

1348th meeting, 4-6 June 2019 (DH)

H46-9 M.S.S. and Rahimi groups v. Greece (Application No. 30696/09)

Supervision of the execution of the European Court's judgments

Reference document
CM/Notes/1348/H46-9

Decisions

The Deputies

1. recalling that these cases concern the degrading treatment of the applicants (asylum seekers or irregular migrants, including unaccompanied minors) on account of their conditions of detention; the degrading treatment of asylum-seeking applicants due to their living conditions; the lack of an effective remedy against expulsion, due to deficiencies in the asylum procedure; and the lack of an effective remedy to complain about the conditions of detention;

As regards individual measures

2. noted that no further individual measures need to be taken as regards the cases *A.F., B.M., Bygylashvili, Chkharishvili, De los Santos and de la Cruz, Horshill, Kaja, Tatishvili, Al.K., H.H., F.H., Chazaryan and others, A.Y., Tenko, S.G., Barjamaj and Housein*; therefore decided to close their supervision of these cases and to adopt Final Resolution CM/ResDH(2019)154;

As regards general measures

Asylum procedure and absence of an effective remedy against expulsion

3. welcomed the ongoing efforts made by the Greek authorities, in concert with the competent EU institutions and the UNHCR, to improve the national asylum system, and the notable increase in the overall rate of granting asylum;

4. noting, however, with grave concern the increase of arrivals of third country nationals that could adversely affect the functioning of the asylum system and is the reason for the significant increase in the average time taken to register and process asylum applications, and the deficiencies of the asylum appeal procedure which have been reported by the Greek Ombudsman and expert NGOs; called on the authorities to provide information on the asylum appeal procedure and on further measures envisaged or adopted in order to enhance the efficiency of the overall administrative procedure and the effectiveness of existing administrative remedies;

Living conditions of asylum seekers

5. welcomed the concerted efforts made and the measures taken to ensure decent accommodation, provision of welfare and healthcare services, access to the labour market and to education for asylum seekers;

6. took into account the continuing and increasing arrival of third country nationals, including asylum seekers; noted, furthermore the concerns expressed by the Council of Europe Commissioner for Human Rights and NGOs that the living conditions of asylum seekers have remained critical, despite the commendable efforts and the achievements of the authorities to date; therefore called on the authorities to continue and step up their efforts;

7. also called on the authorities to implement the recommendations of the Council of Europe Commissioner for Human Rights on the need to further enhance the provision of health care services to asylum seekers and irregular migrants in detention;

Reception and protection of unaccompanied minors

8. welcomed the adoption in 2018 of the law on guardianship and invited the authorities to proceed to its prompt implementation in order to put in place a comprehensive and efficient system of reception and protection of all unaccompanied minors;

9. expressed, however, concern about the inadequate number of suitable places available in accommodation facilities for minors and the significant number of minors placed in “protective custody” or in reception centres at the borders, and called on the authorities to intensify their efforts to increase the capacity of accommodation suitable for unaccompanied minors;

Conditions of detention

10. noted with satisfaction that domestic case-law has evolved to allow irregular migrants, including unaccompanied minors, to complain about their conditions of detention; noted also the relevant case-law of the Court and decided to close their supervision of this issue;

11. while noting with satisfaction that certain immigration detention facilities visited by the CPT in 2018 provided decent conditions, expressed serious concern at the fact that a number of other immigration facilities and police stations seem to be below Convention standards, and that the detention of unaccompanied minors persists;

12. recalling the Court’s case-law and recommendations of the CPT, called on the authorities to end the practice of detaining unaccompanied minors and transfer them without delay to a (semi-) open establishment specialised for juveniles;

13. invited the authorities to give effect to the recommendations made by the CPT and to improve the conditions in immigration detention facilities, including by providing adequate health-care services;

14. invited the authorities to keep the Committee regularly informed about developments on all of the above-mentioned issues;

15. decided to resume examination of these cases at their September 2020 DH meeting.