the older detention establishments.

The Greek Ombudsman is called upon to exercise its general competence in the field of human rights protection, as well as the particular competence which was recently assigned, in the field of external monitoring of return procedures of foreign nationals, under particularly difficult conditions. These conditions are deteriorating due to the increasing volume of migration flows, in conjunction with the severe economic crisis and the intensification of xenophobia in the general population.

The Greek Ombudsman is currently in touch with its European counterparts and other institutions of the European states, identifying best practices in this field and aiming at a more effective exercise of its role.