

WRITTEN QUESTION E-4095/09
by Stavros Lambrinidis (S-D)
to the Commission

Subject: Infringement of asylum directive

Presidential Decree 81/2009, containing an amendment to Presidential Decree 90/2008 bringing Greek legislation into line with the provisions of Council Directive 2005/85/EC¹ on minimum standards on procedures in Member States for granting and withdrawing refugee status, was issued on 30 June 2009.

Under Article 5 of this Presidential Decree, final responsibility for asylum applications at the first and final level lies with the heads of the relevant police departments assisted by a four-member committee. The Presidential Decree gives limited powers of judicial review to the Council of State which is empowered to examine the legality but not the substance of applications thereby failing to guarantee the right to an 'effective remedy'.

Furthermore, Article 9 of the Presidential Decree states that appeals against rejected asylum applications still pending up to the entry into force of the new Decree, not having been reviewed by the second-level appeals committee (set up under Presidential Decree 90/2008 and abolished under the new Presidential Decree) shall be referred to the Deputy Minister for the Interior responsible for Public Order, who is clearly not an 'independent authority' vis-à-vis the body issuing the first-level ruling. The UN High Commissioner for Refugees has already ruled that these provisions infringe Article 39 of the EU directive concerning the right to 'effective remedy' before a court of tribunal regarding asylum application decisions.

Can the Commission provide the following information:

1. Can it confirm that the Greek Presidential Decree infringes Community Directive 2005/85/EC regarding the right to an effective remedy?
2. If the directive is being infringed, what measures will the Commission take to bring the provisions adopted by Greece into line with the relevant Community legislation?

¹ OJ L 326, 13.12.2005, p. 13.