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Asylum Information  
Database

Asylum Information Database

# Country Report

# *Greece*



## ACKNOWLEDGMENTS

The updated report was written by Spyros Koulocheris, Attorney at Law, Head of Legal Research at the Greek Council for Refugees (GCR), with the contributions of GCR Legal Unit Coordinator (Vasiliki Tsipoura) and Legal Unit Members (Aikaterini Drakopoulou, Eleni Koutsouraki, Klio Nikolopoulou, Maria Papamina and Aggeliki Theodoropoulou) and the assistance of Anna Koutsikou, volunteer lawyer at the Legal Unit. The report was edited by ECRE.

The GCR would like to particularly thank the Asylum Service and the Appeals Authority for their comments and observations on the report.

**The information in this report is up-to-date as of 27 April 2015.**

## The AIDA project

The AIDA project is jointly coordinated by the European Council on Refugees and Exiles (ECRE), Forum Réfugiés-Cosi, Irish Refugee Council and the Hungarian Helsinki Committee. It aims to provide up-to date information on asylum practice in 16 EU Member States (AT, BE, BG, CY, DE, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 2 non-EU countries (Switzerland, Turkey) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). Furthermore the project 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 AIDA project (Asylum Information Database) funded by the European Programme for Integration and Migration (EPIM) and Adessium Foundation. Additional research for the second update of this report was developed with financial support from the Fundamental Rights and Citizenship Programme of the European Union ([FRAME Project](#)). The contents of the report are the sole responsibility of the Greek Council for Refugees (GCR) and ECRE and can in no way be taken to reflect the views of the European Commission.



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## Statistics

**Table 1: Applications and granting of protection status at first and second instance: 2014**

	Total applicants in 2014 <sup>1</sup>	Refugee status	Subsidiary protection	Humanitarian Protection	Rejections (in-merit and admissibility)	Refugee rate	Subsidiary Protection rate	Humanitarian Protection rate	Rejection rate
	A	B	C	D	E	B/(B+C+D+E) %	C/(B+C+D+E) %	D/(B+C+D+E) %	E/(B+C+D+E) %
<b>Total numbers</b>	9,432	2,075	885	990	17,120	9.8%	4.3%	4.7%	81.2%
Old Procedure		558	265	990	10,654	4.5%	2.1%	8%	85.4%
New Procedure <sup>2</sup>		1,517	620	N/A	6,466	17.7%	7.2%	N/A	75.1%

*Breakdown by countries of origin of the total numbers*

<b>Afghanistan</b>	1,708	365	420	45	1,645	14.7%	17%	1.8%	66.5%
<b>Pakistan</b>	1,617	80	30	250	3,065	2.3%	0.9%	7.3%	90.3%
<b>Syria</b>	786	430	155	0	390	44.2%	15.8%	0%	40%
<b>Bangladesh</b>	635	55	15	55	1,370	3.7%	1%	3.7%	91.6%
<b>Albania</b>	569	15	5	65	1560	0.9%	0.3%	4%	94.8%
<b>Iran</b>	360	135	15	10	310	28.7%	3.2%	2.1%	66%
<b>Georgia</b>	350	0	0	10	1080	0%	0%	0.9%	99.1%
<b>Sudan</b>	335	145	30	5	205	37.6%	7.8%	1.3%	53.3%
<b>Nigeria</b>	331	20	0	0	440	4.3%	0%	0%	95.7%
<b>Cameroon</b>	280	10	0	0	100	9.1%	0%	0%	90.9%

*Other countries of origin*

<b>Eritrea</b>	259	155	5	0	155	49.2%	1.6%	0%	49.2%
<b>Iraq</b>	174	575	40	0	495	51.8%	3.6%	0%	46.6%
<b>Somalia</b>	115	35	45	5	220	11.4%	14.7%	1.2%	72.7%

Source: Eurostat Asylum Statistics 2014 (migr\_asyapp; migr\_asydec), unless otherwise specified

<sup>1</sup> Source: Asylum Service Statistics 2014, [http://asylo.gov.gr/wp-content/uploads/2015/01/Greek-Asylum-Service-statistical-data-2014\\_gr.pdf](http://asylo.gov.gr/wp-content/uploads/2015/01/Greek-Asylum-Service-statistical-data-2014_gr.pdf).

<sup>2</sup> Ibid.

**Table 2: Detection of irregular border crossings at the border crossing points of Greece: 2014**

	Number	Percentage
<b>Total number of detections</b>	<b>45,421</b>	
Land	1,903	4.18%
Sea	43,518	95.82%
<b>Top countries of origin<sup>3</sup></b>		
<b>Syria</b>	35,520	
<b>Albania</b>	16,751	
<b>Afghanistan</b>	12,901	
<b>Pakistan</b>	3,621	
<b>Somalia</b>	1,876	
<b>Bangladesh</b>	1,164	
<b>Iraq</b>	1,023	

Source: Hellenic Police,

[http://www.astynomia.gr/images/stories/2014/statistics14/allod2014/statistics\\_all\\_2014\\_et.JPG](http://www.astynomia.gr/images/stories/2014/statistics14/allod2014/statistics_all_2014_et.JPG)

**Table 3: Gender/age breakdown of the total numbers of applicants: 2014**

	Number	Percentage
<b>Total number of applicants</b>	<b>9,432</b>	
<i>Men</i>	7,647	81.1%
<i>Women</i>	1,785	18.9%
<i>Unaccompanied children</i>	447	4.7%

Source: Asylum Service Statistics 2014, [http://asylo.gov.gr/wp-content/uploads/2015/01/Greek-Asylum-Service-statistical-data-2014\\_gr.pdf](http://asylo.gov.gr/wp-content/uploads/2015/01/Greek-Asylum-Service-statistical-data-2014_gr.pdf)

**Table 4: Comparison between first instance and appeal decision rates: 2014**

	First instance		Appeal	
	<i>Number</i>	<i>Percentage</i>	<i>Number</i>	<i>Percentage</i>
<b>Total number of decisions</b>	13,310		7,665	
<b>Positive decisions</b>				
<b>Total</b>	1,970	15%	1,880	24.5%
<i>Refugee status</i>	1,270	9.5%	805	10.5%

<sup>3</sup> Note that the total number of detections (45,421) refers to arrests conducted by the Hellenic Police and the Coastguard authorities at sea and land borders with Turkey during 2014, whereas the top countries of origin that follow, as well as the relevant numbers refer to all arrests having taken place not only at the border but also in the mainland (arrests both for illegal entry and illegal stay) during 2014.

<i>Subsidiary protection</i>	590	4.5%	295	3.8%
<i>Hum/comp protection</i>	115	1%	775	10.1%
<b>Negative decisions</b>	11,335	85%	5,785	75.4%

Source: Eurostat Asylum Decisions 2014 (migr\_asydec)



## Overview of the legal framework

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

Title (EN)	Original Title (GR)	Abbreviation	Web Link
<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”</p> <p>Gov. Gazette 251/A/13-11-2007</p>	<p>Προεδρικό Διάταγμα 220/2007 «Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2003/9/ΕΚ του Συμβουλίου της 27<sup>ης</sup> Ιανουαρίου 2003, σχετικά με τις ελάχιστες απαιτήσεις για την υποδοχή των αιτούντων άσυλο στα κράτη μέλη»</p> <p>ΦΕΚ 251/A/13-11-2007</p>	PD 220/2007	<a href="http://www.refworld.org/docid/49676abb2.html">http://www.refworld.org/docid/49676abb2.html</a> (EN)
<p><i>Relevant:</i> Circular 2/2012 “on specifications relating to access to the national healthcare system for foreigners and non-insured persons”</p> <p>2 May 2012</p>	<p>Σχετ: Εγκύκλιος 2/2012 «Διευκρινήσεις σχετικά με την πρόσβαση στο σύστημα ιατροφαρμακευτικής και νοσηλευτικής περίθαλψης της χώρας σε Αλλοδαπούς και Ανασφάλιστους»</p> <p>2 Μαΐου 2012</p>	Cir. 2/2012	<a href="http://www.synigoros.gr/resources/docs/egkyklios2.pdf">http://www.synigoros.gr/resources/docs/egkyklios2.pdf</a> (GR)
<p>Presidential Decree 96/2008 “on harmonisation of Greek legislation to the provisions of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted”</p> <p>Gov. Gazette <b>152/A/30-7-2008</b></p>	<p>Προεδρικό Διάταγμα 96/2008 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2004/83/ΕΚ του Συμβουλίου της 29<sup>ης</sup> Απριλίου 2004 για τη θέσπιση ελάχιστων απαιτήσεων για την αναγνώριση και το καθεστώς των υπηκόων τρίτων χωρών ή των απάτριδων ως προσφύγων ή ως προσώπων που χρήζουν διεθνούς προστασίας για άλλους λόγους»</p> <p>ΦΕΚ 152/A/30-7-2008</p>	PD 96/2008	<a href="http://www.refworld.org/docid/4c5272fc2.html">http://www.refworld.org/docid/4c5272fc2.html</a> (EN)
<p><i>Abolished by:</i> Presidential Decree 141/2013, except for art. 24 and 25 par. 1, 2 and 3.</p>	<p><i>Καταργήθηκε από:</i> Προεδρικό Διάταγμα 141/2013, πλην των διατάξεων του άρθρου 24 και 25 παρ. 1, 2 και 3</p>	PD 141/2013	<a href="http://www.synigoros.gr/resources/docs/p-d--141_2013.pdf">http://www.synigoros.gr/resources/docs/p-d--141_2013.pdf</a> (GR)
<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 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status”</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 2005/85/ΕΚ του Συμβουλίου ‘σχετικά με τις ελάχιστες προδιαγραφές για τις διαδικασίες με τις οποίες τα κράτη μέλη χορηγούν και ανακαλούν το καθεστώς του πρόσφυγα»</p>	PD 114/2010	<a href="http://www.refworld.org/docid/4cfdadf2.html">http://www.refworld.org/docid/4cfdadf2.html</a> (EN)

Gov. Gazette 195/A/22-11-2010  <i>Amended:</i> Presidential Decree 116/2012 “amending PD 114/2010 [...]” Gov. Gazette 201/A/19-10-2012  <i>Amended:</i> Presidential Decree 167/2014 “amending PD 114/2010 [...]” Gov. Gazette 252/A/01-12-2014	ΦΕΚ 195/A/22-11-2010  <i>Τροπ:</i> Προεδρικό Διάταγμα 116/2012 «Τροποποίηση πδ 114/2010 [...]» ΦΕΚ 201/A/19-10-2012  <i>Τροπ:</i> Προεδρικό Διάταγμα 167/2014 «Τροποποίηση πδ 114/2010 [...]» ΦΕΚ 252/A/01-12-2014	PD 116/2012          PD 167/2014	< <a href="http://asylo.gov.gr/wp-content/uploads/2014/06/p.d._116_2012.pdf">http://asylo.gov.gr/wp-content/uploads/2014/06/p.d._116_2012.pdf</a> > (EN)          < <a href="http://www.synigoros.gr/resources/docs/pd-114-2010.pdf">http://www.synigoros.gr/resources/docs/pd-114-2010.pdf</a> > (GR)
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. Gov. Gazette 7/A/26-01-2011  <i>Amended:</i> Presidential Decree 133/2013 “amending provisions of L. 3907/2011 [...]” Gov. Gazette 198/A/25-09-2013  <i>Relevant:</i> Circular 37/2011 “on returns of illegally staying third-country nationals – Implementation of Articles 16 to 41 of L 3907/2011” 11 July 2011  <i>Relevant:</i> Law 4058/2012 “on the provision of services by armed guards to commercial vessels and other provisions” Gov. Gazette 63/A/22-03-2012  <i>Relevant:</i> Circular 41/2012 “on issues relating to	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  <i>Τροπ:</i> Προεδρικό Διάταγμα 133/2013 «Τροποποίηση διατάξεων του ν. 3907/2011 [...]» ΦΕΚ 198/A/25-09-2013  <i>Σχετ:</i> Εγκύκλιος 37/2011 «Αποφάσεις επιστροφής παρανόμως διαμένοντων υπηκόων τρίτων χωρών – Εφαρμογή των διατάξεων των άρθρων 16 έως και 41 του Ν. 3907/2011» 11 Ιουλίου 2011  <i>Σχετ:</i> Νόμος 4058/2012 «Παροχή υπηρεσιών ασφαλείας από ένοπλους φρουρούς σε εμπορικά πλοία και άλλες διατάξεις» ΦΕΚ 63/A/22-03-2012  <i>Σχετ:</i> Εγκύκλιος 41/2012 «Ζητήματα εφαρμογής των διατάξεων	L 3907/2011          PD 133/2013          Cir. 37/2011          L 4058/2012          Cir. 41/2012	< <a href="http://www.refworld.org/docid/4da6ee7e2.html">http://www.refworld.org/docid/4da6ee7e2.html</a> > (EN)          < <a href="http://asylo.gov.gr/wp-content/uploads/2014/06/P.D._133_2013-AMENDMENT_OF_L3907_AND_PD_104.pdf">http://asylo.gov.gr/wp-content/uploads/2014/06/P.D._133_2013-AMENDMENT_OF_L3907_AND_PD_104.pdf</a> > (GR)          < <a href="http://www.synigoros.gr/resources/docs/egkyklios37.pdf">http://www.synigoros.gr/resources/docs/egkyklios37.pdf</a> > (GR)          < <a href="http://www.ethemis.gr/wp-content/uploads/2012/03/N.-4058.pdf">http://www.ethemis.gr/wp-content/uploads/2012/03/N.-4058.pdf</a> > (GR)          < <a href="http://www.synigoros.gr">http://www.synigoros.gr</a>

the implementation of L 3907/2011” 18 June 2012	του ν. 3907/2011» 19 Ιουνίου 2012		<a href="#">/resources/docs/egkyklios41.pdf</a> (GR)
Joint Ministerial Decision 7001/2/1454-h/2012 “on the rules of operation of the Regional First Reception Services” Gov. Gazette 64/B/26-01-2012	Κοινή Υπουργική Απόφαση 7001/2/1454-η’/2012 «Γενικός Κανονισμός Περιφερειακών Υπηρεσιών Πρώτης Υποδοχής» ΦΕΚ 64/B/26-01-2012	JMD 7001/2/1454-h/2012	< <a href="http://www.refworld.org/docid/4f33bace2.html">http://www.refworld.org/docid/4f33bace2.html</a> > (EN)
Presidential Decree 104/2012 “on the organisation and operation of the Asylum Service within the Ministry of Public Order and Citizen Protection” Gov. Gazette 172/A/05-09/2012  <i>Amended:</i> Presidential Decree 133/2013 “amending provisions [...] PD 104/2012” Gov. Gazette 198/A/25-09-2013	Προεδρικό Διάταγμα 104/2012 «Οργάνωση και Λειτουργία Υπηρεσίας Ασύλου στο Υπουργείο Δημόσιας Τάξης και Προστασίας του Πολίτη» ΦΕΚ 172/A/05-09/2012  <i>Τροπ:</i> Προεδρικό Διάταγμα 133/2013 «Τροποποίηση διατάξεων του [...] πδ 104/2012» ΦΕΚ 198/A/25-09-2013	PD 104/2012   PD 133/2013	< <a href="http://www.synigoros.gr/resources/docs/pd104-12.pdf">http://www.synigoros.gr/resources/docs/pd104-12.pdf</a> > (GR)   < <a href="http://asylo.gov.gr/wp-content/uploads/2014/06/P.D._133_2013-AMENDMENT_OF_I3907_AND_PD_104.pdf">http://asylo.gov.gr/wp-content/uploads/2014/06/P.D._133_2013-AMENDMENT_OF_I3907_AND_PD_104.pdf</a> > (GR)
Presidential Decree 102/2012 “on the organisation and operation of the First Reception Service within the Ministry of Public Order and Citizen Protection” Gov. Gazette 169/A/03-09-2012	Προεδρικό Διάταγμα 102/2012 «Οργάνωση και Λειτουργία Υπηρεσίας Πρώτης Υποδοχής στο Υπουργείο Δημόσιας Τάξης και Προστασίας του Πολίτη» ΦΕΚ 169/A/03-09-2012	PD 102/2012	< <a href="http://www.synigoros.gr/resources/docs/pd102-12.pdf">http://www.synigoros.gr/resources/docs/pd102-12.pdf</a> > (GR)
Presidential Decree 113/2013 “on the establishment of a single procedure for granting the status of refugee or of subsidiary protection beneficiary to aliens or to stateless individuals in conformity with Council Directive 2005/85/EC ‘on minimum standards on procedures in Member States for granting and withdrawing refugee status’ and other provisions” Gov. Gazette 146/A/14-06-2013	Προεδρικό Διάταγμα 113/2013 «Καθιέρωση ενιαίας διαδικασίας αναγνώρισης σε αλλοδαπούς και ανιθαγενείς του καθεστώτος του πρόσφυγα ή δικαιούχου επικουρικής προστασίας σε συμμόρφωση προς την Οδηγία 2005/85/EK το Συμβουλίου «σχετικά με τις ελάχιστες προδιαγραφές για τις διαδικασίες με τις οποίες τα κράτη μέλη χορηγούν και ανακαλούν το καθεστώς του πρόσφυγα» και άλλες διατάξεις» ΦΕΚ 146/A/14-06-2013	PD 113/2013	< <a href="http://www.refworld.org/docid/525e84ae4.html">http://www.refworld.org/docid/525e84ae4.html</a> > (EN)  < <a href="http://www.synigoros.gr/resources/docs/pd113.pdf">http://www.synigoros.gr/resources/docs/pd113.pdf</a> > (GR)
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 on 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	Προεδρικό Διάταγμα 141/2013 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2011/95/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 13 <sup>ης</sup> Δεκεμβρίου 2011 σχετικά με τις απαιτήσεις για την αναγνώριση 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	PD 141/2013	< <a href="http://www.synigoros.gr/resources/docs/p-d-141_2013.pdf">http://www.synigoros.gr/resources/docs/p-d-141_2013.pdf</a> > (GR)

of the protection granted (recast)” Gov. Gazette 226/A/21-10-2013	και για το περιεχόμενο της παρεχόμενης προστασίας (αναδιατύπωση)» ΦΕΚ 226/A/21-10-2013		
Ministerial Decision 334/2014 “on the Rules of Procedure of the Appeals Authority” Gov. Gazette 63/B/16-01-2014	Υπουργική Απόφαση 334/2014 «Κανονισμός Λειτουργίας της Αρχής Προσφυγών» ΦΕΚ 63/B/16-01-2014	MD 334/2014	< <a href="http://www.immigration.gov.gr/wp-content/uploads/2014/11/14..ΥΠ.ΔΗΜ.ΤΑΞ.ΠΡΟΣΤ.Π.ΟΛ.-334_14-ΦΕΚ-63-B_16-1-14-Κανονισμός-Λειτουργίας-της-Αρχής-Προσφυγών.pdf">http://www.immigration.gov.gr/wp-content/uploads/2014/11/14..ΥΠ.ΔΗΜ.ΤΑΞ.ΠΡΟΣΤ.Π.ΟΛ.-334_14-ΦΕΚ-63-B_16-1-14-Κανονισμός-Λειτουργίας-της-Αρχής-Προσφυγών.pdf</a> > (GR)
Decision 8248/2014 of the Director of the Asylum Service of the Ministry of Public Order and Citizen Protection “on the validity of cards of applicants for international protection” Gov. Gazette 2365/B/03-10-2014	Απόφαση Δ/ντριας Υπηρεσίας Ασύλου 8248/2014 «Διάρκεια ισχύος δελτίων αιτούντων διεθνή προστασία» ΦΕΚ 2365/B/03-10-2014	Dec. 8248/2014	< <a href="http://www.metanastefsi.net/uploads/7/6/8/3/7683554/2635-2014.pdf">http://www.metanastefsi.net/uploads/7/6/8/3/7683554/2635-2014.pdf</a> > (GR)
Law 4249/2014 “on the restructuring of the Hellenic Police [...] and other provisions” Gov. Gazette 73/A/24-03-2014	Νόμος 4249/2014 «Αναδιοργάνωση της Ελληνικής Αστυνομίας [...] και άλλες διατάξεις» ΦΕΚ 73/A/24-03-2014	L 4249/2014	< <a href="http://www.eekt.gr/LinkClick.aspx?fileticket=wKmKSb8f3A%3D&amp;tabid=109">http://www.eekt.gr/LinkClick.aspx?fileticket=wKmKSb8f3A%3D&amp;tabid=109</a> > (GR)
Law 4251/2014 “Immigration and Social Integration Code and other provisions” Gov. Gazette 80/A/01-04-2014	Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις» ΦΕΚ 80/A/01-04-2014	L 4251/2014	< <a href="http://www.ypes.gr/UploadFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/n4251_2014.pdf">http://www.ypes.gr/UploadFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/n4251_2014.pdf</a> > (GR)
Ministerial Decision 6416/2014 “on the Rules of Procedure of the Asylum Service” Gov. Gazette 2034/B/25-07-2014	Υπουργική Απόφαση 6416/2014 «Κανονισμός Λειτουργίας Υπηρεσίας Ασύλου» ΦΕΚ 2034/B/25-07-2014	MD 6416/2014	< <a href="http://www.synigoros.gr/resources/docs/kanonismos-yphresias-asyloy.pdf">http://www.synigoros.gr/resources/docs/kanonismos-yphresias-asyloy.pdf</a> > (GR)
Ministerial Decision 30825/2014 “on determination of required documentation for the granting national visas and for the granting and renewal of residence permits in accordance with the provisions of L 4251/2014” Gov. Gazette 1528/B/06-06-2014	Υπουργική Απόφαση 30825/2014 «Καθορισμός απαιτούμενων δικαιολογητικών για τη χορήγηση εθνικών θεωρήσεων εισόδου και για τη χορήγηση και ανανέωση τίτλου διαμονής σύμφωνα με τις διατάξεις του ν. 4251/2014» ΦΕΚ 1528/B/06-06-2014	MD 30825/2014	< <a href="http://www.dsnet.gr/Epikairothta/Nomothesia/ya30825_2014.htm">http://www.dsnet.gr/Epikairothta/Nomothesia/ya30825_2014.htm</a> > (GR)
Ministerial Decision 4000/4/59-st/2014 28 February 2014  <i>Relevant:</i> Legal Council of the State Opinion 44/2014	Υπουργική Απόφαση υπ’ αρ. 4000/4/59-στ/2014 28 Φεβρουαρίου 2014  Σχετ: Γνωμοδότηση 44/2014 του Νομικού Συμβουλίου του Κράτους	MD 4000/4/59- st/2014  Opinion 44/2014	N/A  < <a href="http://www.nsk.gov.gr/webnskg/gnwmodothsh.js">http://www.nsk.gov.gr/webnskg/gnwmodothsh.js</a> >

Joint Ministerial Decision 7315/2014 "Procedure for granting residence permits to beneficiaries of international protection" Gov. Gazette 2461/B/16-09-2014	Κοινή Υπουργική Απόφαση 7315/2014 «Διαδικασία χορήγησης Α.Δ.Ε.Τ. στους δικαιούχους διεθνούς προστασίας» ΦΕΚ 2461/B/16-09-2014	JMD 7315/2014	<a href="http://www.synigoros.gr/resources/docs/adet.pdf">p?qnid=1868995</a> > (GR) < <a href="http://www.synigoros.gr/resources/docs/adet.pdf">http://www.synigoros.gr/resources/docs/adet.pdf</a> > (GR)
Joint Ministerial Decision 30651/2014 "on the establishment of a category of residence permit on humanitarian grounds and of the type, procedure and specific conditions for its granting" Gov. Gazette 1453/B/05-06-2014	Κοινή Υπουργική Απόφαση 30651/2014 «Καθορισμός κατηγορίας άδειας διαμονής για ανθρωπιστικούς λόγους, καθώς και του τύπου, της διαδικασίας και των ειδικότερων προϋποθέσεων χορήγησής της» ΦΕΚ 1453/B/05-06-2014	JMD 30651/2014	< <a href="http://www.synigoros.gr/?i=foreigner.el.metanastis-pdya.186723">http://www.synigoros.gr/?i=foreigner.el.metanastis-pdya.186723</a> > (GR)
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	Υπουργική Απόφαση Υ1.Γ.Π.οικ. 92490/2013 «Πρόγραμμα ιατρικού ελέγχου, ψυχοκοινωνικής διάγνωσης και υποστήριξης και παραπομπής των εισερχομένων χωρίς νομιμοποιητικά έγγραφα υπηκόων τρίτων χωρών σε δομές πρώτης υποδοχής» ΦΕΚ 2745/B/29-10-2013	MD 62490/2013	< <a href="http://www.synigoros.gr/resources/docs/fek-prosfiges.pdf">http://www.synigoros.gr/resources/docs/fek-prosfiges.pdf</a> > (GR)
Joint Ministerial Decision 10566/2014 "on the procedure for granting travel documents to beneficiaries of international protection and to applicants for international protection" Gov. Gazette 3223/B/02-12-2014	Κοινή Υπουργική Απόφαση 10566/2014 «Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους διεθνούς προστασίας, καθώς και στους αιτούντες διεθνή προστασία» ΦΕΚ 3223/B/02-12-2014	JMD 10566/2014	< <a href="http://www.synigoros.gr/resources/docs/kya10566.pdf">http://www.synigoros.gr/resources/docs/kya10566.pdf</a> > (GR)

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

The report was previously updated in **July 2014**.

### *Detention*

- Following 4 deaths (2 of which suicides) in the Amygdaleza Pre-Removal Detention Centre and in police stations in Athens and Thessaloniki in mid-February 2015, the new Greek government announced on 17 February 2015 a range of measures that present an important step towards reducing the use of immigration detention in Greece.<sup>4</sup> These announcements include the revocation of the Ministerial Decision allowing for detention beyond 18 months and the immediate release of persons concerned.<sup>5</sup> Furthermore, the Amygdaleza Pre-Removal Detention Centre has been announced to close down in 100 days and that action is to be taken in order to put in place open reception centres instead of detention facilities. It was also announced that alternatives to detention will be implemented, the maximum period of detention will be limited to 6 months and persons belonging to vulnerable groups as well as asylum seekers will be immediately released. In practice, GCR has noticed that the first encouraging steps have been taken to implement some of the above-mentioned measures. This means that detention does not last more than 18 months and persons who are detained for long periods (6 to 18 months) are progressively released. However, persons belonging to vulnerable groups and asylum seekers whose applications have already been registered may remain under detention as of April 2015.

### *Procedure*

- Following the amendment of PD 114/2010 (regulating the “Old Procedure”) by PD 167/2014, the responsible authority for deciding on applications for renewal of residence status on humanitarian grounds<sup>6</sup> is now the General Secretary of Public Order, instead of the Appeal Committee that originally granted this status. Where Old Procedure authorities deem that such a permit can be granted, they merely refer the case to the Ministry of Interior to consider granting a permit on humanitarian grounds, as is done under the New Procedure.<sup>7</sup>
- At the end of July 2014, the Asylum Service, in an effort to improve access to the procedure by minimising queues outside the Regional Asylum Office (RAO) of Attica, inaugurated a new system for granting appointment for registration of an asylum application through Skype. Applications were first made available in English and French and were later extended to Arabic in September 2014 and Farsi/Dari in November 2014. However, GCR has reported a number of complaints of persons that had unsuccessfully tried to use this system in order to book a date for registration, especially in Thessaloniki, where a RAO for persons not detained is not yet in place, thereby forcing applicants to register in Athens.

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<sup>4</sup> Ministry of Interior and Administrative Reconstruction, ‘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 Greek at: [http://www.mopocp.gov.gr/index.php?option=ozo\\_content&lang=&perform=view&id=5374&Itemid=607](http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=&perform=view&id=5374&Itemid=607).

<sup>5</sup> According to Ministerial Decision (MD) 4000/4/59-st/2014 of the (former) Minister of Public Order and Citizen Protection (MPOCP), endorsing Opinion 44/2014 of the Legal Council of the State, upon expiry of the 18-month maximum period for pre-deportation detention under Article 15(5)-(6) of the Returns Directive a new detention order may be issued if the third-country national does not cooperate with the authorities in order to be repatriated. This detention order may be indefinite. See Greek Council for Refugees (GCR), ‘Indefinite detention: a direct infringement of national, European and international law’ (8 April 2014) available at: <http://www.gcr.gr/index.php/en/news/press-releases-announcements/item/352-ep-aoriston-kratysi-mia-eftheia-prosvoli-tou-ethnikoy-evropaikoy-kai-diethnoys-dikaious>.

<sup>6</sup> Protection on humanitarian grounds was granted under Article 28 PD 114/2010.

<sup>7</sup> Article 33 PD 113/2013.



In the same spirit, the Asylum Service announced in December 2014 a weekly schedule defining the availability of translators for each language for registration to ensure that prospective applicants will not queue before the RAO on the days when translators for their language are not available.

- A previous decision,<sup>8</sup> providing for a duration of 4 months for the validity of the card provided to applicants for international protection, with the exception of applicants originating from Egypt, Albania, Georgia, Bangladesh and Pakistan whose card had a validity of 45 calendar days, was repealed by Decision 8248/2014 of the Director of the Asylum Service. The new decision retains the 4-month validity for applicants' cards but extends the validity of cards issued to Egyptian, Albanian, Georgian, Bangladeshi and Pakistani applicants to 3 months, "because of the temporary difficulty faced by the Asylum Service as regards interpretation services, which results in the extension of the duration of the examination procedure of the relevant applications", as the decision explicitly suggests.
- Under PD 114/2010, as amended by PD 113/2013, for applications lodged before 7 June 2013 (hereafter "Old Procedure"), the Appeals Committee could omit the personal interview only exceptionally, where it deemed that it could issue a decision based solely upon examination of the file. Under a new amendment introduced by PD 167/2014,<sup>9</sup> the Appeals Committee does not call the applicant for an interview where it considers that it can take a decision based solely on examination of the file and, only if the information provided by the file is not sufficient for issuing a decision on the appeal, the Appeals Committee shall invite the applicant either to submit additional information within 10 days or to appear before it. In case a relevant recommendation of a UNHCR representative has been issued,<sup>10</sup> there is no possibility for the Appeals Committee to invite the applicant for additional information or for an interview before it.
- Following an amendment brought in the law by Article 2 PD 167/2014, "Old Procedure" appeals submitted after the expiry of the time-limit are now subject to a preliminary examination by the territorially competent Police Director (instead of the Appeals Committees, as provided by the former Article 25(4) PD 114/2010, as amended by Article 35 (17)(b) PD 113/2013), who may declare the appeal as inadmissible, unless the applicant establishes (a) *force majeure* reasons justifying the delay and (b) that he or she immediately lodged the appeal after *force majeure* reasons ceased.<sup>11</sup> If the appeal is deemed admissible, the decision is notified to the applicant and he or she is issued a new asylum seeker's card, pending examination on the merits by the Committee.
- Since December 2014, Syrians holding valid passports, IDs or driving licenses, are channelled into a fast-track examination procedure under the regular procedure, under which applications are lodged and decisions are issued within the same day.
- In December 2014, UNHCR reiterated its call on Member States to continue refraining from returning asylum seekers to Greece.<sup>12</sup>

#### *Beneficiaries of international protection*

- Following Joint Ministerial Decision (JMD) 7315/2014, beneficiaries of international protection under the "New Procedure" who had waited for over 1 year to obtain residence permits started receiving them at the end of 2014. Following JMD 10566/2014, issued in December 2014, the

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<sup>8</sup> Decision 3966/2014, 9 May 2014.

<sup>9</sup> Article 3 PD 167/2014.

<sup>10</sup> Article 10(3) PD 114/2010.

<sup>11</sup> Article 25(4) PD 114/2010, as amended by Article 2 PD 167/2014.

<sup>12</sup> UNHCR, *UNHCR observations on the current asylum system in Greece* (December 2014) available at: <http://www.refworld.org/docid/54cb3af34.html>, 37.

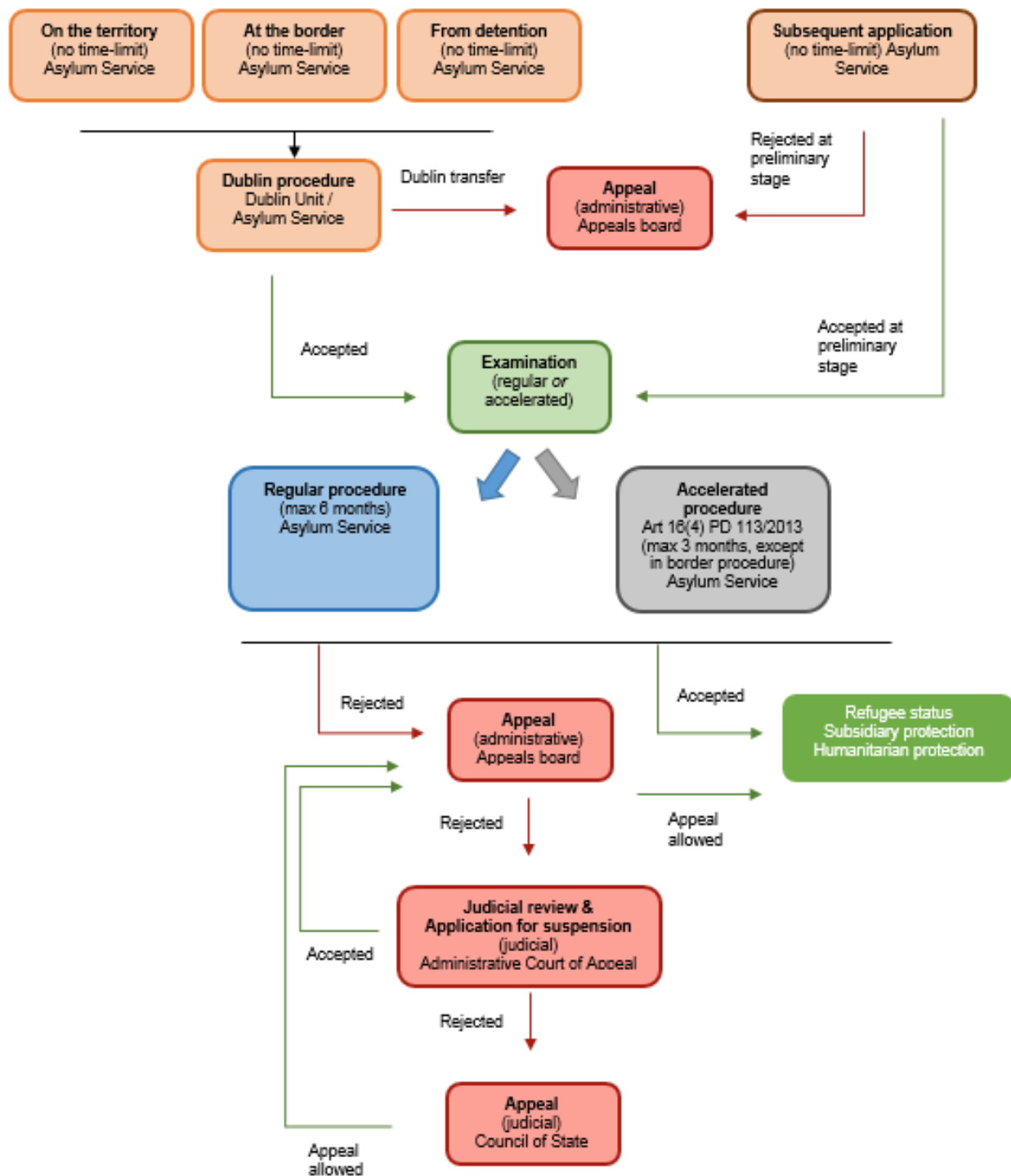
first travel documents, also long anticipated, recently started being delivered to the beneficiaries of international protection recognised under the New Procedure.



# Asylum Procedure

## A. General

### 1. Flow chart



## 2. Types of procedures

### Indicators:

Which types of procedures exist in your country? Tick the box:

- |   |   |                             |
|---|---|-----------------------------|
| - regular procedure:  | yes <input checked="" type="checkbox"/> | no <input type="checkbox"/> |
| - border procedure:   | yes <input checked="" type="checkbox"/> | no <input type="checkbox"/> |
| - admissibility procedure:  | yes <input checked="" type="checkbox"/> | no <input type="checkbox"/> |
| - accelerated procedure (labelled as such in national law):   | yes <input checked="" type="checkbox"/> | no <input type="checkbox"/> |
| - accelerated examination ("fast-tracking" certain case caseloads as part of regular procedure):                                      | yes <input checked="" type="checkbox"/> | no <input type="checkbox"/> |
| - prioritised examination (application likely to be well-founded or vulnerable applicant as part of regular procedure): <sup>13</sup> | yes <input checked="" type="checkbox"/> | no <input type="checkbox"/> |
| - Dublin procedure  | yes <input checked="" type="checkbox"/> | no <input type="checkbox"/> |
| - others:   |   |                             |

Are any of the procedures that are foreseen in national legislation, not being applied in practice? If so, which one(s)?

There are no procedures foreseen in law that are not being applied in practice.

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

**Under the "Old Procedure" (applications lodged before 7 June 2013)**

Stage of the procedure	Competent authority (EN)	Competent authority in original language (GR)
Application at the border	Greek Police	Ελληνική Αστυνομία
Application on the territory	Greek Police	Ελληνική Αστυνομία
Dublin (responsibility assessment)	Greek Police	Ελληνική Αστυνομία
Refugee status determination	<ul style="list-style-type: none"> <li>General Secretary of Public Order</li> <li>Territorially Competent Police Director</li> <li>Police Directors of the Aliens Directorate of Athens and Thessaloniki and Police Director of the Athens International Airport</li> </ul>	<ul style="list-style-type: none"> <li>Γενικός Γραμματέας Δημόσιας Τάξης</li> <li>Οικείος Αστυνομικός Διευθυντής</li> <li>Αστυνομικοί Διευθυντές των Διευθύνσεων Αλλοδαπών Αττικής, Θεσσαλονίκης και Διευθυντής Αστυνομίας Αερολιμένα Αθηνών.</li> </ul>
Appeal <ul style="list-style-type: none"> <li>First appeal</li> <li>Second (onward) appeal</li> </ul>	<ul style="list-style-type: none"> <li>Appeals Committees</li> <li>Administrative Court of Appeals</li> </ul>	<ul style="list-style-type: none"> <li>Επιτροπές Προσφυγών</li> <li>Διοικητικό Εφετείο</li> </ul>

**Under the "New Procedure" (applications lodged after 7 June 2013)**

<sup>13</sup> Nevertheless, vulnerable applicants may have difficulty in entering the Asylum Service for the registration of their claim. 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.

Stage of the procedure	Competent authority in EN	Competent authority in original language (GR)
Application at the border	Asylum Service	Υπηρεσία Ασύλου
Application on the territory	Asylum Service	Υπηρεσία Ασύλου
Dublin (responsibility assessment)	Asylum Service	Υπηρεσία Ασύλου
Refugee status determination	Asylum Service	Υπηρεσία Ασύλου
Appeal <ul style="list-style-type: none"> <li>First appeal</li> <li>Second (onward) appeal</li> </ul>	<ul style="list-style-type: none"> <li>Appeals Committees (Appeals Authority)</li> <li>Administrative Court of Appeals</li> </ul>	<ul style="list-style-type: none"> <li>Επιτροπές Προσφυγών (Αρχή Προσφυγών)</li> <li>Διοικητικό Εφετείο</li> </ul>
Subsequent application (admissibility)	Asylum Service	Υπηρεσία Ασύλου

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

##### Under the “old procedure” (applications lodged before 7 June 2013)

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?
Greek Police	N/A	Ministry of Interior and Administrative Reconstruction	Not known <sup>14</sup>

##### Under the “new procedure” (applications lodged after 7 June 2013)

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?
Asylum Service	200 <sup>15</sup>	Ministry of Interior and Administrative Reconstruction	Not known <sup>16</sup>

<sup>14</sup> No relevant information has come to the attention of GCR.

<sup>15</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>16</sup> No relevant information has come to the attention of GCR. According to the Asylum Service there is no political interference by the responsible Ministry of Interior and Administrative Reconstruction.

## 5. Short overview of the asylum procedure

### Twofold procedural framework

A new legal framework reforming the asylum system was adopted in 2011 with Law (L) 3907/2011, creating an Asylum Service, a First Reception Service and an Appeals Authority. Due to delays in the establishment of this new Asylum Service, the asylum procedure underwent a transitional phase, regulated by Presidential Decree (PD) 114/2010. With the opening of the first Regional Asylum Office (RAO) of the new Asylum Service on 7 June 2013 in Athens and the immediate adoption of PD 113/2013 on 13 June 2013, this transitional phase officially came to an end. As of that date, Greece operates a twofold regime for applications for international protection, whereby:

- ❖ applications lodged before 7 June 2013 fall within the scope of PD 114/2010 (“**Old Procedure**”).
- ❖ applications lodged after 7 June 2013 fall within the scope of PD 113/2013 (“**New Procedure**”).

The core change brought about by the new procedure relates to the authorities competent for handling the asylum procedure. Specifically, under the Old Procedure, the police authorities were responsible for receiving and registering applications for international protection, whereas under the New Procedure this function is performed by the Asylum Service. Claims that were lodged under the Old Procedure and are still pending remain under the jurisdiction of the police. A number of other substantive changes to the asylum procedure were also brought about by PD 113/2013; these will be explicitly referred to in the relevant sections of the report and the distinctions between the two procedures will be specifically drawn, where applicable.

### Application, registration and procedure

According to the new legal framework, persons can make an application for international protection before the Asylum Service’s RAOs or Asylum Service Units. According to the definition of the “asylum seeker” in the law (Article 13(d) PD 113/2013), an asylum or subsidiary protection claim may be submitted at entry points or in the mainland in written or oral form, or in any other way include the request not to be deported to a country on grounds of fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion,<sup>17</sup> or the risk of suffering serious harm.<sup>18</sup>

The Central Office of the Asylum Service is in Athens. At the moment, 5 RAOs and 3 Asylum Units are operational.<sup>19</sup> The RAO of Attica started operations on 7 June 2013 and, according to the Asylum Service’s statistics as of 31 March 2015, had registered 12,697 applications, out of which over 980 were submitted by applicants who were in administrative detention, on remand or incarcerated.<sup>20</sup>

Access to the RAO of Attica remains problematic, as only a limited number of foreigners (around 150) can lodge an asylum application per week, whereas 200 to 250 persons, on average, queue every day at the Office.<sup>21</sup>

Other RAOs are currently operating in: Northern Evros as of 11 July 2013; Southern Evros as of 29 July 2013; Lesbos as of 15 October 2013; and Rhodes as of 2 January 2014. Moreover, Asylum Units operate in: Amygdaleza as of 11 September 2013; Thessaloniki as of 20 January 2014; and Patras as of 1 June 2014.

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<sup>17</sup> Article 1A(2) Refugee Convention.

<sup>18</sup> Article 15 PD 141/2013, transposing Article 15 QD.

<sup>19</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>20</sup> Asylum Service, *Asylum Statistics 1 January – 31 March 2015*, available in Greek at: [http://asylo.gov.gr/en/wp-content/uploads/2015/04/Greek-Asylum-Service-statistical-data-March-2015\\_en.pdf](http://asylo.gov.gr/en/wp-content/uploads/2015/04/Greek-Asylum-Service-statistical-data-March-2015_en.pdf).

<sup>21</sup> UNHCR, *UNHCR observations on the current asylum system in Greece* (December 2014), 17.

As discussed in the section on Registration of asylum applications, delays in registration in detention centres throughout Greece and in the First Reception Centre in Northern Evros are also problematic, as they result in continued detention of asylum seekers.

A previous decision providing for a duration of 4 months for the validity of the card provided to applicants for international protection, with the exception of applicants originating from Egypt, Albania, Georgia, Bangladesh and Pakistan whose card had a validity of 45 calendar days, was repealed by Decision 8248/2014 of the Director of the Asylum Service. The new order retains the 4-month validity for applicants' cards but extends the validity of cards issued to Egyptian, Albanian, Georgian, Bangladeshi and Pakistani applicants to 3 months.

Under the Old Procedure and New Procedure, the police authorities and Asylum Service are respectively responsible for examining applications for international protection at first instance and for carrying out Dublin procedures.

Applications for international protection shall be examined within the accelerated procedure when they are considered to be manifestly unfounded or when the applicant is a national of a safe country of origin or has transited through a safe third country.

## **Appeal**

Under both Old Procedure<sup>22</sup> and New Procedure,<sup>23</sup> applicants may lodge an administrative appeal before the Appeals Committees or Appeals Authority respectively, against a decision:

- (a) Rejecting the application on the merits or granting subsidiary protection instead of refugee status, within 30 days in the regular procedure;
- (b) Declaring the application as inadmissible or rejecting it on the merits, within 15 days in the accelerated procedure;
- (c) Rejecting the application on the merits, within 10 days for applications lodged in detention or correctional institutions;
- (d) Rejecting the application on the merits, within 3 days in border procedures or for applications lodged in First Reception facilities.

In all these cases, the appeal before the Appeals Committees under the Old Procedure or the Appeals Authority under the New Procedure has automatic suspensive effect.

The asylum seeker and the Ministry of Interior and Administrative Reconstruction (former Ministry of Public Order and Citizen Protection) have the right to apply for the annulment of the decision of the Appeals Committee before the Administrative Court of Appeals. The latter appeal has no automatic suspensive effect. Only by applying for interim measures before the same court may the appellant demand the suspension of his or her deportation. It is at the discretion of the court to grant suspensive effect. The appellant may also appeal against the Appeals Court's decision by a writ of error before the Council of the State. This appeal also does not have automatic suspensive effect.

## **B. Procedures**

### **1. Registration of the Asylum Application**

<sup>22</sup> Article 25(1) PD 114/2010.

<sup>23</sup> Article 25(1) PD 113/2013.

### Indicators :

- Are specific time limits laid down in law for asylum seekers to lodge their application?  
☐ Yes      ☒ No
- 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

### Old Procedure (applications lodged before 7 June 2013)

The authorities competent to receive and register asylum applications under the Old Procedure were:

- The Asylum Departments of the Aliens' Directorates of Attica (Athens) and of Thessaloniki,
  - The Security Departments of the National Airports, and
  - The Sub-Directorates and Security Departments of the Police Directorates across the country.
- There are 53 Directorates.

The law did not set a time-limit for lodging an asylum application.<sup>24</sup>

However, registration of asylum applications under the Old Procedure in Greece was highly problematic in practice due to obstacles in relation to access to the asylum procedure which have been highlighted for over 10 years. Although in theory applicants could lodge an application with the local authorities, those authorities reportedly refused to register applications and directed applicants to attempt to submit their applications at the Attica Aliens Directorate in Athens ("Petrou Ralli"). In a report published in July 2012, Greek NGOs claimed that "access to the asylum procedure is almost impossible in Attica".<sup>25</sup> A number of other reports have documented the difficulties in lodging an application for international protection both generally in Greece and more specifically in Athens.<sup>26</sup> Another obstacle faced by asylum seekers under the Old Procedure was the requirement to provide an address in Greece, which was impossible to fulfil for many applicants facing difficulties in securing accommodation.

Asylum seekers who managed to apply for asylum under the Old Procedure were provided with the special asylum seeker's card ("pink card"). This card is still valid for the cases pending under the Old Procedure. However, delays in its renewal and problems of access to the competent police authority have been reported, exposing asylum seekers to risks of detention and removal from the country and practically depriving them from the rights granted to their status as applicants for international protection.

### New Procedure (applications lodged after 7 June 2013)

Under the New Procedure, applications for international protection are received and registered by the Regional Asylum Offices (RAOs) and Asylum Units (AUs), depending on their local jurisdiction. The opening of the new Asylum Service on June 7<sup>th</sup> 2013 is certainly a positive step in reforming the asylum system in Greece, as it entrusted the registration, examination and first-instance decision-making on asylum applications to the jurisdiction of an state body staffed by civil servants and no longer under the auspices of the police.

Article 1(3) L 3907/2011 provides for 13 RAOs to be set up in Attica, Thessaloniki, Alexandroupolis, Orestiada, Ioannina, Volos, Patras, Heraklion, Lesvos, Chios, Samos, Leros and Rhodes.

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<sup>24</sup> Article 6 PD 114/2010 provides that "[r]equests are not dismissed, neither their examination is excluded merely on the ground that they have not been submitted the soonest possible."

<sup>25</sup> 14 Greek NGOs, 'Report of the Campaign for the Access to Asylum in Attica Area' (July 2012), available at: <http://asylum-campaign.blogspot.gr/search/label/Report>.

<sup>26</sup> See e.g. Amnesty International, *Greece: The end of the road for refugees, asylum-seekers and migrants* (20 December 2012) EUR 25/011/2012, 5; Human Rights Watch, *World Report 2012: European Union* (January 2012) available at: <http://www.hrw.org/world-report-2012/world-report-2012-european-union>.

Under the New Procedure, 5 RAOs and 3 AUs are currently operational:<sup>27</sup>

- The **RAO of Attica** started operations on 7 June 2013 and has registered 12,098 applications, out of which 980 were submitted by applicants who were in administrative detention, on remand or incarcerated.
- The **RAO of Southern Evros** started operations on 29 July 2013 and has registered 1,349 applications, out of which 754 were submitted by applicants in administrative detention, on remand or incarcerated.
- The **RAO of Northern Evros** started operations on 11 July 2013 and has registered 590 applications by persons in administrative detention.
- The **RAO of Lesbos** started operations on 15 October 2013 and has registered 282 applications, out of which 100 were submitted by applicants in administrative detention.
- The **RAO of Rhodes** started operations on 2 January 2014 and has registered 593 applications, out of which 9 were submitted by applicants in administrative detention.
- The **AU of Amygdaleza** started operations on 11 September 2013 and has registered 822 applications by persons in administrative detention.
- The **AU of Thessaloniki** started operations on 20 January 2014 and has registered 487 applications of persons in administrative detention, on remand or incarcerated.
- The **AU of Patras** started operations on 1 June 2014 and has registered 101 applications, out of which 67 were submitted by applicants in administrative detention, on remand or incarcerated.

A third-country national or stateless person is an applicant for international protection as soon as they declare in written or oral form, before any Greek authority at entry points or in the territory, that they request asylum or subsidiary protection or in any other way ask not to be deported to a country on grounds of fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion or the risk of suffering serious harm as defined in Article 15 PD 141/2013.<sup>28</sup> The law does not set a time-limit for lodging an asylum application.<sup>29</sup>

Applications must be submitted in person; the law does not provide for applications by representatives. However, the law continues to state that, 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>30</sup> However, this provision is problematic in practice, as the person who has claimed asylum before a non-competent authority does not have his or her claim officially registered and is therefore not protected from deportation until they manage to appear in person before the competent authority. There have been cases of asylum seekers detained in the pre-removal centre in Fylakio who, after having submitted their request for asylum with the First Reception Centre (FRC), were only registered by the RAO after spending 3 months in the pre-removal centre. In these cases, where the person applies either at the FRC or at the pre-removal centre, the request is transmitted with a referral note or a covering letter to the RAO.

#### *Difficulties relating to access to the procedure*

Access to the asylum procedure is still far from guaranteed in practice.<sup>31</sup> Persons in need of international protection who do not manage to lodge their application are not protected from arrest,

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<sup>27</sup> Asylum Service, *Information provided to GCR* (March 2015), including statistics until end February 2015; UNHCR, *Greece as a Country of Asylum: Recommendations* (6 April 2015), 3.

<sup>28</sup> Article 2(d) PD 113/2013.

<sup>29</sup> Article 6 PD 113/2013 provides that “[r]equests are not dismissed, neither their examination is excluded merely on the ground that they have not been submitted the soonest possible.”

<sup>30</sup> Article 4(5) PD 113/2013.

<sup>31</sup> UNHCR, *UNHCR Observations on the current situation in Greece, Request for dissemination to the Committee of Ministers in the context of the supervision of the execution of the MSS v. Belgium and Greece judgment*, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2680>



detention and deportation. A number of detainees that GCR staff has visited in pre-removal facilities had previously unsuccessfully tried to submit an asylum application. Up today, still not all RAOs foreseen by law are operational throughout the country. The RAO of Attica, situated in Athens, continues to receive the vast majority of asylum applications and does not have the capacity to register the applications in a timely manner. According to the Asylum Service's estimations, as reported by UNHCR:

"200 to 250 people queue every day at the RAO of Attica with the intention of registering an application for international protection. The RAO of Attica does not have the capacity to register such numbers. The RAO of Attica currently has the capacity to register around 150 applications for international protection per week, processing both applications of non-detained asylum-seekers and of those who are in pre-removal detention or in custody in correctional facilities."<sup>32</sup>

In its December 2014 report, UNHCR stressed that:

"[M]any persons who wish to lodge an application are unable to have their application registered within a given day. Refugee communities report that there were cases of asylum-seekers who presented themselves up to 30 times before they managed to register their asylum application."<sup>33</sup>

Unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, as well as persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence do not have guaranteed access to the asylum procedure after being referred by NGOs, as had lately been the practice of the police authorities, at least in Athens Aliens Directorate (Petroou Ralli). However, the lack of screening for persons belonging to vulnerable groups, coupled with the fact that in practice these people are detained upon reception in centres with other migrants and asylum seekers, instead of being placed in special reception centres for vulnerable groups,<sup>34</sup> renders access to the asylum procedure very difficult even for these people. The Asylum Service claims that, irrespective of whether an applicant is referred by an NGO, the registration of asylum seekers belonging to a vulnerable group is prioritised. To this end, the RAO of Attica, which registers the largest number of applicants, assigns a number of registration slots on a daily basis to vulnerable cases, although this is not enough compared to present needs. GCR has reported a series of cases where access to the RAO of Attica has not been possible even for people belonging to vulnerable groups such single-parent families with young children, who had to present themselves repeatedly in order to finally have their asylum claim registered.<sup>35</sup>

Moreover, at the end of July 2014, the Asylum Service, in an effort to improve access to the procedure by minimising queues outside the Regional Asylum Office (RAO) of Attica, inaugurated a new system for granting appointment for registration of an asylum application through Skype. Applications were first made available in English and French and were later extended to Arabic in September 2014 and Farsi/Dari in November 2014. However, GCR has reported a number of complaints of persons that had unsuccessfully tried to use this system in order to book a date for registration.<sup>36</sup>

As regards people wishing to file a subsequent application, not only do they face obstacles to accessing the procedure, but also find themselves before an extremely slow preliminary examination of their

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[339&SecMode=1&DocId=2232182&Usage=2](https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD(2014)591&Language=lanFrench&Site=CM); GCR, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of MSS v Belgium & Greece* (25 April 2014) 2, available at: [https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD\(2014\)591&Language=lanFrench&Site=CM](https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD(2014)591&Language=lanFrench&Site=CM)

<sup>32</sup> UNHCR, *UNHCR observations on the current asylum system in Greece* (December 2014), 17.

<sup>33</sup> *Ibid.*

<sup>34</sup> Such a measure was foreseen by the Greek Action Plan on Asylum Reform and Migration Management.

<sup>35</sup> GCR, *Registration of asylum claims – Access to the procedure for vulnerable groups* (8 January 2015) Doc. No 3/08.01.2015, where 4 cases of single-parent families are reported.

<sup>36</sup> GCR, *Difficulties concerning access to the Asylum Service* (17 February 2015) Doc. No 08/17.02.2015, where 19 such cases are reported.



application, which in the vast majority of cases known to GCR has amounted to several months, as the transfer of the file to the RAO by the police authorities competent for the initial asylum application examination, required at this stage, may not be conducted in a timely manner. As long as this preliminary stage lasts, repeat applicants are granted no right or benefit otherwise conferred upon asylum seekers. As no proper documentation is provided either, the arrest of these applicants for identification reasons has in certain cases resulted in – unlawful – detention.<sup>37</sup>

Access to the asylum procedure for detainees subject to removal procedures is not guaranteed either. A detainee having expressed his or her will to apply for asylum must wait for months in order to see his or her application registered, as the Asylum Service does not have the capacity to register all applications within a reasonable time. During this time, the potential asylum seeker remains detained by virtue of a removal order and is deprived of any procedural guarantees against his or her removal. In August 2014, the Greek Ombudsman reported that, in the Amygdaleza detention centre, the number of detainees waiting to lodge their application is more than double compared to that of detainees who have succeeded in doing so,<sup>38</sup> despite the fact that a special AU is located in this centre in order to receive asylum claims from detainees.

During a meeting of the Asylum Service with Greek NGOs on 5 December 2013, it was mentioned that there had been certain cases where detainees, having expressed their will (while they were detained) to submit an application for asylum, were deported pending registration of their claim.

#### *Staffing of the Asylum Service*

To ensure wider access to the asylum procedure, the European Asylum Support Office (EASO) has proposed, as a measure to be considered, to “increase the current number of total staff of the Asylum Service and the number of Regional Asylum Offices, as foreseen in Law 3907/2011.”<sup>39</sup>

The Asylum Service reports to be staffed either with newly appointed civil servants or by civil servants seconded or permanently transferred from other offices in the public sector. In addition, the Asylum Service recruited 16 employees on short-term (6-month) contracts. Following intensive training, these employees became case workers. Provided funding can be secured, larger numbers of case workers, on longer-term contracts, will be recruited in the near future, as the Asylum Service suggests.<sup>40</sup> Also, according to the Asylum Service, efforts have been made with regard to the training of caseworkers: All caseworkers of the Asylum Service have received the following training: (a) International Human Rights Law and Introduction to International Refugee Law by UNHCR affiliated staff; (b) EASO Training Curriculum Module “Inclusion”; (c) EASO Training Curriculum module “Evidence Assessment”; (d) EASO Training Curriculum Module “Interview Techniques”; (e) EASO Training Curriculum Module “Country of Origin Information”, (f) “Drafting and Decision Making” by UNHCR-affiliated staff and former members of the Appeals Committees established under PD 114/2010; (g) “The Dublin Regulation” by staff of the Dublin Unit. Besides these, 38 case-workers have been trained in the EASO Training Curriculum module “Exclusion”, 30 case workers have been trained in the EASO Training Curriculum module “Interviewing Vulnerable Persons”, 40 case workers have been trained in the EASO Training Curriculum module “Interviewing Children”.<sup>41</sup>

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<sup>37</sup> Greek Ombudsman, *Delays in file transferring of subsequent application of asylum and arrest of asylum seekers* (February 2015) Doc. No 196167, available in Greek.

<sup>38</sup> Greek Ombudsman, *Report after the monitoring visit at Amygdaleza Detention Centre* (August 2014) available in Greek at: [http://www.synigoros.gr/resources/ekthesi\\_aftopsias\\_amigdaleza\\_2-18-2014.pdf](http://www.synigoros.gr/resources/ekthesi_aftopsias_amigdaleza_2-18-2014.pdf).

<sup>39</sup> EASO, *Operating Plan for Greece: Interim Assessment of Implementation* (28 July 2014) available at: <http://easo.europa.eu/wp-content/uploads/Interim-assessment-on-the-implementation-of-the-EASO-Operating-Plan-for-Greece.pdf>, 6 and 17.

<sup>40</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>41</sup> *Ibid.*

Moreover, the Unit on Training, Quality Assurance and Documentation of the Asylum Service has adopted a quality management system, which includes:<sup>42</sup>

- Centralisation of quality assurance and audit in the Unit on Training, Quality Assurance and Documentation, supported and assisted by affiliated UNHCR staff;
- Drafting and issuing of Standard Operation Procedures (SOPs) for the use of all caseworkers and administrative staff throughout the Service;
- Effective communication and coordination between the Unit on Training, Quality Assurance and Documentation and UNHCR on all matters touching upon quality assurance;
- Establishment of a COI Unit (under the Unit on Training, Quality Assurance and Documentation), staffed by UNHCR-affiliated staff and staff members of the Service;
- The gradual strengthening of the Service's quality management function with a view to taking over all such responsibilities from the UNHCR in the future;
- Appointment of coordinators of teams of caseworkers in the RAO of Attica with a view to acting, *inter alia*, as mentors for their less experienced colleagues and thus to ensure uniformity of standards;
- Periodic review of decisions issued and attendance of UNHCR affiliated staff and staff of the competent Unit to interviews conducted by caseworkers;
- Individualised face-to-face feedback sessions between staff of the competent unit and case workers concerning the quality of their decisions and interviews with asylum seekers, with the aim of providing guidance for the management of the workload.

#### *Providing an address*

The Asylum Service registers applications even where asylum seekers do not provide a home address. Its practice is then to call the asylum seekers on the phone and ask them to present themselves at the Service in order for the decision to be served. In that respect, the Asylum Service shows good faith in the implementation of the address requirement. When the person cannot be reached on the phone, the Asylum Service notifies them when they appear for the renewal of their card.<sup>43</sup>

#### *The “asylum seeker’s card”*

Those who apply under the New Procedure to the Asylum Service are given a new asylum seeker's card, valid for 4 months, with the exception of asylum seekers coming from Albania, Bangladesh, Egypt, Georgia and Pakistan, whose card is valid for 3 months.<sup>44</sup>

The card is renewed until the issuance of the final decision on the asylum application. This new card has not replaced the “pink card” issued by the Greek police for the pending cases falling under the Old Procedure, but is given to those lodging an asylum application with the Asylum Service.

### **Registration and First Reception Service**

In order to enhance registration of asylum claims, the Greek Action Plan included the creation of asylum applications registration points within Security Departments at the Greek borders in the Eastern Aegean islands and the Evros region, on the assumption that interpreters would be promptly available and that the Security Departments would be supported by more staff. The aim of these new registration points was to operate as rapid response teams by performing first reception procedures on the spot. A smooth operation of such registration points would enhance registration of asylum applications and improve first-line reception conditions.

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<sup>42</sup> Asylum Service, *Information provided to GCR* (July 2014).

<sup>43</sup> Article 7(2) PD 113/2013.

<sup>44</sup> See Decision 8248/2014 of the Director of the Asylum Service, extending the duration of validity of cards for applicants originating from Albania, Bangladesh, Egypt, Georgia and Pakistan, from 45 days to 3 months.

The First Reception Centres (FRCs) and Mobile Units (FRMUs) of the First Reception Service (FRS), established by Law 3907/2011, are required to provide information to migrants on their rights and responsibilities, to operate registration and identification procedures, especially regarding international protection, to identify vulnerable groups and to offer medical and psychosocial care.<sup>45</sup> The FRC and the two Mobile Units are the competent authorities for the screening procedure of all migrants arriving without travel documents.

The operation of so far only 1 FRC, compared to a total of 8 envisaged in the Greek Action Plan on Asylum Reform and Migration Management (of which 3 would be established in Karoti, Lesbos and Attica by October 2013),<sup>46</sup> falls short of meeting the actual reception needs.

The FRC in Fylakio, Evros region received its first guests on 19 March 2013. After the initial maximum stay of 25 days in the FRC, asylum seekers and those held for deportation are transferred to detention centres in the Evros region. So far, Syrian nationals have been released. The maximum stay of 25 days applies to vulnerable persons such as unaccompanied children identified within the FRC, families and persons identified as victims of torture, with the aim of their being directly referred from the FRC to hosting facilities in the form of open reception accommodation. In practice, according to the Head of the FRC in Fylakio, until September 2014, vulnerable persons awaiting referral to hosting facilities were staying 25 days in the FRC and on average 2 weeks in the pre-removal centre in Fylakio or other detention centres. Due to the serious lack of hosting facilities, staying in the pre-removal centre for a period of time seems practically inevitable, even for these categories of applicants.<sup>47</sup>

According to UNHCR's observations, in the Evros region:

"New arrivals at the land border with Turkey wishing to seek international protection are referred by the [FRC] in Fylakio (Evros) to the RAO of Northern Evros. However, the formal registration of their application often happens after they have been transferred from the FRC to the adjacent pre-removal centre."<sup>48</sup>

FRS civil personnel is assisted by seconded Greek police officers who carry out registration and identification. The Central FRS comprises 42 staff members, the FRC in Fylakio of 10 public servants and 11 police officers, while the mobile units of Lesbos and Samos have 1 external employee and 1 roving staff from the Central FRS.<sup>49</sup> However, the PD 102/2012 has foreseen a total of 444 posts for both the Central FRS and the regional services i.e. the FRC and Mobile Units.<sup>50</sup>

In November 2014, there were around 22 persons providing services at the FRC in Fylakio, including 8 administrators, 2 representatives of UNHCR, 1 representative of the International Organisation for Migration (IOM), staff for medical examinations and socio-psychological support of the Medical Intervention (doctor, psychologist and social worker), the NGO Metadrasi (two coordinators and one interpreter for Arabic) and the aforementioned seconded police officers. In its latest recommendations of April 2015, UNHCR has called for prompt filling of all FRS positions foreseen by L 3907/2011.<sup>51</sup>

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<sup>45</sup> Article 7 L 3907/2011.

<sup>46</sup> UNHCR, *UNHCR observations on the current asylum system in Greece* (December 2014), 9, fn. 21. According to the First Reception Service, apart from the FRC in Lesbos, the creation of 3 more FRC is envisaged in 2014-2016 in Attica and other regions. See First Reception Service, *Annual Report 2013* (April 2014) available at: [http://www.firstreception.gov.gr/PRImages/Prints/11\\_FORYOU\\_NONSPREADS%20%283%29.pdf](http://www.firstreception.gov.gr/PRImages/Prints/11_FORYOU_NONSPREADS%20%283%29.pdf), 35.

<sup>47</sup> ECRE, *What's in a Name? The Reality of First "Reception" at Evros: AIDA Fact-Finding Mission in Greece* (February 2015), 15.

<sup>48</sup> UNHCR, *UNHCR observations on the current asylum system in Greece* (December 2014), 16.

<sup>49</sup> *Ibid*, 9, fn. 20.

<sup>50</sup> Articles 7 and 12 PD 102/2012.

<sup>51</sup> UNHCR, *Greece as a country of asylum: UNHCR Recommendations* (6 April 2015) available at: <http://www.refworld.org/docid/5524e72b4.html>, 2.

The capacity of the centre is 240 persons and so far the maximum number of incoming persons who have been referred at the same time is 220. According to the management of FRC, however, the Centre can only accommodate approximately 150-180 people at a time. That is why new entrants are very often detained first in the pre-removal centre before they are transferred to the FRC, this process taking several days up to 1 week.<sup>52</sup>

Possibly owing to the shift of inflow patterns from land to sea borders, marked since the enhancement of land border control through the building of the 10.5km fence in the Evros region in August 2012,<sup>53</sup> a Mobile Unit of the FRS has been operating since 13 October 2013 on the island of Lesbos, in the so-called "Identification Centre", in reality a detention centre; this is temporary, until the FRC already in place there eventually opens its doors. Another Mobile Unit operates on the island of Samos, in a similar "Identification Centre". On the contrary, no such FRC or Mobile Unit currently operates in the Dodecanese islands or Chios, where large numbers of migrants also arrive.<sup>54</sup> As UNHCR underlines, the majority of newcomers do not receive first-line reception services there.<sup>55</sup>

In practice, it therefore appears difficult to lodge an asylum claim outside Athens due to various reasons. Border authorities may refuse to register asylum applications and refuse entry, or remove persons arriving irregularly. Crucially, Greece lacks solid arrangements at border entry points to ensure that people seeking international protection can be identified. The only operating First Reception Centre (FRC) is the one of Fylakio, Evros region. Moreover, the FRC does not accept newcomers immediately without being previously informed and prepared for the arrivals, according to its Director.<sup>56</sup>

Even where new entrants manage to appear at the gate, the Greek Police is notified of their arrival, apprehends them and transfers them to the Border Guard Station of Chimonio, Orestiada. The report of arrest and prosecution proceedings are drafted there.

Normally, in accordance with the provisions of Article 121, par.13 of Law 4249/2014, the competent authority should refer the third-country national immediately to the competent administrative authority in order for him or her to undergo first reception procedures.<sup>57</sup> In practice, however, the police submits a transfer request to the First Reception Service (FRS) and, if the FRS does not respond within 48 hours, issues a detention decision. Practically, all apprehended new entrants are held for 2-3 days in the Border Guard Station of Chimonio, Orestiada or are transferred for longer detention of 5-7 days in the pre-removal centre of Fylakio before being referred to the FRS.

GCR is aware of cases where people were kept in the pre-removal centre for even 1 month. Syrians were detained for up to 20 days, as the FRC did not accept referrals following the expiry of its contract with NGO Med-In; as a result applicants were only admitted to the pre-removal centre on 13 November 2014 and referred to the FRS on 2 December 2014. Moreover, 41 Afghan children have been detained for 1 month, due to diverse problems regarding their files, which were expected to be sent from the island of Chios.<sup>58</sup>

## Push-Backs

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<sup>52</sup> For further details, see ECRE, *AIDA Fact-Finding Mission in Greece* (February 2015).

<sup>53</sup> UNCHR, *Syrians in Greece: Protection Considerations and UNHCR Recommendations* (17 April 2013) available at: [https://www.unhcr.gr/fileadmin/Greece/News/2012/Syria/pc/Greece\\_Syria\\_Note\\_for\\_Pressconference\\_English.pdf](https://www.unhcr.gr/fileadmin/Greece/News/2012/Syria/pc/Greece_Syria_Note_for_Pressconference_English.pdf).

<sup>54</sup> For a recent example, see Ethnos, 'Διασώθηκαν 164 μετανάστες σε Λέσβο, Χίο, Λέρο' ("164 Migrants Rescued in Lesbos, Chios, Leros"); 22 April 2015.

<sup>55</sup> UNHCR, *UNHCR observations on the current asylum system in Greece* (December 2014), 9.

<sup>56</sup> ECRE, *AIDA Fact-Finding Mission in Greece* (February 2015), 12.

<sup>57</sup> Article 121(13) L 4249/2014.

<sup>58</sup> ECRE, *AIDA Fact-Finding Mission in Greece* (February 2015), 12.

One of the major obstacles to access the asylum procedure is the practice of informal forced returns (“push-backs”) of third-country nationals at the Greek sea and land borders, which has been widely reported by UNHCR and NGOs. By engaging in such practices, Greece could be violating the principle of *non-refoulement*, the cornerstone of international refugee protection. The vast majority of those affected by push-backs are Syrians, Afghans, Somalis and Eritreans, persons *prima facie* in need of international protection.

As the NGO ProAsyl published in its report of November 2013,<sup>59</sup> illegal push-backs from Greek sea and land borders occur systematically. Push-backs take place from Greek territorial waters, the Greek islands and from the land border. The majority of the victims are refugees from Syria – men, women, children, babies, and people suffering from severe illness – trying to enter Europe to seek international protection or to reunite with their families who live in Germany, Sweden, the United Kingdom and various other European countries. According to the interviewees’ eye-witness accounts, it can be estimated that over 2,000 persons were pushed back at the time of writing, given the composition of the groups they travelled with. In the report, Special Forces officers (with their faces covered) are accused of ill-treating refugees upon apprehension, detaining them arbitrarily without any registration on Greek soil and then deporting them back to Turkey, in breach of international law.

Special units of the Greek coastguard reportedly abandon refugees in Turkish territorial waters without consideration for their safety. The majority of interviewees claimed that they had also been ill-treated.<sup>60</sup> In many cases, according to Pro Asyl, refugees were arbitrarily detained for some hours, without access to the open air and without any food or water. In all cases, victims of push-backs were not officially registered by the competent authorities, nor were they asked for any personal details apart from their nationality. All victims reported not being given the opportunity to request international protection or to challenge their illegal removal.<sup>61</sup> Further, ill-treatment seems to be the norm in these cases, with a report of 9 male Syrians describing treatment that could amount to torture.<sup>62</sup>

Furthermore, in the case of the shipwreck outside the island of Farmakonisi on 20 January 2014, resulting in the death of 8 children and 3 women, all 16 survivors have testified that their boat had been towed back to Turkey by the Hellenic Coastguard. After a preliminary investigation led by the Prosecutor of the Piraeus’ Marine Court, the case was considered to be “manifestly unfounded in substance” with regard to the Greek Penal Code,<sup>63</sup> and on that ground the file was closed.<sup>64</sup> On 6 February 2015, the Criminal Appeals Court of Dodecanese convicted a Syrian national as the sole perpetrator of the

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<sup>59</sup> ProAsyl, *Pushed Back: Systematic Human Rights Violations against Refugees in the Aegean Sea and at the Greek-Turkish Land Border* (7 November 2013) available at: [http://www.proasyl.de/fileadmin/fm-dam/EU\\_Fluechtlingspolitik/proasyl\\_pushed\\_back\\_24.01.14\\_a4.pdf](http://www.proasyl.de/fileadmin/fm-dam/EU_Fluechtlingspolitik/proasyl_pushed_back_24.01.14_a4.pdf).

<sup>60</sup> *Ibid.* See also Amnesty International, *Frontier Europe – Human Rights abuses on Greece’s borders with Turkey* (9 July 2013) available at: <http://www.amnesty.org/en/library/info/EUR25/008/2013/en>; UNHCR Press Release, “UNHCR seeks clarifications on the fate of Syrian Refugees in Evros”, (11 November 2013) available at: <http://www.unhcr.gr/nea/artikel/2768a7a2ced20c6daca7326788699f09/unhcr-seeks-clarifications-on-the-fa.html>; UNHCR Briefing Note, *Denied entry and pushed back: Syrian refugees trying to reach the EU* (15 November 2013) available at: <http://www.unhcr.org/528618159.html>.

<sup>61</sup> ProAsyl, *Pushed Back* (November 2013).

<sup>62</sup> *Ibid.* see also ECRE-ICJ, *Third Joint Submission to the Committee of Ministers of the Council of Europe in the case of MSS v Belgium & Greece (Application no. 30696/09) and related cases* (May 2014) available at: <http://www.refworld.org/pdfid/54f5cc704.pdf>, 3.

<sup>63</sup> The relevant charges were “exposure to risk” (Article 306), “causing a shipwreck” (Article 277), “causing a shipwreck by negligence” (Article 278) and “bodily harm” (Article 308).

<sup>64</sup> GCR, Hellenic League for Human Rights, Network of Social Support to Refugees and Migrants, Group of lawyers for the rights of migrants and refugees, ‘Background briefing on the investigation into the Farmakonisi boat wreck of 20.1.2014’ (31 July 2014) available at: <http://omadadikigorwnenglish.blogspot.gr/2014/08/briefing-on-farmakonisi-boat-wreck.html>.

shipwreck resulting in the loss of 11 lives.<sup>65</sup> Meanwhile, survivors of the tragedy are bringing their case before the European Court of Human Rights (ECtHR).<sup>66</sup>

There have been other allegations registered by GCR about attempts of *refoulement* in the Evros river and the islands, including *inter alia* Syrian nationals. Some persons have stated having made their third attempt at crossing the borders, after their boat had been repelled twice by the Greek authorities. There has also been a complaint registered by GCR against Bulgarian authorities, which, according to the allegations of the persons involved, identified a large group of men and women crossing the border. The Bulgarian authorities allegedly divided men from women and boarded them separately in two vans. The men were allegedly directed to the Greek border and arrested by the Greek authorities, while the van carrying the women was headed to the border with Turkey.

In its December 2014 report, UNHCR also continued to report push backs at the Greek-Turkish land and sea borders. UNHCR received calls and witnessed cases of persons likely to be in need of international protection, mainly Syrians, who had reached the gates of the FRC in Fylakio, not having yet been apprehended by police, asking to be registered as they feared that, failing registration, they could be summarily returned to Turkey.<sup>67</sup>

During 2014 GCR, has received 27 calls, regarding groups of a total of 265 persons, coming from Syria (with the exception of 1 unaccompanied minor from Egypt), asking for help after having entered the Greek territory. In many cases, the persons speaking on the phone claimed to have been pushed back before and begged GCR to intervene so that they would not be unlawfully returned to Turkey once more.

## 2. Regular procedure

### General (scope, time limits)

#### Indicators:

- Time limit set in law for the determining authority to make a decision on the asylum application at first instance (in months): 6
- Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☐ Yes ☒ No Old Procedure  
☒ Yes ☐ No New Procedure

As of 31 December 2014, the number of cases for which no final decision (including at first appeal) was taken one year after the asylum application was registered: N/A

### Old Procedure (applications lodged before 7 June 2013)

Many of the tens of thousands of applications filed before 7 June 2013 which are still pending under the jurisdiction of the police. This raises serious concerns with regard to the proper handling of the pending cases, as criticisms for police staff in charge of asylum applications abound. As Greek NGO AITIMA underlines:

<sup>65</sup> L Giannarou, '145 έτη φυλάκισης σε Σύρο για το Φαρμακονήσι' ("145 years imprisonment of a Syrian for Farmakonisi") (2015) *Kathimerini* 7 February 2015.

<sup>66</sup> ECRE, 'With their case shelved in Greece, survivors of the Farmakonisi tragedy seek justice at the ECtHR' (22 January 2015) available at: <http://www.ecre.org/component/content/article/70-weekly-bulletin-articles/947-with-their-case-shelved-in-greece-survivors-of-the-farmakonisi-tragedy-seek-justice-at-the-ecthr.html>.

<sup>67</sup> UNHCR, *UNHCR observations on the current asylum system in Greece* (December 2014), 9.



“[T]he Police are inadequate to handle asylum cases. They are a mechanism dealing with the deportation of illegal aliens and they don’t have the background to deal with or protect asylum seekers. Moreover, most of the Greek Policemen lack necessary knowledge concerning aliens and many harbour negative feelings toward them. Therefore, Police often act in a discriminatory manner against migrants. Arbitrariness is very common and there have also been cases of Police brutality against asylum seekers.”<sup>68</sup>

#### *Time-limits*

A first instance decision on the application must be taken by the General Secretary of Public Order within 6 months under the regular procedure is followed.<sup>69</sup> When the examination cannot be concluded within this maximum period, as is often the case in practice, asylum seekers have the right to receive, upon their request, information from the authorities competent to examine their asylum application on the time-frame within which the decision on their application is to be expected. Such information does not constitute an obligation for those authorities vis-à-vis the asylum seeker concerned to take a decision within a specific time-frame, however. Indeed, delays of more than 1 year in the issuing of first instance decisions have been reported due to understaffing and heavy workload in police authorities.

#### *Applications examined by priority*

Where an application may reasonably be considered to be well-founded or where the applicant belongs to a vulnerable group, as defined in Article 17 PD 220/2007, the asylum application shall be examined by priority, in accordance with the basic principles and guarantees described in the above provision.<sup>70</sup> The following categories of asylum seekers are considered to be vulnerable according to Article 17 PD 220/2007: unaccompanied children, disabled people, elderly people, pregnant women, single parents with minor children, as well as persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

### **New Procedure (applications lodged after 7 June 2013)**

#### *Time-limits*

Applications falling under the New Procedure are registered and examined by the Regional Asylum Offices (RAOs) of the new Asylum Service. According to PD 113/2013, claims shall be examined “as soon as possible” and, in any case, no later than 6 months after the filing of the application, when the regular procedure is followed.<sup>71</sup> However, at the RAO of Attica there have been certain cases assisted by GCR, where the decision took more than 1 year to be issued and delivered. The time-limit of 6 months is generally met at the RAO of Northern Evros, when there are no technical difficulties and postponements of the registrations and interviews due to lack of interpretation or problems in the police system.

In cases where no decision is issued within the maximum time limit of 6 months, the asylum seeker has the right to request information from the asylum service offices on the time frame within which a decision is expected to be issued. Similarly to the Old Procedure, this does not constitute an obligation on the part of the asylum services to take a decision within a specific time limit.<sup>72</sup> Therefore, although the new provision stating that the examination of applications shall be completed “as soon as possible” is a welcome change, the express possibility to exceed this time-frame runs the risk of practically nullifying the content of the provision.

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<sup>68</sup> ECRE *et al.*, *Dublin II Regulation: National Report Greece* (30 October 2012) HOME/2010/ERFX/CA/1721, 13.

<sup>69</sup> Article 17(2) PD 114/2010.

<sup>70</sup> Article 8(4) PD 114/2010.

<sup>71</sup> Article 16(2) PD 113/2013.

<sup>72</sup> *Ibid.*

As of April 2015, 16,323 applications for international protection had been filed with the Asylum Service. 2,992 have been filed in the first 3 months of 2015. Of this total number of applications, at the same date, 3,242 were still pending at first instance; 2,087 applications received a decision granting refugee status; 649 a decision granting subsidiary protection status; 6,740 applications received a negative decision; and 3,876 cases had otherwise been closed (as inadmissible applications or following decisions to discontinue the examination of the case or explicit withdrawal of the application). The average time for issuing a decision in the first instance is 90 days.<sup>73</sup>

In the event of a negative decision, the full reasoning is included in the decision served to the applicant. In practice, GCR has observed that decisions rejecting the asylum claim are issued on average within 3 months.

*Applications examined by priority under the regular procedure:*

Article 16(3) PD 113/2013 expands the category of cases examined by priority under the regular procedure. Those now falling under this prioritised examination include:

- (a) Vulnerable groups, as defined in Article 17 PD 220/2007;
- (b) Persons submitting a claim while in detention or in the regional First Reception Services (FRS);
- (c) Applicants subject to the Dublin Regulation;
- (d) Applicants whose claim is reasonably considered to be well-founded;
- (e) Applicants whose claim is determined as manifestly unfounded;
- (f) Applicants who are identified by the police as posing a danger to national security or public order;
- (g) Applicants who submit a subsequent application which is deemed admissible.

**Elements common to both procedures**

Asylum applications lodged by unaccompanied children shall always be examined by priority and according to the regular procedure.<sup>74</sup> The officials conducting interviews with unaccompanied children and making recommendations on their application for international protection shall have the necessary knowledge of the special needs of children and conduct the interview in such a way as to make it fully understandable, taking account, in particular, of the child's age. The law does not provide for a similar provision with regards to the automatic application of the regular procedure to other categories of vulnerable asylum seekers, however.

**Appeal**

*Indicators:*

- Does the law provide for an appeal against the first instance decision in the regular procedure:
  - ☒ Yes ☐ No
  - o if yes, is the appeal ☐ judicial ☒ administrative
  - o If yes, is it suspensive ☒ Yes ☐ No
- Average processing time for the appeal body to make a decision: 49 days<sup>75</sup>

**Old Procedure (applications lodged before 7 June 2013)**

<sup>73</sup> Asylum Service, *Information provided to GCR* (March 2015); Asylum Service, *Statistics 1 January – 31 March 2015*, 3.

<sup>74</sup> Article 12(2) PD 114/2010; Article 11(6) PD 113/2013.

<sup>75</sup> Asylum Service, *Information provided to GCR* (March 2015).



### *Time-limits*

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 international protection status, within 30 days.<sup>76</sup> For decisions declaring an application as manifestly unfounded,<sup>77</sup> the deadline for appeals is 15 days.<sup>78</sup>

As of December 2014, the law provides stricter rules for the processing of appeals submitted after the expiry of the aforementioned deadline. Whereas previously the Appeals Committee examined appeals with priority, by deciding on admissibility at preliminary stage and on the merits at later stage, appeals submitted after the deadline are now subject to a preliminary examination by the competent Police Director. The Police Director may declare the appeal as inadmissible, unless the applicant establishes (a) *force majeure* reasons justifying the delay and (b) that he or she immediately lodged the appeal after *force majeure* reasons ceased.<sup>79</sup> If the appeal is deemed admissible, the decision is notified to the applicant and he or she is issued a new asylum seeker's card, pending examination on the merits by the Appeals Committee.

The Appeals Committee must reach a decision on the appeal within 6 months for appeals submitted under the regular procedure, and 3 months for appeals against decisions declaring an application manifestly unfounded or concerning a subsequent application.<sup>80</sup>

### *Suspensive effect*

Appeals have suspensive effect until the Appeals Committee reaches a decision.<sup>81</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>82</sup>

The practice of reissuing the pink card differs depending on the location. When an asylum claim is rejected by the Aliens' Directorate of Attica in Athens, usually an appeal is prepared on the spot with the help of the police, containing only basic information such as the personal details of the applicant and the number of the file, the date of the application and the decision. Following the lodging of that appeal, the pink card is automatically renewed. However, in most other Aliens Directorates registering and processing asylum claims, appeals are not submitted in such 'automatic' manner; the applicant must submit one within the 30-day time-limit.

In these cases, significant barriers have been observed in practice, as applicants are often not informed of their appeal rights in a language which they understand, thereby missing the deadline set by law for lodging an appeal. Moreover, due to severe understaffing and lack of interpreters, applicants may present themselves to the authorities to file an appeal but find no competent officer to receive it.

### *Personal hearing*

Before December 2014, the Appeals Committee could omit a hearing and examine the appeal solely upon examination of the file only in exceptional cases. However, the Appeals Committee may now 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

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<sup>76</sup> Article 25(1)(a) PD 114/2010, as amended by Article 35(17) PD 113/2013.

<sup>77</sup> Article 17(3) PD 114/2010.

<sup>78</sup> Article 25(1)(b) PD 114/2010.

<sup>79</sup> Article 25(4)(b) PD 114/2010, as amended by Article 2 PD 167/2014.

<sup>80</sup> Article 26(4) PD 114/2010.

<sup>81</sup> Article 25(2) PD 114/2010.

<sup>82</sup> Article 25(1)(a) PD 114/2010, as amended by Article 3(1) PD 167/2014.

or to appear before it.<sup>83</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>84</sup>

A decision of the Appeals Committee rejecting the administrative appeal sets a specified time-frame of no more than 90 days for the applicant to leave the Greek territory.<sup>85</sup> The Appeals Committees established under the Appeals Authority for the New Procedure do not have such competence, as seen below.

#### *The operation of the Appeal Committees*

For the Old Procedure, 20 Appeals Committees were established under PD 114/2010 and operate under the responsibility of the Ministry of Interior and Administrative Reconstruction.<sup>86</sup> All 20 Committees are located in Athens. Each Committee consists of:

- (a) An official of the Ministry of Interior or the Ministry of Justice, Transparency and Human Rights, holding a law degree, or former judge or former public servant granted with a law university degree, or a person of recognised standing, specialised or experienced in refugee law or human rights law or international law), who chairs the Committee;
- (b) A representative appointed by UNHCR, who holds Greek citizenship;
- (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.<sup>87</sup>

The chair and the members of the Appeal Committees are full-time employees.<sup>88</sup> Each Committee is provided with support by a secretariat consisting of 5 duly qualified staff members from the relevant Ministry in full-time capacity.

The smooth operation of the Appeals Committees was temporarily suspended in May 2013 for approximately 1 month due to issues related to the professional qualifications of Committee members and recent allegations of abusive employment contracts. The same situation occurred in 2015. Since February 2015, new contract terms have been proposed but are again not deemed suitable by the majority of the former Committees members; this ongoing tension further delays the operation of the Appeals Committees. At the time of writing, there is no information on when and how the Committees will resume operating. Given that temporary suspension of the Committees' operation has already occurred twice since their fairly recent establishment, concerns are raised with regards to their prompt resumption of function.

Moreover, there have been incidents reported by persons assisted by GCR, raising issues around the institutional independence of Appeals Committees and affecting applicants' exercise of appeal rights in practice. In 3 reported cases, the applicant appearing before an Appeal Committee for a hearing was arrested for reasons related to his or her criminal record by police officers, who had strangely been informed of the interview date and place. These cases raise serious concerns as to the role of the Appeals Committee and their relationship with the police, as the rationale behind the establishment of these Committees was the independence of decision-making bodies in the asylum process from the police and such incidents.

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<sup>83</sup> Article 26(5) PD 114/2010, as amended by Article 3 PD 167/2014.

<sup>84</sup> *Ibid.*

<sup>85</sup> Article 26(6) PD 114/2010.

<sup>86</sup> Article 26(1) PD 114/2010.

<sup>87</sup> MD Y139/2000, "Regulation of the National Committee on Human Rights", available at: [http://www.nchr.gr/media/pdf/Kanonismos\\_EEDA.pdf](http://www.nchr.gr/media/pdf/Kanonismos_EEDA.pdf).

<sup>88</sup> The members of the Appeal Committee shall receive an indemnity according to the provisions of Article 17(2)(c) L 3205/2003. The indemnity for the representatives of UNHCR are disbursed to this agency.

## **New Procedure (applications lodged after 7 June 2013)**

### *Time-limits*

Applicants may lodge an administrative appeal against a first instance decision of the Asylum Service rejecting the application, granting subsidiary protection instead of refugee status or withdrawing international protection under the regular procedure before the Appeals Authority, under the same time-limits as the Old Procedure: 30 days for claims deemed unfounded and 15 days for claims deemed manifestly unfounded.<sup>89</sup> The appeal before the Appeals Authority is a written procedure and appeals are examined solely on the basis of information in the file. The Authority may, at its discretion, invite the applicant to a hearing where (a) doubts arise regarding the quality of the first instance interview, (b) the applicant has submitted substantial new elements, or (c) the case presents particular complexity.<sup>90</sup>

The Appeals Committee must reach a decision on the appeal within 3 months.<sup>91</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 Ministry of Interior, which decides on the granting of such permit.<sup>92</sup> Only if the case is referred to the Ministry of Interior, the request for residence permit on humanitarian grounds is examined. The relevant residence permit is valid for 1 year.

### *Suspensive effect*

Similarly to the Old Procedure, appeals before the Appeals Authority have automatic suspensive effect.<sup>93</sup> The asylum seeker's card is withdrawn following the negative first instance decision, and another is issued when the appeal is lodged. This new card may be valid and renewable every 6 months under Article 8(d) PD 113/2013. However, under that provision, the Asylum Service Director may reduce the duration of validity of asylum seekers' cards in accordance with the expected time for the issuance of a final decision on applications for international protection. On that basis, the validity of cards has been reduced to 4 months, with the exception of a 3-month validity for certain nationalities (see the section on Registration above).

### *The operation of the Appeals Authority*

Under Article 2 L 3907/2011, 19 Appeals Authority Committees (AACs) were set up and started operations on 1 July 2013. Each AAC consists of three members (art. 3 Law 3907/2011):<sup>94</sup>

- (a) A person of renowned status, with specialisation or expertise in refugee, human rights or international law, appointed by the relevant Ministry from a list drawn by the National Commission for Human Rights, who chairs the Committee;
- (b) A representative appointed by UNHCR, who holds Greek citizenship;
- (c) A person who holds a university degree in law, political or social sciences, with specialisation in international protection or human rights, appointed by the relevant Ministry from a list drawn by the National Commission for Human Rights.

As of March 2014, the mandate of AAC members is reduced from 2 years to 1 year renewable. Moreover, the National Commission for Human Rights is now required to provide "at least twice the number of candidates of those needed to staff the committees." Should the National Commission for Human Rights fail to provide the requisite number or within the given time, the Appeals Authority must

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<sup>89</sup> Article 25(1)(a) PD 113/2013.

<sup>90</sup> Article 26(4) PD 113/2013.

<sup>91</sup> Article 26(5) PD 113/2013.

<sup>92</sup> Article 33 PD 113/2013; Article 1f JMD 30651/2014.

<sup>93</sup> Article 25(2) PD 113/2013.

<sup>94</sup> Article 3(3) L 3907/2011.

draw up a list of candidates. Where the Appeals Authority also fails to provide a list, the third AAC member is directly appointed by the Ministry.<sup>95</sup>

Prior to the examination of appeals by the AACs, expert rapporteurs (civil servants) prepare the case files and draft a recommendation on the case.<sup>96</sup> Rapporteurs may make binding recommendations on procedural aspects e.g. need to invite the applicant for a hearing, and non-binding recommendations on the merits of the appeal. However, the discretion of the AACs in deciding whether or not to call applicants for a hearing, following prior recommendation of the expert-rapporteur, was put forward to the State Legal Council, whose legal opinions are binding on all public administrative authorities, including the Asylum Service and the Appeals Authority. The State Legal Council, in an Opinion of 22 October 2013, ruled that, according to Greek administrative law, a “hearing is not obligatory for the cases examining applications for international protection including refugee status recognition or the granting of subsidiary protection.”<sup>97</sup>

The State Legal Council’s opinion adopts a regrettable position. Given that representation by a lawyer is not necessary by law for filing an appeal, coupled with the lack of legal aid (see the section on Legal Assistance), those asylum seekers that do not have access to a lawyer are likely to end up with an insufficiently substantiated appeal. The lack of an opportunity for them to present their case orally and in person thus greatly undermines the appeal procedure. The inherent language barriers faced by most asylum seekers make the personal hearing all the more essential, as body language and personal narration of their case at their own pace are usually an invaluable source of crucial information.

The problem is aggravated by the fact that the personnel working on first instance examination does not necessarily have adequate experience in the asylum field. Due to austerity measures, scarcity of resources and difficulties in the appointment of new civil servants, the Asylum Service has not been able to recruit new staff specialised and experienced in asylum. Instead, the government deployed lawyers, political and social scientists, psychologists and economists seconded from other departments to undertake refugee status determination at the Asylum Service.<sup>98</sup> While caseworkers have received training on the asylum procedure, such training may not be sufficient to outweigh the lack of actual experience in the field. Accordingly, as this affects the quality of first instance examination, a thorough second instance examination including a personal hearing seems all the more warranted.<sup>99</sup>

Moreover, PD 113/2013 and the Rules of Procedure of the Appeals Authority, laid down by MD 334/2014, have conferred upon the Director of the Appeals Authority powers beyond those foreseen in L 3907/2011, the framework establishing the Appeals Authority. The Director, amongst others, may decide on the admissibility of appeals submitted after the expiry of the deadline for lodging an appeal,<sup>100</sup>

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<sup>95</sup> Article 3 L 3907/2011, as amended by Article 122(5) L 4249/2014.

<sup>96</sup> Article 26(2) PD 113/2013.

<sup>97</sup> State Legal Council, Opinion 339/2013, 22 October 2013.

<sup>98</sup> In UNHCR, *Greece as a Country of Asylum: UNHCR Observations on the Current Situation of Asylum in Greece* (December 2014) 25, UNHCR noted that “Based on UNHCR monitoring of 342 asylum interviews by Asylum Service caseworkers from 1 January to 30 September 2014, UNHCR considers that they generally comply with minimum standards set out in international, EU and national legislation. UNHCR has a similar assessment with regard to the quality of decisions which include reference to the applicant’s statements, an assessment of credibility, reference to relevant COI as well as legal reasoning for granting or not granting status.” However, the Asylum Service explains (*Information provided March 2015*) that all staff who join the Asylum Service, whether as newly-appointed civil servants or as a result of secondments or permanent transfers from other departments of the state or, finally, on short-term contracts, are by definition inexperienced and need to be (and are) intensively trained before they begin their duties as case workers. According to the Asylum Service, the only individuals in Greece with any RSD experience are the present or former members of Appeal Committees (both those of the Old Procedure system and those belonging to the Appeals Authority), most of whom, while serving on an Appeal Committee are precluded by law from being civil servants. Out of 16 caseworkers employed by the Asylum Service on short-term contracts, only 2 had been former Appeal Committees members and, consequently, had RSD experience.

<sup>99</sup> ECRE & ICJ, *Joint Third Intervention* (May 2014).

<sup>100</sup> Article 25(5) PD 113/2013.

may regulate the volume of appeals handled by the AAC,<sup>101</sup> and works in the direction of guaranteeing the unified handling of the appeals by all AAC.<sup>102</sup> These are restrictions that are liable to interfere with the independence of the second instance asylum procedure. GCR has submitted a request for annulment of PD 113/2013 and MD 334/2014 before the Council of State. The hearing and ruling have not yet taken place.

Furthermore, the AACs were inactive in July-September 2014, as the term of office of their members was not immediately renewed following its coming to an end in June 2014. Information gathered informally and GCR's experience from the field also suggest that, within the past 2 months, the majority of AAC members have been abstaining from their duties, although no such announcement has been made officially.<sup>103</sup> The probability of creating a new backlog of pending cases before the Appeals Authority due to deficiencies related to their operation is an issue of concern.

The end to this hiatus in the Appeals Authority's operation was not uncontroversial, however. The National Commission for Human Rights reports that the (former) MPOCP appointed as AAC members candidates who were not included in the list the former had provided. Moreover, the (former) MPOCP increased the number of envisaged Committees from 8 to 10 without informing the National Commission for Human Rights thereof so as to enable it to adjust the number of candidate members accordingly.<sup>104</sup>

### **Common elements: Judicial review**

In both Old Procedure and New Procedure, applicants for international protection may lodge an application for annulment of a decision against which an administrative appeal is no longer possible, before the Administrative Court of Appeals.<sup>105</sup> The Minister of Interior and Administrative Reconstruction (former MPOCP) also has the right to request the annulment of the decision of the Appeals Committee before the Administrative Court of Appeals.<sup>106</sup> This possibility, time-limits, as well as the competent court for such 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 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).

### **Personal Interview**

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<sup>101</sup> Article 9(10) MD 334/2014.

<sup>102</sup> Article 9(3) MD 334/2014.

<sup>103</sup> See National Commission For Human Rights, *Public Statement on the procedure regarding the establishment of the Appeals Committees under Law 3907/2011* (October 2014) available at: [http://www.nchr.gr/images/English\\_Site/NEWS/GNCHR\\_PublicStatement\\_AppealsCommittees.pdf](http://www.nchr.gr/images/English_Site/NEWS/GNCHR_PublicStatement_AppealsCommittees.pdf); Hellenic League for Human Rights, *New Letter to Nils Muiznieks, Commissioner for Human Rights, about the absence of 2nd instance examination of asylum applications* (September 2014) available at: <http://www.hlhr.gr/index.php?MDL=pages&SiteID=1072>.

<sup>104</sup> National Commission For Human Rights, *Public Statement on the procedure regarding the establishment of the Appeals Committees under Law 3907/2011* (October 2014).

<sup>105</sup> Article 29 PD 114/2010 and Article 29 PD 113/2013, citing Article 15 L 3068/2002.

<sup>106</sup> Article 26(7) PD 114/2010.

*Indicators:*

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

### **Old Procedure (applications lodged before 7 June 2013)**

According to the law, before a decision is taken at first instance, a personal interview should be conducted with the applicant by a Police Officer, appointed to this purpose. After the completion and recording of the interview, the officer provides the General Secretary of Public Order with a written recommendation on the decision to take.<sup>107</sup>

Prior to the interview, applicants should be given, upon request, a reasonable amount of time in order to sufficiently prepare themselves and to consult a legal or other counsellor who will assist them during the procedure. No criteria for the concept of “reasonable time” laid down in the law, save that this “reasonable time” is determined and may be extended at the discretion of the police officer conducting the interview, but cannot exceed 2 months.<sup>108</sup>

The personal interview is conducted with the assistance of an interpreter, able to assure the necessary communication so that the applicant may confirm the facts stated in the application and provide explanations, particularly regarding his or her age, personal history, including the history of close relatives, identity, nationality, the country and place of former residence, former applications for international protection, the routes followed to enter the Greek territory and the reasons for flight and inability to return.<sup>109</sup>

A representative of UNHCR or a partner organisation may also be present during the interview and ask questions to the applicant. A legal advisor of the applicant may also be present and intervene when appropriate during the interview. The UNHCR Athens Office should be informed in reasonable time of the schedule of interviews and names of the applicants interviewed.<sup>110</sup> Nevertheless, under the Old Procedure, there have been instances in practice where the UNHCR office was not informed prior to interviews, thereby compromising the quality of the interview.

A written report (record) should be presented to the applicant at the end of the interview, including the arguments of the applicant the questions addressed to him or her and the relevant answers given, in order for the asylum seeker to approve and sign it. To this end, the applicant should be assisted by the interpreter who also signs the report. Failure of an applicant to approve the report does not prevent the authority from taking a decision on the case. The law also provides that applicants shall have the right to receive, at any time, copy of the report of the personal interview.<sup>111</sup>

However, GCR lawyers have reported certain issues with regard to the transcript of first instance interviews. As there is no secretary responsible for taking minutes of the interview, the transcript is drawn by the interviewing police officer, thereby leaving room for error or insufficiency of detail. Due to

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<sup>107</sup> Article 10(1) PD 114/2010.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

<sup>110</sup> *Ibid.*

<sup>111</sup> Article 10(10)-(11) PD 114/2010.

time-constraints, the interviewer may paraphrase the words of the interviewee, omit crucial details or even misinterpret the asylum seeker's statements in the transcript.

More generally, the quality of asylum interviews under the Old Procedure have been repeatedly criticised by NGOs, UNHCR and the Parliamentary Assembly of the Council of Europe (PACE).<sup>112</sup> Even though UNHCR recognised some progress in 2012 in the quality of the interviews, it also highlighted that the "asylum procedure was, for many years, characterised by a lack of essential procedural guarantees, including a lack of qualified interpretation during interviews, poor quality of interviews and interview records".<sup>113</sup>

When the interview is completed and transcribed, the recommendation drafted by the police officer must also include the opinion of the UNHCR representative, if present during the interview. The said recommendation shall, where applicable, also include a proposal for examining the asylum application as a manifestly unfounded application. In case the decision diverges from UNHCR's opinion and rejects the application, it must be specifically reasoned to that effect.<sup>114</sup>

According to UNHCR,<sup>115</sup> police statistics indicate only 20 cases pending at first instance under the Old Procedure as of 30 September 2014. Figures for 2015 are not available.

### **New Procedure (applications lodged after 7 June 2013)**

First instance interviews conducted by the RAO under the New Procedure reportedly operate more smoothly, compared to the Old Procedure.

Personal interviews, initially scheduled within approximately 2 weeks after registration of the application at the RAO of Attica, may currently be set 1 to 2 months later. At the RAO of Northern Evros, interviews are usually scheduled 1 month after registration. The interview on the designated day takes place at the premises of the RAO and is conducted by one interviewer. Where necessary, arrangements are made for an interpreter to be present, under the same conditions as those discussed in the Old Procedure.<sup>116</sup>

The law also envisages that an interpreter of a language understood by the applicant be present. In practice, however, postponements of interviews have occurred due to the lack of interpreters, which resulted from delays in funding. However, the Asylum Service suggests that hopefully there has not been any interruption in the provision of interpretation services due to lack of funding for a number of months now, nor is there any envisaged for the future.<sup>117</sup>

The NGO Metadrasi provides interpretation services to the Asylum Service in all stages of the procedure. The languages in which interpretation is available are: English, French, Russian, Spanish, Arabic, Kurmanji, Sorani, Turkish, Sinhalam, Swahili, Lingala, Urdu, Punjabi, Hindi, Pashto, Farsi, Dari, Bengali, Georgian, Romanian, Ukrainian, Mandarin Chinese, Albanian, Amharic, Tigrinha and Somali. Interpretation in all the above languages is not available on a daily basis for all Regional Asylum Offices or Units, given that the number of interpreters available for each language varies.<sup>118</sup>

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<sup>112</sup> See Parliamentary Assembly of the Council of Europe, *Migration and asylum: mounting tensions in the Eastern Mediterranean, Report, Committee on Migration, Refugees and Displaced Persons* (23 January 2013), para. 36; UNHCR Greece, *Contribution to the dialogue on migration and asylum* (May 2012) available at: [http://www.unhcr.gr/fileadmin/Greece/News/2012/positions/2012\\_Migration\\_Asylum\\_EN.pdf](http://www.unhcr.gr/fileadmin/Greece/News/2012/positions/2012_Migration_Asylum_EN.pdf); Greek Ombudsman, *Findings after the 16 November 2010 visit in situ of the Ombudsman to the Attica Aliens Police Directorate in Petrou Ralli*, Athens (25 January 2011) available in Greek at: [http://www.synigoros.gr/resources/8957\\_2\\_eggrafostp.pdf](http://www.synigoros.gr/resources/8957_2_eggrafostp.pdf).

<sup>113</sup> UNHCR Greece, *Contribution to the dialogue on migration and asylum* (May 2012).

<sup>114</sup> Article 10(3) PD 114/2010.

<sup>115</sup> UNHCR, *UNHCR observations on the current asylum system in Greece* (December 2014), 24.

<sup>116</sup> Article 17 PD 113/2013.

<sup>117</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>118</sup> *Ibid.*

The lack of certified interpretation services for some languages by Metadrasi is problematic, especially for detainees outside Athens. Examples may be drawn from a case of two brothers from Mongolia in Fylakio, Evros region, reported to GCR. Mongolian does not even exist as an option to select in the relevant list of languages of the Asylum Service's registration database. The applicants had made an asylum application in July 2014 and a first attempt to register them was made through double interpretation. Due to a system failure, their registration was interrupted with no reschedule or recommendation from the RAO to transfer them to the RAO of Attica. Only after an application requesting information on the outcome of their asylum applications where the two asylum seekers registered on 26 November 2014 and had their personal interviews on 15 and 16 December 2014 through double interpretation via the Netherlands; from Greek to English and from English to Mongolian. Registration and interviews took place in the premises of the Orestiada Police Station, whose IT system could support a dual line communication through Skype.

However, the peculiar interviewing conditions in the RAO of Northern Evros, involving technological solutions aiming to respond to the lack of staffing, raise particular concerns. Apart from the frequency of remote interpretation with the assistance of an Athens-based interpreter due to the lack of interpreters in Fylakio, all interviews of applicants in the region are remotely conducted by caseworkers based in Athens, due to the complete absence of caseworkers in Northern Evros.<sup>119</sup> Moreover, between September 2014 and the time of writing, an interpreter for Punjabi was present in the RAO of Northern Evros only during 1 week in December 2014 in order to assist in the registration of 30 asylum applications in Punjabi.

Due to ongoing technical problems with the telecommunication network in the RAO of Northern Evros, interviews are often postponed. Detained asylum seekers are informed neither of the reason of the postponement nor of the rescheduling of the interview, as new dates for an interview are not printed and notified to them.

Interviews of asylum seekers in detention are also problematic. In Northern Evros, the RAO conducts interviews in a container located in the courtyard of the Fylakio pre-removal detention centre, which is run by the Hellenic Police. This means that police officers have uninhibited access to the premises where confidential interviews are conducted, all the more so since doors are left open. In practice, a police officer registering a detainee has the ability to oversee the RAO officer interviewing an asylum seeker from a distance.

The New Procedure envisages audio or video 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>120</sup>

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.

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<sup>119</sup> All the same, according to the Asylum Service, *Information provided to GCR* (March 2015), all the guarantees required by law for the conduct of an asylum interview (e.g. the provision of interpretation services, confidentiality, the right of the asylum seeker to have a counsellor/advisor present during the interview, the keeping of a full and detailed record of the interview) are scrupulously respected.

<sup>120</sup> Article 17(8)-(9) PD 113/2013.



## Common elements

The personal interview takes place without the presence of the applicant's family members, unless the competent police or Asylum Service officer considers their presence necessary.<sup>121</sup> The personal interview must take place under conditions which ensure appropriate confidentiality.<sup>122</sup> In that light, the conditions reported above in relation to interview conditions at the RAO of Northern Evros pose considerable challenges to the duty to conduct interviews confidentially.

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 interviewers must be trained concerning the special needs of women, children and victims of violence and torture.<sup>123</sup>

A personal interview with the applicant may be omitted where (a) the Police or Asylum Service is able to take a positive decision on the basis of available evidence; or (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.<sup>124</sup> In practice, the applicants themselves or usually their legal advisor, if there is one, must collect and submit such a certificate. Yet relevant certificates issued by specialised NGOs providing psychological support were admitted neither by police officers during the first instance interview nor by the Appeal Committees on appeal under the Old Procedure.

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>125</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>126</sup>

## Legal assistance

### Indicators:

- Do asylum seekers have access to free legal assistance at first instance in the regular procedure in practice?<sup>127</sup>  
☐ Yes      ☒ not always/with difficulty      ☐ No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a negative decision?  
☐ Yes      ☒ not always/with difficulty      ☐ No
- In the first instance procedure, does free legal assistance cover:  
☐ representation during the personal interview    ☐ legal advice    ☒ both    ☐ Not applicable
- In the appeal against a negative decision, does free legal assistance cover  
☐ representation in courts      ☐ legal advice    ☒ both    ☐ Not applicable

<sup>121</sup> Article 10(7) PD 114/2010; Article 17(5) PD 113/2013.

<sup>122</sup> Article 10(8) PD 114/2010; Article 17(6) PD 113/2013.

<sup>123</sup> Article 10(8a) PD 114/2010; Article 17(7a) PD 113/2013.

<sup>124</sup> Article 10(2) PD 114/2010; Article 17(2) PD 113/2013.

<sup>125</sup> Article 10(3) PD 114/2010; Article 17(3) PD 113/2013.

<sup>126</sup> Article 10(4) PD 114/2010; Article 17(4) PD 113/2013.

<sup>127</sup> It should be noted that, as per these indicators, free legal assistance refers to NGOs' services and not to a state-organised and funded legal aid system.

Asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their application.<sup>128</sup> Legal representatives and other counsellors may represent the asylum seeker at all stages of the procedure, including the personal interview.<sup>129</sup> They have access to applicant's file if this information is relevant to the examination of the asylum application, except in some circumstances related to national security.<sup>130</sup> Other advisors, mainly NGOs who assist the applicant shall have access to the applicant's file, if this information is relevant to the assistance provided. Given the fact, however, that legal counsellors of NGOs are those providing legal assistance to applicants in practice, there has been no opportunity to assess the difference between the two above-mentioned provisions of the law. Legal representatives equally have access to First Reception Centres (FRC), detention centres and sea port and airport transit zones, which may only be restricted on security or public order grounds, or in order to ensure an efficient examination of the application. In such cases, the authorities must ensure that the applicant's access to a lawyer or legal advisor is not severely hindered or rendered impossible.<sup>131</sup>

Free legal assistance is only provided for judicial appeals before the Administrative Court of Appeals, in accordance with the general provisions on free legal aid.<sup>132</sup> Free legal assistance is provided upon the applicant's request,<sup>133</sup> subject to (a) an insufficient means test, establishing the applicant's inability to afford legal representation;<sup>134</sup> and (b) a merits test, determining that the application has a "probability" of success.<sup>135</sup> The choice of legal representative is made on the basis of a list drawn up by the relevant Bar Association.<sup>136</sup>

There are a number of significant barriers to accessing free legal aid, however. The request for legal aid is itself an application procedure before a court.<sup>137</sup> Accordingly, in order to submit an application which must be signed by a lawyer, the asylum seeker need pay a lawyer or find one willing to file the legal aid application *pro bono*.

Even where the legal aid request is submitted and deemed successful, the applicant has no choice over his or her legal representative, as lawyers are appointed from the list designated by the Bar Association. The low level and great delays in remuneration awarded to legal aid lawyers act as a severe disincentive for legal professionals to take up asylum cases. This adversely affects both the availability and the quality of free legal assistance.

In Greece, free legal assistance and representation in all stages of the administrative and judicial procedure has always been provided by NGOs according to their capacity. The former European Refugee Fund (ERF) has until recently been one of the major funding sources for NGOs to this purpose. Following its coming to an end in February 2015, and pending the approval of programmes under the Asylum, Migration and Integration Fund (AMIF) programmes, Greek NGOs face serious funding difficulties in their free legal assistance provision, with a direct impact in the quality of the asylum procedure.

The recast Asylum Procedures Directive (APD) requires Member States to provide, upon request, free legal assistance and representation in appeal procedures, as well as the possibility to afford free legal assistance at first instance. The Directive has not yet been transposed into Greek legislation and no formal system of free legal aid has been established for either first or second instance administrative

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<sup>128</sup> Article 11(1) PD 114/2010; Article 10(1) PD 113/2013.

<sup>129</sup> Article 11(5) PD 114/2010; Article 10(5) PD 113/2013.

<sup>130</sup> Article 11(3) PD 114/2010; Article 10(3) PD 113/2013.

<sup>131</sup> Article 11(4) PD 114/2010; Article 10(4) PD 113/2013.

<sup>132</sup> Article 11(2) PD 114/2010; Article 10(2) PD 113/2013, citing L 3226/2004.

<sup>133</sup> Article 2(1) L 3226/2004.

<sup>134</sup> Article 2(2) L 3226/2004.

<sup>135</sup> Article 2(4) L 3226/2004.

<sup>136</sup> Article 3(1) L 3226/2004.

<sup>137</sup> Articles 2 and 9 L 3226/2004.

procedures. Nevertheless, the Asylum Service initiated a dialogue with Greek NGOs in September 2014, requesting comments on specific issues pertaining to free legal aid.

The recast APD provides that member-states should provide upon request free legal assistance and representation within the framework of appeal procedures,<sup>138</sup> while free legal assistance and/or representation may also be provided at first instance.<sup>139</sup> Until now, this Directive has not been transposed into Greek legislation and no formal free legal aid system has been in place yet as regards either the first or second instance of the administrative asylum procedure, although the Asylum Service in September 2014 initiated a dialogue with the Greek NGOs, asking for comments on specific issues.

### 3. Dublin

#### Indicators:

- |   |       |
|---|-------|
| - Number of outgoing requests in 2014:                          | 1,290 |
| - Number of incoming requests in 2014:                          | 58    |
| - Number of outgoing transfers carried out effectively in 2014: | 761   |
| - Number of incoming transfers carried out effectively in 2014: | 1     |

Source: Asylum Service

#### Procedure

#### Indicator:

- If another EU Member State accepts responsibility for the asylum applicant, how long does it take in practice (on average) before the applicant is transferred to the responsible Member State? 4-6 months

#### Incoming transfers

Returns of asylum seekers from another Member State to Greece under the Dublin Regulation area extremely rare, since all EU Member States and Associated States have halted Dublin transfers following the *MSS v Belgium & Greece* ruling of the European Court of Human Rights (ECtHR).<sup>140</sup>

As of 7 June 2013, the returnee is transferred to the Asylum Service, where the application will be filed.

#### Outgoing transfers

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. However, a case was brought to the attention of GCR last year concerning an Iraqi national in the pre-removal detention centre of Fylakio, Evros region. The applicant had made an application on 18 August 2014 at the First Reception Centre (FRC) and possessed all the necessary information and documentation proving the presence of family members in Germany. Although the Regional Asylum Office (RAO) had been informed of this case by the FRC and GCR, the request to Germany was only registered 3 months later, on 19 November 2014, eventually

<sup>138</sup> Article 20(1) APD. Note, however, that Article 21(2) APD enables Member States to restrict free legal aid to appeals before a court or tribunal.

<sup>139</sup> Article 20(2) APD.

<sup>140</sup> ECtHR, *MSS v Belgium & Greece*, Application No. 30696/09, Judgment of 21 January 2011.

leading to the applicant's release from detention following an order by the Administrative Court of Alexandroupolis on 28 November 2014. This case illustrates some of the practical difficulties in the implementation of Dublin procedures.

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. Delays occur and the waiting time for transfers is still extremely high, reaching 5-6 months. However, deadlines for "take charge" requests as well as transfers are usually met without jeopardising the outcome of the reunification. According to the information given by the Asylum Service in 2015, when an applicant is detained and another Member State accepts the "take charge" request of the Greek Dublin Unit on the basis of family reunification, the Asylum Service notifies the Hellenic Police authorities and revokes detention in case it had previously recommended it.<sup>141</sup>

Generally, outgoing requests by Greece receive a reply within 1 to 1½ month after the request is submitted, in line with the time-limits imposed by the Regulation.<sup>142</sup>

#### *Dublin criteria*

The majority of outgoing transfers under the Dublin Regulation take place in the context of family reunification. 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 may no longer be transferred after the *MSS 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>143</sup> and notifies Greece of its acceptance of the take charge request.

According to information provided by the Asylum Service in 2015, the most frequent trend currently is 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. On that basis, since Greece has not previously examined the application to apply the Regulation when the claim is lodged in another country, applicants may request their families to join them on the basis of Dublin's family unity criteria,<sup>144</sup> which are at the top of the hierarchy of responsibility criteria, rather than the discretionary clauses.<sup>145</sup>

Currently, only a few family reunification cases falling under the Old Procedure are pending with the police. These will soon become obsolete, since new claims are now registered with the Asylum Service.

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 First Reception Centre (FRC) 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 Police Directorate to provide an escort for the transfer.

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<sup>141</sup> Articles 8-11 Dublin III Regulation, more particularly Article 10.

<sup>142</sup> Article 22(1) Dublin III Regulation.

<sup>143</sup> Article 17 Dublin III Regulation.

<sup>144</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>145</sup> Articles 8-11 Dublin III Regulation, more particularly Article 10.

### Modality of transfer

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.

During 2014, although applicants had to cover their own travel expenses due to budgetary constraints of the Asylum Service, the latter informed GCR that a sum of €60,000 has been approved for travel costs for Dublin transfers, and that an open call for tenders from travel agencies has been advertised. In fact, as of the end of 2014 and the beginning of 2015, travel expenses of 'Dubliners' have been financed by the Asylum Service, covering booking and issuance of the relevant tickets, as well as other relevant expenses to be met. Only recently, in February 2015, was the relevant financial aid provided suspended temporarily, pending renewal of the Asylum Service's agreement with the relevant contracting party in order to resume.<sup>146</sup>

In the first term of 2015, Greece has made 90 outgoing requests and received 16 incoming requests under the Dublin Regulation.<sup>147</sup>

### Appeal

#### Indicators:

- Does the law provide for an appeal against the decision in the Dublin procedure:
  - ☒ Yes ☐ No
  - o if yes, is the appeal ☐ judicial ☒ administrative
  - o If yes, is it suspensive ☒ Yes ☐ No
- Average processing time for the appeal body to make a decision:

Applications for international protection are declared inadmissible where the Dublin Regulation applies.<sup>148</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>149</sup> Such appeal is also directed against the transfer decision, which is incorporated in the inadmissibility decision.<sup>150</sup>

According to Asylum Service statistics, as of 28 February 2015, there have been 130 cases in which applications for international protection, declared inadmissible due to the acceptance of responsibility by Bulgaria under the Dublin Regulation, were successfully appealed before the Appeals Committee. However, an increasing number of second instance decisions uphold transfers to Bulgaria, even where the persons concerned are found to be victims of torture. As regards applicants whose appeals against a transfer were rejected, only 1 transfer to Bulgaria has taken place. The remainder have either absconded from Greece or are awaiting transfer.<sup>151</sup>

### Personal Interview

<sup>146</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>147</sup> Asylum Service, *Statistics 1 January – 31 March 2015*, 2.

<sup>148</sup> Article 18(b) PD 113/2013.

<sup>149</sup> Article 25(1)(b) PD 113/2013.

<sup>150</sup> *Ibid.*

<sup>151</sup> Asylum Service, *Information provided to GCR* (March 2015).

*Indicators:*

- Is a personal interview of the of the asylum seeker conducted in most cases in practice in the Dublin procedure? ☒ Yes ☐ No

Under the Dublin procedure, a personal interview is not always required.<sup>152</sup> In particular, no personal interviews take place while outgoing requests are pending for the transfer of asylum seekers under the family reunification procedure. However, a succinct personal interview takes place in the non-family reunification cases, where the asylum seeker after being fingerprinted appears to have applied for asylum in another EU Member State before arriving in Greece. Such cases are not particularly common and usually concern people who enter Greece after having first crossed the Turkish-Bulgarian borders.

### *Legal assistance*

*Indicators:*

- Do asylum seekers have access to free legal assistance at the first instance in the Dublin procedure in practice? ☐ Yes ☒ not always/with difficulty ☐ No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a Dublin decision? ☐ Yes ☒ always/with difficulty ☐ No

Free legal assistance and representation with regard to the Dublin procedure is not provided by law until a decision on the application of the Dublin Regulation is taken. Access to free legal assistance and representation in the context of a Dublin procedure is available only in judicial appeals, 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.

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 furthermore claims that its 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.

### *Suspension of transfers*

*Indicator:*

- Are Dublin transfers systematically suspended as a matter of policy or as a matter of jurisprudence to one or more countries? ☐ Yes ☒ No

To GCR’s knowledge, there has been a number of 4 decisions of the Appeals Committees holding that an asylum seeker may not be transferred to Bulgaria due to the existence of a real risk of serious

<sup>152</sup> Article 5 Dublin III Regulation.

violations of Article 3 ECHR.<sup>153</sup> All cases had received free legal assistance by NGOs: the first 3 by the Ecumenical Refugee Programme and the fourth by GCR.

According to the Asylum Service, as of 28 February 2015, 130 transfers to Bulgaria have been suspended by the Appeals Committee. All other cases have ruled that return to Bulgaria is lawful, even for victims of torture.

#### 4. Admissibility procedures

Under the Old Procedure, an application was considered inadmissible on the following grounds:<sup>154</sup>

- (a) Another EU Member State has granted international protection or has accepted responsibility under the Dublin Regulation;
- (b) The applicant comes from a “safe third country” or a “first country of asylum”;
- (c) The application is a subsequent application;
- (d) A family member has submitted a separate application to the family application without justification for lodging a separate claim.

The same grounds for inadmissibility are applicable in the New Procedure.<sup>155</sup> However, the PD 113/2013 provides for a separate admissibility procedure for preliminary review of subsequent applications (see section on Subsequent Applications below).<sup>156</sup>

Under both Old and New Procedure, an applicant may appeal against an inadmissibility decision within 15 days.<sup>157</sup>

As of 28 February 2015, 2,066 applications have been found to be inadmissible under Article 18 PD 113/2013.<sup>158</sup>

#### 5. Border procedure (border and transit zones)

##### *General (scope, time-limits)*

###### *Indicators:*

- Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
- 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
- Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No

##### **Old Procedure (applications lodged before 7 June 2013)**

<sup>153</sup> 17<sup>th</sup> AAC, Decision n. 95/000190454, 21 March 2014; 11<sup>th</sup> AAC, Decision n. 95/000188424, 11 February 2014; 2<sup>nd</sup> AAC, Decision n. 95/000186004, 29 November 2013.

<sup>154</sup> Article 18 PD 114/2010.

<sup>155</sup> Article 18 PD 113/2013.

<sup>156</sup> Article 23 PD 113/2013.

<sup>157</sup> Article 25(1)(b) PD 114/2010; Article 25(1)(b) PD 113/2013.

<sup>158</sup> Asylum Service, *Information provided to GCR* (March 2015).

Where applications for international protection are lodged in the transit zones of sea ports or airports, applicants enjoy the rights set out in Articles 8, 11 and 12 PD 114/2010.<sup>159</sup> These includes the right to be informed in a language they understand or are reasonably expected to understand, to have access to UNHCR or other organisations, to receive a “pink card”, while unaccompanied minors benefit from special guarantees.

Applications at the border are processed under the accelerated procedure (see section on Accelerated Procedures below).<sup>160</sup> However, where no decision is taken within 4 weeks of the application, the asylum seeker is allowed entry into the Greek territory for their application to be examined.<sup>161</sup> Moreover, where the accelerated procedure may not be applied at the border or in transit zones, in particular due to the arrival of large numbers of applicants for international protection, the authorities may apply the accelerated procedure in other locations in the proximity of the border.<sup>162</sup>

### New Procedure (applications lodged after 7 June 2013)

Under the New Procedure, applications at the border are no longer subject to accelerated procedures but are channelled into the regular procedure.<sup>163</sup> The provisions on applicable rights and the 4-week time-limit for decisions at the border mirror Article 24 PD 114/2010.

According to the Asylum Service, Article 24 PD 113/2013 is applied only in airport transit zones.<sup>164</sup> On 16 November 2013, a Police Circular was communicated to all police authorities, informing them *inter alia* of the procedure to be followed when a third-country national in detention wishes to apply for international protection, including in transit zones.<sup>165</sup>

### Appeal

#### Indicators:

- Does the law provide for an appeal against a decision taken in a border procedure?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------
- o if yes, is the appeal
 

<input type="checkbox"/> judicial	<input checked="" type="checkbox"/> administrative
-----------------------------------	--
- o If yes, is it suspensive?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------

Under both Old and New Procedure, the time-limit for lodging an appeal against a negative decision issued under a border procedure or in First Reception premises is 3 days.<sup>166</sup>

However, where the applicant makes an application for judicial review against the decision of the Appeals Committee and judicial review has suspensive effect over the deportation order, the applicant is allowed to enter the Greek territory pending a decision of the Court.<sup>167</sup>

The Asylum Service reports cases where the procedure in both instances was not concluded within 28 days, as required by Article 24 PD 113/2013, resulting in the applicant's release from airport authorities.

<sup>159</sup> Article 24(1) PD 114/2010.

<sup>160</sup> Article 24(1) PD 114/2010.

<sup>161</sup> Article 24(2) PD 114/2010.

<sup>162</sup> Article 24(3) PD 114/2010.

<sup>163</sup> Article 24(1) PD 113/2013.

<sup>164</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>165</sup> Police Cir. No. 71778/13/1766605.

<sup>166</sup> Article 25(1)(d) PD 114/2010; Article 25(1)(d) PD 113/2013.

<sup>167</sup> Article 24(4) PD 114/2010; Article 24(3) PD 113/2013.



Applicants subsequently presented themselves to the RAO of Attica in order to be issued with an asylum seeker's card.<sup>168</sup>

### Personal Interview

#### Indicators:

- Is a personal interview of the of the asylum seeker conducted in most cases in practice in a border procedure? ☒ Yes ☐ No
- If so, are interpreters available in practice, for interviews? ☐ Yes ☒ No<sup>169</sup>
- Are personal interviews ever 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 (see section on Regular Procedure: Personal Interview). As mentioned above, as per the Asylum Service, Article 24 PD 113/2013 is only applied in airport transit zones.

### Legal assistance

#### Indicators:

- Do asylum seekers have access to free legal assistance at first instance in the border procedure in practice? ☐ Yes ☒ not always/with difficulty ☐ No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a decision taken under a border procedure? ☐ Yes ☒ not always/with difficulty ☐ No

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 aid is again provided only by NGOs according to their capacity and in the locations in which they operate.

## 6. Accelerated procedures

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

#### Old Procedure (applications lodged before 7 June 2013)

The PD 114/2010 leaves broad scope for acceleration by laying down relatively open-ended grounds for applying the accelerated procedure. Applications for international protection are examined under the accelerated procedure where:<sup>170</sup>

- (a) The application is manifestly unfounded. This is the case where the applicant:<sup>171</sup>
  - o Invokes reasons manifestly irrelevant to refugee or subsidiary protection status;
  - o Has filed an abusive application or to mislead the authorities in bad faith;
- (b) The applicant comes from a “safe country of origin” or a “safe third country”.

<sup>168</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>169</sup> According to the Asylum Service, interpreters are actually available, albeit not physically present.

<sup>170</sup> Article 17(3) PD 114/2010.

<sup>171</sup> Article 17(4) PD 114/2010.

Claims processed under the accelerated procedure must be concluded within 3 months. Failure to take a decision within that deadline has no consequences, however.<sup>172</sup> Following the personal interview, the asylum seeker's "pink card" is renewed for a further 3 months until a decision is reached, instead of 6 months under the regular procedure.<sup>173</sup> Bearing in mind severe delays and the need for repeated appointments for the renewal of "pink cards", however, coupled with the fact that a final decision was often issued years later, this provision placed considerable burden upon applicants subject to the accelerated procedure.

In practice, under the Old Procedure, the accelerated procedure was applied to the vast majority of asylum applications, regardless of whether the criteria set by Article 17(3) PD 114/2010 were met or not. GCR is aware of many cases where applications of persons originating from Afghanistan, Somalia and even Syria were being processed according to the accelerated procedure, even though it is obvious that these claims do not fall within the scope of Article 17(3). Additionally, there are reported cases of victims of torture, rape or other serious forms of psychological, physical or sexual violence, whose applications are examined under the accelerated procedure under the Old Procedure.<sup>174</sup>

### **New Procedure (applications lodged after 7 June 2013)**

The PD 113/2013 has substantially increased and elaborated the permissible grounds for applying the accelerated procedure. The accelerated procedure may be applied where:<sup>175</sup>

- (a) The applicant comes from a "safe country of origin";
- (b) The application is manifestly unfounded. This is the case where the applicant invokes reasons manifestly irrelevant to refugee or subsidiary protection status;
- (c) The applicant has presented inconsistent, contradictory, improbably or unsubstantiated information, which render his or her statement of suffering persecution clearly not credible;
- (d) The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents regarding identity and/or nationality, which could adversely affect the decision;
- (e) The applicant has submitted another application for international protection under different personal details;
- (f) The applicant has not provided information establishing, with a reasonable degree of certainty, his or her identity or nationality, or it is likely that in bad faith he or she has destroyed or disposed of identity or travel documents, which would help determine his or her identity or nationality;
- (g) The applicant has lodged an application for the sole purpose of delaying or impeding the enforcement of an earlier or imminent deportation decision or removal by other means;
- (h) The applicant failed to comply with the obligations to cooperate with the authorities throughout the procedure such as by submitting travel and identity documents or notifying their address;<sup>176</sup>
- (i) The applicant refuses to comply with the obligation to have his or her fingerprints taken;
- (j) The application was submitted by an unmarried minor for whom an application had already been submitted by his or her parent(s) and was reject, and the applicant has not invoked new substantial elements regarding his or her personal situation or the situation in his or her country of origin.

The extensive list of grounds for accelerating the examination of applications seems highly problematic, although it has relied on the grounds set out in Article 23(4) of Directive 2005/85/EC, the original APD.

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<sup>172</sup> Article 17(2) PD 114/2010.

<sup>173</sup> Article 8(1)(d) PD 114/2010.

<sup>174</sup> Maieutics Handbook, *Elaborating a common interdisciplinary working methodology (legal-psychological) to guarantee the recognition of the proper international protection status to victims of torture and violence* (December 2012), 47.

<sup>175</sup> Article 16(4) PD 113/2013.

<sup>176</sup> Article 8(1) PD 113/2013.

Beyond introducing new reasons for applying the accelerated procedures, the PD 113/2013 adopts the Directive's open-ended formulation of certain grounds, which may create tensions with international refugee law. By way of example, Article 16(4)(f) PD 113/2013 enables the Asylum Service to channel a claim into the accelerated procedure on the sole reason that the applicant has not provided information to establish with reasonable certainty his or her nationality or identity. This ground is most likely to be deemed applicable when an asylum seeker has entered Greece without documents, which is not however a valid reason for "penalising" the applicant *per se*.<sup>177</sup>

Moreover, the permissibility of acceleration under Article 16(4)(h) PD 113/2013, where the applicant does not fulfil any of the obligations set out in Article 8 PD 113/2013, seems to leave significant ambiguity as to the exact scope of accelerated procedures. Failure to comply with some of these obligations is expressly mentioned as a ground for acceleration, for example as regards fingerprinting in Article 16(4)(i) or submitting identity and travel documents under Article 16(4)(d). Therefore the interpretation of Article 16(4)(h) seems uncertain in practice.

Nevertheless, the PD 113/2013 has marked some improvement compared to the Old Procedure, as Article 16(4) no longer permits the use of the accelerated procedure for applicants coming from a "safe third country".

Similarly to the Old Procedure, the examination of an application under the accelerated procedure must be concluded within 3 months. In cases where the examination exceeds the maximum time limit, the applicant has the right to request information by the competent examination authorities concerning the timeframe within which the decision on the application is to be expected.<sup>178</sup> The Asylum Service is in charge of taking first instance decisions under the New Procedure for both regular and accelerated procedures.

As of 30 June 2014, under the New Procedure, out of 4,051 negative decisions, only 665 were considered to fall under the accelerated procedure. These concerned 154 nationals of Georgia, 153 nationals of Albania, 133 nationals of Pakistan, 47 nationals of Bangladesh 27 nationals of Morocco, 26 nationals of China, 21 nationals of Egypt, 14 nationals of Senegal, 9 nationals of Algeria, 7 nationals each of Armenia, Indonesia and Moldova, 6 nationals of Sri Lanka, 5 nationals each of Ghana, India, Comoros Island and Nigeria, 4 nationals each of Afghanistan and Russia, 2 nationals each of Guinea, Dominican Republic, Iraq, Cuba, Burkina Faso and Sierra Leone, 1 national each of Ethiopia, Vietnam, Gambia, Cameroon, Kenya, DR Congo, Liberia, Mauritania, Ukraine, Paraguay, Rwanda, Serbia, Sudan Tanzania and Philippines.<sup>179</sup> Figures for 2015 are not yet available.

## Appeal

### Indicators:

- Does the law provide for an appeal against a decision taken in an accelerated procedure?
 

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
o if yes, is the appeal:	<input type="checkbox"/> judicial	<input checked="" type="checkbox"/> administrative
o If yes, is it suspensive?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

<sup>177</sup> Article 31 Refugee Convention.

<sup>178</sup> Article 16(2) PD 113/2013.

<sup>179</sup> Asylum Service, *Information provided to GCR* (March 2015).

Under both Old and New Procedure, the time-limit for lodging an appeal against a decision in the accelerated procedure is 15 days,<sup>180</sup> as opposed to 30 days under the regular procedure. The Appeals Committee or Appeals Authority Committee must reach a decision on the appeal within 3 months.<sup>181</sup>

In practice, the examination of appeals under the Old Procedure far exceeded the time limits provided by the law, as it took several years.

Under the New Procedure, however, Article 26(4) PD 113/2013 precludes the possibility of an oral hearing with the applicant for appeals in the accelerated procedure.

### Personal Interview

#### Indicators:

- Is a personal interview of the asylum seeker conducted in most cases in practice in an accelerated procedure? ☒ Yes ☐ No
  - o If yes, is the personal interview limited to questions relating to nationality, identity and travel route? ☐ Yes ☒ No
  - o If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
- Are interviews ever conducted through video conferencing? ☒ Frequently ☐ Rarely ☐ Never

Under both Old and New Procedure, 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).

However, under the New Procedure, the Appeals Committee cannot conduct an oral hearing with the applicant for appeals in the accelerated procedure.

### Legal assistance

#### Indicators:

- Do asylum seekers have access to free legal assistance at first instance in accelerated procedures in practice? ☐ Yes ☒ not always/with difficulty ☐ No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a decision taken under an accelerated procedure? ☐ Yes ☒ not always/with difficulty ☐ No

The same legal provisions and practice apply to both the regular and the accelerated procedure (see Regular Procedure: Legal Assistance).

## C. Information for asylum seekers and access to NGOs and UNHCR

#### Indicators:

- Is sufficient information provided to asylum seekers on the procedures in practice? ☐ Yes ☒ not always/with difficulty ☐ No

Old Procedure

<sup>180</sup> Article 25(1)(b) PD 114/2010; Article 25(1)(b) PD 113/2013.

<sup>181</sup> Article 26(4) PD 114/2010; Article 26(5) PD 113/2013.

- ☒ Yes ☐ not always/with difficulty ☐ No New Procedure
- Is sufficient information provided to asylum seekers on their rights and obligations in practice? ☐ Yes ☒ not always/with difficulty ☐ No Old Procedure
- ☒ Yes ☐ not always/with difficulty ☐ No New Procedure
- Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ not always/with difficulty No
- Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ not always/with difficulty ☐ No
- 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 ☐ not always/with difficulty ☒ No

## Access to information

Asylum seekers arriving at the Greek borders, upon apprehension, may not have access to information regarding the asylum procedure, including on how to apply for international protection. Translation and interpretation is not guaranteed either at the borders, thereby impeding the provision of relevant information by officials and the overall access to the asylum procedure. Exceptionally, information regarding the asylum procedure and interpretation services in certain languages is provided by UNHCR staff in the Greek-Turkish land border area of Evros region, within the context of the First Reception Centre (FRC), and in the Lesvos and Samos First Reception Service Mobile Units.

The authorities competent to receive and examine an application must inform the applicant immediately and in any case within 15 calendar days, providing them with information in a language that they understand.<sup>182</sup>

Access to information has improved since the establishment of the New Procedure. The Asylum Service has published an informational leaflet for asylum seekers, entitled “Basic Information for People Seeking International Protection in Greece”. The leaflet has been published in 20 languages: Greek, English, Albanian, Amharic, Arabic, French, Georgian, Spanish, Chinese (Mandarin), Sorani, Moldavian, Bengali, Dari, Ukrainian, Urdu, Russian, Swahili, Turkish, Farsi and Hindi. This leaflet describes all stages of the procedure and the rights of the applicants throughout. It is available online,<sup>183</sup> as well as in hardcopy in all Regional Asylum Offices (RAOs) and Units, and is given to all applicants who register their claim. In the RAO of Attica, the leaflet is also given to all third-country nationals who present themselves there but who have not been registered on the same day due to the limited capacity of the Office.

A different information leaflet has been published in relation to the Dublin procedure, entitled “The Dublin II Regulation”. This leaflet is also available in the aforementioned 20 languages and may be found online.<sup>184</sup> However, at the time of writing, the leaflet has still not been updated after the Dublin III Regulation entered into force in July 2013. This undermines applicants’ access to adequate information on their rights during these procedures,<sup>185</sup> especially given that the asylum registration form contains a specific question regarding potential applicability of the Dublin III Regulation.

<sup>182</sup> Article 3 PD 220/2007.

<sup>183</sup> Asylum Service, *Basic Information for People Seeking International Protection in Greece* (June 2013), available at: [http://www.yptp.gr/images/stories/2013/info\\_20\\_languages\\_new.pdf](http://www.yptp.gr/images/stories/2013/info_20_languages_new.pdf).

<sup>184</sup> Asylum Service, *The “Dublin II Regulation”* (June 2013), available at: [http://www.yptp.gr/images/stories/2013/dublin\\_20\\_languages\\_finial\\_new.pdf](http://www.yptp.gr/images/stories/2013/dublin_20_languages_finial_new.pdf).

<sup>185</sup> Article 4(1) Dublin III Regulation.

No booklet tailored to asylum seeking children has been produced by the Asylum Service, however. Note also that the specific leaflets for unaccompanied minors foreseen under Article 4(3) of the Dublin III Regulation are also not provided.

### Access to UNHCR and NGOs

Under the Old Procedure, information on access to UNHCR and NGOs was only provided by police authorities on informal and fragmentary basis. Under the New Procedure, the law also permits communication with UNHCR or any other organisation providing legal, medical and psychological assistance.<sup>186</sup> In all RAOs and the FRC and FRMUs, UNHCR representatives are present. Moreover, all RAOs contain information on relevant NGOs. However, access and communication with NGOs is still rather limited in remote areas, as the majority of organisations operate in large cities and certain border points of importance.

Access to UNHCR and NGOs for detained asylum seekers merits particular consideration. Although UNHCR has access to detention centres, such access to detained applicants is not always effective in practice, due to the large number of persons detained and the scattered detention facilities across the country (bearing in mind that all police stations could be used as administrative detention centres under the Old Procedure).

NGOs' capacity to access detainees is also limited due to human and financial resource constraints. NGOs operate in specific regions of the country with large numbers of protection seekers and where detention centres are located. Yet, at the pre-removal detention centre of Fylakio, the presence of 1 GCR lawyer and 1 interpreter until the end of February 2015 have not been sufficient to meet applicants' needs in the detention centre and the RAO of Northern Evros.

Moreover, authorities have not always granted NGO staff full access to detention centres. GCR has been denied access to the FRC of Northern Evros, the only operational FRC at the time of writing, until it registers with the First Reception Service (FRS).

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.

### D. Subsequent applications

#### Indicators:

- Is a removal order suspended during the examination of a first subsequent application?
  - o At first instance ☒ Yes ☐ No
  - o At the appeal stage ☒ Yes ☐ No
- Is a removal order suspended during the examination of a second, third, subsequent application?
  - o At first instance ☒ Yes ☐ No
  - o At the appeal stage ☒ Yes ☐ No

All subsequent applications lodged after 7 June 2013 are submitted before the Asylum Service. Where an applicant for international protection lodges a subsequent application, the competent Regional

<sup>186</sup> Article 8(1)(c) PD 113/2013.

Asylum Office (RAO) or Asylum Unit must examine the elements of the subsequent application in conjunction with the elements of the previous application or appeal.<sup>187</sup> The law sets out no time-limit for lodging a subsequent application, as the very purpose of Article 23 PD 113/2013 is to allow for another examination of the case whenever new elements arise.

A claim may also be deemed a subsequent application in the case of a family member of the applicant who lodges a separate application. In this case, the preliminary examination examines whether there are facts which justify a separate asylum application by the dependant.<sup>188</sup>

### **Preliminary examination procedure**

An applicant lodging a subsequent application must present the final decision on his or her previous application, as the information therein will be examined in conjunction with the subsequent application.<sup>189</sup> In practice, as a large number of repeat applicants are unable to meet the requirement of presenting the final decision on their initial claim, the Asylum Service proceeds with the registration of subsequent application and assumes itself the responsibility of requesting the case file of the previous application from the relevant Ministry.

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, all information is provided in writing by the applicant, without an interview<sup>190</sup> It is worth highlighting, however, that the Asylum Service has used the preliminary examination procedure to assess not only whether new substantial elements have arisen in relation to the claim, but also whether the examination of the initial application has been conducted in accordance with the guarantees provided in Article 8 PD 114/2010 or Article 8 PD 113/2013.

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>191</sup>

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal of applicants who have lodged a subsequent asylum application are suspended.<sup>192</sup>

However, subsequent applicants are in practice faced with extremely slow preliminary examination procedures, which in the vast majority of cases known to GCR have lasted several months. 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, namely protection from detention for lack of documentation.<sup>193</sup> Protection from deportation is also hindered in practice if applicants have no documents proving their right to stay pending the preliminary examination of their subsequent claim.

## **E. Guarantees for vulnerable groups of asylum seekers (children, traumatised persons, survivors of torture)**

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<sup>187</sup> Article 23(1) PD 113/2013.

<sup>188</sup> Article 23(5) PD 113/2013.

<sup>189</sup> Article 23(1) PD 113/2013.

<sup>190</sup> Article 23(2) PD 113/2013.

<sup>191</sup> Article 23(4) PD 113/2013.

<sup>192</sup> Article 23(3) PD 113/2013.

<sup>193</sup> Greek Ombudsman, *Delays in file transferring of subsequent application of asylum and arrest of asylum seekers* (February 2015) Doc. No 196167 (available only in Greek).



## 1. Special Procedural guarantees

### Indicators:

- Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☒ Yes ☐ No ☐ Yes, but only for some categories
- Are there special procedural arrangements/guarantees for vulnerable people? ☒ Yes ☐ No ☐ Yes, but only for some categories

Greek law foresees a referral system laying down minimum standards for the reception of asylum seekers.<sup>194</sup> More specifically, the competent authorities must make sure that special 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>195</sup> In addition, according to Article 11(2) L 3907/2011, relating to first reception services, vulnerable groups include unaccompanied minors, persons with disabilities or suffering from an irreversible disease, elderly persons, women in pregnancy or childbirth, single parent families with minor children, victims of torture, rape or other serious forms of psychological, physical or sexual violence or abuse.

The head of the First Reception Centre (FRC), upon receiving a recommendation of the head of the Medical Screening and Psychosocial Support Unit, refers persons belonging to vulnerable groups to the competent body of social support or protection. The referral of persons must be conducted within 15 days, and may be extended for a period of 10 days under exceptional circumstances.<sup>196</sup>

In practice, in first reception facilities, health and psychosocial care as well as interpretation services are outsourced to NGOs, so the latter are the ones to proceed to the referrals provided by L 3907/2011. Currently, only 1 FRC and 2 mobile units of the First Reception Service (FRS) are operational and are rather understaffed. As a result, very few newly-arrived asylum seekers actually receive any kind of health and psychosocial care and may thus be actually identified as vulnerable.

As regards the referral of vulnerable persons, considerable delays have been reported. In the case of a person identified by the FRC as a victim of torture,<sup>197</sup> by a referral order dated 8 September 2014 the person was only released from the pre-removal centre in Fylakio mid-November 2014 following a decision granting subsidiary protection, issued approximately 1 month after the asylum interview had been conducted. Nevertheless, the RAO had already submitted on 9 September 2014 a request for a place in a hosting facility to the competent National Centre of Social Solidarity, to which it received no response until the final decision on the asylum application had been taken.

Regarding the personal interview, caseworkers under both Old Procedure and New Procedure must be trained on the special needs of women, children and victims of violence and torture.<sup>198</sup>

Moreover, asylum applications lodged by persons belonging to vulnerable groups shall be examined by priority,<sup>199</sup> although regarding the Appeals Committees of the New Procedure, it is up to the Director of the Appeals Authority to introduce such a case by priority.<sup>200</sup>

<sup>194</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>195</sup> *Ibid.*

<sup>196</sup> Article 11(5) L 3907/2011.

<sup>197</sup> In the FRC in Northern Evros, the medical staff of the NGO Medical Intervention (Med-in) are in practice the ones suggesting whether a newly arriving asylum seeker is a victim of torture in order for him or her to be referred either to an open reception facility or to the RAO.

<sup>198</sup> Article 17(3) and 26(6) PD 114/2010; Article 16(3) PD 113/2013.

<sup>199</sup> Article 11(2) L 3907/2011.

<sup>200</sup> Article 10(9)(a) PD 114/2010; Article 16(3) PD 113/2013.



### *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>201</sup> This referral should preferably take place before the personal interview on the asylum claim.

Moreover, under the Old Procedure, if during the personal interview on the asylum claim there are serious indications that the applicant has been subjected to torture, he or she must be referred to a specialised medical centre or a doctor or a psychologist of a public hospital, who shall make a report on the existence of injuries that could be the result of maltreatment or of indications of torture.<sup>202</sup> Under the New Procedure, a similar provision is applied, which however no longer requires that the indications be “serious”, and which permits the referral to be made not only to a public hospital but also to a civil society organisation.<sup>203</sup>

The aforementioned guarantees must also apply during the interviews with regards to the appeals procedure,<sup>204</sup> as well as during any necessary supplementary examination, which takes place in case doubts have arisen or more explicit information about the examined case is needed.

In practice, however, under the Old Procedure, even applicants who did mention that they are victims of torture were not referred to a specialised centre during the first instance personal interview. On the other hand, under the Old Procedure, their interview was postponed if the applicant so requested, in order to submit the above-mentioned medical report, where there was information that a person is subjected to such an identification procedure. The Appeal Committees of the Old Procedure quite often referred appellants claiming to be victims of torture for identification.

Under the New Procedure, applicants or appellants who claim to be victims of torture are referred for identification. However, the GCR is aware of cases where no such referral has been made. Under the New Procedure, the postponement of the interview in order to submit the medical report may be granted only once. According to the Asylum Service, since that there are no specialised state institutions for alleged torture victims to be referred to, applicants who claim to be victims of torture during the registration of their application with the Asylum Service are referred to NGOs which have developed this expertise.

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.

Until recently, in Athens, torture survivors were referred for identification purposes to NGO Metadrasi, a service currently unavailable due to lack of funding. On the other hand, rehabilitation of victims of torture has been provided by the GCR and Babel Day Centre in the context of “Prometheus” project, co-funded by the European Commission, run until September 2014, and is currently offered by GCR, Babel Day Centre and Médecins Sans Frontières (MSF), pending the start of the “Prometheus II” project.

### *Women, families and children*

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<sup>201</sup> Article 20 PD 220/2007.

<sup>202</sup> Article 10(13) PD 114/2010; Article 17(11) PD 113/2013.

<sup>203</sup> Article 17(12) PD 113/2013.

<sup>204</sup> Article 10(14) PD 114/2010.

Concerning female applicants, special efforts should be made so that the interview is conducted by a specialised female interviewer and that a female interpreter is present.<sup>205</sup> If this is not possible, the relevant reasons should be stated in the report.

In relation to families, a separate interview should be conducted with each adult family member.

Where children are interviewed, the personal interview should take into consideration their maturity and psychological effects of their traumatic experiences.<sup>206</sup> A minor, unaccompanied or not, aged more than 14 years old may apply for asylum individually, whereas an unaccompanied minor under 14 years old may only apply via his or her legal representative.<sup>207</sup>

## 2. Use of medical reports

### Indicators:

- Does the legislation provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?  
☒ Yes      ☐ Yes, but not in all cases      ☐ No
- Are medical reports taken into account when assessing the credibility of the applicant's statements?      ☒ Yes      ☐ No

As discussed above, where there are indications during the interview that the applicant has been subjected to torture, a report on the existence of injuries that could be the result of maltreatment or of indications of torture may be requested (see section on Special Procedural Guarantees above). There are no concrete criteria for carrying out a medical examination. The officials conducting the interview must have received appropriate training in order to be able to identify the indications referred to by the PD 113/2013. To this end, special training seminars on survivors of torture were offered to caseworkers conducting interviews in the new Asylum Service; the impact of those trainings remains to be seen. However, no training on this issue has been offered to staff examining asylum claims under the Old Procedure, compromising the treatment granted to the remainder of pending asylum applications under PD 114/2010.

Decisions of the Appeals Authority Committees (AACs) and Appeals Committees of the Old Procedure recognising victims of torture as refugees often refer to medical and psychological or psychiatric certificates provided by NGOs.

In the past, torture survivors were referred for identification and rehabilitation to the Medical Rehabilitation Centre for Victims of Torture. However, a 2011 Council of State decision cast doubt on the probative value of the medico-legal reports of the Centre.<sup>208</sup> The medical reports provided by NGO Metadrasi have been based on the methodology laid down in the Istanbul Protocol. However, as was the case with the Medical Rehabilitation Centre, the medico-legal reports of Metadrasi lack the necessary state authority and are therefore not binding on state authorities as proof of torture.

## 3. Age assessment and legal representation of unaccompanied children

<sup>205</sup> Article 10(1) PD 114/2010; Article 17(1) PD 113/2013.

<sup>206</sup> *Ibid.*

<sup>207</sup> Article 3(3)-(4) PD 113/2013.

<sup>208</sup> Council of State, Decision No. 1482/2011.

### Indicators:

- Does the law provide for an identification mechanism for unaccompanied children?  
☒ Yes      ☐ No
- Does the law provide for the appointment of a representative to all unaccompanied children?  
☒ Yes      ☐ No

The competent examination authorities may conduct medical examinations so as to determine the age of unaccompanied children,<sup>209</sup> subject to informing the child of the nature and consequence thereof, and to obtaining consent from the child or his or her guardian.<sup>210</sup>

The fact that an unaccompanied minor has refused to undergo a medical examination shall not prevent the decision authority from taking a decision on the application.<sup>211</sup> However, authorities may not reject the application for international protection on the sole ground that the child refused to undergo a medical examination.<sup>212</sup> Finally, where there is persistent doubt on the applicant's age following an examination, the applicant must be deemed to be a minor.<sup>213</sup>

Unaccompanied minors are not always granted international protection status. According to information provided by the Asylum Service to GCR staff, a number of children's applications have been rejected at second instance.<sup>214</sup> The GCR has offered legal assistance to 2 unaccompanied minors in the appeal procedure before the Administrative Court of Appeals, where the children were not granted any kind of protection either. The hearing has already taken place but the relevant decisions are still pending.

### *Age assessment in the First Reception Centre (FRC)*

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 First Reception Service (FRS).<sup>215</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 and the Asylum Service.<sup>216</sup>

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

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<sup>209</sup> Article 12(4) PD 114/2010; Article PD 11(3) 113/2013.

<sup>210</sup> Article 12(4)(a)-(b) PD 114/2010; Article PD 11(3)(a)-(b) 113/2013.

<sup>211</sup> Article 12(6) PD 114/2010; Article PD 11(5) 113/2013.

<sup>212</sup> Article 12(4)(c) PD 114/2010; Article PD 11(3)(c) 113/2013.

<sup>213</sup> Article 12(5) PD 114/2010; Article PD 11(4) 113/2013.

<sup>214</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>215</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>216</sup> However, in its document No 5236 of 20 June 2014, the Asylum Service, replying to a letter communicated by GCR regarding *inter alia* age assessment issues, suggested that: "When an asylum seeker has initially stated to the competent authorities that he/she is an adult and consequently has been registered as such, if the person states before the Asylum Service that he/she is a minor, he is registered by the latter as a minor and the relevant allegation is considered as per its credibility during the interview. If prior to the registration by the Asylum Service an age assessment procedure has been conducted, taking into account that the medical certificates of forensic doctors and doctors regarding age are public documents, the conclusions may be doubted only by providing documents of the same legal force with the opposite content, namely an original document of his/her country's authorities according to which he/she is a minor. In this case, the person is considered a minor. Similarly, if the medical exams conducted before provide no certainty for the age of the person, then he/she is granted the benefit of the doubt. In this same document addressed to GCR, the Asylum Service also explained that it has taken the initiative to produce a draft of a Joint Ministerial Decision in order for a procedure to be established, further enhancing the content of the dispositions of art. 11 PD 113/2013. The suggested procedure is similar to the one provided in the above-mentioned Ministerial Decision in place in the framework of the First Reception Service."

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 had 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. It remains to be seen how the new procedure in the FRC is practically implemented, but in any case, the ground is set for a more proper age assessment for children.

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 FRC the official registration of age, noting also the reasons and the evidence supporting the relevant conclusion.

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 right to appeal, in accordance with the Code of Administrative Procedure, submitting the appeal to the Secretariat of the FRC 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 First Reception facilities. Also, although the possibility to receive mails is provided by the FRS, 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.

However, as UNHCR points out, the FRS is still in the process of finalising Standard Operating Procedures and tools to clarify implementation modalities of MD 92490/2013. UNHCR has observed inconsistencies in the treatment of unaccompanied minors' cases by the various First Reception regional structures.<sup>217</sup> In practice, a large number of unaccompanied children crossing the borders of Greece are systematically wrongly registered as adults. As a result, they face the danger of prolonged detention in adult detention facilities and hindrance from the enjoyment of the rights of the child.

In a specific case of a young person from Afghanistan who claimed to be under 18, the person had been admitted to the FRC on 16 September 2014 and was referred from the FRC to the pre-removal centre on 29 September 2014 (after 14 days). On 23 September 2014, the age determination act that characterised him as an adult was communicated to him. On 1 October 2014, he appealed against the decision, requesting a medical examination in accordance with the prescribed procedure. On 31 October 2014, the relevant decision of 27 October 2014 was communicated to him, rejecting his application because he did not present any new documents or evidence to prove his true identity.

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<sup>217</sup> UNHCR, *UNHCR Observations on the current situation of asylum in Greece* (December 2014), 11.

In 3 cases of young persons who claimed to be under 18 within the pre-removal centre of Fylakio, for whom an age assessment act had been produced by the FRC classifying them as adults, the age assessment act had been based solely on the conclusions reached on the grounds of a medical and psychosocial examination.

It should be noted that, according to the Director of the FRS, every document received *after* the referral of a new entrant to the pre-removal centre is forwarded to the pre-removal centre and the personal file of the detainee is updated.

#### *Appointment of guardian*

Regardless of whether an application for international protection is lodged by an unaccompanied child, the competent authorities must take appropriate measures to ensure the minor's necessary representation.<sup>218</sup> This action must be taken in line with the best interests of the child.<sup>219</sup> To this end, the authorities must 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.

In practice, however, the guardianship system is completely dysfunctional, as prosecutors and the Court's office do not have the necessary resources to handle the large number of cases referred to them and as there is no institution or body in place that prosecutors can refer to in order to appoint permanent guardians. In fact, the same Prosecutor usually formally acts as guardian for far more than one children. In some cases, permanent guardianship is transferred to Directors of the Reception Centres or state social workers. In a 2012 report, UNHCR and NGOs note that it:

"[S]eems that the procedures followed in order to ensure the representation and protection of unaccompanied children depends on the discretion of the prosecutor and on the supporting services that the prosecutor may have at his or her disposal (such as NGOs, social services)."<sup>220</sup>

Even now, the guardianship system has undoubtedly not reached a satisfactory level of efficiency yet. In its last decision on the framework of the execution of the ECtHR judgment in *MSS v Belgium and Greece*, the Council on Europe Committee of Ministers regretted the fact that no relevant information was provided and called upon the Greek authorities to put in place a mechanism securing the appointment of guardians for all unaccompanied minors.<sup>221</sup>

In practice, applicants who receive an age assessment act by the FRS are referred to hosting facilities either from the FRC or the RAO staff and, if a hosting facility is found, they are accompanied to that facility by Metadrasi staff. Immediately after the age assessment and before the transfer to the pre-removal centre, the prosecutor of Orestiada is informed, in order to issue an order of protective custody confirming that the pre-removal centre in Fylakio is responsible for their protection until they are brought to a hosting facility. The prosecutor is also informed about those who may be presented as parents or relatives and wish to initiate the guardianship process. The pre-removal centre of Fylakio, which does not have appropriate conditions for minors, used to transfer the children recognised as such to the Paranesti pre-removal centre. However, during a GCR visit in Paranesti in April 2015, no

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<sup>218</sup> Article 19(1) PD 220/2007.

<sup>219</sup> Article 18(1) PD 220/2007.

<sup>220</sup> UNHCR, France Terre d'Asile, Save the Children and PRAKSIS, *Protection Children on the Move: Addressing protection needs through reception, counselling and referral and enhancing cooperation in Greece, Italy and France* (July 2012) available at: <http://www.unhcr.it/cms/attach/editor/PDF/Protecting%20children%20on%20the%20move%202012.pdf>.

<sup>221</sup> CoE Committee of Ministers, *Outcome of 1214th Meeting (DH) 2-4 December 2014* (5 December 2014) CM/Del/Dec(2014)1214, 20.

unaccompanied minors were found to be detained there anymore, and all those previously residing there all been transferred to hosting facilities.

During the first months of operation of the FRC, it was reported that children accompanied by their adult siblings were separated from them upon arrival due to a restrictive interpretation of the definition of family. The children were held in the FRC and were referred to hosting facilities, while their adult siblings remained detained in the adjacent pre-removal centre of Fylakio. In one case, a child who had arrived together with his adult brother was separated from him, but the two were reunited following the intervention of the prosecutor. Currently, if adult siblings are present, the prosecutor issues a provision of temporary care assignment of children to their adult siblings.

## F. The safe country concepts

### Indicators:

- Does national legislation allow for the use of safe country of origin concept in the asylum procedure? ☒ Yes ☐ No
- Does national legislation allow for the use of safe third country concept in the asylum procedure? ☒ Yes ☐ No
- Does national legislation allow for the use of first country of asylum concept in the asylum procedure? ☒ Yes ☐ No
- Is there a list of safe countries of origin? ☐ Yes ☒ No
- Is the safe country of origin concept used in practice? ☐ Yes ☒ No
- Is the safe third country concept used in practice? ☐ Yes ☒ No

Under both Old Procedure and New Procedure, an application for international protection may be rejected as inadmissible where the applicant avails him or herself of adequate protection from a “first country of asylum” or a “safe third country” (see section on Admissibility Procedures above).<sup>222</sup>

### *First country of asylum*

According to Article 19 PD 114/2010 (Old Procedure) and Article 19 PD 113/2013 (New Procedure), a country is considered as “first country of asylum” for a particular applicant if he or she has been recognised by that country as a refugee and can still avail him or herself of that protection or otherwise enjoys sufficient protection in that country, including benefiting from the principle of *non-refoulement*, provided that he or she will be re-admitted to that country.<sup>223</sup>

### *Safe third country*

Under the Old Procedure, a country is considered as a “safe third country” for a specific applicant when all the following cumulative conditions are fulfilled:

- (a) the applicant's life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- (b) the country respects the principle of *non-refoulement* in accordance with the 1951 Refugee Convention;
- (c) the applicant is not at risk of suffering serious harm as described in [the Qualification Directive];

<sup>222</sup> Article 18(b) PD 114/2010; Article 18(c) PD 113/2013.

<sup>223</sup> Article 19 PD 114/2010; Article 19 PD 113/2013.

- (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected by this country;
- (e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Refugee Convention.<sup>224</sup>

In the New Procedure, the criteria for a “safe third country” mirror those of PD 114/2010, subject to an additional criterion:

- (f) The applicant has a link with the third country concerned which would reasonably allow him or her to move to that country.<sup>225</sup>

The fulfilment of these conditions must be examined in each individual case and for each applicant separately.<sup>226</sup> Where the third country designated as safe does not permit the applicant to enter its territory, the asylum application must be examined in substance.<sup>227</sup> In practice, to the knowledge of GCR, Greece has not applied the “safe third country” concept in practice. Therefore these legal provisions have not been subject to interpretation.

### *Safe country of origin*

Under the Old Procedure, PD 114/2010 defines the “safe country of origin” concept as applicable where the applicant (a) has the nationality of or habitual residence in that country; and (b) has not submitted any serious grounds for considering the country not to be a safe country of origin in their particular circumstances in terms of their qualification as beneficiary of international protection.<sup>228</sup> A country may be considered as a “safe country of origin” where it may be clearly established that its nationals are not at risk of persecution or serious harm.<sup>229</sup>

A national list of safe countries of origin was to be drawn up by the Greek Police, and could include parts of the territory of a country.<sup>230</sup> This last provision has been dropped in the New Procedure.<sup>231</sup> Moreover, the competent authority to formulate a list of safe countries of origin is the Department of International Cooperation and Documentation of the Central Asylum Service.

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 interpretation of the above-mentioned provisions in decision-making practice. The adoption of such a list does not seem to be envisaged in the future.

## **G. Treatment of specific nationalities**

### *Asylum seekers from Bangladesh, Pakistan, Georgia, Egypt, Albania*

As of October 2014, as opposed to a 4-month validity applicable to all other nationalities, applicants originating from Albania, Bangladesh, Egypt, Georgia and Pakistan receive an asylum seeker's card valid for 3 months, instead of the 45-day period previously applicable to these nationalities.<sup>232</sup> The *ratio*

<sup>224</sup> Article 20(1) PD 114/2010.

<sup>225</sup> Article 20(1) PD 113/2013.

<sup>226</sup> Article 20(2) PD 114/2010; Article 20(2) PD 113/2013.

<sup>227</sup> Article 20(3) PD 114/2010; Article 20(3) PD 113/2013.

<sup>228</sup> Article 21(2) PD 114/2010; Article 21(2) PD 113/2013.

<sup>229</sup> Article 21(3) PD 114/2010; Article 21(3) PD 113/2013.

<sup>230</sup> Article 21(1)(b) PD 114/2010.

<sup>231</sup> Article 21(1)(b) PD 113/2013.

<sup>232</sup> Decision 8248/2014 of the Director of the Asylum Service of the Ministry of Public Order and Citizen Protection “on the validity of cards of applicants for international protection”.

for this distinction, according to the Asylum Service Director's Decision, is the different period of time expected to be necessary for the issuing of a decision on the asylum claim of applicants depending on their nationality.

#### *Treatment of asylum seekers from Syria*

Fast-track processing under the regular procedure has been applied for Syrian nationals since 23 September 2014 who wish to lodge an asylum application for the first time before the Asylum Service and who hold original identification documents proving their origin e.g. passport, national ID or/and driving license.<sup>233</sup> Under this procedure, both registration and decisions on applications take place within the same day. UNHCR mentioned that, as of mid-November 2014, the capacity of this fast-track procedure was limited, allowing for only 12 applications to be processed per week.<sup>234</sup> According to the Asylum Service, until 31 January 2015, 416 of such asylum applications had been registered and examined under this procedure.<sup>235</sup>

However, access to the procedure in order for registration and a decision to take place on the same day is not guaranteed, even if an appointment for lodging an asylum application under the fast-track procedure may be booked via Skype twice a week for the Syrians that fulfil the above conditions. Moreover, this fast-track procedure is not available to Syrians who wish to lodge a subsequent application.

In any event, the case remains that a considerable number of Syrians do not wish apply for asylum in Greece.<sup>236</sup>

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<sup>233</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>234</sup> UNHCR, *UNHCR Observations on the current asylum system in Greece* (December 2014), 17.

<sup>235</sup> Asylum Service, *Information provided to GCR* (March 2015).

<sup>236</sup> UNHCR, *UNHCR Observations on the current asylum system in Greece* (December 2014), 15, 22.



## Reception Conditions

### A. Access and forms of reception conditions

#### 1. Criteria and restrictions to access reception conditions

##### Indicators:

- Are asylum seekers entitled to material reception conditions according to national legislation :
  - During the accelerated procedure?
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes, but limited to reduced material conditions	<input type="checkbox"/> No
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  - During border procedures:
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes, but limited to reduced material conditions	<input type="checkbox"/> No
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  - During the regular procedure:
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes, but limited to reduced material conditions	<input type="checkbox"/> No
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  - during the Dublin procedure:
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes, but limited to reduced material conditions	<input type="checkbox"/> No
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  - During the appeal procedure (first appeal and onward appeal):
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes, but limited to reduced material conditions	<input type="checkbox"/> No
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  - In case of a subsequent application:
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes, but limited to reduced material conditions	<input type="checkbox"/> No
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- Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

Asylum seekers in Greece, including those transferred back to Greece or awaiting transfer to another EU Member State under the Dublin Regulation, generally do not benefit from any material support, notwithstanding the legal obligation of the state to provide accommodation and minimum financial assistance, as laid down in legislation. Many asylum seekers, including children, are homeless or live in substandard accommodation.

Article 12(1) PD 220/2007 provides that the authorities competent to receive and accommodate asylum seekers<sup>237</sup> 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>238</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 applicant's subsistence needs are covered by own sources.<sup>239</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>240</sup>

<sup>237</sup> I.e. the Ministry of Labour, Social Security and Social Solidarity.

<sup>238</sup> Article 12(3) PD 220/2007.

<sup>239</sup> *Ibid.*

<sup>240</sup> Article 12(4) PD 220/2007.

The criteria and evidence used for the assessment of “sufficient means” are those applicable to Greece’s social welfare framework.<sup>241</sup>

In a 2014 GCR survey with operators of open reception centres for asylum seekers in 2014,<sup>242</sup> Asked about the legal entitlement of asylum seekers to material reception conditions throughout the different stages of the application process, some organisations referred to L 3907/2011 which entitles refugees to services such as emergency medical treatment, food, and living conditions. Since these entitlements are only applicable to those having lodged an asylum claim, irregular migrants are excluded from the benefits granted by law and are socially marginalised due to the impossibility of self-sustainment through legal means. Some of the receptions centres’ operators stated, however, that they provide services on a humanitarian basis also to undocumented migrants and underlined that unaccompanied children are entitled to receive material conditions until they turn 18.

Obstacles to receiving material conditions may exist mostly because the demand for support exceeds the centres’ capacity to provide it (e.g. with regard to accommodation). Waiting time for being provided material assistance at the reception centres is unbearably long and centres are sometimes located far away from metropolitan areas, NGOs or hospitals where health care or other assistance not provided by the reception centres can be provided. Furthermore, experience by GCR shows that insufficient accommodation capacities of reception centres and delays or unwillingness of the authorities to issue documents can prevent asylum seekers from receiving the material conditions they are entitled to.

## 2. Forms and levels of material reception conditions

### Indicators:

- Amount of the financial allowance/vouchers granted to asylum seekers on 31 December 2014 (per month, in original currency and in euros): N/A. Small amounts are provided on *ad hoc* basis

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>243</sup>

For persons declared as disable, 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>244</sup> The amount of financial assistance is defined in accordance with the level of assistance provided in social welfare legislation.<sup>245</sup>

However, contrary to what is stipulated in the law, the vast majority of asylum seekers still do not receive adequate reception conditions in Greece to date. There is no financial allowance in practice to cover the living expenses of applicants. Reports suggest that significant numbers of asylum seekers,

<sup>241</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>242</sup> GCR sent a questionnaire to 15 reception centres in Greece and received responses by 11 on general information such as accommodation capacity, personnel employed and services provided. Only 4 reception centres answered the more detailed questions of the questionnaire on service provision, legal obligations, government funding. These centres are LAVRIO-RED CROSS (hereinafter LAVRIO), MISSION-ATHENS ARCHDIOCESE (hereinafter ARCHDIOCESE), STEGI-PRAKSIS (hereinafter PRAKSIS) and ANOGIA, EIN (hereinafter ANOGIA).

<sup>243</sup> Article 13(2) PD 220/2007.

<sup>244</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>245</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”.

including persons transferred back to Greece under the Dublin Regulation before the *MSS* ruling are left unassisted, homeless or end up in overpriced and overcrowded shared rooms. People who are not accommodated in accommodation centres also face serious obstacles in gaining access to services including health care and education, among others.<sup>246</sup>

According to the findings of the survey conducted by the GCR in 2014, it is noteworthy that opinions on what services are to be provided by law are highly divergent. While all institutions which answered the survey named accommodation, food and clothing as legal entitlements of refugees, only some operators provide particular services as well, such as social services, legal assistance and access to education and financial assistance, either because they consider their provision as a legal obligation or on a voluntary basis.

Another aspect of concern is the level of financial assistance provided to asylum seekers. PRAKSIS expressed concern about the financial assistance they can provide, which according to the organisation amounts to 40% of the social welfare benefits of a Greek national and is not sufficient for a decent living at all. Other reception centres declared that the financial support they receive covers the services they provide to asylum seekers, but not for granting financial allowance or vouchers to the asylum seekers. ARCHDIOCESE admitted to be unaware of the procedure of direct financial support to asylum seekers, but highlighted that persons with disabilities that are not able to receive financial benefits would otherwise be allowed to obtain a place in shelters especially for people with such special needs.

### 3. Types of accommodation

#### Indicators:

- Number of places in all the reception centres (both permanent and for first arrivals):
  - 1,160 places in permanent facilities (as of mid-September 2014)
  - 240 places in the FRC in Fylakio
- Type of accommodation most frequently used in a regular procedure :
  - ☐ Reception centre    ☒ Hotel/hostel    ☐ Emergency shelter    ☐ private housing    ☐ other
- Type of accommodation most frequently used in an accelerated procedure :
  - ☐ Reception centre    ☒ Hotel/hostel    ☐ Emergency shelter    ☐ private housing    ☐ other
- Number of places in private accommodation: N/A
- Number of reception centres: 16 open reception centres and 1 FRC
- Are there any problems of overcrowding in the reception centres?    ☒ Yes    ☐ No
- Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?    ☒ Yes    ☐ No
- What is, if available, the average length of stay of asylum seekers in the reception centres? Varies depending on the reception centre.
- Are unaccompanied children ever accommodated with adults in practice?    ☒ Yes    ☐ No

There are 16 open reception centres in Greece, with the following maximum capacity, where available:

Open reception centre	Location	Maximum capacity
Agioi Anargiroi	Attica	70
Anogia	Attica	25
Arxis Refugees Shelter	Attica	12 families and 8 single-parent families

<sup>246</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 21.

Doctors of the World Athens	Attica	70
Missions Athens Archdiocese	Attica	20
Red Cross Lavrio	Attica	320
Praskis Athens Stegi	Attica	65
Hospitality Nostos	Attica	74
Future Nostos Moshato	Attica	Not available
Society of Minors' Care Isavron	Attica	18
Makrinitza Volos Arsis	Volos	30
Volos Agria	Volos	30
Oreokastro Arsis	Thessaloniki	30
Arsis Alexandroupoli	Thrace	22
Praxis & Red Cross Patras	Patras	30 unaccompanied children
Praxis & Red Cross Patras	Patras	40 families

These centres offered a total maximum of 1,160 places as of mid-September 2014. Additionally, there are apartments in Athens, Thessaloniki and Lesbos. Under PD 220/2007, exceptionally, the authorities may provide accommodation in a hotel or another suitable place if it is not possible to house an applicant in an accommodation centre for reasons of capacity and the applicant is neither detained nor restricted in a border post. However, in all cases, the basic needs of the applicant must be covered.<sup>247</sup>

Most of these 16 reception centres are run by NGOs, and have been depending on funding, mainly originating from the European Refugee Fund (ERF). However, disbursement of ERF funding in Greece has been very slow, thereby adversely affecting the level of services delivered to the few asylum seekers provided with a space in one of the centres, including for referrals to hospitals and schools.

The latest version of the “Greek Action Plan on Asylum Reform and Migration Management”, initially presented by Greece to the European Commission in August 2010,<sup>248</sup> was presented during the informal EU Justice and Home Affairs Council meeting of January 2013.<sup>249</sup> This revised Action Plan foresaw an increase in reception places, as well as some specialised facilities for children, all of which would be welcome measures if adopted and implemented in practice. Initial EU emergency funding has contributed to some extent to construction and refurbishment costs, but considerable additional resources are required to ensure the ongoing effective management, staffing and maintenance of such facilities. There are also indications that significantly more time will be required before the construction of new centres can start, as entitlements to the properties identified must be secured and construction tenders prepared before the building of additional reception places can begin. Even with the additional capacity of the proposed new and refurbished centres, the total reception capacity will still fall far short of the actual needs, should the number of asylum applications remain at current levels; 9,432 applications for international protection were submitted in 2014 and 2,992 during January-March 2015.<sup>250</sup> Thus asylum seekers in Greece continue to face a high risk of homelessness, destitution and other conditions that hinder or render impossible the effective lodging of an asylum application.

According to the Asylum Service, all applicants who are registered are asked whether they are in need of accommodation. If so, the Asylum Service communicates the applicant's request for accommodation

<sup>247</sup> Article 13(10) PD 220/2007.

<sup>248</sup> European Commission, *Joint statement by Mr Christos Papoutsis, Minister of Citizen Protection of Greece and Cecilia Malmström, European Commissioner in charge of Home Affairs: Greece and the Commission agree to enhance cooperation on reforming the Greek asylum system* (2010) MEMO 10/450, 27 September 2010.

<sup>249</sup> Irish Presidency of the Council of the European Union, *Discussion Paper – Session II (Home Affairs) Greek National Action Plan on Asylum and Migration Management* (2013) Informal Justice and Home Affairs Ministers' Meeting Dublin 17 - 18 January 2013, available at: <http://www.eu2013.ie/media/eupresidency/content/documents/Greek-National-Action-Plan-on-Asylum-and-Migration.doc>.

<sup>250</sup> Asylum Service, *Statistics 1 January – 31 March 2015*, 1.

to the National Centre of Social Solidarity (NCSS – “EKKA” in Greek), the competent authority for the allocation of applicants to the existing reception centres/facilities.

Indicatively, the RAO of Attica, which has received by far the largest number of asylum applications in Greece according to statistics, had communicated to the NCSS a total 1,149 accommodation requests by July 2014. According to the NCSS, the total number of accommodation requests received in 2014 was 4,269, compared to 3,220 in 2013.<sup>251</sup> 27.08% of those requests were made by the Asylum Service and 27.24% by NGOs. Among these requests, the rate of success and average waiting time for accommodation was as follows:

Category of applicant	Number of requests	Rate of success	Average waiting period
Adults	806	36.6%	6 months
Families	103	100%	24 days
Single-parent families	257	96.4%	24 days
Unaccompanied children	2,390	100%	37 days

During this “waiting period”, children were either in detention, homeless or under precarious housing.

In mid-September 2014, 1,160 reception places were available in open accommodation structures, out of which 1,139 were operational.<sup>252</sup> The Greek Government’s commitment concerning the establishment of 2,500 places in total for asylum seekers by the end of 2014 has therefore not been implemented so far.<sup>253</sup>

The involvement of external service providers (NGOs and others) in the operation of the reception facilities is regulated on a case-by-case basis, depending on the provisions of the individual Programme Agreement concluded between the external service provider and the Division of Social Protection and Solidarity, Department for the Protection of Refugees and Asylum Seekers at the Ministry of Labour, Social Security and Social Solidarity. By virtue of Ministerial Decision 93510/2011, coordination of the third parties involved in the system for managing accommodation was assigned by the Ministry of Health to the National Centre for Social Solidarity (today under the supervision of the Ministry of Labour, Social Security and Social Solidarity).<sup>254</sup>

Especially alarming during the 2014 survey conducted by GCR was a finding that reception centres mentioned that people often stay 18 months and even longer, even though Article 13(2) PD 220/2007 limits stay in accommodation centres to 1 year. Alternatively, those asylum seekers could be children that have to be accompanied until they turn 18 or adult asylum seekers who stay in the facilities, because they have no other place to go.

#### **4. Conditions in reception facilities**

Under PD 220/2007, during their stay in reception centres, families should be housed in the same place.<sup>255</sup> Moreover, children should be accommodated with their parents or with the adult family member responsible for them in full respect of their specific needs, with the aim of safeguarding their

<sup>251</sup> NCSS, *Statistics 2014 provided to GCR*.

<sup>252</sup> European Commission, *On the Assessment of the implementation of the Greek Action Plan on Asylum Reform and Migration Management*, SWD(2014) 316, 6 October 2014, 12.

<sup>253</sup> *Ibid*, 13.

<sup>254</sup> EMN, *Second Focussed Study 2013: The Organisation of Reception Facilities for Asylum Seekers in the different Member States* (2013), available at: [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/11a.greece\\_national\\_report\\_reception\\_facilities\\_en\\_final.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/11a.greece_national_report_reception_facilities_en_final.pdf), 13.

<sup>255</sup> Article 13(3) PD 220/2007.

family life.<sup>256</sup> Moreover, while providing accommodation to the applicant, the competent authorities must take all adequate measures as possible to keep together the applicant's family that is present on the Greek territory, with the applicant's consent. Upon expiry of the 1-year residence in open centres, applicants must be assisted in finding an adequate private place of living.<sup>257</sup>

Each accommodation centre shall operate on the basis of its internal regulation establishing the "house rules".<sup>258</sup> Housing in accommodation centres must ensure the protection of private life and access to adequate medical and health services.<sup>259</sup> One of the ways in which the Greek Action Plan aims at improving reception conditions is through the provision of social, psychological, medical and pharmaceutical care, while placing emphasis on vulnerable cases. To that end, the recruitment of an adequate number of various experts such as doctors, psychologists and social workers has been envisaged.

Further, the authorities competent to receive and accommodate asylum seekers, and the persons responsible for the management of accommodation centres must ensure that the right to family life and to personal security are protected within those centres.<sup>260</sup> Staff working in accommodation centres must be adequately trained through seminars offered by the UNHCR, the relevant Ministry or other specialised organisations. Staff shall be bound by the confidentiality principle in relation to any personal information they obtain in the course of, or on the occasion of, their work in the accommodation centres.<sup>261</sup>

The Greek Action Plan provides for the safe and timely transportation of unaccompanied minors from entry points to accommodation structures. In addition, the authorities must ensure that the transfer of asylum applicants from one accommodation centre to another takes place only when necessary.<sup>262</sup> In case asylum seekers are being transferred to another accommodation centre, the competent authorities must ensure that applicants are able to inform their legal counsellors of the transfer and of their new address. Applicants whose application is finally rejected or who receive a deportation order shall be obliged to leave the accommodation centre within maximum 30 calendar days.<sup>263</sup>

According to the findings of a 2014 GCR survey of open reception centres, food service is provided 3 times a day in 9 centres (Agioi Anargiroi, Anogia, Arsis Refugee Shelter, Doctors of the World, Makrinitza Volos, Mission Archdiocese, Oreokastro, Red Cross, Society of Minors Care Isavron). In Praksis Stegi Programme, these services are provided by donations. No information is available for the remaining centres. As far as sanitary materials are concerned, most of the centres provide bedding and toiletries and some also cover clothes, milk and baby products.

Leisure activities are not provided by PRAKSIS. Conversely, ARCHDIOCESE, LAVRIO and ANOGIA offer extra activities. At ARCHDIOCESE, these include workshops, museum visits, computer access, football, theatre lessons or gymnastic activities. Residents at LAVRIO can attend workshops, visits to museums and sports activities and have access to a library. ANOGIA has creative workshops and projects of social integration.

ARCHDIOCESE and ANOGIA let unaccompanied children leave the centre, but they must return at a certain time in the evening and are not allowed to stay outside overnight. Some of the centres provide transportation reimbursement in form of public transport tickets or taxi services in special situations

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<sup>256</sup> *Ibid.*

<sup>257</sup> Article 13(2) PD 220/2007.

<sup>258</sup> Article 13(1) PD 220/2007.

<sup>259</sup> Article 13(4) PD 220/2007.

<sup>260</sup> Article 13(5) PD 220/2007.

<sup>261</sup> Article 13(6) PD 220/2007.

<sup>262</sup> Article 13(8) PD 220/2007.

<sup>263</sup> Article 13(9) PD 220/2007.



(Praksis Stegi Programme, Oreokastro Arsis, Arsis Refugee Shelter, Agioi Anargiroi). Also, some of the centres declared that allowances for personal expenses are provided: €21 per day in Agioi Anargiroi and in €2 in Anogia are distributed.

When asked about possible problems in the reception centres, PRAKSIS, ARCHDIOCESE and ANOGIA stated that there were no issues related to reception conditions.<sup>264</sup> LAVRIO mentioned a hunger strike that was then taking place. PRAKSIS, ARCHDIOCESE and LAVRIO stated that the number of employees in their centre is not sufficient and that staff is not adequately trained.

### *Destitution and racist violence*

Destitution remains a huge problem for a large number of applicants for international protection in Greece.<sup>265</sup> The NCSS reports that it has increasingly been able to meet a number of accommodation requests without increasing reception capacity in Greece, due to increasing mobility and freeing-up of places, stemming from departure from accommodation. In frequent cases, asylum seekers do not request accommodation because they are aware either of the scarcity of places or the quality of premises. Many asylum seekers are homeless and sleep on the streets, in parks, abandoned buildings or squalid and overcrowded apartments.<sup>266</sup> At times, the authorities may evacuate locations where third-country nationals reside as squatters on public health ground. However, where such evictions take place, no measures are taken to accommodate the residents elsewhere.

As Nils Muižnieks, Council of Europe Commissioner for Human Rights, has noted: “this situation leaves a large number of asylum seekers homeless and destitute and renders them particularly vulnerable to manifestations of intolerance and racist violence.”<sup>267</sup> The impunity of perpetrators and even discouragement of victims by the police to file an official complaint leave victims without any support mechanisms.<sup>268</sup>

In 2014, new anti-racist legislation was passed through Law 4285/2014. Moreover, MD 30651/2014 provides requirements for granting residence permits on humanitarian grounds *inter alia* to victims of racist violence and discriminatory treatment. Nevertheless, the withdrawal of a provision from the new Immigration Code on the protection of victims of racist violence, in Article 19 of the Code, sparked criticism from international organisations and national authorities.<sup>269</sup>

Among its recommendations to the Greek government in April 2015, UNHCR called for adequate staffing of the FRS with qualified personnel and establishment of FRCs at main entry points, namely on islands; adoption of the necessary legislative framework for FRS referrals of persons with special needs in hosting structures; and prompt increase of reception capacity to the target of 2,500 places.<sup>270</sup>

<sup>264</sup> ARCHDIOCESE answered “not recently”, which might indicate that there may have been problems previously.

<sup>265</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 20 states: “The accommodation system, together with the lack of employment opportunities, frequently leads to destitution and homelessness of asylum-seekers and persons in need of international protection.”

<sup>266</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 20.

<sup>267</sup> Council of Europe Commissioner for Human Rights, *Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013* (16 April 2013), paras 138-139. See also UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 19. For more information on incidents in 2011, see *Ibid*, 36.

<sup>268</sup> See e.g. Human Rights Watch, *Hate on the Streets. Xenophobic Violence in Greece* (July 2012), 78-87.

<sup>269</sup> UNHCR Greece, ‘Withdraw immediately the shameful amendment’ – Press Release (25 March 2014), available in Greek at: <http://www.unhcr.gr/1againstracism/deltio-tipou-rvm-tropologia/>; NCHR, ‘Press Release – 24 March 2014’ available at: [http://www.nchr.gr/images/English\\_Site/NEWS/GNCHR%20Press%20Release%20Article%2019%20Migration%20Code.pdf](http://www.nchr.gr/images/English_Site/NEWS/GNCHR%20Press%20Release%20Article%2019%20Migration%20Code.pdf).

<sup>270</sup> UNHCR, *Greece as a country of asylum: UNHCR Recommendations* (6 April 2015) available at: <http://www.refworld.org/docid/5524e72b4.html>.

## 5. Reduction or withdrawal of reception conditions

### Indicators:

- Does the legislation provide for the possibility to reduce material reception conditions?  
☒ Yes ☐ No
- Does the legislation provide for the possibility to withdraw material reception conditions?  
☒ Yes ☐ No

Reception conditions may be reduced where the applicant:

- a. abandons the place of stay assigned by [the Asylum Service] 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.<sup>271</sup>

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.

## 6. Access to reception centres by third parties

### Indicators:

- Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
☐ Yes ☒ with limitations ☐ No

According to Article 13(7) 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>272</sup>

In practice, lawyers, as well as NGOs, friends or family members have access to reception centres operated by NGOs. According to a 2014 survey conducted by GCR, there are two centres which deny access to visitors (ARCHDIOCESE and Society of Minors), while Oreokastro stated that there may be a possibility for visitors' accommodation. There is no information available on the remaining centres.

## 7. Addressing special reception needs of vulnerable persons

### Indicators:

- Is there an assessment of special reception needs of vulnerable persons in practice?  
☐ Yes ☒ In some cases ☐ No

<sup>271</sup> Article 15(1) PD 220/2007.

<sup>272</sup> Article 13(7) PD 220/2007.



Due to the large number of asylum seekers and the extremely limited number of a total 1,160 beds in the 16 reception centres, NGOs which usually take care of the accommodation of the asylum seekers give priority to vulnerable persons.

Greek law foresees a referral system laying down minimum standards for the reception of asylum seekers.<sup>273</sup> More specifically, the competent authorities must make sure that special 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>274</sup> In addition, according to Article 11(2) L 3907/2011, relating to first reception services, vulnerable groups include unaccompanied minors, persons with disabilities or suffering from an irreversible disease, elderly persons, women in pregnancy or childbirth, single parent families with minor children, victims of torture, rape or other serious forms of psychological, physical or sexual violence or abuse.

The head of the First Reception Centre (FRC), upon receiving a recommendation of the head of the Medical Screening and Psychosocial Support Unit, refers persons belonging to vulnerable groups to the competent body of social support or protection. The referral of persons must be conducted within 15 days, and may be extended for a period of 10 days under exceptional circumstances.<sup>275</sup>

According to UNHCR's December 2014 report, out of a total 2,086 official arrests in Evros and surrounding regions, 1,898 persons underwent first reception procedures. Out of that number, 80 unaccompanied minors were referred by the FRC to reception facilities. An individualised assessment of specific needs through individualised counselling by medical, psychosocial or information teams upon arrival is only available to a limited number of arriving third-country nationals, thereby leaving a potentially large number of individuals with specific needs undetected.<sup>276</sup>

Moreover, in Chios, there is no First Reception mobile unit, while in Lesvos the mobile unit does not apply first reception procedures in practice. Despite legal safeguards in relation to the treatment of unaccompanied children, unaccompanied children or those separated from their families are being systematically detained for extended time periods until a place becomes available at a reception centre.<sup>277</sup>

## **8. Provision of information**

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>278</sup> The Greek Action Plan also foresees the provision of information in a systematic manner to new arrivals at 5 locations, namely Orestiada, Alexandroupoli, Samos, Lesvos, and Chios. This is envisaged as necessary action upon reception, pending the establishment of the First Reception Centres (FRCs).

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<sup>273</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>274</sup> *Ibid.*

<sup>275</sup> Article 11(5) L 3907/2011.

<sup>276</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 11.

<sup>277</sup> Greek Ombudsman, *Annual Report 2014*, available at: <http://www.synigoros.gr/resources/docs/ee2014-00-stp.pdf>.

<sup>278</sup> Article 3(2) PD 220/2007.

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>279</sup>

Since March 2013, UNHCR has been providing information to newly arriving applicants on their rights and obligations at entry points, including those not covered by the First Reception Service (FRS). According to UNHCR:

“During the first nine months of 2014, UNHCR teams provided information to 25,278 persons (through 5,767 information sessions) focusing on rights and obligations, description of the first reception procedure, asylum, family reunification, detention and deportation, readmission, voluntary return, economic and social rights/integration, protection of children and vulnerable cases, including victims of SGBV, torture or trafficking.”<sup>280</sup>

## 9. Freedom of movement

Applicants may move freely within the territory of Greece or the area assigned by the authorities and choose their place of residence,<sup>281</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>282</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>283</sup> Such restrictions on freedom of movement occur in practice.

No previous authorisation is needed for changing the place of residence. However, in a 2014 survey conducted by GCR, the ARCHDIOCESE open centre highlighted that a legal document and a pending asylum application are necessary for this.

## B. Employment and education

### 1. Access to the labour market

#### Indicators:

- Does the legislation allow for access to the labour market for asylum seekers? ☒ Yes ☐ No
- If applicable, what is the time limit after which asylum seekers can access the labour market:  
Immediate access
- Are there restrictions to access employment in practice? ☒ Yes ☐ No

As soon as asylum seekers are provided with an asylum seeker's card, they can immediately apply for a work permit.<sup>284</sup>

<sup>279</sup> Article 3(3) PD 220/2007.

<sup>280</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 11.

<sup>281</sup> Article 6(1) PD 220/2007.

<sup>282</sup> Article 6(5) PD 220/2007.

<sup>283</sup> Article 6(1) PD 220/2007.

<sup>284</sup> Article 10(1) PD 220/2007.

Applicants need to apply to the Ministry of Labour, provided they have a valid asylum seekers' card, and a work permit may be granted following a labour market test: following research of the labour market for the specific profession by the Manpower Employment Organization ("OAED" in Greek), no interest has been demonstrated by a Greek citizen, an EU citizen, a third-country national of Greek origin or a recognised refugee.<sup>285</sup>

Applicants who fulfil these criteria receive a temporary work permit without paying a fee. That permit expires 30 days after the expiry of the asylum seeker's card.<sup>286</sup> Further, access to the labour market not withdrawn during an appeal procedure, until a final negative decision on the appeal is notified.<sup>287</sup>

However, the priority awarded to Greek and EU citizens under the labour market test makes it exceptionally difficult for asylum seekers to find employment in practice. This restriction is aggravated in the current context of financial crisis and xenophobia in Greece. There have been cases where an employer may be requesting to employ a specific asylum seeker but, due to this restriction prioritising Greek and EU citizens, the work permit may not be renewed, posing obstacles to both employers and potential employees. Indeed, even if an asylum seeker does obtain a job, they may not manage to obtain the work permit. As a consequence, asylum seekers may resort to illegal employment, which has severe repercussions, mainly the lack of certain basic social rights which in turn subjects them to further poverty and vulnerability.

According to UNHCR, the labour market test in PD 189/1998

"[A]nd the unemployment rate of 33 per cent for third-country nationals in Greece limits legal working opportunities. In 2013, the regional authorities issued and renewed 6,952 work permits for asylum-seekers and rejected 1,620 requests while, in the same period, there were more than 33,000 active cases of applications for international protection pending with the police and the new Asylum Service. Without a valid work permit asylum-seekers are deprived of the enjoyment of a series of rights, including the possibility to participate in EU-funded programmes for access to the labour market, access to social benefits, such as unemployment allowances, allowances for children in single-parent families, enrolment of children in nursery schools and other rights."<sup>288</sup>

The Asylum Service has informed GCR that it has proposed amendments to the relevant legislative framework to the Ministry of Labour. According to the same information, the Ministry of Labour has responded positively to the Service's request. Until now, no change or amendment to the law has been made in this direction.

In case applicants find employment while residing in an accommodation centre, they must inform the Director of the centre. The law does not provide for consequences in case they do not inform the Director. In practice, the time of stay in these centres is very short and there are no instances known where an asylum seeker has found employment while staying there.

According to the aforementioned GCR 2014 survey and particularly according to the answers to the questionnaire of 4 centres (Agioi Anargiroi, Arsis Refugees Shelter, Makrinitza and Agria Volos), there is assistance to job orientation and search or consultancy in some of the centres, while only the Red Cross in Lavrio provides assistance in applications for working permits.

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<sup>285</sup> Article 10(1) PD 220/2007, citing Article 4(1)(c) PD 189/1998.

<sup>286</sup> Article 4(2)-(3) PD 189/1998.

<sup>287</sup> Article 10(3) PD 220/2007.

<sup>288</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 21.

## 2. Access to education

### Indicators:

- Does the legislation provide for access to education for asylum seeking children? ☒ Yes ☐ No
- Are children able to access education in practice? ☒ Yes ☐ No

According to Article 9 Presidential Decree 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>289</sup> Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity.<sup>290</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 dangerous; (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. However, access to education is in practice impaired by the requirement of documentation by schools in order to enrol children.<sup>291</sup> It has been also observed that some schools are reluctant to enrol children when the documents submitted by the parents do not prove the biological parental relationship or the guardianship.

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>292</sup> However, no preparatory classes are provided for children of asylum seekers.<sup>293</sup> Some reception centres provide a certain number of courses such as Greek lessons (Volos Agria, Agioi Anargiroi, Anogia, Arsis Refugee Shelter, Doctors of the World, Makrinita, Mission, Oreokastro Arsis, Red Cross), English lessons (Volos Agria, Oreokastro Arsis), and computer lessons (Volos Agria).

In practice, except for *ad hoc* difficulties, there have been issues neither with children of asylum seekers nor with adults attending school. In some cases, directors of schools deny to register pupils because of ignorance of the legal framework. Such obstacles can be surpassed by interventions of NGOs. Children have problems attending school due to language barriers. Usually they attend school in neighbourhoods where classes mostly comprise non-nationals, which becomes a difficult task for teachers who have to teach to children with different levels of fluency in Greek.

## C. Health care

### Indicators:

- Is access to emergency health care for asylum seekers guaranteed in national legislation?  
☒ Yes ☐ No
- In practice, do asylum seekers have adequate access to health care?  
☐ Yes ☒ with limitations ☐ No

<sup>289</sup> Article 9(1) PD 220/2007.

<sup>290</sup> Article 9(3) PD 220/2007.

<sup>291</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 23.

<sup>292</sup> Article 9(2) PD 220/2007.

<sup>293</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 23.

- Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? ☐ Yes ☒ Yes, to a limited extent ☐ No
- If material reception conditions are reduced/withdrawn are asylum seekers still given access to health care? ☒ Yes ☐ No ☐ with limitations

Applicants shall receive free of charge the necessary health, pharmaceutical and hospital care, on condition that they have no health insurance and no financial means. Such health care includes:

- 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 above at (a) mentioned institutions and acknowledged by their director;
- c. Hospital assistance in public hospitals, hospitalisation at a class C room.<sup>294</sup>

In practice, however, the repercussions of the financial crisis on the Greek health sector have been severe for asylum seekers. Applicants who ask for access to health services must, in some cases, obtain prior approval by a Committee. This has led to more stringent procedures to undergo surgery and access medical devices and sanitary material, as well as public hospitals' reluctance to treat asylum seekers.<sup>295</sup>

Vulnerable applicants who have special needs must receive special medical assistance.<sup>296</sup> Social Care Services for children, if necessary, shall ensure that they receive appropriate mental health care and qualified counselling. In practice, very few NGOs provide such support to only a few children. In a 2014 survey conducted by GCR, reception centres PRAKSIS and ARCHDIOCESE claimed not being aware of any such programmes assisting children with special needs or asylum seekers once they become 18. PRAKIS and ARCHDIOCESE declared that asylum seekers are eligible to healthcare. ANOGIA provides free healthcare from public institutions and covers medical expenses by private doctors.

In all cases, emergency health care must be and is provided to applicants free of charge. First aid is provided in practice.<sup>297</sup>

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<sup>294</sup> Article 14(1) PD 220/2007.

<sup>295</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece* (December 2014), 21.

<sup>296</sup> Article 14(3) PD 220/2007.

<sup>297</sup> Article 14(2) PD 220/2007.

## Detention of Asylum Seekers

### A. General

#### Indicators.<sup>298</sup>

- Total number of asylum seekers detained in the previous year (including those detained in the course of the asylum procedure and those who applied for asylum from detention): Not available
- Number of asylum seekers detained or an estimation at the end of the previous year (specify if it is an estimation): Not available
- Number of detention centres: Not available
- Total capacity: Not available

Administrative detention is systematically imposed on irregular migrants and asylum seekers without any individual assessment of each case.<sup>299</sup> Consequently, asylum seekers, including vulnerable groups such as unaccompanied minors wrongly registered as adults upon arrest and victims of torture, as well as non-removable persons in need of international protection (e.g. Syrian, Somali, Eritrean nationals) are detained under particularly problematic conditions, which have been documented at length by international organisations and human rights groups.<sup>300</sup> Detention of asylum seekers is the general rule and is routinely applied.<sup>301</sup>

In the cases under Article 12(4)(a) and (c) PD 113/2013, an order for the detention of an asylum seeker is issued after a relevant recommendation of the Asylum Service.<sup>302</sup> As per February 2015, according to statistical data provided by the Asylum Service, 179 recommendations for continuation of detention had been issued, while in 7 cases no such recommendation was made by the Asylum Service.<sup>303</sup> This recommendation is not binding on the police, however.

There are three types of immigration detention facilities in Greece: detention centres, pre-removal detention centres and any police station providing holding cells. Pre-removal detention centres were established in 2012 in order to be used for detention of third-country nationals in view of removal. However, the pre-removal detention centres in operation, namely those of Amygdaleza, Xanthi, Corinth,

<sup>298</sup> The official capacity of detention centres in Greece has been reported to be 10,357 in September 2013. However, the actual number of asylum seekers in detention is not known; according to the former Minister of Public Order and Citizen Protection expressly stated that the number of third-country nationals in detention throughout the country cannot be calculated due to the constant change of numbers of detainees. See Reply to the Parliamentary question on statistical information with regards to the capacity of detention centres posed by SYRIZA to the Ministry of Public Order and Citizen Protection (28 September 2013) available at: <http://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/8204315.pdf> ; [http://www.hellenicparliament.gr/Koinovouleftikos-Elenchos/Mesa-Koinovouleutikou-Elegxou?pcm\\_id=7bf47cc0-70a4-450d-8aa5-b634d526c6b0](http://www.hellenicparliament.gr/Koinovouleftikos-Elenchos/Mesa-Koinovouleutikou-Elegxou?pcm_id=7bf47cc0-70a4-450d-8aa5-b634d526c6b0)). The Greek Ombudsman, in its Annual Report 2014, mentions that according to the Hellenic Police, on 10 November 2014, a total of 6,283 persons were detained for illegal entry and stay, out of which 2,160 in detention facilities of Police Stations or Directorates. See: Greek Ombudsman, *Annual Report 2014*, available at: <http://www.synigoros.gr/resources/docs/ee2014-00-stp.pdf>, 149.

<sup>299</sup> EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)* (2014) available at: [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/12a-greece\\_detention\\_study\\_august2014\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/12a-greece_detention_study_august2014_en.pdf), 20-24.

<sup>300</sup> For recent examples, see EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*; MSF, *Invisible Suffering* (1 April 2014) available at: [http://cdn.doctorswithoutborders.org/sites/usa/files/attachments/invisible\\_suffering.pdf](http://cdn.doctorswithoutborders.org/sites/usa/files/attachments/invisible_suffering.pdf).

<sup>301</sup> Greek Ombudsman, *Finding following the monitoring visit at the Aliens Department of Attica on 8 October 2013* (19 November 2013) Doc. No 172041/49072/2013.

<sup>302</sup> Article 12(4) PD 113/2013.

<sup>303</sup> Asylum Service, *Information provided to GCR* (March 2015).

Paranesti and Fylakio have been systematically used for the detention of asylum seekers as well. The number of police stations being used as detention centres is not known, as all police stations can potentially be used as such.

Following 4 deaths (2 of which were suicides) in the Amygdaleza Pre-Removal Detention Centre and in police stations in Athens and Thessaloniki in mid-February 2015, the new Greek government announced on 17 February 2015 a range of measures that present an important step towards reducing the use of immigration detention in Greece.<sup>304</sup> These announcements include the revocation of the Ministerial Decision allowing for detention beyond 18 months and the immediate release of persons concerned. Furthermore, the Amygdaleza Pre-Removal Detention Centre is set close down within 100 days and action will be taken in order to put in place open reception centres instead of detention facilities. It was also announced that alternatives to detention will be implemented, the maximum period of detention will be limited to 6 months and persons belonging to vulnerable groups as well as asylum seekers will be immediately released (see section on Grounds for Detention below). In practice, GCR has noticed that the first encouraging steps have been taken to implement some of the abovementioned measures. This means that detention does not last more than 18 months and persons who are detained for long periods (6 to 18 months) are progressively released. However, persons belonging to vulnerable groups and asylum seekers whose applications have already been registered remain under detention as of April 2015.

## B. Grounds for detention

### Indicators:

- In practice, are most asylum seekers detained
  - on the territory:<sup>305</sup> ☐ Yes ☒ No
  - at the border: ☒ Yes ☐ No
- Are asylum seekers detained in practice during the Dublin procedure? ☐ Frequently ☒ Rarely ☐ Never
- Are asylum seekers detained during a regular procedure?<sup>306</sup> ☒ Frequently ☐ Rarely ☐ Never
- Are unaccompanied asylum-seeking children detained? ☒ Frequently ☐ Rarely ☐ Never
  - If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
- Are asylum seeking children in families detained? ☒ Frequently ☐ Rarely ☐ Never
- What is the maximum detention period set in the legislation (inc extensions): 18 months
- In practice, how long in average are asylum seekers detained? Not available

### Grounds for detention

A third-country national who lodges an application for international protection while in detention *remains* in detention under 3 grounds:<sup>307</sup>

<sup>304</sup> Ministry of Interior and Administrative Reconstruction, '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 Greek at: [http://www.mopocp.gov.gr/index.php?option=ozo\\_content&lang=&perform=view&id=5374&Itemid=607](http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=&perform=view&id=5374&Itemid=607).

<sup>305</sup> Before February 2015, more asylum seekers were detained on the territory.

<sup>306</sup> This refers to asylum seekers who apply following arrest and *remain* in detention.

<sup>307</sup> Article 13(2) PD 114/2010; Article 12(2) PD 113/2013.

- a. To determine his or her identity or nationality;
- b. Where he or she presents a threat to national security or public order; or
- c. Where detention is deemed necessary for a rapid and complete examination of the application.

In such cases, detention may only be applied exceptionally and where alternative measures may not be applied effectively.<sup>308</sup>

Under the New Procedure, an asylum seeker may be *placed* in detention where he or she presents a threat to national security or public order. This provision does not apply under the Old Procedure.<sup>309</sup>

It need be noted that the provisions of Article 13(2)(c) PD 114/2010 and Article 12(2)(c) PD 113/2013 are not in line with Article 8(3) of the recast Reception Conditions Directive (RCD), as the rapid and effective examination of the asylum application *per se* does not figure among the permissible grounds for detention.<sup>310</sup>

Both PD 114/2010 and PD 113/2013 mostly limit detention to persons who submit applications for international protection while already in pre-removal detention. However, due to the various obstacles to access to the asylum procedure (see section on Asylum Procedure: Registration above), persons in need of protection are likely to be arrested before successfully lodging an application. Therefore the submission of applications from detention is their only option. For example, in the pre-removal centre of Fylakio, there are cases of asylum seekers who have submitted an application with the Regional Asylum Office (RAO) of Northern Evros but are only registered after a 3-month stay in the pre-deportation centre.

The detention order is issued by the respective Police Director and, in the cases of the General Police Directorates of Attica and Thessaloniki, by the competent Aliens Police Director, and must include a complete and comprehensive reasoning.<sup>311</sup> Under the “identity or nationality” or the “rapid and complete examination” grounds, the detention order is issued following a proposal by the head of the respective examination authority.<sup>312</sup> In “threat to public order” cases, the Head of the competent RAO or the Director of the Appeals Authority is informed and takes steps to ensure prioritised examination of the application or appeal.<sup>313</sup> However, the final decision lies with the Hellenic Police authorities.

Furthermore, the Asylum Service claims that, if it proposes the continuation of detention of an asylum applicant, it follows-up on those cases closely and in the event the reasons for which it proposed the continuation of the detention are no longer valid, it revokes its initial proposal. However, an asylum applicant who is detained may be released by the Hellenic Police authorities without any relevant recommendation on the part of the Asylum Service or even if the Asylum Service has previously recommended the continuation of his/her detention, given that the Hellenic Police is the competent authority to decide upon detention of an asylum applicant.

In practice, irregular migrants and asylum seekers in Greece are systematically detained when apprehended at the border or without proper documents on the territory. The decision that orders the detention is neither taken after individual examination nor justified. Asylum seekers whose transfer to another Member State under the Dublin Regulation is pending are also reportedly detained.

#### *Alternatives to detention*

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<sup>308</sup> *Ibid.*

<sup>309</sup> Article 12(3) PD 113/2013.

<sup>310</sup> Article 8(3)(b) RCD only allows detention where it is necessary for the purpose of establishing elements of the claim, in particular where there is a risk of absconding.

<sup>311</sup> Article 13(3) PD 114/2010; Article 12(4) PD 113/2013.

<sup>312</sup> Article 12(4) PD 113/2013.

<sup>313</sup> *Ibid.*



Article 13(2) PD 114/2010 and Article 12(2) PD 113/2013 expressly mention alternatives to detention. Such alternatives include regular reporting to the authorities and an obligation to reside at a specific area. The UN Working Group on Arbitrary Detention, during its mission to Greece in January 2013, stated that non-application of alternatives to detention as a key concern that may render the detention of an individual arbitrary.<sup>314</sup>

### **Duration of detention**

Where the applicant is *placed* in detention, detention may not exceed 3 months.<sup>315</sup>

For applicants *remaining* in detention, the modalities of duration vary according to the applicable procedure. Under the Old Procedure, detention may last up to 6 months and may be extended by a further 12, thereby totalling 18 months.<sup>316</sup>

Under the New Procedure, the duration of detention varies according to the applicable ground:<sup>317</sup>

- Asylum seekers detained for “rapid and complete examination” of their claim under Article 12(2)(c) PD 113/2013 may not be detained beyond 6 months;
- Asylum seekers detained for “identity or nationality” purposes or “threat to national security and public order” grounds may not be detained beyond 12 months.

Nevertheless, in all cases relating to applicants already in detention, detention may prolonged for another 6 months.<sup>318</sup> Therefore applicants may be kept in detention for up to 12 to 18 months respectively.

In light of these broad limits of detention, GCR has submitted two applications to annul the prolongation of detention to 18 months by PD 116/2012 and PD 113/2013 before the Council of State; the hearing for both applications has not taken place yet.

In March 2014, the State Legal Council had endorsed in its Opinion 44/2014 the legality of “indefinite detention” beyond the 18-month maximum time-limit allowed by the Returns Directive for pre-deportation detention, until the third-country national cooperates with the authorities for their “voluntary [sic] repatriation”. This was taken up by MD 4000/4/59-st/2014. GCR lodged the first objections against a relevant decision on indefinite prolongation of detention. The Administrative Court ruled on 23 May 2014 that indefinite detention in the form of compulsory stay in a detention centre as defined by the State Legal Council Opinion 44/2014 and adopted by MD 4000/4/59-st/2014 was unlawful.<sup>319</sup> As a consequence, an Afghan refugee that had already been in detention for 18 months was released.<sup>320</sup> Numerous similar decisions followed this first one.

### **Detention of vulnerable groups**

Despite provisions for the adoption of special measures for vulnerable groups, so far, vulnerable people, including unaccompanied children, are systematically detained in the same conditions as other migrants and asylum seekers. In January 2013, the Greek government announced that women, unaccompanied

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<sup>314</sup> UN Working Group on Arbitrary Detention, *Statement upon the conclusion of its mission to Greece (21 - 31 January 2013)* (31 January 2013) available at: [http://www.ecoi.net/local\\_link/238325/347421\\_en.html](http://www.ecoi.net/local_link/238325/347421_en.html).

<sup>315</sup> Article 13(4) PD 114/2010; Article 12(6) PD 113/2013.

<sup>316</sup> Article 13(4) PD 114/2010, as amended by Article 1 PD 116/2012.

<sup>317</sup> Article 12(6) PD 113/2013.

<sup>318</sup> *Ibid.*

<sup>319</sup> Administrative Court, Decision 2255/2014, 23 May 2014.

<sup>320</sup> Olga Klontza, ‘Administrative Court: Indefinite Detention of Migrants is Unlawful’ (2014) *To Vima* 31 May.

children and people with health problems should not be detained and should be accommodated instead in 2 open reception centres. However those centres have yet to be built.<sup>321</sup>

The law provides that women must be detained separately from men.<sup>322</sup> Although in relation to the detention of women there seems to be a separation with men, the fact that women are often detained with their children is problematic, as these are cases which should be hosted in reception centres. At the First Reception Centre (FRC) in Fylakio and the Police Department of Orestiada, families may receive the order for the release of detention on completion of the first reception procedures. Nevertheless, in the pre-removal centre of Fylakio, where they remain before being sent to the FRC, the GCR reported pregnant mothers with minor children and babies to be kept even for 5 days before their referral, even though this is expressly discouraged by law.<sup>323</sup>

### *Unaccompanied children*

While the law does not prohibit the detention of unaccompanied children, it enjoins authorities to “avoid” it.<sup>324</sup> Unaccompanied children are only to be detained until a place in a special facility for minors is found.<sup>325</sup>

In practice, however, this procedure may last for months, given the extremely reduced capacity of shelters for children. Detention of children is being imposed systematically as a result of the lack of places in reception centres. Within the period February-March 2014, GCR and Medecins sans Frontieres had identified a total of 102 unaccompanied minors in the detention centres of Komotini and Fylakio, registered as adults, even if many of them had documents stating their age.<sup>326</sup> The Greek Ombudsman has also reported the refusal of the police to screen children whose age is obvious with the justification that the scientific methods for age assessment are vague.<sup>327</sup>

Unaccompanied children can be detained in the pre-removal centre in Fylakio in 2 situations:

- Either as newly arrived children after their arrest, pending their admission to first reception procedures at the FRC. However, there have been cases where children identified as such are returned to the Fylakio pre-removal centre pending referral to relevant hosting facilities.

A relevant example occurred on 10 October 2014, when 41 young persons who claimed to be under 18 entered Fylakio after being transferred there from Komotini, where they were held in police premises. They remained in Fylakio until 10-11 November 2014 before being admitted to the FRS for first reception procedure. After being identified as children, they remained in the FRS until the end of November 2014 and – following a decision determining Fylakio as the competent authority of custody pending referral to hosting facilities – were then transferred to the Paranesti pre-removal centre.

Moreover, on 10 and 17 October 2014, 16 children identified as such by the FRS were sent to Fylakio pending their referral to hosting facilities. 2 of them were successfully accommodated in hosting facilities, 1 was left with his father and the remaining 13 were transferred to Paranesti,

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<sup>321</sup> Council of Europe: Commissioner for Human Rights, *Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013* (6 April 2013) CommDH(2013)6, para 145.

<sup>322</sup> Article 13(6)(a) PD 114/2010; Article 12(8)(a) PD 113/2013.

<sup>323</sup> Article 13(6)(b) PD 114/2010; Article 12(8)(b) PD 113/2013.

<sup>324</sup> Article 13(6)(c) PD 114/2010; Article 12(8)(c) PD 113/2013.

<sup>325</sup> *Ibid.* See also Article 32 L 3907/2011.

<sup>326</sup> MSF, *Invisible Suffering: Prolonged and systematic detention of migrants and asylum seekers in substandard conditions in Greece: MSF Operations in Immigration Detention Facilities in Greece 2008-2014*.

<sup>327</sup> Greek Ombudsman, *Field mission in the detention centres of Amygdaleza and Korinth and in the detention spaces of Petrou Ralli* (29 May 2013).

on the ground that there was no adequate space for their “hosting” in Fylakio pending referral to hosting facilities.

Accordingly, newly arriving children are detained both *before* and *after* admission to the FRS.

- Upon referral from Amygdaleza or other detention centres. In this case, they are not admitted to first reception services, but are subjected to age assessment by the FRS.

In the latter case, children are detained on account of illegal entry or residence. If they have identification papers to prove their age, the pre-removal centre forwards the child’s original documents to the Aliens Directorate of the Police instead of the Asylum Service. The police sends those documents to the relevant embassies in order to verify their authenticity. Sending documentation to the country of origin’s authorities amounts to a disclosure to persecutors that an asylum application has been made, a violation of international refugee law and Article 30 of the Asylum Procedures Directive (APD).

This is also highly problematic since a reply by the embassies may take months, during which the children may reach the age of 18. In some cases, a reply never arrives or embassies claim not to have received the relevant documents. Applicants are thus precluded from requesting a change of personal data when they turn 18, as they no longer possess the original documents required by the RAO.

## C. Detention conditions

### Indicators:

- Does the law allow detaining asylum seekers in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☒ Yes ☐ No
- If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedures? ☒ Yes ☐ No
- Do detainees have access to health care in practice? ☐ Yes ☒ No
  - If yes, is it limited to emergency health care? ☒ Yes, to a limited extent
- Is access to detention centres allowed to
  - Lawyers: ☒ Yes ☐ Yes, but with some limitations ☐ No
  - NGOs: ☐ Yes ☒ Yes, but with some limitations ☐ No
  - UNHCR: ☒ Yes ☐ Yes, but with some limitations ☐ No
  - Family members: ☐ Yes ☒ Yes, but with some limitations ☐ No

The law sets out certain special guarantees on detention conditions for asylum seekers. Notably, women must be detained separately from men, detainees must be provided with necessary medical care, and their right to legal representation must be fully guaranteed.<sup>328</sup>

### Place of detention

Under the New Procedure, asylum seekers are detained in pre-removal centres.<sup>329</sup> Accordingly, persons who have lodged claims after 7 June 2013 may *not* be detained in police holding cells, as opposed to

<sup>328</sup> Article 13(6) PD 114/2010; Article 12(8) PD 113/2013.

<sup>329</sup> Article 12(5) PD 113/2013, citing Article 31 L 3907/2011.

those falling under the Old Procedure. However, applicants in the New Procedure have also been detained in police facilities, for periods often reaching 18 months.<sup>330</sup> It should nonetheless be noted that, as of mid-December 2014, GCR has noticed that detention in police stations in Attica region does not last more than a few days. Moreover, third-country nationals arrested when attempting to enter the country illegally are provisionally detained in border guard stations and in the FRC of Fylakio, as well as in the detention facilities called “Identification Centres” in the islands of Lesbos, Chios and Samos. Considering that the number of arrests under the “Xenios Zeus” police operation launched in 2012 have exceeded the number of places available in the pre-removal detention centres, third-country nationals – including asylum seekers – have also been detained in police stations.<sup>331</sup>

According to the Greek Action Plan on Asylum and Migration Management, 3 new detention facilities were expected to be launched in the first six months of 2014 in Lesbos, Macedonia and Euboea. That would raise the capacity of people detained in pre-removal detention centres to 10,000.<sup>332</sup> However, these facilities have not been established yet.

According to L 3907/2011, a special detention facility should be used for unaccompanied children. However the special detention centre in Amygdaleza does not meet the basic standards for minors.<sup>333</sup> Children and unaccompanied children are being detained in the same facilities as adults. In October 2013, ECtHR found in *Housein v Greece* that Greece violated a child's right to liberty as a result of his automatic detention for 2 months in an adult detention centre.<sup>334</sup> More recently, in a visit conducted in August 2014 report, the Greek Ombudsman reported that children were registered as adults without proper age assessment and placed in detention with adults, in conditions clearly ill-suited for children.<sup>335</sup>

Against that backdrop, in October 2014, the Greek Ombudsman published a special report concerning the age assessment procedure for unaccompanied minors.<sup>336</sup> In December 2014, the Ministry of Public Order announced that a special group of doctors would be established in order to facilitate age assessment procedure for minors.<sup>337</sup> However, this is not a legally binding framework and it remains in any event to be confirmed whether the composition of the group announced and the methods followed comply with the international standards set for age assessment, respecting the best interests of the child. It also remains to be confirmed whether the number of the staff deployed for this purpose corresponds to the existing needs.

### *Conditions of detention*

In January 2011, the ECtHR alerted as to the serious deficiencies in detention conditions in Greece in *MSS v Belgium and Greece*. 4 years later, problems relating to overcrowding, poor sanitary conditions, lack of healthcare services, insufficient and low-quality food, lack of heating and ventilation and water, no provision for leisure activities, lack of communication with the ‘outside world’ have remained at the heart of international criticism by human rights bodies and NGOs.<sup>338</sup> More specifically, detention in police holding cells also excludes or limits the possibility of access to open air, access to toilets and

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<sup>330</sup> Campaign for Access to Asylum, *Conditions of administrative detention and access to the asylum procedure* (23 October 2014) available in Greek at: [http://asylum-campaign.blogspot.gr/2014/10/blog-post\\_23.html](http://asylum-campaign.blogspot.gr/2014/10/blog-post_23.html).

<sup>331</sup> EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*, 25.

<sup>332</sup> Council of the European Union, *Greek Action Plan on asylum and migration management*, 53-64.

<sup>333</sup> CPT, *Report on the visit to Greece from 4 to 16 April 2013* (2014) CPT/Inf(2014)26, 78-81.

<sup>334</sup> ECtHR, *Housein v Greece* App No 71825/11 (ECHR, 24 October 2013).

<sup>335</sup> Greek Ombudsman, *Report following the monitoring visit at Amygdaleza Detention Centre* (August 2014).

<sup>336</sup> Greek Ombudsman, *The issue of age assessment for unaccompanied minors* (6 October 2014) available in Greek at: [http://www.synigoros.gr/resources/porisma\\_diapistosi-anilikotitas-asynodefton-anilikon.pdf](http://www.synigoros.gr/resources/porisma_diapistosi-anilikotitas-asynodefton-anilikon.pdf).

<sup>337</sup> MPOCP, *Age Assessment* (10 December 2014) Doc. No 1604/14/2116634.

<sup>338</sup> For a recent critique, see GCR, *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* (2 March 2015) available at: [http://www.coe.int/t/dghl/monitoring/execution/Themes/Add\\_info/GRC-MSS\\_en.asp](http://www.coe.int/t/dghl/monitoring/execution/Themes/Add_info/GRC-MSS_en.asp). See also ECtHR, *Mahammad v Greece* App No 48352/12 (ECHR, 16 January 2015).

natural or artificial light.

The latest report of the Greek Ombudsman following a visit to the Amygdaleza Pre-Removal Detention Center in August 2014 confirmed that unacceptable conditions of detention remain a problem that needs to be addressed.<sup>339</sup> The recent announcement of the new Greek government that Amygdaleza will close down in 100 days and that action will be taken in order to put in place open reception centre instead is undeniably a positive step forward which should be applied to all similar facilities.

The organisation Médecins Sans Frontières (MSF) has highlighted problems in relation to detention conditions and detention facilities in the Greek islands and Northern Greece. Sanitary conditions are substandard, as maintenance, cleaning services and distribution of personal hygiene items are completely or almost non-existent. In some facilities there is no or insufficient provision of hot water. In the pre-removal centre in Komotini, malfunctioning hygiene facilities have not been repaired for almost a year. As a result, waste from the toilets on the first floor is flooding the bathrooms on the ground floor, contaminating the area and making more than three-quarters of the latrines and showers unusable. Limited access to sanitary facilities is a problem for migrants detained in Feres border police station in Evros and in a number of police stations visited by MSF teams, as people are locked in cells most of the time without direct access to the latrines or shower areas. Many detained migrants have no or limited access to the outdoors. In the detention facilities in Evros and Komotini, where MSF teams worked in recent months, migrants were allowed in the yard for a maximum of one hour in the morning and one hour in the afternoon. In the regular police stations visited by MSF teams, detainees spent several months at a time – in some cases for as long as 17 months – inside the cells area with no access to the outdoors. The lack of natural light, ventilation and heating is a serious problem in many detention facilities, particularly in regular police stations, where people detained in cells often have no access to natural light and fresh air. Overcrowding, exposure to cold and a poor diet also have an impact on the health of detained migrants.<sup>340</sup>

The lack of interpreters and the limited provision of information regarding their rights is another major cause of frustration, anxiety and tension for the detained migrants. In most detention facilities for migrants, even in the larger ones, there is no permanent presence of interpreters or intercultural mediators, with the exception of interpreters hired for the needs of specific EU-funded projects and for limited periods of time.

Last but not least, the Greek Ombudsman has received complaints by detainees in Corinth for ill-treatment by the police.<sup>341</sup>

### *Health risks*

The health risks to which detained migrants and asylum seekers are exposed are related not only to the substandard detention conditions, but also to the lack of medical screening available. The majority of the detained migrants and asylum seekers are not new arrivals, but were detained on the mainland or trying to leave Greece. Therefore, most have not passed through the newly established 'first reception' system, which includes a medical assessment process. As a result of the absence of initial medical assessments, MSF teams have identified people in detention with serious chronic and communicable diseases, such as tuberculosis, some of whom had interrupted their treatment. Diabetics, who need special treatment and diets are not properly classified resulting in severe health risks for the individual which can be life-threatening. Not only were these people detained in conditions harmful to their health

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<sup>339</sup> Greek Ombudsman, *Report after the monitoring visit at Amygdaleza Detention Center* (August 2014) available in Greek at: [http://www.synigoros.gr/resources/ekthesi\\_aftopsias\\_amigdaleza\\_2-18-2014.pdf](http://www.synigoros.gr/resources/ekthesi_aftopsias_amigdaleza_2-18-2014.pdf).

<sup>340</sup> MSF, *Invisible Suffering*.

<sup>341</sup> Greek Ombudsman, *Field mission in the detention centres of Amygdaleza and Korinth and in the detention spaces of Petrou Ralli* (29 May 2013).

for lengthy periods of time, but no measures were taken to protect other detainees from possible disease transmission.

Medical services have been available for limited periods of time and only in the larger detention centres, through the implementation of EU-funded projects by the Hellenic Centre for Disease Control and Prevention (HCDCP), through subcontracted civil society organisations. Moreover, the Ministry of Public Order and Citizen Protection has implemented EU-funded projects for limited periods of time employing psychologists in some immigration detention facilities. Where there are no medical staff in detention facilities, which is always the case in regular police stations, detained migrants depend exclusively on the police. The police then have to decide who is in need of medical attention and how urgent it is. As the police lack the necessary expertise to identify and follow up on health conditions, there is a high risk of serious medical cases being neglected. The Greek Ombudsman has also reported complaints of non-referral of detainees to hospital who are in need of urgent care. In one incident an Afghan detainee was held for 11 months in Corinth who had repeatedly stated that he was in severe pain, despite this there was a delay in transferring him to hospital which ultimately led to his death on 27 July 2013.

#### *Conditions in the FRC in Fylakio<sup>342</sup>*

The Director of the FRS considers the FRC in Fylakio as an open facility. However, the centre is surrounded with barbed wire, is guarded by the Greek Police and the persons concerned are not allowed to leave the centre at any moment. The FRC in Fylakio consists of 4 sections with multiple container rooms depending on the status and the profile of newly coming individuals or groups. There is one section for Syrians, one for asylum seekers, one for vulnerable groups, women and unaccompanied children and one for all other newcomers who do not belong in any of the above categories.

In the case of families, women and men are separated, but they may communicate with each other and meet between 4 and 7 pm. Each container bed room has a maximum capacity of 10 people. The migrants held in the centre are allowed to keep their mobile phones, portable devices and objects related to their religion. The dorms / rooms of the above mentioned sections are unlocked, but the new entrants cannot leave the sections where they are under restriction. Within each section there is an entertainment room with TV, as well as a washing machine for clothes. A box of complaints is also available in the entertainment room as well as two pay phones for both outgoing and incoming calls.

The medical staff includes a doctor, nurse, social worker and psychologist. According to the Director of the FRS, the NGO Med-In (Medical Intervention) had interrupted the provision of services for a while because of financial constraints.

According to the Director of the First Reception Service, there has been a case where objections had been lodged against the decision on restriction of movement within the FRS, based on Article 76 L 3386/2005, as replaced by Article 55f L 3900/2010, which have been accepted. Reportedly, the objections were lodged on the basis of detention conditions.

#### **D. Procedural safeguards and judicial review of the detention order**

##### *Indicators:*

- Is there an automatic review of the lawfulness of detention? ☐ Yes ☒ No

<sup>342</sup> See for detail ECRE, *What's in a Name? The Reality of First "Reception" at Evros: AIDA Fact-Finding Mission in Greece* (February 2015).



Asylum seekers may challenge detention through the “objections procedure” before the Administrative Court.<sup>343</sup> Objections are not examined by a court composition but solely the President of the Administrative Court, whose decision is non-appealable. On various occasions, the ECtHR has found the “objections procedure” an ineffective remedy, contrary to Article 5(4) ECHR.<sup>344</sup>

Automatic review of detention is not provided in Greek law.

Moreover, it has been reported that courts do not examine the legality of detention in the case of detainees who cannot prove a known and stable residence, even for vulnerable applicants such as mentally ill persons and victims of torture.<sup>345</sup> This approach is circular, as it need be recalled that asylum seekers cannot declare an address where the state fails to fulfil its duty to provide sufficient places in reception centres.

Relating to judicial review of detention conditions, 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.<sup>346</sup> In its ruling in *MD v Greece*, 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>347</sup>

## E. Legal assistance

### Indicators:

- Does the law provide for access to free legal assistance for the review of detention?  
☐ Yes ☒ No
- Do asylum seekers have effective access to free legal assistance in practice? ☐ Yes ☒ No

Neither PD 114/2010 nor PD 113/2013 provide for asylum seekers’ access to free legal assistance for the review of detention. Moreover, free legal aid for detainees provided by NGOs is extremely limited due to funding shortages which cannot accommodate the increasing number of detained asylum seekers, and obstacles to NGOs’ access to detention centres.<sup>348</sup>

It should also be noted that many detention centres are located in remote areas, a fact which undermines effective access of asylum seekers in detention to a lawyer. Moreover, lawyers can only access detention centres if they have received a call of a certain person or on behalf of him or her, and are thus in possession of the name of their client, which is only the case if they have been appointed as their lawyer.

<sup>343</sup> Article 13(5) PD 114/2010 and Article 12(7) PD 113/2013, citing Article 76(3)-(4) L 3386/2005.

<sup>344</sup> See e.g. *Rahimi v Greece* App No 8687/08 (ECHR, 5 April 2011); *RU v Greece* App No 2237/08 (ECHR, 7 June 2011); *CD v Greece* App No 33468/10 (ECHR, 19 March 2014).

<sup>345</sup> EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*.

<sup>346</sup> ECtHR, *Housein v Greece*, paras 79-84.

<sup>347</sup> ECtHR, *MD v Greece* App No 60622/11 (ECHR, 13 November 2014), paras 62-69.

<sup>348</sup> GCR, *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* (25 April 2014) available at:

[https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD\(2014\)591&Language=lanFrench&Site=CM](https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD(2014)591&Language=lanFrench&Site=CM), 14; EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*, 23-24 and 27. See also Greek Ombudsman, *Document 178715/20964/2014* (17 April 2014).

## ANNEX I – Transposition of the CEAS in national legislation

### Directives transposed into national legislation

Directive	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” Gov. Gazette 226/A/21-10-2013 Προεδρικό Διάταγμα 141/2013 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2011/95/ΕΕ [...]» ΦΕΚ 226/Α/21-10-2013	<a href="http://www.synigoros.gr/resources/docs/p-d-141_2013.pdf">http://www.synigoros.gr/resources/docs/p-d-141_2013.pdf</a> (GR)

### Pending transposition and reforms into national legislation

Directive	Deadline for transposition	Stage of transposition / Main changes planned	Participation of NGOs
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	20 July 2015	No draft proposed yet	
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20 July 2015	No draft proposed yet	