

PRO ASYL

National Working Group for Refugees
Registered Charity

Background: K.P. – Escape from Iran via Greece to Germany
Iranian Asylum Seeker, handed over to Greece on 23rd January 2008 according to Dublin II, currently in Athens.

K.P., an Iranian national, arrived in Frankfurt airport on 25.10.07 from Athens, Greece. He presented himself to the German Federal Police as an asylum seeker and explained that he left Iran on 20.10.07 for fear of persecution.

Mr.P. had to flee from Iran as he had run into conflict with the regime. In late summer 2007 he had taken part in memorial events in a cemetery in Teheran, commemorating the lives of opponents of the regime who were executed in 1998. This culminated in a violent confrontation with the security forces. Mr.P. was able to hide, but later learned that the secret service was looking for him. Mr.P. is also a target for the security forces and the secret services because as a member of his family he is considered an opponent of the regime. His father was an active member of the Union of Iranian Communists. His father's brother was executed for political reasons due to his support for political prisoners in 1985. As a consequence of his attendance at the memorial events for the victims of politically motivated executions, Mr.P. himself is now suspected of continuing the political involvement of his family. He had no other option but to flee his country.

In the first instance Mr.P. fled to Greece, where he stayed for four days before continuing on to Germany.

Mr.P. wanted to come to Germany as his parents and sister have been living in Frankfurt for many years. His father has been officially recognised as a refugee in Germany since 1998 according to the United Nations Convention Relating to the Status of Refugees. However Mr.P. never arrived at his parent's home. He was arrested at Frankfurt airport and was placed in custody pending deportation.

The German Federal Office for Migration and Refugees rejected the asylum application with an official reply from 14.12.07, saying that Greece was responsible for the proceedings and therefore deportation to Greece had been ordered. Mr.P. filed an interim legal protection order against this procedure before the administrative court in Frankfurt am Main. The application was rejected. The court gave the following reason:

By being deported to Greece, Mr.P. to Greece was not at risk of any proceedings violating human rights or European law.

The court bases this statement on the "assurance" of the Federal Office for Migration and Refugees that "care will be taken for the orderly registration of the asylum application in Greece, through the timely provision of information and communication to the Greek partner authorities". The Federal Office proposed "to let the German embassy in Athens further monitor the case of this applicant".

The court therefore refutes any objections that access to asylum procedure has not been granted. This decision made by the administrative court in Frankfurt on 14.01.08 (Az.:7 G 3910/07.A 3) freed the way to deport Mr.P. to Greece. Until 23rd January 2008 he was kept in deportation detention in Offenbach, from where he was handed over to Greece at 9am on 23.01.08.

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Current Developments in the Case of K.P., Iranian Asylum Seeker, handed over to Greece on 23rd January 2008 according to Dublin II, currently in Athens.

Report by Karl Kopp, Director of European Affairs at PRO ASYL.

I landed in Athens on 31st January 2008 at 10pm. At 11pm I had the opportunity to visit Mr. K.P. in the airport custody, accompanied by the lawyer Marianna Tzeferakou. It was relatively easy to gain access; there were no restrictions as all. Mr P. was brought to us. In a visitors room we were able to talk undisturbed. In order to overcome language difficulties we brought in the Farsi interpreter Mubarak Shah via a phone link. Up to this point Mr P. had had no information as to why he was detained and also did not know when he would be released. He spoke of two attempts made by Greek officials shortly after he was handed over to conduct interviews in the airport custody. The interviews were carried out without an interpreter and therefore as K.P. speaks neither English nor Greek, no real conversation took place. Between the police at the hearing and Mr.P. there was no possibility for verbal communication. According to lawyer Marianna Tzeferakou these talks were probably counted as the asylum hearings in the first-instance asylum proceedings. She assumes that the routine rejection in the first proceedings will follow.

At the time of our visit on Thursday evening (31st January 2008), Mr P. had not had the opportunity to shower since his arrival in Greece days before. He did not have any soap. We had to provide him with toothpaste and a toothbrush; no toiletries at all had been given to him.

At lunchtime the following day (Friday 1st February 2008), lawyer Tzeferakou went to the Public Prosecutor's office at around 2pm. She explained to him that Mr.P. has been held at the airport for more than eight days without legal grounds. She had drawn up a petition and in the meantime continued to frequently make calls to the airport prison. When the official responsible realised that the Public Prosecutor had been brought in, he asked lawyer Tzeferakou for 10 minutes thinking time, then they would do everything to give K.P. his freedom. Due to the legal pressure and the evidently growing opinion that they were clearly flouting the law, Mr.P. was released on 1st February 2008 at 3:30pm.

MrP. was issued with a 'Red Card' – valid for 6 months but without any details of address. The Red Card, also often known as a Pink Card, confirms that the holder has completed an application for asylum which is currently being processed. It entitles him to reside in Greece for a six-month period and is renewable at six month intervals. When no address is displayed on the Red Card, asylum seekers are classified as "untraceable". Consequently, the often routine rejection in the first proceedings is simply publicised on a noticeboard. As the deadlines pass and no appeals are made, the rejection becomes final and absolute.

PRO ASYL

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In addition to the 'Red Card' he was also given a handwritten note on which a policeman had written something in Greek, with a red ball-point pen. It later

transpired that this was the address of the Athens Aliens Department (Attica Police Asylum Department, Petrou Ralli 24). No one had told him whose address it was, nor when or why he should go there.

Mr P. was freed on Friday afternoon but was provided with no accommodation, financial support, food or other support. Thanks to the assistance of third parties (private individuals) we were able to provide rough and ready housing over the weekend.

On Monday morning (4th February) Mr P. and I reported to the Attica Asylum Department, Petrou Ralli 24 in Athens at 10am. There were approximately 70 people waiting at the entrance. At 10:30am Mr P. approached the porter's lodge. He showed his 'Red Card'. The policeman on duty sent him away saying he should come back later. Upon a second attempt at 11am another policeman went to the effort of sending for an Iranian refugee, who was able to translate. In the following conversation Mr.P. was informed that he would not gain access to the building until he could provide proof of an address. For this, confirmation of residency signed by the caretaker or the owner was needed. This is a primary precondition of entry to the building. This made the second attempt an equal failure.

On Wednesday 6th February we went to the Attica Police Asylum Department again, this time with lawyer Marianna Tzeferakou. At 10:30am Mr P. was granted access to the building. He was allowed to officially register as having no fixed abode. This is now noted on his 'Red Card'.

Background to the question of access to the Attica Police Asylum Department

Before September 2007 almost 300 people per day wished to register here and apply for asylum. Approximately 120 asylum applications could be registered per day. After September 2007 the daily processing capacity fell to just under 80 cases. The Greek authorities then created a new appointment booking system. For some time now asylum seekers have had to queue up to receive appointments for the following week. Just under 1200 people were present in front of the building on Sunday 27th January 2008, of whom an arbitrary 300 received an appointment. The others were obliged to come back a week later to undergo the same degrading process.

(Source: Conversation with lawyer Giota Massouridou, Group of Lawyers for the Rights of Refugees and Migrants. Monday 4th February 2008)

Lawyers and the UNHCR Greece confirm that there is no free access to the building and therefore to an orderly asylum process. The Ecumenical Program for Refugees, the Group of Lawyers and the UNHCR Greece estimate that without the Sunday appointment issuing system only those asylum seekers accompanied by lawyers or organisations are able to enter the building.

PRO ASYL

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Evaluation

For 9 days, from 23rd January to 1st February 2008, Mr was detained in Athens airport. There exists no lawful reasoning for this detention.

He was questioned without the aid of an interpreter.

It was only on Saturday afternoon (26th January 2008) that the authorities responsible informed lawyer Tzeferakou by telephone of K.P.'s whereabouts. At the time of Ms. Tzeferakou's visit to the airport custody on Sunday 28.01.08 Mr P. had had no opportunity to telephone his German attorney or his parents to inform them of his arrest. Although he possessed money, he was denied both access to the phone and the opportunity to buy a phonecard for many days.

(See PRO ASYL letter to the German Petitions Committee, 31.01.08)

It was only due to a number of interventions: two visits from the lawyer whilst he was in custody, one with an interpreter, one with me, and a personal intervention from the Public Prosecutor that Mr.P. was able to enjoy 'early release'. At this point in time it was not yet foreseeable how long the detention would last.

Mr.P. was released on Friday without being provided with any written or verbal information via an interpreter, advising him where he should go for further registration. Mr.P. was released into homelessness. If we take an overview of the proceedings, including my own monitoring of the events and the intervention of the lawyer the following Wednesday, we see that it was this intervention which enabled Mr.P. to take the next step: to register at least as having no fixed residence.

This shows that without the intervention of a third party, without the intervention of a lawyer and without the intervention of an organisation, Mr.P. would not have obtained this access. In normal circumstances Mr.P. alone would not have been able to enter the building.

By finding it literally impossible to gain access to this building, protection seekers find themselves without any legal rights. Without the efforts of the Greek lawyer, Mr.P. would have been entered into the records as 'untraceable'. Lawyer Tzeferakou tells us that in internal procedures within the authorities, those asylum seekers who do not report to the Aliens Department within five days are simply considered 'untraceable'.

The consequence of this is that Mr.P.'s asylum case would have already been lawfully closed without him ever having had the opportunity to present his grounds for asylum. The simple fact that access to the building is not guaranteed means that those seeking protection are forced out of the asylum procedures without them even realising it.

PRO ASYL

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Even following this registration as having no fixed abode, Mr.P. will continue to be without home or income. No fixed abode means that an application for a bed in a

residence has been forwarded to the appropriate health ministry. However, as the bed capacity in Greece is extremely restricted it is very unlikely that he will receive a place to sleep: At the end of 2006 the UNHCR in Greece recorded having space to accept 770 people for the whole country. According to official sources, in 2007 alone Greece had over 23,000 asylum seekers.

This means Mr.P. will continue to have no accommodation or social welfare benefits. For the foreseeable future he will also not be guaranteed a work permit, as he has no fixed address. A place of residence is also a requirement for receiving a national insurance number. Without a national insurance number he is not allowed to work.

A few remarks on the German embassy 'monitoring' process

Following the deportation on 25th January 2008 PRO ASYL sent a fax to the German embassy in Athens informing them about the P. case. Additionally, on the Friday morning (1st February 2008), shortly after my arrival, we informed the embassy by fax of my presence in Athens and asked for a personal meeting.

I have had numerous telephone conversations with the German embassy, mostly speaking with Ms Schorland. However she is not actually responsible for this matter and so gave me the direct line of the person in charge, Mr Peter Hofmann. According to my sources Mr. Hofmann is the Head of the Consulate Department. In my conversations with Ms Schorland I gave a full report of the P. case. Ms Schorland made notes in order to brief Mr. Hofmann, however she made her scepticism about the 'monitoring process' clear. It should be assumed, she said, that in the first instance the German embassy is responsible for German nationals.

For a long time there was no reply from Mr. Hofmann. Our faxes remained unanswered, and the promise to return our call was never fulfilled.

On 8th February 2008 at 9:45 (local time in Frankfurt) after around 30 fruitless calls, I succeeded in talking to Mr. Hofmann himself.

In our short conversation Mr. Hofmann made himself clear: "You need to address the German Federal Office for Migration and Refugees, responsible for this affair... We do not have anything to do with this". "There is no monitoring procedure". "Greece is a EU member state therefore there is no need for monitoring in Dublin procedures". I referred to the statement of the Federal Office that in addition to the Greek guarantee, supplementary monitoring by the German embassy would be provided (Letter from the Federal Office for Migration and Refugees to the Frankfurt administrative court. 18.01.08). Mr. Hofmann replied that this must be a misunderstanding.

Frankfurt, 8th February 2008

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