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Asylum Procedures in Cyprus

A. Access to Asylum Procedures

1. According to the Refugee Law, asylum seekers can submit an application for asylum at any police station and at any entry point of the Republic. In practice, however, asylum seekers can only apply for asylum at the nearest District Immigration Office, whereas no or very limited asylum applications are filed at the entry points (airports, seaports)
2. Despite the improvement of access to asylum procedures in the last few years, the Cypriot authorities practices on the two issues outlined below still undermine and restrict access to asylum procedures, which sometimes result in prohibited refoulement of Refugees:
   - The regular treatment of mixed migratory flows as «illegal immigrants», which leads to their immediate deportation, and
   - the regular psychological pressure that asylum seekers, who remain for some reason in detention for long periods, are exposed to, in order to "consent" to their "voluntary" repatriation.
3. Moreover the following problems still persist regarding access to the procedure:
   - Usually, the police do not hand out the Information leaflet in a language understood by the asylum seekers as foreseen by the Law.
   - In a number of cases, asylum seekers are not given immediate access to the procedure with all the negative consequences this entails regarding access to a secure legal status and access to reception conditions.
   - In some cases, asylum seekers are arrested and deported instead of given access to the asylum procedure
   - Asylum seekers who attempt to seek asylum at the airports are usually denied entry and refused access to asylum procedures resulting in their refoulement.

B. Refugee Status Determination Procedures

According to international and community law and standards, asylum procedures should be fair, efficient and effective. Although Cyprus has established and been applying its refugee status determination procedures since 2004, KISA is of the opinion that these are not up to a standard that could be considered fair, efficient and effective.

According to the Refugee Law, refugee status is determined by the Asylum Service at first instance and the Refugee Reviewing Authority, a seemingly independent authority, at second instance. When the case is also rejected at second instance, there is a general right according to the Constitution to file a recourse against the second instance decision to the Supreme Court of Cyprus. The Supreme Court only reviews the case on points of law and does not have the power to actually examine the substance of the claim and give protection to a person.

All the Court does is to examine whether the authorities have followed the right procedures, that they have applied the law correctly and that they have fully investigated the facts of the case. It may annul or uphold the decisions of the administration.

To date, very few asylum cases have been won before the Court due to mainly limited knowledge by the Supreme Court judges of refugee law, prejudice against asylum seekers and very superficial examination of the cases.

If an appeal to the Refugee Reviewing Authority has been submitted within the foreseen time limit (20 or 10 working days after receiving the decision from the Asylum Service, depending on the procedures followed), the asylum seeker continues to have the right to stay in Cyprus legally and all other rights related to the status of an asylum seeker. However, the same does not apply with regard to asylum seekers filing a case before the Supreme Court. In these instances, asylum seekers are without any legal status as they are not considered asylum seekers under the law, they are not entitled to any reception conditions and they are in limbo with regard to their legal status. They are normally tolerated to remain in Cyprus but if they are arrested in this «illegal situation», they are detained for as long as the Supreme Court examines their case. This situation is particularly difficult for the most vulnerable amongst them, such as women and children.

1. **Legal Aid**
   - No legal aid is provided to asylum seekers regarding their asylum claims at any stage of the procedures. As a result, asylum seekers have none to very poor representation before either the administrative or judicial authorities.
   - The lack of a legal aid system has lead to the exploitation of the vulnerable position of asylum seekers by lawyers who, in the majority of cases, possess literally no knowledge of refugee law, charge exorbitant fees and provide very poor to none at all representation before the competent bodies. Although this has been repeatedly reported to the competent authorities, no measures have been taken to address the situation.
   - No particular efforts have been taken to promote training of lawyers and judges in refugee and asylum law, as a measure of indirect legal support, leading to very bad and poor quality representation and, as a consequence, decisions of the Refugee Reviewing Authority and the Supreme Court.
2. **Refugee Status Determination from the Asylum Service**
   - Refugee status determination at first instance may be either too fast or too long, sometimes lasting for more than 8 years. No fast track procedures are provided in the law for cases that prima facie show that protection should be granted. Although the law provides for fast track and normal procedures and under which circumstances these should be applied, in practice fast track procedures are followed without any justification on the basis of the law as well as in a discriminatory way. For example, the cases of asylum seekers of a certain nationality are always examined under the fast track procedures without any individual examination of the merits of the case before they examine it under the fast track procedure. Normal procedures may take a lot of years, particularly for certain nationalities who have serious grounds to be granted protection, i.e. Iraqis
   - The number of eligibility officers is not adequate to ensure fair and effective procedures to asylum seeker as more often than not they are overburdened with cases, thus leading to superficial examinations of asylum claims.
   - There is also lack of reliable and trustworthy interpreters that asylum seekers can trust, thus jeopardizing the quality of the interviews. Interpreters are normally chosen from the various communities of asylum seekers. In some instances, interpreters were reported to be also asylum seekers. Cases of corruption of interpreters have also been reported.
   - Complaints from asylum seekers show that eligibility officers of the Asylum Service do not always adhere to international standards relating to the interview process. KISA has received innumerable complaints of harassment, psychological pressure on asylum

seekers during the interview through threats, exploitation of their vulnerability, discriminatory and racist comments and attitudes, prejudice against asylum seekers as well as corruption cases. In general, eligibility officers do not create a situation of trust between them and the asylum seekers in order for the asylum seeker to feel that he/she can explain his/her situation in the best possible way.

- The quality of the decisions of the Asylum Service are normally very poor and in the majority of the cases where asylum seekers have a very serious and well substantiated asylum claim, they are rejected on grounds of credibility on minor or irrelevant issues.
- Certain procedural provisions of the Refugee Law, such as the obligation to notify change of address, are used very frequently for the closure of files without any substantial examination of the asylum claim. As a matter of fact, the Asylum Service has up to date closed more files than the ones they have actually examined. This, in turn, leads to cases of refoulement, as asylum seekers loose their status as such because of the file closure and are deported when arrested without any examination of their claim.

3. Refugee status determination by the Refugee Reviewing Authority

The Refugee Reviewing Authority is supposed to be an independent authority examining at second instance the decisions of the Asylum Service. The independence however of this Authority is seriously questioned as its members are appointed in practice on the basis of their political affiliation to political parties, while its staff are public servants who may be moved from one to the other department of government at any given moment and the Authority is not in a position to select its staff. In addition, it appears that there are close links of the Authority with the Asylum Service, the immigration police as well as the Migration authorities of the Ministry of Interior regarding the flow of information - recent examples prove this.

According to the Refugee Law and the Law on the General Principles of Administrative Law, the Refugee Reviewing Authority should make a fresh examination of the claim, examine any new evidence the asylum seeker brings forward and has the discretion to call the asylum seeker for a second interview. In practice, the decisions of the Refugee Reviewing Authority are of very poor quality, in the majority of the cases they copy the decision of the Asylum Service without any new investigation as to the merits of the case and they very rarely use their discretion to have a second interview with the asylum seeker, even if new evidence is brought forward. This is proved also by the fact that unlike many other European countries where the refugee status is normally granted at second instance, the Refugee Reviewing Authority only overturned very few decisions of the Asylum Service up to now.

Even though the law provides for the adoption of regulations regarding the procedures followed by the Authority, no regulations have been adopted as yet. As a result, the Refugee Reviewing Authority functions with no transparency as asylum seekers are not aware of any procedural rights they have at the second instance review.

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KISA Steering Committee