



Valletta Harbour, 22 May 2019
EASO/ED/2019/258

Ms. Emily O'Reilly
European Ombudsman
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CS 30403
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Sent by email only to: Registry@ombudsman.europa.eu; [REDACTED]

Subject: Complaint 1139/2018/MDC on the alleged misconduct of staff of the European Asylum Support Office (EASO) when conducting interviews with asylum seekers in the Greek hotspots

Dear Ms O'Reilly,

I refer to your letter dated 8 March 2019, and to your questions concerning the complaint in subject, which I will endeavour to address below in the order received.

1. With regard to the case of Mr. X (Case [REDACTED]), it is important to first clarify the role of EASO in support of the Greek border and regular procedures and, in particular, the function of the quality feedback report.

EASO has no authority to issue or take first instance decisions in the Greek asylum procedure. The role of EASO is to provide *support* to the Greek Asylum Service (GAS). In the Operating Plan agreed by EASO and Greece, EASO's support to the GAS under the border procedure includes conducting of interviews and the drafting of opinions. EASO is not in a position to in any way pressure or influence the final decision of the GAS, neither is EASO privy to the outcome of the first instance decision or the reasons therefor. Moreover, the GAS can at its own discretion, decide to call an applicant again for an interview conducted by GAS staff. In so doing, the GAS may draw from the opinion of EASO case officers to motivate the first instance decision, but ultimately it forms its own decision, and can to that effect formulate its own reasons for accepting or rejecting a claim. Any other relation would overstep the boundaries of EASO's mandate as defined in Article 2(6) of EASO Regulation (EU) No 439/2010.

In what concerns the Quality Feedback reports, within the structure of EASO's support, first-line quality assurance is carried out by EASO team leaders, who are in regular contact with the responsible staff of the GAS. Quality Feedback reports are essentially an *ex-post evaluation* of 'closed cases', or those case files which have been handed back by EASO to the GAS. The ex-post

evaluation consists of anonymised files prepared by EASO staff based at the Agency's headquarters in Malta, and are intended to improve the overall quality of EASO's support to the GAS and not to intervene in individual 'open' cases. This set-up was again established to avoid a situation where EASO oversteps its mandate, which is limited to one of support.

Should a mistake be identified on the part of EASO, the GAS has discretion to decide whether to refer the case back to EASO or correct this mistake when issuing a first instance decision. A decision can also effectively be appealed in line with the appeals procedure.

2. In response to your second question, EASO has no mandate to facilitate the return of an asylum-seeker after that person's application has met with a final rejection and that person returned to his/her country of origin, or to a safe third country.

For details on the first instance decision in relation to the case of Mr. X (case [REDACTED]) and any follow-up actions relating thereto, one would need to refer to the competent Greek national authorities.

3. As rightly mentioned in your letter, the proposal for a new Regulation establishing a European Union Asylum Agency (EUAA) foresees the setting up of a formal complaints mechanism linked to the function of a Fundamental Rights Officer. Since negotiations on the Proposal are still ongoing, EASO initiated preparations in early 2019 to set up a complaints mechanism, which would cover EASO activities, including EASO operations. This complaints mechanism should be easily accessible, providing clear information on the scope of its application (including referrals to other responsible parties in case of inadmissible complaints), and offer transparency in the way complaints will be processed internally. An internal discussion on the complaints mechanism is ongoing, I will be pleased to follow-up with further details on the official implementation of the mechanism in due course. In the meantime, complaints from a variety of stakeholders received through different channels continue to be registered and addressed accordingly.

4. Since the start of 2019, Quality Feedback reports are being shared with the GAS. Again, the intent of these reports is to improve the overall quality of EASO's support to the GAS.

5. The Quality Feedback reports are also shared with the EASO team leaders, responsible for first line quality assurance, and with the case officers. The case officers have the lead over the interview and have the authority to issue direct instructions to interpreters during the process to ensure that the interview takes place under appropriate conditions. In cases of persisting difficulties, the case officer can request the assistance of the team leader and EASO coordinator, who oversee the performance of the interpreters at the hotspots or work locations.

To reiterate, the Quality Feedback report is not intended as a tool to monitor the work of interpreters. The reports are based on anonymised copies of the interview transcripts and the opinions. In case it is apparent from the interview transcript that the case officer did not take the necessary measures to address any identified shortcomings by the interpreter, this will be reflected in the Quality Feedback report. This feedback is then given to the case officers, who are responsible for ensuring that the expected standards are adhered to by interpreters during the interview.



As elaborated in my letter to the European Ombudsman dated 20 September 2018, EASO is also supporting the interpreters directly through dedicated and extensive training programmes.

I trust that the above sufficiently answers your questions. I remain at your disposal for any further information required on the subject.

Yours sincerely,

