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Meeting: 1288<sup>th</sup> meeting (June 2017) (DH)

Communication from a NGO (19/05/2017) in the case of M.S.S. v. Belgium and Greece (Application No. 30696/09) (160 pages)

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1288<sup>e</sup> réunion (juin 2017) (DH)

Communication d'une ONG (19/05/2017) dans l'affaire M.S.S. c. Belgique et Grèce (Requête n° 30696/09) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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**SUBMISSION OF THE GREEK COUNCIL FOR REFUGEES  
TO THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE  
IN THE CASE OF M.S.S. v. BELGIUM & GREECE  
(Appl. No 30696/09) AND RELATED CASES  
1288th (Human Rights) meeting (6-8 June 2017)**

The Greek Council for Refugees (GCR) is a Greek Non-Governmental Organization, which has been active since 1989, providing legal assistance and social support to persons in need of international protection in Greece. During the previous years GCR has communicated to the Committee of Ministers of the Council of Europe a series on selected issues, within the framework of the execution of the ECtHR judgment M.S.S. v. Belgium and Greece (appl. no. 30696/09) according to art. 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements. Most recently, with a communication send in May 2016<sup>1</sup>, GCR was providing information to the Committee regarding selected issues arose right after the closure of the Western Balkan route and the entry into force of the Statement of March 18, 2016 between the Heads of State or Government of the Member States of the European Union and the Turkish Prime Minister, the so-called 'EU-Turkey Statement'<sup>2</sup>. With the present submission, GCR means to provide the Committee with updated information on the situation of persons in need of international protection in Greece, by taking into consideration relevant developments that have occurred during the previous period.

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<sup>1</sup> DH-DD (2016) 725, 1265 meeting (20-22 September 2016), (DH) - Communication from a NGO (Greek Council for Refugees) (30/05/2016) in the case of M.S.S. against Greece (Application No. 30696/09).

<sup>2</sup> General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16, *NF, NG and NM v. European Council*, Order of 28 February 2017.



In March 2017, the updated AIDA Country Report on Greece – written by GCR- has been published under the European Council for Refugees and Exiles (ECRE) managed Asylum Information Database platform<sup>3</sup>. This report provides a thorough analysis of the transformation of the Greek asylum system in the light of the closure of the Western Balkan route and the EU-Turkey statement. Pursuant to Art 9(2) of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, GCR would like to submit to the Committee of Minister the recent updated AIDA Country Report on Greece- annexed to the present document, with a view to assisting the latter in its evaluation of the measures taken to date by the Greek Government to fulfill its obligations to implement the Grand Chamber’s judgment in the case of M.S.S. v. Belgium and Greece.

Without underestimating positive developments that took place the period since GCR’s latest submission in May 2016, and notably the increase of the Asylum Service staff, the establishment of new Regional Asylum Offices and Asylum Units, the pre-registration exercise, the increase of the reception capacity, the granting of a residence permit on humanitarian grounds for appellants under the ‘old’ procedure (PD. 114/2010) in case that the examination was pending for more than 5 years by April 2016 and the facilitation of the access to the labour market for asylum seekers, which is however constrained due to the overall economic recession, significant shortcomings and issues of concern persist. To this respect, the entry into force of the EU-Turkey Statement has an important impact on the functioning of the Greek Asylum System and the protection standards. Key issues, as described on the AIDA Country Report on Greece and more recent sources, if stated, can be summarized as follows:

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<sup>3</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, March 2017, [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_gr\\_2016update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2016update.pdf).



**1. Second Instance Appeals Committees amendment:**<sup>4</sup> The reform of the asylum system in Greece and the implementation of a fair and effective asylum procedure has been a long-standing commitment of the Greek Authorities already since the Greek Action Plan on Asylum and Migration in 2010. The establishment of the new Asylum Service and the Appeals Authority were important steps in that direction. However, in June 2016, following reported pressure by the EU with regard to the implementation of the EU-Turkey statement and the fact that a very small number of second-instance decisions had approved the first-instance decisions on inadmissibility, national legislation regulating the establishment and the functioning of the Second Instance Appeals Committees under the Appeal Authority was (re)amended (L. 4399/2016, G.G. 117/A/22-6-2016), two months after the initial piece of legislation was issued (L. 4375/2016, G.G. 51/A/3-4-2016). This amendment has been highly criticized by human rights actors, including the Greek National Commission for Human Rights.

According to the data made available by the Appeals Authority, since the launch of the operation of the new Appeals Committees (21 July 2016) and by 31 March 2017, the recognition rate of international protection is below 1%.

In particular, international protection recognition rate from 21 July 2016 and by 31.12.2016 is no more than 0,4 %<sup>5</sup>. Respectively, international protection rate from 1.1.2017 and by 31.3.2017 is no more than 0,8 %<sup>6</sup>.

	Number of decisions on Appeals (on the merits)	Decisions rejecting the Appeal (on the merits)	Refugee status	Subsidiary protection	Humanitarian status
21.7.2016-31.12.2016	1216	1201	5	1	9
1.1.2017-31.3.2017	868	857	3	4	4

*Appeals Authority, Information provided to GCR, 9 February 2017 and 10 May 2017.*

<sup>4</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp. 39-44.

<sup>5</sup> Appeals Authority, *Information provided to GCR*, 9 February 2017.

<sup>6</sup> Appeals Authority, *Information provided to GCR*, 10 May 2017.



These findings regarding the international protection recognition rate of the new second instance Appeals Committees are in glaring discrepancy with the outcome of the second-instance procedure of the previous years (2014: 16,1% recognition rate; 2015: 15,9% recognition rate), and also the EU-28 average recognition rate at second instance in 2016.<sup>7</sup>

Without underestimating the fact that available data with regard to the decisions of the new Appeals Authority Committees concern a relatively limited period of time (21 July – 31 March 2016), and the particularities of the asylum procedure in Greece while this period,<sup>8</sup> the extremely low recognition rate on second instance may be an alarming finding as to the operation of an efficient and fair asylum procedure in Greece and as of the obligations of the Greek authorities under art. 3 in combination with art. 13 ECHR. To this regard, it should be noted that, in May 2017, the ECtHR has granted an interim measure in case of an Iranian asylum seeker whose application was rejected on second instance by the Appeals Committees.<sup>9</sup>

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<sup>7</sup> Eurostat, *Asylum Statistics*, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum\\_statistics#Decisions\\_on\\_asylum\\_applications](http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics#Decisions_on_asylum_applications); EU -28 average of positive final decisions based on appeal or review in 2016 was 17% (incl. refugee status, subsidiary protection, and humanitarian status). Respectively recognition rate of second instance Decisions of the new Appeals Committees (incl. refugee status, subsidiary protection, and humanitarian status) was 1,23 % (21.7.2016-31.12.2016) and 1,26 % (1.1.2017-31.3.2017).

<sup>8</sup> From July 2016 and by December 2016, the Asylum Service on the Eastern Aegean Islands was only registering and processing applications by specific nationalities with low recognition rate (under 25%) such as Pakistan, Bangladesh, Morocco, Algeria or Tunisia and applications of Syrian nationals examined on admissibility. However, it should be mentioned that recognitions rate in second instance are significant low even for applicants belonging to these nationalities. For example, recognition rate for Pakistani nationals on second instance was 10.7%, since the establishment of the Appeals Authority in 2013 and by the end September 2015 (see AIDA, Country Report Greece: Fourth Update, November 2015, p. 46). The equivalent international protection recognition rate for Pakistani nationals under the new Appeals Committees was no more than 0.3 % (2 out of 572/21.7.2016-31.12.2016) and 0,2 % (1.1.2017-31.3.2017).

<sup>9</sup> Efsyn.gr, *Μήνυμα ΕΔΔΑ κατά των απελάσεων*, 2.5.2017, <http://www.efsyn.gr/arthro/minyma-edda-kata-ton-apelaseon>.



A further reform in March 2017 enabled EASO staff to assist the Appeals Committees in the examination of appeals<sup>10</sup>. According to the amendment, EASO staff will have access to the file and will be entrusted with the drafting of a detailed and in-depth report, that will contain a record and edit of the facts of the case along with the main claims of the appellant, as well as a matching of said claims ('αντιστοίχιση ισχυρισμών') with the country of origin information that will be presented before the competent Committee in order to decide. Concerns have been raised by civil society organizations regarding the compliance of this amendment with the guarantees of independence and impartiality.<sup>11</sup>

**2. Free Legal Assistance:**<sup>12</sup> Procedure for the establishment of a free legal aid scheme in Appeals stage under auspices of the Greek authorities is still pending. In September 2016 a Ministerial Decision was issued by which the terms and the conditions for the provision of free legal assistance in appeals procedure were determined<sup>13</sup>. Subsequently, in March 2017, a call was issued for the creation of a lawyers' record for the provision of free legal aid in the appeals procedure. According to the call a total number of 28 lawyers will be register for the provision of legal aid in Appeals stage all over the country<sup>14</sup>. However, said procedure has not been completed yet. Thus and despite these developments, Greek authorities still do not comply with their obligation under national legislation and the recast Asylum Procedures Directive. In practice free legal aid is only provided by NGOs according to their capacity and availability of funding and the scope of these services remain limited if the needs throughout the whole asylum procedure (registration of the application, first and second instance, and judicial review) are taken into consideration. *Inter alia*, GCR and NGO Metadrasi, provide free legal assistance to asylum seekers in second instance procedures and exceptionally in first instance, through UNHCR funding

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<sup>10</sup> Art. 101 of L. 4461/2017.

<sup>11</sup> Asylum Campaign, *Σχετικά με την προτεινόμενη τροπολογία στο Ν. 4375/2016*, 15.3.2017, <http://asylum-campaign.blogspot.gr/2017/03/43752016.html>, (in Greek).

<sup>12</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp.47-48.

<sup>13</sup> Ministerial Decision 12205/2016, G.G. 2864/B/9-9-2016

<sup>14</sup> Decision of the Director of the Asylum Service, 5713/29.3.2017.



programmes. These programmes aim at supporting appellants on the islands and a number of appellants in the mainland.

**3. Capacity of the asylum service:**<sup>15</sup> As mentioned above, during 2016 the Asylum Service has tripled in size. A number of 654 employees were active as of 31 December 2016, compared to 218 staff members at the end of 2014 and 290 at the end of 2015<sup>16</sup> and seven Regional Asylum Offices (RAO) and 11 Asylum Units (AU) were operational as of 31 December 2016. However, despite its rapid increase in human resources, the Asylum Service, as reported, remains understaffed by taking into consideration current needs<sup>17</sup>. To this regard, it should be mentioned that, in the third quarter of 2016, Greece had the largest number of asylum seekers per capita after Germany.<sup>18</sup> As underlined in the Commission Recommendation C (2016) of 8.12.2016, “given the scale of the increase in the number of asylum applications in Greece, it is not yet clear whether the current and planned staffing levels for the Asylum Service are sufficient for what is required to process the current and likely future case-load in a timely and adequate manner”. In UNHCR’s Recommendations for Greece in 2017, it is highlighted that “first instance decisions for those pre-registered during the summer of 2016 will take approximately two years. The lack of capacity to fully process asylum claims within a reasonable timeframe needs to be addressed”.<sup>19</sup>

Furthermore, the impact of the extension of the Asylum Service on the quality of the procedure should be also assessed. In 2016, GCR has documented a number of first instance cases which raised concerns as of the quality of the first instance procedure.<sup>20</sup> By

<sup>15</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp. 27-29.

<sup>16</sup> Asylum Service, *The work of the Asylum Service in 2016*, 17.2.2017, <http://asylo.gov.gr/en/?p=1946>.

<sup>17</sup> Amna.gr, *Περίπου 10.000 πρόσφυγες και μετανάστες υπό καθεστώς ασύλου θα παραμείνουν στην Ελλάδα*, 3.4.2017, <http://www.amna.gr/article-pagination.php?page=6&id=149143>.

<sup>18</sup> Asylum Service, *The work of the Asylum Service in 2016*, *ibid.*

<sup>19</sup> UN High Commissioner for Refugees (UNHCR), *UNHCR Recommendations for Greece in 2017*, February 2017, <http://www.refworld.org/docid/58da795e4.html>.

<sup>20</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp. 38-39.



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taking into consideration the rapid increase of the Asylum Service staff, and the fact that staff experience of new employees should be '*urgently [...] built*',<sup>21</sup> the quality of the first instance procedure should be duly monitored.

**4. Access to the Asylum Procedure:**<sup>22</sup> Without underestimating the important number of applications registered in 2016 and the first trimester of 2017 and the pre-registration exercise, which gave access to the asylum for an important number of persons stranded up in Greece after the closure of the 'Balkan route', access to the asylum procedure in the mainland, still remains a matter of concern due to the need for applicants to have a Skype appointment prior to appearing before the Asylum Service. The Greek Ombudsman repeats in its 2016 Annual Report that access to the asylum procedure through Skype has been assessed as "a restrictive system which seems to contradict the principles of full, constant and unobstructed access to the asylum procedure."<sup>23</sup> As correctly acknowledged by the Greek authorities, Skype line in order to access the Asylum Service face numerous technical problems.<sup>24</sup> However, according to the practice, as a rule access to the asylum service is *only* taking place after a Skype appointment is fixed for an important number of potential applicants including persons belonging to nationalities representing the most populous asylum seekers groups, i.e. *inter alia* Arabic, Farsi or Dari speakers,<sup>25</sup> and thus access to the asylum procedure still remains a matter of concern. Moreover access to the asylum from detention stills remain a matter of concern, as the application of a detainee having expressed his or her will to apply for asylum is registered only after a certain period, exceeding in certain occasion the period of several weeks.

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<sup>21</sup> Commission Recommendation C(2016) 8525 of 8 December 2016 on the resumption of transfers to Greece under Regulation (EU) No 604/2013, <http://bit.ly/2kLks1L>, recital 16.

<sup>22</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp. 31-33 and 34-35.

<sup>23</sup> Greek Ombudsman, *Annual Report 2016*, <http://bit.ly/2nkMacq>, p. 32.

<sup>24</sup> DH-DD (2017)324 / 17 March 2017 (CM-Public) 1288th meeting (June 2017) (DH) - Communication from Greece (15/03/2017) in response to the decision of the CM at its 1222nd meeting (March 2015) concerning the cases of M.S.S. v. Belgium and Greece and RAHIMI v. Greece (Applications No. 30696/09, 8687/08), <http://bit.ly/2p3HITZ>, p. 17, "[i]t is true that the system faces numerous technical problems".

<sup>25</sup> Asylum Service, *International Protection application registration schedule*, 13.3.20174, <http://asylo.gov.gr/en/wp-content/uploads/2017/03/Skype-announcement-13.3.17-2.pdf>; see also Asylum Service, *What is the procedure*, [http://asylo.gov.gr/en/?page\\_id=72](http://asylo.gov.gr/en/?page_id=72).



**5. Fast-Track Border Procedure:**<sup>26</sup> L. 4375/2016 introduced a fast-track border procedure for applicants arrived on the Greek islands after the 20<sup>th</sup> March 2016 and subject to the EU-Turkey Statement. Said procedure does not provide adequate safeguards.<sup>27</sup> *Inter alia*, pursuant to the fast-track border procedure (a) the examination of the asylum applications shall be concluded in a very short time period, not exceeding two weeks, which may result in the underestimation of the procedural and qualification guarantees, (b) first instance interviews may also be conducted by EASO personnel. In practice, during 2016, the fast-track border procedure has been variably implemented depending on the profile and nationality of the asylum seekers concerned.

A recent case report issued by the European Centre for Constitutional and Human Rights (ECHR),<sup>28</sup> based on an analysis of a series of admissibility interviews conducted on the Greek Islands by EASO officers after 20 March 2016, concludes that “[t]he conduct of interviews by EASO officials fails to respect core standards of fairness [...] The interviews do not permit a fair assessment of individual cases, they do not give room for a thorough investigation of vulnerabilities and they lack a critical evaluation as to whether Turkey qualifies as a safe third country for the person concerned”. Moreover ECHR has noted that EASO’s involvement in the decision making process of applications for international protection has no legal basis in the applicable Regulation (EU) No 439/2010 establishing the agency” and that “EASO’s conduct of interviews amounts to a case of maladministration in violation of the right to a fair hearing guaranteed under Art 41(2a) EU Charter of Fundamental Rights. On April 2017, ECHR submitted a complaint to the EU Ombudsman on EASO’s involvement in inadmissibility decisions.

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<sup>26</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp. 58-65.

<sup>27</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), *UN Special Rapporteur on the human rights of migrants concludes his follow up country visit to Greece*, 17 May 2016, <http://bit.ly/29RBj4X>.

<sup>28</sup> European Centre for Constitutional and Human Rights (ECHR), Case Report, *EASO’s influence on inadmissibility decisions exceeds the agency’s competence and disregards fundamental rights*, April 2017, <http://bit.ly/2pSEmTS>.



Further, as far as GCR is aware, as a rule all first-instance decisions issued to Syrian nationals under Article 60(4) L 4375/2016, i.e. with the exception of those concerning persons belonging to vulnerable groups or Dublin family reunification cases, reject the application as inadmissible on the basis that Turkey can be considered a safe third country or first country of asylum. These first-instance negative decisions have an identical and short reasoning, thereby raising concerns as to whether the procedure followed complies with the obligation to apply the concept of safe third country/first country of asylum under an individualised assessment of each case. These decisions are mainly based on the provisions of the Turkish law and the assurances given by the Turkish authorities and the European Commission, without assessing the prevailing situation in Turkey, contrary to the jurisprudence of the European Court of Human Rights.<sup>29</sup>

A new policy entered into force since April 2017, critically jeopardize the right on appeal of applicants with a first instance negative decision under the fast-track border procedure. In particular, asylum-seekers on the Greek islands who exercise their right on appeal against a negative asylum decision are excluded from the possibility of participating later on in the IOM's Assisted Voluntary Return and Reintegration (AVRR) program. Applicants, who exercise their right to appeal against a negative asylum decision, are excluded from the possibility of participating later on in the IOM's Assisted Voluntary Return and Reintegration (AVRR) program and if their appeal is rejected, they face readmission to Turkey. As underlined in a Public Statement of 15 NGO's, this new policy jeopardize the right to a fair asylum process as provided by EU law, and also the right to return to his/her own country, as provided by the Universal Declaration of Human Rights and the ICCPR<sup>30</sup>. Furthermore, this policy may present a risk of *refoulement* (chain *refoulement*).

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<sup>29</sup> European Court of Human Rights, *Saadi v. Italy*, Appl. No. 37201/06, 28 February 2008, paras. 147-148.

<sup>30</sup> Action Aid et al., *15 NGOs Decry New Policy Limiting Asylum Seekers in Exercising their Right to Appeal*, 9.5.2017, <http://www.gcr.gr/index.php/en/news/press-releases-announcements/item/662-final-joint-ngo-statement-on-avrr>.



## 6. Reception conditions:<sup>31</sup>

- **Reception in the mainland:** The imposition of border restrictions and the subsequent closure of the so called Western Balkan route in March 2016, created an unprecedented burden on the Greek reception system. Without underestimating the efforts made in order the overall accommodation/reception capacity to be increased, a number of sources underline that substandard living conditions prevail in a number of sites initially created as temporary accommodation camps in the mainland. As *inter alia* recently reported “[t]he conditions in a number of sites in Greece, including the lack of adequate security, expose women, men, boys, and girls to sexual violence, abuse, and exploitation as well as domestic violence”.<sup>32</sup> The Greek National Commission for Human Rights with a public Statement as of May 2017 has called the authorities “to shut down immediately large-scale accommodation camps and unofficial accommodation structures which do not meet minimum standard for a decent living”.<sup>33</sup> As of reception capacity under the National Center for Social Solidarity is concerned, it was only a percentage of 38% out of the total 14,073 accommodation requests that was satisfied from 1.1.2016 to 31.12.2016.

- **Reception on the islands:** “Hotspot facilities on the islands are not only overcrowded but have substandard material conditions in terms of sanitation and hygiene, access to essential services such as health care, in particular for vulnerable groups. Security is insufficient, and tensions persist between different nationalities”, has been underlined by the EU Commission’s Recommendation in December 2016<sup>34</sup>. Despite the efforts made during 2017, in order to ameliorate conditions on the islands, it has been recently reported that “challenges with overcrowding and insecurity remain, and sub-standard

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<sup>31</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp. 95-109 and 113-115.

<sup>32</sup> UN High Commissioner for Refugees (UNHCR), *UNHCR Recommendations for Greece in 2017*, February 2017, <http://www.refworld.org/docid/58da795e4.html>.

<sup>33</sup> National Commission for Human Rights, *Press Release as of the prolonged situation in Elliniko*, 4.5.2017, [http://www.nchr.gr/images/pdf/nea\\_epikairothta/deltia\\_tupou/DT%20Elliniko.pdf](http://www.nchr.gr/images/pdf/nea_epikairothta/deltia_tupou/DT%20Elliniko.pdf) (in Greek).



conditions must still be improved. Protection risks for people staying on the islands continue".<sup>35</sup> In May 2017 the total number of persons restricted on the islands due to the implementation of the EU-Turkey Statement was still exceeding the overall reception capacity (12,889 people/ 8,645 overall capacity).<sup>36</sup> To this end, the First Instance Court of Thessaloniki has recently ruled in a case supported by GCR that the accused persons, two third country nationals who had left Leros Island despite the geographical limitation and their obligation to remain there should be pronounced innocents. According to the Court, their act to leave Leros Island and consequently to violate the geographic limitation was committed in order to safeguard their personal health and integrity and thus the conditions of a state of emergency (Art. 25 Greek Penal Code) were fulfilled.<sup>37</sup>

**7. Detention:**<sup>38</sup> The number of third country national under administrative detention has been significantly increased during the period following the entry into force of the EU-Turkey Statement. In November 2015, the number of administratively detained third-country nationals in pre-removal facilities was reported at 504. In January 2017, a number of about 2000 persons were detained at the mainland pre-removal centres. In March 2017 the number of detainees in pre-removal facilities was about 2,750<sup>39</sup>. Additional detention capacity is about to be created on the islands, according to the recommendations of the Joint Action Plan for the implementation of the EU-Turkey Statement<sup>40</sup>. Indeed a new pre-removal detention centre in Kos Island with a capacity of about 150 places started operating by the end of March 2017.

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<sup>34</sup> Commission Recommendation C (2016) 8525 of 8 December 2016 on the resumption of transfers to Greece under Regulation (EU) No 604/2013, <http://bit.ly/2kLkS1L>.

<sup>35</sup> UN High Commissioner for Refugees (UNHCR), *Aegean Islands Factsheet*, March 2017, <https://data2.unhcr.org/en/documents/download/56278>.

<sup>36</sup> UN High Commissioner for Refugees (UNHCR), *Europe Refugee Emergency Daily map indicating capacity and occupancy (Governmental figures) as of 02 May 2017*, <https://data2.unhcr.org/en/documents/download/56242>.

<sup>37</sup> Single Judge First Instance Court of Thessaloniki, Decision 2627/2017.

<sup>38</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp. 117-135.

<sup>39</sup> EU Fundamental Rights Agency (FRA), *Monthly data collection: April 2017*, <http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/april-2017>, p. 59.

<sup>40</sup> European Commission, *Joint Action Plan on the implementation of the EU-Turkey Statement*, COM (2016) 792, 8 December 2016, para. 18.



The number of detainees above does not include persons detained in police stations. According to GCR findings, despite the commitments of the authorities, detention in police stations is taking place in several cases for prolonged periods, exceeding the strictly necessary period for the transfer to a specialized center. The number and capacity of police stations or other detention facilities, apart from pre-removals centres is not officially known. However, CPT found in its visit of April 2015 that apart from persons detained in pre-removal detention facilities, “another 2,000 irregular migrants were being held in police stations and special holding facilities around the country for a nominal capacity of a little more than 5,500”.<sup>41</sup> Moreover:

- As stated by the Greek Ombudsman in its 2016 Annual Report, “on 7 June 2016 there were 114 detainees at Police Stations in Attica Region” while it is noted that the detention facilities of Aliens Police Directorate of Thessaloniki are consistently used as a detention facility for third-country nationals.<sup>42</sup>
- Respectively, Greek Ombudsman has found on June 2016 that half of the detainees in Omonoia Police Station remained there for a period between 15 and 30 days<sup>43</sup>.
- In March 16, 2017, a number of 62 third country nationals were reported detained at the police station of Kos, which has a capacity for 22 detainees.<sup>44</sup>
- Amnesty International has recorded the case of a 21 year old Syrian applicant who remained detained at the Police Station in Lesbos for seven months in order to be

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<sup>41</sup> Committee for the Prevention of Torture (CPT), *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 23 April 2015*, 1 March 2016, CPT/Inf (2016) 4, <http://www.refworld.org/docid/56e01e594.html>, para. 109.

<sup>42</sup> Greek Ombudsman, *Return of third-country nationals: Special Report 2016*, March 2017, <https://www.synigoros.gr/resources/ee2016-16-allodapoi.pdf>, (in Greek).

<sup>43</sup> Greek Ombudsman, *Prevention of torture and ill-treatment: Special Report 2016*, March 2017, <https://www.synigoros.gr/resources/ee2016-17-basanistiria.pdf>, (in Greek).

<sup>44</sup> Dimokratiki.gr, *Ασφυξία στα κρατητήρια του ΑΤ Κω*, 16.3.2017, <http://www.dimokratiki.gr/16-03-2017/asfuxia-sta-kratitiria-tou-t-ko-kidonakis-den-echoun-gini-apelasis-edo-ke-6-mines/>, (in Greek).



readmitted to Turkey<sup>45</sup>. As far as GCR is aware the person in question, has been transferred in Moria's Hotspot detention section and remains detained.

Cases of detention of persons belonging to vulnerable groups, including victims of torture, unaccompanied children, families with children and single parent families has also been documented by GCR .

Recently the Greek Ombudsman, Mr. Potakis, had stated that the return to a policy of administrative detention is highly problematic in the light of human rights protection. He underlined that "in combination with the delay of the examination of asylum applications, we fear that it will lead to an unacceptable extension of detention duration beyond any reasonable limit and any proportionality".<sup>46</sup>

Detention conditions remain substandard and the Greek authorities have not implemented the relevant recommendation of international monitoring bodies to this regards. For example, the relevant recommendations of the CPT included in its 2013 and again in its 2016 Report with regards the operation of the pre-removal centres have not been implemented<sup>47</sup>. Inter alia:

- GCR has documented that the amount of living space in Corinth pre-removal centre is less than 4m<sup>2</sup> per person and detainees are still accommodated in dormitories each

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<sup>45</sup> Amnesty International, *Να απελευθερωθεί άμεσα ο Noori από παράνομη κράτηση*, 29.3.2017, <https://www.amnesty.gr/action/petitions/20440/na-apeleytherothei-amesa-o-noori-apo-paranomi-kratisi-sti-lesvo>, (in Greek).

<sup>46</sup> Efsyn.gr, *Ας αναρωτηθούμε τι συνέπειες μπορεί να επιφέρει η γκετοποίηση χιλιάδων ανθρώπων*, 27.3.2017, <http://www.efsyn.gr/arthro/anarotithoyme-ti-synepeies-mporei-na-epiferei-i-gketopiisi-hiliadon-anthropon>, (in Greek); Proasyl, "Greece: Back to detention", 13.4.2017, <https://www.proasyl.de/en/news/greece-back-to-detention/>.

<sup>47</sup> Committee for the Prevention of Torture (CPT), *ibid.*, para. 113, "In sum, the concept for the operation of pre-departure centres still remains based on a security approach with detainees treated in many respects as criminal suspects. In this respect, the recommendations put forward in the 2013 report have not been implemented".



measuring 35m<sup>2</sup>, with six sets of bunk beds/12 persons, despite the recommendation of CPT “the dormitories [to] accommodate no more than four persons”.<sup>48</sup>

- Tavros (Petrou Ralli) pre-removal facility is still in use for pro-longed periods of detention.<sup>49</sup>
- There is a lack of appropriate medical services. Due to funding gaps, medical services are provided “on a voluntary basis” by the Hellenic Centre for Disease Control and Prevention (KEELPNO) or public hospitals. In Amygdaleza and Corinth pre-removal centres doctors are not present on a daily basis, despite the relevant CPT recommendation.<sup>50</sup>

Moreover, as illustrated above, detention in police stations for prolonged periods persists. To this end, it should be noted that prolonged detention in police stations *per se* is not in line with the obligations of the Greek authorities under Article 3 ECHR.<sup>51</sup>

Furthermore, detention conditions on the islands are a matter of concern. Apart from prolonged detention in police stations which *per se* is incompatible with fundamental human rights guarantees (as above), unacceptable detention conditions are also reported to other facilities. This is for example the case of the detention centre inside the Moria Hotspot Facility in Lesvos (the so called ‘section B’), where living conditions and structures are reported by the Ombudsman as substandard<sup>52</sup>.

**8. Unaccompanied Minors (UAMs):**<sup>53</sup> Despite the increase of the reception capacity for UAMs during the previous period, the latter is still insufficient and significant gaps as of

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<sup>48</sup> Committee for the Prevention of Torture (CPT), *ibid.*, p. 67.

<sup>49</sup> Committee for the Prevention of Torture (CPT), *ibid.*, para. 114, “[t]he conditions of detention remained totally inadequate for holding irregular migrants for prolonged periods”

<sup>50</sup> Committee for the Prevention of Torture (CPT), *ibid.*, p. 67, “[i]n addition, urgent action should be taken to ensure that a doctor and at least one nurse are present in the centre every day, including on weekends”.

<sup>51</sup> See European Court of Human Rights, *Ahmade v. Greece*, Appl. No 50520/09, 25 September 2012, para 101.

<sup>52</sup> Greek Ombudsman, Prevention of torture and ill-treatment: Special Report 2016, March 2017, <https://www.synigoros.gr/resources/ee2016-17-basanistiria.pdf>, in Greek.

<sup>53</sup> Asylum Information Database (AIDA), Country Report Greece, 2016 Update, *ibid.*, pp. 70-73, 74-75, 113-115.



their protection persist. According to the data provided by the National Center for Social Solidarity (NCSS/EKKA), the number of UAM present in Greece on May 4, 2017 was estimated of about 2000 persons. At that time, a number of 1173 accommodation places for UAM were filled (and 129 places were in the process to be filled), while 996 unaccompanied children were waiting for a place. Out of the unaccompanied children on the waitlist, 168 were in closed facilities (Reception and Identification Centres, i.e. the so called Hotspot Facilities) and 53 detained under “protective custody”.<sup>54</sup>

Crucial issues as of the protection of UAMs include:

- The lack of an effective guardianship system for UAMs.
- The lack of any legal framework providing age assessment procedures for UAMs under the responsibility of the Greek police and weaknesses in the age assessment procedure within the scope of Reception and Identification Service and asylum procedure.
- The lack of any legal framework for the determination of the best interest of the child.
- Greek law does not explicitly prohibits the detention of UAM and children are detained in practice, contrary to *inter alia* the UNHCR’s position that “detention is never in their best interests”.<sup>55</sup>

GREEK COUNCIL FOR REFUGEES  
Athens, 18 May 2017

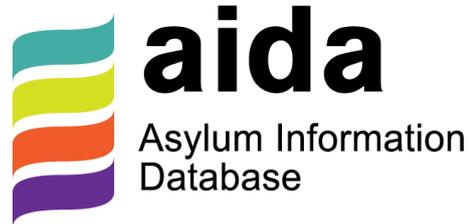
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<sup>54</sup> National Centre for Social Solidarity (NCSS/EKKA), *Situation Update: Unaccompanied Children (UAC) in Greece*, 4 May 2017, <https://data2.unhcr.org/en/documents/download/56353>.

<sup>55</sup> UN High Commissioner for Refugees (UNHCR), *UNHCR’s position regarding the detention of refugee and migrant children in the migration context*, January 2017, <http://www.refworld.org/docid/5885c2434.html>.

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# Country Report: Greece



2016  
Update



## Acknowledgements & Methodology

The present updated report was written by Alexandros Konstantinou, Athanasia Georgopoulou and Aikaterini Drakopoulou, lawyers – members of the Greek Council for Refugees (GCR) Legal Unit.

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This report draws on information provided by the Asylum Service, the Appeals Authority and the Appeals Committees (PD 114/2010), the Hellenic Police, national and international jurisprudence, reports by European Union institutions, international and non-governmental organisations, as well as GCR's observations from practice.

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The information in this report is up-to-date as of 31 December 2016, unless otherwise stated.

## The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 20 countries. This includes 17 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



This report is part of the Asylum Information Database (AIDA) funded by the European Programme for Integration and Migration (EPIM), a collaborative initiative of the Network of European Foundations.



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## Glossary

<b>EU-Turkey statement</b>	Statement of Heads of State or Government of 18 March 2016 on actions to address the refugee and migration crisis, including the return of all persons irregularly entering Greece after 20 March 2016 to Turkey.
<b>Objections</b>	Procedure for challenging detention before the President of the Administrative Court, whose decision is non-appealable
<b>Old Procedure</b>	Asylum procedure governed by PD 114/2010, applicable to claims lodged before 7 June 2013
<b>Police note</b>	Document issued by police authorities (υπηρεσιακό σημείωμα) to certify the date of irregular entry into Greek territory, accompanied by an order to leave the territory. Deadlines for leaving the country differ depending on nationality or practice in the location of issuance of the note.
<b>Pre-registration</b>	Programme launched between 8 June and 30 July 2016 by the Asylum Service, assisted by UNHCR and EASO, to conduct a basic registration of intentions to apply for asylum ("making") in the mainland, before conducting a full registration of asylum applications ("lodging").
<b>Reception and Identification Centre</b>	Formerly First Reception Centre, closed centre in border areas where entrants are identified and referred to asylum or return proceedings. Six such centres exist in <b>Fylakio, Lesvos, Chios, Samos, Leros</b> and <b>Kos</b> .
<b>Special border procedure</b>	Expedient version of the border procedure, governed by Article 60(4) of Law 4375/2016 and applicable in exceptional circumstances on the basis of a Ministerial Decision.
<b>Αίτηση ακυρώσεως</b>	Application for judicial review before the Administrative Court of Appeals
<b>Έφεση</b>	Judicial appeal before the Council of State

## List of Abbreviations

<b>AIRE</b>	Advice on Individual Rights in Europe
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>AMKA</b>	Social Security Number   Αριθμός Μητρώου Κοινωνικής Ασφάλισης
<b>AU</b>	Asylum Unit
<b>CERD</b>	United Nations Committee on the Elimination of Racial Discrimination
<b>EASO</b>	European Asylum Support Office
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EKKA</b>	National Centre of Social Solidarity   Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης
<b>ERF</b>	European Refugee Fund
<b>GCR</b>	Greek Council for Refugees
<b>JMD</b>	Joint Ministerial Decision
<b>KEELPNO</b>	Hellenic Centre for Disease Control and Prevention
<b>KEPOM</b>	Central Operational Body for Migration   Κεντρικό Επιχειρησιακό Όργανο Μετανάστευσης
<b>L</b>	Law
<b>MD</b>	Ministerial Decision
<b>MPOCP</b>	Ministry of Public Order and Citizen Protection
<b>MIAR</b>	Ministry of Interior and Administrative Reconstruction
<b>NCHR</b>	National Commission for Human Rights
<b>PACE</b>	Parliamentary Assembly of the Council of Europe
<b>PD</b>	Presidential Decree
<b>RIC</b>	Reception and Identification Centre (formerly First Reception Centre)
<b>RIS</b>	Reception and Identification Service (formerly First Reception Service)
<b>RAO</b>	Regional Asylum Office
<b>SIRENE</b>	Supplementary Information Request at the National Entries
<b>SIS</b>	Schengen Information System
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Statistics

### Overview of statistical practice

Monthly statistics on asylum applications and first instance decisions are published by the Asylum Service,<sup>1</sup> including a breakdown per main nationalities. In the last months of 2016, the Asylum Service has also included statistics on the application of the Dublin Regulation in its monthly reports. However, as of 2016 these reports no longer mention the number of asylum applications lodged from detention.

### Applications and granting of protection status at first instance: 2016

	Applicants in 2016	Pending applications 2016	Refugee status	Subsidiary protection	Rejection	Refugee rate	Subs. Prot. rate	Rejection rate
<b>Total</b>	51,091	28,030	2,467	244	6,608	26.5%	2.6%	70.9%

Breakdown by countries of origin of the total numbers

Syria	26,692	13,257	:	:	:	:	:	0.9%
Iraq	4,812	3,086	:	:	:	:	:	33.5%
Pakistan	4,695	2,603	:	:	:	:	:	97.6%
Afghanistan	4,371	3,986	:	:	:	:	:	51.2%
Albania	1,420	679	:	:	:	:	:	99.6%
Bangladesh	1,215	721	:	:	:	:	:	96.5%
Iran	1,096	675	:	:	:	:	:	46.8%
Algeria	889	216	:	:	:	:	:	98.7%
Palestine	852	518	:	:	:	:	:	7.1%
Georgia	688	303	:	:	:	:	:	100%

Source: Asylum Service, Asylum Statistics December 2016: <http://bit.ly/2mgBWI8>.

<sup>1</sup> Asylum Service, *Statistical data*, available at: [http://asylo.gov.gr/en/?page\\_id=370](http://asylo.gov.gr/en/?page_id=370).

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### Gender/age breakdown of the total number of applicants: 2016

	Number	Percentage
<b>Total number of applicants</b>	51,091	100%
Men	32,016	62.6%
Women	19,075	37.4%
Children	19,721	38.6%
Unaccompanied children	2,352	4.6%

Source: Asylum Service, Asylum Statistics 2016: <http://bit.ly/2mgBW18>.

### Comparison between first instance and appeal decision rates: 2016

	First instance		Appeal		Appeal: Old Procedure	
	Number	Percentage	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	9,319	100%	2,092	100%	5,364	100%
Positive decisions	2,711	29.1%	275	13.1%	646	12%
• <i>Refugee status</i>	2,467	26.5%	248	11.8%	515	9.6%
• <i>Subsidiary protection</i>	244	2.6%	27	1.3%	131	2.4%
Negative decisions	6,608	70.9%	1,817	86.9%	2,874	53.1%

Source: Asylum Service, Asylum Statistics 2016: <http://bit.ly/2mgBW18>. Statistics on the Old Procedure provided by the Appeals Committees PD 114/2010.

## Overview of the legal framework

### Main legislative acts relevant to asylum procedures, reception conditions and detention

Title (EN)	Original Title (GR)	Abbreviation	Web Link
<p>Law 4375/2016 "Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive 2013/32/EU of the European Parliament and of the Council 'on common procedures for granting and withdrawing international protection (recast)' (L 180/29.6.2013), provisions on employment of beneficiaries of international protection" and other provisions. Gazette 51/A/3-4-2016</p> <p><i>Amended by:</i> Law 4399/2016, Gazette 117/A/22-6-2016</p>	<p>Νόμος 4375/2016 «Οργάνωση και λειτουργία Υπηρεσίας Ασύλου, Αρχής Προσφυγών, Υπηρεσίας Υποδοχής και Ταυτοποίησης σύσταση Γενικής Γραμματείας Υποδοχής, προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/32/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου «σχετικά με τις κοινές διαδικασίες για τη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας (αναδιατύπωση)» (L 180/29.6.2013), διατάξεις για την εργασία δικαιούχων διεθνούς προστασίας και άλλες διατάξεις. ΦΕΚ 51/A/3-4-2016</p> <p><i>Τροπ.:</i> Νόμος 4399/2016, ΦΕΚ 117/A/22-6-2016</p>	<p>L 4375/2016 (Asylum Law)</p>	<p><a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="http://bit.ly/234vUhp">http://bit.ly/234vUhp</a> (GR)</p> <p><a href="http://bit.ly/2IKABdD">http://bit.ly/2IKABdD</a> (GR)</p>
<p>Law 3907/2011 "on the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third country nationals" and other provisions. Gazette 7/A/26-01-2011</p> <p><i>Amended by:</i> Presidential Decree 133/2013, Gazette 198/A/25-09-2013 Law 4058/2012, Gazette 63/A/22-03-2012 Law 4375/2016, Gazette 51/A/3-4-2016</p>	<p>Νόμος 3907/2011 «Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/ΕΚ «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη-μέλη για την επιστροφή των παρανόμως διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις» ΦΕΚ 7/A/26-01-2011</p> <p><i>Τροποποίηση από:</i> Προεδρικό Διάταγμα 133/2013, ΦΕΚ 198/A/25-09-2013 Νόμος 4058/2012, ΦΕΚ 63/A/22-03-2012 Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016</p>	<p>L 3907/2011</p> <p>PD 133/2013 L 4058/2012 L 4375/2016</p>	<p><a href="http://bit.ly/1KH9dV">http://bit.ly/1KH9dV</a> (EN)</p> <p><a href="http://bit.ly/1GfXFJ2">http://bit.ly/1GfXFJ2</a> (GR) <a href="http://bit.ly/1FoiWx">http://bit.ly/1FoiWx</a> (GR) <a href="http://bit.ly/234vUhp">http://bit.ly/234vUhp</a> (GR)</p>
<p>Presidential Decree 114/2010 "on the establishment of a single procedure for granting the status of refugee or of beneficiary of subsidiary protection to aliens or to stateless persons in conformity with Council Directive</p>	<p>Προεδρικό Διάταγμα 114/2010 «Καθιέρωση ενιαίας διαδικασίας αναγνώρισης σε αλλοδαπούς και ανιθαγενείς του καθεστώτος του πρόσφυγα ή δικαιούχου επικουρικής προστασίας σε συμμόρφωση προς την Οδηγία</p>	<p>PD 114/2010 (Old Procedure Decree)</p>	<p><a href="http://bit.ly/1LWAO3C">http://bit.ly/1LWAO3C</a> (EN)</p>

<p>2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status” Gazette 195/A/22-11-2010</p> <p><i>Amended by:</i> Presidential Decree 116/2012, Gazette 201/A/19-10-2012 Presidential Decree 113/2013, Gazette 146/A/14-06-2013</p> <p>Presidential Decree 167/2014, Gazette 252/A/01-12-2014 Law 4375/2016, Gazette 51/A/3-4-2016</p>	<p>2005/85/EK του Συμβουλίου «σχετικά με τις ελάχιστες προδιαγραφές για τις διαδικασίες με τις οποίες τα κράτη μέλη χορηγούν και ανακαλούν το καθεστώς του πρόσφυγα», ΦΕΚ 195/A/22-11-2010</p> <p><i>Τροποποίηση από:</i> Προεδρικό Διάταγμα 116/2012, ΦΕΚ 201/A/19-10-2012 Προεδρικό Διάταγμα 113/2013, ΦΕΚ 146/A/14-06-2013</p> <p>Προεδρικό Διάταγμα 167/2014, ΦΕΚ 252/A/01-12-2014 Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016</p>	<p>PD 116/2012 PD 113/2013</p> <p>PD 167/2014 L 4375/2016</p>	<p><a href="http://bit.ly/1GfXCwV">http://bit.ly/1GfXCwV</a> (EN) <a href="http://bit.ly/1M36apZ">http://bit.ly/1M36apZ</a> (EN) <a href="http://bit.ly/1ENgV9B">http://bit.ly/1ENgV9B</a> (GR) <a href="http://bit.ly/1ct2sZY">http://bit.ly/1ct2sZY</a> (GR) <a href="http://bit.ly/234vUhP">http://bit.ly/234vUhP</a> (GR)</p>
<p>Presidential Decree 141/2013 “on the transposition into the Greek legislation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (L 337) on minimum standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted (recast)” Gazette 226/A/21-10-2013</p>	<p>Προεδρικό Διάταγμα 141/2013 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2011/95/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 13ης Δεκεμβρίου 2011 (L 337) σχετικά με τις απαιτήσεις για την ανα γνώριση και το καθεστώς των αλλοδαπών ή των ανιθαγενών ως δικαιούχων διεθνούς προστασίας, για ένα ενιαίο καθεστώς για τους πρόσφυγες ή για τα άτομα που δικαιούνται επικουρική προστασία και για το περιεχόμενο της παρεχόμενης προστασίας (αναδιατύπωση)», ΦΕΚ 226/A/21-10-2013</p>	<p>PD 141/2013 (Qualification Decree)</p>	<p><a href="http://bit.ly/2lbV4aM">http://bit.ly/2lbV4aM</a> (GR)</p>
<p>Presidential Decree 220/2007 on the transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers Gazette 251/A/13-11-2007</p>	<p>Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2003/9/ΕΚ του Συμβουλίου της 27ης Ιανουαρίου 2003, σχετικά με τις ελάχιστες απαιτήσεις για την υποδοχή των αιτούντων άσυλο στα κράτη μέλη, ΦΕΚ 251/A/13-11-2007</p>	<p>PD 220/2007 (Reception Decree)</p>	<p><a href="http://bit.ly/2lIMseP">http://bit.ly/2lIMseP</a> (GR)</p>
<p>Law 4251/2014 “Immigration and Social Integration Code and other provisions” Gazette 80/A/01-04-2014</p> <p><i>Amended by:</i> Law 4332/2015, Gazette 76/A/09-07-2015</p>	<p>Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις» ΦΕΚ 80/A/01-04-2014</p> <p><i>Τροπ:</i> Νόμος 4332/2015, ΦΕΚ 76/A/09-07-2015</p>	<p>Immigration Code</p> <p>L 4332/2015</p>	<p><a href="http://bit.ly/1FOuxp0">http://bit.ly/1FOuxp0</a> (GR) <a href="http://bit.ly/1LfUfDB">http://bit.ly/1LfUfDB</a> (GR)</p>
<p>Law 3386/2005 “Entry, Residence and Social Integration of Third Country Nationals on the Greek Territory” <i>Abolished by:</i> Law 4251/2014 except for Articles 76, 77,</p>	<p>Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια» <i>Καταργήθηκε από:</i> Νόμος 4251/2014 πλην των διατάξεων</p>	<p>L 3386/2005</p>	<p><a href="http://bit.ly/1Pps1eO">http://bit.ly/1Pps1eO</a> (EN) <a href="http://bit.ly/1Qkzh9R">http://bit.ly/1Qkzh9R</a> (GR)</p>

DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

78, 80, 81, 82, 83, 89(1)-(3) <i>Amended by:</i> Law 4332/2015	των άρθρων 76, 77, 78, 80, 81, 82, 83, 89 παρ. 1-3 <i>Τροπ.:</i> Νόμος 4332/2015		
Presidential Decree 131/2006 on the transposition of Directive 2003/86/EC on the right to family reunification Gazette 143/A/13-7-2006  <i>Amended by:</i> PD 167/2008, PD 113/2013	Προεδρικό Διάταγμα 131/2006 Εναρμόνιση της ελληνικής νομοθεσίας με την Οδηγία 2003/86/ΕΚ σχετικά με το δικαίωμα οικογενειακής επανένωσης, ΦΕΚ 143/A/13-7-2006  <i>Τροπ.:</i> ΠΔ 167/2008, ΠΔ 113/2013	PD 131/2006 (Family Reunification Decree)	<a href="http://bit.ly/2nHCPOu">http://bit.ly/2nHCPOu</a> (GR)

**Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions and detention**

Title (EN)	Original Title (GR)	Abbreviation	Web Link
Joint Ministerial Decision οικ. 13257/2016 on the implementation of the special border procedure (Article 60(4) L 4375/2016) Gazette B/3455/26.10.2016	Κοινή Υπουργική Απόφαση οικ. 13257/2016: Εφαρμογή των διατάξεων της παραγράφου 4 του άρθρου 60 του Ν. 4375/2016 (Α" 51), ΦΕΚ Β/3455/26.10.2016	Decision οικ. 13257/2016	<a href="http://bit.ly/2maKUeC">http://bit.ly/2maKUeC</a> (GR)
Joint Ministerial Decision οικ. 12205 on the provision of legal aid to applicants for international protection Gazette B/2864/9-9-2016	Κοινή Υπουργική Απόφαση οικ. 12205: Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία, ΦΕΚ Β/2864/9-9-2016	Legal Aid JMD	<a href="http://bit.ly/2kPSjzE">http://bit.ly/2kPSjzE</a> (GR)
Joint Ministerial Decision 1982/2016 on age assessment of applicants for international protection Gazette B/335/16-2-2016	Κοινή Υπουργική Απόφαση 1982/2016 διαπίστωση ανηλικότητας των αιτούντων διεθνή προστασία, ΦΕΚ Β/335/16-2-2016	Age Assessment JMD	<a href="http://bit.ly/2lc8mDX">http://bit.ly/2lc8mDX</a> (GR)
Decision οικ. 2380/2017 of the Director of the Asylum Service on the duration of international protection applicants' cards Gazette B/393/10.02.2017	Απόφαση αριθμ. οικ. 2380/2017 της Διευθύντριας Υπηρεσίας Ασύλου: Διάρκεια ισχύος δελτίων αιτούντων διεθνή προστασία, ΦΕΚ Β/393/10.02.2017	Decision οικ. 2380/2017	<a href="http://bit.ly/2m4ApcO">http://bit.ly/2m4ApcO</a> (GR)
Joint Ministerial Decision οικ. 10566 on the procedure for issuing travel documents to beneficiaries of and applicants for international protection Gazette B/3223/2-12-2014	Κοινή Υπουργική Απόφαση οικ. 10566 Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους διεθνούς προστασίας, καθώς και στους αιτούντες διεθνή προστασία, ΦΕΚ Β/3223/2-12-2014	Travel Documents JMD	<a href="http://bit.ly/2mfwqXA">http://bit.ly/2mfwqXA</a> (GR)
Joint Ministerial Decision 7315/2014 on the procedure for granting residence permits to beneficiaries of international protection Gazette B/2461/16-9-2014	Κοινή Υπουργική Απόφαση 7315/29.8.2014 Διαδικασία χορήγησης ΑΔΕΤ στους δικαιούχους διεθνούς προστασίας, ΦΕΚ Β/2461/16-9-2014	Residence Permits JMD	<a href="http://bit.ly/2o6rTuM">http://bit.ly/2o6rTuM</a> (GR)

## Overview of the main changes since the previous report update

The report was previously updated in **November 2015**.

- ❖ Greece received a total number of 173,450 sea arrivals in 2016,<sup>2</sup> out of which 42.1% men, 21.1% women, 36.8% children). The majority of arrivals by sea in Greece in 2016 have been nationals of Syria (47%), Afghanistan (24%) and Iraq (15%).<sup>3</sup> In 2017, a total 3,369 sea arrivals have been recorded up until 19 March 2017. Syrian nationals continue to be the largest group of newly arrived persons (39.8%).<sup>4</sup>
- ❖ The gradual imposition of border restrictions on the Greek-FYROM border and the definitive closure of the Western Balkan route in March 2016 led to about 50,000 persons stranded in Greece. The Asylum Service registered 51,091 asylum applications in 2016, a fourfold increase from 2015 figures. In the third quarter of 2016, Greece had the largest number of asylum seekers per capita after Germany.<sup>5</sup>
- ❖ 2016 was also marked by the implementation of the EU-Turkey Statement of 18 March 2016. Serious concerns about the compatibility of the EU-Turkey statement with international and European law have been expressed *inter alia* by the Parliamentary Assembly of the Council of Europe (PACE), the Greek National Commission for Human Rights (NCHR), as well as organisations active in the field of refugee law and human rights. Following a joint inquiry, the European Ombudsman stated that the political aspect of the statement, which the European Commission invoked, “does not absolve the Commission of its responsibility to ensure that its actions are in compliance with the EU’s fundamental rights commitments. The Ombudsman believes that the Commission should do more to demonstrate that its implementation of the agreement seeks to respect the EU’s fundamental rights commitments.”<sup>6</sup> At the end of February 2017, the General Court of the European Union declared that “the EU-Turkey statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure.”<sup>7</sup>
- ❖ Substantial asylum reforms, many of which driven by the implementation of the EU-Turkey statement, took place in 2016. L 4375/2016, adopted in April 2016 and transposing the recast Asylum Procedures Directive into Greek law, was subsequently amended in June 2016 and March 2017, while a draft law transposing the recast Reception Conditions Directive has not been adopted yet.
- ❖ The impact of the EU-Turkey statement has been a *de facto* divide in the asylum procedures applied in Greece. Asylum seekers arriving after 20 March 2016 are subject to a fast-track border procedure and excluded from relocation in practice.

<sup>2</sup> UNHCR, *Operations portal: Mediterranean situation*, available at: <http://bit.ly/2o4LEyV>.

<sup>3</sup> UNHCR, UNHCR Regional Bureau Europe: Weekly Report, 3 January 2017, available at: <http://bit.ly/2mUCqVM>.

<sup>4</sup> UNHCR, *Operations portal: Mediterranean situation*, available at: <http://bit.ly/2o4LEyV>.

<sup>5</sup> Asylum Service, ‘The work of the Asylum Service in 2016’, 17 January 2017, available at: <http://bit.ly/2jFEqiW>.

<sup>6</sup> European Ombudsman, *Decision of the European Ombudsman in the joint inquiry into complaints 506-509-674-784-927-1381/2016/MHZ against the European Commission concerning a human rights impact assessment in the context of the EU-Turkey Agreement*, available at: <http://bit.ly/2ndIPyV>.

<sup>7</sup> General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: <http://bit.ly/2iWZPrr>.

- ❖ In January 2017, the Greek Supreme Court (Άρειος Πάγος) ruled against the extradition of eight Turkish service men on the basis that if returned to Turkey there is a real risk of being subjected to inhuman or degrading treatment and the guarantees for a fair trial not to be respected.<sup>8</sup>

#### *Asylum procedure*

- ❖ **Registration:** Coupled with persisting obstacles to accessing the asylum procedure due to the need for applicants to have a Skype appointment prior to appearing before the Asylum Service, the closure of the Western Balkan route and containment of about 50,000 persons in Greece led to significant pressure on the Asylum Service, exceeding its capacity and ability to register new asylum claims. From 8 June to 30 July 2016, a pre-registration exercise was launched in the mainland by the Asylum Service, and implemented with the help of UNHCR and EASO, leading to the “basic registration” of 27,592 applications which would later be fully registered (lodged). By the end of 2016, 12,905 of these applications had been fully registered. The launch of the EU-Turkey statement also led to a significant increase of persons willing to apply for asylum who arrived in Greece after 20 March 2016 on the Eastern Aegean islands. In practice, and as the lodging and examination of the applications was prioritised based on nationality (Syrians, followed by non-Syrian applicants belonging to a nationality with a recognition rate below or over 25%), an important number of persons willing to apply for asylum on the islands have not had effective access to asylum procedure, or have had access subject to undue delays exceeding 6 months for certain nationalities. This practice also raises serious concerns of conformity with the non-discrimination principle.
- ❖ **Fast-track border procedure:** One of the main modifications brought about by L 4375/2016 has been the establishment of an extremely truncated fast-track border procedure, applicable in exceptional cases. As underlined the fast-track procedure under derogation provisions in Law 4375/2016 does not provide adequate safeguards. In practice, fast-track border procedure applies to arrivals after 20 March 2016 and takes place in the Reception and Identification Centres (RIC) of Lesbos, Chios, Samos, Leros and Kos. Under the fast-track border procedure, which does not apply to Dublin family cases and vulnerable cases, interviews are also conducted by EASO staff, while the entire procedure at first and second instance has to be completed within 14 days. The procedure has predominantly taken the form of an admissibility procedure to examine whether applications may be dismissed on the ground that Turkey is a “safe third country” or a “first country of asylum”; although these concepts already existed in Greek law, they have only been applied following the EU-Turkey statement. The admissibility procedure started being applied to Syrian nationals in April 2016 and was only applied to other nationalities with a rate over 25% (e.g. Afghans, Iraqis) since the beginning of 2017. In the meantime, for nationalities with a rate below 25%, the procedure entails an examination of the application on the merits without prior admissibility assessment as of July 2016. A Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey statement recommends that Dublin family reunification cases be included in the fast-track border procedure and vulnerable cases be examined under an admissibility procedure.
- ❖ **Appeals Committees reform:** The composition of the Appeals Committees competent for examining appeals was modified by a June 2016 amendment to the April 2016 law, following reported EU pressure on Greece to respond to an overwhelming majority of decisions rebutting the presumption that Turkey is a “safe third country” or “first country of asylum” for asylum seekers. The June 2016 reform also deleted a previous possibility for the appellant to obtain an oral hearing before the Appeals Committees upon request. Applications for annulment have been submitted before the Council of State, invoking *inter alia* issues with regard to the

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<sup>8</sup> *Inter alia* Supreme Court 140/2017; The Guardian, ‘Greek court turns down extradition request for eight Turkish officers’, 26 January 2017, available at: <http://bit.ly/2o9ktDF>.

constitutionality of the amendment. A recent reform in March 2017 enabled EASO staff to assist the Appeals Committees in the examination of appeals, despite criticism from civil society organisations.<sup>9</sup> Since the operation of the (new) Appeals Committees on 21 July and until 31 December 2016, the recognition rate of international protection is no more than 0.4%. This may be an alarming finding as to the operation of an efficient and fair asylum procedure in Greece. Respectively, by 19 February 2017, 21 decisions on admissibility had been issued by the new Appeals Committees. As far as GCR is aware, all 21 decisions of the new Appeals Committees have confirmed the first-instance inadmissibility decision.

- ❖ **Relocation:** Out of the target of 66,400 asylum seekers to be relocated from Greece under Council Decisions (EU) 2015/1523 and 2015/1601 in September 2015, 7,441 had effectively been transferred as of 15 January 2017.
- ❖ **Dublin:** In December 2016, the European Commission issued a Recommendation in favour of the resumption of Dublin returns to Greece, regarding applicants who have entered EU through Greece from 15 March 2017 onwards or for whom Greece is responsible from 15 March 2017 onwards under other Dublin criteria, despite the fact that *inter alia* the execution of the *M.S.S. v. Belgium and Greece* judgment of the European Court of Human Rights is still pending before the Council of Europe Committee of Ministers. One month earlier, in November 2016, the ECtHR granted an interim measure twice with regard to two cases of Somali asylum seekers and ordered the Hungarian authorities to suspend their transfer to Greece based on the Dublin Regulation.<sup>10</sup>

#### *Reception conditions*

- ❖ **Reception capacity:** Despite the commitment of the Greek authorities to meet a target of 2,500 reception places dedicated to asylum seekers under the coordination of the National Centre for Social Solidarity (EKKA) by the end of 2014, this number has not been reached to date. As of January 2017, a total 1,896 places were available in 64 reception facilities mainly run by NGOs, out of which 1,312 are dedicated to unaccompanied children. As of 13 January 2017, 1,312 unaccompanied children were accommodated in long-term and transit shelters, while 1,301 unaccompanied children were waiting for a place. Out of the unaccompanied children on the waitlist, 277 were in closed reception facilities (RIC) and 18 detained in police stations under “protective custody”. A number of 20,000 accommodation places were gradually made available under a UNHCR accommodation scheme dedicated initially to relocation candidates and since July 2016 extended also to Dublin family reunification candidates and applicants belonging to vulnerable groups
- ❖ **Temporary accommodation sites:** A number of temporary accommodation places were created on the mainland in order to address the pressing needs created after the imposition of border restrictions. However, the majority of these places consists of encampments and the conditions in temporary facilities on the mainland have been sharply criticised, as of the widely varying and often inadequate standards prevailing, both in terms of material conditions and security.
- ❖ **Reception of persons subject to the EU-Turkey statement:** Severe overcrowding prevails in the hotspot facilities on the islands, as the current number of persons with an obligation to remain on the island due to the implementation of the EU-Turkey statement by far exceeds the

<sup>9</sup> Asylum Campaign, ‘Σχετικά με την προτεινόμενη τροπολογία στο Ν. 4375/2016’, 15 March 2017, available in Greek at: <http://bit.ly/2n8ezAZ>.

<sup>10</sup> ECtHR, *M.S. v. Hungary*, Application No 64194/16, 10 November 2016; ECtHR, *H.J. v. Hungary*, Application No 70984/16, 30 November 2016; Hungarian Helsinki Committee, *Hungary: Update on Dublin Transfers*, 14 December 2016, <http://bit.ly/2omSwrF>.

hotspots' capacity, but also the overall reception capacity of the islands. As reported, 'Hotspot' facilities on the islands are not only overcrowded but have substandard material conditions in terms of sanitation and hygiene, access to essential services such as health care, in particular for vulnerable groups. Security is insufficient, and tensions persist between different nationalities. A number of fatal accidents and suicide attempts are also reported. On 25 November 2016, a 66-year-old Iraqi woman and her 6-year-old grandchild died at Lesvos (Moria) Hotspot, when a bottle gas with which they were trying to cook inside their tent exploded.<sup>11</sup> In January 2017, three men died on Lesvos in the six days between 24 and 30 January. It is reported that "although there is no official statement on the cause of these deaths, they have been attributed to carbon monoxide poisoning from makeshift heating devices that refugees have been using to warm their freezing tents." A 41-year-old Iraqi died on 25 January 2017 at the Hotspot of Samos. A series of suicide attempts have been reported in the same facilities from desperate people.

#### *Detention of asylum seekers*

- ❖ **Automatic detention policy:** Following a change of policy announced at the beginning of 2015, the numbers of detained people have been reduced significantly during 2015. The launch of the implementation of the EU-Turkey Statement has had an important impact on detention, resulting in a significant toughening of detention policy and the establishment of blanket detention of all newly arrived third-country nationals after 20 March 2016, followed by the imposition of an obligation to remain on the island, known as "geographical restriction".
- ❖ **Detention on "law-breaking conduct" grounds:** A Police Circular issued on 18 June 2016 provided that third-country nationals residing on the islands with "law-breaking conduct" (*παραβατική συμπεριφορά*), will be transferred, on the basis of a decision of the local Director of the Police, approved by the Directorate of the Police, to pre-removal detention centers in the mainland where they will remain detained. Serious objections as raised as to whether in this case the administrative measure of immigration detention is used with a view to circumventing procedural safeguards established by criminal law. Moreover, GCR findings on-site do not confirm allegations of "law-breaking conduct" in the vast majority of the cases. A total 1,626 people had been transferred to mainland detention centres by the end of 2016.
- ❖ **Detention capacity:** As announced by the Ministry of Migration Policy on 28 December 2016, and described in the Joint Action Plan on the implementation of the EU-Turkey Statement on 8 December 2016, the construction of new detention centres on the island, in order to increase detention capacity, is planned to take place with EU support "as soon as possible". In February 2017 a pre-removal detention facility was established on the island of Kos.

#### *Content of international protection*

- ❖ **Humanitarian status for old procedure backlog:** Article 22 L 4375/2016 provides that appellants who have lodged their asylum applications up to five years before the entry into force of L 4375/2016 (3 April 2016), and their examination is pending before the Backlog Committees, shall be granted a two-years residence status on humanitarian grounds, which can be renewed. Appellants granted with residence status on humanitarian grounds have the right to ask within two months from the notification of the decision for their asylum application to be examined in view of fulfilling the requirements international protection. Under Article 22 L 4375/2016, a total 4,935 decisions granting humanitarian residence permits have been issued by the end of 2016.

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<sup>11</sup> GR.Euronews.com, 'Λέσβος: Νεκροί 66χρονη πρόσφυγας και το εγγόνι της από έκρηξη στη Μόρια', 25 November 2016, available in Greek at: <http://bit.ly/2fXCROq>.

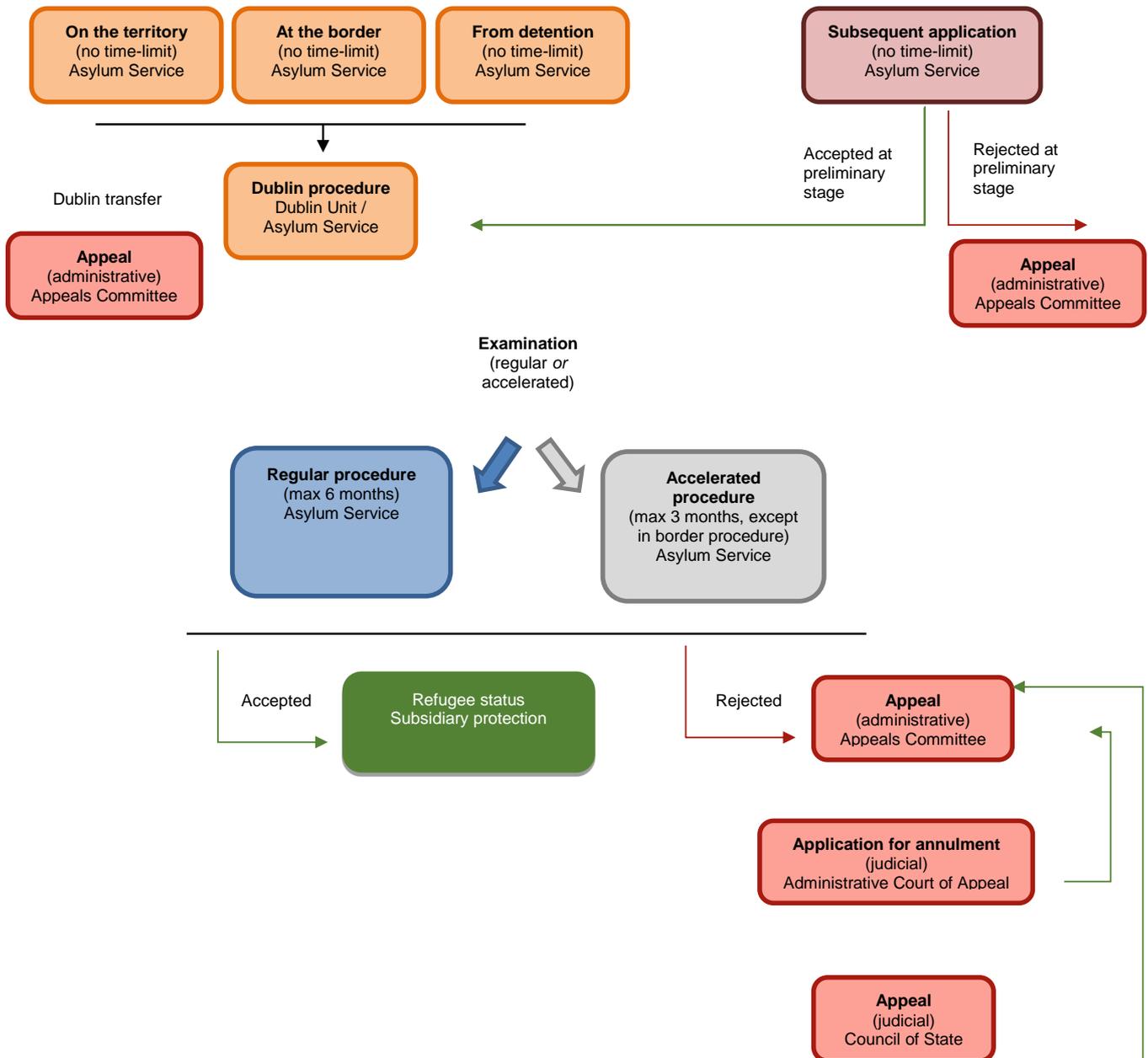
DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.  
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# Asylum Procedure

## A. General

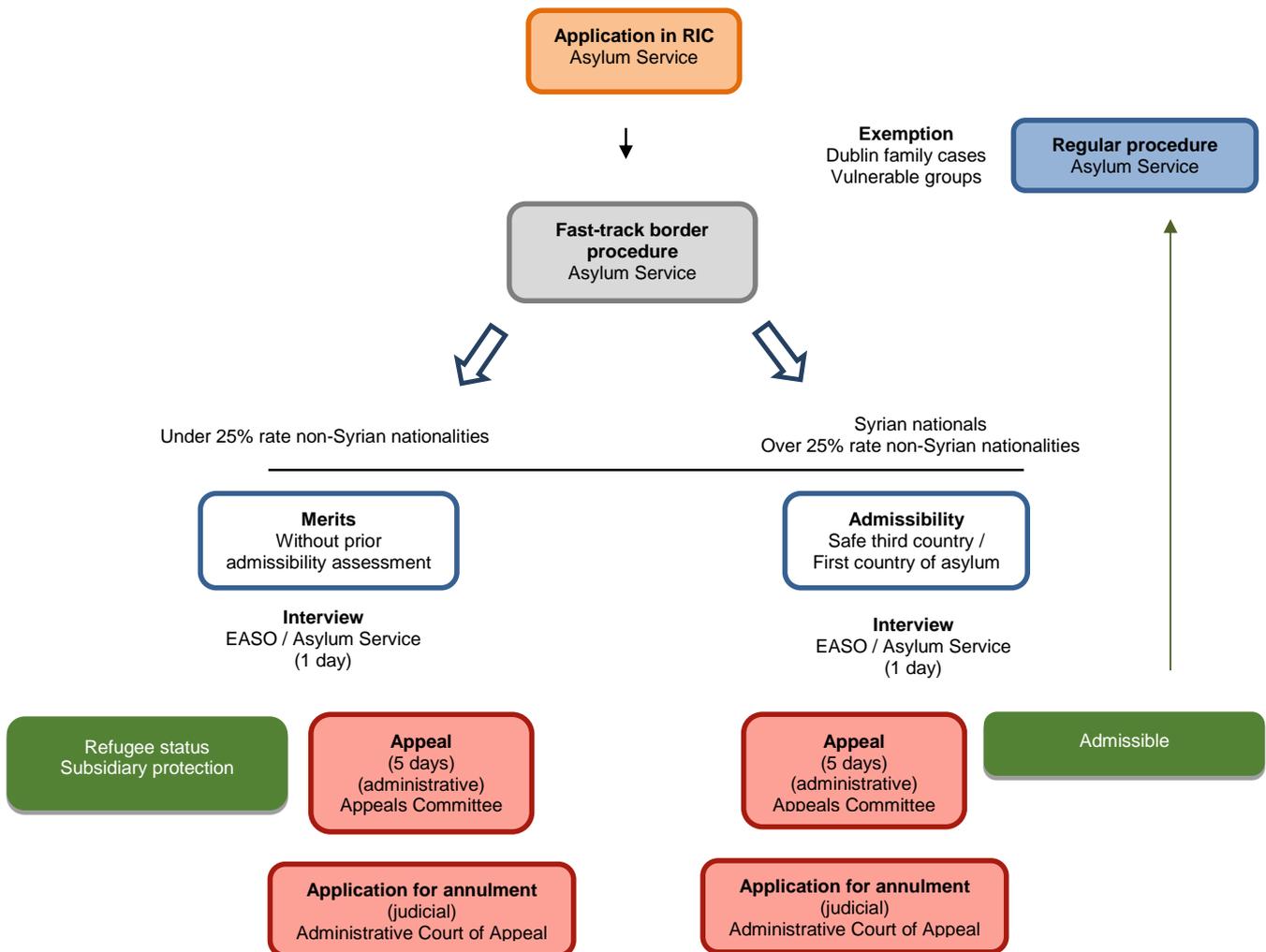
### 1. Flow chart

#### 1.1. Applications not subject to the EU-Turkey statement



DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.  
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## 1.2. Fast-track border procedure: Applications on the Eastern Aegean islands subject to the EU-Turkey statement



The procedure is also outlined in a flowchart published by the Asylum Service: <http://bit.ly/2nqVrPi>.

## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

- |  |   |                             |
|--|---|-----------------------------|
| ❖ Regular procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: <sup>12</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: <sup>13</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure:                      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure:               | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure:                      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: <sup>14</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other:                                 |   |                             |

Are any of the procedures that are foreseen in national legislation, not being applied in practice? If so, which one(s)?<sup>15</sup>  Yes  No

## 3. List of authorities intervening in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (GR)
Application		
❖ At the border	Asylum Service	Υπηρεσία Ασύλου
❖ On the territory	Asylum Service	Υπηρεσία Ασύλου
Dublin (responsibility assessment)	Asylum Service	Υπηρεσία Ασύλου
Refugee status determination	Asylum Service	Υπηρεσία Ασύλου
Appeal		
❖ First appeal	Appeals Committees (Appeals Authority)	Επιτροπές Προσφυγών (Αρχή Προσφυγών)
❖ Second (onward) appeal	Administrative Court of Appeal	Διοικητικό Εφετείο
Subsequent application (admissibility)	Asylum Service	Υπηρεσία Ασύλου

<sup>12</sup> For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) APD.

<sup>13</sup> Accelerating the processing of specific caseloads as part of the regular procedure; "Fast-track processing" is not foreseen in the national legislation as such. The Asylum Service implements since September 2014 a fast-track processing of applications lodged by Syrian nationals, provided that they are holders of a national passport and lodge an asylum claim for the first time. Under this procedure asylum claims are registered and decisions are issued on the same day.

<sup>14</sup> Labelled as "accelerated procedure" in national law. See Article 31(8) APD.

<sup>15</sup> Regarding prioritised examination as part of the regular procedure, it should be noted that despite the efforts of the Asylum Service, in practice vulnerable applicants may have difficulty in entering the relevant RAO for the registration of their claim, especially the one situated in Athens. In addition, in case it is necessary to re-schedule an interview (e.g. in case not enough time has been available for the interview to be completed and consequently scheduling another appointment has been deemed necessary), there may be no prioritisation.

#### 4. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the first instance authority? <sup>16</sup>
Asylum Service	654	Ministry of Migration Policy	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: Asylum Service, 'The work of the Asylum Service in 2016', 17 January 2017: <http://bit.ly/2jFEqW>

#### 5. Short overview of the asylum procedure

The asylum procedure in Greece has undergone substantial reforms throughout 2016, many of which driven by the adoption of the EU-Turkey statement on 18 March 2016. The adoption of Law (L) 4375/2016 in April 2016 – and its subsequent amendment in June 2016 – have overhauled the procedure before the Asylum Service. This law also foresees measures to clear the backlog of cases under the “old procedure” governed by Presidential Decree (PD) 114/2010 by issuing persons who had claims pending for over 5 years under that procedure with 2-year humanitarian permits. A total 4,935 decisions granting such permits had been issued by the end of 2016.

##### First instance procedure

Asylum applications are submitted before the Asylum Service. Seven Regional Asylum Offices and ten Asylum Units were operational at the end of 2016, while a specific Asylum Unit was established exclusively for the processing of applications lodged by Pakistani nationals in Athens. The Asylum Service is also competent for applying the **Dublin procedure**, with most requests and transfers concerning family reunification in other Member States, and **relocation procedure** for eligible nationalities. Access to the asylum procedure still remains an issue of concern.

L 4375/2016 also introduced a fast track border procedure for applicants subject to the EU-Turkey statement, i.e. applicants arrived on the islands of Eastern Aegean Islands after 20 March 2016 and takes place in the RIC where hotspots are established (Lesvos, Chios, Samos, Leros, Kos). Under the fast-track border procedure, inter alia interviews may also be conducted by European Asylum Support Office (EASO) staff, while the entire procedure at first and second instance should be completed within 14 days. The procedure has predominantly taken the form of an **admissibility procedure** to examine whether applications may be dismissed on the ground that Turkey is a “safe third country” or a “first country of asylum”; although these concepts already existed in Greek law, they have only been applied following the EU-Turkey statement. The admissibility procedure started being applied to Syrian nationals in April 2016 and was only applied to other nationalities with a rate over 25% (e.g. Afghans, Iraqis) at the end of 2016. In the meantime, for **nationalities with a rate below 25%**, the procedure entails an examination of the application on the merits without prior admissibility assessment as of July 2016.

##### Appeal

First instance decisions of the Asylum Service are appealed before the Independent Appeals Committees under the Appeals Authority. An appeal must be lodged within 30 days in the regular procedure, 15 days in the accelerated procedure, in case of an inadmissibility decision or where the

<sup>16</sup> No relevant information has come to the attention of GCR as regards the first instance. Pressure from the European Commission is reported in relation to the amendment of the composition of the Appeals Committees at second instance (see [Regular Procedure: Appeal](#)).

applicant is detained, and 5 days in the border procedure and fast-track border procedure. The appeal has automatic suspensive effect.

The composition of the Appeals Committees competent for examining appeals was modified by a June 2016 amendment to the April 2016 law, following reported EU pressure on Greece to respond to an overwhelming majority of decisions rebutting the presumption that Turkey is a “safe third country” or “first country of asylum” for asylum seekers. The June 2016 reform also restricted the possibilities for an oral hearing before the Appeals Committees.

An application for annulment of the Appeals Committee decision may be filed before the Administrative Court of Appeals within 60 days from the notification of the decision.

## B. Access to the procedure and registration

### 1. Access to the territory and push backs

#### Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs?  Yes  No

A number of push backs have been reported, since the previous update of the AIDA report in November 2015, on the Greek-Turkish land border. Two cases have been reported by detainees at the Reception and Identification Centre of **Fylakio**, Evros, concerning alleged push backs through the Evros River in November 2015.<sup>17</sup> Moreover, a practice of preventing the crossing of Evros river borders (*αποτροπή διέλευσης*) has been reported. The President of the Union of the Evros Border Police is reported to have mentioned in May 2016 that “this is happening when we see them in the river and we do not allow them to reach the Greek coast of Evros but we channel them to return in Turkey. Daily there are more than a number of 10 ‘preventions’ and in a day they can reach the number of 20.”<sup>18</sup>

Cases of third-country nationals who had formally expressed before the Greek authorities the intention to seek asylum and were readmitted to Turkey without their application being properly registered and examined have also been reported on the islands since the entry into force of the EU-Turkey statement (see [Registration: Access to Asylum](#)).

<sup>17</sup> The first case concerns a Syrian woman who alleged that, after entering the Greek territory through Evros River along with a group of about 70 persons and having walked for about seven hours, they were arrested by the Greek police and returned to Turkey by boat. The second concerns the allegation of a Syrian minor of 15 years old who stated that, while entering the Greek territory with a group of 40 persons, they were returned to Turkey by boat after being detected by the Greek police. See GCR, *Field Report: Evros*, October 2015 – May 2016, available in Greek at: <http://bit.ly/2kVbumU>, 6.

<sup>18</sup> Real News, ‘Άφησαν τα νησιά και... έπιασαν τον Έβρο’, 15 May 2016, available in Greek at: <http://bit.ly/2l413yc>, 46. Unofficial translation by the author.

## 2. Reception and identification procedure

This section draws among others from GCR's findings in the context of fact-finding missions,<sup>19</sup> as well as a study on the implementation of the hotspots on the Greek islands in 2016.<sup>20</sup>

### 2.1. The European Union policy framework: 'hotspots'

As a response to the massive refugee flows to Europe during 2015, when a total 876,232 people arrived in Greece,<sup>21</sup> the "hotspot approach" was adopted.<sup>22</sup> The objective of the hotspot approach was to assist frontline Member States, namely Italy and Greece, by providing operational support, so that the latter could fulfill their obligations under EU law and swiftly identify, register and fingerprint incoming migrants, process asylum claims and conduct returns. In this respect, hotspots have been considered as solidarity tools.

For the achievement of this goal, EU Agencies, namely the European Asylum Support Office (EASO), the European Border and Coast Guard (Frontex), Europol and Eurojust, would work alongside the Greek authorities within the context of the hotspots.<sup>23</sup> The hotspot approach was also expected to contribute to the implementation of the **Relocation** scheme, proposed by the European Commission on in September 2015.<sup>24</sup> Therefore, hotspots were envisaged initially as reception and registration centres, where the all stages of administrative procedures concerning newcomers – identification, reception, asylum procedure or return – would take place swiftly within their scope. However, it must be underlined that Member States have not yet made available the necessary experts to date.<sup>25</sup>

Five hotspots were inaugurated in Greece on the following islands:

Hotspot	Start of operation
Lesvos	October 2015
Chios	February 2016
Samos	March 2016
Leros	March 2016
Kos	June 2016

By 4 March 2016, when the European Commission published the 3<sup>rd</sup> Progress Report on the Implementation of the Hotspot Approach, none of the four initial hotspots on **Lesvos**, **Chios**, **Samos** and **Leros** was fully operational.<sup>26</sup> The hotspot in **Kos** started its function eventually and belatedly in June 2016, due to the reactions against its operation on behalf of the local authorities and community.<sup>27</sup> The total capacity of the five hotspot facilities is estimated to be 7,450 places.<sup>28</sup>

<sup>19</sup> GCR, *GCR Missions*, available in Greek at: <http://bit.ly/2jZL56V>.

<sup>20</sup> Dutch Council for Refugees et al., *The implementation of the hotspots in Italy and Greece*, December 2016.

<sup>21</sup> Hellenic Police, *Statistics: Arrests of Irregular Migrants in Greek Turkish land and sea borders*, available in Greek at: <http://bit.ly/2kKe1Va>.

<sup>22</sup> European Commission, *European Agenda on Migration*, COM(2015) 240, 13 May 2015.

<sup>23</sup> European Commission, *The hotspot approach to managing migration flows*, available at: <http://bit.ly/2kESJFK>.

<sup>24</sup> Council Decisions (EU) 2015/1523 and 2015/1601 of 14 and 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, OJ 2015 L248/80.

<sup>25</sup> European Commission, *Fourth Report on the Progress made in the implementation of the EU-Turkey Statement*, COM(2016) 792, 8 December 2016, available at: <http://bit.ly/2lnobZ7>.

<sup>26</sup> European Commission, *Third Progress report on the implementation of the hotspot approach in Greece*, COM(2016) 131, 4 March 2016, available at: <http://bit.ly/2k009pW>.

<sup>27</sup> GCR, *GCR Mission to Kos and Leros*, May-November 2016, available in Greek at: <http://bit.ly/2kPMpxj>, 15.

<sup>28</sup> European Commission, *Third Report on the Progress made in the implementation of the EU-Turkey Statement*, COM(2016) 634, 28 September 2016, available at: <http://bit.ly/2jmQQ1O>.

On 18 March 2016, EU Heads of State or Government and Turkey agreed to a statement committing “to end the irregular migration from Turkey to the EU and replace it instead with legal channels of resettlement of refugees to the European Union.”<sup>29</sup> Since the adoption of the EU Turkey statement, Hotspot facilities have turned into detention centres. People arriving after 20 March 2016 through the Aegean islands are subject to the terms of the statement. Therefore, newcomers are

- (a) Returned to Turkey in case they do not seek international protection or their applications are rejected, either as inadmissible under the [Safe Third Country](#) or [First Country of Asylum](#) concepts or on the merits;
- (b) Required to remain at the islands until they have their applications examined; or
- (c) Allowed to move to the mainland if their asylum application is considered to be admissible, either due to exemption from the statement (see [Fast-Track Border Procedure](#)) or because the “safe third country” or “first country of asylum” concepts may not be applied in their case.

## 2.2. The domestic framework: Reception and Identification Centres

Up until 3 April 2016, when L 4375/2016 was adopted, no dedicated national legislation existed to regulate the establishment and function of hotspots and the procedures taking place therein.

However, the concept of reception and identification procedures for newly arrived refugees and migrants under Greek law predates the “hotspot” approach.

### First reception procedures: L 3907/2011

The 2010 Greek Action Plan on Asylum already provided that third-country nationals should be subjected to first reception procedures upon entry. The competent authority to provide such services was the First Reception Service (FRS), established by L 3907/2011. First reception procedures included:

- (a) Identity and nationality verification;
- (b) Registration;
- (c) Medical examination and any necessary care and psychosocial support;
- (d) Provision of proper information about newcomers’ obligations and rights, in particular about the conditions under which they can access the asylum procedure; and
- (e) Identification of those who belong to vulnerable groups so that they be given the proper procedure.<sup>30</sup>

This approach was first implemented by the First Reception Centre (FRC) set up in **Evros** in 2013,<sup>31</sup> which has remained operational to date even though it has not been affected by the hotspot approach. Joint Ministerial Decision 2969/2015 issued in December 2015 provided for the establishment of five FRCs in the Eastern Aegean islands of **Lesvos, Kos, Chios, Samos** and **Leros**,<sup>32</sup> the regulation of which was provided by existing legislation regarding the First Reception Service.<sup>33</sup> However, this legislative act failed to respond to and regulate all the challenges arising within the scope of hotspots’ functions. As a result, issues not addressed by the existing legal framework, for example the involvement of EU Agencies in different procedures, long remained in a legislative vacuum.

<sup>29</sup> European Council, *EU-Turkey statement*, 18 March 2016, available at: <http://bit.ly/1VjZvOD>.

<sup>30</sup> Article 7 L 3907/2011.

<sup>31</sup> Joint Ministerial Decision 11.1/1076/2012, Gov. Gazette 3543/B/31.12.2012; Reception and Identification Service, *RIC at Fylakio, Evros*, available at: <http://bit.ly/2msASkR>.

<sup>32</sup> Joint Ministerial Decision No 2969/2015, Gov. Gazette 2602/B/2-12-2015.

<sup>33</sup> Law 3907/2011 “On the Establishment of an Asylum Service and a First Reception Service, transposition into Greek Legislation of the provisions of the Directive 2008/115/EC ‘on common standards and procedures in Member States for returning illegally staying third-country nationals’ and other provisions”.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

A bill for the amendment of the law regulating first reception procedure aiming to fill this gap was submitted to public consultation on 5 February 2016 for an insufficiently short period of less than 5 working days.<sup>34</sup> This draft law was never submitted to vote.

### **Reception and identification procedures: L 4375/2016**

Instead of the aforementioned law, in the light of the EU-Turkey statement of 18 March 2016, the Greek Parliament adopted on 3 April 2016 a law “On the organisation and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EU, provisions on the employment of beneficiaries of international protection and other provisions”. This reform was passed through L 4375/2016.<sup>35</sup>

Following the enactment of L 4375/2016, the FRS was succeeded by the Reception and Identification Service (RIS) and was subsumed under what has now been established as Ministry of Migration Policy (then Ministry of Interior and Administrative Reconstruction).

According to Article 8(2) L 4375/2016, the RIS is responsible for:

- (a) Registration, identification and data verification procedures, medical screening, identification of vulnerable persons, the provision of information, especially for international or another form of protection and return procedures, as well as the temporary stay of third-country nationals or stateless persons entering the country without complying with the legal formalities and their further referral to the appropriate reception or temporary accommodation structures;<sup>36</sup>
- (b) The establishment, operation and supervision of centres (*Κέντρα*) and structures (*Δομές*) for the purposes of those procedures;
- (c) The establishment, operation and supervision of Open Temporary Reception (*Δομές Προσωρινής Υποδοχής*) facilities for third-country nationals or stateless persons who have requested international protection;
- (d) The establishment, operation and supervision of Open Temporary Accommodation Structures (*Δομές Προσωρινής Φιλοξενίας*) for third-country nationals or stateless persons who are under a return, removal or readmission procedure in accordance or whose removal has been postponed.

Before the implementation of the EU-Turkey statement, when the flows remained high, the First Reception Service, even within the context of the Hotspots, would register only a small part of those referred by the Police or the Coast Guard as vulnerable because of its extremely limited capacity. As a result, the vulnerabilities of the majority of the population were not identified, let alone properly addressed. In any event, major concerns were raised relating to the actual capacity of the FRS to address the vulnerabilities even of the people registered under its competence.

Since the implementation of the EU-Turkey statement, all newcomers are registered by the Reception and Identification Service. However, the relevant procedures are concluded within one day or two, raising concerns regarding the quality of the procedure and mostly the possibility of identifying non-obvious vulnerabilities within such a short time period.<sup>37</sup>

<sup>34</sup> Ministry of Interior and Administrative Reconstruction, *Amendment of the Law 3907/2011 and Law 4251/2014, Adaptation of Greek Legislation*, 5 February 2016, available at: <http://bit.ly/1R19wtu>.

<sup>35</sup> L 4375/2016, Gov. Gazette 51/A/3-4-2016, available at: <http://bit.ly/2kKm2cu>.

<sup>36</sup> See also Article 9 L 4375/2016, outlining the “reception and identification procedures”.

<sup>37</sup> See e.g. on victims of trafficking, AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, available at: <http://bit.ly/29DULiv>, 18-19.

### **De facto detention and restricted movement**

As already mentioned, the implementation of the statement has led to the adoption of a practice of mandatory detention, which is clearly not in line with the relevant legal standards.<sup>38</sup> The hotspot facilities on the islands were turned into detention centres and *all* individuals arriving after 20 March 2016 have been automatically *de facto* detained. The practice of mandatory detention has been applied indiscriminately even to individuals belonging to vulnerable groups, i.e. unaccompanied children, families with infants, persons with disabilities etc.<sup>39</sup>

More specifically, according to the law, people arriving after the implementation of the statement are subject to a 3-day restriction on their “freedom of movement” within the premises of the Reception and Identification Centres (RIC), which can be further extended by a maximum of 25 days if reception and identification procedures have not been completed.<sup>40</sup> The restriction on freedom of movement in practice amounts to *de facto* detention, insofar as people are not allowed to leave the centre.<sup>41</sup> This is a *de facto* detention regime inherent in the framework of the reception and identification procedures.<sup>42</sup>

In practice, after the completion of the reception and identification procedures, which take no longer than 1 or 2 days, the decision imposing the “restriction on free movement” issued by the Head of the RIC is revoked, only to be succeeded by a detention order in view of deportation issued by the General Regional Police Director competent on each island. This practice is not foreseen by the law. Once the 25 days have been passed, the General Regional Police Director issues a decision suspending the execution of the deportation decision and imposing a geographical restriction in the form of a prohibition from leaving the island until the asylum application of the former detainee has been examined. Exceptionally, the geographical limitation might be temporarily suspended when it comes to cases that require medical help that cannot be offered on the island. In addition, detention in view of deportation may be revoked when it comes to newcomers that have been identified as vulnerable.<sup>43</sup> Nevertheless, unaccompanied minors, though highly vulnerable, are not released after the 25-day deadline; on the contrary, they remain detained under the authority of RIS in a separate wing of the RIC until referred to accommodation shelters for minors (see [Detention of Vulnerable Applicants](#)).

It should be underlined that, due to lack of accommodation facilities, the majority of the newcomers trapped on the islands due to the imposition of the geographical limitation along with the extremely lengthy asylum procedure, reside in the hotspot facilities or in the makeshift camps (so-called Annexes) around them even after the expiry of the 25-day period.

At the early stages of the implementation of the Statement, the detention of 25 days took place indiscriminately for every single newcomer. Later on, due to the fact that the capacity of Hotspots was exceeded by far, the barbed wire of the Hotspots was full of holes, along with the administrative shortcomings in checking who was detained and who had the right to freely move within the island as the 25 days of his/her detention were over, in practice often enough newcomers against whom detention was imposed were not confined in the Hotspot premises.

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<sup>38</sup> In this respect it is underlined that in the *Rahimi* judgment, the European Court of Human Rights (ECtHR) found a violation of Article 5(1)(f) ECHR, due to the fact that the detention of the applicant, an unaccompanied minor, appeared to have resulted from automatic application of the legislation in question, the Greek authorities had given no consideration to the best interests of the applicant as a minor or his individual situation as an unaccompanied minor and no alternatives to detention have been examined: ECtHR, *Rahimi v. Greece*, Application No 8687/08, Judgment of 5 July 2011, para 108.

<sup>39</sup> GCR, *Submission on the execution of ECtHR judgment on the case MSS v. Belgium and Greece*, May 2016, available at: <http://bit.ly/2llxPe8>.

<sup>40</sup> Article 14(2) L 4375/2016.

<sup>41</sup> Article 14(3) L 4375/2016.

<sup>42</sup> For *de facto* detention in the Evros FRC, see ECRE, *What's in a name? The reality of First “Reception” at Evros*, February 2015, available at: <http://bit.ly/2jzUe4h>.

<sup>43</sup> See Articles 14(8) and 60(4)(f) L 4375/2016.

During the initial period of implementation of the EU-Turkey statement in March 2016, while the enactment of L 4375/2016 which regulated reception and identification procedures was pending, utter chaos prevailed with regard to the administrative treatment of new arrivals. Accordingly, the information given to the people detained in the hotspot facilities was completely confusing and inconsistent. It is remarkable that on some islands, during the first 4-5 days of the implementation of the statement, the detainees remained confined and had no right to move even within the hotspot facilities. Later, the authorities decided to allow the movement of detained people within the RIC.

Persons arriving from the north-east land borders are subject to reception and identification procedures taking place in the RIC of **Fylakio** at Evros. As an increase in the arrivals at the Greek-Turkish land border has been observed during the last months of 2016 onwards, there are delays in the transfer of the newly arrived persons to the Evros RIC. These delays range from a few days to several weeks, depending on the flows. During this waiting period, prior to their referral to the Evros RIC, newly arrived persons remain detained at the Fylakio pre-removal detention centre, despite the lack of legal basis for their detention. Their detention “up to the time that [the person] will be transferred to Evros (Fylakio) RIC in order to be subject to reception and identification procedures”, as justified in the relevant detention decisions, has no legal basis in national law. In December 2016, 130 newly arrived persons were held on these grounds. UNHCR has also raised its concerns to the authorities as regards the delays in transfers of new arrivals to the Evros RIC for reception and identification procedures, which results in prolonged detention in border guard police stations.<sup>44</sup>

### Actors present in the RIC

The RIS has outsourced medical and psychosocial care provision to NGOs, namely Médecins du Monde (MdM), PRAKSIS and Medical Intervention (MedIn). Information is provided by UNHCR and International Organisation for Migration (IOM) staff, while interpretation services are currently provided by IOM and NGO Metadrasi. The Hellenic Police is responsible for guarding the external area of the hotspot facilities, as well as for the identification and verification of nationalities of newcomers.

Frontex staff is also engaged in the identification and verification of nationalities. Although Frontex should have an assisting role, in practice the nationality screening is conducted almost exclusively by Frontex, as the Greek authorities lack relevant capacity such as interpreters. The conduct of said procedures by Frontex is defined by an internal regulation. It should be noted that, even though the Greek authorities may base their decision concerning the nationality of a newcomer exclusively on a Frontex assessment, documents issued by the latter are considered to be ‘non-paper’ and therefore individuals are not given access to them. This renders the challenge of Frontex findings extremely difficult.

Similarly, the Asylum Service has presence in the hotspots. According to L 4375/2016, those registered by the RIS expressing their will to seek international protection shall be referred to the competent Regional Asylum Office in order to have their claims registered and processed.<sup>45</sup> However, during 2016, the Asylum Service remained understaffed and with extremely limited capacity to register and process new asylum claims,<sup>46</sup> thus failing to guarantee unimpeded access to the asylum procedure. This has played a crucial role in the congestion and prolonged stay of newcomers on the islands, where no proper infrastructure exists. It was noted that by early February 2017, over 13,500 newcomers have been trapped on the islands, when their total capacity was estimated at 8,938 places.<sup>47</sup>

<sup>44</sup> UNHCR, *Greece Factsheet 1 – 31 December 2016*, available at: <http://bit.ly/2lqUI6z>.

<sup>45</sup> Article 14(7) L 4375/2016.

<sup>46</sup> According to the Asylum Service, since January 2017, the Asylum Service staff working on the hotspots facilities stands at 100 persons. During 2016, the respective number of the Asylum Service Staff was 65 employees, assisted by EASO Member State experts in a number ranging from 30 to 67 during the year.

<sup>47</sup> Coordination Body for the Management of the Refugee Crisis, *Summary statement of refugee flows*, 7 February 2017, available at: <http://bit.ly/2jXu5mB>.

The European Asylum Support Office (EASO) is also engaged in the asylum procedure. Initially, EASO experts were mainly providing information concerning the [Relocation](#) scheme and referring potentially eligible candidates to the Asylum Service for registration. Since mid-June 2016, the relocation scheme is not applicable to those who have entered Greece after 20 March 2016.<sup>48</sup> Since the implementation of the EU Turkey statement and the enactment of L 4375/2016, EASO has played a more active role in the asylum procedure *per se* (see [Fast-Track Border Procedure: Personal Interview](#)).

Since the beginning of their function, it was apparent that hotspots could not serve their role as a solidarity tool, or as centres that could host an efficient and principled conduct of all administrative procedures related to newcomers. The shortcomings of the procedures taking place within their context, especially since the implementation of the EU-Turkey statement, has resulted in sheer disregard of core rights of the newcomers and obligations of the Greek authorities under Greek, EU and international law.

### 3. Registration of the asylum application

#### Indicators: Registration

1. Are specific time-limits laid down in law for asylum seekers to lodge their application?  Yes  No
2. If so, what is the time-limit for lodging an application?

#### 3.1. Organisation and staffing of the Asylum Service

Article 6(1) PD 104/2012, as modified by L 4375/2016, provides for 12 RAOs to be set up in Attica, Thessaloniki, Thrace, Epirus, Thessaly, Western Greece, Crete, Lesvos, Chios, Samos, Leros and Rhodes.

7 RAOs and 11 AUs were operational as of 31 December 2016:

Operation of Regional Asylum Offices and Asylum Units: 2016		
Regional Asylum Office	Start of operation	Registrations in 2016
Attica	7 June 2013	14,146
Thrace	29 July 2013	4,468
Lesvos	15 October 2013	5,095
Rhodes	2 January 2014	932
Western Greece	1 June 2014	415
Thessaloniki	8 July 2015	11,418
Samos	14 January 2016	2,432
Asylum Unit	Start of operation	Registrations in 2016
Fylakio	11 July 2013	448
Amygdaleza	11 September 2013	452
Xanthi	20 November 2014	386
Chios	29 February 2016	3,398
Leros	11 March 2016	871
Kos	June 2016	324
Corinth	8 August 2016	234
Relocation Centre	September 2016	3,141

<sup>48</sup> This is a *de facto* cut-off date. No such provision exists in the Council Decisions on Relocation.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Piraeus	19 September 2016	2,475
Crete	December 2016	4
Fast-Track	November 2016	:

Source: Asylum Service, *Regional Asylum Offices*: <http://bit.ly/2opit9F>. Applications under the competence of the Fast Track AU lodged in 2016 are counted together with applications lodged before the RAO Attica.

In December 2016, an Asylum Unit was established exclusively for the examination of applications lodged by Pakistani nationals, in the premises of the RAO of Attica in Athens.<sup>49</sup>

As at 31 December 2016, Asylum Service was staffed with a number of 691 employees, out of whom 654 were active on that day. 275 officials were permanent staff and 379 were employees on a fixed-term contract. The short term working status of the majority of Asylum Service staff besides the precarious working environment for the employees, may create problems in its operation. For example, on 13 February 2017, the Asylum Service fixed-term employees went on a 24-hour nationwide strike, due to payment delays.<sup>50</sup>

Staff are distributed to the various RAOs and AUs as follows:

Distribution of active Asylum Service staff: 31 December 2016	
Location	Number of staff
Central Asylum Service	157
RAO Attica	131
RAO Thessaloniki	61
RAO Lesvos	37
RAO Thrace	13
RAO Samos	28
RAO Rodos	6
RAO Western Greece	6
Relocation AU	66
AU Piraeus	39
AU Chios	32
Fast Track AU	14
AU Amygdaleza	6
AU Corinth	8
AU Crete	5
AU Kos	19
AU Leros	14
AU Xanthi	6
AU Fylakio	6
<b>Total</b>	<b>654</b>

Source: Asylum Service, Information provided to GCR, 9 February 2017.

<sup>49</sup> Decision 22511/2016 of the Director of the Asylum Service on the establishment of an Asylum Unit for the processing of applications for international protection by Pakistani Nationals, Gov. Gazette B' 4399/30.12.2016, available at: <http://bit.ly/2m8mJdG>.

<sup>50</sup> Athina984.gr, 'Απεργούν τη Δευτέρα οι συμβασιούχοι στην Υπηρεσία Ασύλου', 9 February 2017, available in Greek at: <http://bit.ly/2lqTPoZ>.

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The 654 employees of the Asylum Service comprise of: 108 employees dealing with registration of applications; 390 caseworkers; and 156 administration staff.

According to the Asylum Service,<sup>51</sup> all caseworkers hold a degree in Law, Political Science or Humanities, while a number of caseworkers hold a postgraduate degree.

The European Asylum Support Office (EASO) provides methods and content for the training of staff. There is a combination of distance learning and attendance in person by trainers who are employees of the Asylum Service, certified by EASO. The basic units of the training seminar for new staff are:

- a. International protection's legal framework
- b. Interview techniques
- c. Evidence assessment
- d. Collection and evaluation of Country of Origin Information (COI).

Specific trainings for vulnerable cases or unaccompanied children are provided to a number of selected caseworkers.<sup>52</sup>

As illustrated above, the Asylum Service has tripled in size during 2016, compared to 218 staff members at the end of 2014 and 290 at the end of 2015.<sup>53</sup>

However, despite the rapid increase in human resources of the Asylum Service, "given the scale of the increase in the number of asylum applications in Greece, it is not yet clear whether the current and planned staffing levels for the Asylum Service are sufficient for what is required to process the current and likely future case-load in a timely and adequate manner", while at the same time as stated by the Asylum service a more rapid expansion of staffing would not be feasible "due to the lack of senior staff to train, mentor and supervise newly recruited ones."<sup>54</sup>

### 3.2. Rules for the registration and lodging of applications

Part III of L 4375/2016, as modified by L 4399/2016, transposes the provisions of Article 6 the recast Asylum Procedures Directive relating to access to the procedure. As outlined below, Greek law refers to registration (*καταγραφή*) to describe both the notion of "registration" and "lodging" of an application under the Directive.

#### Registration of applications ("*Καταγραφή*")

Applications for international protection are received and registered by the Regional Asylum Offices (RAOs) and Asylum Units (AUs) and Mobile Asylum Units,<sup>55</sup> depending on their local jurisdiction.

The Asylum Service shall as soon as possible proceed to the "full registration" (*πλήρης καταγραφή*) of the asylum application,<sup>56</sup> following which an application is considered to be lodged (*κατατεθειμένη*).<sup>57</sup>

Where, however, "for whatever reason" full registration is not possible, following a decision of the Director of the Asylum Service, the Asylum Service may conduct a "basic registration" (*απλή*

<sup>51</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>52</sup> *Ibid.*

<sup>53</sup> Asylum Service, 'The work of the Asylum Service in 2016', 17 February 2017, available at: <http://bit.ly/2kVaVtn>.

<sup>54</sup> Recitals 16-17 Commission Recommendation C(2016) 8525 of 8 December 2016 on the resumption of transfers to Greece under Regulation (EU) No 604/2013, available at: <http://bit.ly/2kLKs1L>.

<sup>55</sup> Articles 34(1)(id) and 36(1) L 4375/2016.

<sup>56</sup> Article 36(1)(a) L 4375/2016.

<sup>57</sup> Article 36(1)(c) L 4375/2016.

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*καταγραφή*) of the asylum seeker's necessary details within 3 working days, and then proceed to the full registration as soon as possible and by way of priority.<sup>58</sup>

According to the law, if the application is submitted before a non-competent authority, that authority is obliged to promptly notify the competent receiving authority and to refer the applicant thereto.<sup>59</sup> However, in practice in order for an asylum application to be properly lodged, the applicant should lodge an application in person before the Asylum Service.

For third-country nationals willing to apply for asylum while in detention or under reception and identification procedures, the detention authority or RIS registers the intention of the person on an electronic network connected with the Asylum Service, no later than within 6 working days. In order for the application to be fully registered, the detainee is transferred to the competent RAO or AU.<sup>60</sup>

The time limits of 3 or 6 working days respectively for the basic registration of the application may be extended to 10 working days in cases where a large number of applications are submitted simultaneously and render registration particularly difficult.<sup>61</sup>

### Lodging of applications (“Κατάθεση”)

No time limit is set by law for lodging an asylum application.<sup>62</sup> However, Article 42 L 4375/2016, which transposes Article 13 of the recast Asylum Procedures Directive that refers to applicants' obligations, foresees in §1a that applicants are required to appear before competent authorities in person, without delay, in order to submit their application for international protection.<sup>63</sup>

Applications must be submitted in person,<sup>64</sup> except under *force majeure* conditions.<sup>65</sup>

For those languages that a Skype line is available, an appointment through Skype should be fixed before the person in question can present him or herself before the Asylum Service in order to lodge an application. Otherwise, “it may not be possible for them to register their application on the same day.”<sup>66</sup>

An “asylum seeker's card” is provided to persons who have fully registered their application. This card is valid for 6 months, with the following exceptions:<sup>67</sup>

- a. Cards of pre-registered asylum seekers, governed by a different decision;
- b. Cards of applicants who have had their application fully registered before the AU of **Piraeus**, which are valid up to the date of the interview;
- c. Cards of applicants who have their application fully registered before the AU of **Piraeus** and whose cards are valid for one year, in case their interview is fixed for a date later than one year of the day of full registration;
- d. Cards of nationals of Pakistan, submitting their application before the AU dedicated to application coming for Pakistani nationals, which valid for a period of 2 months.

Several difficulties have been reported relating to access to the procedure in different areas:

<sup>58</sup> Article 36(1)(b) L 4375/2016.

<sup>59</sup> Article 36(4) L 4375/2016

<sup>60</sup> Article 36(3) L 4375/2016.

<sup>61</sup> Article 36(5) L 4375/2016.

<sup>62</sup> Article 39(1) L 4375/2016 provides that “[r]equests are not dismissed merely on the ground that they have not been submitted the soonest possible.”

<sup>63</sup> Article 42(1)(a) L 4375/2016.

<sup>64</sup> Article 36(2) L 4375/2016.

<sup>65</sup> Article 42(1)(a) L 4375/2016.

<sup>66</sup> Asylum Service, *International protection application registration schedule*, 9 January 2017, available at: <http://bit.ly/2l4d0DY>.

<sup>67</sup> Decision 2380/2017 of the Director of the Asylum Service on the duration of validity of asylum seeker cards, Gov. Gazette B/393/10.2.2017, available in Greek at: <http://bit.ly/2m4ApcO>.

### 3.3. Access to asylum: Arrivals *before* the launch of the EU-Turkey Statement (20 March 2016)

Difficulties with regard to access to the asylum procedure had already been observed since the start of the operation of the Asylum Service in 2013, in particular due to Asylum Service staff shortages and the non-operation of all RAOs provided by law. A system for granting appointments for registration of asylum applications through Skype, inaugurated in 2014, did not solve the problem and thus access to the asylum procedure remained one of the major issues of concern for the Greek asylum system,<sup>68</sup> even prior to the large-scale influx of 2015.

During 2015 and in the beginning of 2016, the general trend was reported to be for the newly-arrived not to wish to apply for international protection in Greece, but to opt for other EU Member States,<sup>69</sup> due to the poor reception conditions provided and the extremely limited integration prospects of those granted status. Despite the relatively small number of third-country nationals applying for asylum compared to those arriving in Greece, access to the asylum system was highly problematic.

As highlighted by the Greek Ombudsman's 2015 Annual Report:

"[P]ersons interested to apply for asylum, among them a significant number of vulnerable cases – even Syrians – queuing outside the Asylum Service premises was something usual up to the first semester of 2015... A serious obstacle regarding access to the asylum procedure was the fact that since May 2015 the appointment for registering an asylum application has been fixed only through Skype and not in person". As the Ombudsman concludes "it seems that the registration system through Skype could not respond to a large number of calls, made by those third country nationals able to use a computer... The above mentioned restrictive system regarding the registration of an asylum application seems to contradict with the principle of constant and without obstacle access to the asylum system for every third country national, and could give rise to threats over fundamental rights."<sup>70</sup>

The closure of the Greek-FYROM border in March 2016, which resulted in about 50,000 newly arrived persons remaining in the country, led to a significant pressure on the Asylum Service, exceeding its capacity and ability to register new asylum claims. GCR has received and documented within one month, from 28 March 2016 to 22 April 2016, almost 900 complaints of third-country nationals willing to lodge an asylum application, but allegedly having no access to the Asylum Service in person or through Skype.<sup>71</sup> The Asylum Service, replying to GCR's interventions on access, admitted not to have the capacity to handle such large numbers of applicants. As mentioned in the relevant replies:

"The Asylum Service is requested to deal with thousands of people on a daily basis, thereby exceeding by far its objective capacity."<sup>72</sup>

#### The pre-registration programme

From 8 June to 30 July 2016, a pre-registration exercise was launched in the mainland by the Asylum Service, and implemented with the help of UNHCR and EASO, in order to offer the possibility to third-country nationals in mainland Greece to ask for asylum in the country and to cover the increasing

<sup>68</sup> AIDA, Country Report Greece, Fourth Update, November 2015, 25.

<sup>69</sup> According to data by UNHCR, nearly one million people arrived in Greece in 2015, however only 13,197 people applied for asylum: <http://bit.ly/2iCLSz0>.

<sup>70</sup> Greek Ombudsman, *Annual Report 2015*, December 2015, available in Greek at: <http://bit.ly/2m8vGDz>, 37.

<sup>71</sup> GCR, *Lack of access to the asylum procedure*, 19 April 2016, available in Greek at: <http://bit.ly/2k1d2g>.

<sup>72</sup> Asylum Service, Document No 5838/14.4.2016: "η υπηρεσία Ασύλου καλείται καθημερινά να εξυπηρετήσει χιλιάδες ανθρώπους, πράγμα που ξεπερνά κατά πολύ τις αντικειμενικές δυνατότητες της."

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demand for access to international protection.<sup>73</sup> “Pre-registration” consisted in a “basic registration” of asylum seekers’ details, making use of the possibility foreseen in Article 36(1)(b) L 4375/2016.<sup>74</sup>

Pre-registration concerned people entered Greece from 1 January 2015 and prior to 20 March 2016, i.e. those exempt for the scope of the EU-Turkey Statement. According to the Asylum Service, a total 27,592 people were pre-registered.<sup>75</sup>

Pre-registered asylum seekers were provided with an asylum seeker’s card, granting them the right to reside legally in Greece during the examination of their application, as well as access to health and education. Access to labour market was not provided for pre-registered asylum seekers. Moreover, only after the full registration of the application would applicants have access to [Relocation](#) or [Dublin](#) family reunification procedures. This card is valid for a period of one year or up to the date of full registration, if that is fixed earlier than one year.<sup>76</sup>

Following their pre-registration, asylum seekers were informed via SMS or from an online application<sup>77</sup> of the date of the appointment for their full registration.

At the end of 2016, 12,905 applications for international protection by pre-registered persons were fully registered, while 6,083 pre-registered applicants did not appear to the Asylum Units on their scheduled dates for full registration.<sup>78</sup> Full registration was scheduled to be completed in February 2017, earlier than initially planned.<sup>79</sup> GCR has encountered a number of cases whose full registration will be completed in March 2017, as registration appointments were rescheduled.

Moreover, some problems occurred concerning the notification of applicants for the date of the full registration, as for example it is reported that “in the first days of full registration, 30% of SMSs for September appointments were undeliverable”.<sup>80</sup> According to the practice, in case that a pre-registered applicant does not appear for the full registration, the application is closed and the applicant should restart the procedure via Skype. In case that the applicant has lost the pre-registration card or the latter has been stolen, full registration does not take place even if the person has appeared on the scheduled day for full registration and the appointment is rescheduled, resulting in delaying the full registration.<sup>81</sup>

In any event, despite the rapid increase of the Asylum Service and the pre-registration exercise, access to the asylum procedure still remains a matter of concern. Difficulties are still reported,<sup>82</sup> given that the Asylum Service Skype line is only available for a limited number of hours per week.<sup>83</sup>

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<sup>73</sup> UNHCR, ‘The pre-registration of asylum seekers in the Greek mainland is starting today’, 8 June 2016, available at: <http://bit.ly/2milhVp>.

<sup>74</sup> See AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, available at: <http://bit.ly/29DULiv>, 14.

<sup>75</sup> Asylum Service, *Pre-registration data analysis*, 9 June – 30 July 2016, available at: <http://bit.ly/2mih8Rg>.

<sup>76</sup> Decision 8097/2016 of the Director of the Asylum Service, Gov. Gazette 1542/31.5.2016, available in Greek at: <http://bit.ly/2lrAzaN>.

<sup>77</sup> <https://search.rescueapp.org/#/>

<sup>78</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>79</sup> Asylum Service, ‘Full registration of 2500 asylum seekers to be concluded sooner than initially scheduled’, 21 January 2017, available at: <http://bit.ly/2m4BGkc>.

<sup>80</sup> Action Aid et al, *More Than Six Months Stranded-What Now? A Joint Policy Brief on the Situation for Displaced Persons in Greece*, October 2016, available at: <http://bit.ly/2m8HHsF>, 8. As mentioned by the Asylum Service, during the pre-registration exercise, an email address was available ([new.numbers@asylo.gov.gr](mailto:new.numbers@asylo.gov.gr)), in order for any change related to the mobile numbers to be stated. Moreover, a UNHCR focal point has been appointed in each camp for issues relevant to pre-registration.

<sup>81</sup> GCR, *Difficulties concerning access due the lack of the original preregistration card*, Document No 702/24-11-2016, 24 November 2016.

<sup>82</sup> Asylum Service, *International protection application registration schedule*, 9 January 2017, available at: <http://bit.ly/2l4d0DY>.

<sup>83</sup> See e.g. UNHCR, *Greece Factsheet 1 – 31 December 2016*, available at: <http://bit.ly/2lqUI6z>: “On December, **Thermopiles** and **Oinofyta** continued to address residents who complain of not having access to skype in order to register their asylum claims”; Campaign for Access to Asylum, ‘No more dead refugees -

For example, as of March 2017, the RAO of Attica is available via Skype for a total of 20 hours per week,<sup>84</sup> as indicated below:

- 4 hour per week for Dari and Farsi speakers;
- 3 hours per week for Arabic speakers;
- 1 hour per week for Syrians eligible for the fast-track procedure;
- 1 hour per week for English and French speakers;
- 4 hours per week for Urdu and Panjabi speakers;
- 1 hour per week for Bengali speakers;
- 1 hour per week for Albanian speakers;
- 3 hours per week for Sorani speakers;
- 1 hour per week for Kurmanji speakers;
- 1 hour per week for Georgian speakers.

Respectively, for applicants living outside Attica region (RAO Thessaloniki, Thrace, Patras and Rhodes), the Skype line is available for a total of 18 hours per week.<sup>85</sup>

The Greek Ombudsman repeats in its 2016 Annual Report that access to the asylum procedure through Skype has been assessed as “a restrictive system which seems to contradict the principles of full, constant and unobstructed access to the asylum procedure.”<sup>86</sup>

### 3.4. Access to asylum: Arrivals after the launch of the EU-Turkey statement (20 March 2016)

The launch of the EU-Turkey statement on 20 March 2016 has significantly deteriorated access to the asylum procedure on the islands. Unlike previously, where only very few people were applying for asylum in the islands, after 20 March 2016 virtually all newly arrived third-country nationals expressed their will to apply for asylum. In practice, and as a policy of detention upon arrival is applied on the islands, newly arrived persons express their intention to apply for asylum before the Police or the RIS, and the application is lodged by the Asylum Service at a later time.<sup>87</sup>

The full registration and further examination of the applications are prioritised on the basis of nationality (see [Differential Treatment of Specific Nationalities in the Procedure](#)), where the authorities register and interview Syrian nationals first to assess whether their claims are admissible or whether they could be returned to Turkey, followed by applicants from countries with a relatively low recognition rate, such as Algeria or Pakistan to assess their claims on the merits. This resulted in severe delays in accessing to the asylum procedure for persons belonging to other nationalities. As reported by the Fundamental Rights Agency (FRA) and NGOs, it led to “nationalities that were not prioritised, including Afghans, Congolese, Iranians and Iraqis, having to wait in the hotspots for up to six months until their claims started to be formally registered. Many of them are still waiting for an eligibility interview.”<sup>88</sup>

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Immediate transportation of the asylum seekers from the Aegean islands to the mainland for a fair examination of the merits of their asylum applications in a context of freedom and decent living conditions’, 31 January 2017, available at: <http://bit.ly/2lICRF7>. See also Ombudsman, *Annual Report 2016*, available at: <http://bit.ly/2nkMacq>, 32.

<sup>84</sup> Asylum Service, *Registration Schedule*, 13 March 2017, available at: <http://bit.ly/2mLwS3O>.

<sup>85</sup> *Ibid.*

<sup>86</sup> Ombudsman, *Annual Report 2016*, available at: <http://bit.ly/2nkMacq>, 32.

<sup>87</sup> See Article 36(3) L 4375/2016.

<sup>88</sup> FRA, *Opinion on fundamental rights in the 'hotspots' set up in Greece and Italy*, 5/20168 December 2016, available at: <http://bit.ly/2m8HoOK>, 18. Action Aid et al, *More Than Six Months Stranded-What Now? A Joint Policy Brief on the Situation for Displaced Persons in Greece*, October 2016, available at: <http://bit.ly/2m8HHsF>, 7-9.

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According to data provided by the Asylum Service, a number of 22,870 intentions to apply for asylum were submitted between 20 March and 31 December 2016 on the five islands with operational hotspot facilities (**Lesvos, Chios, Samos, Leros, Kos**) and **Rhodes**, where a RAO operates.

Registration of asylum applications on the islands: 2016			
	1 January – 19 March 2016	20 March – 31 December 2016	
Island	Intentions to seek asylum	Intentions to seek asylum	Registered applications
Lesvos	648	10,217	4,446
Samos	160	2,825	2,255
Chios	33	5,730	3,365
Kos	0	2,318	686
Leros	0	1,194	870
Rhodes	173	586	759
<b>Total</b>	<b>1,014</b>	<b>22,870</b>	<b>12,381</b>

Source: Asylum Service, Information provided to GCR, 9 February 2017.

Out of a total 22,870 intentions to seek asylum after the launch of the EU-Turkey statement, 3,108 intentions were not registered due to the fact that the person did not appear before the Asylum Service on the day of registration. Another 946 intentions have not been registered as they were revoked.<sup>89</sup>

As demonstrated by the abovementioned data, in practice, an important number of third-country nationals willing to apply for asylum on the islands after 20 March 2016, do not have effective access to asylum procedure or only have access subject to undue delays, exceeding 6 months for certain nationalities. Beyond violating the safeguards provided by the recast Asylum Procedures Directive, this in turn creates a substantial backlog of cases that have to be examined on the islands. In any event, as underlined, prioritisation of access to the procedure on the basis of nationality may lead to discrimination vis-à-vis other rights or undermine the right to family reunification.

Moreover, cases of third-country nationals who had formally expressed before the Greek authorities the intention to seek asylum and were readmitted to Turkey without their application being properly register and examined, in violation of the *non-refoulement* principle, have also been reported on the islands since the entry into force of the EU-Turkey statement. Two well-documented cases concern:

- The reported readmission of 13 persons arrived after 20 March 2016 on the island of **Chios** and returned back to Turkey on 4 April 2016 without their asylum application being formally registered “due to administrative chaos”;<sup>90</sup> and
- The reported case of 10 Syrian citizens readmitted from **Kos** to Turkey, without due consideration of their asylum claims.<sup>91</sup>

### 3.5. Access to the procedure from administrative detention

Access to the asylum procedure for detainees subject to removal procedures is also highly problematic. The application of a detainee having expressed his or her will to apply for asylum is registered only after

<sup>89</sup> Asylum Service, Information provided to GCR, 9 February 2017.

<sup>90</sup> The Guardian, ‘Greece may have deported asylum seekers by mistake, says UN’, 5 April 2016, available at: <http://bit.ly/2ljfKQG>; GCR, ‘Implementation of the EU-Turkey Agreement in breach of fundamental rights’, 27 April 2016, available in Greek at: <http://bit.ly/2miKfDX>.

<sup>91</sup> UNHCR, ‘UNHCR concern over the return of 10 Syrian asylum-seekers from Greece’, 21 October 2016, available at: <http://bit.ly/2eeBKvn>.

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a certain period. During the time elapsing between the expression of the will and the registration of the application, the asylum seeker remains detained by virtue of a removal order and is deprived of any procedural guarantees provided to asylum seekers, despite the fact that according to Greek law, “the person who expresses his/her intention to submit an application for international protection is an asylum seeker.”<sup>92</sup>

This time period between the expression of intention to apply for asylum by a third-country national in detention and the official registration of the claim varies upon the circumstances of each case, and in particular the capacity of the competent authority and the number of the detainees willing to apply for asylum. For example, according to GCR’s experience from the field, in January 2017, an average period of about 2 months was needed for the registration of an application for a person detained in the **Amygdaleza** pre-removal centre. Respectively in **Corinth** pre-removal centre this period is reported to be shorter, depending on the availability of interpreters.

## C. Procedures

### 1. Regular procedure

#### 1.1. General (scope, time limits)

##### Indicators: Regular Procedure: General

- |  |   |
|--|---|
| 1. Time-limit set in law for the determining authority to make a decision on the asylum application at first instance:     | 6 months  |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2016:  | 28,030  |

According to national legislation, an asylum application should be examined as “the soonest possible” and, in any case, within 6 months, in the framework of the regular procedure.<sup>93</sup> This time limit may be extended for a period not exceeding a further 9 months, where:<sup>94</sup>

- Complex issues of fact and/or law are involved; or
- A large number of third country nationals or stateless persons simultaneously apply for international protection.

A further extension of 3 months is also provided “where necessary due to exceptional circumstances and in order to ensure an adequate and complete examination of the application for international protection.”<sup>95</sup>

Where no decision is issued within the maximum time limit fixed in each case, the asylum seeker has the right to request information from the Asylum Service on the timeframe within which a decision is expected to be issued. As expressly foreseen in the law, “this does not constitute an obligation on the part of the Asylum Service to take a decision within a specific time limit.”<sup>96</sup>

<sup>92</sup> Article 36(3) L 4375/2016.

<sup>93</sup> Article 51(2) L 4375/2016.

<sup>94</sup> Article 51(3) L 4375/2016.

<sup>95</sup> Article 51(4) L 4375/2016.

<sup>96</sup> Article 51(5) L 4375/2016.

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Decisions granting status are given to the person of concern in extract which does not include the decision's reasoning. According to Article 41(1)(f) L 4375/2016, in order for the entire decision to be delivered to the person recognised as a beneficiary of international protection, a special legitimate interest (*ειδικό έννομο συμφέρον*) should be proven by the person in question. If a special legitimate interest is not proven, the Asylum Service refuses to deliver the entire decision in practice.<sup>97</sup>

## 1.2. Prioritised examination / Fast-track processing

Article 51(6) L 4375/2016 provides that an application may be registered and examined by way of priority for persons who:

- (a) Belong to vulnerable groups or are in need of special procedural guarantees;
- (b) Apply from detention, at the border or from a Reception and Identification Centre;
- (c) Are likely to fall within the Dublin procedure;
- (d) Have cases reasonably believed to be well-founded;
- (e) Have cases which may be considered as manifestly unfounded;
- (f) Represent a threat to national security or public order; or
- (g) File a [Subsequent Application](#).

Moreover, a fast-track procedure for the examination and the granting of refugee status to Syrian nationals and stateless persons with former habitual residence in Syria, is in place since September 2014.<sup>98</sup> In 2016, a total 1,000 applications for international protection have been submitted in the framework of the fast-track procedure, out of which 913 received positive decisions.<sup>99</sup>

## 1.3. Personal interview

### Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure?  Yes  No  
❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision?  Yes  No
3. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The law provides that reasonable time shall be provided to the applicant to prepare for the interview, if he or she so requests.<sup>100</sup> In practice, personal interviews may initially be set within 4 to 6 months following the full registration of an application, while a rescheduled appointment following a cancelled interview is usually set within 1 to 2 months.

Under the regular procedure, the interview takes place at the premises of the RAO on the designated day and is conducted by one caseworker. The personal interview takes place without the presence of the applicant's family members, unless the competent Asylum Service Officer considers their presence necessary.<sup>101</sup> The personal interview must take place under conditions ensuring appropriate confidentiality.<sup>102</sup>

<sup>97</sup> Asylum Service, Document no 34200/15.9.2016 "Request for a copy".

<sup>98</sup> For more details, see AIDA, Country Report Greece, Fourth Update, November 2015, 36.

<sup>99</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>100</sup> Article 52(5) L 4375/2016.

<sup>101</sup> Article 52(11) L 4375/2016.

<sup>102</sup> Article 52(12) L 4375/2016.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

The person conducting the interviews should be sufficiently qualified to take into account the personal or general circumstances regarding the application, including the applicant's cultural origin. In particular, the interviewer must be trained concerning the special needs of women, children and victims of violence and torture.<sup>103</sup>

Until 31 December 2016, among 654 active Asylum Service staff members – 379 of whom on fixed-term contracts – 390 officers conducted first instance interviews across all premises around Greece.<sup>104</sup> The short term working status of the majority of Asylum Service staff as mentioned above (see [Registration](#)) besides the precarious working environment for the employees, may create problems in its operation.

A personal interview with the applicant may be omitted where:<sup>105</sup>

- (a) The Police or Asylum Service is able to take a positive decision on the basis of available evidence;
- (b) It is not practically feasible, in particular when the applicant is declared by a medical professional as unfit or unable to be interviewed due to enduring circumstances beyond their control. In practice, the applicants themselves or usually their legal advisor, if there is one, must collect and submit such a certificate.

When the applicant or, where applicable, a family member of the applicant is not provided with the opportunity of a personal interview due to their being unfit or unable to be interviewed, as mentioned above, the Police or Asylum Service shall “make reasonable efforts” to provide them with the possibility to submit supplementary evidence.<sup>106</sup> The omission of a personal interview does not adversely affect the decision on the application, as long as the decision states the reasons for omitting the interview.<sup>107</sup>

The law also envisages that an interpreter of a language understood by the applicant be present in the interview.<sup>108</sup> A widely extended use of remote interpretation has been observed especially in distant Regional Asylum Offices and Asylum Units. For example, remote interpretation, with the assistance of an Athens-based interpreter, is used in almost all cases in the AU of **Fylakio**, due to lack of Fylakio-based interpreters. However, interviews are no longer conducted through video-conference. By the end of 2016, the composition of the AU of Fylakio included: 1 Head of the Unit; 2 registration officers; 3 officers conducting interviews, of whom 2 are under fixed-term contract and also conduct registrations.

Interviews of asylum seekers in detention are a matter of concern. In **Fylakio**, the AU of Fylakio still conducts interviews in a container located in the courtyard of the Fylakio pre-removal detention centre, which is run by the Hellenic Police. In the **Corinth** pre-removal detention centre, on certain occasions confidentiality is not guaranteed during the interview due to lack of appropriate spaces.<sup>109</sup>

The law envisages audio recording of the personal interview. A detailed report is drafted for every personal interview, which includes the main arguments of the applicant for international protection and all its essential elements. Where the interview is audio recorded, the audio recording accompanies the report. For interviews conducted by video-conference, audio recording is compulsory. Where audio recording is not possible, the report includes a full transcript of the interview and the applicant is invited to certify the accuracy of the content of the report by signing it, with the assistance of the interpreter who also signs it, where present.<sup>110</sup>

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<sup>103</sup> Article 52(13)(a) L 4375/2016.

<sup>104</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>105</sup> Article 52(8) L 4375/2016.

<sup>106</sup> Article 52(9) L 4375/2016.

<sup>107</sup> Article 52(10) L 4375/2016.

<sup>108</sup> Article 52(3) L.4375/2016.

<sup>109</sup> GCR, Document No 717/2016.

<sup>110</sup> Article 52(14)-(15) L 4375/2016.

Before personal interviews were audio recorded, the caseworker would read back the full transcript to the applicant in order for him or her to approve its content and sign it. As of April 2014, all interviews are audio-recorded. Ever since audio-recording came into play, the caseworker still writes down a full transcript of the interview, but does not read its content back to the applicant. The applicant may at any time request a copy of the transcript, a copy of the audio file or both.<sup>111</sup>

### Quality of interviews and decisions

Issues with regard to the quality of asylum interviews and first instance decisions have been raised in previous years.<sup>112</sup> As the Asylum Service has tripled in size in the course of 2016, the impact of such extension on the quality of the procedure should be assessed, in particular by taking into consideration the fact that the Asylum Service has indicated it urgently needs to build *inter alia* staff expertise.<sup>113</sup>

During 2016, GCR was made aware of a number of first instance cases where the assessment of the asylum claims and/or the decisions delivered arise issues of concern. Examples include:

**Outdated COI:** In some cases, to the knowledge of GCR, first instance decisions are based on outdated country of origin information (COI). This was for example the case of three Afghan applicants for whom, in the framework of the examination of the internal flight alternative, the security situation in the capital of Afghanistan was assessed based on COI dating back to 2011 and 2013,<sup>114</sup> and the case of an applicant from Pakistan where the security situation assessment (as regards the presence of Taliban) was based on COI also dated 2011 and 2013. The applications were lodged at the end of 2015 or in 2016.<sup>115</sup>

**Gender-based protection needs:** In another case, the applicant, a woman from Cameroon without a supportive social or family network, claimed that she had suffered from severe sexual and physical violence, forced marriage to an elderly person, further coercion into prostitution, repeated rape from numerous men over a long period of time that resulted in her pregnancy. Furthermore, the applicant alleged that she had tried to seek for protection with the police authorities of her country, but they had refused to help. At the first instance, the allegations of the applicant were assessed as credible. Moreover, the decision mentioned a number of COI sources to conclude that in case of return there would be a great possibility that the applicant would be subject to ill-treatment and would not have the means to survive, let alone support her new-born child. However, the first instance decision rejected the application on the basis that in any case the applicant can seek help and support from NGOs operating in her country of origin and that the acts that the applicant has suffered do not constitute persecution according to the Refugee Convention. The decision fails to accept that a woman without a supportive social or family network, that has been the victim of sexual violence, physical mistreatment, repeated rape, forced marriage and forced prostitution, traumatic and stigmatising experiences, is a member of a particular social group and as such faces persecution according to the Refugee Convention. The applicant was granted refugee status on second instance.<sup>116</sup>

Similar is the case of a single woman from Ethiopia without any supportive or family network in her country of origin. The applicant claimed that she was forced to work as a maid indoors at the age of 7, she was a victim of rape and she was also abused physically, verbally and psychologically. At the age of 16, after escaping from Ethiopia with the help of a neighbour, she was subjected *inter alia* to labour trafficking in Lebanon. The applicant also submitted before the Asylum Service a psychological

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<sup>111</sup> Article 52(16) L 4375/2016.

<sup>112</sup> See AIDA, Country Report Greece, Fourth Update, November 2015, 39.

<sup>113</sup> Recital 16 Commission Recommendation C(2016) 8525 of 8 December 2016 on the resumption of transfers to Greece under Regulation (EU) No 604/2013, available at: <http://bit.ly/2kLks1L>.

<sup>114</sup> First instance decisions of May 2016, July 2016 and September 2016, on file with the author.

<sup>115</sup> First instance decision of November 2016, on file with the author.

<sup>116</sup> First instance decision of June 2016, on file with the author.

assessment of a specialised NGO, recommending the need for a stable and secure framework and systematic provision of care for the rehabilitation of her trauma. Despite accepting *inter alia* her sexual abuse, the first instance decision rejected her asylum application considering that:

“The applicant’s fear cannot be considered well-founded because it cannot be established, to a reasonable degree, that her continued stay in her country of origin has become intolerable to her for the reasons stated in the definition, or would for the same reasons be intolerable if she returned there... her past experiences took place when she was a minor while today she is a grown woman... able to work... and she could probably use people [implying the neighbour that helped her to escape 10 years ago] from her wider environment that could help her for the smooth rehabilitation in her country...”

The applicant was granted refugee status on second instance.<sup>117</sup>

Other examples include:

- The case of an Afghan applicant who, despite having provided a copy of a ‘night letter’ to the competent examination authority, received a first instance decision which neither took into consideration nor made any assessment of this element;<sup>118</sup>
- The case of a writer from Iran who, during his interview, described in detail both the State agents of his persecution and the way the authorities reacted to his writings. Nevertheless, the interviewer did not examine / evaluate at all the relevant country of origin information regarding the specific State agents and their practices;<sup>119</sup>
- The case of a single woman who claimed that she is facing psychological problems and that she was under medical treatment. Her health condition was not evaluated at any point of the first instance decision, including the examination of the consistency of her statements;<sup>120</sup>
- The case of an unaccompanied minor from Pakistan, of Bengali ethnic origin, who claimed that he had to work already since the age of 11 in order to survive and that he fled his country of origin as he was facing discrimination and extreme violations of his rights as a child and as a human being. During his interview, he was not asked about living conditions in his country of origin or about his claim of having been subjected in child labour. Thus the first instance decision rejecting the application failed *inter alia* to take into consideration his particular situation as a minor.<sup>121</sup>

#### 1.4. Appeal

##### Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

<ul style="list-style-type: none"><li>❖ If yes, is it</li><li>❖ If yes, is it suspensive</li></ul>	<table border="0"><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr><tr><td><input type="checkbox"/> Judicial</td><td><input checked="" type="checkbox"/> Administrative</td></tr><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr></table>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No						
<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative						
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No						
2. Average processing time for the appeal body to make a decision: Not available

A twofold procedural framework remains in place for the examination of appeals against negative decisions. The one concerns applications submitted after 7 June 2013 to the Asylum Service, and the other concerns the examination of the so-called “backlog appeals” against decisions on applications lodged before 7 June 2013 under PD 114/2010.

<sup>117</sup> First instance decision of February 2016, on file with the author.

<sup>118</sup> First instance decision of September 2016, on file with the author.

<sup>119</sup> First instance decision of August 2016, on file with the author.

<sup>120</sup> First instance decision of November 2016, on file with the author.

<sup>121</sup> First instance decision of April 2016. This case has been supported by the NGO Arsis, which kindly provided the information to GCR for the purpose of the present report.

### 1.4.1. Applications lodged after 7 June 2013

#### The Appeals Authority

As part of the reform of the Greek asylum System under the Greek Action Plan, L 3907/2011 provided the establishment of the Appeals Authority. Under Article 2 L 3907/2011, 19 Appeals Authority Committees were set up and started operations on 1 July 2013. However, from 24 September 2014 to 24 September 2015, only 10 Committees were in place, and since April 2015 only 8 of those were operational, following the departure of members of 2 Committees without being replaced. The functioning of the Appeals Authority Committees was halted on 25 September 2015, due to the fact that the term of service of the Appeals Committees' members came to an end and was not renewed. Therefore, since that date, the examination of the appeals pending before the Appeals Authority or lodged from 25 September 2015 onwards was continuously cancelled and no second-instance examination was provided.

#### *The April 2016 reform: L 4375/2016*

In April 2016, L 4375/2016, replacing L 3907/2011, provided the establishment of a new Appeals Authority, as a separate structure (*αυτοτελής υπηρεσία*) under the Minister of Interior and Administrative Reconstruction,<sup>122</sup> now under the Minister for Migration Policy.

As provided by Article 4 L 4375/2016, the establishment and the number of the three-member Appeals Authority Committees should have taken place by a Ministerial Decision. The members of the Appeals Authority Committees should hold a university degree in Law, Political or Social Sciences or Humanities with specialisation and experience the fields of international protection, human rights or international or administrative law. They should be appointed by the Minister of Interior and Administrative Reconstruction, after a selection procedure,<sup>123</sup> for a five-year term renewable, and should enjoy personal independence.

Moreover, the law foresaw transitional provisions until the start of the operation of the Appeals Authority Committees. In particular for:

- ❖ **Appeals submitted before 3 April 2016** against decisions rejecting applications for international protection lodged after 7 June 2013 should be examined by the Appeals Committees operating until 25 September 2015, which would be re-established under a Ministerial Decision with the same composition they had until that date.<sup>124</sup> There was only one Committee established in order to examine appeals submitted before 3 April 2016. It was established in July 2016 and its term expired on 31 December 2016, without being renewed.<sup>125</sup> Thus, an important number of about 3,000 appeals submitted before the 3 April 2016 are still pending over a long period of time, as the operation of the competent administrative body was halted between September 2015 and April 2016 and since January 2017 its term of service has not been renewed.
- ❖ **Appeals submitted between 3 April 2016 and 21 July 2016** when the operation of the Appeals Authority Committees would start were to be examined by the [Backlog Appeal Committees](#).<sup>126</sup> This comprised *inter alia* of appeals against decisions rejecting the applications as inadmissible in the framework of the EU-Turkey statement.

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<sup>122</sup> Article 4 L 4375/2016.

<sup>123</sup> Article 5(12) L 4375/2016.

<sup>124</sup> Joint Ministerial Decision 9541/2014, Gazette 2692/B/09-10-2014.

<sup>125</sup> Joint Ministerial Decision 10658/2016, Gazette YOΔΔ 388/18-07-2016.

<sup>126</sup> Article 80(27) L 4375/2016.

Between 3 April 2016 and 20 July 2016, more than 2,000 appeals were lodged before the Backlog Appeals Committees.<sup>127</sup> As regards their main caseload, rejections of asylum applications on the basis of the [First Country of Asylum](#) and [Safe Third Country](#) concepts, the decisions taken during that period were as follows:

Decisions on appeals against inadmissibility		
From 3 April 2016 to:	12 Jun 2016	18 Sep 2016
Appeals lodged against inadmissibility decisions	252	1,013
Total Backlog Appeals Committee decisions	72	311
Reversing the Asylum Service decision	70	305
Upholding the Asylum Service decision	2	6

Source: European Commission, Implementation of the EU-Turkey statement, Second Report: <http://bit.ly/2lnRZY4>; Third Report: <http://bit.ly/2jmQQ10>.

#### *The June 2016 reform: L 4399/2016*

Appeals Authority Committees as provided by L 4375/2016 were never established. Following reported pressure by the EU with regard to the implementation of the EU-Turkey statement and the fact that a very small number of second-instance decisions had approved the first-instance decisions on inadmissibility,<sup>128</sup> two months after the publication of L 4375/2016, national legislation changed once again, with an amendment introduced to the Parliament on an unrelated bill of the Ministry of Economy, Development and Tourism on the “Institutional Framework on the establishment of Private Investments’ Aid Schemes for County’s Regional and Economic Development”, adopted as L 4399/2016.<sup>129</sup>

The amended Article 5(3) L 4375/2016 provides that new three-member Independent Appeals Committees (*Ανεξάρτητες Αρχές Προσφυγών*) will be established under the Appeals Authority. These Committees are established with the participation of two administrative judges and one member holding a university degree in Law, Political or Social Sciences or Humanities with specialisation and experience in the fields of international protection, human rights or international or administrative law.<sup>130</sup> The term of the Committee members is three years, instead of the previously foreseen five-year term.<sup>131</sup>

The involvement of judicial officials in the composition of the Appeals Authority Committees, an administrative body, *inter alia* raises questions of constitutionality and compliance with the right to an effective remedy.<sup>132</sup> With a Public Statement as of 17 July 2016, National Commission for Human Rights (NCHR), stated that it was:

“[P]articularly concerned about the fact that changes to L 4375/2016, proposed by the Government under this amendment, coinciding with the issuance of positive decisions of the – operational – Appeals Committees (with regard to their judgment on the admissibility) which,

<sup>127</sup> Recital 22 Commission Recommendation (EU) 2016/2256 of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) No 604/2013 of the European Parliament and of the Council.

<sup>128</sup> New Europe, ‘EU Council: Why Greece should consider Turkey safe for Syrian refugees’, 9 June 2016, available at: <http://bit.ly/2lWDYOa>; Keep Talking Greece, ‘EU presses Greece to change asylum appeal committees that consider “Turkey is not a safe country”’, 11 June 2016, available at: <http://bit.ly/2kNWR5D>.

<sup>129</sup> L 4399/2016, Gazette 117/A/22-6-2016, available in Greek at: <http://bit.ly/2lKABdD>.

<sup>130</sup> The third member is appointed by UNHCR or the National Commissioner for Human Rights if UNHCR is unable to appoint one. If both are unable, the (now) Minister for Migration Policy appoints one.

<sup>131</sup> Article 5(3)(f) L 4375/2016, as amended by L 4399/2016.

<sup>132</sup> ECRE, ‘Greece amends its asylum law after multiple Appeals Board decisions overturn the presumption of Turkey as a “safe third country”’, 24 June 2016, available at: <http://bit.ly/28RnTqO>.

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under individualised appeals examination, decided that Turkey is not a safe third country for the appellants in question... The NCHR also expresses its concern about the composition of those proposed Appeals Committees, as issues of constitutionality may arise regarding the participation of two administrative judges in each three-member Appeal Committee...The Constitution since 1.1.2002 prohibits administrative tasks from being entrusted to magistrates in order for their personal and operational independence to be maintained... The Council of State has ruled on the unlawful establishment (*μη νόμιμη συγκρότηση*) of Committees with the participation of magistrates. With a constant case law [the Council of State] has ruled that those are not a judicial body, given that they decide on administrative appeals (*ενδικοφανής προσφυγή*) against administrative decisions."<sup>133</sup>

With a Joint Statement, 18 members of the Backlog Appeals Committees raised concerns about the amendment, *inter alia* by highlighting that "managing legal issues through use of political priorities raises many questions about the future of the asylum system in Greece, the protection of human rights and the rule of law."<sup>134</sup>

Applications for annulment before the Council of State submitted by GCR and the Group of Lawyers for the Rights of Refugees and Migrants.<sup>135</sup> On February 2017 the Fourth Section of the Council of State decided to refer the cases to the Council of State Plenary, given the importance of the question.<sup>136</sup> The hearing before the Council of State Plenary took place on 10 March 2017.

12 Independent Appeals Committees are operational as of February 2017, while a total number of 20 Committees is intended to be established.<sup>137</sup> The first five Independent Appeals Committees started functioning on 21 July 2016,<sup>138</sup> while seven more Committees were established and started functioning on 14 December 2016.<sup>139</sup>

Without underestimating the fact that available data with regard to the decisions of the new Appeals Authority Committees concern a limited period of time (21 July – 31 December 2016), and an important number of decisions on appeals has not been issued yet, as it comes from the available data of the Appeals Authority, the recognition rate of international protection is no more than 0.4% of the total number of decisions that have been issued, while negative decisions on the merits constitute a 96.7% of the total. A 0.6% of issued decisions referred the case to the competent authority in order for the latter to be examined under the provisions for granting a humanitarian permit.

According to the data provided by the Appeals Authority for the period 21 July to 31 December 2016, the new Appeals Committees have granted refugee status to 5 persons (1 Afghan, 2 Pakistani, 2 Cameroonian nationals) and subsidiary protection to 1 Afghan national:

Independent Appeals Committee decisions: 21 July– 31 December 2016		
	Number	Percentage
Number of appeals lodged	3,130	:

<sup>133</sup> NCHR, *Public Statement regarding the amendment of the composition of the Independence Appeals Committees*, 17 June 2016, available at: <http://bit.ly/2k1Buhz>. Unofficial translation by the author.

<sup>134</sup> Keep Talking Greece, 'Appeals Committees denounce changes to facilitate mass deportations to Turkey', 20 June 2016, available at: <http://bit.ly/28S8K8k>.

<sup>135</sup> Group of Lawyers for the Rights of Refugees and Migrants, 'Αίτηση ακύρωσης κατά της ίδρυσης των Ανεξάρτητων Επιτροπών Προσφυγών', 15 September 2016, available in Greek at: <http://bit.ly/2mRtYJl>.

<sup>136</sup> Council of State, Decision 447/2017, 15 February 2017, available in Greek at: <http://bit.ly/2nePedm> and Decision 477/2017, 21 February 2017, available in Greek at: <http://bit.ly/2mASBZ6>.

<sup>137</sup> European Commission, *Fourth Report on the Progress made in the implementation of the EU-Turkey Statement*, COM(2016) 792, 8 December 2016, available at: <http://bit.ly/2lnobZ7>.

<sup>138</sup> Joint Ministerial Decision 3006/2016, Gazette YOΔΔ 392/20-07-2016.

<sup>139</sup> Joint Ministerial Decision, Gazette YOΔΔ 683/14-12-2016.

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Number of appeals examined and pending decision	1,214	:
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Number of decisions on appeals	1,341	100%
Refugee status	5	0.37%
Subsidiary protection	1	0.07%
Referral for humanitarian status	9	0.67%
Decisions rejecting the Appeal on the merits	1,201	89.56%
Other decisions (subsequent applications, appeals submitted after deadline, referrals to first instance)	125	9.32%

Source: Appeals Authority, Information provided to GCR, 9 February 2017.

As demonstrated by these findings, there is a glaring discrepancy between appeal recognition rates under the Appeals Authority Committees after L 4399/2016 and the outcome of the second-instance procedure of the previous years, but also between recognition rates before and after the effects of the June 2016 reform.

International protection recognition rates at appeal stage: 2014-2016								
Year	2014		2015		1 Jan – 31 Dec 2016		21 Jul – 31 Dec 2016	
Decision	Number	%	Number	%	Number	%	Number	%
Refugee	294	11.1%	332	11.2%	248	11.9%	5	0.37%
Subsidiary	133	5%	141	4.7%	27	1.3%	1	0.07%
Rejection	2,214	83.8%	2,497	84.1%	1,817	86.8%	1,201	96.4%
<b>Total</b>	<b>2,641</b>		<b>2,970</b>		<b>2,092</b>		<b>1,341</b>	

Source: Asylum Service, Asylum statistics 2014: <http://bit.ly/1CfHwwG>; Asylum statistics 2015: <http://bit.ly/1OukycW>; Appeals Authority, Information provided to GCR, 9 February 2017.

Moreover, significant variations exist also between the recognition rate per country of the Appeals Authority Committees under 4399/2016 and the equivalent decisions per country register since the establishment of the Appeals Authority in 2013 up to September 2015.

The highest rate of positive decisions of the Appeals Authority Committees per country since its establishment and until the end September 2015 was 26.3% for Afghan nationals, followed by 10.7% for Pakistani nationals.<sup>140</sup> The equivalent rates for these nationalities under the Independent Appeals Committees under L 4399/2016 are 10% for Afghan nationals (2 out of 20), and no more than 0.3% for Pakistani nationals (2 out of 572).<sup>141</sup>

### Procedure before the Appeals Authority

An applicant may lodge an appeal before the Appeals Authority against the decision rejecting the application for international protection as unfounded under the regular procedure, as well as against the part of the decision that grants subsidiary protection for the part rejecting refugee status, within 30 days from the notification of the decision. In cases where the appeal is submitted while the applicant is in detention, the appeal should be lodged within 15 days from the notification of the decision.<sup>142</sup>

<sup>140</sup> Information provided to GCR by the Appeals Authority, September 2015. See also AIDA, Country Report Greece: Fourth Update, November 2015.

<sup>141</sup> Information provided to GCR by the Appeals Authority, 9 February 2017.

<sup>142</sup> Article 61(1)(a)-(b) L 4375/2016, as amended by L 4399/2016.

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Appeals before the Appeals Authority have automatic suspensive effect. The suspensive effect covers the period “during the time limit provided for an appeal and until the notification of the decision on the appeal.”<sup>143</sup>

However, the Joint Action Plan on the implementation of the EU-Turkey Statement, issued on 8 December 2016, recommends the “Greek authorities to explore the possibility to limit the number of appeal steps in the context of the asylum process, in full respect of the Greek Constitution and Article 46 of Directive 2013/32”,<sup>144</sup> which provides the possibility to limit the suspensive effect of the appeal in a number of circumstances.

As a rule, the procedure before the Appeals Authority Committee is a written and the examination of the appeal is based on the elements of the case file without the presence of the appellant. However, the Appeals Committee must invite the appellant to an oral hearing when:<sup>145</sup>

- (a) The appeal is lodged against a decision which withdraws the international protection status (see [Cessation and Withdrawal](#));
- (b) Issues or doubts are raised relating to the completeness of the appellant’s interview at first instance;
- (c) The appellant has submitted substantial new elements; or
- (d) The case presents particular complexity.

It should be mentioned that the initial version of Article 62(1) L 4375/2016 required the Committees to invite the appellant also in the case where he or she had submitted a relevant request at least 2 days before the examination of the appeal.<sup>146</sup> This provision was abolished with the amendment of the law in June 2016, discussed below.<sup>147</sup> It is disputed whether this amendment is in line with Greece’s obligations under Article 47 of the Charter of Fundamental Rights of the EU.<sup>148</sup>

According to the law, the Appeals Committee must reach a decision on the appeal within 3 months when the regular procedure is applied.<sup>149</sup> If the Appeals Committee rejects the appeal on the application for international protection and considers that there are one or more criteria fulfilled for a residence permit on humanitarian grounds, the case is referred to the relevant authority, which decides on the granting of such a permit.<sup>150</sup>

#### 1.4.2. Backlog Committees: Applications lodged before 7 June 2013

Appeals Committees established by PD 114/2010 (“Backlog Committees”) are competent to examine appeals against decisions rejecting applications lodged before 7 June 2013. As mentioned above, an additional mandate was given to the Backlog Committees by L 4375/2016 to examine appeals lodged between 3 April 2016 and 21 July 2016.<sup>151</sup>

Moreover, as provided by Article 22 L 4375/2016, appellants whose appeal was pending before the Backlog Committees are granted by default a two-year permission to stay based on humanitarian grounds, which may be renewed, if the application has been lodged at least 5 years before 3 April 2016 and the application is still pending at second instance. Appellants who wish to continue the examination

<sup>143</sup> Article 61(4) L 4375/2016, as amended by L 4399/2016.

<sup>144</sup> European Commission, *Joint action plan on the implementation of the EU-Turkey Statement*, Annex to COM(2016) 792, 8 December 2016, para 10.

<sup>145</sup> Article 62(1) L 4375/2016, as amended by L 4399/2016.

<sup>146</sup> Article 62(1)(e) L 4375/2016, no longer in force.

<sup>147</sup> Article 88 L 4399/2016.

<sup>148</sup> ECRE and Dutch Council for Refugees, *The application of the EU Charter of Fundamental Rights to asylum procedural law*, October 2014, available at: <http://bit.ly/2agyJ6v>, 81-84.

<sup>149</sup> Article 62(6) L 4375/2016, as amended by L 4399/2016.

<sup>150</sup> Article 61(4) L 4375/2016, as amended by L 4399/2016.

<sup>151</sup> Article 81(27) L 4375/2016.

of the appeal as of the international protection grounds, have the right to request so within 2 months of the date that the humanitarian grant decision is communicated.

Appeals Committees are established following a Ministerial Decision of the Minister of Interior. Contrary to the Independent Appeals Committees, each Backlog Committee consists of:

- (a) An official of a Ministry or a legal person under the supervision of a Ministry, including officials of municipals authorities, holding a law degree, or former judge or former public servant granted with a law university degree, acting as the President of the Committee;
- (b) A representative of UNHCR, or a person who holds Greek citizenship, appointed by UNHCR;
- (c) A jurist specialised in refugee and human rights law, appointed by the relevant Ministry from a list drawn by the National Commission for Human Rights.

The chair and the members of the Appeal Committees are full-time employees. Each Committee is provided with support by a secretariat consisting of 5 duly qualified staff members from the relevant Ministry in full-time capacity.

Under Ministerial Decision 5401/3-156958 issued in August 2016,<sup>152</sup> 20 Backlog Committees were (re)established with a term up to 31 December 2016. This was extended up to 1 August 2017 with a subsequent Ministerial Decision.<sup>153</sup>

Backlog Committee decisions: 1 January 2016 – 31 December 2016		
	Number	Percentage
Number of appeals pending at the end of 2016	5, 833	:
Number of decisions on appeals	5,364	100%
Refugee status	515	9.60%
Subsidiary protection	131	2.44%
Referral for humanitarian status	1,844	34.37%
Rejection on the merits	2,847	53.07%

Appeals Committees (PD 114/2010), Information provided to GCR, 22 February 2017.

Article 22 L 4375/2016 provides that appellants who have lodged their asylum applications up to five years before the entry into force of L 4375/2016 (3 April 2016), and their examination is pending before the Backlog Committees, shall be granted a two-years residence status on humanitarian grounds, which can be renewed. Appellants granted with residence status on humanitarian grounds have the right to ask within two months from the notification of the decision for their asylum application to be examined in view of fulfilling the requirements international protection.

Under Article 22 L 4375/2016, a total 4,935 decisions granting humanitarian residence permits have been issued by the end of 2016.<sup>154</sup>

### **Procedure before the Backlog Committees**

According to the law, applicants in the regular procedure have the right to lodge an administrative appeal before the Appeals Committees established by PD 114/2010 against a first instance decision rejecting an application, granting subsidiary protection instead of refugee status or withdrawing

<sup>152</sup> Ministerial Decision 5401/3-156958, Gazette YOΔΔ 424/4-8-2016.

<sup>153</sup> Ministerial Decision 7396/30-12-2016, Gazette YOΔΔ 734/30-12-2016.

<sup>154</sup> Appeals Committees (PD 114/2010), Information provided to GCR, 22 February 2017.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

international protection status, within 30 days.<sup>155</sup> For decisions declaring an application as manifestly unfounded,<sup>156</sup> the deadline for appeals is 15 days.<sup>157</sup> Appeals submitted after this deadline are examined initially on admissibility and if declared admissible they are examined on the merits.<sup>158</sup>

Appeals have suspensive effect until the Appeals Committee reaches a decision.<sup>159</sup> Following a first instance decision, the asylum seeker's "pink card" is withdrawn, and a new one is issued when an appeal is lodged. This card is valid for 6 months in the regular procedure.<sup>160</sup>

The Appeals Committee may decide not to call the applicant for a hearing where it considers that it can issue a decision based only upon examination of the file. If the information included in the file is not sufficient for deciding on the appeal, the Appeals Committee shall invite the applicant to submit additional information within 10 days or to appear before it.<sup>161</sup> In the latter case the applicant shall be informed within 5 days before the date of the examination, in a language which he or she understands, of the place and date of the examination of the appeal, and for the right to attend in person or by an attorney or other advisor before the Committee to verbally explain his or her arguments with the assistance of an interpreter, to give explanations or to submit any additional information.<sup>162</sup>

Following an amendment in 2016, it is provided that "in any event, an oral hearing is taking place if the appellant submits a relevant request at least two (2) days before the examination of the appeal."<sup>163</sup>

A decision of the Appeals Committee rejecting the administrative appeal sets a specified timeframe of no more than 90 days for the applicant to leave the Greek territory.<sup>164</sup> While examining a case, and if they consider that the criteria for granting an international protection status are not fulfilled, Appeals Committees should examine if one or more of the criteria for granting a residence permit on humanitarian grounds is/are fulfilled and in this case refers the case to the competent authority under the Secretariat General for Migration Policy.

### 1.4.3. Judicial review

In both Old Procedure and New Procedure, applicants for international protection may lodge an application for annulment (*αίτηση ακύρωσης*) of a second instance decision of the Appeals Authority Committees or the Backlog Committees, before the Administrative Court of Appeals within 60 days from the notification of the decision.<sup>165</sup> The Minister for Migration Policy also has the right to request the annulment of the decision of the Appeals Committee before the Administrative Court of Appeals.<sup>166</sup> The possibility to file such a request, the time limits, as well as the competent court for the judicial review, must be expressly stated in the body of the administrative decision.

An application for annulment may only request an examination of the decision in law and has no automatic suspensive effect. However, the applicant may request the Court to grant suspensive effect while judicial review is conducted. In *R.U. v. Greece*, that concerned inter alia the possibility to challenge before an administrative Court a removal decision, the ECtHR was critical of the lack of

<sup>155</sup> Article 25(1)(a) PD 114/2010, as amended by Article 35(17) PD 113/2013.

<sup>156</sup> Article 17(3) PD 114/2010.

<sup>157</sup> Article 25(1)(b) PD 114/2010.

<sup>158</sup> Article 25(1) PD 114/2010, as amended by Article 23 L 4375/2016.

<sup>159</sup> Article 25(2) PD 114/2010.

<sup>160</sup> Article 25(1)(a) PD 114/2010, as amended by Article 3(1) PD 167/2014.

<sup>161</sup> Article 26(5) PD 114/2010, as amended by Article 3 PD 167/2014.

<sup>162</sup> *Ibid.*

<sup>163</sup> Article 23(2) L 4375/2016.

<sup>164</sup> Article 26(6) PD 114/2010.

<sup>165</sup> Article 29 PD 114/2010 and Article 64 L 4375/2016, citing Article 15 L 3068/2002.

<sup>166</sup> Article 26(7) PD 114/2010 and Article 64 L 4375/2016.

automatic suspensive effect of judicial review, which is also valid for the judicial review of a second-instance asylum decision.<sup>167</sup>

In practice, access to judicial review before the Administrative Court of Appeals is limited by a number of practical and legal obstacles which undermine the effectiveness of the remedy. These range from strict and complex procedural rules for judicial review, requiring applications to be well-substantiated, written in Greek and registered by a lawyer; to the Court's delays from 10 days of up to 4 months in deciding on suspensive effect, thereby leaving applicants at risk of deportation; to limited access to free legal assistance (see the section on [Legal Assistance](#) below).<sup>168</sup>

### 1.5. Legal assistance

#### Indicators: Regular Procedure: Legal Assistance<sup>169</sup>

1. Do asylum seekers have access to free legal assistance at first instance in practice?
  - ❖ Does free legal assistance cover:
    - Yes
    - With difficulty
    - No
    - Representation in interview
    - Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
  - ❖ Does free legal assistance cover:
    - Yes
    - With difficulty
    - No
    - Representation in courts
    - Legal advice

Asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their application.<sup>170</sup> No state funded free legal assistance scheme is in place for procedures on first or second instance and in practice, a number of non-governmental organisations provide free legal assistance and counselling to asylum seekers. However the scope of these services remains limited if the needs throughout the whole asylum procedure (registration of the application, first and second instance, judicial review) are taken into consideration.

#### Free legal assistance in appeal procedures

According to Article 44(2) L 4375/2016, free legal assistance should be provided to applicants in appeal procedures before the Appeals Authority. The terms and the conditions for the provision of free legal assistance should be determined by a Ministerial Decision, which was issued in September 2016.<sup>171</sup>

The Ministerial Decision provides among others that a free legal assistance will be provided by accredited lawyers, on the basis of a list managed by the Asylum Service.<sup>172</sup> Asylum seekers must request legal aid at least 10 days before the date of examination of the appeal under the regular procedure, while shorter time limits are foreseen for the [Admissibility Procedure](#), [Accelerated Procedure](#) and [Fast-Track Border Procedure](#).<sup>173</sup> If a legal representative has not been appointed at the latest 5 days before the examination of the appeal under the regular procedure, the applicant may request a postponement of the examination.<sup>174</sup> The Decision also explicitly provides for the possibility of legal assistance through video conferencing in every Regional Asylum Office.<sup>175</sup>

<sup>167</sup> ECtHR, *R.U. v. Greece*, Application No 2237/08, Judgment of 7 June 2011, paras 77-78.

<sup>168</sup> AIDA, Country Report Greece: Fourth Update, November 2015, 46.

<sup>169</sup> This refers to state-organised and funded legal assistance. Free legal assistance is only provided by NGOs upon availability.

<sup>170</sup> Article 44(1) L 4375/2016.

<sup>171</sup> Ministerial Decision 12205/2016, Gazette 2864/B/9-9-2016.

<sup>172</sup> Articles 1(4) and 2 MD 12205/2016.

<sup>173</sup> Article 1(3) MD 12205/2016.

<sup>174</sup> Article 1(4) MD 12205/2016.

<sup>175</sup> Article 1(7) MD 12205/2016.

DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

According to the Decision, lawyers are remunerated based on a fixed sum of €80 per appeal.<sup>176</sup>

By the end of February 2017, no free legal aid was in place in practice under the auspices of the Greek authorities for appeal procedures, and for this reason Greek authorities still do not comply with their obligation under national legislation and the recast Asylum Procedures Directive.

Two non-governmental organisations, GCR and another non-governmental organisation Metadrasi, provide free legal assistance to asylum seekers in second-instance procedures, through UNHCR funding programmes. These programmes aim at supporting appellants on the islands and a number of appellants in the mainland.<sup>177</sup> Between 15 July and 30 October 2016, legal assistance under these UNHCR-funded programmes was provided to 1,220 appellants at second instance.<sup>178</sup>

## 2. Dublin

### 2.1. General

#### Dublin statistics: 2016

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
<b>Total</b>	4,886	946	<b>Total</b>	4,115	3
Germany	3,527	:	Hungary	:	2
Sweden	345	:	Switzerland	:	1
Austria	218	:			
Netherlands	144	:			
Norway	107	:			
Belgium	103	:			
United Kingdom	69	:			
Denmark	65	:			
Switzerland	53	:			
France	52	:			

Source: Asylum Service, Information provided to GCR, 9 February 2017.

#### The application of the Dublin criteria

The majority of outgoing transfers under the Dublin Regulation continue to take place in the context of family reunification. In 2016, 946 transfers were carried out, the vast majority of which on family reunification grounds.<sup>179</sup>

In 2016, like in 2015, the most frequent trend was for families *not* to have already applied for asylum in Greece, but for one or more family members to travel onwards and lodge their first application in another EU Member State. Besides, until November 2015, the northern border of Greece was almost completely open and the road to Central Europe easily accessible through the Balkan route.

<sup>176</sup> Article 3 MD 12205/2016.

<sup>177</sup> Commission Recommendation of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) No. 604/2013.

<sup>178</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>179</sup> Information provided by the Asylum Service, 9 February 2017.

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By applying directly to another EU Member State, applicants may request their families to join them on the basis of Dublin's family unity criteria,<sup>180</sup> which are at the top of the hierarchy of responsibility criteria, rather than the discretionary clauses.<sup>181</sup> Before 2015, the most frequent case used to concern families applying for asylum in Greece, where at some point – well beyond the 3-month deadline for submitting a request – one or more members moved onwards to apply in another Member State, where they requested for their family members to be admitted for the purposes of family reunification. Under the Dublin Regulation, these claimants should be returned to Greece, but could no longer be transferred after the *M.S.S. v. Belgium & Greece* ruling. Although in such cases the receiving Member State is not obliged to accept the transfer of family members from Greece, in practice it invokes the Regulation's discretionary clauses,<sup>182</sup> and notifies Greece of its acceptance of the take charge request.

However, serious problems arise in the cases of unaccompanied children whose family members are present in another Member State. The system of appointing a guardian for minors is dysfunctional, as little is done after the Asylum Service or Police or Reception and Identification Centre (RIC) has informed the Juvenile Public Prosecutor who acts by law as temporary guardian for unaccompanied children; the Prosecutor merely assumes that capacity in theory. Unacceptable delays take place for the actual transfer of unaccompanied children below the age of 14 to another Member State where the family reunification request has been accepted, due to severe shortage of staff to escort the child and to the need for the Dublin Unit to request the Aliens Division to provide an escort for the transfer. In some cases in 2016, reports have referred to delays of one year or in some cases 15-18 months for children to reunite with family members.<sup>183</sup>

In order for a "take charge" request to be addressed to the Member State where a family or relative resides, the consent of the relative is required, as well as documents proving the legal status of the relative in the receiving country (e.g. residence permit, asylum seeker's card or other documents certifying the submission of an asylum application) and documentation bringing evidence of the family link (e.g. certificate of marriage, civil status, passport, ID). The lack of such documentation leads in practice to non-expedition of an outgoing request by the Dublin Unit. In some cases, however, some Member States have requested more onerous evidence of family links such as DNA tests.<sup>184</sup>

In 2016, Greece issued a total 4,886 outgoing Dublin requests, mainly concerning Syrians, Afghans and Iraqis, under the following criteria of the Regulation:

Outgoing Dublin requests by criterion: 2016	
Dublin III Regulation criterion	Requests made in 2016
Family provisions: Articles 6 and 8-11	4,276
Article 6	9
Article 8	699
Article 9	1,532
Article 10	2,034
Article 11	2
Documentation and entry: Articles 12-15	32
Article 12	23
Article 13	9

<sup>180</sup> Information provided by the Asylum Service, March 2015.

<sup>181</sup> Articles 8-11 Dublin III Regulation, more particularly Article 10.

<sup>182</sup> Article 17 Dublin III Regulation.

<sup>183</sup> See e.g. The AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, available at: <http://bit.ly/29DULlv>, 20.

<sup>184</sup> *Ibid.*

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Dependency and humanitarian clause: Articles 16 and 17(2)	451
Article 16	97
Article 17	354
"Take back": Article 18	127
<b>Total outgoing requests</b>	<b>4,886</b>

Source: Asylum Service, Information provided to GCR, 9 February 2017.

## 2.2. Procedure

### Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? cc. 5-6 months

The Dublin procedure is handled by the Dublin Unit in Athens. Regional Asylum Offices are competent for registering applications and thus potential Dublin cases, as well as to notify applicants of decisions after the determination of the responsible Member State has been carried out.<sup>185</sup>

In line with Article 21 of the Dublin III Regulation, where an asylum application has been lodged in Greece and the authorities consider that another Member State is responsible for examining the application, Greece must issue a request for that Member State to take charge of the applicant no later than 3 months after the lodging of the application.

Generally, outgoing requests by Greece receive a reply within 2 months after the request is submitted, in line with the time limits imposed by the Regulation.<sup>186</sup> However, according to GCR's experience, certain Member States such as Germany tend to delay their replies, due to heavy workload.

During 2016, Greece addressed 4,886 outgoing requests to other Member States under the Dublin Regulation. Within the same period, 2,462 requests were accepted and 1,001 rejected. Against those rejections, a request for review has been made by the Dublin Unit.<sup>187</sup> At this point, it should be noted that there has been a remarkable increase in the number of outgoing requests compared to previous years:

Outgoing Dublin requests: 2014-2016			
Year	2014	2015	2016
Outgoing requests	1,126	1,073	4,886

Source: Eurostat; Asylum Service.

### Individualised guarantees

In family reunification cases through Dublin III, the reception conditions in the receiving state are not examined. It is sufficient that the applicant is willing to be transferred there and that he or she relinquishes his or her right to appeal against the decision rejecting the asylum application as inadmissible.

<sup>185</sup> For more information, see The AIRE Centre & ECRE, *With Greece: Recommendations for refugee protection*, July 2016, 20.

<sup>186</sup> Article 22(1) Dublin III Regulation.

<sup>187</sup> Asylum Service, *The work of the Asylum Service in 2016*, 17 January 2017, available at: <http://bit.ly/2jFEqIW>, 2.

## Transfer procedure

In 2014, the Greek Dublin Unit was reorganised and reinforced with several new members, although there is still room for more adjustments to be made in order for the Unit to meet the actual needs attached to the high number of Dublin procedures. As a result, so far Dublin procedures appear to run smoothly and within the requisite deadlines. For example, deadlines for “take charge” requests as well as transfers are usually met without jeopardising the outcome of the reunification.

However, delays occur and the waiting time for transfers is still extremely high. The average duration of the transfer procedure, after a Member State had accepted responsibility, was approximately 5-6 months in 2016.<sup>188</sup> Applicants who are to travel by plane to another Member State are picked up by the Hellenic Police from their house or from a location in proximity and are driven to the airport. The police officer escorts the applicants to the check-in counter. Once the boarding passes are issued, the escorting officer hands in the boarding passes, the *laissez-passer* and the applicant’s “asylum seeker’s card” to a police officer at the airport. The latter escorts the applicant into the aircraft, hands in the required documents to the captain of the aircraft and the applicant boards the aircraft.

Due to the lack of relevant funding, applicants under the Dublin Regulation are expected to cover their own travel expenses.<sup>189</sup> NGOs endeavour to find sponsors or donors, since there are many cases where people cannot afford the transfer.

Compared to a total 4,886 requests in 2016, a total 946 transfers were implemented, thereby indicating a transfer rate of 19.36%.

### 2.3. Personal interview

#### Indicators: Dublin: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure?  Yes  No  
❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

Under the Dublin procedure, a personal interview is not always required.<sup>190</sup>

In practice, detailed personal interviews do not usually take place as per the merits, when outgoing requests are pending for the transfer of asylum seekers under the family reunification procedure, although questions mostly relating to the Dublin procedure are almost always addressed to the applicant in an interview framework. The applicant identifies the family member with whom he or she desires to reunite and provides all the relevant documentation. Questions relating to the Dublin procedure are always addressed to the applicant during the regular interview examining his or her asylum claim. According to GCR’s experience, applicants who revealed at this later stage (way after the 3-month deadline) the existence of a close family member in another EU Member State, thus fulfilling the criteria of Dublin III Regulation, were given the chance of an outgoing family reunification request by the Asylum Service.

<sup>188</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>189</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>190</sup> Article 5 Dublin III Regulation.

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Within the context of the pre-registration exercise, that took place between 9 June 2016 and 30 July 2016 (see [Registration](#)), Dublin requests were not recorded. Specific questions regarding the application of the Dublin Regulation were only made during the full registration of applications.

Interviews in non-family reunification cases tend to be more detailed when it is ascertained that an asylum seeker, after being fingerprinted, has already applied for asylum in another EU Member State before Greece. However, since the majority of the newly arrived have entered through the Greek-Turkish sea border, this type of interviews does not take place so often.

## 2.4. Appeal

### Indicators: Dublin: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?

- |                            |  |  |
|----------------------------|--|--|
| ❖ If yes, is it            | <input checked="" type="checkbox"/> Yes      | <input type="checkbox"/> No                        |
| ❖ If yes, is it suspensive | <input checked="" type="checkbox"/> Judicial | <input checked="" type="checkbox"/> Administrative |
|                            | <input checked="" type="checkbox"/> Yes      | <input type="checkbox"/> No                        |

Applications for international protection are declared inadmissible where the Dublin Regulation applies.<sup>191</sup> An applicant may lodge an appeal against a first instance decision rejecting an application as inadmissible due to the application of the Dublin Regulation within 15 days.<sup>192</sup> Such appeal is also directed against the transfer decision, which is incorporated in the inadmissibility decision.<sup>193</sup>

## 2.5. Legal assistance

### Indicators: Dublin: Legal Assistance<sup>194</sup>

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

- |                                     |  |  |                             |
|-------------------------------------|--|--|-----------------------------|
| ❖ Does free legal assistance cover: | <input type="checkbox"/> Yes                         | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
|                                     | <input type="checkbox"/> Representation in interview |  |                             |
|                                     | <input type="checkbox"/> Legal advice                |  |                             |

2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

- |                                    |   |  |                             |
|------------------------------------|---|--|-----------------------------|
| ❖ Does free legal assistance cover | <input type="checkbox"/> Yes                      | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
|                                    | <input type="checkbox"/> Representation in courts |  |                             |
|                                    | <input type="checkbox"/> Legal advice             |  |                             |

Access to free legal assistance and representation in the context of a Dublin procedure is available under the conditions described in the regular procedure (see section on [Regular Procedure: Legal Assistance](#)). The same problems and obstacles described in the regular procedure exist in the context of Dublin procedures, with NGOs trying in practice to cover this field as well.

Limited access to legal assistance creates difficulties for applicants in navigating through the complexities of the Dublin procedure. The case files of the applicants are communicated by the police or RAO competent for the registration of asylum applications to the Dublin Unit. Moreover, the Dublin Unit does not consider itself responsible for preparing Dublin-related case files, as the applicants bear the responsibility of submitting to the Asylum Service all documents required in order for the Dublin Unit to establish a “take charge” request, such as proof of family links. The Asylum Service claims that its

<sup>191</sup> Article 54(1)(b) L 4375/2016.

<sup>192</sup> Article 61(1)(b) L 4375/2016.

<sup>193</sup> *Ibid.*

<sup>194</sup> This refers to state-organised and funded legal assistance. Free legal assistance is only provided by NGOs upon availability.

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registration staff has been instructed to inform applicants who express the wish to be reunited with a family member in another Member State of the need for timely submission of the relevant documents.

## 2.6. Suspension of transfers

### Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?  Yes  No
- ❖ If yes, to which country or countries?

No recent information on suspension of transfers is available.

## 2.7. The situation of Dublin returnees

Transfers of asylum seekers from another Member State to Greece under the Dublin Regulation have been suspended since 2011, following the *M.S.S. v. Belgium & Greece* ruling of the European Court of Human Rights (ECtHR) and the Joined Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department* ruling of the Court of Justice of the European Union (CJEU).<sup>195</sup> However, during 2016, the Greek Dublin Unit received 4,415 incoming requests under the Dublin Regulation, coming mainly from Hungary. 97% of those incoming requests were based on the criterion of first country of entry.<sup>196</sup> Only 3 persons were transferred back to Greece under the Regulation in 2016.<sup>197</sup>

In November 2016, the ECtHR has granted an interim measure twice with regard to two cases of Somali asylum seekers, supported by the Hungarian Helsinki Committee, and ordered the Hungarian authorities to suspend their transfer to Greece based on the Dublin Regulation.<sup>198</sup>

Following three Recommendations issued to Greece in the course of last year,<sup>199</sup> on 8 December 2016, European Commission issued a Fourth Recommendation in favour of the resumption of Dublin returns to Greece, starting from 15 March 2017, without retroactive effect and only regarding asylum applicants who have entered Greece from 15 March 2017 onwards or for whom Greece is responsible from 15 March 2017 onwards under other Dublin criteria.<sup>200</sup> Persons belonging to vulnerable groups such as unaccompanied minors are to be excluded from Dublin transfers for the moment, according to the Recommendation.<sup>201</sup>

The Recommendation has been sharply criticised by numerous civil society organisations, including Doctors of the World,<sup>202</sup> Amnesty International,<sup>203</sup> and Human Rights Watch.<sup>204</sup> In a letter addressed by

<sup>195</sup> ECtHR, *M.S.S. v. Belgium & Greece*, Application No. 30696/09, Judgment of 21 January 2011; CJEU, Joined Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department*, Judgment of 21 December 2011.

<sup>196</sup> Asylum Service, 'The work of the Asylum Service in 2016', 17 January 2017, available at: <http://bit.ly/2jFEqIW>, 2.

<sup>197</sup> *Ibid.*

<sup>198</sup> ECtHR, *M.S. v. Hungary*, Application No 64194/16, 10 November 2016; ECtHR, *H.J. v. Hungary*, Application No 70984/16, 30 November 2016; Hungarian Helsinki Committee, *Hungary: Update on Dublin Transfers*, 14 December 2016, available at: <http://bit.ly/2omSwrF>.

<sup>199</sup> Commission Recommendation of 10 February 2016, C(2016) 871: <http://bit.ly/2k8Wgf9>; Commission Recommendation of 15 June 2016, C(2016) 2805: <http://bit.ly/2kKqLvd>; Commission Recommendation of 28 September 2016, C(2016) 6311: <http://bit.ly/2k90QKm>.

<sup>200</sup> Commission Recommendation of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) No. 604/2013, C(2016) 8525, available at: <http://bit.ly/2kLKs1L>.

<sup>201</sup> Commission Recommendation C(2016) 8525, para 9.

<sup>202</sup> Doctors of the World Greece, 'Επανάραξη των επιστροφών «Δουβλίνου»', 14 December 2016, available in Greek at: <http://bit.ly/2gHDKMJ>.

<sup>203</sup> Amnesty International, 'EU pressure on Greece for Dublin returns is "hypocritical"', 8 December 2016, available at: <http://bit.ly/2kG8Dzf>.

the European Council for Refugees and Exiles (ECRE) and Greek civil society organisations GCR, Aitima and SolidarityNow, to the President of the European Commission and the Greek Minister of Migration Policy on 15 December 2016, the organisations stressed:

“The envisaged resumption of transfers of asylum seekers under the Dublin III Regulation to Greece is in our view premature in light of the persistent deficiencies in the Greek asylum system, that are unlikely to be resolved by the envisaged date of 15 March 2017. Moreover, it disregards of the pending procedure before the Council of European Committee of Ministers on the execution of the M.S.S. v. Belgium and Greece judgment of the European Court of Human Rights and is at odds with ongoing efforts to increase relocation from Greece.”<sup>205</sup>

The National Commission for Human Rights (NCHR) in a Statement of 19 December 2016, has expressed its “grave concern” with regard to the Commission Recommendation and noted that

“[I]t should be recalled that all refugee reception and protection mechanisms in Greece are undergoing tremendous pressure... the GNCHR reiterates its established positions, insisting that the only possible and effective solution is the immediate modification of the EU migration policy and in particular of the Dublin system, which was proven to be inconsistent with the current needs and incompatible with the effective protection of human rights as well as the principles of solidarity and burden-sharing among the EU Member-States.”<sup>206</sup>

Nevertheless, the Commission Recommendation has led a number of Member States beyond Hungary to take steps towards transferring asylum seekers to Greece again. Germany has recently announced that its suspension of transfers to Greece will cease on 15 March 2017, while Belgium has also voiced support for reinstatement of Dublin procedures.<sup>207</sup>

### 3. Admissibility procedure

#### 3.1. General (scope, criteria, time limits)

Under Article 54 L 4375/2016, an application can be considered as inadmissible on the following grounds:

1. Another EU Member State has granted international protection status or has accepted responsibility under the Dublin Regulation;
2. The applicant comes from a “safe third country” or a “first country of asylum”;
3. The application is a subsequent application and no “new essential elements” have been presented;
4. A family member has submitted a separate application to the family application without justification for lodging a separate claim.

The same grounds for admissibility apply also under the Old Procedure under PD 114/2010.

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<sup>204</sup> Human Rights Watch, ‘EU: Returns to Greece Put Refugees at Risk’, 10 December 2016, available at: <http://bit.ly/2hgVaNi>.

<sup>205</sup> ECRE, GCR, Aitima and SolidarityNow, *Letter to the President of the European Commission and the Greek Minister of Migration Policy “Re: Joint Action Plan on EU-Turkey Statement and resumption of Dublin transfers to Greece”*, 15 December 2016, available at: <http://bit.ly/2kGcc8P>.

<sup>206</sup> National Commission for Human Rights, *Statement in response to the recommendation of the European Commission to reactivate the refugee return mechanism under the Dublin system*, 19 December 2016, available at: <http://bit.ly/2kGi7us>.

<sup>207</sup> See e.g. ECRE, ‘Germany: suspension of Dublin procedures to Greece set to end on 15 March 2017’, 13 January 2017, available at: <http://bit.ly/2jE3Vks>.

### 3.2. Personal interview

#### Indicators: Admissibility Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure?  Yes  No
  - ❖ If so, are questions limited to nationality, identity, travel route?  Yes  No
  - ❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The conduct of an interview on the admissibility procedure varies depending on the admissibility ground examined. For example, according to Article 59 L 4375/2016, as a rule no interview is taking place during the preliminary examination of a subsequent application.<sup>208</sup> In Dublin cases, an interview limited to questions on the travel route, the family members' whereabouts etc. takes place (see section on [Dublin: Personal Interview](#)). Personal interviews in cases examined under the "first country of asylum" / "safe third country" focus on the circumstances that the applicant faced in Turkey.

### 3.3. Appeal

#### Indicators: Admissibility Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?
  - Yes  No
  - ❖ If yes, is it  Judicial  Administrative
  - ❖ If yes, is it suspensive  Yes  No

An appeal against a first instance decision of inadmissibility may be lodged within 15 days,<sup>209</sup> instead of 30 in the regular procedure. Under the border procedure the appeal may be lodged within 5 days.<sup>210</sup> The appeal has automatic suspensive effect.

### 3.4. Legal assistance

#### Indicators: Admissibility Procedure: Legal Assistance<sup>211</sup>

Same as regular procedure

1. Do asylum seekers have access to free legal assistance during admissibility procedures in practice?  Yes  With difficulty  No
  - ❖ Does free legal assistance cover:  Representation in interview  Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?  Yes  With difficulty  No
  - ❖ Does free legal assistance cover  Representation in courts  Legal advice

<sup>208</sup> According to the second limb of Article 59(2), "Exceptionally, the applicant may be invited, according to the provisions of this Part, to a hearing in order to clarify elements of the subsequent application, when the Determining Authority considers this necessary".

<sup>209</sup> Article 61(1)(b) L 4375/2016 and Article 25(1)(b) PD 114/2010 for the Old Procedure.

<sup>210</sup> Article 61(1)(c) L 4375/2016.

<sup>211</sup> This refers to state-organised and funded legal assistance. Free legal assistance is only provided by NGOs upon availability.

Legal Assistance in the admissibility procedure does not differ from the one granted for the regular procedure (see section on [Regular Procedure: Legal Assistance](#)).

#### 4. Border procedure (airport and port transit zones)

##### 4.1. General (scope, time-limits)

###### Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?  Yes  No
2. Can an application made at the border be examined in substance during a border procedure?  Yes  No
3. Is there a maximum time-limit for border procedures laid down in the law?  Yes  No  
❖ If yes, what is the maximum time-limit? 28 days

Article 60 L 4375/2016 establishes two different types of border procedures. The first will be cited here as “normal border procedure” and the second as “fast-track border procedure”. In the second case, the rights of asylum seekers are severely restricted, as it will be explained in the section on [Fast-Track Border Procedure](#).

The main elements of the normal border procedure resemble the previous procedure governed by Article 24 PD 113/2013, which was applied at the airports. However, the law does not limit the applicability of the border procedure to admissibility or to the substance of claims processed under an accelerated procedure, as required by Article 43 of the recast Asylum Procedures Directive. Under the terms of Article 60 L 4375/2016, the merits of any asylum application could be examined at the border.

In the “normal border procedure”,<sup>212</sup> where applications for international protection are submitted in transit zones of ports or airports in the country, asylum seekers enjoy the same rights and guarantees with those whose applications are lodged in the mainland.<sup>213</sup> However, deadlines are shorter: asylum seekers have no more than 3 days for interview preparation and consultation of a legal or other counsellor to assist them during the procedure and, when an appeal is lodged, its examination can be carried out at the earliest 5 days after its submission.

According to Article 38 L 4375/2016, the Asylum Service, in cooperation with the authorities operating in detention facilities and at Greek border entry points and/or civil society organisations, shall ensure the provision of information on the possibility to submit an application for international protection. Interpretation services shall be also provided to the extent that this is necessary for the facilitation of access to the asylum procedure. Organisations and persons providing advice and counselling, shall have effective access, unless there are reasons related to national security, or public order or reasons that are determined by the administrative management of the crossing point concerned and impose the limitation of such access. Such limitations must not result in access being rendered impossible.

Where no decision is taken within 28 days, asylum seekers are allowed entry into the Greek territory for their application to be examined according to the provisions concerning the [Regular Procedure](#).<sup>214</sup>

The abovementioned procedure is in practice applied only in airport transit zones.

With a Police Circular of 18 June 2016 communicated to all police authorities, instructions were provided *inter alia* as to the procedure to be followed when a third-country national remaining in a

<sup>212</sup> Article 60(1) L 4375/2016.

<sup>213</sup> Articles 41, 44, 45 and 46 L 4375/2016.

<sup>214</sup> Article 60(2) L 4375/2016.

detention centre or a RIC wishes to apply for international protection, which includes persons subject to border procedure.<sup>215</sup>

## 4.2. Personal interview

### Indicators: Border Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the border procedure?  
 Yes  No  
❖ If so, are questions limited to nationality, identity, travel route?  Yes  No  
❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The personal interview at the border is conducted according to the same rules described under the regular procedure.

In practice, in cases known to GCR, where the application has been submitted in the **Athens International Airport** transit zone, the asylum seeker is transferred to the RAO of Attica for the interview to take place. Consequently, no interview through video conferencing in the transit zones has come to the attention of GCR up until now.

## 4.3. Appeal

### Indicators: Border Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the border procedure?  
 Yes  No  
❖ If yes, is it  Judicial  Administrative  
❖ If yes, is it suspensive  Yes  No

According to Article 61(1)(d) L 4375/2016, under the border procedure applicants can lodge their appeals within 5 days from the notification of the first instance decision.

In case where the Appeal is rejected, the applicant has the right to lodge an application for annulment (αίτηση ακύρωσης) before the Administrative Court of Appeal. The latter has a suspensive effect only if combined with an application of suspension (αίτηση αναστολής) against the decision of the Appeals Committee, and suspension is granted by the Court.<sup>216</sup>

It has to be noted that this judicial procedure before the Administrative Courts of Appeal is not accessible to asylum seekers without legal representation (see [Regular Procedure: Appeal](#)).

<sup>215</sup> Police Circular No 1604/16/1195968/18-6-2016, available in Greek at: <http://bit.ly/2ngIEj6>.

<sup>216</sup> Article 60(3) L4375/2016.

#### 4.4. Legal assistance

##### Indicators: Border Procedure: Legal Assistance<sup>217</sup>

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 

<input type="checkbox"/> Yes	<input type="checkbox"/> With difficulty	<input type="checkbox"/> No
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  - ❖ Does free legal assistance cover:
 

<input type="checkbox"/> Representation in interview	<input type="checkbox"/> Legal advice
--	---------------------------------------
  
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 

<input type="checkbox"/> Yes	<input type="checkbox"/> With difficulty	<input type="checkbox"/> No
------------------------------	--	-----------------------------

  - ❖ Does free legal assistance cover
 

<input type="checkbox"/> Representation in courts	<input type="checkbox"/> Legal advice
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The law does not contain special provisions regarding free legal assistance in the border procedure. The general provisions regarding legal aid are also applicable here (see section on [Regular Procedure: Legal Assistance](#)). In practice, legal assistance is again provided only by NGOs according to their capacity and in the locations in which they operate.

#### 5. Fast-track border procedure (Eastern Aegean islands)

##### 5.1. General (scope, time-limits)

##### Indicators: Fast-Track Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?  Yes  No
2. Can an application made at the border be examined in substance during a border procedure?  Yes  No
3. Is there a maximum time-limit for border procedures laid down in the law?  Yes  No
  - ❖ If yes, what is the maximum time-limit? 14 days

Article 60(4) L 4375/2016 introduced a special border procedure, known as a “fast-track” border procedure, visibly connected to the implementation of the EU-Turkey statement. In particular, the fast-track border procedure as foreseen by L 4375/2016, voted some days after the entry into force of the EU Turkey statement, provides an extremely truncated asylum procedure with fewer guarantees.<sup>218</sup> As underlined by the United Nations Special Rapporteur on the human rights of migrants, “the fast-track procedure under derogation provisions in Law 4375/2016 does not provide adequate safeguards.”<sup>219</sup>

Some days before the publication of L 4375/2016, the Director of the Asylum Service stated that “Insufferable pressure is being put on us to reduce our standards and minimise the guarantees of the asylum process... to change our laws, to change our standards to the lowest possible under the EU [Asylum Procedures] directive.”<sup>220</sup>

#### Trigger and scope of application

<sup>217</sup> This refers to state-organised and funded legal assistance. Free legal assistance is only provided by NGOs upon availability.

<sup>218</sup> GCR, *Παρατηρήσεις επί του νόμου 4375/2016*, 8 April 2016, available in Greek at: <http://bit.ly/1Sa2lmH>.

<sup>219</sup> OHCHR, ‘UN Special Rapporteur on the human rights of migrants concludes his follow up country visit to Greece’, 17 May 2016, available at: <http://bit.ly/29RBj4X>.

<sup>220</sup> IRIN, ‘Greek asylum system reaches breaking point’, 31 March 2016, available at: <http://bit.ly/1RNCKja>.

According to Article 60(4) said procedure can be “exceptionally” applied in the case where third-country nationals or stateless persons arrive in large numbers and apply for international protection at the border or at airport / port transit zones or while remaining in Reception and Identification Centres (RIC), and following a relevant Joint Decision by the Minister of Interior and Administrative Reconstruction and the Minister of National Defence.

The fast-track border procedure entered into force in April 2016 and remains active to date. The Joint Ministerial Decision for the implementation of the fast-track border procedure, foreseen by Article 60(4) L 4375/2016, was only published on 26 October 2016, despite the fact that said procedure was activated the day of the launch of the EU-Turkey Statement, 20 March 2016.<sup>221</sup> In any event, Article 80(26) L 4375/2016 provides that “the exceptional procedure under Article 60(4) is applicable as of the publication of this law. The duration of its application shall not exceed six (6) months and may be prolonged for a further 3-month period by a decision issued by the Minister of Interior and Administrative Reconstruction.” Thus, as provided by law, the application of the fast-track border procedure could not take place beyond 3 January 2017 the latest.<sup>222</sup> However, the fast-track procedure is still applied after that date.

The procedure is applied in cases of applicants subject to the EU-Turkey statement, i.e. applicants who have arrived on the Greek Eastern Aegean islands after 20 March 2016 and thus remain in the RIC of **Lesvos, Chios, Samos, Leros** and **Kos**. On the contrary, applications lodged by persons remaining in the RIC of **Evros** are not examined under the fast-track border procedure.

Contrary to the terms of Article 60(4) L 4375/2016 and the implementing Joint Ministerial Decision 13257/2016, the fast-track border procedure is also applied by the **Corinth** Asylum Unit for the examination of applications of persons entering Greece through the islands after 20 March 2016, who are transferred from the islands to the Corinth pre-removal centre and detained there (see [Detention: General](#)), even if their application is lodged before the Corinth Asylum Unit and therefore on the mainland.<sup>223</sup>

### **Main features of the procedure**

The fast-track border procedure under Article 60(4) L 4375/2016 provides among others that:

- (a) The registration of asylum applications, the notification of decisions and other procedural documents, as well as the receipt of appeals, may be conducted by staff of the Hellenic Police or the Armed Forces.**

It should be mentioned that the establishment of the Asylum Service, staffed exclusively by civil servants, without any involvement of police staff in the asylum procedure, was a commitment of the Greek authorities in the framework of the Greek Action Plan on Asylum and Migration Management, submitted to the European Commission in 2010, and one of the measures taken in order for the Greek authorities to comply with the *M.S.S. v. Belgium and Greece* judgment.

- (b) The interview of asylum seekers may also be conducted by personnel deployed by EASO.**

The initial provision of Article 60(4)(b) L 4375/2016, foresaw that the Asylum Service “may be assisted” in the conduct of interviews as well as any other procedure by staff and interpreters deployed by EASO.

<sup>221</sup> Joint Ministerial Decision 13257/2016 “on the implementation of the special border procedure (Article 60(4) L 4375/2016)”, Gov. Gazette B/3455/26.10.2016.

<sup>222</sup> See also Council of the European Union, *EU-Turkey statement*, 18 March 2016, para 1: “It will be a temporary and extraordinary measure.”

<sup>223</sup> GCR, Document No 717/2016.

The possibility for the asylum interview to be conducted by an EASO caseworker was introduced by a subsequent amendment in June 2016.<sup>224</sup>

**(c) The asylum procedure shall be concluded in a very short time period (no more than 2 weeks).**

This may result in the underestimation of the procedural and qualification guarantees provided by the international, European and national legal framework, including the right to be assisted by a lawyer. As these truncated time-limits undoubtedly affect the procedural guarantees available to asylum seekers subject to a “fast-track border procedure”, there should be an assessment of their conformity with Article 43 of the recast Asylum Procedures Directive, which does not permit restrictions on the procedural rights available in a border procedure for reasons related to large numbers of arrivals.

More precisely, according to points (d) and (e) of the provision:

- ❖ The time given to applicants in order to exercise their right to “sufficiently prepare and consult a legal or other counsellor who shall assist them during the procedure” is limited to one day;
- ❖ Decisions shall be issued, at the latest, the day following the conduct of the interview and shall be notified, at the latest, the day following its issuance;
- ❖ The deadline to submit an appeal against a negative decision is 5 days from the notification of this decision;
- ❖ When an appeal is lodged, its examination is carried out no earlier than 2 days and no later than 3 days after its submission, which means that in the first case appellants must submit any supplementary evidence or a written submission the day after the notification of a first instance negative decision; or within 2 days maximum if the appeal is examined within 3 days;
- ❖ In case the Appeals Authority decides to conduct an oral hearing, the appellant is invited before the competent Committee one day before the date of the examination of their appeal and they can be given, after the conclusion of the oral hearing, one day to submit supplementary evidence or a written submission. Decisions on appeals shall be issued, at the latest, 2 days following the day of the appeal examination or the deposit of submissions and shall be notified, at the latest, the day following their issuance.

In practice, the fast-track border procedure has been variably implemented depending on the profile and nationality of the asylum seekers concerned (see also [Differential Treatment of Specific Nationalities in the Procedure](#)). Starting April 2016, it was initially applied as an (in)admissibility procedure for applications lodged by Syrian nationals arriving after 20 March 2016 on the Eastern Aegean Islands. To this end, Syrian applicants were prioritised in order to be assessed under the [Safe Third Country](#) or [First Country of Asylum](#) clauses.

From July 2016 onwards the procedure has also been used to examine the substance of asylum applications by specific nationalities with low recognition rate (under 25%) such as Pakistan, Bangladesh, Morocco, Algeria or Tunisia, without a prior assessment of their admissibility.<sup>225</sup>

As a result, applicants of other nationalities (non-Syrians and non-low-rate nationalities), including Afghans, Congolese, Iranians and Iraqis, and case of unaccompanied children, have had to wait in the hotspots for up to 6 months until their claims started being formally registered, while as of the end of

<sup>224</sup> Article 80(13) L 4399/2016.

<sup>225</sup> See EASO, *Special Operating Plan to Greece 2017*, EASO/DOP/OU/20162/1812, December 2016, available at: <http://bit.ly/2h1M2dF>, 8, citing the 21<sup>st</sup> meeting of the Management Board of EASO and the Justice and Home Affairs Council Conclusions of 9 June 2016; On the implementation of these in-merit examinations on **Leros** and **Kos**, see GCR, *Missions to Leros and Kos: May – November 2016*, January 2017, available in Greek at: <http://bit.ly/2jy7hby>, 30 and 34.

DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece. Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

November 2016 many of them were reported still to be waiting for an eligibility interview (see also [Differential Treatment of Specific Nationalities in the Procedure](#)).<sup>226</sup>

As reported in December 2016, the Asylum Service started the examination under the admissibility fast-track border procedure also for applications lodged from nationalities of over 25% recognition rate, *inter alia* Palestinians, Afghans, Iraqis and Iranians.<sup>227</sup> Among others, UNHCR reports that:

- ❖ In the second week of December 2016, the examination of the admissibility of claims by non-Syrian nationalities with a recognition rate over 25% started on **Leros** and **Chios**;
- ❖ Admissibility interviews for Somali nationals would start in early 2017 on **Leros**, after the arrival of the relevant interpreter;
- ❖ The admissibility of claims by non-Syrian nationalities with a rate over 25% would start from 2017 on **Samos**.<sup>228</sup>

By February 2017 GCR was aware of one decision on admissibility to have been delivered to an applicant belonging to a nationality with a recognition rate above 25%.

### Exempted categories

According to Article 60(4)(f) L 4375/2016, the fast-track border procedure is not applied to vulnerable groups or persons falling within the family provisions of the Dublin III Regulation.<sup>229</sup>

The vulnerability assessment takes place in two ways:

- (a) When vulnerability is manifest, the case is referred to the regular procedure immediately after full registration of the asylum application;
- (b) When vulnerability is not manifest, but identified during registration or after the vulnerability assessment made by the RIS, the vulnerability expert of EASO takes over and drafts a relevant opinion. Following this opinion, a Decision of the competent Regional Asylum Office or Asylum Unit is issued, referring the case to the regular procedure on the basis that the applicant belongs to a vulnerable group.

However, according to GCR's findings after repeated visits to the various islands, an EASO vulnerability expert is not always available in practice.<sup>230</sup> Moreover, persons identified by RIS as vulnerable may again be subject to vulnerability assessments, within the scope of the examination of their claim, by an EASO vulnerability expert, since there is no clear referral pathway between the vulnerability assessment conducted by the RIS and the one conducted by EASO.<sup>231</sup> It is unclear (i) whether EASO must conduct the assessment by taking into account the relevant provisions and safeguards of national law,<sup>232</sup> (ii) why the assessment of the RIS is not sufficient, and (iii) in cases of contradiction between RIS and EASO on the existence of vulnerability, which finding should prevail. It should be also noted that the vulnerability assessment by an EASO officer and the drafting of an opinion to this end is not clearly provided by any provision of Greek law.<sup>233</sup>

<sup>226</sup> FRA, *Opinion on fundamental rights in the 'hotspots' set up in Greece and Italy*, 5/20168 December 2016, available at: <http://bit.ly/2m8HoOK>, 18; ECRE et al., *The implementation of the hotspots in Italy and Greece*, December 2016, 42.

<sup>227</sup> This differential treatment based on nationality and/or recognition rate is described in a flowchart of the procedure published by the Asylum Service, available at: <http://bit.ly/2nqVrPi>.

<sup>228</sup> UNHCR, *Greece Factsheet: 1-31 December 2016*, available at: <http://bit.ly/2lqU16z>.

<sup>229</sup> Article 60(4)(f) L 4375/2016, citing Articles 8-11 Dublin III Regulation and the categories of vulnerable persons defined in Article 14(8) L 4375/2016.

<sup>230</sup> GCR, *GCR Mission to Lesbos*, November 2016, available in Greek at: <http://bit.ly/2nqGEEf>.

<sup>231</sup> ECRE et al., *The implementation of the hotspots in Italy and Greece*, December 2016, 38 and 44.

<sup>232</sup> Article 14(8) L 4375/2016.

<sup>233</sup> Article 60(4)(b) L 4375/2016 as amended by L 4399/2016 provides that EASO staff may conduct a personal interview, but no clear provision exists as regards the vulnerability assessment.

DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.  
 Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

As of the end of 2016, the Asylum Service issued the following decisions under the fast-track border procedure:

First-instance decisions taken in the fast-track border procedure: 2016		
Type of decision	Number	Percentage
Inadmissible based on safe third country / first country of asylum	1,323	23.2%
Admissible pursuant to the Dublin III Regulation family provisions	1,476	25.9%
Admissible for reasons of vulnerability	2,906	50.9%
<b>Total decisions</b>	<b>5,705</b>	<b>100%</b>

Source: Asylum Service, Information provided to GCR, 9 February 2017.

On 8 December 2016 a Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey statement recommended Greek authorities to amend the legal basis of this exemption in order to channel Dublin family reunification cases under the fast-track border procedure, with a view to their possible return to Turkey.<sup>234</sup> Respectively, the Joint Action Plan recommended Greek authorities to consider the application of the inadmissibility procedure to vulnerable cases with a view to their possible return to Turkey and in particular to examine whether Article 60(4)(f) L 4375/2016 “could apply to vulnerable applicant cases in accordance with Article 24(3) of the Asylum Procedures Directive”, providing special procedural guarantees to applicants identified as being in need thereof.<sup>235</sup>

## 5.2. Personal interview

### Indicators: Fast-Track Border Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the border procedure?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If so, are questions limited to nationality, identity, travel route?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
❖ If so, are interpreters available in practice, for interviews?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Are interviews conducted through video conferencing?
 

<input type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input checked="" type="checkbox"/> Never
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As mentioned in [Fast-Track Border Procedure: General](#), according to Article 60(4)(c) L 4375/2016, asylum seekers must prepare for the interview and consult a legal or other counsellor who shall assist them during the procedure within 1 day following the submission of their application for international protection. Decisions shall be issued, at the latest, the day following the conduct of the interview and shall be notified, at the latest, the day following its issuance.<sup>236</sup>

The personal interview may be conducted by Asylum Service staff or by EASO personnel. The competence of EASO to conduct interviews was introduced by an amendment to the law in June 2016, following an initial implementation period of the EU-Turkey statement marked by uncertainty as to the exact role of EASO officials, as well as the legal remit of their involvement in the asylum procedure.

In practice, in cases where the interview is conducted by an EASO caseworker / expert, he or she provides an opinion / recommendation (*πρόταση / εισήγηση*) on the case to the Asylum Service, that issues the decision. The transcript of the interview and the opinion / recommendation are written in

<sup>234</sup> European Commission, *Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey Statement*, Annex 1 to COM(2016) 792, 8 December 2016, paras 2 and 3.

<sup>235</sup> Such an amendment would also result in modifying Article 50 L 4375/2016, which provides that applications of persons with special procedural needs are always processed under the regular procedure. See also [Special Procedural Guarantees](#).

<sup>236</sup> Article 60(4)(d) L 4375/2016.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

English, which is not the official language of the country. The issuance of an opinion / recommendation by EASO personnel to the Asylum Service is not foreseen by any provision in national law and thus lacks legal basis.<sup>237</sup>

Moreover, and despite the fact that *inter alia* the same procedural safeguards are provided in Greek legislation,<sup>238</sup> regardless of who is conducting the interview, cases have been reported in practice where EASO experts have disregarded relevant safeguards such as the right to a lawyer present during the interview.<sup>239</sup> Legal action by the Bar Association of Mytilene took place in one of those cases.<sup>240</sup>

The new EASO Special Operating Plan to Greece 2017, adopted in December 2016, foresees throughout 2017 a role for EASO in conducting interviews on different asylum procedures, drafting opinions and recommending decisions to the Asylum Service.<sup>241</sup>

According to the cases of Syrian applicants examined under the (in)admissibility fast-track procedure known to GCR, it comes that as a rule, questions asked during interview concern exclusively the circumstances that the applicant faced in Turkey. Therefore applicants may not have the opportunity to refer to the reasons for fleeing their country of origin and potential vulnerabilities linked to these reasons e.g. being a victim of torture.

### 5.3. Appeal

#### Indicators: Fast-Track Border Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the border procedure?

❖ If yes, is it

❖ If yes, is it suspensive

Yes

Judicial

Yes

No

Administrative

No

As mentioned in [Regular Procedure: Appeal](#), the legal basis for the establishment of the Appeals Authority was amended twice in 2016 by L 4375/2016 in April 2016 and L 4399/2016 in June 2016.

L 4375/2016 provided that appeals submitted from the day of its publication (3 April 2016) and until the restart of the operation of Appeals Committees, halted in September 2015, including appeals against decisions rejecting the applications as inadmissible in the framework of the EU-Turkey statement, were to be examined by [Backlog Appeal Committees](#).<sup>242</sup>

While a very small number of second-instance decisions of the Backlog Appeals Committees had approved the first-instance decisions on inadmissibility, following reported pressure to the Greek authorities by the EU, with regard to the implementation of the EU-Turkey statement,<sup>243</sup> changes were introduced in the Greek law. These changes “coinciding with the issuance of positive decisions of the – at that time operational – Appeals Committees (with regard to their judgment on the admissibility) which, under individualised appeals examination, decided that Turkey is not a safe third country for the

<sup>237</sup> Article 60(4)(b) L 4375/2016, as amended by L 4399/2016.

<sup>238</sup> Article 52(2)-(7) L 4375/2016.

<sup>239</sup> ECRE et al., *The implementation of the hotspots in Italy and Greece*, December 2016, 38.

<sup>240</sup> See e.g. Efsyn, ‘Σεκιοιριτάδες στα hotspots’, 11 June 2016, available in Greek at: <http://bit.ly/2kbifV2>.

<sup>241</sup> EASO, *Special Operating Plan to Greece 2017*, December 2016, available at: <http://bit.ly/2h1M2dF>, 9.

<sup>242</sup> Article 80(27) L 4375/2016.

<sup>243</sup> New Europe, ‘EU Council: Why Greece should consider Turkey safe for Syrian refugees’, 9 June 2016, available at: <http://bit.ly/2lWDYOa>; Keep Talking Greece, ‘EU presses Greece to change asylum appeal committees that consider “Turkey is not a safe country”’, 11 June 2016, available at: <http://bit.ly/2kNWR5D>.

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appellants in question”,<sup>244</sup> provided for the establishment of the new three-member Independent Appeals Committees (Ανεξάρτητες Αρχές Προσφυγών) with the participation of two administrative judges and one member holding a university degree in Law, Political or Social Sciences or Humanities with specialisation and experience the fields of international protection, human rights or international or administrative law.<sup>245</sup>

According to Article 60(4) L 4375/2016, appeals against decisions taken in the fast-track border procedure must be appealed before the Appeals Authority within 5 days,<sup>246</sup> contrary to 30 days in the regular procedure. The Appeals Committee examining the appeal must take a decision within 3 days,<sup>247</sup> contrary to 3 months in the regular procedure.

As a rule, the procedure before the Appeals Committees under Article 60(4) is written. It is for the Appeals Committee to request an oral hearing under the same conditions as in the regular procedure.

Appeals before the Appeals Committees have automatic suspensive effect.<sup>248</sup> However, the Joint Action Plan on the implementation of the EU-Turkey statement, issued on 8 December 2016, it was recommended the Greek authorities “to explore the possibility to limit the number of appeal steps in the context of the asylum process, in full respect of the Greek Constitution and Article 46 of Directive 2013/32”.<sup>249</sup> This can be read as a recommendation to explore the possibility to abolish the automatic suspensive effect of appeals in the fast-track border procedure under Article 60(4) L 4375/2016.

As regards decisions on admissibility issued at second instance since the application of the fast-track border procedure, figures are as follows:

Decisions on appeals against inadmissibility in the fast-track border procedure				
From 3 April 2016 to:	12 Jun 2016	18 Sep 2016	27 Nov 2016	19 Feb 2017
Total number of appeals lodged	252	1,013	2,014	2,846
Total second-instance decisions on admissibility	72	311	407	439
Reversing the first-instance decision	70	305	390	415
Upholding the first-instance decision	2	6	17	24

Source: European Commission, Implementation of the EU-Turkey statement, Second Report: <http://bit.ly/2InRZY4>; Third Report: <http://bit.ly/2jmQQ1O>; Fourth Report: <http://bit.ly/2InobZ7>; Fifth Report: <http://bit.ly/2mEuFWv>.

<sup>244</sup> NCHR, *Public Statement regarding the amendment of the composition of the Independence Appeals Committees*, 17 June 2016, available at: <http://bit.ly/2k1Buhz>. Unofficial translation by the author.

<sup>245</sup> Article 5 L 4375/2016 as amended by L 4399/2016. The third member is appointed by UNHCR or the National Commission for Human Rights if UNHCR is unable to appoint one. If both are unable, the (now) Minister for Migration Policy appoints one.

<sup>246</sup> Article 61(1)(d) L 4375/2016.

<sup>247</sup> Article 60(4)(e) L 4375/2016.

<sup>248</sup> Article 61(4) L 4375/2016, as amended by L 4399/2016.

<sup>249</sup> European Commission, *Joint action plan on the implementation of the EU-Turkey Statement*, Annex to COM(2016) 792, 8 December 2016, para 10.

## 5.4. Legal assistance

### Indicators: Fast-Track Border Procedure: Legal Assistance<sup>250</sup>

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?  
 Yes       With difficulty       No  
❖ Does free legal assistance cover:  
 Representation in interview  
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?  
 Yes       With difficulty       No  
❖ Does free legal assistance cover  
 Representation in courts  
 Legal advice

The law does not contain special provisions regarding free legal assistance in the fast-track border procedure. The general provisions regarding legal aid are also applicable here (see section on [Regular Procedure: Legal Assistance](#)). Therefore in practice no state-funded and organised legal aid scheme is in place, either for first- or second-instance procedures.

In practice, legal assistance is again provided only by NGOs according to their capacity and the locations in which they operate. Among others, Metadrasi is implementing a UNHCR-funded programme for the provision of free legal assistance in the appeal procedure for appellants remaining on the islands, who are subject to EU-Turkey statement and have their appeals examined under the fast-track border procedure.

GCR was present in the hotspot of Moria on **Lesvos** in April 2016, shortly after its transformation into a detention centre following the EU-Turkey statement and the entry into force of Article 60(4) L 4375/2016. At that time, hundreds of Syrian refugees, whose applications had been rejected as inadmissible on the ground that Turkey was a safe third country following interviews conducted by EASO officers, were pleading with NGO lawyers to assist them with appeals, which had been lodged the same day of the notification of the first instance decision and would be examined within 2 days. The impossibility for NGOs to satisfy these requests on such a short notice, coupled with limited human resources to respond to extremely high demand, many of the appellants did not have the chance to be assisted by lawyers or other counsellors during the appeal procedure, as it had been also the case for the first instance examination of their applications. In June 2016, it was reported that free legal aid on Lesvos was provided by two lawyers from Metadrasi, one from GCR and one from ProAsyl.<sup>251</sup>

## 6. Accelerated procedure

### 6.1. General (scope, grounds for accelerated procedures, time-limits)

According to L 4375/2016 the basic principles and guarantees applicable to the regular procedure are also applied to the accelerated procedure. In particular, it makes clear that “the accelerated procedure shall have as a sole effect to reduce the time limits” for taking a decision.<sup>252</sup>

The examination of an application under the accelerated procedure must be concluded within 3 months,<sup>253</sup> although the possibility to extend the time limits applies as in the [Regular Procedure](#). The

<sup>250</sup> This refers to state-organised and funded legal assistance. Free legal assistance is only provided by NGOs upon availability.

<sup>251</sup> AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, available at: <http://bit.ly/29DULlv>, 26.

<sup>252</sup> Article 51(1) L 4375/2016.

<sup>253</sup> Article 51(2) L 4375/2016.

Asylum Service is in charge of taking first instance decisions for both regular and accelerated procedures.

An application is being examined under the accelerated procedure when:<sup>254</sup>

- (a) The applicant comes from a [Safe Country of Origin](#);<sup>255</sup>
- (b) The application is manifestly unfounded. An application is characterised as manifestly unfounded where the applicant, during the submission of the application and the conduct of the personal interview, invokes reasons that manifestly do not comply with the status of refugee or of subsidiary protection, or where he or she has presented manifestly inconsistent or contradictory information, manifest lies or manifestly improbable information, or information which is contrary to adequately substantiated information on his or her country of origin, which renders his or her statements of fearing persecution under PD 141/2013 as clearly unconvincing;
- (c) The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents regarding his/her identity and/or nationality which could adversely affect the decision;
- (d) The applicant has likely destroyed or disposed in bad faith documents of identity or travel which would help determine his/her identity or nationality;
- (e) The applicant has submitted the application only to delay or impede the enforcement of an earlier or imminent deportation decision or removal by other means;
- (f) The applicant refuses to comply with the obligation to have his or her fingerprints taken.

L 4375/2016 has marked some improvement compared to the previous PD 113/2013, as Article 51(7) no longer permits the use of the accelerated procedure for applicants who fail to comply with any of the obligations to cooperate with the authorities; or where the applicant has not provided information establishing, with a reasonable degree of certainty, his or her identity or nationality; or where the application had been submitted by an unmarried minor for whom an application had already been submitted by his or her parent(s) and was rejected, and the applicant had not invoked new substantial elements regarding his or her personal situation or the situation in his or her country of origin.

## 6.2. Personal interview

### Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure?  
 Yes  No  
❖ If so, are questions limited to nationality, identity, travel route?  Yes  No  
❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

The conduct of the personal interview does not differ depending on whether the accelerated or regular procedure is applied (see section on [Regular Procedure: Personal Interview](#)).

<sup>254</sup> Article 51(7) L 4375/2016.

<sup>255</sup> Article 57 L 4375/2016.

### 6.3. Appeal

#### Indicators: Accelerated Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
- |                            |   |  |
|----------------------------|---|--|
|                            | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No                        |
| ❖ If yes, is it            | <input type="checkbox"/> Judicial       | <input checked="" type="checkbox"/> Administrative |
| ❖ If yes, is it suspensive | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No                        |

The time limit for lodging an appeal against a decision in the accelerated procedure is 15 days,<sup>256</sup> as opposed to 30 days under the regular procedure.

The examination of the appeal shall be carried out at the earliest 10 days after the submission of the appeal.<sup>257</sup> The Appeals Authority Committee must reach a decision on the appeal within 2 months.<sup>258</sup>

### 6.4. Legal assistance

#### Indicators: Accelerated Procedure: Legal Assistance<sup>259</sup>

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
- |                                     |  |  |                             |
|-------------------------------------|--|--|-----------------------------|
|                                     | <input type="checkbox"/> Yes                         | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| ❖ Does free legal assistance cover: | <input type="checkbox"/> Representation in interview |  |                             |
|                                     | <input type="checkbox"/> Legal advice                |  |                             |
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
- |                                    |   |  |                             |
|------------------------------------|---|--|-----------------------------|
|                                    | <input type="checkbox"/> Yes                      | <input type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| ❖ Does free legal assistance cover | <input type="checkbox"/> Representation in courts |  |                             |
|                                    | <input type="checkbox"/> Legal advice             |  |                             |

The same legal provisions and practice apply to both the regular and the accelerated procedure (see [Regular Procedure: Legal Assistance](#)). Thus no state organised and funded legal aid scheme is provided even for second instance procedures.

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?
- |   |                              |  |                             |
|---|------------------------------|--|-----------------------------|
|   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> For certain categories | <input type="checkbox"/> No |
| ❖ If for certain categories, specify which: | Unaccompanied children       |  |                             |
2. Does the law provide for an identification mechanism for unaccompanied children?
- |  |   |                             |
|--|---|-----------------------------|
|  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
|--|---|-----------------------------|

Greek law (PD 220/2007) foresees a referral system laying down minimum standards for the reception of **asylum seekers**.<sup>260</sup> More specifically, the competent authorities must make sure that special

<sup>256</sup> Article 61(1)(b) L 4375/2016.

<sup>257</sup> Article 62(2)(b) L 4375/2016.

<sup>258</sup> Article 62(6) L 4375/2016.

<sup>259</sup> This refers to state-organised and funded legal assistance. Free legal assistance is only provided by NGOs upon availability.

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treatment is provided to applicants belonging to vulnerable groups such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.<sup>261</sup>

In **Athens**, vulnerable groups are referred to the Municipality of Athens Centre for Reception and Solidarity in **Frouarchion**. In 2016, a total 1,864 cases were referred there by the RAO of Attica.<sup>262</sup>

In addition, according to Article 14(8) L 4375/2016, relating to **reception and identification** procedures offered principally to **newcomers**, the following groups are considered as vulnerable groups: unaccompanied minors; persons who have a disability or suffering from an incurable or serious illness; the elderly; women in pregnancy or having recently given birth; single parents with minor children; victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation; persons with a post-traumatic disorder, in particularly survivors and relatives of victims of ship-wrecks; victims of trafficking in human beings. The same law provides that:

“The Manager of [RIC] or the Unit, acting on a proposal of the Head of the medical screening and psychosocial support unit shall refer persons belonging to vulnerable groups to the competent social support and protection institution. A copy of the medical screening and psychosocial support file shall be sent to the Head of the Open Temporary Reception or Accommodation Structure or competent social support and protection institution, as per case, where the person is being referred to. In all cases the continuity of the medical treatment followed shall be ensured, where necessary.”

The Reception and Identification Service (former First Reception Service) has outsourced medical and psychosocial care provision to NGOs, namely Doctors of the World, PRAKSIS and Medical Intervention (MedIn).

As mentioned in [Reception and Identification Procedures](#), as of September 2013 the only FRC in operation was **Fylakio**, Evros. Also, a First Reception Mobile Unit was operating within the context of the so called “Identification Centre” of **Samos**, which was a detention centre in reality. The FRC in **Lesvos** started its operation in September 2015. As the capacity of the FRS in Lesvos and Samos was rather limited, especially compared to the actual needs, almost exclusively those identified by the Greek Police or the Coast Guard as unaccompanied children were referred to the FRS and thus registered by the latter and subjected to first reception procedures. As a result the vulnerabilities of the majority of the population were not identified, let alone properly addressed. In any event, major concerns were raised relating to the actual capacity of the FRS to address the vulnerabilities even of the people registered under its competence.

In practice, the majority of the newcomers registered by the FRS, especially in **Lesvos**, were unaccompanied minors. However, it shall be noted that the unaccompanied children registered under the FRS in Lesvos were not offered proper reception (see [Reception of Unaccompanied Children](#)).

In the rest of the main entry points to Greece, namely **Chios**, **Leros** and **Kos**, there was no presence of the First Reception Service, until the establishment of the Hotspots in these areas. Within March 2016, Hotspots in Samos and Leros were inaugurated and thus FRS started functioning there.<sup>263</sup> The Hotspot in Kos started its function in June 2016.

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<sup>260</sup> Articles 17 and 20 PD 220/2007, which transpose into Greek legislation Articles 17 and 20 of Council Directive 2003/9/EC respectively.

<sup>261</sup> *Ibid.*

<sup>262</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>263</sup> European Commission, *Progress report on the implementation of the hotspot approach in Greece*, COM(2016) 141, 4 March 2016, available at: <http://bit.ly/2k009pW>.

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Since the implementation of the EU-Turkey statement, all newcomers are registered by the Reception and Identification Service. However, the relevant procedures are concluded within one day or two, raising concerns regarding the quality of the procedure and mostly the possibility of identifying non-obvious vulnerabilities within such a short time period, with illustrative examples in relation to persons with disabilities, victims of torture and victims of trafficking among others.<sup>264</sup>

On **Kos**, although all the newcomers are registered by the RIS, those accommodated in the so called “Annex” area, which is a makeshift camp next to the hotspot, created due to the exhaustion of its capacity, are not referred to the psychosocial and medical unit and are therefore not assessed regarding potential vulnerabilities.<sup>265</sup>

Furthermore, great difficulty occurs when it comes to the identification and diagnosis of mental illnesses, as most of the psychosocial and medical units do not employ psychiatrists and not all the local hospitals / health care infrastructures have a psychiatric unit that can diagnose, certify and address the needs of people with such conditions. All the above, raise serious concerns, given the fact that proper identification of vulnerabilities is crucial not only to addressing them, but also to granting vulnerable persons appropriate procedural treatment.

### **Survivors of torture or other forms of violence**

The authorities competent for reception and housing or for reception and examination of an asylum application must ensure that persons who have been subjected to torture, rape or other serious acts of violence shall be referred to specialised units, in order to receive the necessary support and treatment of the trauma inflicted by the aforementioned acts.<sup>266</sup> This referral should preferably take place before the personal interview on the asylum claim.

In case that signs or claims as of past persecution or serious harm arise, the competent asylum authority refers the applicant for a medical and/or psychosocial examination, which should be conducted free of charge and by specialised scientific personnel of the respective specialisation.<sup>267</sup>

However, currently there are no public health structures specialised in identifying or assisting torture survivors in their rehabilitation process. As a result, it is for the NGOs running relative specialised programmes to handle the identification and rehabilitation of victims of torture. This is rather problematic for reasons that concern the sustainability of the system, given the fact that NGOs’ relevant funding is often interrupted.

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<sup>264</sup> Human Rights Watch, ‘Greece: Refugees with Disabilities Overlooked, Underserved’, 18 January 2017; AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, 17-19.

<sup>265</sup> GCR, *Mission to Kos and Leros*, May-November 2016, available in Greek at: <http://bit.ly/2kP9AZX>: “At the time of our visit to the island, namely in November 2016, according to information given to us by the deputy Head of the RIC, 678 adults were staying in the RIC, plus many unaccompanied minors. However, at that time, a particularly unique situation was created, given that the flows were much reduced, yet the capacity of the hot spot remained limited. The FRS did not agree to set up tents in the hot spot in order to increase its capacity and so UNHCR had to set up tents outside the hot spot for the temporary “housing” of newcomers. At the time of our visit, 324 people were staying in the so-called “Annex”, most of whom were single men from Pakistan. The FRS claimed that vulnerable cases are given priority and transferred, under a fast procedure, from the “Annex” to the hot spot. In any case, newcomers who were supposed to be detained in the hot spot, stay outside of it, under conditions which are far from being described as decent. Also, although people staying in the “Annex” are under the jurisdiction of the FRS and, thus, subject to a restriction on freedom of liberty, they are not referred for screening to PRAKSIS team for the provision of psychosocial support, despite the fact that this NGO is responsible for this task. The organisation WAHA provided Primary Health Services and was responsible for the identification of vulnerabilities in the “Annex” for a few hours a day.”

<sup>266</sup> Article 20 PD 220/2007.

<sup>267</sup> Article 52 L 4375/2016.

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In the past, in **Athens**, torture survivors were referred for identification purposes to NGO Metadrasi, a service which had ended due to lack of funding. In December 2016, Metadrasi opened again its service but the duration of the project is uncertain and dependent on funding. As reported even at the time when the project had stopped, potential victims of torture were still being referred to Metadrasi by the authorities.<sup>268</sup> Rehabilitation of victims of torture is provided by GCR and Day Centre Babel ("Prometheus" project – Rehabilitation Unit for Victims of Torture) in cooperation with Médecins Sans Frontières (MSF). Funding of the Rehabilitation Unit also depends on availability of funds by other organisations and is scarce.

### **Age assessment of unaccompanied asylum-seeking children**

As of 16 February 2016, Joint Ministerial Decision 1982/2016 of the Minister of Interior and Administrative Reconstruction and the Minister of Health provides for an age assessment procedure for persons seeking international protection before the Asylum Service,<sup>269</sup> as well as persons whose case is still pending before the authorities of the Old Procedure.<sup>270</sup>

L 4375/2016 includes procedural safeguards and refers explicitly to the JMD 1982/2016 regarding the age assessment procedure. More specifically, Article 45(4) L 4375/2016 provides that "The competent Receiving Authorities may, when in doubt, refer unaccompanied minors for age determination examinations according to the provisions of the Joint Ministerial Decision 1982/16.2.2016 (O.G. B' 335). When such a referral for age determination examinations is considered necessary and throughout this procedure, attention shall be given to the respect of gender-related special characteristics and of cultural particularities."

The provision also sets out guarantees during the procedure:

- (a) A guardian for the minor is appointed who shall undertake all necessary action in order to protect the rights and the best interests of the minor, throughout the age determination procedure;
- (b) Unaccompanied minors are informed prior to the examination of their application and in a language which they understand, of the possibility and the procedures to determine their age, of the methods used therefore, the possible consequences of the results of the above mentioned age determination procedures for the examination of the application for international protection, as well as the consequences of their refusal to undergo this examination;
- (c) Unaccompanied minors or their guardians consent to carry out the procedure for the determination of the age of the minors concerned;
- (d) The decision to reject an application of an unaccompanied minor who refused to undergo this age determination procedure shall not be based solely on that refusal; and
- (e) Until the completion of the age determination procedure, the person who claims to be a minor shall be treated as such."

The law also states that "the date of birth can be modified after the age determination procedure under Article 45, unless during the interview it appears that the applicant who is registered as an adult is manifestly a minor; in such cases, a decision of the Head of the competent Receiving Authority, following a recommendation by the case-handler, shall suffice."<sup>271</sup>

Regarding the age assessment procedure *per se*, the JMD 1982/2016 provides that:

- ❖ In case of doubt during the asylum procedure, the competent officer informs the Head of the RAO, who shall issue a decision specifically justifying such doubt in order to refer the applicant

<sup>268</sup> AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, 17-18.

<sup>269</sup> Joint Ministerial Decision 1982/2016, Gov. Gazette B'335/16-2-2016.

<sup>270</sup> Article 22(A)11 JMD 1982/2016, citing Article 34(1) PD 113/2013 and Article 12(4) PD 114/2010.

<sup>271</sup> Article 43(4) L 4375/2016.

to a public health institution or an entity regulated by the Ministry of Health, where a paediatrician and psychologist are employed and a social service operates;<sup>272</sup>

- ❖ The age assessment is conducted with the following successive methods: based on the macroscopic characteristics, such as height, weight, body mass index, voice and hair growth, following a clinical examination from a paediatrician, who will consider body-metric data. The clinical examination must be carried out with due respect of the person's dignity, and take into account deviations and variations relating to cultural and racial elements and living conditions that may affect the individual's development. The paediatrician shall justify his or her final estimation based on the aforementioned examination data;<sup>273</sup>
- ❖ In case the person's age cannot be adequately determined through the examination of macroscopic features, following certification by the paediatrician, an assessment by the psychologist and the social worker of the structure of the entity will follow in order to evaluate the cognitive, behavioural and psychological development of the individual and a relevant report will be drafted by them. This procedure will take place in a language understood by the applicant, with the assistance of an interpreter, if needed.<sup>274</sup> If no psychologist is employed or there is no functioning social service in the public health institution, this assessment may be conducted by a psychologist and a social worker available from civil society organisations;<sup>275</sup>
- ❖ Wherever a conclusion cannot be reached after the conduct of the above procedure, the following medical examinations will be conducted: left wrist and hand X-rays for the assessment of the skeletal mass, dental examination and panoramic dental X-rays.<sup>276</sup> The opinions and evaluation results are delivered to the Head of the RAO, who issues a relevant act to adopt their conclusions.<sup>277</sup>

The JMD was an anticipated legal instrument, filling the gap of dedicated age assessment procedures within the context of the Asylum Service and limiting the use of medical examinations to a last resort while prioritising alternative means of assessment. Multiple safeguards prescribed in both L 4375/2016 and JMD 1982/2016 regulate the context of the procedure sufficiently, while explicitly providing the possibility of remaining doubts and thus providing the applicant with the benefit of the doubt even after the conclusion of the procedure. However, it remains to be seen whether and how these positive developments will be applied.

In practice, issues still arise in case the issuance of an age determination act by the RIS has preceded the registration of the asylum application with the Asylum Service. While registration of date of birth by the Hellenic Police Authorities could be corrected by merely stating the correct date before the Asylum Service, the case is not the same when it comes to individuals who have been wrongly assessed regarding their age by the RIS. In these cases, the Asylum Service does not deviate from the findings of the RIS and the relevant age determination act, unless explicit proof is provided. In particular, the original travel document or the original ID issued by the authorities of the country of origin are the sole documents considered by the Asylum Service to provide sufficient proof of age; any other document / proof regarding the age of the applicant is taken into account at the discretion of the Asylum Service. Disappointingly, in several similar cases that GCR is aware of, no further referral for age assessment has been made by the Asylum Service in accordance with JMD 1982/2016. Thus, the application of the abovementioned procedure seems to be severely limited in practice.

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<sup>272</sup> Article 2 JMD 1982/2016.

<sup>273</sup> Article 3 JMD 1982/2016.

<sup>274</sup> Article 4 JMD 1982/2016.

<sup>275</sup> Article 5 JMD 1982/2016.

<sup>276</sup> Article 6 JMD 1982/2016.

<sup>277</sup> Article 7 JMD 1982/2016.

### **Age assessment before the Reception and Identification Service (RIS)**

As of 29 October 2013, a Ministerial Decision of the Minister of Health established for the first time in Greece an age assessment procedure applicable within the context of the (then) First Reception Service (FRS).<sup>278</sup> However, the scope of MD 92490/2013 is not extended to cover other procedures that concern unaccompanied foreign children and are implemented by other competent authorities such as the Hellenic Police.

According to the MD 92490/2013, in case where there is specifically justified doubt as to the age of the third-country national, and the person may possibly be a minor, then the person is referred to the medical control and psychosocial support team for an age assessment. Initially, the age assessment will be based on macroscopic features (i.e. physical appearance) such as height, weight, body mass index, voice and hair growth, following a clinical examination from a paediatrician, who will consider body-metric data. The paediatrician will justify his or her final estimation based on the aforementioned examination data and observations. In case the person's age cannot be adequately determined through the examination of macroscopic features, an assessment by the psychologist and the social worker of the division will follow in order to evaluate the cognitive, behavioural and psychological development of the individual. The psychosocial divisions' evaluation report will be submitted in writing. Wherever a paediatrician is not available or when the interdisciplinary staff cannot reach any firm conclusions, and only as a measure of last resort, the person will be referred to a public hospital for specialised medical examinations such as dental or wrist X-rays, which will be clearly explained to him or her as far as their aims and means are concerned.

This provision should be considered as a very positive development, as before MD 92490/2013 entered into force, the competent authorities would merely use medical examinations to determine an asylum seeker's age. It should be borne in mind that medical examinations to assess the age of a person entail a considerable margin of error and are therefore unreliable.

The estimations and the assessment results are delivered to the Head of the Medical Control and Psychosocial Support Division, who recommends to the Head of the RIC the official registration of age, noting also the reasons and the evidence supporting the relevant conclusion.

In practice, the age assessment of unaccompanied children is an extremely challenging process. As highlighted by Doctors of the World (MdM), who provide medical and psychosocial services within the RIC of **Lesvos**, due to the conditions prevailing within the hotspots after the implementation of the EU-Turkey statement, medical and psychosocial units working within the scope of the RIS "lack the methodological tools (certified by international bodies and the scientific community) that would help in conducting safe assessment" regarding the age of the newcomers registered.<sup>279</sup>

The age assessment procedure provided by MD 92490/2013 is not always followed in practice. GCR is aware of cases of minors in **Lesvos** who were near the age of majority, that were referred to the hospital for the conduct of age assessment on the grounds that no conclusion could be reached by the medical and psychosocial division. There they were wrongly assessed as adults, even without undergoing a radiological examination. The RIS issued a decision based on the findings of the hospital, even though the procedure provided by the law had not been followed.

After the age assessment procedure is completed, the individual should be informed in a language he or she understands about the content of the age assessment decision, against which he or she has the

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<sup>278</sup> Ministerial Decision n. Y1.Γ.Π.οικ. 92490/2013 "Programme for medical examination, psychosocial diagnosis and support and referral of entering without legal documentation third country nationals, in first reception facilities".

<sup>279</sup> MdM, *Age assessment of Unaccompanied Minors*, August 2016, available in Greek at: <http://bit.ly/2cabqvi>.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

right to appeal, in accordance with the Code of Administrative Procedure, submitting the appeal to the Secretariat of the RIC within 10 days from the notification of the decision on age assessment.

However, persons claiming to be underage, who have yet been registered as adults, report that they face practical difficulties in receiving identification documents proving their age within this 10-day period, given the fact that they are restricted in the reception and identification facilities. Also, although the possibility to receive mails is provided by the RIS, problems have been reported in practice regarding applicants' proper access to their correspondence. As a result, having access to identification documents sent via email before the 10-day time limit is not always possible.

These appeals are in practice examined by the Central RIS. GCR is aware of appeals that were rejected, although the first instance decision regarding age assessment was based on findings reached after following a procedure that was not the one provided by the MD. In addition, the Central RIS rejects appeals supported by documents offering evidence regarding the appellant's age, if these are not officially translated or verified, disregarding the proven and objective difficulties of applicants to verify or officially translate the supporting documents and to generally have access to legal assistance.

## 2. Special procedural guarantees

### Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

Yes  For certain categories  No

❖ If for certain categories, specify which:

#### Vulnerable groups: Article 14(8) L 4375/2016

A list of persons belonging to vulnerable groups is foreseen by the relevant national legislation. According to Article 14(8) L 4375/2016, "As vulnerable groups shall be considered... a) Unaccompanied minors, b) Persons who have a disability or suffering from an incurable or serious illness, c) The elderly, d) Women in pregnancy or having recently given birth, e) Single parents with minor children, f) Victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation, persons with a post-traumatic disorder, in particularly survivors and relatives of victims of ship-wrecks, g) Victims of trafficking in human beings."

Newly arrived applicants who are considered vulnerable, according to the definition in Article 14(8) L 4375 (see [Identification](#)), are exempted from the [Fast-Track Border Procedure](#) and their claims are considered admissible.<sup>280</sup> From the launch of the EU-Turkey statement until the end of the 2016, the Asylum Service issued 2,906 decisions declaring asylum applications admissible on the basis of vulnerability.<sup>281</sup> However, the Joint Action Plan issued on 8 December 2016 recommends the Greek authorities to examine whether Article 60(4) of the law could apply to vulnerable groups, in accordance with Article 24(3) of the recast Asylum Procedures Directive.

#### Applicants in need of special procedural guarantees: Article 50 L 4375/2016

According to national legislation in place, applicants in need of special procedural guarantees should be provided with adequate support in order to be in the position to benefit from the rights and comply with the obligations in the framework of the asylum procedure. National legislation expressly foresees that applicants in need of special procedural guarantees shall always be examined under the regular procedure.<sup>282</sup>

<sup>280</sup> Article 60(4)(f) L 4375/2016.

<sup>281</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>282</sup> Article 50(2) L 4375/2016.

Whether an applicant is in need of special procedural guarantees is for the Asylum Service to assess “within a reasonable period of time after an application for international protection is made, or at any point of the procedure the relevant need arises, whether the applicant is in need of special procedural guarantees” which is in particular the case “when there are indications or claims that he or she is a victim of torture, rape or other serious forms of psychological, physical or sexual violence.”<sup>283</sup>

Both definitions (“vulnerable group” and “applicant in need of special procedural guarantees”) are used in relation to other procedural guarantees such as the examination of applications by way of priority.<sup>284</sup> For example art. 51 (6) L. 4375/2016 provides that applications lodged by applicants belonging to vulnerable groups within the meaning of Art. 14 (8) L. 4375/2016 or are in need of special procedural guarantees “may [be] register[ed] and examine[d] by priority”.

Moreover, national legislation expressly provides that each caseworkers conducting an asylum interview shall be “trained in particular as of the special needs of women, children and victims of violence and torture.”<sup>285</sup> According to the Asylum Service, specialised training on vulnerable groups is provided to selected Asylum Service caseworkers.<sup>286</sup>

### 3. Use of medical reports

#### Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?  
 Yes       In some cases       No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?  
 Yes       No

Upon condition that the applicant consents to it, the law provides for the possibility for the competent authorities to refer him or her for a medical and/or psychosocial diagnosis where there are signs or claims, which might indicate past persecution or serious harm. These examinations shall be free of charge and shall be conducted by specialised scientific personnel of the respective specialisation and their results shall be submitted to the competent authorities as soon as possible.<sup>287</sup> Few such cases of best practice, where Asylum Service Officers referred women applicants who were sexual and gender-based violence (SGBV) victims, were recorded by GCR in 2016.

### 4. Legal representation of unaccompanied children

#### Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?  
 Yes       No

As provided by Greek legislation, the “competent authorities shall take the appropriate measures to ensure the minor's necessary representation. For this purpose, they shall inform the Public Prosecutor for Minors or, in the absence thereof, the territorially competent First Instance Public Prosecutor, who shall act as a provisional guardian and shall take the necessary steps in view of the appointment of a guardian for the minor.”<sup>288</sup>

<sup>283</sup> Article 50(1) L 4375/2016.

<sup>284</sup> Article 51(6) L 4375/2016.

<sup>285</sup> Article 52(13)(a) L 4375/2016.

<sup>286</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>287</sup> Article 53 L 4375/2016.

<sup>288</sup> Article 19 PD 220/2007.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

However, and despite the role of the Public Prosecutor prescribed by law, in practice a tremendous lack of any permanent guardianship system persists. As mentioned, “the public prosecutor for children or the public prosecutor of the local first-instance court acts as a provisional guardian. He or she should appoint a permanent one. In practice, the prosecutors lack the capacity to handle the large number of unaccompanied minors who are referred to them. Nor can they rely on another state institution for help.”<sup>289</sup>

The UN Special Rapporteur on the human rights of migrants recommended to the Greek Authorities after his last country visit to Greece in May 2016 to “address as a matter of priority the issue of unaccompanied minors; [to] develop a substantial and effective guardianship system, ensure guardians underwent the necessary professional training, have the experience, expertise and competence (such as social workers), and are appropriately supported with the necessary resources.”<sup>290</sup>

## E. Subsequent applications

### Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications?  Yes  No
2. Is a removal order suspended during the examination of a first subsequent application?
  - ❖ At first instance  Yes  No
  - ❖ At the appeal stage  Yes  No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
  - ❖ At first instance  Yes  No
  - ❖ At the appeal stage  Yes  No

The law sets out no time limit for lodging a subsequent application, as the very purpose of Article 59 L 4375/2016 is to allow for another examination of the case whenever new elements arise.

A subsequent application can also be lodged by a member of a family who had previously lodged an application. In this case the preliminary examination regards the eventual existence of evidence that justifies the submission of a separate application by the depending person.<sup>291</sup>

1,238 subsequent asylum applications were submitted to the Asylum Service in 2016, out of a total 51,091 applications.

### Preliminary examination procedure

According to L 4375/2016, when a subsequent application is lodged, the relevant authorities examine the application in conjunction with the information provided in previous applications.<sup>292</sup>

Subsequent applications are subject to a preliminary examination, during which the authorities examine whether new substantial elements have arisen or are submitted by the applicant. During that preliminary stage, according to the law all information is provided in writing by the applicant,<sup>293</sup> however in practice subsequent applications have been registered with all information provided orally.

<sup>289</sup> Council of Europe, *Report of the fact-finding mission by Ambassador Tomáš Boček special representative on migration and refugees to Greece and FYROM, 7-11 March 2016*, SG/Inf(2016)18, 26 April 2016, available at: <http://bit.ly/2c83xtb>, para 4f.

<sup>290</sup> OHCHR, ‘UN Special Rapporteur on the human rights of migrants concludes his follow up country visit to Greece’, 17 May 2016, available at: <http://bit.ly/29RBj4X>.

<sup>291</sup> Article 59(5) L 4375/2016.

<sup>292</sup> Article 59(1) L 4375/2016.

<sup>293</sup> Article 59(2) L 4375/2016.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

If the preliminary examination concludes on the existence of new elements “which affect the assessment of the application for international protection”, the subsequent application is considered admissible and examined on the merits. The applicant is issued a new “asylum seeker’s card” in that case. If no such elements are identified, the subsequent application is deemed inadmissible.<sup>294</sup>

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal if applicants who have lodged a subsequent asylum application are suspended.<sup>295</sup>

Any new submission of an identical subsequent application shall be filed, in accordance with the provisions of Article 4 of the Code of Administrative Procedure.<sup>296</sup>

Until the completion of this preliminary procedure, applicants are not provided with proper documentation and have no access to the rights attached to asylum seeker status or protection. The asylum seeker’s card is provided after a positive decision on admissibility.

Out of a total of 1,217 subsequent applications lodged in 2016 on which a decision has been issued, 438 were accepted as admissible.

During 2016, it has been observed in a number of cases during the registration of the subsequent application that the caseworker was not recording the circumstances alleged by the applicant in his or her subsequent request, but the relevant field in the registration form was filled only with the abbreviation “as mentioned above” (οπ.π.). In those cases coming to the attention of GCR, first-instance decisions had rejected the applications on the basis that new, substantial elements were not invoked, without any further reference to the omission of the caseworker to properly register the applicant’s allegations. According to the information provided to GCR, this practice was due to the fact that instructions given to the caseworkers were misunderstood and it is reported to have been revised in 2017.

## F. The safe country concepts

### Indicators: Safe Country Concepts

- |  |   |
|--|---|
| 1. Does national legislation allow for the use of “safe country of origin” concept?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin?                              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice?                            | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept?      | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice?                                | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Following the EU-Turkey statement of 18 March 2016, the provisions concerning the “first country of asylum” and the “safe third country” concepts were applied for the first time in Greece vis-à-vis Turkey. Serious concerns about the compatibility of the EU-Turkey statement with international and European law have been expressed *inter alia* the National Commission for Human Rights,<sup>297</sup> as well as organisations active in the field of refugee law and human rights.<sup>298</sup> In Resolution 2109 (2016), the Parliamentary Assembly of the Council of Europe (PACE) stated that returns of asylum seekers,

<sup>294</sup> Article 59(4) L 4375/2016.

<sup>295</sup> Article 59(3) L 4375/2016.

<sup>296</sup> Article 59(7) L 4375/2016.

<sup>297</sup> NCHR, *Εκθεση για τη συμφωνία ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 για το προσφυγικό/μεταναστευτικό ζήτημα υπό το πρίσμα του Ν. 4375/2016*, 25 April 2016, available in Greek at: <http://bit.ly/2mxAncu>.

<sup>298</sup> See e.g. Asylum Campaign, *Press release and Information Note*, 31 March 2016, available in Greek at: <http://bit.ly/2mdKcJT>.

whether Syrian or not, to Turkey as a “safe third country” are contrary to European Union and/or international law.<sup>299</sup>

At the end of February 2017, the General Court of the European Union declared that “the EU-Turkey statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure.”<sup>300</sup> Therefore “the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States.”<sup>301</sup>

Amnesty International, commenting on the ruling, stated that “EU leaders negotiate a deal at an EU summit, publicize it as an EU deal and use EU resources to implement it, but then claim it has nothing to do with the EU in order to avoid judicial scrutiny.”<sup>302</sup>

## 1. Safe third country

The “safe third country” concept is a ground for inadmissibility (see [Admissibility Procedure](#)).

According to Article 56(1) L 4375/2016, a country shall be considered as a “safe third country” for a specific applicant when all the following criteria are fulfilled:

- (a) The applicant's life and liberty are not threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion;
- (b) This country respects the principle of *non-refoulement*, in accordance with the Refugee Convention’
- (c) The applicant faces no risk of suffering serious harm according to Article 15 PD 141/2013, transposing the recast Qualification Directive;
- (d) The country prohibits the removal of an applicant to a country where he or she risks to be subject to torture or cruel, inhuman or degrading treatment or punishment, as defined in international law;
- (e) The possibility to apply for refugee status exists and, if the applicant is recognised as a refugee, to receive protection in accordance with the Refugee Convention; and
- (f) The applicant has a connection with that country, under which it would be reasonable for the applicant to move to it.

There is no list of safe third countries in Greece. The concept is only applied in the context of the [Fast-Track Border Procedure](#) under Article 60(4) L 4375/2016 on the islands for those arrived after 20 March 2016 and subject to the EU-Turkey statement.

As mentioned in [Fast-Track Border Procedure](#), by the end 2016, only applications lodged by Syrians national were examined under the safe third country concept while, in December 2016, admissibility fast-track admissibility procedure, including under the safe third country concept, would have started in December 2016 for nationalities with a recognition rate over 25%.

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<sup>299</sup> Resolution 2109 (2016) “The situation of refugees and migrants under the EU-Turkey Agreement of 18 March 2016”, available at: <http://bit.ly/2fISxIY>.

<sup>300</sup> General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: <http://bit.ly/2IWZPrr>.

<sup>301</sup> *Ibid.*

<sup>302</sup> Amnesty International, ‘EU: Court decision exposes deliberate attempt to sidestep accountability’, 1 March 2017, available at: <http://bit.ly/2nqR9re>.

## 1.1. Safety criteria and sources consulted

### Applications lodged by Syrian nationals

As far as applications lodged by Syrian nationals are concerned, in order to determine whether Turkey could be considered as a “safe third country” or a **First Country of Asylum**, first-instance decisions on admissibility mention a number of sources e.g. AIDA, including relevant correspondence between UNHCR and the Greek Asylum Service. However, as far as cases brought to the attention of GCR are concerned, decisions are mainly based on (i) the text of the Turkish law, (ii) correspondence of the European Commission with the Greek authorities, (iii) correspondence of the European Commission with Turkish authorities, providing assurances on the situation in Turkey.

The correspondence explicitly mentioned on the first-instance decision on admissibility under the “safe third country” concept includes *inter alia*:<sup>303</sup>

- ❖ Letter of 12 April 2016 by the Turkish Ambassador to the EU to the European Commission Director-General for Migration and Home Affairs, stating that “Each Syrian national returned to Turkey will be granted such [temporary protection] status”;
- ❖ Letter of 24 April 2016 by the Turkish Ambassador to the EU to the European Commission Director-General for Migration and Home Affairs, stating that “Turkey confirms that non-Syrians who seek international protection having irregularly crossed into the Aegean islands via Turkey as of 20 March 2016 and being taken back to Turkey as of 4 April 2016 will be able to lodge an application for international protection in accordance with the Law on Foreigners and International Protection and its secondary legislation”;
- ❖ Letter of 5 May 2016 by the European Commission Director-General for Migration and Home Affairs to the Greek Secretary General for Migration, outlining the Commission’s view that Turkey qualifies as a “safe third country” and “first country of asylum”. The letter includes a controversial interpretation of EU law, mentioning that:
  - “transit through Turkey suffices for a sufficient connection to be established”, in clear contrast with UNHCR’s view according to which “transit alone is not a ‘sufficient’ connection or meaningful link”;<sup>304</sup>
  - “Art. 38 of the Asylum Procedures Directive does not require ratification of the Geneva Convention without geographical limitations” while “UNHCR understands this provision to mean that access to refugee status and to the rights of the 1951 Convention must be ensured in law, including ratification of the 1951 Convention and/or the 1967 Protocol, and in practice”;<sup>305</sup>
- ❖ Letter of 29 July 2016 by the European Commissioner for Migration and Home Affairs to the Greek Minister for Migration Policy, stating that “the Commission considers that, notwithstanding recent developments in Turkey, the Turkish legal framework combined with the assurances that Turkey provided... still can be consider as sufficient protection or protection equivalent to that of the Geneva Convention”.

<sup>303</sup> These documents are available at: <http://bit.ly/2kCPI19>. Decisions of the Asylum Service and the Appeals Committees also make reference to unpublished letters by the UNHCR Representation in Greece concerning the situation of Syrians in Turkey.

<sup>304</sup> UNHCR, *Legal considerations on the return of asylum-seekers and refugees from Greece to Turkey as part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the safe third country and first country of asylum concept*, 23 March 2016, available at: <http://bit.ly/1Mrxmnc>, 6.

<sup>305</sup> *Ibid.*

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These documents mainly refer to the provisions of the Turkish law and to the assurances given by the Turkish authorities or the European Commission without assessing the situation in practice, despite the fact that, as it stems from the constant jurisprudence of the ECtHR, “the existence of domestic laws and accession to international treaties guaranteeing respect for fundamental rights in principle are not in themselves sufficient to ensure adequate protection.”<sup>306</sup>

As far as GCR is aware, as a rule first-instance decisions issued to Syrian nationals under Article 60(4) L 4375/2016, with the exception of those concerning persons belonging to vulnerable groups or Dublin family reunification cases, reject the application as inadmissible on the basis that Turkey can be considered a safe third country or first country of asylum.

To the knowledge of GCR, first-instance decisions rejecting the application as inadmissible are based on a pre-defined template prepared by the Asylum Service to be used by the Regional Asylum Office or Asylum Unit on the islands.<sup>307</sup> Thus, these first-instance negative decisions are identical, except for the applicants' personal details and a few lines mentioning the allegations of the applicant,<sup>308</sup> thereby raising concerns as to whether the procedure complies with the obligation to apply the concept under an individualised assessment of each case.<sup>309</sup>

More recent decisions also mention a letter addressed to the Asylum Service by the UNHCR Representation in Greece on 14 December 2016, entitled “Update on UNHCR letters of 4<sup>th</sup> May and 9<sup>th</sup> June 2016”. In this letter UNHCR mentions *inter alia* that:

“First, UNHCR does not benefit at this stage from unhindered and predictable access to pre-removals centres in Turkey and Duzici reception centre... Second, UNHCR needs to seek authorization to visit the center at least five working days in advance which in practice, does not allow for timely monitoring of some individual cases Third, UNHCR does not systematically receive information on the legal status and location of individuals who have readmitted from Greece...

Out of the 82 Syrian nationals readmitted from Greece, UNHCR is in a position to confirm, based on direct contacts, that 12 of them (re)acquired temporary protection. Despite its best efforts, UNHCR has not been able to contact the majority of the others. Thirteen other individuals contacted are still in the process of completing the procedure or waiting for the reactivation of their status. UNHCR is not in a position to assess the average length of this procedure”.<sup>310</sup>

However, despite the abovementioned remarks by UNHCR, no differentiation has been reported in the first instance decisions on (in)admissibility of applications lodged by Syrian nationals.

Whereas first-instance decisions have overwhelmingly dismissed applications as inadmissible on the basis that Turkey fulfils the safety criteria, the majority of second-instance decisions issued by the [Backlog Appeals Committees](#), prior to the modification of their composition by L 4399/2016 (see [Regular Procedure: Appeal](#)), rebutted the safety presumption.

<sup>306</sup> ECtHR, *Saadi v. United Kingdom*, Application No 13229/03, Judgment of 29 January 2008, para 147.

<sup>307</sup> On **Lesvos**, see GCR, *GCR Mission to Lesvos – November 2016*, available at: <http://bit.ly/2kbN7F0>, 20; On **Samos**, see GCR, *GCR Mission to Samos – June 2016*, available at: <http://bit.ly/2kCHMDm>, 20 On **Leros** and **Kos**, see GCR, *GCR Mission to Leros and Kos – May to November 2016*, 32.

<sup>308</sup> ECRE et al., *The implementation of the hotspots in Italy and Greece*, December 2016, 38.

<sup>309</sup> Article 56(2) L 4375/2016.

<sup>310</sup> This is also the content of a letter sent by the UNHCR Representation in Greece on 23 December 2016, available at: <http://bit.ly/2jjDWI0>.

The vast majority of the Backlog Committees Decisions, after considering the Turkish legislation, obligations deriving from international law and the practice of the Turkish authorities as described by an important number of sources, including NGO reports and press articles, found *inter alia* that there is a real risk of violation of the *non-refoulement* principle and that the geographical limitation on the Refugee Convention prevents refugees from seeking refugee status, while the temporary protection status available to Syrians does not constitute protection in accordance with the Refugee Convention as required by Article 56(1)(e) L 4375/2016.<sup>311</sup>

Appeals Committees established under the hasty amendment of June 2016 introduced by L 4933/2016, and starting operations on 21 July 2016, have issued 21 decisions on admissibility as of 19 February 2017. As far as GCR is aware, all 21 decisions of the new Appeals Committees have confirmed the first-instance inadmissibility decision.

Moreover, by 31 December 2016, out of a total 436 appeals lodged by Syrian nationals against inadmissibility decisions, 305 appeals had been examined by the new Appeals Committees and decisions were pending publication.<sup>312</sup>

Two applications for annulment (αίτηση ακύρωσης) have been lodged against two decisions of the new Appeals Committees rejecting the application as inadmissible on the basis of the safe third country concept before the Council of the State. On 15 February 2017, the Fourth Section of the Council of the State decided to refer the cases to the Council of State Plenary, given the importance of the case.<sup>313</sup> The Council of State Plenary hearing took place on 10 March 2017. There it was reported *inter alia* that the State lawyer claimed that he could not imagine 3 million refugees from Turkey coming to Greece,<sup>314</sup> and the President of the Court asked both sides to give their views on what the solution would be for the 3 million Syrians stranded in Turkey, should the country be found not to be safe.<sup>315</sup>

A number of appeals by Syrian nationals are also pending before the Administrative Court of Appeals of Piraeus. It is worth mentioning that some judges of the Administrative Court of Appeals of Piraeus, which is the territorially competent court for legal remedies against second-instance negative decisions on applications lodged on the Eastern Aegean islands, are also participating in the new Appeals Committees under L 4399/2016.<sup>316</sup> It has to be observed how this dualism will be overcome.

### **Applications lodged by non-Syrian nationalities with a recognition rate over 25%**

As mentioned above, the examination of admissibility of applications by non-Syrians started in December 2016 and is applied only for applications lodged by persons belonging to nationalities with a recognition rate over 25%.

GCR is aware of one decision on admissibility regarding an application lodged by an Afghan national, issued in February 2017. The first-instance decision accepted the application as admissible on the basis that the criterion set out in Article 56(1)(e) L 4375/2016 ("the possibility to apply for refugee status exists and, if the applicant is recognised as a refugee, to receive protection in accordance with the Geneva Convention") was not fulfilled.

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<sup>311</sup> See *inter alia* EDAL, 'Greece: The Appeals Committee issues decisions on Turkey as a Safe Third Country', 17 May 2016, <http://bit.ly/2niFYRm>; Appeals Committee, Decision No 05/133782, 17 May 2016, available in Greek at: <http://bit.ly/2jtyWu>.

<sup>312</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>313</sup> Council of State, Fourth Section, Decisions 445/2017 and 446/2017, 15 February 2017, available in Greek at <http://bit.ly/2n3FmTL> and <http://bit.ly/2n3qBQK>.

<sup>314</sup> Lia Gogou, Twitter, 10 March 2017, available at: <http://bit.ly/2mwq5HK>.

<sup>315</sup> Lia Gogou, Twitter, 10 March 2017, available at: <http://bit.ly/2nh43Jl>.

<sup>316</sup> See Joint Ministerial Decision 3006/2016, Gov. Gazette YOΔΔ 392/20-07-2016. Joint Ministerial Decision, Gov. Gazette YOΔΔ 683/14-12-2016.

More precisely, largely based on the same correspondence between EU institutions, Turkish and Greek authorities and UNHCR, as is the case of decisions for Syrian applicants, the decision concluded that:

“In Turkey, despite the fact that the country has signed the Geneva Convention with a geographical limitation, and limits its application to refugees coming from Europe, for the rest of the refugees there is the possibility international protection to be requested (conditional refugee status/subsidiary protection), as foreseen by the relevant legislation. However, it is not clear from the sources available to the Asylum Service that there will be a direct access (άμεση πρόσβαση) to the asylum procedure, while assurances have not been provided by the Turkish authorities as to such direct access for those returned from Greece. In addition, there is no sufficient evidence to show that ‘conditional refugee status’ is granted to all of those who are eligible for it (in particular statistical data on recognition rates and the average duration of the asylum procedure).

Moreover, data available to the Asylum Service for the time being show that in case international protection would be granted to the applicant, this will not be in accordance with the Geneva Convention. According to the data available to the Asylum Service, conditional refugee status beneficiaries do not have the right to family reunification, contrary to those granted with subsidiary or temporary protection. Furthermore, the regime granted to [beneficiaries of conditional refugee status] lasts only until their resettlement by the UNHCR.”<sup>317</sup>

## 2.2. Connection criteria

Article 56(1)(f) L 4375/2016 requires there to be a connection between the applicant and the “safe third country”, which would make return thereto reasonable. In practice, as far as GCR is aware, the Regional Asylum Offices and Asylum Units on the Eastern Aegean islands issue inadmissibility decisions for Syrian applicants on the basis of the safe third country concept even in cases where the individual has only transited through Turkey within a few days.

## 2.3. Procedural safeguards

Where an application is dismissed as inadmissible on the basis of the “safe third country” concept, the asylum seeker must be provided with a document informing the authorities of that country that his or her application has not been examined on the merits.<sup>318</sup> This guarantee is complied with in practice.

## 2. First country of asylum

The “first country of asylum” concept is a ground for inadmissibility (see [Admissibility Procedure](#) and [Fast-Track Border Procedure](#)).

According to Article 55 L 4375/2016, a country shall be considered to be a “first country of asylum” for an applicant provided that he or she will be readmitted to that country, if the applicant has been recognised as a refugee in that country and can still enjoy of that protection or enjoys other effective protection in that country, including benefiting from the principle of *non-refoulement*.

The guarantees applicable to the “first country of asylum” concept have been lowered by L 4375/2016 compared to the previous legal framework. While Article 19(2) PD 113/2013 required the Asylum Service to take into account the safety criteria of the “safe third country” notion when examining whether a country qualifies as a “first country of asylum”, this requirement has been dropped in Article 55 L 4375/2016. This means, for instance, that application can be dismissed as inadmissible on the ground

<sup>317</sup> Full decision on file with the author.

<sup>318</sup> Article 56(2) L 4375/2016.

of first country of asylum even if said country, in the current context Turkey, does not satisfy the criteria of a “safe third country”.

Similar to the safe third country concept, the first country of asylum concept started being examined in April 2016 under the fast-track border procedure on the Eastern Aegean islands for applications lodged by Syrian nationals entering Greece after 20 March 2016. An admissibility examination is also taking place since December 2016 for applications lodged by nationalities with a recognition rate over 25%.

In practice and based on the decisions known to GCR, a number of first-instance decisions have considered Turkey *inter alia* as a “first country of asylum” even for Syrian refugees who transited Turkey for a few days and have never been granted a temporary protection status by the Turkish authorities. Moreover, GCR is aware of a number of first-instance decisions where the application was rejected as inadmissible on the ground that “Turkey is a first country of asylum and/or safe third country”, without clarifying under which of the two concepts the application was rejected.

### 3. Safe country of origin

According to Article 57(1) L 4375/2016, safe countries of origin are:

- (a) Those included in the common list of safe countries of origin by the Council of the EU; and
- (b) Third countries, in addition to those foreseen in the common list, which are included in the national list of safe countries of origin and which shall be established and apply for the examination of applications for international protection and published, issued by a Joint Ministerial Decision by the Ministers of Interior and Administrative Reconstruction and Foreign Affairs.

A country shall be considered as a “safe country of origin” if, on the basis of legislation in force and of its application within the framework of a democratic system and the general political circumstances, it can be clearly demonstrated that persons in these countries do not suffer persecution, generally and permanently, nor torture or inhuman or degrading treatment or punishment, nor a threat resulting from the use of generalised violence in situations of international or internal armed conflict.<sup>319</sup>

To designate a country as a “safe country of origin”, the authorities must take into account *inter alia* the extent to which protection is provided against persecution or ill-treatment through:<sup>320</sup>

- ❖ The relevant legal and regulatory provisions of the country and the manner of their application;
- ❖ Compliance with the ECHR, the International Covenant of Civil and Political Rights (ICCPR), namely as regards non-derogable rights as defined in Article 15(2) ECHR, the Convention against Torture and the Convention on the Rights of the Child;
- ❖ Respect of the *non-refoulement* principle in line with the Refugee Convention; and
- ❖ Provision of a system of effective remedies against the violation of these rights.

A country may be designated as a “safe country of origin” for a particular applicant only if, after an individual examination of the application, it is demonstrated that the applicant (a) has the nationality of that country or is a stateless person and was previously a habitual resident of that country; and (b) has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances and in terms of his or her qualification as a beneficiary of international protection.<sup>321</sup> The “safe country of origin” concept is a ground for applying the [Accelerated Procedure](#).

To date, there is no national or EU common list of safe countries. Therefore the rules relating to safe countries of origin in Greek law have not been applied in practice and there has been no reference or

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<sup>319</sup> Article 57(3) L 4375/2016.

<sup>320</sup> Article 57(4) L 4375/2016.

<sup>321</sup> Article 57(2) L 4375/2016.

interpretation of the abovementioned provisions in decision-making practice. The adoption of such a list does not seem to be envisaged in the future.

## G. Relocation

### Relocation statistics: 22 September 2015 – 15 January 2017

Relocation from Greece		
	Submitted requests	Relocations
<b>Total</b>	13,865	7,441
France	3,447	2,413
Germany	2,335	644
Portugal	1,270	550
Netherlands	1,097	836
Spain	768	544
Finland	775	560

Source: Asylum Service: <http://bit.ly/2jskcs2>.

The relocation scheme set up by Council Decisions (EU) 2015/1523 and 2015/1601 in September 2015, for a target of 160,000 asylum seekers, was designed as an emergency measure to alleviate pressure on Italy and Greece and constitutes a partial derogation to the Dublin Regulation rules. Out of the target of 66,400 asylum seekers to be relocated from Greece, 7,441 had effectively been transferred as of 15 January 2017. The European Commission has been regularly reporting on the scheme, highlighting a number of challenges resulting in slow and inefficient implementation of Member States' commitments.<sup>322</sup>

In 2016, a total 12,999 places for relocation were offered to Greece by the countries participating in the scheme:

Relocation pledges to Greece in 2016	
Member State	Number of places offered
Belgium	300
Bulgaria	150
Croatia	10
Cyprus	80
Czech Republic	30
Estonia	177
Finland	690
France	3,200
Germany	2,200
Ireland	484
Latvia	289

<sup>322</sup> The Commission's reports on relocation and resettlement are available at: <http://goo.gl/VkOUJX>.

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Lichtenstein	10
Lithuania	480
Luxembourg	180
Malta	52
Netherlands	1,000
Norway	310
Portugal	1,200
Romania	877
Slovakia	30
Slovenia	100
Spain	750
Switzerland	400
<b>Total</b>	<b>12,999</b>

Source: Asylum Service, Information provided to GCR, 9 February 2017.

The following section draws on information provided to GCR by the Asylum Service as of February 2017, unless otherwise specified.

### 1. The relocation procedure in practice

A special Relocation Unit has been created within the Asylum Service for the implementation of the relocation scheme. The Relocation Unit in Athens is stationed in the region of **Alimos**, far from the main Asylum Service premises. 66 officers are deployed there, another 15 in **Thessaloniki** and 3 in **Thrace**.

The relocation scheme is applied to persons:

- ❖ Belonging to a nationality with an EU-wide average recognition rate of 75% or above; and
- ❖ Entering Greece between 16 September 2015 and 19 March 2016.

During the registration of an asylum seeker, if he or she falls under the scope of the relocation scheme, the person is requested to state his or her preference over 8 European countries out of the list provided to him or her by the Asylum Service, to which he or she would wish to be relocated.

Subsequently, the Relocation Unit conducts the so-called “matching” of the asylum seeker to a Member State or according to the wording used in Article 5(3) of the Council Decisions “conducts the identification of the individual applicants who could be relocated to a specific Member State”, taking into account the preferences stated by the applicants, where possible. According to Recitals 27 and 28 of Council Decision 2015/1523 and Recital 33 and 34 of Council Decision 2015/1601:

“The integration of applicants in clear need of international protection into the host society is the cornerstone of a properly functioning Common European Asylum System.[...]Therefore, in order to decide which specific Member State should be the Member State of relocation, specific account should be given to the specific qualifications and characteristics of the applicants concerned, such as their language skills and other individual indications based on demonstrated family, cultural or social ties which could facilitate their integration into the Member State of relocation. In the case of particularly vulnerable applicants, consideration should be given to the capacity of the Member State of relocation to provide adequate support to those applicants and to the necessity of ensuring a fair distribution of those applicants among Member States. With due respect for the principle of non-discrimination, Member States of relocation may indicate their preferences for applicants based on the above information on the basis of which Italy and

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Greece, in consultation with EASO and, where applicable, liaison officers, may compile lists of possible applicants identified for relocation to that Member State.”

For the implementation of all aspects of the relocation procedure as described in Article 5 of the Council Decisions, Member States may decide to appoint liaison officers to Italy and to Greece. Those liaison officers in Greece are the contact point of the Greek Relocation Unit with their respective Member State and facilitate administrative cooperation and information exchange.

### 1.1. Interviews of asylum seekers conducted in Greece

After the “matching” of the applicant to the Member State of relocation, several Member and Associated States, including France, Netherlands, Norway, Switzerland, Latvia, Lithuania, Estonia and Ireland, conduct interviews with the person eligible for relocation in Greece, usually in the Member State’s embassy. This step is not explicitly mentioned in the Council Decisions but is considered to fall within the scope of each country’s right to collect all the information needed in order to decide if an applicant constitutes a “danger to their national security or public order” or whether “there are serious reasons for applying the exclusion provisions”,<sup>323</sup> to apply the grounds for rejecting relocation. This step was first introduced by France, following the November 2015 attacks in Paris, and follows French practice on resettlement.<sup>324</sup>

The lack of an explicit provision for such a procedure in the Council Decisions creates a vacuum that leaves applicants unprotected. According to GCR’s first-hand information, the interviews conducted in the French embassy, after the initial acceptance of the relocation applicants by **France**, are proper refugee status determination interviews, going beyond the identification of grounds for applying the exclusion provisions.<sup>325</sup> These interviews are usually conducted by two officers of the French Office for the Protection of Refugees and Stateless Persons (OFPRA), with interpretation, but without keeping any kind of record of the procedure. The presence of a legal advisor in those interviews is prohibited.

### 1.2. Relocation of unaccompanied children

Regarding unaccompanied minors, 523 have been registered in the relocation scheme since September 2015, while 350 have already been accepted by a Member State, as of 20 January 2017:

Relocation requests regarding unaccompanied children: 20 January 2017	
Member State	Unaccompanied children accepted
Belgium	24
Finland	119
France	3
Germany	18
Ireland	24
Luxembourg	24
Netherlands	34
Norway	30
Portugal	16
Romania	1

<sup>323</sup> Article 5(7) Council Decisions 2015/1523 and 2015/1601.

<sup>324</sup> AIDA, *Admissibility, responsibility and safety in European asylum procedures*, September 2016, 28.

<sup>325</sup> For more information, see AIDA, *Country Report France, 2016 Update*, February 2017, available at: <http://bit.ly/2IPwbCv>, 68.

Spain	38
Switzerland	19
<b>Total</b>	<b>350</b>

Source: Asylum Service, Information provided to GCR, 9 February 2017.

### 1.3. Duration of the relocation procedure

The question of the speed in the relocation procedure is of central importance, for Member States and the implementing authorities. According to the Asylum Service, the average time between the registration of an asylum seeker eligible for relocation and the outgoing request by the Relocation Unit is 49 days.

The answer is usually received within 29 days, while the transfer needs another 58 days in order to be completed.

However, this is a best case scenario. In reality, this is not usually the case, since Member States are not pledging on a stable basis and according to the size of their allocations. The total number of places available for relocation was 15,164 on 1 February 2017, while the total number of people eligible for the programme was 24,233. This means that, in fact, people stay in the relocation procedure much longer, usually 8 to 10 months, according to GCR's knowledge. This delay makes the programme less reliable and appealing, thereby contributing to insufficiency of reception conditions and thus 'feeding' secondary movements.

## 2. Refusal of relocation

### 2.1. Grounds for not sending an outgoing relocation request

The first ground for not sending a relocation request is the applicability of the Dublin Regulation, where the family reunification provisions come into play (see section on [Dublin](#)).

Secondly, GCR has often observed a particular administrative practice of the Relocation Unit regarding certain applicants eligible for relocation. After the initial registration of the application, the Relocation Unit conducts an internal search in domestic and European lists, such as the National List of Unwanted Aliens and the Schengen Information System (SIS II). If an entry ban in the Schengen area has been imposed on a certain applicant, the Asylum Service's view is that this applicant cannot be referred to the emergency relocation mechanism, with a request for emergency transfer to another Member State.

However, even in cases where a "hit" appears in those lists, the Relocation Unit does not send an outgoing relocation request and automatically transfers the applicant to the Greek asylum procedure. A mere "hit" in those lists could simply be a synonymy or point to two very similar names. Yet the Relocation Unit does not go into a more in-depth investigation of the case, since the relocation procedure must move very fast and such investigations need more time. GCR has intervened in the case of a Syrian family, where such a "hit" was found in SIS II regarding the father. The Relocation Unit removed the whole family from the relocation programme and set a specific day for an asylum interview with an officer of the Asylum Service. The family asked for GCR's assistance to re-enter the relocation programme, explaining that the "hit" could never be accurate, since the whole family had never travelled outside Syria before. After several months of long discussions with the Relocation Unit and after communicating the problem to Supplementary Information Request at the National Entries (SIRENE) of the Department of the Hellenic Police, the family re-entered relocation and was eventually accepted by a Member State.

## 2.2. Grounds for rejecting relocation requests

Article 5(7) of Council Decisions 2015/1523 and 2015/1601 gives Member States “the right to refuse to relocate an applicant only where there are reasonable grounds for regarding him or her as a danger to their national security or public order or where there are serious reasons for applying the exclusion provisions set out in Articles 12 and 17 of [the recast Qualification Directive]”.

According to the Relocation Protocol, adopted by Member States participating in the relocation programme (not publicly available), when the reason of rejection is the application of exclusion provisions, this should be communicated to the Greek Relocation Unit, while in cases of rejection due to national security or public order reasons, the communication should be addressed to the Greek Security Forces. Unfortunately, in practice, Member States make use of the provision of Article 5(7) of the Council Decisions without specifying the reason of rejection or providing any additional information to the Greek authorities. When a person is rejected by a Member State, the Relocation Unit does not try to allocate him or her to another Member State, but informs him or her that Greece is responsible for the examination of his or her asylum application from that point on.

The abovementioned rejection is not delivered in writing to the respective applicant. It is only orally announced and does not inform the person of the real reasons for his or her rejection or give him or her the possibility to contest them in order to re-enter the relocation scheme. Since September 2015, dozens of applicants have requested GCR’s assistance in order to find out the reason for their rejection. GCR’s constant requests to the Relocation Unit have always received identical replies: that relocation is a burden-sharing mechanism between European Member States and being an applicant or a beneficiary of the relocation programme is not a right, contrary to seeking asylum. Accordingly, the Relocation Unit states that there is no obligation on the authorities to inform the person officially – in writing – in case of rejection. Moreover, there is no right to appeal whatsoever, against such a decision of rejection.

## 3. Appeal against a transfer decision

According to the Asylum Service, given that the applicant cannot choose the Member State of relocation, he or she should have a right to appeal against a relocation decision, in accordance with the Dublin Regulation, solely for the purpose of safeguarding his or her fundamental rights. Article 27(1) of the Dublin III Regulation, applicable *mutatis mutandis* in the relocation procedure, provides for the right to an effective remedy, in the form of an appeal or a review, in fact and in law, against a transfer decision. According to the Asylum Service, this applies where it is impossible to transfer an applicant to the Member State primarily designated as responsible because there are substantial grounds for believing that there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that Member State, resulting in a risk of inhuman or degrading treatment.<sup>326</sup> This contrasts with the interpretation of the provision by the CJEU.<sup>327</sup>

In practice, few such appeals have been filed, given the fact that, when an applicant receives a positive decision for relocation to another Member State, he or she is simultaneously required to sign a resignation from the right to appeal. If the applicant does not wish to be relocated, he or she may also submit a subsequent application in order to enter the Greek asylum procedure.<sup>328</sup>

<sup>326</sup> Article 3(2) Dublin III Regulation.

<sup>327</sup> CJEU, Case C-155/15 *Karim v. Migrationsverket*, Judgment of 7 June 2016.

<sup>328</sup> AIDA, *Admissibility, responsibility and safety in European asylum procedures*, September 2016, 30.

## H. Information for asylum seekers and access to NGOs and UNHCR

### 1. Provision of information on the procedure

#### Indicators: Information and Access to NGOs and UNHCR

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice?  Yes  With difficulty  No
- ❖ Is tailored information provided to unaccompanied children?  Yes  No

Article 41 L 4375/2016 provides *inter alia* that applicants should be informed, in a language which they understand, on the procedure to be followed, their rights and obligations.

Since 2013, the Asylum Service has produced an informational leaflet for asylum seekers, entitled "Basic Information for People Seeking International Protection in Greece", available in 20 languages.<sup>329</sup> Information in 18 languages is also available on the site of the Asylum Service,<sup>330</sup> and a helpline with recorded information for asylum seekers in 10 languages is accessible via phone. More specific information leaflets have been produced among others for:

- ❖ The pre-registration procedure;<sup>331</sup>
- ❖ The asylum procedure for those entering the Greek territory before 20 March 2016 and are in open reception centres;<sup>332</sup>
- ❖ The asylum procedure for those entering the Greek territory after 20 March 2016 and are on the islands.<sup>333</sup>

No booklet tailored to asylum seeking children is available, although some information for unaccompanied minors is accessible online.<sup>334</sup>

As mentioned by UNHCR, "between July and October [2016], 4,204 individuals were provided with legal counselling; 1,172 individuals received legal aid assistance; and 37,807 received information on legal procedures, rights and obligations. Information provision included explanations of registration, asylum, Relocation procedures and alternative legal pathways. Case management, including psychosocial support (PSS) and legal aid, is provided by case workers for vulnerable families and children (including UASC) in parts of Greece. More than 25,503 individuals, including 500 children were provided with social and legal services, and more than 3,000 persons with specific needs were identified and assisted."<sup>335</sup>

As observed, a number of actors are engaged in the provision of information on the procedures followed. For example, as GCR has noticed while on site missions, on the islands third-country nationals receive upon arrival information from the Police and the Frontex officers during their registration procedures. RIS comes at a second stage of the procedure and, upon conducting their own registration of the third-country nationals, it provides information about their rights and the obligations. The information provided mainly revolves around their obligation to remain in the hotspot area for the first 25 days of their arrival as well as their right to apply for asylum in Greece or else enter the procedures of readmission to Turkey. Representatives of the psycho-social unit of the RIS are also present during this phase of the procedure. At a third stage, representatives of UNHCR proceed to the

<sup>329</sup> Asylum Service, *Basic Information for People Seeking International Protection in Greece*, June 2013, available at: <http://bit.ly/1Wuhzb7>.

<sup>330</sup> Asylum Service, Information in 18 languages, available at: [http://asylo.gov.gr/?page\\_id=159](http://asylo.gov.gr/?page_id=159).

<sup>331</sup> Available at: <http://asylo.gov.gr/en/wp-content/uploads/2016/07/Qandanswers.pdf>.

<sup>332</sup> Available at: <http://asylo.gov.gr/wp-content/uploads/2016/05/endoxora.pdf>.

<sup>333</sup> Available at: <http://asylo.gov.gr/wp-content/uploads/2016/07/nisia.pdf>.

<sup>334</sup> Available at: [http://asylo.gov.gr/en/?page\\_id=316](http://asylo.gov.gr/en/?page_id=316).

<sup>335</sup> UNHCR, *Regional Refugee and Migrant Response Plan* (January to December 2017), December 2016, available at: <http://bit.ly/2m8tj6a>.

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provision of further information and the clarification of the information that has already been given. During the last months of 2016, IOM officers are tasked with the provision of legal information, although the focus is mainly on the right of the third-country nationals to participate at IOM's voluntary return scheme.

In March 2016, after the entry into force of the EU-Turkey Statement, UNHCR redefined its role in the hotspot facilities. As stated, "UNHCR has till now been supporting the authorities in the so-called 'hotspots' on the Greek islands, where refugees and migrants were received, assisted, and registered. Under the new provisions, these sites have now become detention facilities. Accordingly, and in line with our policy on opposing mandatory detention, we have suspended some of our activities at all closed centres on the islands. This includes provision of transport to and from these sites. However, UNHCR will maintain a presence to carry out protection monitoring to ensure that refugee and human rights standards are upheld, and to provide information on the rights and procedures to seek asylum. UNHCR staff will also continue to be present at the shoreline and sea port to provide life-saving assistance (including transport to hospitals where needed). We are counselling new arrivals on asylum in Greece, including on family reunification and on access to services. And we are identifying people with specific needs."<sup>336</sup> As for open accommodation camps, in line with its mandate, UNHCR provides *inter alia* protection services and monitoring in all sites throughout the country.<sup>337</sup>

The Committee on the Elimination of Racial Discrimination (CERD) in its Concluding Observations of October 2016, has expressed *inter alia* its concern about [...] "lack of appropriate information among new arrivals about the asylum procedures and time line, and lengthy procedures to register migrants and asylum seekers, a state of affairs that has been further exacerbated since the conclusion of the statement by the European Union and Turkey on migration."<sup>338</sup>

Given the complexity of the situation, and the fact that as reported "[t]housands of people have to navigate a complicated legal asylum system in languages they are not familiar with, starting from police notes upon arrival to an actual interview many months later",<sup>339</sup> it is highlighted that "access to legal information remains a big challenge. There do not seem to be enough actors to cover the legal and bureaucratic needs of the asylum seekers present in Greece. There is a lot of misunderstanding among the people regarding their access to asylum."<sup>340</sup>

## 2. Access to NGOs and UNHCR

### Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No

<sup>336</sup> UNHCR, 'UNHCR redefines role in Greece as EU-Turkey deal comes into effect', 18 March 2016, available at: <http://bit.ly/1Rhtpho>.

<sup>337</sup> UNHCR, *UNHCR Factsheet – Greece, 1-31 December 2016*, available at: <http://bit.ly/2IWDJ72>.

<sup>338</sup> CERD, *Concluding observations on the twentieth to twenty-second periodic reports of Greece*, CERD/C/GRC/CO/20-22, 3 October 2016, available at: <http://bit.ly/2mtwQnN>, para 22.

<sup>339</sup> ActionAid et al., *More than six months stranded – What now?*, October 2016, 7.

<sup>340</sup> Médecins Sans Frontières, *Greece in 2016: Vulnerable People Get Left Behind*, available at: <http://bit.ly/2kPFBG1>, 25. See also AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, 22-26.

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The Ministry of Migration Policy is the authority responsible for granting access to the hotspot facilities. A National Register of the Greek and Foreign NGOs active in the field on international protection, migration and social integration issues was established in September of 2016 by the Ministry.<sup>341</sup> The National Register includes information regarding each organisation's basic elements, information and data, its tax and financial information, the provided services, its logistics, the employed personnel and whether it comprises of paid staff or volunteers.<sup>342</sup> In any case the NGOs operating in the hotspots have to take the necessary permission in order to be able to provide their services in the hotspot facilities that are under the RIS' management.

Apart from that, whoever wants access to the hotspots needs to be granted the relevant permission by the Ministry of Migration Policy. This procedure can be time-consuming and complicated as our own experience has demonstrated. In each mission GCR has conducted on the islands it was necessary to request the relevant permission at least two weeks in advance. In GCR's last mission to **Lesvos** in July of 2016, our request to meet with a representative of the RIS was rejected on grounds of workload and our access to the hotspot was not officially approved.

## I. Differential treatment of specific nationalities in the procedure

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded?  Yes  No  
❖ If yes, specify which: Syria
2. Are applications from specific nationalities considered manifestly unfounded?<sup>343</sup>  Yes  No  
❖ If yes, specify which:

### 1. Differential treatment in the mainland

#### Asylum seekers from Pakistan

As mentioned above, under the Decision of the Head of the Asylum Service, an AU for applications lodged by Pakistani nationals has been established in December 2016.<sup>344</sup> With a later Decision of the Head of the Asylum Service of 10 February 2017,<sup>345</sup> applicants from Pakistan lodging an application before the AU for Pakistani nationals are provided with an asylum seeker's card valid for 2 months. As mentioned on the relevant Decision of the Head of the Asylum Service, the reason of this differential treatment is that it is estimated that the time needed for the completion of the examination of the applications lodged before the AU for Pakistani nationals will not exceed 2 months.<sup>346</sup>

#### Treatment of asylum seekers from Syria

Fast-track processing under the regular procedure has been applied since 23 September 2014 for Syrian nationals and stateless persons with former habitual residence in Syria (see section on [Regular Procedure: Fast-Track Processing](#)). As mentioned above, in 2016, a total 1,000 applications for international protection have been submitted in the framework of the fast-track procedure, out of which

<sup>341</sup> Ministry of Migration Policy, *National Register of Greek and Foreign NGOs*, available at: <https://mko.ypes.gr/>.

<sup>342</sup> Capital, 'National Register of NGOs by the Ministry of Migration Policy', 16 September 2016, available in Greek at: <http://bit.ly/2mFIZNI>.

<sup>343</sup> Whether under the "safe country of origin" concept or otherwise.

<sup>344</sup> Decision of the Head of the Asylum Service 22511/2016, Gov. Gazette B' 4399/30.12.2016.

<sup>345</sup> Decision of the Head of the Asylum Service 2380/2017, Gov. Gazette B' 393/10.02.2017.

<sup>346</sup> Recital 10 Decision of the Head of the Asylum Service 2380/2017.

913 received positive decisions.<sup>347</sup> The fast-track procedure is available only for Syrian nationals and stateless persons with former habitual residence in Syria who enter the Greek territory before the entry into force of the EU-Turkey Statement. *A contrario* applications of those arrived after the 20 March 2016 are examined on admissibility under the “first country of asylum” and “safe third country” concepts, unless their applications are considered admissible and thus referred to the regular procedure.

### **Relocation procedure: applicants in clear need of international protection**

As described above, the relocation scheme is available only for applicants “in clear need of international protection” who enter the Greek territory between 16 September 2015 and 19 March 2016, which for the purposes of the relocation scheme is interpreted as applicants belonging to nationalities with an EU-average recognition rate for international protection of 75% or more.<sup>348</sup> Thus only specific nationalities, determined by the Eurostat data and updated on a quarterly basis are eligible for relocation to another EU member State.

## **2. Differential treatment in the fast-track border procedure on the islands**

As mentioned in [Fast-Track Border Procedure](#), the implementation of the EU-Turkey statement pursuant to Article 60(4) L 4375/2016 has varied depending on the nationality of the applicants concerned.

In practice, priority was initially awarded to the registration and processing of **Syrian** cases, which undergo an admissibility assessment.

Since the summer of 2016, applicants from countries deemed to have low recognition rates such as **Morocco, Algeria, Tunisia, Pakistan** or **Bangladesh**, started undergoing in-merit assessments and being interviewed by the Asylum Service and EASO, without a prior admissibility assessment.

The registration and processing of remaining nationalities with a recognition rate over 25% such as **Afghanistan** and **Iraq** has started as of December 2016, with a view to applying admissibility before examining the merits of applications.<sup>349</sup>

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<sup>347</sup> Information provided by the Asylum Service, 9 February 2017.

<sup>348</sup> European Commission, *First report on relocation and resettlement*, COM(2016) 165, 16 March 2016.

<sup>349</sup> This is described in a flowchart published by the Asylum Service: <http://bit.ly/2nqVrPi>.

## Reception Conditions

The recast Reception Conditions Directive has not yet been transposed into national law, with the exception of the **Detention** provisions, which have been partially transposed by L 4375/2016.<sup>350</sup> Therefore, PD 220/2007 transposing Directive 2003/9/EC, laying down minimum standards for the reception of asylum seekers, is still applicable. A draft law on the transposition of the recast Reception Conditions Directive was submitted to public consultation which came to an end on 31 October 2016.<sup>351</sup> By mid-March 2017, and despite the fact that the Directive should have been transposed into national law by July 2015, the bill has not been introduced to the Parliament.

However, the 2016 asylum reform brought about institutional changes to the reception system by transferring responsibility for the reception of asylum seekers from the Ministry of Labour and Social Security to the General Secretariat for Reception under what later became the Ministry of Migration Policy.<sup>352</sup>

### A. Access and forms of reception conditions

#### 1. Criteria and restrictions to access reception conditions

##### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?
 

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Fast-track border procedure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
  
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?
 

	<input checked="" type="checkbox"/> Yes		<input type="checkbox"/> No
--	---	--	-----------------------------

Article 12(1) PD 220/2007 provides that the authorities competent to receive and accommodate asylum seekers, i.e. the Ministry of Migration Policy, shall take adequate measures in order to ensure that material reception conditions are available to applicants for asylum. These conditions must provide applicants with a standard of living adequate for their health, capable of ensuring their subsistence and to protect their fundamental rights. According to Article 17 PD 220/2007, the abovementioned standard of living must also be provided to persons who have special needs as well as to persons who are in detention.

The provision of all or some material reception conditions and health care is subject to the condition that applicants do not have sufficient means to maintain an adequate standard of living adequate for their health and capable of ensuring their subsistence.<sup>353</sup> This condition must be verified by the authorities competent to receive and accommodate asylum seekers. If it becomes clear that the applicant has sufficient means, these authorities may stop providing reception conditions to the extent that the

<sup>350</sup> Article 46 L 4375/2016.

<sup>351</sup> See *inter alia* GCR, *Observations on the Draft Law transposing Reception Directive*, 31 October 2016, available in Greek at: <https://goo.gl/MBRqno>; AIDA, 'Greece: New asylum reform transposing the recast Reception Conditions Directive', 19 October 2016, available at: <http://bit.ly/2IMoTIS>.

<sup>352</sup> Articles 26-27 L 4375/2016.

<sup>353</sup> Article 12(3) PD 220/2007.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

applicant's subsistence needs are covered by own sources.<sup>354</sup> Applicants must in such case contribute, in full or in part, to the cost of the material reception conditions and of their health care depending on their own financial resources.<sup>355</sup>

The criteria and evidence used for the assessment of "sufficient means" are those applicable to Greece's social welfare framework.<sup>356</sup>

In practice, asylum seekers staying on the islands are excluded from some forms of reception conditions.

## 2. Forms and levels of material reception conditions

### Indicators: Forms and Levels of Material Reception Conditions

- |   |           |
|---|-----------|
| 1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2016 (in original currency and in €): | Not fixed |
|---|-----------|

Material reception conditions provided in PD 220/2007 include accommodation in reception centres and a financial allowance. Asylum seekers may not stay in reception centres for more than 1 year, after which they are assisted in finding accommodation.<sup>357</sup>

For persons declared as disabled, who have a disability degree over 67% certified by the relevant health committee, where accommodation in reception centres is not feasible, a disability benefit is granted for the duration of the examination of their asylum application.<sup>358</sup> The amount of financial assistance is defined in accordance with the level of assistance provided in social welfare legislation. The level of financial assistance for asylum seekers must be equal to that available to Greek nationals.<sup>359</sup>

Despite the fact that the number of the available places for accommodation in Greece has been increased in the course 2016, a significant number of these places refer to accommodation under encampment schemes and emergency facilities (see [Types of Accommodation](#)).

In December 2016, the Minister for Migration Policy announced that a monthly financial allowance of about €400 per family would start being distributed starting March 2017.<sup>360</sup> As announced, the financial allowance will be granted instead of the daily food provision in centres.

The financial allowance is to be granted only the population residing in the mainland, i.e. those who are not subject to the EU-Turkey statement.<sup>361</sup> However, by the end of February 2017, no further information regarding this financial allowance have been provided.

Beyond state-provided financial assistance, humanitarian assistance organisations funded by the European Commission Humanitarian Aid (ECHO) emergency assistance to Greece, such as the International Rescue Committee (IRC), Samaritan's Purse or the Mercy Corps, have set up cash

<sup>354</sup> *Ibid.*

<sup>355</sup> Article 12(4) PD 220/2007.

<sup>356</sup> Article 12(5) PD 220/2007, citing L 57/73 "measures for the social protection of the financially weak groups and abolishment of the law concerning the poverty state".

<sup>357</sup> Article 13(2) PD 220/2007.

<sup>358</sup> Article 12(1) PD 220/2007. However the allowance is lower than for Greek nationals with similar disabilities. See UNHCR, *UNHCR Observations on the current situation of asylum in Greece*, December 2014, 21.

<sup>359</sup> Article 4(1)(e)-(f) L 330/2005.

<sup>360</sup> Autodioikisi.gr, 'Μουζάλας: Τον Μάρτιο το επίδομα των 400 ευρώ στους πρόσφυγες', 2 January 2017, available in Greek at: <http://bit.ly/2lwllLv>.

<sup>361</sup> The Press Project, 'Μουζάλας: Οι πρόσφυγες στα νησιά εξαιρούνται από το επίδομα', 2 January 2017, available in Greek at: <http://bit.ly/2l9Hi8v>.

assistance programmes for asylum seekers residing both in the mainland and on the islands.<sup>362</sup> These schemes, however, are provided through emergency funding and are not connected to the Greek reception system.

### 3. Reduction or withdrawal of reception conditions

#### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?  
 Yes  No
2. Does the legislation provide for the possibility to withdraw material reception conditions?  
 Yes  No

Reception conditions may be reduced where the applicant:<sup>363</sup>

- (a) abandons the place of stay assigned without informing that authority or, where required, without obtaining permission;
- (b) does not comply with the obligation to declare personal data or does not respond to a request to provide information or does not attend the personal interview within the set deadline; or
- (c) has lodged a subsequent application; or
- (d) has concealed their resources and illegitimately takes advantage of material reception conditions.

There is no information on whether these provisions of the law are applied in practice, as there have been no cases of such practices to date.

### 4. Freedom of movement

#### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  
 Yes  No
2. Does the law provide for restrictions on freedom of movement?  
 Yes  No

According to Article 6 PD 220/2007, applicants may move freely within the territory of Greece or the area assigned by the authorities and choose their place of residence,<sup>364</sup> subject to the possibility of restricting their stay at a specific area for reasons of public interest, public order or to ensure a fast and effective completion of the asylum procedure.<sup>365</sup> The assigned area cannot affect their private life and must allow them sufficient scope so as to enjoy access to all reception conditions. In any case, applicants must immediately inform the authorities competent to receive and examine their application, of any change in their address.<sup>366</sup>

In the same respect, Article 41(1)(d)(iii) L 4375/2016 provides that the applicant's freedom of movement may be restricted to a part of the Greek territory following a Decision of the Director of the Asylum Service.

In practice, this is in particular the case of persons subject to the EU-Turkey statement, whose movement is systematically restricted within the island where they have arrived. In practice, as far as GCR is aware, no prior decision of the Asylum Service with proper justification is communicated to each

<sup>362</sup> See e.g. IRC, *Scale right: Coordinating improved cash assistance in Greece*, December 2016, available at: <http://bit.ly/2i9JfBK>.

<sup>363</sup> Article 15(1) PD 220/2007.

<sup>364</sup> Article 6(1) PD 220/2007.

<sup>365</sup> Article 6(5) PD 220/2007.

<sup>366</sup> Article 6(1) PD 220/2007.

applicant. Instead, asylum seekers are informed of the restriction on free movement by a stamp on their asylum seeker's card which mentions "Restriction of movement on the island of [...]".

## B. Housing

### 1. Types of accommodation

#### Indicators: Types of Accommodation

- |  |               |
|--|---------------|
| 1. Number of reception centres under EKKA:   | 64            |
| 2. Total number of places in reception centres under EKKA:   | 1,896         |
| 3. Total number of places in private accommodation:  | Not available |
| 4. Type of accommodation most frequently used in a regular procedure:  |               |
| <input checked="" type="checkbox"/> Reception centre <input checked="" type="checkbox"/> Hotel or hostel <input checked="" type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input type="checkbox"/> Other |               |
| 5. Type of accommodation most frequently used in an accelerated procedure:   |               |
| <input checked="" type="checkbox"/> Reception centre <input checked="" type="checkbox"/> Hotel or hostel <input checked="" type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input type="checkbox"/> Other |               |

The Greek reception system has been long criticised as inadequate, not least since the *M.S.S. v. Belgium and Greece* ruling of the ECtHR. Since mid-2015, and as Greece was facing large-scale arrivals of refugees, those shortcomings have become increasingly apparent. However and as throughout 2015, Greece was marked by a fast-paced transit of high numbers of refugees and migrants entering its territory *en route* to Northern or Central European countries, a short-term assistance approach prevailed. The imposition of border restrictions and the subsequent closure of the Western Balkan route in March 2016, resulting in trapping a number of about 50,000 third-country nationals to in Greece, created *inter alia* an unprecedented burden on the Greek reception system.<sup>367</sup>

Parallel to the official reception system managed by the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, EKKA), a number of temporary camps have been put in place in the mainland in order to tackle the dire need for accommodation. However, only "few sites meet humanitarian standards as basic needs and essential services are not always delivered."<sup>368</sup> Moreover, a UNHCR accommodation scheme has been in place since the last months of 2015, primarily dedicated to asylum seekers eligible for relocation, and including Dublin family reunification candidates and vulnerable applicants since July 2016.

The April 2016 law has provided a legal basis for the establishment of different accommodation facilities. In addition to [Reception and Identification Centres](#),<sup>369</sup> the Ministry of Economy and Ministry of Migration Policy may, by joint decision, establish open Temporary Reception Facilities for Asylum Seekers (*Δομές Προσωρινής Υποδοχής Αιτούντων Διεθνή Προστασία*),<sup>370</sup> as well as open Temporary Accommodation Facilities (*Δομές Προσωρινής Φιλοξενίας*) for persons subject to return procedures or whose return has been suspended.<sup>371</sup> Notwithstanding these provisions, most temporary accommodation centres and emergency facilities operate without a prior Ministerial Decision and the requisite legal basis.

<sup>367</sup> See also AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, 7-8.

<sup>368</sup> UNHCR, *Regional Refugee and Migrant Response Plan for Europe - Eastern Mediterranean and Western Balkans Route*, January-December 2016, January 2016, 50. Recital 12 Commission Recommendation C(2016) 8525 on the resumption of transfers to Greece under Regulation (EU) No 604/2013, 8 December 2016.

<sup>369</sup> Article 10(1)-(2) L 4375/2016.

<sup>370</sup> Article 10(3) L 4375/2016.

<sup>371</sup> Article 10(4) L 4375/2016.

## 1.2. National Centre for Social Solidarity (EKKA) referral network

Despite the commitment of the Greek authorities to meet a target of 2,500 reception places dedicated to asylum seekers by the end of 2014,<sup>372</sup> reiterated in August 2015,<sup>373</sup> this number has not been reached to date.

As of January 2017, a total 1,896 places were available in 64 reception facilities mainly run by NGOs, out of which 1,312 are dedicated to unaccompanied children. More precisely this number includes:

- (a) 584 places for asylum seekers (mainly families and vulnerable asylum seekers) in 14 reception centres

Reception centres for asylum seekers in the EKKA network		
Reception centre for asylum seekers	Location	Capacity
PRAKSIS (Apartments)	Athens	120
PRAKSIS (Crisis)	Athens	7
Youth and Lifelong Learning Foundation	Athens	60
Nostos	Athens	70
Nostos (Mellon)	Athens	42
Doctors of the World	Athens	70
Doctors of the World (Deligiorgi)	Athens	60
Arsis	Athens	48
EKKA	Thessaloniki	12
Arsis (Filoxenio)	Thessaloniki	28
Arsis (Apartments)	Thessaloniki	9
Hellenic Red Cross	Patras	40
Arsis (Apartments)	Volos	8
Iliaktida (Apartments)	Lesvos	10
<b>Total</b>		<b>584</b>

Source: EKKA, 9 January 2017.

- (b) 813 places in 28 long-term shelters for unaccompanied children; and  
(c) 499 places in 22 short-term (“transit”) shelters for unaccompanied children

The long-term and transit centres for unaccompanied children are discussed in [Reception of Unaccompanied Children](#).

EKKA is the competent authority for the placement of the applicants.<sup>374</sup> The placement of the asylum seekers to these shelters is not automatic, as a request for placement should be to the NCSS, the number of available places remains insufficient and a waiting list exists. This can be particularly problematic for the [Reception of Unaccompanied Children](#).

<sup>372</sup> UNHCR, *UNHCR observations on the current asylum system in Greece*, December 2014, available at: <http://bit.ly/1NPNiz8>.

<sup>373</sup> Ministry of Interior and Administrative Reconstruction, ‘Creation of 2,500 Open Reception Places for Refugees until the end of 2015’, 12 August 2015, available in Greek at: <http://bit.ly/1fuGwyY>.

<sup>374</sup> EMN, *The Organisation of reception facilities for asylum seekers in the different Member States*, 2013, available at: <http://bit.ly/1J7ipn3>, 13.

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers. / Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

According to EKKA, the total number of requests for accommodation received in 2016 was 14,873 compared to 4,087 requests submitted in the respective period of 2015.<sup>375</sup> This represents an increase in accommodation demand of 264%. The increase of available reception capacity does not follow the same rate: in November 2015 a total 1,271 places were reported,<sup>376</sup> while at the end of 2016 the number of reception places under EKKA, including short-term facilities for unaccompanied children, is 1,896 places, indicating an increase of 49%.

In particular, there are stark variations in the rate of accommodation requests satisfied between the first quarter of 2016, during the gradual imposition of border restrictions leading to the closure of the Western Balkan route in March 2016, and subsequent quarters:

Rate of accommodation requests satisfied: 1 January – 31 December 2016					
Category of applicant	Q1	Q2	Q3	Q4	Total 2016
<b>Number of requests</b>	<b>2,041</b>	<b>3,739</b>	<b>4,979</b>	<b>4,114</b>	<b>14,873</b>
Adults	38%	20%	21.5%	43.6%	30.7%
Families	88%	5.2%	5%	6.7%	26.2%
Single-parent families	95%	14.5%	13.5%	26.5%	37.4%
Unaccompanied children	90.1%	33%	43.4%	61.2%	56.9%
<b>All categories</b>	<b>79.7%</b>	<b>21.2%</b>	<b>20.4%</b>	<b>30.5%</b>	<b>38%</b>

Source: EKKA, Statistics on housing requests by asylum seekers and unaccompanied minors, Q1 2016: <http://bit.ly/2mdPUMn>; Q2 2016: <http://bit.ly/219UI4o>; Q3 2016: <http://bit.ly/2m9azEC>; Q4 2016: <http://bit.ly/2mCC88i>.

Most requests for a reception place under EKKA concerned Syrian nationals during the second (47.8%), third (54.4%) and fourth (37.9%) quarters of 2016.<sup>377</sup>

### 1.3. Temporary accommodation centres

As mentioned above, in order to address the needs of persons remaining in Greece after the imposition of border restrictions, a number of temporary camps has been created in the mainland in order to increase accommodation capacity, mainly by the Hellenic Army. Placement in these camps takes place after submitting a referral to the Central Operational Body for Migration (Κεντρικό Επιχειρησιακό Όργανο Μετανάστευσης, KEPOM) under the Ministry of Migration Policy.

Without underestimating the effort made by the Greek authorities in order to address an urgent situation, the following remarks should be made as regards temporary camps and accommodation:

1. Their legal status remains unclear and different administrative authorities are responsible for their operation in practice.<sup>378</sup> Only two of these open accommodation facilities, located in **Leros** and **Elaionas**, Attica, have been officially established;<sup>379</sup>

<sup>375</sup> EKKA, *Statistics on housing requests by asylum seekers and unaccompanied minors*, Q1 2016: <http://bit.ly/2mdPUMn>; Q2 2016: <http://bit.ly/219UI4o>; Q3 2016: <http://bit.ly/2m9azEC>; Q4 2016: <http://bit.ly/2mCC88i>.

<sup>376</sup> AIDA, Country Report Greece: Fourth Update, November 2015.

<sup>377</sup> EKKA, *Statistics on housing requests by asylum seekers and unaccompanied minors*, 2016.

<sup>378</sup> Parliamentary Assembly of the Council of Europe, *Refugees at risk in Greece*, Doc. 14082, 7 June 2016, available at: <http://bit.ly/2m9oryB>.

<sup>379</sup> JMD 3/5262, "Establishment of the Open Facility for the hospitality of asylum seekers and persons belonging to vulnerable groups in Eleonas Attica Region", 18 September 2015, Gov. Gazette B2065/18.09.2015; JMD 4D/8484 "Establishment of the Open Facility for the temporary reception of International Protection Applicants on the island of Leros", 13 July 2016, Gov. Gazette B 2177/13.07.2016.

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2. Their quality is inadequate for long-term reception in most of the cases (see [Conditions in Reception Facilities](#)). As reported in December 2016 “no decision has been taken... regarding which facilities should be made permanent”.<sup>380</sup>
3. Given the variety of types of accommodation facilities, exact data on each facility should be provided. The European Commission has stated that “it is of utmost importance that the Greek authorities provide more exact data on the reception capacity and a comprehensive and continuously updated needs assessment in terms of total reception capacity and the nature of that capacity.”<sup>381</sup>

According to the data published by the Coordination Body for the Management of the Refugee Crisis (Συντονιστικό Όργανο Διαχείρισης Προσφυγικής Κρίσης), as of 21 February 2017, a total 14,350 persons were accommodated in these sites, which counted a total a nominal capacity of 30,676 places. More precisely:

Temporary accommodation centres per region: 21 February 2017		
Temporary accommodation centre	Nominal capacity	“Guests” at 21 Feb 2017
<b>Northern Greece</b>	<b>15,550</b>	<b>3,455</b>
Polykastro (Nea Kavala)	4,200	853
Pieria (Iraklis Farm)	200	38
Veroia Imathias (Armatolou Kokkinou Camp)	400	259
Alexandria Imathias (Pelagou Camp)	1,200	418
Diavata (Anagnostopoulou Camp)	2,500	363
Derveni-Alexil	850	97
Thessaloniki (Sindos-Frakapor)	600	53
Thessaloniki (Kordelio-Softex)	1,900	450
Thessaloniki (Sinatex-Kavalari)	500	165
Vassilika (Kordogiannis Farm)	1,500	72
Derveni-Dion Avete	400	154
Konitsa (Municipality)	200	150
Ioannina (Doliana)	400	145
Preveza-Filippiada (Petropoulaki Camp)	700	238
<b>Central Greece</b>	<b>4,160</b>	<b>3,083</b>
Larrisa-Koutsohero (Efthimiopoulou Camp)	1,500	978
Volos (Magnesia Prefecture)	1,500	978
Trikala (Atlantik)	360	217
Oinofyta, Voiotia	600	679
Ritsona, Evoia (A.F. Camp)	1,000	679
Thermopyles-Fthiotida	500	442
<b>Southern Greece</b>	<b>300</b>	<b>164</b>
Andravida (Municipality)	300	164
<b>Attica</b>	<b>10,666</b>	<b>7,796</b>

<sup>380</sup> Recital 13 Commission Recommendation C(2016) 8525, 8 December 2016.

<sup>381</sup> *Ibid.*

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Elaionas	2,500	1,984
Schisto	2,000	950
Skaramangas	3,200	3,200
Elefsina (Merchant Marine Academy)	346	320
Malakasa	1,500	483
Rafina	120	118
Lavrio (Hosting area for asylum seekers)	600	407
Lavrio (Ministry of Agriculture Summer Camp)	400	334
<b>Non-official settlements</b>	<b>4,100</b>	<b>1,517</b>
Hockey Field ("Elliniko I")	1,400	514
Airport Arrivals Area ("Elliniko II")	1,400	689
Baseball Field ("Elliniko III")	1,300	314

Source: Coordination Body for the Management of the Refugee Crisis, *Summary statement of refugee flows*, 21 February 2017: <http://bit.ly/2kGV6Lz>. The term "guest" is used in the summary statement.

According to the statistics of the Coordination Body for the Management of the Refugee Crisis, a number of camps in the mainland, with a total nominal capacity of 13,251 places, do not accommodate any person as of 21 February 2017 and are characterised as being "in waiting".

Places described as "non-official settlements" refer to the **Elliniko** complex, one of the first temporary facilities to be set up by the authorities in December 2015.<sup>382</sup> Until 13 June 2016, the Elliniko complex near Athens, including the old airport, a hockey stadium and a baseball stadium, was considered an official accommodation centre by the Coordination Body for the Management of the Refugee Crisis, yet as of 16 June 2016 all three sites are described as unofficial settlements.<sup>383</sup>

Despite commitments by the authorities to close the complex by 20 June 2016,<sup>384</sup> the three facilities in **Elliniko** still host asylum seekers to date. Residents went on hunger strike at the beginning of February 2017 to protest against the deplorable living conditions prevailing in these camps.<sup>385</sup>

#### 1.4. UNHCR accommodation scheme

In November 2015, UNHCR started implementing a project on accommodation for relocation candidates ("Accommodation for Relocation") through its own funds.<sup>386</sup> Following a Delegation Agreement signed between the European Commission and UNHCR in December 2015,<sup>387</sup> the project was continued and UNHCR committed to gradually establishing 20,000 places in open accommodation, funded by the European Commission and primarily dedicated to applicants for international protection eligible for relocation.

<sup>382</sup> ECRE, *Comments on the Commission Recommendation relating to the reinstatement of Dublin transfers to Greece*, February 2016, available at: <http://bit.ly/2IMXnVf>, 8-9.

<sup>383</sup> AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, 22-23.

<sup>384</sup> Kathimerini. 'Μουζάλας: Το Ελληνικό θα αδειάσει έως τις 20 Ιουνίου', 25 May 2016, available in Greek at: <http://bit.ly/2IHkccs>.

<sup>385</sup> Ta Nea, 'Απεργία πείνας ξεκίνησαν οι πρόσφυγες στο Ελληνικό', 5 February 2017, available in Greek at: <http://bit.ly/2mn7jR>.

<sup>386</sup> UNHCR, *Greece: Accommodation for Relocation Project Factsheet*, 1 July 2016, available at: <http://bit.ly/2INOmLG>.

<sup>387</sup> European Commission, 'European Commission and UNHCR launch scheme to provide 20,000 reception places for asylum seekers in Greece', IP/15/6316, 14 December 2015.

Following on a revision of the agreement in July 2016, the scheme was also extended to other asylum applicants, mainly to Dublin family reunification candidates and applicants belonging to vulnerable groups.<sup>388</sup> The target of 20,000 places was reached in December 2016 according to UNHCR.<sup>389</sup> Moreover, as the Delegation Agreement ended on 31 December 2016, further discussions have started for the extension of the scheme in 2017.<sup>390</sup> The European Commission is reported to have asked the available places for 2017 to be reduced to 15,000 based on the estimated needs.<sup>391</sup>

More precisely as of 21 February 2017, the relevant data with regard the UNHCR accommodation scheme are as follows:<sup>392</sup>

UNHCR accommodation scheme: 21 February 2017	
Type of accommodation	Capacity
Apartments	11,149
Hotels	5,226
Buildings (Camps)	1,808
Host families	372
Places for unaccompanied children	732
<b>Total number of places</b>	<b>19,287</b>
<b>Total number of beneficiaries</b>	<b>25,817</b>
<b>Occupancy rate</b>	<b>79%</b>

### 1.5. The islands and 'hybrid' accommodation in the hotspots

On the islands, even if after 20 March 2016 the number of arrivals have significantly decreased, the entry into force of the EU-Turkey statement has led to a practice of blanket detention of all newly arrived person on the hotspot facilities for a period of 25 days. After this period, an obligation to remain on the island and to reside in the hotspot facilities for an uncertain period is imposed to newly arrived third-country nationals, resulting in a serious overcrowding of the available facilities.

In practice, for the first 25 days, newly arrived are *de facto* detained under a decision imposing a freedom of movement restriction within the premises of the hotspot. After the expiry of this deadline, they are free to enter and exit the hotspot when they wish to. The gate control is conducted by the Police, which is responsible for protecting the perimeter of the premises, but not for the area inside the hotspot, since it claims that this does not fall within its competence. However, cameras are installed for the control and increase of security in the area. Control of the area outside the hotspot is also provided by a private security company.<sup>393</sup>

The hotspot facilities are used for a hybrid scheme of detention / reception of the newly arrived, where the same facilities serve as detention centres for 25 days and then become a place of open accommodation. Beyond the hotspots, each island has a number of facilities, most of which are run by NGOs for the temporary accommodation of vulnerable groups, such as families, people with health conditions and unaccompanied children.

<sup>388</sup> Recital 11 Commission Recommendation C(2016) 8525, 8 December 2016.

<sup>389</sup> UNHCR, 'UNHCR's accommodation scheme reaches goal of 20,000 places', 16 December 2016, available at: <http://bit.ly/2IbJFQ>.

<sup>390</sup> Recital 11 Commission Recommendation C(2016) 8525, 8 December 2016.

<sup>391</sup> Ethnos, "Υπατη Αρμοστέια: Τον γενικό συντονισμό για τις δομές φιλοξενίας είχε το υπ. Μεταναστευτικής Πολιτικής και η Κομισιόν", 26 January 2017, available at: <http://bit.ly/2I2zuo0>.

<sup>392</sup> UNHCR, *Weekly accommodation update*, 21 February 2017, available at: <http://bit.ly/2INGTwe>.

<sup>393</sup> GCR, *GCR Mission to Kos and Leros*, May-November 2016, available at: <http://bit.ly/2kP9AZX>, 15.

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As of 21 February 2017, a total 14,410 newly arrived were remaining on the Eastern Aegean islands. The nominal capacity of facilities, including official informal sites and other state-run and UNHCR facilities, as at 9,014 places. More precisely, the figures reported by the Coordination Body for the Management of the Refugee Crisis are as follows:

Accommodation on the Eastern Aegean islands: 21 February 2017			
Island	Structures (Reception and Identification Centres)		Hosting facilities
	Nominal capacity	Guests	Guests
Lesvos	3,500	4,563	825
Chios	1,100	837	2,462
Samos	850	1,659	199
Leros	1,000	582	260
Kos	1,000	1,702	642
Others	-	-	679
UNHCR (all islands)	1,564	-	1,357
<b>Total</b>	<b>9,014</b>	<b>7,986 [sic]</b>	<b>6,424</b>

Source: Coordination Body for the Management of the Refugee Crisis, *Summary statement of refugee flows*, 21 February 2017: <http://bit.ly/2lpVo6R>. The term "guest" is used in the summary statement to refer to occupancy, while the term "structures" is used to describe the RIC. "Hosting facilities" refers to UNHCR and other state-run facilities on the islands.

It should be noted that the total figures provided by the Coordination Body for the capacity and occupancy of the RIC do not seem to match the aggregate of capacity and occupancy per island. Moreover, it seems that there is a certain ambiguity as regards the data provided by the Coordination Body. According to the Summary Statement, the term "Hosting Facilities" refers among others to UNHCR facilities on the islands, however the latter are also mentioned separately as "UNHCR Total Islands".

Beyond that, it needs to be underlined that, although this is the officially declared total capacity of the islands, GCR has found through on-site missions during 2016 that the actual capacity is usually much more limited. This can be due to various factors, such as the fact that several of the containers in the hotspots have been damaged or completely destroyed, either because they are old and were already not functional when they were being installed in the hotspot, or because the residents have destroyed them.

The example of **Leros** is very illustrative: The desperation of many newcomers, who remained on the island in a status of complete idleness and perpetual waiting for the completion of administrative procedures, deprived of any information regarding developments affecting them, has led to small riots, like the one in July 2016, when significant damage was caused to the premises of the hotspot, mainly to containers intended for the work of the administrative staff.<sup>394</sup> Out of the 120 containers, 15 were in complete disuse. At all events, representatives of the RIS, whom the GCR mission had contacted, reported that it was really important to find a solution especially with regard to strengthening the overall capacity of the hotspot.<sup>395</sup>

<sup>394</sup> Efsyn, 'Refugee riot in the hotspot of Leros', 8 July 2016, available in Greek at: <http://bit.ly/2maqRx4>.

<sup>395</sup> GCR, *GCR Mission to Kos and Leros*, May-November 2016, 8-9.

## 2. Conditions in reception facilities

### Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?  Yes  No
2. What is the average length of stay of asylum seekers in the reception centres? Varies
3. Are unaccompanied children ever accommodated with adults in practice?  Yes  No

Under PD 220/2007, reception conditions should provide to asylum applicants “a standard of living which guarantee their health, covering living expenses and protecting their fundamental rights.”<sup>396</sup>

### 2.1. Conditions in temporary accommodation facilities

However, living conditions prevailing in particular in the sites initially created as temporary accommodation camps in the mainland are systematically reported as substandard and serious concerns are raised by numerous actors in this regard.

During the last months of 2016, efforts were made in order for conditions to be improved ahead of the winter.<sup>397</sup> Up to 360,000 winter items were delivered by UNHCR, between October 2016 and January 2017 to asylum seekers on the mainland and seven islands (Chios, Kastelorizo, Kos, Leros, Lesvos, Rhodes and Samos).<sup>398</sup> As reported:

“Sites that were unsuitable for winter, like **Petra Olympou**, **Kipselochori** and **Tsepelovo**, were emptied, and alternative accommodation was found for their residents. In eight government-run sites on the mainland, where UNHCR assumed the replacement of tents with prefab housing units, the latter’s number increased from 500 to 745 prefabs, equipped with electricity and kerosene heaters, with a total capacity up to 3,800 persons. In total, by the end of December, UNHCR acquired primary responsibility for making fit for winter 16 out of 46 refugee accommodation sites.”<sup>399</sup>

As far as overall living conditions are concerned, it has been reported that the winterisation procedure did not always start on time.<sup>400</sup> Médecins Sans Frontières (MSF) stated that:

“[I]n mainland Greece, it is true that the situation in many camps has improved recently. Beyond these individual improvements, once again, we are particularly concerned about the absence of a general provision for the most extreme weather conditions, which are expected to come, particularly in areas such as Northern Greece and **Malakasa** where low temperatures are recorder each year. During the last weeks in northern Greece there were camps buried in snow, with ice even in the toilets, without water and heating for days and with acute problems with regards power supply. In Malakasa the same. This situation is far from being characterized as satisfactory. It is a shame that image of the camps.”<sup>401</sup>

<sup>396</sup> Article 12(1) PD 220/2007.

<sup>397</sup> UNHCR, ‘Shelter struggle in Greece as winter arrives, EU urged to speed relocations’, 9 December 2016, available at: <http://bit.ly/2gjFZWc>.

<sup>398</sup> UNHCR, ‘Warming their winter: UNHCR delivers winter items to refugees’, 20 January 2017, available at: <http://bit.ly/2mfbyQl>.

<sup>399</sup> UNHCR, UNHCR Greece Factsheet, 1-31 December 2016, available at: <http://bit.ly/2llobpm>.

<sup>400</sup> Ethnos.gr, “Υπατη Αρμοσσία: Τον γενικό συντονισμό για τις δομές φιλοξενίας είχε το υπ. Μεταναστευτικής Πολιτικής και η Κομισιόν”, 26 January 2017, available at: <http://bit.ly/2l2zu00>.

<sup>401</sup> MSF, ‘Είναι ντροπή η εικόνα που βλέπουμε σήμερα στους καταυλισμούς για τις ελληνικές και ευρωπαϊκές Αρχές’, 20 January 2017, available at: <https://goo.gl/aNqjxx>.

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An increasing number of actors underline systematic deficiencies and shortcomings undermining living conditions in temporary accommodation camps on the mainland. A few examples are reproduced below:

The **Parliamentary Assembly of the Council of Europe (PACE)** highlighted in June 2016 that: “Conditions in most of the reception facilities on the mainland, many of which are entirely unsuited to such use, fall far below acceptable standards in such basic areas as capacity, shelter, food, sanitation and medical care. Again, many children are forced to endure these conditions; thousands of others, again including children, live in informal camps in conditions even more squalid and hazardous than those in the reception centres.”<sup>402</sup>

The **Hellenic Centre for Disease Control and Prevention (KEELPNO)**, working under the Ministry of Health, issued an opinion in July 2016 “regarding the situation of the reception centres for refugees from a public health perspective” after visiting 16 sites in Northern Greece. KEELPNO concluded that all 16 centres should be closed. According to KEELPNO:

“[R]egarding living conditions, housing of refugees is taking place in disused warehouses that had previously been used for industrial purposes. All areas are communal and crowded with hundreds of people, without sufficient ventilation, where litter and waste are accumulated, bad hygienic conditions, insufficient drinking water and a variable quality and quantity of food... From a public health perspective the conditions of the camps is particularly worrying. Their selection and placement have been conducted without the slightest consultation of the competent health services.

Long term residence of initially healthy populations in such conditions multiplies the possibility of transmission of food-borne and water-borne and vector transmitted outbreaks and burdens the psychological health of the population and exposes them to a series of danger factors.”<sup>403</sup>

**Médecins Sans Frontières (MSF)**, in a report issued in October 2016, stated that: “the reception conditions on the mainland where the people who arrived before the 20 March were moved are no better. The strategy of encampment should be a short-term solution, but due to the acute slowness of the system, we are currently looking at a timeframe where people will be in camps for years. Though the situation differs a lot from one camp to another, most of the asylum seekers are living in appalling conditions, which can be dangerous for their health... Even if some improvements have been observed in the last months, the services in the camps remain sub-standard.”<sup>404</sup>

The **National Commission for Human Rights (NCHCR)**, in a report issued after field visits to 6 reception centres, including **Elaionas**, **Schisto**, **Skaramangas**, and **Elliniko**, stated that:

“There are significant differences that entrench inequalities in housing conditions on the accommodation centres. As a general observation, it is clear that the housing conditions that refugees and migrants are facing in accommodation centres visited by the NCHCR are problematic or absolutely inappropriate. Only in Elaionas accommodation centres NCHCR found relatively decent housing conditions... NCHCR states that food provided usually by the Armed Forces, is not always of a good quality... The situation at the camps remain unsafe.”<sup>405</sup>

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<sup>402</sup> PACE, *Refugees in Greece: challenges and risks – A European responsibility*, Resolution 2118, 21 June 2016, available at: <http://bit.ly/2l2xVqm>, paras 5.4 and 5.5.

<sup>403</sup> KEELPNO, *Opinion regarding the situation of the reception centres for refugees from a public health perspective*, 21 July 2016, available at: <https://goo.gl/9pzXAM>.

<sup>404</sup> MSF, *Greece in 2016: Vulnerable People Left Behind*, 20 October 2016, available at: <http://bit.ly/2kPFBG1>, 6.

<sup>405</sup> National Commission for Human Rights, *Living conditions in reception centres for migrants and refugees*, December 2016, available at: <http://bit.ly/2lbFT1l>.

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In **UNHCR's** Regional Refugee and Migrant Response Plan for Europe (January to December 2017), published in December 2016, it is also mentioned that “open reception sites and urban areas in mainland Greece host around 50,000 individuals; however few sites meet humanitarian standards as basic needs and essential services are not always delivered.”<sup>406</sup>

The **European Commission**, in its Fourth Recommendation on Dublin transfers to Greece, issued on 8 December 2016, mentioned:

“In the mainland, while the UNHCR accommodation scheme provides adequate conditions, much of the remaining reception capacity consists of encampments (currently 53 sites are being used) and emergency facilities with widely varying and often inadequate standards, both in terms of material conditions and security. Winterisation of some of these facilities has commenced but progress is slow. Even with improvements, it will be difficult to turn some camps into suitable permanent reception facilities, and there may be a need to close them down, while consolidating others... Moreover, overall coordination of the organisation of reception in Greece appears to be deficient, due to the lack of a clear legal framework and monitoring system, with an ad hoc management of some camps by the Ministry for Migration and others by the Reception and Identification Service. No decision has been taken yet regarding which facilities should be made permanent... It follows from the above that Greece still needs to make progress in establishing sufficient and adequate dedicated permanent open reception capacity for asylum applicants, all of which should be of an appropriate standard in accordance with the EU acquis.”<sup>407</sup>

Surprisingly, and contrary to the above findings, the Commission recommended that the transfer of asylum applicants to Greece under the Dublin Regulation should be resumed from 15 March 2017 onwards, despite the inability of national authorities to guarantee living conditions in line with at least the minimum standards set in the recast Reception Conditions Directive. This raises an issue under Article 3 ECHR, as was the case under the *M.S.S.* judgment of the European Court of Human Rights.<sup>408</sup>

## 2.2. Conditions on the Eastern Aegean islands

The situation on the islands is extremely alarming and it has become obvious that the reception conditions prevailing in particular in the hotspot facilities may reach the level of inhuman or degrading treatment in certain cases. As it has been widely reported, the inability of the authorities to provide reception conditions, already from the very beginning of the so-called “refugee crisis”, was filled by UNHCR, NGOs and the local community, which with scant resources immediately proved responsive and made great efforts to meet the needs that had been created on a basic level

As it emerges from the official data, severe overcrowding prevails in the hotspot facilities, as the current number of persons with an obligation to remain on the island due to the implementation of the EU-Turkey statement by far exceeds the hotspots' capacity, but also the overall reception capacity of the islands. For example, 4,563 persons remain in the hotspot of **Lesvos**, whose nominal capacity is 3,500 places. In **Samos**, 1,659 persons are present, even though the nominal capacity is 850 places (see [Types of Accommodation: Islands](#)). Many people are sleeping in the open, or in tents exposed in extreme weather conditions, while food supply is insufficient, sanitation is poor and many families have become separated.

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<sup>406</sup> UNHCR, Regional Refugee and Migrant Response Plan for Europe (January to December 2017), December 2016, available at: <http://bit.ly/2kqZoEY>, 50.

<sup>407</sup> Recitals 13-15 Commission Recommendation C(2016) 8525, 8 December 2016.

<sup>408</sup> ECtHR, *M.S.S. v. Belgium & Greece*, Application No 30696/09, Judgment of 21 January 2011, paras 249-264.

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The prolonged stay of the newcomers under at the very least substandard conditions results in great tensions among the various groups that are trapped for months on the islands without any an even timeframe regarding their future prospects. This tension inevitably leads to violence and the situation is reportedly aggravated. A number of suicide attempts or even fatal accidents have been reported in the hotspots.

On 25 November 2016, a 66-year-old Iraqi woman and her 6-year-old grandchild died at **Lesvos** (Moria) Hotspot, when a bottle gas with which they were trying to cook inside their tent exploded.<sup>409</sup> In January 2017, three men died on **Lesvos** in the six days between 24 and 30 January. It is reported that “although there is no official statement on the cause of these deaths, they have been attributed to carbon monoxide poisoning from makeshift heating devices that refugees have been using to warm their freezing tents.”<sup>410</sup> A 41-year-old Iraqi died on 25 January 2017 at the Hotspot of **Samos**.<sup>411</sup> A series of suicide attempts have been reported in the same facilities from desperate people.<sup>412</sup>

The European Union Agency for Fundamental Rights (FRA), in its Opinion 5/2016 “on fundamental rights in the ‘hotspots’ set up in Greece and Italy”, includes a list of examples of safety incidents in the Greek hotspots between April and November 2016. This list is reproduced below:

Safety and violence incidents in the Greek hotspots: April 2016 – February 2017		
Date	Hotspot	Incident
6 Apr 2016	Lesvos	A Pakistani man threatens to commit suicide.
15 Apr 2016	Chios	Rape of a 13-year-old boy inside the hotspot.
25 Apr 2016	Lesvos	Riot, with tensions starting in the unaccompanied children section of the hotspot.
26 May 2016	Chios	An Afghan man attempts to commit suicide.
1 Jun 2016	Lesvos	Fire breaks out after clashes between persons of different nationalities. Families forced to flee the camp and spend the night outside.
2 Jun 2016	Samos	Clashes and fire.
28 Jun 2016	Leros	A Yezidi woman attempts to commit suicide.
7 Jul 2016	Leros	Persons accommodated in the hotspot attack police officers,
9 Jul 2016	Leros	Riot, following protest against living conditions in the hotspot, and attack of the Police Director and the Mayor. Clashes with locals
4 Sep 2016	Lesvos	Violent clashes between children in the hotspot. Five unaccompanied children are transferred to the hospital, while others abscond.
19 Sep 2016	Lesvos	Persons accommodated in the hotspot set fire to the camp.
25 Sep 2016	Lesvos	Rape of a 16-year-old unaccompanied boy by four other boys.
26 Sep 2016	Chios	A young Afghan man attempts to commit suicide after receiving a negative decision.
8 Oct 2016	Lesvos	Rape of a 25-year-old Moroccan by three Algerians.
19-20 Oct 2016	Chios	Asylum seekers block the hotspot entrance and protest against delays in the examination of their claims and protracted stay on the island.
24 Oct 2016	Lesvos	Riot, asylum seekers set fire to EASO facilities.

<sup>409</sup> GR.Euronews.com, ‘Λέσβος: Νεκροί 66χρονη πρόσφυγας και το εγγόνι της από έκρηξη στη Μόρια’, 25 November 2016, available in Greek at: <http://bit.ly/2fXCROq>.

<sup>410</sup> Human Rights Watch, ‘Death and Despair in Lesvos: Freezing Winter Conditions Turn Deadly for Refugees in Greece’, 3 February 2017, available at: <http://bit.ly/2jEWO9k>.

<sup>411</sup> Eleftheros Typos, ‘Και τέταρτος νεκρός σε hotspot’, 31-01-2017, <http://bit.ly/2maGdBH>.

<sup>412</sup> Human Rights Watch, ‘Death and Despair in Lesvos: Freezing Winter Conditions Turn Deadly for Refugees in Greece’, 3 February 2017; CNN Greece, ‘Chios: Three suicide attempts of refugees in one week’, 27 January 2017, available in Greek at: <http://bit.ly/2mRDLzf>.

26 Oct 2016	Chios	Women in the hotspot protest against delays in the examination of their claims, and one attacks EASO staff
9 Nov 2016	Samos	Following heavy rainfall damaging their tents and belongings, persons accommodated in the hotspot march on the streets, demanding dry clothes and tents

Source: FRA, Opinion on the hotspots: <http://bit.ly/2l2OGBB>, 40.

Human Rights Watch has stressed in its report on the Greek hotspots that “in Europe’s version of refugee camps, women and children who fled war face daily violence and live in fear,” while the “lack of police protection, overcrowding, and unsanitary conditions create an atmosphere of chaos and insecurity in Greece’s razor wire-fenced island camps.”<sup>413</sup>

During January 2017, images widely circulated around the internet, depicting refugees in the Moria hotspot of **Lesvos** trying to survive the harsh winter conditions in their covered in snow summer tents.<sup>414</sup>

At the same time, the European Commission officially expressed its concern over the security in the hotspot on the Greek islands, regarding staff working there feeling insecure at a time when the prevailing conditions needed to be improved immediately.<sup>415</sup> Member States such as Belgium withdrew their experts from the hotspot due to security concerns.<sup>416</sup>

In its Fourth Recommendation on Dublin transfers to Greece of 8 December 2016, the European Commission noted that:

“In terms of quality, many of the reception facilities in Greece still fall short of the requirements stipulated in the Reception Conditions Directive 2013/33/EU for applicants for international protection, in particular on the islands... The ‘Hotspot’ facilities on the islands are not only overcrowded but have substandard material conditions in terms of sanitation and hygiene, access to essential services such as health care, in particular for vulnerable groups. Security is insufficient, and tensions persist between different nationalities.”<sup>417</sup>

### 2.3. Destitution

Despite the efforts made in order to increase reception capacity in Greece (see [Types of Accommodation](#)), destitution and homelessness still remain matters of concern.

As mentioned above, living conditions on the Eastern Aegean islands do not meet the minimum standards of the recast Reception Conditions Directive and thus asylum seekers living in such conditions are exposed to deplorable conditions, without access to decent housing or basic services. For those on the mainland as well, given the temporary accommodation scheme’s short-term nature and due to the fact that essential humanitarian standards are not met in a number of camps, destitution and lack of decent reception conditions as described by law cannot be excluded for the sole reason that

<sup>413</sup> Human Rights Watch, ‘Greece: Refugee “Hotspots” Unsafe, Unsanitary’, 19 May 2016, available at: <http://bit.ly/1OAGq4B>.

<sup>414</sup> Voice of America, ‘Amid Pledges, Life Remains Miserable for Greece’s Hot Spot Refugees’, 8 January 2017, available at: <http://bit.ly/2iRxXnH>.

<sup>415</sup> ANA-MNA, ‘EU Commission expresses concern over security in hotspots’, 17 November 2016, available at: <http://bit.ly/2l2Hndi>.

<sup>416</sup> The Brussels Times, ‘Migrant crisis: Belgium withdraws its experts from Greece’, 16 November 2016, available at: <http://bit.ly/2lO5Ya7>.

<sup>417</sup> Recital 12 Commission Recommendation C(2016) 8525, 8 December 2016.

these asylum seekers are hosted in a camp. Moreover, according to the available data a number of about 7,950 persons are not accommodated to any type of official accommodation scheme.<sup>418</sup>

In any event, statistical data on the number of requests for placement in a camp and the rate of placements are not available from KEPOM.

Statistical data from EKKA reveal that, after the closure of the Balkan route, an increasing inability to offer reception places has been observed due to the increase of requests; as noted in [Types of Accommodation: EKKA](#), only 20-21% of the relevant requests for accommodation places were satisfied during the second and third quarters of 2016, while 30% were satisfied in the fourth quarter. In this regard, it should be borne in mind that places provided under the UNHCR scheme are dedicated to specific categories of applicants (relocation candidates, Dublin family reunification cases and vulnerable cases) and thus cannot address the needs of the general asylum seeker population for the time being.

GCR's findings from the field are also relevant to the problem of destitution. During December 2016 and January 2017, a total 116 applicants have asked for GCR's Athens Social Unit support in order to find an accommodation place. Respectively, 95 requests for placement have been addressed to EKKA and 21 to KEPOM. Accommodation places were provided only for 8 cases under EKKA and 1 case under KEPOM.<sup>419</sup>

As also reported, "a large number of asylum seekers arriving from the islands prefer to find accommodation by themselves. Many families are reported homeless afterwards and referred to UNHCR for accommodation solutions. However, unless they are vulnerable individuals, Field Office Attica cannot offer further assistance as regards accommodation to the to the asylum seekers who refuse to stay in reception centres offered by the authorities."<sup>420</sup>

In any event, in order for the Greek authorities' compliance with their obligations relating to reception conditions to be assessed, the number of available reception places that are in line with the recast Reception Conditions Directive standards should be assessed against a total 51,091 asylum applications registered in 2016, plus the number of pending claims from previous years.<sup>421</sup>

## 2.4. Racist violence

As mentioned by the 2015 Annual Report of the Racist Violence Recording Network, issued in April 2016, "recordings of attacks against refugees and immigrants have risen. A significant number of victims suffered injuries, which demonstrates the contrast – but also the coexistence within the same society – between the solidarity that a substantial part of the population expresses towards refugees and the violent behaviour of another part of the population."<sup>422</sup> Similar findings were observed by the United Nations Committee on the Elimination of Racial Discrimination (CERD).<sup>423</sup>

In a judgment issued in March 2016, the ECtHR found a violation of the procedural aspect of Article 3 ECHR. The case concerned an Afghan citizen attacked by masked men in Athens in the summer of

<sup>418</sup> Coordination Body for the Management of the Refugee Crisis, *Summary statement of refugee flows*, 21 February 2017: <http://bit.ly/2kGV6Lz>. These persons are described as "Self-settled (est.)".

<sup>419</sup> Data provided by GCR Social Unit, February 2017.

<sup>420</sup> UNHCR, *Greece Factsheet 1 – 31 December 2016*, 5.

<sup>421</sup> See ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014, para 110.

<sup>422</sup> Racist Violence Recording Network, *2015 Annual Report*, 19 April 2016, available at: <http://bit.ly/1sRaIS0>.

<sup>423</sup> CERD, *Concluding observations on the twentieth to twenty-second periodic reports of Greece*, 3 October 2016, CERD/C/GRC/CO/20-22, available at: <http://bit.ly/2cNfGSP>, para 16: "The Committee is also concerned at the increase of racist and xenophobic attacks, particularly against asylum seekers and refugees, which is exacerbated by the economic crisis in the State party. Furthermore, the Committee is concerned at the low reporting rate of such crimes, despite some awareness raising measures taken to that end."

2009. The Court found that the Greek Police had failed to examine the case within the context of well-documented racist attacks but treated the latter as an isolated one and thus the case was closed.<sup>424</sup>

In December 2015, a National Council against Racism and Intolerance was established as a consultative body under the General Secretariat for Transparency and Human Rights.<sup>425</sup> The Council started functioning in April 2016.<sup>426</sup>

Despite the the fact that local communities have generally exhibited solidarity with refugees, incidents of racist violence and tension have been recorded mainly during the second half of 2016. The situation created in particular on the Eastern Aegean islands where, due to the implementation of the EU-Turkey statement thousands of persons are stranded there, has intensified tension and fuelled intolerance among local communities, exposing them to the influence of racist rhetoric and its followers.<sup>427</sup> This has equally been the case due to the structural insufficiencies of the reception system on the mainland.

In **Athens** a squat hosting refugees and migrants in the centre of the city was attacked with Molotov and gas bombs in August 2016.<sup>428</sup> Racist incidents in **Oreokastro** have recently targeted refugee children attending school (see [Access to Education](#)).

On **Leros**, tensions on the island targeted both refugees and members of the humanitarian community in July 2016.<sup>429</sup> On **Chios**, a demonstration against refugees took place in September 2016. During the demonstration, headed to Souda refugee camp, three journalists covering the demonstration were reportedly injured.<sup>430</sup> In November 2016, Souda camp was attacked with Molotov cocktails and rocks. At least two refugees were reportedly injured during the attacks, while tents were burned and the camp was seriously damaged.<sup>431</sup> On **Lesvos**, reported members of far-right groups attacked students and among others three women, including one known to the local community for as volunteer, in September 2016.<sup>432</sup>

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<sup>424</sup> ECtHR, *Sakir v. Greece*, Application no 48475/09, Judgment of 24 March 2016, para 70-73.

<sup>425</sup> Articles 15-9 L 4356/2015.

<sup>426</sup> Efsyn, 'Όλοι έδωσαν το «παρών» στην πρώτη συνεδρίαση', 21 April 2016, available in Greek at: <http://bit.ly/2l39KrO>.

<sup>427</sup> Asylum Campaign, 'No more dead refugees - Immediate transportation of the asylum seekers from the Aegean islands to the mainland for a fair examination of the merits of their asylum applications in a context of freedom and decent living conditions', 31 January 2017, available at: <http://bit.ly/2lICRF7>.

<sup>428</sup> Newsweek, 'What the Greek Authorities should do to prevent hate crimes directed at migrants', 21 November 2016, available at: <http://bit.ly/2lyO88t>.

<sup>429</sup> Al Jazeera, 'Volunteers leave Greek island after attacks on refugees', 10 July 2016, available at: <http://bit.ly/29DrAPZ>.

<sup>430</sup> Το Vima, 'Επεισόδια σε διαμαρτυρία κατοίκων κατά προσφύγων στη Χίο', 15 September 2016, available in Greek at: <http://bit.ly/2mop6rQ>; Huffington Post, 'Greek Journalists Say Neo-Fascist Party Members Attacked Them During Anti-Refugee Protest', 21 September 2016, available at: <http://huff.to/2ltX14O>.

<sup>431</sup> UNHCR, 'UNHCR expresses serious concern over the violence on Chios', 18 November 2016, available at: <http://bit.ly/2lcdzvT>; Amnesty International, *Annual Report 2016/2017 – Greece*, February 2017, available at: <http://bit.ly/2lOqh7e>.

<sup>432</sup> I Efimerida, 'Σε αναβρασμό η Λέσβος: Χρυσαιγίτες χτύπησαν 3 κοπέλες σε συγκέντρωση κατοίκων', 19 September 2016, available in Greek at: <http://bit.ly/2ltXowg>.

## C. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers?  Yes  No  
 ❖ If yes, when do asylum seekers have access the labour market? Upon lodging
2. Does the law allow access to employment only following a labour market test?  Yes  No
3. Does the law only allow asylum seekers to work in specific sectors?  Yes  No  
 ❖ If yes, specify which sectors:
4. Does the law limit asylum seekers' employment to a maximum working time?  Yes  No  
 ❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice?  Yes  No

According to national legislation, as amended in 2016, asylum seekers have access to the labour market as employees or service or work providers from the moment an asylum application has been formally lodged and they have obtained an asylum seeker's card.<sup>433</sup>

Applicants who have not yet completed the full registration and lodged their application i.e. applicants who are pre-registered, do not have access to the labour market. As noted in [Registration](#), a total 27,592 applicants were pre-registered upon completion of the scheme on 30 July 2016,<sup>434</sup> and only 12,905 of them had lodged applications as of 31 December 2016. According to the Asylum Service, the full registration of the total number of the pre-registered application would nevertheless be completed by the end of February 2017.<sup>435</sup>

In practice, taking into consideration the current context of financial crisis, the high unemployment rates and further obstacles posed by competition with Greek-speaking employees, it is particularly difficult in practice for asylum seekers to have access to the labour market, which may lead to 'undeclared' employment with severe repercussions on the enjoyment of basic social rights. According to statistics, unemployment rate of third-country nationals is greater than that of Greek nationals, while the percentage of the economically active population of third-country national is significantly higher than the relevant percentage among the Greek population:

Unemployment rates for Greek and third-country nationals: Q2 2016		
	Greek nationals	Third-country nationals
Unemployment rate	22.4%	25.8%
Economically active population	51.5%	72.3%

Source: Hellenic Statistical Authority, Press Release for the second quarter of 2016: <http://bit.ly/2k3WYJE>.

Additionally, according to Article 11 PD 220/2007, applicants have access to vocational training programmes implemented by public or private bodies, under the same conditions and prerequisites as

<sup>433</sup> Article 71 L 4375/2016.

<sup>434</sup> Asylum Service, *Pre-registration data analysis 9 June – 30 July 2016*, available at: <http://bit.ly/2lbPhlw>.

<sup>435</sup> Information provided by the Asylum Service, 9 February 2017. It should be noted that Article 11 of the draft law transposing the recast Reception Conditions Directive would allow access to employment for pre-registered applicants whose full registration process exceeds 3 months. As mentioned, this bill has not yet been submitted to Parliament.

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foreseen for Greek citizens. However, the condition of enrolment “under the same conditions and prerequisites as foreseen for Greek citizens” does not take into consideration the significantly different position of asylum seekers, and in particular the fact that they may not be in the position to provide the necessary documentation.<sup>436</sup>

## 2. Access to education

### Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children?  Yes  No
2. Are children able to access education in practice?  Yes  No

According to Article 9 PD 220/2007, the minor children of applicants and children seeking international protection have access to the education system under similar conditions as Greek nationals, as long as there is no pending enforceable removal measure against them or their parents.<sup>437</sup> Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity.<sup>438</sup>

Children of citizens of a third country can enrol at public schools with incomplete documentation if they:

- (a) are granted refugee status by the Greek state;
- (b) come from regions where the situation is turbulent (έκρυθμη);
- (c) have filed an asylum claim; and
- (d) are third-country nationals residing in Greece, even if their legal residence has not been settled yet.<sup>439</sup>

Registration may not take longer than 3 months, of 1 year where special language training is provided to facilitate access to the education system.<sup>440</sup>

A Ministerial Decision issued in August 2016 provided the establishment of preparatory classes (Τάξη Υποδοχής) for all school-age children aged 4 to 15.<sup>441</sup> This programme is implemented in public schools neighbouring camps or places of residence. According to the information provided by the Ministry of Education, children aged between 6-15 years, living in open temporary facilities, will be enrolled in afternoon preparatory classes from 14:00 to 18:00 in neighbouring public schools identified by the Ministry. They will be taught Greek as a second language, English language, mathematics, sports, arts and computer science. Their transport is organised by the International Organisation for Migration (IOM).

Children aged between 6-15 years, living in dispersed urban settings (such as relocation accommodation, squats, apartments, hotels, and reception centres for asylum seekers and unaccompanied children), may go to schools near their place of residence, to enrol in the morning classes alongside Greek children, in schools that will be identified by the Ministry. This is done with the aim of ensuring balanced distribution of children across selected schools, as well as across preparatory classes for migrant and refugee children where Greek is taught as a second language.<sup>442</sup>

Although the refugee education programme implemented by the Ministry of Education is highly welcome, its implementation rate is slow, while a significant gap remains in the provision of pre-school

<sup>436</sup> GCR, *Observations on the Draft Law transposing the Reception Directive*, 31 October 2016, available in Greek at: <https://goo.gl/MBRqno>.

<sup>437</sup> Article 9(1) PD 220/2007.

<sup>438</sup> Article 9(3) PD 220/2007.

<sup>439</sup> Article 21(8) L 4251/2014 (Immigration Code).

<sup>440</sup> Article 9(2) PD 220/2007.

<sup>441</sup> Ministerial Decision 152360/ΓΔ4/2016, GG 3049/B/23-09-2016, available at: <http://bit.ly/2lbVKGp>.

<sup>442</sup> Ministry of Education, *Q&A for access to education for refugee children*, 1 February 2017, available at: <http://bit.ly/2malzAv>.

education, senior secondary (over the age of 15), higher education and vocational training. The education sector faces problems with regard to refugee children's integration in Greek schools and a gap persists in meeting the needs of children who have missed years of schooling due to conflict or displacement and require catch-up programmes.<sup>443</sup>

In some cases, tension provoked by far-right groups and security issues for children accessing schools are reported in some areas. For example, there are reported problems in the **Schisto** camp due to the strong presence of the far-right party Golden Dawn in Perama, as a result of which IOM has established security procedures with bus drivers on what to do if there is a security risk for children they are transporting.<sup>444</sup> In **Oreokastro**, near Thessaloniki, far-right groups demonstrated outside the building of the primary school on 17 February 2017, on the day when 15 refugee children were about to start schooling.<sup>445</sup> On the other hand, in an important number of schools, activities have been organised in order to welcome refugee children.<sup>446</sup>

Finally, in addition to state organised educational activities, more than 80% of the accommodation sites are hosting informal education activities.<sup>447</sup>

## D. Health care

### Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?  
 Yes  No
2. Do asylum seekers have adequate access to health care in practice?  
 Yes  Limited  No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?  
 Yes  Limited  No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?  
 Yes  Limited  No

According to national legislation, asylum seekers are entitled free of charge to necessary health, pharmaceutical and hospital care, on condition that they have no health insurance and no financial means. Such health care includes:<sup>448</sup>

- (a) Clinical and medical examinations in public hospitals, health centres or regional medical centres;
- (b) Medication provided on prescription by a medical doctor serving in one of the institutions mentioned in point (a) and acknowledged by their director;
- (c) Hospital assistance in public hospitals, hospitalisation at a class C room.

In all cases, emergency aid shall be provided to applicants free of charge. Applicants who have special needs shall receive special medical assistance."<sup>449</sup>

<sup>443</sup> UNHCR, *Regional Refugee and Migrant Response Plan for Europe*, December 2016, 52.

<sup>444</sup> National Education Sector Working Group, Minutes of Meeting of 23 January 2017, available at: <http://bit.ly/2kPv88B>.

<sup>445</sup> Enikos, 'Ένταση έξω από σχολείο στο Ωραιόκαστρο', 17 February 2017, available in Greek at: <http://bit.ly/2mfdzMi>.

<sup>446</sup> See e.g. Left.gr, 'Θερμό καλωσόρισμα για τα προσφυγόπουλα στο 26ο δημοτικό σχολείο της Λάρισας', 1 February 2017, available in Greek at: <http://bit.ly/2mB0cs4>; Alfavita, 'Θερμό καλωσόρισμα στα προσφυγόπουλα στο 1ο Γυμνάσιο Συκεών Θεσσαλονίκης', 25 January 2017, available in Greek at: <http://bit.ly/2ndAQIH>; Enikos, 'Θερμό καλωσόρισμα των προσφύγων μαθητών στο Περιστέρη', 20 February 2017, available in Greek at: <http://bit.ly/2ndB6Bg>.

<sup>447</sup> UNHCR, *Regional Refugee and Migrant Response Plan for Europe*, December 2016, 50.

<sup>448</sup> Article 14 PD 220/2007.

<sup>449</sup> *Ibid.*

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A new law adopted in 2016 provides free access to public health services for persons without social insurance and vulnerable.<sup>450</sup> Among others, asylum seekers and members of their families are considered as persons belonging to vulnerable groups and entitled to have free access to public health system and pharmaceutical treatment.

In practice, administrative barriers have been observed in some cases with regard to access to the health care system, which mainly concern difficulties in the issuance of a Social Security Number (Αριθμός Μητρώου Κοινωνικής Ασφάλισης, AMKA) or the fact that staff in hospitals or health care centres are not always aware of the 2016 law.<sup>451</sup>

Moreover, it is recalled that:

“The public health care system in Greece, along with the provision of secondary health care, are affected by the financial crisis that had also repercussions on the health services provided and the function of hospitals that have insufficient drugs. The lack of adequate cultural mediators further aggravates access to public health services for refugees and migrants. In public hospitals, where cases from humanitarian health partners are referred, translation services are a major need and feedback communication mechanisms must be improved... In the Greek healthcare system, the existence of different sub-systems and organizational models, combined with a lack of clear mechanisms for coordination, creates significant difficulties in the planning and implementation of national health policy. Within this context it is challenging to coordinate humanitarian health interventions efficiently.”<sup>452</sup>

MSF underlines that “hospitals are struggling to respond to the needs of both local people and migrants, mainly due to a lack of resources. As a result, people regularly face difficulties in accessing proper healthcare, especially specialised care. Whilst they theoretically have access to the treatment in hospital for specialised issues, in reality access is difficult due to a general lack of capacity, including a lack of financial and human resources.”

Beyond the public health care system, medical services in temporary accommodation facilities in the mainland and hotspots on the islands by are also provided by non-governmental organisations.

## E. Special reception needs of vulnerable groups

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?  
 Yes       In some cases       No

Article 17 PD 220/2007 provides that “while applying the provisions... on reception conditions, the competent authorities and local administrations shall take care to provide special treatment to applicants belonging to vulnerable groups such as minors, in particular unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence”. More specific provisions foreseen the framework for minors, unaccompanied minors and victims of torture.<sup>453</sup>

<sup>450</sup> Article 33 L 4368/2016.

<sup>451</sup> Solidarity Now, ‘Issues in the issuance of AMKA’, 10 November 2016, available in Greek at: <http://bit.ly/2ltg9QI>; MSF, *Greece in 2016: Vulnerable People Left Behind*, 20 October 2016, available at: <http://bit.ly/2kPfBG1>.

<sup>452</sup> UNHCR, *Regional Refugee and Migrant Response Plan for Europe*, December 2016, 51. See also The Guardian, ‘Patients who should live are dying: Greece’s public health meltdown’, 1 January 2017, available at: <http://bit.ly/2in3wW8>.

<sup>453</sup> Article 18-10 PD 220/2007.

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Moreover, under the [Reception and Identification Procedure](#) upon arrival, the Head of the RIC “shall refer persons belonging to vulnerable groups to the competent social support and protection institution.”<sup>454</sup>

In October 2016, MSF issued a report referring to “the gaps within the current system that mean [that] vulnerable people are firstly not properly identified and secondly do not receive appropriate protection and care”. Poor reception conditions in temporary accommodation camps became even “worse for those with special needs or who require enhanced protection (e.g. unaccompanied children, survivors of sexual violence, pregnant women, and patients with chronic diseases who require specific services).”<sup>455</sup>

As mentioned in [Types of Accommodation](#), the limited capacity of reception centres under the National Centre for Social Solidarity (EKKA) prevents vulnerable persons from the enjoyment of reception or special reception conditions, even if their vulnerability has been identified and despite the fact that requests for their placement are prioritised.

Since July 2016, persons belonging to vulnerable groups can also be accommodated under the UNHCR accommodation scheme.<sup>456</sup>

## 1. Reception of unaccompanied children

As mentioned in [Types of Accommodation](#), the EKKA network includes 813 places in 28 long-term shelters for unaccompanied children and 499 places in 22 short-term (“transit”) shelters for unaccompanied children.

The number of unaccompanied children on a waiting list for shelter and thus deprived of reception conditions is indicative of the shortcomings of the reception system. As of 13 January 2017, the number of unaccompanied children accommodated in long-term and transit shelters was 1,312, while 1,301 unaccompanied children were waiting for a place.<sup>457</sup> Out of the unaccompanied children on the waitlist, 277 were in closed reception facilities (RIC) and 18 detained in police stations under “protective custody” (see [Detention of Vulnerable Applicants](#)).

Due to the lack of appropriate places, a number of unaccompanied children also remain in temporary accommodation facilities under substandard conditions, as recently reported in **Schisto** for example.<sup>458</sup>

Reception places for unaccompanied minors are located in the following areas:

Long-term shelters for unaccompanied children in the EKKA network				
Organisation / centre	Location	Capacity	Target group	Target age
PRAKSIS (UNHCR)	Athens	24	Boys	10-15
PRAKSIS (UNHCR)	Athens	24	Boys	up to 18
Medical Intervention (Bodossaki Foundation)	Athens	18	Boys	up to 16
PRAKSIS Tositsa (UNHCR)	Athens	40	Boys	8-18
Doctors of the World (IOM)	Athens	100	Boys	10-16
Save the Children (EKKA)	Athens	32	Boys	10-18

<sup>454</sup> Article 14(8) L 4375/2016.

<sup>455</sup> MSF, *Greece in 2016: Vulnerable People Left Behind*, 20 October 2016, available at: <http://bit.ly/2kPFBG1>.

<sup>456</sup> Recital 11 Commission Recommendation C(2016) 8525,, 8 December 2016.

<sup>457</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 13 January 2017, available at: <http://bit.ly/2mcc51t>.

<sup>458</sup> Network for Children’s Rights, *Conditions in refugee camps: The case of Schisto*, January 2017, available at: <http://bit.ly/2I39IFH>.

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PRAKSIS (UNHCR)	Athens	22	Boys	8-18
Nostos (UNHCR)	Athens	20	Boys	13-17
PRAKSIS Ilion 1 (UNHCR)	Athens	30	Girls	0-18
PRAKSIS Ilion 2 (EPIM, Niarchos & Bodossaki)	Athens	10	Girls	up to 18
SOS Villages (UNICEF)	Athens	25	Boys	14-18
PRAKSIS (UNHCR)	Athens	24	Boys	8-18
PRAKSIS (UNHCR)	Athens	26	Boys	8-18
Youth and Lifelong Learning	Athens	10	Girls	15-18
PRAKSIS Stegi Plus	Athens	30	Boys	5-18
SMA	Athens	17	Boys	12-18
PRAKSIS Stegi Pi	Athens	24	Boys	8-18
Apostoli	Athens	20	Boys	12-18
Mellon	Athens	60	Boys and girls	5-18
Arsis	Thessaloniki	30	Boys	12-18
SOS Villages	Thessaloniki	30	Boys	12-18
PRAKSIS (UNHCR)	Thessaloniki	30	Boys	0-18
SOS Villages	Serres	9	Girls and boys	-
Arsis	Alexandroupoli	25	Boys and girls	5-12
Arsis	Volos	30	Boys	12-18
Hellenic Red Cross	Volos	48	Boys	12-18
PRAKSIS Stegi Plus	Patra	30	Boys	5-18
Youth and Lifelong Learning	Crete	25	Boys	12-18
<b>Total</b>		<b>813</b>		

Source: EKKA, Information provided to GCR, 13 January 2017.

Short-term ("transit") shelters for unaccompanied children in the EKKA network				
Organisation / centre	Location	Capacity	Target group	Target age
Metadrasí	Athens	14	Boys and girls	under 14
Arsis (UNHCR)	Athens	30	Boys	14-18
Faros (UNHCR)	Athens	20	Boys	12-16
Arsis (UNHCR)	Thessaloniki	50	Boys	14-18
Arsis (UNHCR)	Alexandroupoli	25	Boys and girls	Up to 12 boys and 18 girls
PRAKSIS Stegi Plus (+)	Patra	8	Boys	5-18
Iliaktida (UNICEF)	Lesvos	16	Boys	12-18
Iliaktida (UNHCR)	Lesvos	30	Boys	12-18
Iliaktida (UNHCR)	Lesvos	26	Boys	12-18
Iliaktida (UNHCR)	Lesvos	30	Boys	12-18
Metadrasí	Lesvos	24	Boys and girl	under 15
Iliaktida (UNHCR)	Lesvos	10	Boys	12-18
Iliaktida Girls (UNHCR)	Lesvos	8	Girls	0-18
Iliaktida Alysida (UNHCR)	Lesvos	18	Boys	12-18
Iliaktida Loutra (UNHCR)	Lesvos	8	Boys	13-18
PRAKSIS	Lesvos	22	Boys	0-18
PRAKSIS	Samos	25	Boys	0-18
Metadrasí (UNHCR)	Samos	18	Boys and girls	0-18

Kivotos	Chios	25	Boys and girls	0-11
Metadrasi	Chios	20	Boys and girls	under 15
SCI (UNHCR)	Kos	40	Boys and girls	0-18
PRAKSIS (UNHCR)	Kos	32	Boys and girls	0-18
<b>Total</b>		<b>499</b>		

Source: EKKA, Information provided to GCR, 13 January 2017.

## 2. Reception of persons with disabilities

In January 2017, Human Rights Watch published a report on the reception of asylum seekers with disabilities, documenting deficiencies in their identification and provision of adequate accommodation. Many of the temporary accommodation centres, particularly sanitary facilities, are unsuitable for people using wheelchairs. The report refers to testimonies from asylum seekers using wheelchairs who could not access showers in **Elliniko**, **Oreokastro** or **Cherso**.<sup>459</sup>

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

According to Article 3 PD 220/2007, the authorities competent to receive and examine an application for asylum must inform the applicant immediately and in any case within 15 calendar days, providing them with informative material on reception conditions in a language that they understand. This material must provide information on the existing reception conditions, including health and medical care, as well as on the operation of UNHCR in Greece and other organisations that provide assistance and legal counselling to asylum applicants.<sup>460</sup> If the applicant does not understand any of the languages in which the information material is published or if the applicant is illiterate, the information must be provided orally, with the assistance of an interpreter. A relevant record must in such case be kept in the applicant's file.<sup>461</sup>

As mentioned in [Provision of Information on the Procedure](#), a number of actors are providing information to newly arrived third country nationals on the islands and the mainland. In any event, information on reception should be related with the actual available reception capacity and the legal obligations imposed on the applicants, i.e. mainly the obligation to remain on a given island for those subject to EU-Turkey Statement.

### 2. Access to reception centres by third parties

#### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
 Yes                       With limitations                       No

According to Article 13(7) PD 220/2007, legal advisors or lawyers and representatives of UNHCR shall have unlimited access to reception centres and other housing facilities in order to assist applicants. The Director of the Centre may extend access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the premises and of the applicants.<sup>462</sup>

<sup>459</sup> Human Rights Watch, *Greece: Refugees with disabilities overlooked, undeserved*, 18 January 2017, available at: <http://bit.ly/2lyJxDo>.

<sup>460</sup> Article 3(2) PD 220/2007.

<sup>461</sup> Article 3(3) PD 220/2007.

<sup>462</sup> Article 13(7) PD 220/2007.

DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.

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As mentioned in [Provision of Information on the Procedure](#), UNHCR is present in all sites throughout the country. Different actors are also present at the open accommodation centres.

In some cases GCR has faced certain delays in order an access permission to an open accommodation centre to be granted due to bureaucratic obstacles.

## G. Differential treatment of specific nationalities in reception

During GCR's missions to the Eastern Aegean islands, differential treatment of various nationalities has been noted. For example, in November 2016, while an on-site visit on Kos, given that the limited capacity of the hotspot, tents were set up outside the Hotspot for the temporary "housing" of newcomers. At the time of GCR's visit, 324 people were staying in the so-called "Annex", most of whom were single men from **Pakistan**, remaining there under conditions even worse than the already substandard conditions of the Hotspot Facility. Also, although people staying in the "Annex" are under the jurisdiction of the RIS and thus subject to a restriction on freedom of liberty, they were not referred for screening to PRAKSIS team for the provision of psychosocial support, despite the fact that this NGO was responsible for this task. The organisation WAHA provided Primary Health Services and was responsible for the identification of vulnerabilities in the "Annex".<sup>463</sup>

### The UNHCR accommodation scheme

As mentioned in [Types of Accommodation](#), the UNHCR accommodation scheme was initially dedicated to applicants eligible for [Relocation](#). As eligibility for the relocation procedure is based on nationality, only applicants belonging to certain nationalities were accommodated under this scheme. After an amendment of the initial Agreement in July 2016, not only applicant eligible for relocation but also other categories of applicants (Dublin families and vulnerable groups) are also accepted in that accommodation scheme.

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<sup>463</sup> GCR, *Mission to Leros and Kos*, May-November 2016.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2016:	4,072
2. Number of asylum seekers in detention at the end of 2016:	Not available
3. Number of pre-removal detention centres: <sup>464</sup>	6
4. Total capacity of pre-removal detention centres:	5,215

In 2016, the number of asylum seekers and other third-country nationals detained in pre-removal detention facilities in Greece was as follows:

Administrative detention: 1 January – 31 December 2016		
	Total third-country nationals	Out of which, asylum seekers
Detentions ordered in December 2016	3,088	865
Total detentions ordered	14,864	4,072

Source: Directorate of the Hellenic Police, 21 January 2017.

According to the Coordination Body for the Management of the Refugee Crisis, the number of persons in pre-removal detention centres in the mainland at any given day fluctuated from 1,998 to 2,080 detainees throughout December 2016. On 3 January 2017, the occupancy of the mainland pre-removal centres was 1,996.<sup>465</sup>

The number of asylum applications submitted from detention in 2016 was 2,829 and represented 5.5% of the total number (51,091) of asylum applications in Greece. In 2015, 2,543 applications were submitted from detention out of a total 13,195 applications.<sup>466</sup> The average processing time of first applications by detainees was 72 days in the period 2015-2016.<sup>467</sup>

#### The fate of the 2015 detention policy

Following a change of policy announced at the beginning of 2015,<sup>468</sup> and despite the fact that some of the major provisions have not been applied, including the use of alternatives to detention, the revocation of the Ministerial Decision allowing for detention beyond 18 months and the closure of Amygdaleza Detention Centre, the numbers of detained people have been reduced significantly during 2015. In November 2015, the number of administratively detained third-country nationals in pre-removal facilities

<sup>464</sup> This number refers to the 6 pre-removal detention centres in Amygdaleza, Tavros, Corinth, Xanthi, Paranesti, Orestiada (Fylakio). The so called 'hotspot' facilities are not included, as according to the law they operate under the regime of [Reception and Identification Centres](#). Police Stations where, according to the Hellenic Police Headquarters, third-country nationals may currently only be held for a few days / weeks until their transfer in one of the centres mentioned above becomes possible, are not included in this number either.

<sup>465</sup> Coordination Body for the Refugee Crisis, *Summary statement of refugee flows*, 3 January 2017, available at: <http://bit.ly/2ky92E4>.

<sup>466</sup> Asylum Service, Information provided to the State Legal Council and Ministry of Migration Policy, 25 January 2017, available in Greek at: <http://bit.ly/2naiYHU>.

<sup>467</sup> *Ibid.*

<sup>468</sup> Ministry of Interior and Administrative Reconstruction, 'Joint Press Release of Alternate Ministers of Interior and Administrative Reconstruction, Mr Yianni Panousi, and Ms. Anastassia Christodouloupoulou, regarding the Detention Centres', 17 February 2015, available in in Greek: <http://bit.ly/1SG082U>.

were reported at 504, while during the same period in 2014, there were 4,123 detainees in pre-removal facilities, or 6,283 detainees including persons detained at police stations.<sup>469</sup>

However, even with a relatively small number of detainees, structural problems with regard to the use of immigration detention in Greece persisted. As the Ombudsman stated in a report covering the 2015 reporting period, police authorities perceived the maximum 6-month immigration detention period “not as a limit but as a rule”, failed to seek alternatives to detention and to initiate an individualised procedure for each third-country national detained. At the same time, “detention appear[ed] to continue in cases where the implementation of the return of the third-country national is not possible” and contradicting practices were mentioned as administrative treatment of newly arrived third country nationals.<sup>470</sup>

Retractions of the policy aiming to reduce immigration detention were observed at the end of 2015 and beginning of 2016. At that time, and as border restrictions were applied along the so-called “Balkan route”, highly problematic detention practices were reported. For example, in December 2015, following:

“A new police verbal order regarding the detention of North African nationals (Maghreb Arabs)... [d]etention is being applied on the islands against Moroccans, Algerians and Tunisians in accordance with the order. The situation remained volatile on Lesbos as 600-700 North Africans were unable to leave the island as a result of a police directive [...] Some 300 North Africans have been transferred to the pre-removal facility in Corinth.”<sup>471</sup>

The closure of the Greek-FYROM border in March 2016 led to a significant pressure over the Asylum Service, exceeding its real capacity and its ability to register new asylum claims.<sup>472</sup> As a result, a number of individuals have found themselves detained due to the fact that they could not have access to the asylum procedure and their temporary documentation had expired.

### **Detention policy following the EU-Turkey statement**

The launch of the implementation of the EU-Turkey statement has had an important impact on detention, resulting in a significant toughening of the practices applied in the field. For example, a policy of mandatory (blanket) detention of all newly arrived third-country nationals was put in place for the implementation of the EU-Turkey statement,<sup>473</sup> followed by the imposition of an obligation to remain on the island, known as “geographical restriction”. To this end, it should be mentioned that out of a total number of 21,566 detention orders issued in 2016, as many as 18,114 detention orders (84%) were issued after the 20 March 2016.<sup>474</sup>

In the summer of 2016, and as the number of people with an obligation to remain on the islands due to the implementation of the EU-Turkey statement was constantly growing, a Police Circular issued on 18 June 2016 provided that third-country nationals residing on the islands with “law-breaking conduct” (*παραβατική συμπεριφορά*), will be transferred, on the basis of a decision of the local Director of the

<sup>469</sup> Greek Ombudsman, *Return of third-country nationals Special Report 2015*, March 2016, available in Greek at: <http://bit.ly/2jli7Jw>, 6-10. No data are available with regard to the number of persons administratively detained in police stations since 2015.

<sup>470</sup> *Ibid.*

<sup>471</sup> UNHCR, *Greece Refugee Emergency Response – Update #8*, 29 November – 31 December 2015, available at: <http://bit.ly/2kdZpwi>, 2.

<sup>472</sup> Asylum Service, Document n. 5838/14.4.2016, 14 April 2016. The document mentions in Greek: “Η Υπηρεσία Ασύλου καλείται καθημερινά να εξυπηρετήσει χιλιάδες ανθρώπους, πράγμα που ξεπερνά κατά πολύ τις αντικειμενικές δυνατότητες της.”

<sup>473</sup> UNHCR, ‘UNHCR redefines role in Greece as EU-Turkey deal comes into effect’, 22 March 2016, available at: <http://bit.ly/2jhbLor>.

<sup>474</sup> Information provided by the Directorate of the Hellenic Police, 21 January 2017.

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Police, approved by the Directorate of the Police, to pre-removal detention centres in the mainland where they will remain detained.<sup>475</sup>

Let alone any reservation as to whether in this case the administrative measure of immigration detention is used with a view to circumventing procedural safeguards established by criminal law,<sup>476</sup> GCR findings on-site do not confirm allegations of “law-breaking conduct” in the vast majority of the case to the attention of GCR.

According to the data available, more than 1,600 third-country nationals have been transferred from the islands to pre-removal detention centres in the mainland in 2016:

Third-country nationals transferred from the islands to mainland pre-removal detention facilities: 2016						
	Attica region	Corinth	Drama	Xanthi	East Macedonia	Total
Lesvos	76	226	289	57	447	1,095
Samos	49	73	32	-	43	197
Chios	45	192	40	6	51	334
<b>Total</b>	<b>170</b>	<b>491</b>	<b>361</b>	<b>63</b>	<b>541</b>	<b>1,626</b>

Source: Directorate of the Hellenic Police, 21 January 2017.

At the end of 2016, approximately 2,000 persons remained in detention in pre-removal facilities in the mainland, excluding persons detained on the islands and in others facilities in the mainland such as police stations. At the same time, as announced by the Ministry of Migration Policy on 28 December 2016,<sup>477</sup> and described in the Joint Action Plan on the implementation of the EU-Turkey Statement on 8 December 2016,<sup>478</sup> the construction of new detention centres on the island, in order to increase detention capacity, is planned to take place with EU support “as soon as possible”.

In February 2017 a pre-removal detention facility was established on the island of **Kos** under a Joint Ministerial Decision,<sup>479</sup> and is expected to start operating by the end of March 2017 with a capacity of about 150 places.<sup>480</sup> According to official estimations, the cost for the construction and the operation of the centre in 2017 will be of about €10 million.

<sup>475</sup> Directorate of the Hellenic Police, “Εγκύκλιος ΕΛΑΣ 1604/16/1195968/18-6-2016 Διαχείριση παράτυπων αλλοδαπών στα Κέντρα Υποδοχής και Ταυτοποίησης, διαδικασίες Ασύλου, υλοποίηση Κοινής Δήλωσης ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 (πραγματοποίηση επανεισδοχών στην Τουρκία)”, available in Greek at: <http://bit.ly/2nglEj6>. See also *inter alia* Kathimerini, ‘Islands “suffocating” due to the refugee issue’, 23 August 2016, available in Greek at: <http://bit.ly/2jBL7Fd>.

<sup>476</sup> See e.g. Valeria Ilareva, *Immigration Detention in International Law and Practice*, Statewatch, January 2008, available at: <http://bit.ly/2iAZBV8>, 3; Philippe de Brycker (ed.), *Alternatives to Immigration and Asylum Detention in EU*, Odysseus Network, 2015, 19-20.

<sup>477</sup> Ministry of Migration Policy, ‘Opening Statement of the Minister of Migration Policy at a Press Conference on recent developments on the refugee and migration issue’, 28 December 2016, available in Greek at: <https://goo.gl/18qdzg>.

<sup>478</sup> European Commission, *Joint Action Plan on the implementation of the EU-Turkey Statement*, COM(2016) 792, 8 December 2016, para 18.

<sup>479</sup> Joint Ministerial Decision 8038/23/22-ξε, Gov. Gazette B’ 332/7.2.2017, available at: <http://bit.ly/2nnrHXM>.

<sup>480</sup> Εφsyn, ‘Εκατόν πενήντα λυόμενα σε Κω, Λέσβο και Σάμο’, 20 February 2017, available in Greek at: <http://bit.ly/2nap6A5>.

## B. Legal framework of detention

### 1. Grounds for detention

Indicators: Grounds for Detention		
1. In practice, are most asylum seekers detained		
❖ on the territory:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ at the border:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2. Are asylum seekers detained in practice during the Dublin procedure? Dublin procedure for persons who have applied from detention <sup>481</sup>	<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely
	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
3. Are asylum seekers detained during a regular procedure in practice? Asylum procedure for persons who have applied from detention	<input checked="" type="checkbox"/> Frequently	<input type="checkbox"/> Rarely
	<input type="checkbox"/> Rarely	<input type="checkbox"/> Never

Article 46 L 4376/2016 regulates the detention of asylum seekers. According to this provision, an asylum seeker shall not be detained on the sole reason of seeking international protection or having entered and/or stayed in the country irregularly.<sup>482</sup>

An asylum seeker, who is already detained for the purpose of removal when he or she makes an application for international protection, can only be kept in detention, albeit subject to a new detention order following an individualised assessment to establish whether detention can be ordered on asylum grounds.<sup>483</sup>

An asylum seeker may be kept in detention for one of the following 5 grounds:<sup>484</sup>

- (a) in order to determine his or her identity or nationality;
- (b) in order to determine those elements on which the application for international protection is based which could not be obtained otherwise, in particular when there is a risk of absconding of the applicant;
- (c) when it is ascertained on the basis of objective criteria, including that he or she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of a return decision, if it is probable that the enforcement of such a measure can be effected;
- (d) when he or she constitutes a danger for national security or public order;
- (e) when there is a serious risk of absconding of the applicant, in order to ensure the enforcement of a transfer decision according to the Dublin III Regulation.

For the establishment of a risk of absconding for the purposes of detaining asylum seekers on grounds

<sup>481</sup> This is the case where a person has asked for asylum while already in detention (and is then subject to Dublin III Regulation usually because a family member has been residing as an asylum seeker in another member-state). On the contrary, this does not mean that if a person submits an asylum application for which another Member State is responsible under Dublin III Regulation will then be detained in order for the transfer to successfully take place.

<sup>482</sup> Article 46(1) L 4375/2016.

<sup>483</sup> See Administrative Court of Trikala, Decision 17/2016, available at: <http://bit.ly/2kXnxjX>.

<sup>484</sup> Article 46(2) L 4375/2016.

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(b) and (e), the law makes reference to the definition of “risk of absconding” in pre-removal detention.<sup>485</sup> This provision includes a non-exhaustive list of objective criteria which may be used as a basis for determining the existence of such a risk, namely where a person:<sup>486</sup>

- ❖ Does not comply with an obligation of voluntary departure;
- ❖ Has explicitly declared that he or she will not comply with the return decision;
- ❖ Is in possession of forged documents;
- ❖ Has provided false information to the authorities;
- ❖ Has been convicted of a criminal offence or is undergoing prosecution, or there are serious indications that he or she has or will commit a criminal offence;
- ❖ Does not possess travel documents or other identity documents;
- ❖ Has previously absconded; and
- ❖ Does not comply with an entry ban.

Article 46(2) L 4375/2016 also provides that such a detention measure should be applied exceptionally, after an individual assessment and only as a measure of last resort where no alternative measures can be applied. A new detention order should be also issued by the competent police authority,<sup>487</sup> which must be fully and duly motivated.<sup>488</sup> With the exception of the “public order” ground, the detention order is issued following a recommendation (*εισήγηση*) by the Head of the Asylum Service. However, the final decision on the detention lies with the Police.

In 2015, the Asylum Service made 1,391 recommendations for prolonging detention,<sup>489</sup> while in 629 cases it advised against detention and in 181 cases withdrew its recommendation in favour of detention.<sup>490</sup> Data for 2016 are not available.

### 1.1. The interpretation of detention grounds in practice

There is a lack of a comprehensive individualised procedure for each detention case, despite the relevant legal obligation imposed by the law.<sup>491</sup> This is of particular concern with regard to the proper application of the lawful detention grounds provided by national legislation, as the particular circumstances of each case cannot be taken duly into consideration. Furthermore, the terms, the conditions and the legal grounds for the lawful imposition of a detention measure seem to be misinterpreted in some cases. These cases *inter alia* include the following:

#### Detention on public order / “law-breaking conduct” grounds

As repeatedly reported in the past,<sup>492</sup> “public order” grounds are used in an excessive and on numerous occasions unjustified manner, both in the framework of pre-removal detention and detention of asylum seekers. Beyond the fact that detention on public order grounds is not covered by the Return

<sup>485</sup> Article 18(g) L 3907/2011, cited by Article 46(2)(b) and (e) L 4375/2016.

<sup>486</sup> Article 18(g)(a)-(h) L 3907/2011.

<sup>487</sup> That is the Aliens Division Police Director of Attica or Thessaloniki in cases falling under the competence of the two General Police Directorates, or the relevant Police Director in other cases: Article 46(3) L 4375/2016.

<sup>488</sup> Article 46(3) L 4375/2016.

<sup>489</sup> According to the standardised text of the Asylum Service recommendations, the latter recommends that detention should be prolonged “if it is judged that alternative measures may not apply” (see [Alternatives to Detention](#)).

<sup>490</sup> Aitima, *Forgotten: Administratively detained irregular migrants and asylum seekers*, October 2016, available at: <http://bit.ly/1JPKp9F>, 79.

<sup>491</sup> GCR, *The implementation of Alternatives to Detention in Greece*, December 2015, available at: <https://goo.gl/bynXlh>.

<sup>492</sup> Greek Ombudsman, Document 171931/37998/2013 and *Return of third-country nationals: Special Report 2014*, May 2015, available in Greek at: <http://bit.ly/2k40chi>, 4; UNHCR, *Greece as a Country of Asylum - UNHCR's Recommendations*, 6 April 2015, available at: <http://bit.ly/2ke9lpA>, para VI.10.

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Directive,<sup>493</sup> and thus the relevant Greek provision on pre-removal detention – Article 30(1)(c) L 3907/2011 – is an incorrect transposition of the EU law in this respect, for both detainees subject to removal and asylum seekers, detention on public order grounds is usually not properly justified. This is particularly the case where these grounds are based solely on a prior prosecution for a minor offence, even if no court decision has been issued, or in cases where the person has been released by the competent Criminal Court as the latter has suspended the custodial sentences.

In the context of Objections against detention (see [Judicial Review of the Detention Order](#)) imposed on national security or public order grounds, lodged by GCR before Administrative Courts from the end of 2013 until early 2015, the Courts found in 16 out of 17 cases that “from the nature of the offense it cannot be inferred that he presents a threat to national security or public order” or that “the gravity of the offense charged against him is not of such gravity as to attribute a danger to public order” or that “the details of the case do not justify detention on public order grounds.”<sup>494</sup>

Apart from these cases, as mentioned above a police circular of 18 June 2016 provided that third country nationals with “law-breaking conduct” will be transferred from the islands and detained in pre-removal centres on the mainland and a number of about 1,600 persons were transferred and detained on the mainland. Following this circular, for example, in June 2016, 43 persons were transferred from **Lesvos** to the pre-removal facilities in the mainland, where they remained detained for alleged reasons of public order. GCR visited a number of these persons at **Corinth** detention facility. Despite the allegation of public order reasons / “law-breaking conduct”, in a number of cases that GCR followed up, there were no relevant elements in support of such, *a fortiori* any criminal prosecution, while the persons claimed that they were arrested in the framework of a sweep police operation.<sup>495</sup>

That was also the case of 29 unaccompanied minors who were transferred in July 2016 from **Leros** to **Petrou Ralli** and **Amygdaleza** detention facilities, due to alleged involvement in riots in the hotspot.<sup>496</sup> After a GCR visit to the unaccompanied minors,<sup>497</sup> it was observed, apart from the fact that detention conditions were absolutely unacceptable, that the relevant allegations were not deduced by any evidence or circumstances.

### **Detention of applicants considered to apply merely in order to delay or frustrate return**

Based on GCR findings from on the field, it seems that the use of the detention ground relating to abusive asylum applications, provided in Article 46(2)(c) L 4375/2016, is systematically invoked with regard to the continuation of detention of third-country nationals subject to the EU-Turkey statement who have applied for asylum while in detention.

Detention orders based on this ground are imposed after a relevant recommendation of the Asylum Service. Despite the fact that Article 46(2)(c) L 4375/2016 requires the authorities to “substantiate on the basis of objective criteria [...] that there are reasonable grounds to believe” that the application is submitted “merely in order to delay or frustrate the enforcement of the return decision”, GCR has observed that both the Asylum Service recommendation and the detention order are not properly justified, as they merely repeat part of the relevant legal provision, while no objective criteria or reasonable grounds are invoked or at least deduced by the circumstances. Moreover, it should be also noted that, as every newly arrived person subject to the EU-Turkey statement is automatically detained,

<sup>493</sup> European Commission, *Return Handbook*, 1 October 2015, available at: <http://bit.ly/2jBHMGa>, 78-79.

<sup>494</sup> See e.g. Administrative Court of Athens, Decision 1537/2015; Administrative Court of Komotini, Decision 45/2015; Administrative Court of Piraeus, Decision 45/2014. See further GCR, *The implementation of Alternatives to Detention in Greece*, December 2015, available at: <http://bit.ly/2nyMG5R>, 33.

<sup>495</sup> See GCR, Document No 466/2016.

<sup>496</sup> FRA, *Opinion on fundamental rights in the ‘hotspots’ set up in Greece and Italy*, December 2016, 29; Efsyn, ‘Αναζητούνται ανθρωπίνες δομές για προσφυγόπουλα’, 18 July 2016, available in Greek at: <http://bit.ly/2jqkm35>.

<sup>497</sup> See GCR, Document 400/2016.

it is clear that the persons concerned had not “already had the opportunity to access the asylum procedure” while at liberty, as the relevant provision requires.

In a case supported by GCR regarding a Syrian asylum seeker transferred from an island and detained on the mainland on the basis of the “abusive asylum application” ground under Article 46(2)(c), the Administrative Court of Corinth stated that the detention order lacked “specific, clear and comprehensive reasoning as required by law, due to the fact that the applicant comes for Syria, where as it is commonly known a civil war is taking place and the reasoning on which the first instance asylum decision was rejected cannot supplement the insufficient reasoning of the decision.”<sup>498</sup>

## 1.2. Detention of asylum seekers applying at liberty

Pursuant to the provisions of Article 46(2) L 4375/2016, Greek legislation allows the detention of an asylum seeker only where the person in question submits an asylum application while in detention. However, and in particular with regard to newly arrived persons arrested on the islands with a view to be transferred to in the mainland and detained there, it seems that this is not always the case. GCR has documented cases where newly arrived third-country nationals who were initially detained upon arrival on the islands, then released under a “geographical limitation”, then applied for asylum before the competent Regional Asylum Offices at liberty and obtained an asylum seeker’s card (see [Registration](#)), were subsequently re-arrested, transferred and detained in the mainland, despite the fact that they have not submitted “an application for international protection while in detention.”<sup>499</sup>

On a more general remark, among others FRA has observed that:

“Upon arrival all migrants in the Greek islands are systematically issued a return decision indicating that they will be readmitted to Turkey. This decision also contains a detention order based on a presumed risk of absconding, a ground considered as legitimate by national legislation (as well as by Article 15 of the Return Directive). This risk is, however, assumed automatically and is not supported by any specific arguments.”<sup>500</sup>

This is exactly the case described by the EU Return Handbook: “Any automaticity (such as ‘illegal entry = risk of absconding’) must be avoided and an individual assessment of each case must be carried out.”<sup>501</sup> It is therefore difficult to presume that this procedure is taking “place in full accordance with EU and international law” and that all newly arrived persons are “protected in accordance with the relevant international standards and the principle of non-refoulement”, as declared in the EU-Turkey statement.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?  
 Reporting duties  
 Surrendering documents  
 Financial guarantee  
 Residence restrictions
2. Are alternatives to detention used in practice?  
 Yes  No

<sup>498</sup> Administrative Court of Corinth, Decision 675/2015.

<sup>499</sup> See GCR, Document No 370/2016. See also FRA, *Opinion on fundamental rights in the ‘hotspots’ set up in Greece and Italy*, December 2016, 49: “In practice, the migrants, virtually all of whom apply for asylum, are generally released from the hotspot (with the exception of unaccompanied children...) after a period necessary to complete the first registration procedures and are free to move around the island. The suspended return decision, however, remains valid and the person can be detained at any point.”

<sup>500</sup> FRA, *Opinion on fundamental rights in the ‘hotspots’ set up in Greece and Italy*, December 2016, 48-49.

<sup>501</sup> European Commission, *Return Handbook*, 1 October 2015, 12.

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Article 46(2) L 4375/2016 requires authorities to examine and apply alternatives to detention before resorting to detention of an asylum seeker. A non-exhaustive list of alternatives to detention provided by national legislation, both for third-country nationals under removal procedures and asylum seekers, is mentioned in Article 22(3) L 3907/2011. Regular reporting to the authorities and an obligation to reside at a specific area are included on this list. The possibility of a financial guarantee as an alternative to detention is also foreseen in the law, provided that a Joint Decision of the Minister of Finance and the Minister of Public Order will be issued with regard to the determination of the amount of such financial guarantee.<sup>502</sup> However, such a Joint Ministerial Decision is still pending since 2011. In any event, alternatives to detention are not systematically applied in practice.<sup>503</sup>

When issuing recommendations on the continuation or termination of detention of an asylum seeker,<sup>504</sup> the Asylum Service tends to use standardised recommendations, stating that detention should be prolonged “if it is judged that alternative measures may not apply”. Thus, the Asylum Service does not proceed to any assessment and it is for the Police to decide on the implementation of alternatives to detention.

As underlined by a GCR policy paper issued in December 2015, a percentage of about 80% of the asylum seekers fully comply with the obligation to report before the Asylum Service, regardless of whether they applied for asylum at liberty or from detention. GCR has recommended the Greek authorities to duly assess this evidence in order for an effective policy on alternatives to be designed and implemented.<sup>505</sup>

### The geographical limitation on the islands

As regards the “geographical limitation” on the islands, i.e. the obligation to remain on the island of arrival, imposed systematically to newly arrived persons subject to the EU-Turkey statement, after an initial period of detention, the legal nature of the measure has to be assessed by taking into account the “concrete situation” of the persons and “a whole range of criteria such as the type, duration, effects and manner of implementation of the measure.”<sup>506</sup> In any event, it should be mentioned that the measure is:

- (a) Not examined and applied before resorting to detention;<sup>507</sup> and
- (b) Applied indiscriminately, without a proportionality test, for an indefinite period (without a maximum time limit to be provided by law) and without an effective legal remedy to be in place.

As it has been observed, a national practice systematically imposing an alternative to detention “would suggest that the system is arbitrary and not tailored to the individual circumstances” of the persons concerned.<sup>508</sup>

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<sup>502</sup> Article 22(3) L 3907/2011.

<sup>503</sup> See *inter alia* Aitima, *Forgotten: Administratively detained irregular migrants and asylum seekers*, October 2016; GCR, *The implementation of Alternatives to Detention in Greece*, December 2015, 12; Ombudsman, *Return of third-country nationals: Special Report 2015*, December 2015.

<sup>504</sup> Article 46(3) L 4375/2016.

<sup>505</sup> Greek Council for Refugees, *The implementation of Alternatives to Detention in Greece*, 56, 73.

<sup>506</sup> See *inter alia* ECtHR, *Guzzardi v. Italy*, Application No 7367/76, Judgment of 6 November 1980, para 92-93.

<sup>507</sup> UN Commission on Human Rights, *Report of the Working Group on Arbitrary Detention. Addendum: report on the visit of the Working Group to the United Kingdom on the issue of immigrants and asylum seekers*, 18 December 1998, E/CN.4/1999/63/Add.3, available at: <http://bit.ly/2kFs5LN>, para 33: “Alternative and non-custodial measures, such as reporting requirements, should always be considered before resorting to detention”.

<sup>508</sup> UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://bit.ly/2mJk3Uh>, 43.

### 3. Detention of vulnerable applicants

#### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?  Frequently  
 Rarely  
 Never
- ❖ If frequently or rarely, are they only detained in border/transit zones?  Yes  No
2. Are asylum seeking children in families detained in practice?  Frequently  
 Rarely  
 Never

National legislation provides a number of guarantees with regard to the detention of vulnerable persons, yet does not prohibit their detention. According to Article 46 L 4375/2016, women should be detained separately from men, the privacy of families in detention should be duly respected,<sup>509</sup> and the detention of minors should be avoided. Moreover, according to the law, “the vulnerability of applicants... shall be taken into account when deciding to detain or to prolong detention.”<sup>510</sup>

More generally, Greek authorities have the positive obligation to provide special care to applicants belonging to vulnerable groups (see [Reception Conditions: Special Reception Needs](#)).<sup>511</sup> However, persons belonging to vulnerable groups are detained in practice.

#### 3.1. Detention of victims of torture

The law provides for special assistance and rehabilitation for asylum seekers victims of torture, as well as the obligation on national authorities to refer them to specialised centres, preferably prior to the asylum interviews.<sup>512</sup> As far as GCR is aware, such referrals of detainees have not taken place during 2016. Based on GCR findings on the mainland, victims of torture remain detained and only in very exceptional cases are they released due to their vulnerability.<sup>513</sup>

GCR has challenged the detention of a Syrian victim of torture before the Administrative Court of Corinth by submitting [Objections](#) against detention. While during the asylum interview the applicant had claimed that he was a victim of torture in his country of origin, and despite the fact that his claims had been considered credible by the Asylum Service, the latter declared the application inadmissible. An appeal against the rejection decision is now pending before the Appeals Authority. *Inter alia*, the applicant claimed before the Administrative Court that his detention is an onerous and disproportionate measure, aggravating his vulnerable situation, taking into consideration the fact that he is a victim of torture. The Administrative Court rejected the objections without any reference to the individual's situation as a victim of torture.<sup>514</sup>

#### 3.2. Detention of unaccompanied children

Unaccompanied or separated minors “as a rule should not be detained”, and their detention is permitted “only in very exceptional cases... as a last resort solution, only to ensure that they are safely referred to

<sup>509</sup> Article 46(10)(b) L 4375/2016.

<sup>510</sup> Article 46(8) L 4375/2016.

<sup>511</sup> Articles 17 and 20 PD 220/2007.

<sup>512</sup> See Art. 50 and 52 L. 4375/2016.

<sup>513</sup> This is in particular the case where serious health issues arise in connection with their vulnerability: GCR, Documents 718/2016 and 53/2017.

<sup>514</sup> Administrative Court of Corinth, Decision 704/2016 (Presidential procedure).

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appropriate accommodation facilities for minors.<sup>515</sup> Nevertheless, national legislation does not explicitly prohibit detention of unaccompanied minors and the latter is applied in practice.

Due to the lack of accommodation facilities or transit facilities for minors, detention of unaccompanied minors either in detention facilities or in police stations (“protective custody”) is imposed systematically, may be prolonged for significant periods up to several months,<sup>516</sup> and takes place in unacceptable detention conditions.<sup>517</sup>

According to the National Centre of Social Solidarity (EKKA), as of 28 December 2016, there were 1,256 accommodation places for minors, while a number of 1,443 unaccompanied children were on the waiting list for such place to be found (see [Special Reception Needs](#)). Out of those, 309 unaccompanied children were detained in “closed reception facilities” and 15 were detained “in protective custody”.<sup>518</sup> One month later, 317 were in closed reception facilities and 4 in protective custody.<sup>519</sup>

The UN Special Rapporteur on the human rights of migrants mentioned during his follow-up visit to Greece in May 2016 referred to:

“[U]naccompanied children locked in police station cells 24/7 without access to the outdoors for over two weeks and was informed that some may stay for a month... the children were manifestly traumatised and distressed by the experience, as compared to children met in open reception centres and informal camps... As determined by the Committee on the Rights of the Child, detention can *never ever* be in the best interest of a child. Even under the guise of ‘protective custody’, it is utterly unacceptable for children to be administratively detained.”<sup>520</sup>

The European Court of Human Rights (ECtHR) communicated the case *Sh. D. v. Greece* on 15 March 2016, concerning among others an unaccompanied minor who was held under protective custody in the police station of **Polygyros**. A joint third party intervention to the case was submitted by the AIRE Centre, the International Commission of Jurists (ICJ) and ECRE on 12 August 2016.<sup>521</sup>

### Detention following wrong age assessment

Despite the fact that there are currently two Ministerial Decisions outlining age assessment procedures for unaccompanied children (see [Identification](#)), within the scope of the reception and identification procedures,<sup>522</sup> and that of the asylum procedure,<sup>523</sup> no age assessment procedure is provided by the national framework to be applied by the Hellenic Police for minors held in detention.

It seems that for age assessment of unaccompanied minors under their responsibility, police authorities systematically apply medical examinations (X-rays), at least in the mainland. In addition to the limited reliability and highly invasive nature of the method used, it should be noted that a policy of systematic

<sup>515</sup> Article 46(10)(c) L 4375/2016.

<sup>516</sup> FRA, *Opinion on fundamental rights in the hotspots in Greece and Italy*, December 2016, 31.

<sup>517</sup> Ombudsman, *Intervention of the Greek Ombudsman regarding unaccompanied minor refugees and migrants*, 30 March 2016, available in Greek at: <http://bit.ly/2jwBDwm>.

<sup>518</sup> EKKA, *Situation Update: Unaccompanied Children in Greece*, 28 December 2016, available at: <http://bit.ly/2ksPa7M>.

<sup>519</sup> EKKA, *Situation Update: Unaccompanied Children in Greece*, 27 January 2017, available at: <http://bit.ly/2ksCyNJ>.

<sup>520</sup> OHCHR, ‘UN Special Rapporteur on the human rights of migrants concludes his follow up country visit to Greece’, 17 May 2016, available at: <http://bit.ly/29RBj4X>.

<sup>521</sup> The AIRE Centre, ICJ and ECRE, *Third Party Intervention in Sh. D. and Greece*, 12 August 2016, available at: <http://bit.ly/2dHxbYe>.

<sup>522</sup> Joint Ministerial Decision 92490/2013 on the Programme for medical examination, psychosocial diagnosis and support and referral of third-country nationals entering without documentation to first reception facilities, Gov. Gazette 2745/B/29-10-2013, available in Greek at: <http://bit.ly/1F15OVT>.

<sup>523</sup> Joint Ministerial Decision 1982/2016, Verification of minority of applicants for international protection, Gov. Gazette 335/B/16-12-2016, available in Greek at: <http://bit.ly/2kS49Jf>.

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age assessment procedures without due justification is not in line with legal safeguards afforded to children. Moreover, the documentation provided following age assessments in practice does not refer to the exact medical result / diagnosis, but only contains a statement that the person “after age assessment examinations has been considered to be mature of age”.<sup>524</sup> No remedy in order to challenge such a procedure is in place. These shortcomings with regard to the age assessment procedure may result, as already reported, have led to minors being wrongfully identified and registered, and to be placed in detention as adults.<sup>525</sup>

On several occasions, GCR has visited unaccompanied children detained under unacceptable detention conditions. Among others, in July 2016 GCR visited a group of 31 unaccompanied minors detained at **Petrou Ralli** detention facility, which according to European Committee for the Prevention of Torture (CPT) remains “totally inadequate for holding irregular migrants for prolonged periods”,<sup>526</sup> and thus *a fortiori* for detaining unaccompanied children.<sup>527</sup>

In November 2016, GCR has visited a group of 12 unaccompanied minors detained in **Amygdaleza** Special holding facility for unaccompanied minors, which “continues to operate like a police detention facility and is totally unsuitable to meet the needs of unaccompanied minor irregular migrants”, according to CPT’s recent findings.<sup>528</sup>

### 3.3. Detention of families

Despite the constant case law of the ECtHR with regard to the detention of families in the context of migration control,<sup>529</sup> in particular after the launch of the EU-Turkey statement, families are detained. This is especially the case for families who due to the unacceptable living conditions prevailing on the islands (see [Conditions in Reception Facilities](#)) have left the latter without prior authorisation and are then detained on the mainland, with a view to be transferred back to the islands.

In the Police Circular of 18 June 2016, it is mentioned that against any third country national who, is detected in the mainland despite the obligation to remain on the islands, “detention measures will be set again in force and the person will be transferred back on the islands for detention – further management (readmission)”.<sup>530</sup>

Among others, GCR has supported cases of single-parent families,<sup>531</sup> families with a minor child where parents were detained to different detention places,<sup>532</sup> or families where the one member remained detained.<sup>533</sup>

<sup>524</sup> In Greek “προκύψατε ώριμος ως προς την ηλικία”. Document on file with the author.

<sup>525</sup> Council of Europe, *Report of the fact-finding mission by Ambassador Tomáš Boček special representative of the Secretary General of the Council of Europe on migration and refugees to Greece and “the former Yugoslav Republic of Macedonia”, 7-11 March 2016*, SG/Inf(2016)18, 26 April 2016, available at: <http://bit.ly/2c83xtb>.

<sup>526</sup> CPT, *Report to the Greek Government on the visit to Greece carried out from 14 to 23 April 2015* (hereafter “2015 Greece report”), CPT/Inf (2016) 4, 1 March 2016, available at: <http://bit.ly/2jYULSv>, para 107.

<sup>527</sup> GCR, Document 400/2016.

<sup>528</sup> CPT, *2015 Greece report*, 1 March 2016, para 106.

<sup>529</sup> See for example ECtHR, *Mahmundi and Others v. Greece*, Application No 14902/10, Judgment of 31 July 2012.

<sup>530</sup> Directorate of the Hellenic Police, “Εγκύκλιος ΕΛΑΣ 1604/16/1195968/18-6-2016 Διαχείριση παράτυπων αλλοδαπών στα Κέντρα Υποδοχής και Ταυτοποίησης, διαδικασίες Ασύλου, υλοποίηση Κοινής Δήλωσης ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 (πραγματοποίηση επανεισδοχών στην Τουρκία)”, available in Greek at: <http://bit.ly/2ngIEj6>.

<sup>531</sup> GCR, Document 485/2016 and 760/2016. See also Ombudsman, Document 223558/3231/2017.

<sup>532</sup> GCR, Document 508/2016.

<sup>533</sup> GCR, Document 497/2016.

#### 4. Duration of detention

##### Indicators: Duration of Detention

- |  |          |
|--|----------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 3 months |
| 2. In practice, how long in average are asylum seekers detained?           | 3 months |

According to Greek legislation, the maximum period allowed for detention of an asylum seeker applying from detention varies according to the applicable detention ground, while special rules govern the detention of unaccompanied children:

- ❖ Applicants detained for (a) verification of identity or nationality; (b) establishment of elements of the claim, where there is a risk of absconding; or (c) for applying for asylum merely to frustrate or delay return proceedings, are initially kept in detention for a maximum period of 45 days. This can be extended by another 45 days if the Asylum Service recommendation on detention is not withdrawn (see [Grounds for Detention](#));<sup>534</sup>
- ❖ Applicants detained for (d) public order reasons or (e) pending a Dublin transfer can remain in detention for a maximum period of 3 months;<sup>535</sup>
- ❖ Unaccompanied asylum seeking children can be detained “for the safe referral to appropriate accommodation facilities” for a period not exceeding 25 days. According to the provision in case of “to exceptional circumstances, such as the significant increase in arrivals of unaccompanied minors, and despite the reasonable efforts by competent authorities, it is not possible to provide for their safe referral to appropriate accommodation facilities”, detention may be prolonged for a further 20 days.<sup>536</sup>

It should be noted that the abovementioned time limits concern persons already in detention in view of removal and start running from the moment the asylum application is properly registered before the competent Regional Asylum Office or Asylum Unit of the Asylum Service. As delays are reported systematically in relation to the registration of asylum applications from detention, i.e. from the time that the detainee expresses the will to apply for asylum up to the registration of the application (see [Registration](#)), the period that asylum seekers spend in detention is *de facto* longer. GCR has documented detention cases where the asylum application was registered with substantial delay, exceeding in certain occasions 2 months.<sup>537</sup>

Beyond setting out maximum time limits, the law has provided further guarantees with regard to the detention period. Thus detention “shall be imposed for the minimum necessary period of time” and “delays in administrative procedures that cannot be attributed to the applicant shall not justify the prolongation of detention.”<sup>538</sup> Moreover, as the law provides “the detention of an applicant constitutes a reason for the acceleration of the asylum procedure, taking into account possible shortages in adequate premises and the difficulties in ensuring decent living conditions for detainees”. However, GCR has documented cases where the procedure is not carried out with due diligence and detention is prolonged precisely because of the delays of the administration. This has particularly been the case where even the asylum interview has not taken place during the initial period of the first 45 days, as it is either scheduled after the expiry of the 45-day period or postponed and rescheduled after that period, thus leading to a prolongation for a further 45 days.<sup>539</sup>

<sup>534</sup> Article 46(4)(b) L 4375/2016, citing Article 46(2)(a), (b) and (c).

<sup>535</sup> Article 46(4)(c) L 4375/2016, citing Article 46(2)(d) and (e).

<sup>536</sup> Article 46(10)(b) L 4375/2016.

<sup>537</sup> GCR, Document 466/2016.

<sup>538</sup> Article 46(4)(a) L 4375/2016.

<sup>539</sup> GCR, Documents 696/2016 and 697/2016.

Finally, it should be mentioned that time limits governing the detention of asylum seekers differ from those provided for the detention of third-country nationals in view of removal. In relation to pre-removal detention, national legislation transposing the Returns Directive provides a maximum detention period that cannot exceed 6 months,<sup>540</sup> with the possibility of an exceptional extension not exceeding twelve 12 months, in cases of lack of cooperation by the third-country national concerned, or delays in obtaining the necessary documentation from third countries.<sup>541</sup>

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?  Yes  No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?  Yes  No

#### 1.1. Pre-removal detention centres

According to Article 46(9) L 4375/2016, asylum seekers are detained in detention areas as provided in Article 31 L 3907/2011, which refers to pre-removal detention centres established in accordance with the provisions of the Returns Directive. Therefore asylum seekers are also detained in pre-removal detention centres together with third-country nationals under removal procedures. Despite the fact that pre-removal detention centres have been operating since 2012, they were officially established through a Joint Ministerial Decision in January 2015.<sup>542</sup>

There are 6 pre-removal centres active in Greece as of January 2017. According to information provided to GCR by the Directorate of the Hellenic Police of 21 January 2017, the capacity of currently operating pre-removal detention facilities is as follows:<sup>543</sup>

Capacity of pre-removal detention centres		
Centre	Region	Capacity
Amygdaleza	Attica	2,000
Tavros (Petrou Ralli)	Attica	370
Corinth	Peloponese, Southern Greece	768
Drama (Paranesti)	Thrace, North-Eastern Greece	977
Xanthi	Thrace, North-Eastern Greece	480
Orestiada	Thrace, North-Eastern Greece	620
<b>Total</b>		<b>5,215</b>

Source: Directorate of the Hellenic Police, 21 January 2017.

A new facility will start operations on **Kos** by the end of March 2017, with a total capacity of about 150 places.

<sup>540</sup> Article 30(5) L 3907/2011.

<sup>541</sup> Article 30(6) L 3907/2011.

<sup>542</sup> Joint Ministerial Decision 8038/23/22-17 on the creation and functioning of Pre-removal Centres of Detention of Foreigners, and their regulations, Gov. Gazette 118/B/21-1-2015, available at: <http://bit.ly/2kTWzKX>.

<sup>543</sup> Note, however, that the Coordination Body for the Management of the Refugee Crisis mentions a maximum capacity of 2,029 places for all pre-removal centres in the mainland: <http://bit.ly/2kcxkmz>.

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Apart from the aforementioned pre-removal facilities, a number of other places of detention have still been in use during 2016, as confirmed by GCR visits.

## 1.2. Police stations and special detention facilities

Throughout 2016, GCR has found in a number of cases that police stations were used for prolonged detention of third country nationals. GCR has provided legal assistance *inter alia* to detainees at the Police Stations of **Kolonos**, **Agios Panteleimon**, **Omonia** and **Kypseli**, located in Athens, as well as the Police Station of **Drapetsona**, which is located in Piraeus. Some detainees were held there for a period of up to 3 months under substandard conditions i.e. poor sanitary conditions, no outdoor spaces, no natural light, no provision of clothing or sanitary products, insufficient food, lack of medical services, no interpretation services.

In the area of Thessaloniki, a number of persons were detained at the detention facilities of Aliens Police Directorate of **Thessaloniki**, **Liti** and **Kordelio**.<sup>544</sup>

Moreover, during 2016, the **Elliniko** Detention Center in Athens was regularly used as a detention facility for female third-country nationals. Based on GCR's findings, women detainees were transferred from Elliniko to the **Tavros** pre-removal detention centres in mid-January 2017.

Finally, as far as detention of unaccompanied children is concerned, a Special Holding Facility for unaccompanied minors situated in **Amygdaleza** was in use during 2016. CPT has found this facility to be totally unacceptable for detaining unaccompanied children.<sup>545</sup>

The number and capacity of police stations or other detention facilities used for third country nationals is not known. According to the Hellenic Police Headquarters, police stations have ceased to be used for immigration detention as of the end of 2014. In November 2014, a total 2,160 detainees were detained in police stations.<sup>546</sup> CPT found in its visit of April 2015 that apart from persons detained in pre-removal detention facilities, "another 2,000 irregular migrants were being held in police stations and special holding facilities around the country for a nominal capacity of a little more than 5,500."<sup>547</sup> No data are available for 2016, although GCR has found that detention in such facilities has persisted throughout the year. As stated by the Greek Ombudsman in its 2016 Annual Report, "on 7 June 2016 there were 114 detainees at Police Stations in **Attica** Region" while it is noted that the detention facilities of Aliens Police Directorate of **Thessaloniki** are consistently used as a detention facility for third-country nationals.<sup>548</sup>

## 1.3. De facto detention centres: Reception and Identification Centres

As mentioned in **General**, a policy of automatic *de facto* detention is applied after the entry into force of the EU-Turkey statement. More precisely, people arriving after the implementation of the statement are subject to a 3-day restriction on their "freedom of movement", as described by law, within the premises of the Reception and Identification Centres (RIC), which can be further extended by a maximum of 25 days if reception and identification procedures have not been completed.<sup>549</sup> Taking into consideration

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GCR, *Submission to the Committee of Ministers of the Council of Europe in the case of M.S.S. v. Belgium & Greece*, 30 May 2016, available at: <http://bit.ly/2krUmZL>. See also Aitima, *Forgotten: Administratively detained irregular migrants and asylum seekers*, October 2016, 29-36.

<sup>545</sup> CPT, *2015 Greece report*, 1 March 2016, para 106.

<sup>546</sup> Ombudsman, *Return of third-country nationals: Special Report 2015*, March 2016, available at: <http://bit.ly/2jlt7Jw>.

<sup>547</sup> CPT, *2015 Greece report*, 1 March 2016, para 109.

<sup>548</sup> Ombudsman, *Return of third-country nationals: Special Report 2016*, March 2017, available in Greek at: <http://bit.ly/2nnxv3w>.

<sup>549</sup> Article 14(2) L 4375/2016.

that people are not allowed to leave the RIC,<sup>550</sup> the so-called restriction of movement is tantamount to a *de facto* detention measure of all newly arrived persons.<sup>551</sup>

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice?  Yes  Limited  No  
❖ If yes, is it limited to emergency health care?<sup>552</sup>  Yes  No

The law sets out certain special guarantees on detention conditions for asylum seekers. Notably, detainees must be provided with necessary medical care, and their right to legal representation should be guaranteed.<sup>553</sup> In any event, according to the law, “difficulties in ensuring decent living conditions... shall be taken into account when deciding to detain or to prolong detention.”<sup>554</sup>

However, as it has been consistently reported by a range of actors, detention conditions for third-country nationals, including asylum seekers, do not meet the basic standards in Greece.

### 2.1. Conditions in pre-removal centres

With regard to pre-removal detention facilities, it's the report published in April 2016 concerning a visit in April 2015, the CPT notes that:

“In sum, the concept for the operation of pre-departure centres still remains based on a security approach with detainees treated in many respects as criminal suspects. In this respect, the recommendations put forward in the 2013 report have not been implemented. The centres are not staffed by properly trained officers, present within the accommodation areas, interacting with detained irregular migrants and taking a proactive role to resolve potential problems. Further, no activities are offered and material conditions are generally poor. In addition, the lack of any healthcare staff represents a public health risk in addition to jeopardising the health of individual detained persons.”<sup>555</sup>

#### Overall material conditions

With regard to **Tavros (Petrou Ralli)** pre-removal centre, the CPT noted that “Petrou Ralli Special holding facility for irregular migrants has been visited by CPT delegations on numerous occasions since its opening in late 2005. It remains totally unsuitable for holding irregular migrants for prolonged periods.”<sup>556</sup> The findings on **Petrou Ralli** are corroborated by the Greek Ombudsman, who has also denounced the conditions in the **Corinth** pre-removal centre. Conditions have also been recently criticised in **Orestiada (Fylakio)**.<sup>557</sup>

GCR regularly visits Tavros (Petrou Ralli), Amygdaleza, Corinth, Drama (Paranesti) and Xanthi pre-removal facilities, as well as other detention places in Athens and Thessaloniki, depending on the needs and the availability of resources, and can confirm that these findings are still valid in 2016.

<sup>550</sup> Article 14(3) L 4375/2016.

<sup>551</sup> For *de facto* detention in the Evros FRC, see ECRE, *What's in a name? The reality of First "Reception" at Evros*, February 2015, available at: <http://bit.ly/2jZUe4h>.

<sup>552</sup> Medical doctors, when available, are not daily present in all centres. However, in case of emergency, detainees are transferred to public hospitals.

<sup>553</sup> Article 46(10)(d) and (e) L 4375/2016.

<sup>554</sup> Article 46(8) L 4375/2016.

<sup>555</sup> CPT, *2015 Greece report*, para 113.

<sup>556</sup> CPT, *2015 Greece report*, para 107.

<sup>557</sup> Aitima, *Forgotten*, October 2016, 28.

In addition to the above findings, describing a structural and long lasting failure of the Greek authorities to guarantee adequate detention conditions in line with international standards and their legal obligations, the Greek authorities have mentioned that a funding gap has been created in relation to food-provision services, following the expiry of the European Return Fund on 30 June 2015 and due to ongoing procedures with regard to the disbursement of AMIF funding. Due to this funding gap, a funding food-provision services are currently covered by the national budget.<sup>558</sup> With a public statement in December 2015, GCR expressed its deep concerns around the grave problems of food services at the detention centres of **Amygdaleza** and **Tavros**, based on an increasing number of relevant allegations of detainees.<sup>559</sup>

### Health care in detention

Moreover, medical services are provided “on a voluntary basis” by the Hellenic Centre for Disease Control and Prevention (KEELPNO) at the pre-removal facilities of **Tavros**, **Amygdaleza** and **Corinth**, whereas public hospitals cover detainees in other detention facilities.<sup>560</sup> GCR has found that in **Corinth** pre-removal centre, where a number of about 650-700 persons were detained in December 2016, doctors were visiting the centre only three times per week and detainees complained that access to medical services was particularly limited. In **Amygdaleza**, where KEELPNO doctors are also not present on a daily basis, shortages in medicine have also been reported.<sup>561</sup>

In February 2017, a 45-year-old detainee, former drug addict and suffering for hepatitis, died in **Tavros** pre-removal facility, while it was disputed whether the person in question had received adequate health care services.<sup>562</sup>

## 2.2. Conditions in police stations and other facilities

Detention conditions in police stations and other detention facilities remain equally concerning. It should be noted that prolonged detention in police stations *per se* is not in line with the obligations of the Greek authorities under Article 3 ECHR.<sup>563</sup>

The Greek Ombudsman has also criticised the conditions prevailing in the Police Station of **Nafplio**, the Transfers Department of the Transfers Subdivision of the Courts of **Thessaloniki** and the Aliens Division of **Thessaloniki**, where detainees have no access to outdoor space,<sup>564</sup> as well as the “Illegal immigration” Prosecution Department of **Thessaloniki** (where women third-country nationals are detained) and the “Illegal immigration Prosecution Department” of **Mygdonia** where minor third-country nationals are held under “protective custody”.<sup>565</sup> Recent reports from police stations such as **Drapetsona** in Piraeus have referred to insufficient natural or artificial light in the facilities, as well as poor condition of sanitary facilities overall.<sup>566</sup>

In relation to **Amygdaleza** Special Facility for Minors, which remained in use in 2016, “the CPT’s delegation paid a follow-up visit to the Amygdaleza Special holding facility for unaccompanied minors and found that the situation had not fundamentally improved since 2013... Amygdaleza Special holding

<sup>558</sup> Information provided by the Directorate of the Hellenic Police, 21 January 2017.

<sup>559</sup> GCR, ‘Δραματική κατάσταση με τη σύλληψη κρατουμένων σε Προαναχωρησιακά Κέντρα Κράτησης ανά την Ελλάδα’, 30 December 2015, available in Greek at: <https://goo.gl/L1IRb0>.

<sup>560</sup> Information provided by the Directorate of the Hellenic Police, 21 January 2017.

<sup>561</sup> Aitima, *Forgotten*, October 2016, 22.

<sup>562</sup> Efsyn, ‘Πεθαίνοντας σε κελί της Πέτρου Ράλλη’, 16 February 2017, available in Greek at: <http://bit.ly/2nnuss2>.

<sup>563</sup> See e.g. ECtHR, *Ahmade v. Greece*, Application No 50520/09, Judgment of 25 September 2012, para 101.

<sup>564</sup> Aitima, *Forgotten*, October 2016, 30.

<sup>565</sup> Ombudsman, *Prevention of torture and ill-treatment: Special Report 2015*, available at: <http://bit.ly/2kYDbf8>.

<sup>566</sup> Aitima, *Forgotten*, October 2016, 33.

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facility continues to operate like a police detention facility and is totally unsuitable to meet the needs of unaccompanied minor irregular migrants.”<sup>567</sup>

The UN Special Rapporteur on the human rights of migrants, during his mission to Greece in May 2016, visited *inter alia* the **Polykastro** police station and the **Elliniko** detention centre for women, and stated: “I am deeply concerned about the inadequate detention conditions everywhere.”<sup>568</sup>

### 3. Access to detention facilities

#### Indicators: Access to Detention Facilities

- |  |   |                                  |                             |
|--|---|----------------------------------|-----------------------------|
| 1. Is access to detention centres allowed to |   |                                  |                             |
| ❖ Lawyers:                                   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs:                                      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR:                                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members:                            | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

The procedure for obtaining access to hotspots is described in [Access to NGOs and UNHCR](#). As for pre-removal detention centres, NGOs’ capacity to access detainees is limited due to human and financial resource constraints. Finally, another major practical barrier to asylum seekers’ communication with NGOs is their obligation to pay for their telephone calls, which assumes that applicants have money to purchase telephone cards. In most cases, asylum seekers do not have the financial means to do so and thus access with NGO is also limited.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

- |   |   |                             |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed?    |   |                             |

#### 1.1. Automatic judicial review

L 4375/2016 has introduced a procedure of automatic judicial review of the decisions ordering or prolonging the detention of an asylum seeker. The procedure is largely based on the procedure already in place for the automatic judicial review of the extension of detention of third-country nationals in view of return.<sup>569</sup>

Article 46(5) L 4375/2016 reads as follows:

“The initial detention order and the order for the prolongation of detention shall be transmitted to the President of the Administrative Court of First Instance, or the judge appointed thereby, who is territorially competent for the applicant’s place of detention and who decides on the legality of the detention measure and issues immediately his decision, in a brief record... In case this is requested, the applicant or his/her legal representative must mandatorily be heard in court by the judge. This can also be ordered, in all cases, by the judge.”

<sup>567</sup> CPT, 2015 Greece report, para 106.

<sup>568</sup> OHCHR, ‘UN Special Rapporteur on the human rights of migrants concludes his follow up country visit to Greece’, 17 May 2016, available at: <http://bit.ly/29RBj4X>.

<sup>569</sup> Article 30(3) L 3907/2011.

As this procedure only entered into force in June 2016, it is still difficult to assess its implementation and the extent to which an effective judicial control of the lawfulness of the detention order takes place. It should be mentioned that the *ex officio* judicial review procedure provided in the framework of return since 2011 has been met with reservations regarding its effectiveness. As mentioned by the UN Special Rapporteur on the human rights of migrants, “the review is undertaken automatically, with no reference to the specificities of each case, and the fact that expulsion of a migrant has not yet been possible constitutes reason enough for the judge to extend the detention.”<sup>570</sup>

## 1.2. Objections against detention

Apart from the automatic judicial review procedure, asylum seekers may challenge detention through “objections against detention” before the Administrative Court,<sup>571</sup> which is the only legal remedy provided by national legislation to this end. Objections against detention are not examined by a court composition but solely by the President of the Administrative Court, whose decision is non-appealable.

On various occasions, the ECtHR has found the “objections procedure” to be an ineffective remedy, contrary to Article 5(4) ECHR,<sup>572</sup> as the lawfulness *per se* of the detention, including detention conditions, was not examined in that framework.

In order to bring national law in line with ECHR standards, legislation was amended in 2010. However, the ECtHR has found in a number of cases that, despite the amendment of the Greek law, the lawfulness of applicants’ detention had not been examined in a manner equivalent to the standards required by Article 5(4) ECHR.<sup>573</sup> This case law of the ECtHR underlines that the amendment of national legislation cannot itself guarantee an effective legal remedy in order to challenge immigration detention, including the detention of asylum seekers.

Relating to judicial review of detention conditions, based on the cases supported by GCR, it seems that national courts tend either not to take complaints into consideration or to reject them as unfounded, even against the background of numerous reports on Greece’s substandard conditions of detention, brought to the attention of judges. That was the case in *M.D. v. Greece*, where the ECtHR found a violation of Article 5(4) ECHR, as the complaints concerning detention conditions had not been examined by the competent Greek Court, despite the amendment of the relevant national legislation.<sup>574</sup>

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention<sup>575</sup>

1. Does the law provide for access to free legal assistance for the review of detention?  
 Yes  No
2. Do asylum seekers have effective access to free legal assistance in practice?  
 Yes  No

<sup>570</sup> UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Addendum: Mission to Greece*, 18 April 2013, A/HRC/23/46/Add.4, available at: <http://bit.ly/2kZ7D8R>, par. 57

<sup>571</sup> Article 46(6) L 4375/2016, citing Article 76(3)-(4) L 3386/2005.

<sup>572</sup> See e.g. ECtHR, *Rahimi v Greece* Application No 8687/08, Judgment of 5 April 2011; *RU v Greece* Application No 2237/08, Judgment of 7 June 2011; *CD v Greece* Application No 33468/10, Judgment of 19 March 2014.

<sup>573</sup> ECtHR, *R.T. v. Greece*, Application no 5124/11, Judgment of 11 February 2016; *Mahammad and others v. Greece*, Application No 48352/12, January 15 January 2015; *MD v. Greece*, Application No 60622/11, Judgment of 13 November 2014; *Housein v. Greece*, Application No 71825/11, Judgment of 24 October 2013. In the case *F.H. v. Greece*, Application No 78456/11, Judgment of 31 July 2014, the Court found a violation of Article 3 combined with Article 13, due to lack of an effective remedy in the Greek context in order to control detention conditions.

<sup>574</sup> ECtHR, *MD v Greece*, paras 62-69.

<sup>575</sup> This refers to state-organised and funded legal assistance.

DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.

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Article 46(7) L 4375/2016 provides that “detainees who are applicants for international protection shall be entitled to free legal assistance and representation to challenge the detention order...”

In practice, no free legal aid system has been set up in order an asylum seeker to challenge his or her detention.

Free legal assistance for detained asylum seekers provided by NGOs cannot sufficiently address the needs and in any event cannot exempt the Greek authorities from their obligation to provide free legal assistance and representation to asylum seekers in detention, as foreseen by the recast Reception Conditions Directive.<sup>576</sup>

## E. Differential treatment of specific nationalities in detention

As mentioned in the [General](#) section, following the restrictions on the Western Balkan route at the end of 2015, differential treatment was observed with regard to specific nationalities in terms of detention. For example, in December 2015, following:

“A new police verbal order regarding the detention of North African nationals (Maghreb Arabs)... [d]etention is being applied on the islands against Moroccans, Algerians and Tunisians in accordance with the order. The situation remained volatile on Lesbos as 600-700 North Africans were unable to leave the island as a result of a police directive... Some 300 North Africans have been transferred to the pre-removal facility in Corinth.”<sup>577</sup>

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<sup>576</sup> Article 9(6) recast Reception Conditions Directive.

<sup>577</sup> UNHCR, *Greece Refugee Emergency Response – Update #8*, 29 November – 31 December 2015, available at: <http://bit.ly/2kdZpwi>, 2.

## Content of International Protection

### A. Status and residence

#### 1. Residence permit

##### Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
  - ❖ Refugee status 3 years
  - ❖ Subsidiary protection 3 years
  - ❖ Humanitarian protection 2 years

Individuals recognised as refugees or beneficiaries of international protection are granted with a 3-year residence permit, which can be renewed, after a decision of the Head of the Regional Asylum Office.<sup>578</sup> In practice, residence permits are usually delivered 1-2 months after the notification of the positive decision. Until then, applicants hold the asylum seeker card, stamped with the mention "Pending Residence Permit".<sup>579</sup>

An application for renewal should be submitted no later than 30 calendar days before the expiration of the residence permit. The mere delay in the application for renewal, without any justification, cannot lead to rejection of the application. Language barriers and in particular the need for a proper legal note in case of applications for renewing **subsidiary protection status** may make the submission of an application difficult without any provision of legal assistance.

#### 2. Long-term residence

##### Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2016: Not available

According to Article 89 of the Immigration Code, third-country nationals are eligible for long-term residence if they have resided in Greece lawfully for 5 consecutive years before the application is filed. For beneficiaries of international protection, the calculation of the 5-year residence period includes half of the period between the lodging of the asylum application and the grant of protection, or the full period if the asylum procedure exceeded 18 months.<sup>580</sup> Absence periods are not taken into account for the determination of the 5-year period, provided that they do not exceed 6 consecutive months and 10 months in total, within the 5-year period.<sup>581</sup>

To be granted long-term resident status, beneficiaries of international protection must also fulfil the following conditions:<sup>582</sup>

- (a) Sufficient income to cover their needs and the needs of their family and is earned without recourse to the country's social assistance system. This income cannot be lower than the annual income of an employee on minimum wage, pursuant to national laws, increased by 10% for all the sponsored family members, also taking into account any amounts from regular unemployment benefits. The contributions of family members are also taken into account for the calculation of the income;

<sup>578</sup> Article 24 PD 141/2013.

<sup>579</sup> Asylum Service, *Frequently asked questions on the rights of asylum seekers and beneficiaries of international protection*, 18 February 2015, available in Greek at: <http://bit.ly/2jGtlw0>.

<sup>580</sup> Article 89(2) L 4251/2014 (Immigration Code).

<sup>581</sup> Article 89(3) Immigration Code.

<sup>582</sup> Article 89(1) Immigration Code.

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- (b) Full health insurance, providing all the benefits provided for the equivalent category of insured nationals, which also covers their family members;
- (c) Fulfilment of the conditions indicating integration into Greek society, *inter alia* "good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation".<sup>583</sup>

### 3. Naturalisation

#### Indicators: Naturalisation

1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	3 years
❖ Subsidiary protection	7 years
2. Number of citizenship grants to third-country nationals in 2016:	3,624

According to the Citizenship Code,<sup>584</sup> citizenship may be granted to a third-country national who:

- (a) Has reached the age of majority by the time of the submission of the declaration of naturalisation;
- (b) Has not been irrevocably convicted of a number of crimes committed intentionally in the last 10 years, with a sentence of at least one year or at least 6 months regardless of the time of the issuance of the conviction decision. Conviction for illegal entry in the country does not obstruct the naturalisation procedure.
- (c) Has no pending deportation procedure or any other issues with regards to his or her status of residence;
- (d) Has lawfully resided in Greece for 7 continuous years before the submission of the application. A period of 3 years of lawful residence is sufficient in case of recognised **refugees**. This is not the case for **subsidiary protection beneficiaries**, who should prove a 7-year lawful residence as per the general provisions;
- (e) Hold one of the categories of residence permits foreseen in the Citizenship Code, *inter alia* long-term residence permit, residence permit granted to recognised refugees or subsidiary protection beneficiaries, or second generation residence permit.

Applicants should also have: (1) sufficient knowledge of the Greek language; (2) be normally integrated in the economic and social life of the country; and (3) be able to actively participate in political life.<sup>585</sup> A book with information on Greek history, civilisation, geography etc. is issued by the Ministry of Interior and dedicated to third-country nationals willing to apply for naturalisation.<sup>586</sup>

#### Naturalisation procedure

A fee of €100 is required for the submission of the application for **refugees**. In the case of beneficiaries of **subsidiary protection**, the fee is €700. A €200 fee is required for the re-examination of the case.

The naturalisation procedure requires a statement to be submitted before the Municipal Authority of the place of permanent residence, and an application for naturalisation to the authorities of the Prefecture.<sup>587</sup> The statement for naturalisation is submitted to the Mayor of the city of permanent residence, in the presence of two Greek citizens acting as witnesses. After having collected all the required documents, the applicant must submit an application before the Decentralised Administration competent Prefecture.

<sup>583</sup> Article 90(2)(a) Immigration Code.

<sup>584</sup> Article 5 L 3284/2004 (Citizenship Code).

<sup>585</sup> Article 5A Citizenship Code.

<sup>586</sup> Ministry of Interior, Directorate of Citizenship, *Greece as a Second Homeland: Book of information on Greek history, geography and civilisation*, available in Greek at: <http://bit.ly/2m0ICzO>.

<sup>587</sup> Article 6 Citizenship Code.

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Where the requisite formal conditions of Article 5 of the Immigration Code, such as age or minimum prior residence, are not met, the Secretary-General of the Decentralised Administration issues a negative decision. An appeal can be lodged before the Minister of Interior, within 30 days of the notification of the rejection decision.

In case the required conditions are met, the case file will be forwarded to the Naturalisation Committee. The applicant is invited for an interview, in order for the Committee to examine whether the substantive conditions of Article 5A of the Immigration code i.e. general knowledge of Greek history, geography, and civilisation are met. In case of a positive recommendation by the Naturalisation Committee, the Minister of Interior will issue a decision granting the applicant Greek citizenship, which will be also published in the Government Gazette.

Greek citizenship is acquired following the oath of the third-country national, within a year from the publication of the decision. If the oath is not given while this period, the decision is revoked.

In case of a negative recommendation of the Naturalisation Committee, an appeal can be lodged within 15 days. A Decision of the Minister of Interior will be issued, in case that the appeal is accepted. In case of rejection of the appeal, an application for annulment (*αίτηση ακύρωσης*) can be lodged before the Administrative Court of Appeals within 60 days of the notification of that decision.

While a refugee can apply for the acquisition of citizenship 3 years after recognition, its acquisition requires a demanding examination procedure in practice.

In 2016, a total 3,624 third-country nationals were granted citizenship compared to 1,487 in 2015, although this number is not limited to beneficiaries of international protection.<sup>588</sup> This represents a success rate of 17.4% out of a total 20,797 decisions on citizenship taken in 2016. As many as 45,451 applications for citizenship were pending at the end of 2016.<sup>589</sup>

#### 4. Cessation and review of protection status

##### Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure?  Yes  No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure?  Yes  No
3. Do beneficiaries have access to free legal assistance at first instance in practice?  
 Yes  With difficulty  No

Cessation of international protection is governed by Articles 11 and 16 PD 141/2013.

**Refugee status** cases where the person:<sup>590</sup>

- (a) Voluntarily re-avails him or herself of the protection of the country of origin;
- (b) Voluntarily re-acquires the nationality he or she has previously lost;
- (c) Has obtained a new nationality and benefits from that country's protection;
- (d) Has voluntarily re-established him or herself in the country he or she fled or outside which he or she has resided for fear of persecution;
- (e) May no longer deny the protection of the country of origin or habitual residence where the conditions leading to his or her recognition as a refugee have ceased to exist. The change of

<sup>588</sup> Ministry of Interior, Directorate of Citizenship, *Statistical Data 2011-2016*, available at: <http://bit.ly/2kQt63b>.

<sup>589</sup> Generation 2.0, 'Νέα Στατιστικά Στοιχεία Ιθαγένειας', 21 February 2017, available at: <http://bit.ly/2m7GDp7>.

<sup>590</sup> Article 11(1) PD 141/2013.

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circumstances must be substantial and durable,<sup>591</sup> and cessation is without prejudice to compelling reasons arising from past persecution for denying the protection of that country.<sup>592</sup>

Cessation on the basis of changed circumstances also applies to **subsidiary protection** beneficiaries under the same conditions.<sup>593</sup>

Where cessation proceedings are initiated, the beneficiary is informed at least 15 days before the review of the criteria for international protection and may submit his or her views on why protection should not be withdrawn.<sup>594</sup>

Where the person appeals the decision, contrary to the [Asylum Procedure](#), the Appeals Committee is required to hold an oral hearing of the beneficiary in cessation cases.<sup>595</sup>

No systematic difficulties are reported in practice and no cessation procedure is reported to be applied to specific groups. As regards the old asylum procedure applicable prior to 7 June 2013, the Directorate of the Greek Police does not collect statistical data on cessation. The Asylum Service has reported 0 withdrawals of international protection in 2013 and 10 in 2014, but has not published figures for the following years.<sup>596</sup>

## 5. Withdrawal of protection status

### Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure?  Yes  No
2. Does the law provide for an appeal against the withdrawal decision?  Yes  No
3. Do beneficiaries have access to free legal assistance at first instance in practice?  
 Yes  With difficulty  No

Withdrawal of **refugee status** is provided under Article 14 PD 141/2013 where the person:

- (a) Should have been excluded from refugee status;
- (b) The use of false or withheld information, including the use of false documents, was decisive in the grant of refugee status;
- (c) Is reasonably considered to represent a threat to national security; or
- (d) Constitutes a threat to society following a final conviction for a particularly serious crime.

Under Article 19 PD 141/2013, **subsidiary protection** may be withdrawn where it is established that the person should have been excluded or has provided false information, or omitted information, decisive to the grant of protection.

The procedure described in [Cessation](#) is applicable to withdrawal cases.

<sup>591</sup> Article 11(2) PD 141/2013.

<sup>592</sup> Article 11(3) PD 141/2013.

<sup>593</sup> Article 16 PD 141/2013.

<sup>594</sup> Article 63(2) L 4375/2016.

<sup>595</sup> Article 62(1)(a) L 4375/2016, as amended by L 4399/2016.

<sup>596</sup> Asylum Service, *Statistical data*, available at: [http://asylo.gov.gr/?page\\_id=615](http://asylo.gov.gr/?page_id=615).

## B. Family reunification

### 1. Criteria and conditions

Indicators: Family Reunification	
1. Is there a waiting period before a beneficiary can apply for family reunification?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
❖ If yes, what is the waiting period?	
2. Does the law set a maximum time limit for submitting a family reunification application? For preferential treatment regarding material conditions	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
❖ If yes, what is the time limit?	3 months
3. Does the law set a minimum income requirement?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

According to the transposition of the Family Reunification Directive in PD 131/2006, as supplemented by PD 167/2008 and amended by PD 113/2013, only recognised **refugees** have the right to apply for reunification with family members who are third-country nationals, if they are in their home country or in another country outside the EU.

According to Article 13 PD 131/2006, "family members" include:

- (a) Spouses;
- (b) Unmarried minor children;
- (c) Unmarried adult children with serious health problems which render them incapable to support themselves;
- (d) Parents, where the beneficiary solemnly declares that he or she has been living with them and taking care of them before leaving his or her country of origin, and that they no longer have other family members to care for and support them;
- (e) Unmarried partners with whom the applicant has a stable relationship, which is proven mainly by the existence of a child or previous cohabitation, or any other appropriate means of proof.

If the refugee is an unaccompanied minor, he or she has the right to be reunited with his or her parents if he or she does not have any other adult relatives in Greece.

If a recognised refugee requests reunification with his or her spouse and/or dependent children, within 3 months from the deliverance of the decision granting him or her refugee status, the documents required with the application are:<sup>597</sup>

- (a) A recent family status certificate, birth certificate or other document officially translated into Greek and certified by a competent Greek authority, proving the family bond and/or the age of family members; and
- (b) A certified copy of the travel documents of the family members.

However, if the applicant cannot provide these certificates, the authorities take into consideration other appropriate evidence.

On the other hand, if the refugee is an adult and the application refers to his or her parents and/or the application is not filed within 3 months from recognition, apart from the documents mentioned above, further documentation is needed:<sup>598</sup>

- (c) Full Social Security Certificate, i.e. certificate from a public social security institution (e.g. IKA, OAEE), proving the applicant's full social security coverage;

<sup>597</sup> Article 14(1) PD 131/2006.

<sup>598</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

- (d) Tax declaration proving the applicant's fixed, regular and adequate annual personal income, which is not provided by the Greek social welfare system, and which amounts to no less than the annual income of an unskilled worker – in practice about €8,500 – plus 20% for the spouse and 15% for each parent and child with which he or she wishes to be reunited;
- (e) A certified contract for the purchase of a residence, or a residence lease contract attested by the tax office, or other certified document proving that the applicant has sufficient accommodation to meet the accommodation needs of his or her family.

The abovementioned additional documents are not required in case of an unaccompanied minor recognised as refugee, applying for family reunification after the 3-month period after recognition.<sup>599</sup>

## 2. Status and rights of family members

According to Article 23 PD 141/2013, as amended by Article 21 L 4375/2016, family members of the beneficiary of international protection who do not individually qualify for such protection are entitled to a renewable residence permit which must have the same duration as that of the beneficiary. However, if the family was created after entering Greece, in the case of spouses, both of them must have a valid residence permit at the time the wedding ceremony took place. These provisions are extremely difficult to meet in practice and in direct violation of Article 8 ECHR, since one must already have a residence permit in order to qualify for a residence permit as a refugee family member.

## C. Movement and mobility

### 1. Freedom of movement

According to Article 34 PD 141/2013, beneficiaries of international protection enjoy the right to free movement under the same conditions as other legally residing third-country nationals. No difference in treatment is reported between different international protection beneficiaries.

### 2. Travel documents

Recognised **refugees**, upon request submitted to the competent authority, are entitled to a travel document (*titre de voyage*), regardless of the country in which they have been recognised as refugees in accordance with the model set out in Annex to the 1951 Refugee Convention.<sup>600</sup> This travel document allows beneficiaries of refugee status to travel abroad, unless compelling reasons of national security or public order exist. The abovementioned travel document is issued from the Passport Directorate of the Hellenic Police Headquarters,<sup>601</sup> subject to a fee of €85.<sup>602</sup> These travel documents are valid for 5 years for adults and can be renewed.<sup>603</sup>

The same applies to beneficiaries of **subsidiary protection**, if they are unable to obtain a national passport, unless compelling reasons of national security or public order exist.<sup>604</sup>

<sup>599</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

<sup>600</sup> Article 25(1) PD 141/2013.

<sup>601</sup> Article 25(2) PD 141/2013.

<sup>602</sup> Asylum Service, *Frequently asked questions on the rights of asylum seekers and beneficiaries of international protection*, 18 February 2015, available in Greek at: <http://bit.ly/2jGtlw0>.

<sup>603</sup> Joint Ministerial Decision 10566/2014, Gov. Gazette B/3223/02.12.2014, available at: <http://bit.ly/2lmEMwy>.

<sup>604</sup> Article 25(4) PD 141/2013.

## D. Housing

### Indicators: Housing

- |  |     |
|--|-----|
| 1. For how long are beneficiaries entitled to stay in reception centres?       | N/A |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2016 | N/A |

According to Article 30 PD 141/2013, beneficiaries of international protection should enjoy the same rights as Greek citizens and receive the necessary social assistance, according to the terms applicable to Greek citizens. However, administrative and bureaucratic barriers, lack of state-organised actions in order to address their particular situation, non-effective implementation of the law, and the impact of economic crisis prevent international protection holders from the enjoyment of their rights, which in some cases may also constitute a violation of the principle of equal treatment enshrined in L 3304/2005, transposing Directives 2000/43/EU and 2000/78/EU.

Beneficiaries of international protection have access to accommodation under the conditions and limitations applicable to third-country nationals residing legally in the country, according to Article 33 PD 141/2013. However, in practice, there are generally limited accommodation places for homeless people in Greece and no shelters dedicated to recognised refugees or beneficiaries of subsidiary protection exist. There is also no provision for financial support for living costs.

In **Athens**, for example, there are only four shelters for homeless people including Greek citizens and third-country nationals lawfully on the territory. At these shelters, beneficiaries of international protection can apply for accommodation, but it is extremely difficult to be admitted there, as these shelters are always overcrowded and constantly receiving new applications for housing. According to GCR's experience, those in need of shelter, who lack the financial resources to rent a house, remain homeless or reside in abandoned houses or overcrowded apartments, which are on many occasions sublet.

## E. Employment and education

### 1. Access to the labour market

Articles 69 and 71 L 4375/2016, provide for full and automatic access to the labour market for recognised refugees and subsidiary protection beneficiaries without any obligation to obtain a work permit.

However, as mentioned in [Reception Conditions: Access to the Labour Market](#), the current context of financial crisis, high unemployment rates and further obstacles that might be posed by competition with Greek-speaking employees, prevent the integration of beneficiaries into the labour market. Third-country nationals remain over-represented on the relevant unemployment statistical data.

Additional obstacles are posed relating to the enrolment of international protection beneficiaries in vocational training programmes, as according to national legislation this takes place "under the same conditions and prerequisites as foreseen for Greek citizens",<sup>605</sup> taking into account the significantly different position of beneficiaries of international protection and their potential inability provide requested documents by reason of *force majeure*.

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<sup>605</sup> Article 28 PD 141/2013.

DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.

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## 2. Access to education

There are no free Greek language courses provided by the State. The only programme organised by the University of Athens charges a fee for participation in Greek language courses, ranging from €500 to €670 per academic year for immigrants. There are only a few NGOs, including GCR, which have programmes for free courses of Greek language for refugees and immigrants.

## F. Health care

Free access to health care for beneficiaries of international protection is provided under L 4368/2016. However, the impact of the financial crisis on the health system and structural deficiencies such as the lack of adequate cultural mediators aggravate access to health care (see [Reception Conditions: Health Care](#)).

DH-DD(2017)603 : Rule 9.2 communication from a NGO in M.S.S. v. Belgium and Greece.

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## ANNEX – Transposition of the CEAS in national legislation

### Directives and other measures transposed into national legislation

Directive / Regulation	Deadline for transposition	Date of transposition	Official title of corresponding act (GR)	Web Link
<b>Directive 2011/95/EU</b> Recast Qualification Directive	21 December 2013	21 October 2013	Presidential Decree 141/2013 “on the transposition of Directive 2011/95/EU into Greek legislation”	<a href="http://bit.ly/1FWWVGX">http://bit.ly/1FWWVGX</a> (GR)
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	3 April 2016	Law 4375/2016 “Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive 2013/32/EU of the European Parliament and of the Council ‘on common procedures for granting and withdrawing international protection (recast)’ (L 180/29.6.2013), provisions on employment of beneficiaries of international protection” and other provisions.	<a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="http://bit.ly/234vUjP">http://bit.ly/234vUjP</a> (GR)
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20 July 2015	3 April 2016	Partial transposition of Articles 8-11 Law 4375/2016 (Article 46)	<a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="http://bit.ly/234vUjP">http://bit.ly/234vUjP</a> (GR)
<b>Regulation (EU) No 604/2013</b> Dublin III Regulation	Directly applicable 20 July 2013	3 April 2016	Law 4375/2016 (Article 46)	<a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="http://bit.ly/234vUjP">http://bit.ly/234vUjP</a> (GR)

### Pending transposition measures

Directive	Deadline for transposition	Stage of transposition	Participation of NGOs
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20 July 2015	Draft law submitted for consultation in October 2016 Comments by <a href="#">GCR</a> , <a href="#">PRAKSIS</a> and <a href="#">Doctors of the World</a>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No