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Asylum Information Database

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National Country Report

Greece

GREEK COUNCIL FOR REFUGEES

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European Council on Refugees and Exiles

ACKNOWLEDGMENTS

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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 14 EU Member States (AT, BE, BG, DE, FR, GR, HU, IE, IT, MT, NL, PL, SE, UK) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public and includes the development of a dedicated website which will be launched in the second half of 2013. 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.

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Table of contents

Statistics 6

Overview of the legal framework 8

Asylum Procedure 10

A. General 10

1. Organigram 10
2. Types of procedures 11
3. List of authorities intervening in each stage of the procedure 11
4. Number of staff and nature of the first instance authority 12
5. Short overview of the asylum procedure 12

B. Procedures 13

1. Registration of the Asylum Application 13
2. Regular procedure 15

General (scope, time limits) 15

Appeal 17

Personal Interview 19

Legal assistance 22

3. Dublin 23

Procedure 23

Appeal 24

Personal Interview 24

Legal assistance 25

Suspension of transfers 25

4. Admissibility procedures 25
5. Border procedure (border and transit zones) 25

General (scope, time-limits) 25

Appeal 26

Personal Interview 27

Legal assistance *28*

6. Accelerated procedures 28

General (scope, grounds for accelerated procedures, time limits) *28*

Appeal *28*

Personal Interview *29*

Legal assistance *29*

C. Information for asylum seekers and access to NGOs and UNHCR 29

D. Subsequent applications 30

E. Guarantees for vulnerable groups of asylum seekers (children, traumatised persons, survivors of torture) 31

1. Special Procedural guarantees 31

2. Use of medical reports 33

3. Age assessment and legal representation of unaccompanied children 33

F. The safe country concepts 35

G. Treatment of specific nationalities 37

Reception Conditions 38

A. Access and forms of reception conditions 38

1. Criteria and restrictions to access reception conditions 38

2. Forms and levels of material reception conditions 39

3. Types of accommodation 41

4. Reduction or withdrawal of reception conditions 42

5. Access to reception centres by third parties 42

6. Addressing special reception needs of vulnerable persons 43

7. Provision of information 44

8. Freedom of movement 44

B. Employment and education 45

1. Access to the labour market 45

2. Access to education 45

C. Health care 46

Detention of Asylum Seekers 47

A. General 47

B. Grounds for detention 47

C. Detention conditions 49

D. Judicial Review of the detention order 52

E. Legal assistance 52

Statistics

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

	Total applicants in 2012	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)%
Total numbers	9575	30	45	20	11095	0.3%	0.4%	0.2%	99.2%
Breakdown by countries of origin of the total numbers									
Pakistan	2340	0	0	0	3310	0%	0%	0%	100%
Bangladesh	1005	0	0	0	1850	0%	0%	0%	100%
Georgia	895	0	0	5		0%	0%	100%	0%
Afghanistan	585	5	20	5	345	1.3%	5.3%	1.3%	92.0%
Albania	385	0	0	0	315	0%	0%	0%	100%
Senegal	375	0	0	0	245	0%	0%	0%	100%
Iraq	315	5	0	0	165	2.9%	0.0%	0.0%	97.1%
Syria	275	0	0	0	150	0%	0%	0%	100%
Nigeria	265	0	0	0	520	0%	0%	0%	100%
Dominican Republic	255	0	0	0	310	0%	0%	0%	100%
Others[1]									
Russia	35	0	0	0	35	0%	0%	0%	100%
Iran	210	5	5	0	225	2.1%	2.1%	0.0%	95.7%
Somalia	60	0	0	0	40	0%	0%	0%	100%

Source: Eurostat

[1] Other main countries of origin of asylum seekers in the EU.

NOTE: It is known that because of the dysfunctional asylum system in Greece, many people who may be in need of protection do not lodge an asylum application in Greece and therefore the total number of registered asylum applicants is relatively low, especially compared to the number of irregular crossings detected.

Table 2: Detection of illegal border crossings at the border crossing points of the Eastern Mediterranean route (Greece, Bulgaria, Cyprus) in 2012

	Number	Percentage
Total number of detections	**37224**	
Top 3 countries of origin		
Afghanistan	9566	25.7%
Syria	7122	19.1%
Bangladesh	4598	12.4%

Source: Frontex

Table 3: Gender/age breakdown of the total numbers of applicants in 2012

	Number	Percentage
Total number of applicants	**9575**	
Men	7925	83%
Women	1655	17%
Unaccompanied children	75	1%

Source: Eurostat

Table 4: Comparison between first instance and appeal decision rates in 2012

	First instance		Appeal	
	Number	*Percentage*	*Number*	*Percentage*
Total number of decisions	11195		1650	
Positive decisions				
Total	95	0.8%	530	32%
Refugee Status	30	0.3%	185	11%
Subsidiary protection	45	0.4%	90	5%
Hum/comp protection	20	0.2%	255	15%
Negative decision	11095	99.1%	1115	68%

Source: Eurostat

Overview of the legal framework

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

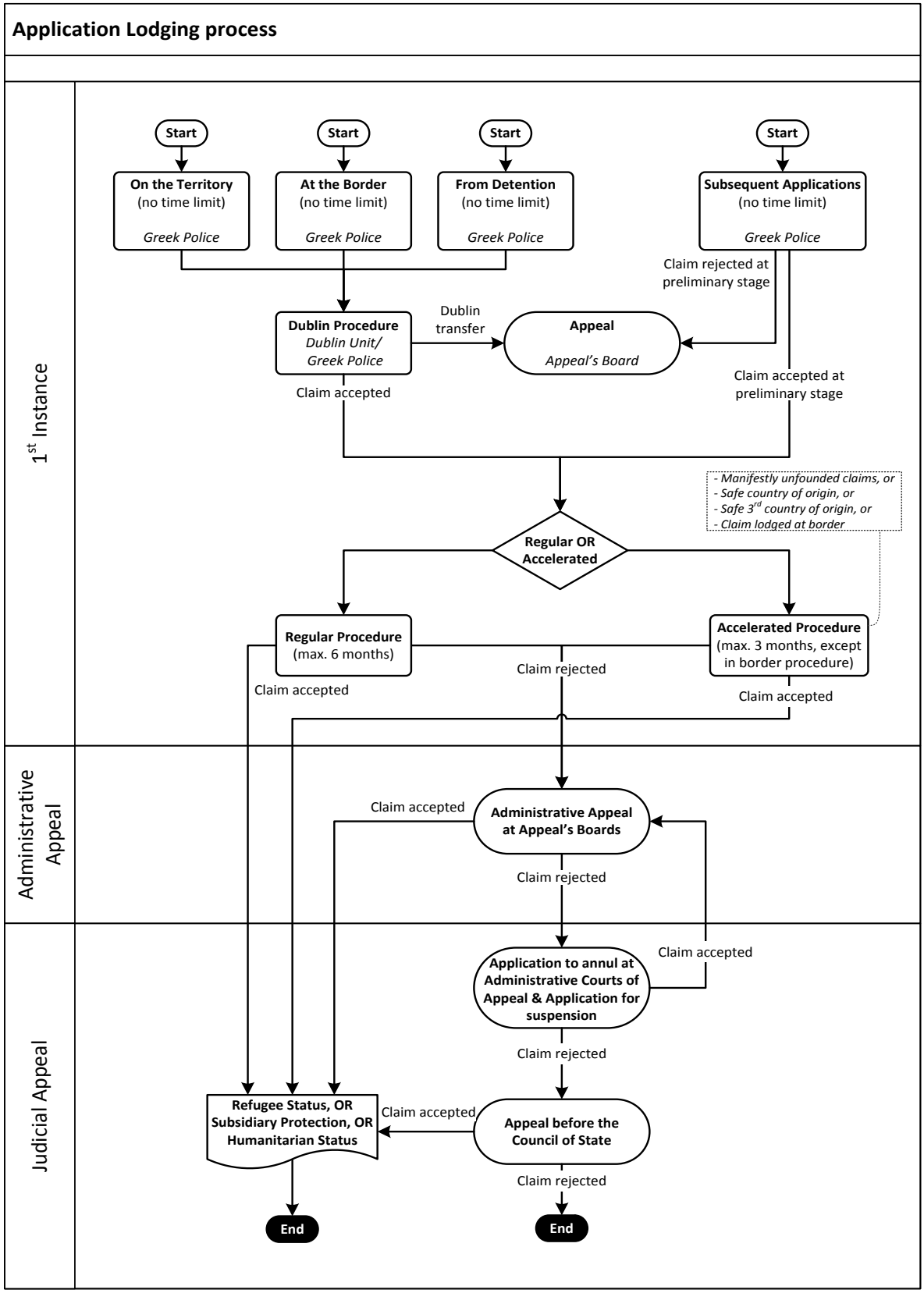
Title in English	Original Title	Abbreviation	Weblink
Presidential Decree 220/2007*on the transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers* Relevant: Instruction 2/2012	Προεδρικό Διάταγμα 220/2007 Εγκύκλιος 2/2012	P.D. 220/2007 Instruction 2/2012	http://www.refworld.org/docid/49676abb2.html (in English) http://www.synigoros.gr/resources/docs/egkyklios2.pdf (in Greek)
Presidential Decree 96/2008 of 25 July 2008 *Adaptation of Greek legislation to the provisions of Directive 2004/83/EC of the Council 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*	Προεδρικό Διάταγμα 96/2008	P.D. 96/2008	http://www.refworld.org/docid/4c5272fc2.html (in English)
Presidential Decree 90/2008, *Adaptation of the Greek legislation to the provisions of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status*	Προεδρικό Διάταγμα 90/2008	P.D. 90/2008	http://emn.ypes.gr/media/17801/p.d.%2090-2008_en.pdf (in English)
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*	Προεδρικό Διάταγμα 114/2010	P.D. 114/2010	http://www.refworld.org/docid/4cfdfadf2.html (in English)
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.*	Νόμος 3907/2011	Law 3907/2011	http://www.refworld.org/docid/4da6ee7e2.html (in English)

Relevant : Instruction 37/2011 Law 4058/2012 Instruction 41/2012	Εγκύκλιος 37/2011 Νόμος 4058/2012 Εγκύκλιος 41/2012	Instruction 37/2011 Law 4058/2012 Instruction 41/2012	Instruction 37/2011 : http://www.synigoros.gr/resources/docs/egkyklios37.pdf (in Greek) Law 4058/2012 : http://dide.fth.sch.gr/lows/n4058_2012.pdf (in Greek) Instruction 41/2012: http://www.synigoros.gr/resources/docs/egkyklios41.pdf (in Greek)
DECISION n. 7001/2/1454-h of 26 January 2012 , General rules for the operation of the Regional Initial Reception Services	Γενικός Κανονισμός Λειτουργίας Περιφερειακών Υπηρεσιών Πρώτης Υποδοχής, 26 Ιανουαρίου 2012.	DECISION n. 7001/2/1454-h of 26 January 2012	http://www.refworld.org/docid/4f33bace2.html (in English)
Presidential Decree 116/2012	Προεδρικό Διάταγμα 116/2012	P.D. 116/2012	http://www.ethemis.gr/p-d-1162012-eos-12-mines-i-kratisi-ton-etounton/ (in Greek)
Presidential Decree 104/2012	Προεδρικό Διάταγμα 104/2012	P.D. 104/2012	http://www.synigoros.gr/resources/docs/pd104-12.pdf (in Greek)
Presidential Decree 102/2012	Προεδρικό Διάταγμα 102/2012	P.D. 102/2012	http://www.synigoros.gr/resources/docs/pd102-12.pdf (in Greek)

Asylum Procedure

A. General

1. Organigram



2. Types of procedures

Indicators:

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

- regular procedure: yes ☒ no ☐
- border procedure: yes ☒ no ☐
- admissibility procedure: yes ☐ no ☒
- accelerated procedure: yes ☒ no ☐
- Dublin Procedure yes ☒ no ☐
- 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 by law that are not being applied in practice.

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

Stage of the procedure	Competent authority in 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	General Secretary of the Ministry of Public Order (regular procedure)/Territorially Competent Police Director/The police Directors of the Aliens Directorate of Athens and Thessaloniki and the Police Director of the Athens International Airport (accelerated procedure/inadmissible applications)	Ο Γενικός Γραμματέας Δημόσιας Τάξης και Προστασίας του Πολίτη/ Ο οικείος Αστυνομικός Διευθυντής, οι Αστυνομικοί Διευθυντές των Διευθύνσεων Αλλοδαπών Αττικής, Θεσσαλονίκης και ο Διευθυντής Αστυνομίας Αερολιμένα Αθηνών.
Appeal procedures : -First appeal -second (onward) appeal	-Appeals Board -Administrative Court of Appeals	-ΕπιτροπέςΠροσφυγών -Διοικητικό Εφετείο
Subsequent application (admissibility)	Territorially competent Police Director or the Director of the Allien's Directorate of Athens and Thessaloniki or the Director of the Athens Airport Police Directorate	Ο οικείος Αστυνομικός Διευθυντής, οι Αστυνομικοί Διευθυντές των Διευθύνσεων Αλλοδαπών Αττικής, Θεσσαλονίκης και ο Διευθυντής Αστυνομίας Αερολιμένα Αθηνών.

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

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the first instance authority?
Greek Police	Not available	Ministry of Public Order and Citizen's Protection	Not known

5. Short overview of the asylum procedure

A new legal framework reforming the asylum system was adopted in 2011, and created an Asylum Service and an Appeals Committee. However, because of delays in the establishment of the new Asylum Service, the asylum procedure is currently in a 'transitional phase' regulated by the Presidential Decree 114/2010. The procedure currently applied is described below.

According to the law, asylum seekers can lodge a claim before any Greek authority at entry points, at the border or in the territory, in written or oral form. They may also in any other way ask not to be deported to a country on the grounds of their fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion according to the Geneva Convention or the risk of suffering serious harm according to Article 15 of P.D 96/2008(O.G A' 152).

The police authorities are responsible for examining asylum applications at first instance and they are also responsible for carrying out the Dublin procedure.

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 comes from a safe third country. The accelerated procedure also applies in case the applications for international protection are lodged at the border or at transit zones of ports or airports.

The law provides both for the possibility of a first instance appeal before the Appeals Board, which is an administrative body, and an onward appeal before the Administrative Court of Appeals.
Asylum seekers have the right to appeal before the Appeals Board against the following decisions:

a. a decision rejecting their application for international protection or withdrawing such status in the regular procedure within thirty (30) calendar days after the day of serving of the decision.
b. a decision rejecting as manifestly unfounded or as inadmissible their application for international protection in the accelerated procedure, within fifteen (15) calendar days after the day of serving of the decision.
c. A decision rejecting their application for international protection lodged at the borders within ten (10) calendar days after the day of serving of the decision.
d. a decision rejecting their subsequent asylum application during the preliminary examination stage of the procedure within fifteen (15) calendar days after the day of serving of the decision.

In all these cases the appeal before the Appeals Board has automatic suspensive effect.

The asylum seeker and the Ministry of Citizen Protection have the right to apply for the annulment of the decision of the Appeals Board before the Administrative Court of Appeals. The latter appeal has no automatic suspensive effect. Only by interim measures before the same court the appellant can demand the suspension of deportation. It is at the discretion of the court to decide on suspension of deportation. The appellant can also ask for the appeal of the Appeals Court decision by a writ of error before the Council of the State. This appeal does not have an automatic suspensive effect.

B. Procedures

1. Registration of the Asylum Application

Indicators :

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

The authorities competent to receive and register asylum applications are:

(1) the Asylum Departments of the Aliens' Directorates of Attica (Athens) and of Thessaloniki,

(2) the Security Departments of the National Airports, and

(3) the Sub-directorates and Security Departments belonging to the Police Directorates across the country (there are 53 Directorates).

There is no time limit in the law for lodging an asylum application.[2]

It is foreseen in the Greek Action Plan that the First Reception Service (FRS) established by law No 3907/11 shall, upon entry, provide information to migrants, operate screening procedures in order to identify vulnerable groups and offer medical and psychosocial care, among other services. Nevertheless, the only 'reception' facilities at the borders are administrative detention centres for third country nationals entering the territory irregularly.

The Greek Action Plan on Asylum further foresees the creation of asylum applications registration points within Security Stations at the Greek borders (islands in the Eastern Aegean sea, Evros river), on the assumption that interpreters will be available promptly and the Security Stations will be supported by more personnel. The aim of these new registration points is for them to operate as rapid response teams by performing first reception operations on the spot. The smooth operation of such registration points would partly overcome the existing barriers to registering an asylum application and would improve the conditions of first reception. However, at the time of writing this report, the registration points were not operational yet. The first "First Reception Centre" (FRC) in Evros region received on 19th March 2013 its first 'guests'. After the initial maximum stay of 25 days in the FRC, asylum seekers as well as those being held for deportation are being transferred to detention centres in the Evros region. So far nationals of Syria are being freed.

The registration of asylum applications in Greece is, in practice, very problematic, and the obstacles to access the asylum procedure have been highlighted for more than 10 years. Although in theory, asylum seekers can lodge an application to local authorities, in practice, it has been reported that those authorities refuse to register applications and people are directed to the Attica Aliens Directorate in Athens (PetrouRalli), where, therefore, the vast majority of asylum try to submit their applications.[3]In a report published in July 2012, Greek NGOs claim that "access to the asylum procedure is almost impossible in Attica".[4]Many other reports have documented the difficulties to lodge an application in Greece in general and in Athens in particular.[5]

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2 Presidential Decree 90/2008, Article 6, para.1 : "Requests are not dismissed merely on the ground that they have not been submitted the soonest possible".

3 14 Greek NGOs, *Report of the Campaign for the Access to Asylum in Attica Area*, July 2012.

4 *Ibidem.*

5 See, Amnesty International, *Greece: The end of the road for refugees, asylum-seekers and migrants*, 20 December 2012, EUR 25/011/2012, p.5; Human Rights Watch, *World Report 2012: European Union*, January 2012.

At Petrou Ralli, asylum applications are received only one day per week, every Saturday, officially from 6am, in a side street of the building, as waiting outside the main entrance is prohibited. In average, around 20 asylum applications are registered every week, although at times up to 2,000 persons may be queuing to apply for asylum. On Saturday mornings, the police officers of the Aliens Directorate randomly select around 20 people (sometimes the first in line, but not always). People start queuing from Thursday morning, even in harsh meteorological conditions and remain for three days with no access to toilets, water or food. In addition, the police regularly disperse the crowd so that people do not start queuing before the Friday evening.[6]

Persons seeking to apply for asylum may be obliged to return many times over several months before having the opportunity to register, while facing the risk of being arrested and deported in the meantime. During the monitoring carried out by a consortium of NGOs between February and April 2012, there were some weeks were no applicants at all were allowed to register their asylum claim. After the 'selected' applicants are allowed to enter the building of the Aliens Directorates, the remaining asylum seekers are dispersed with no explanation and no further information is provided.[7]

No standard prioritisation system applies and there is no mechanism in place to identify vulnerable people. Women and children have to queue with other asylum seekers, in the same conditions. The NGOs also highlight that the process to register an application leads to violence and exploitation, raising tensions between asylum seekers, while the police remains indifferent even when fights occur.[8]

Registrations are handled by police staff that lacks training for this specialised function[9], and are insufficient in number (the exact number is not known). This is despite the fact that the Greek Action Plan foresees additional training of police personnel responsible for the first and second instance procedure.

Asylum seekers are expected to provide an address in Greece, and given the difficulties asylum seekers face in securing accommodation, this proves impossible for many people. Consequently, it is difficult for the authorities to notify asylum seekers of developments in their case, and for asylum seekers to meet deadlines for important procedural steps, including the lodging of an appeal.

The asylum seekers who manage to apply for asylum, are provided with the special asylum seeker's card, the so- called "pink card".

A specific procedure exists at Athens airport for new asylum applications lodged by persons without permission to enter. In this procedure, UNHCR has not observed particular barriers to the filing of an asylum application, although those applying for asylum at the airport may be detained for a maximum period of up to four weeks, during which they are interviewed. However, this procedure is characterised by the same absence of procedural guarantees as at the other entry points: there are generally no interpreters available, and legal and procedural counselling and assistance is not accessible. This lack of procedural guarantees is yet another gap in the implementation of the reform of the asylum system referred to in the Greek Action Plan, where it is expressly stated that provision of interpretation services and legal aid for asylum seekers is foreseen. If a decision is not taken within the four week maximum detention period, applicants are released, allowed to enter the territory and required to report to PetrouRalli. They are however confronted with the same difficulties as other applicants at Petrou Ralli, including the difficulty of providing an address as a condition for registering their asylum application. Only the people who are able to provide the authorities with an official address can receive a "pink card".

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6 See UNHCR, *Dozens queue every week in Athens to apply for asylum*, 22 March 2012; 14 Greek NGOs, *opus cite.*

7 14 Greek NGOs, *opus cite.*

8 14 Greek NGOs, *opus cite.*

9 ECRE and ICJ, *Second Joint Submission of the International Commission of Jurists (ICJ) and of the European Council on Refugees and Exiles (ECRE) to the Committee of Ministers of the Council of Europe in the case of M.S.S. v. Belgium and Greece (Application no. 30696/09) and related cases (hereinafter, ECRE and ICJ second submission on M.S.S. v. Belgium and Greece*), February 2013, p. 19. See also, 14 Greek NGOs, *Report of the Campaign for the Access to Asylum in Attica Area*, July 2012.

According to UNHCR's observations, the procedures followed in case of arrest after illegal entry in the Evros region involve, in a large number of cases, the issuance of deportation orders, without any prior assessment of the person's individual situation[10]. Such deportation orders are frequently accompanied by detention orders.[11] The length of the detention is largely based on the feasibility of deportation, which itself is determined by the results of a nationality assessment, undertaken by Frontex, which are regularly used by Greek officials as the basis for their administrative processes. People determined to be of certain nationalities – including Iraqis, Syrians, Georgians and Iranians, among others – have frequently been detained for extended periods. It has been observed that the nationalities with extended detention periods may be liable to return to Turkey pursuant to the readmission agreement between Turkey and Greece. UNHCR is aware of a number of cases of return of third country nationals from Greece to Turkey during 2010 under the readmission agreement. It is noteworthy in this connection that Turkey, which maintains the geographical limitation to the 1951 Refugee Convention and does not accept responsibility for refugees from outside Europe, has in the recent past removed people onwards to its neighbouring countries.

In-country asylum applications can, in principle, be lodged at all Police Directorates, including at Athens International Airport and at Petrou Ralli (Athens). According to Presidential Decree 114/2010, it is possible to register asylum applications and conduct interviews at Athens International Airport, including for asylum seekers transferred back to Greece under the Dublin Regulation; a process which had just commenced at the end of January 2011,[12]but which is no longer applied generally in practice for the time being as transfers to Greece under the Dublin Regulation have been suspended in practice since *M.S.S. v. Greece and Belgium*. Since July 2009, asylum interviews with asylum seekers transferred back to Greece under the Dublin Regulation and applying for asylum in Greece for the first time have been carried out at the Asylum Department of the Attica Police Headquarters. In practice this means that transferees to Greece under the Dublin procedure face the same registration barriers, like having to queue at Petrou Rali. Although there are some designated asylum personnel to carry out asylum interviews at the Police Headquarters, both Amnesty International and UNHCR remain concerned that, given the concerns about the lack of training, expertise and sufficiency of specialized personnel, asylum-seekers are not being provided with full and thorough interviews.[13]

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
- As of 31st December 2012, the number of cases for which no final decision (including at first appeal) was taken one year after the asylum application was registered: Not available

[10] United Nations High Commissioner for Refugees- Office in Greece, *Contribution to the dialogue on migration and asylum*, May 2012 and Amnesty International, *Greece: The end of the road for refugees, asylum-seekers and migrants*, 20 December 2012, EUR 25/011/2012, p.5.

[11] Amnesty International, *Asylum-seekers and migrants in Greece hounded by police operations and right-wing extremists*, 20 December 2012.

[12] *Idem*, "EU asylum policy requires asylum-seekers to return to the first country they entered upon arrival in the EU. However, after the European Court of Human Rights concluded in 2011 that Greece lacked an effective asylum determination system, many EU countries have halted the return of asylum-seekers to Greece. ".

[13] United Nations High Commissioner for Refugees- Office in Greece, *Contribution to the dialogue on migration and asylum*, May 2012, p. 3.

Currently, asylum applications are still registered and examined by the police authorities. A new law adopted in 2011 established a new Asylum Service (an autonomous civil service in the Ministry of Citizens Protection) responsible for examining asylum claims, however it is still not fully operational.[14]The operation of the new Asylum Service was initially postponed until March 2013, by law[15], but it is still not expected to be fully functioning before the second half of the year.[16] Until the Asylum Service is operational, and as a transitional measure, the police remains responsible for examining asylum applications at first instance.[17] The police is under the responsibility of the Ministry for Citizens' protection.

The police staff in charge of examining asylum applications has been criticised. In a recent report, the NGO AITIMA claimed that "the 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."[18]

According to Presidential Decree 114/10, a first instance decision on the asylum application must be taken by the Ministry of Citizen Protection, within six months when the regular procedure is followed. When the examination cannot be concluded within this maximum period, which 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 shall not constitute an obligation for those authorities vis-à-vis the asylum seeker concerned to take a decision within a specific time-frame. Indeed, delays of more than 1 year in the issuing of first instance decisions have been reported lately due to understaffing and heavy workload. The General Secretary of the Ministry of Public Order decides at first instance under the regular procedure. The territorially Competent Police Director or the Police Directors of the Aliens Directorate of Athens and Thessaloniki or the Police Director of the Athens International Airport decides under the accelerated procedure or for manifestly unfounded applications.

When an application may reasonably be considered to be well-founded or when the applicant belongs to a vulnerable group, as provided in Article 17 of P.D. 220/2007 (O.G. A' 251), the asylum application shall be examined by priority, in accordance with the basic principles and guarantees described in this Article. The following categories of asylum seekers are considered to be vulnerable according to Article 17 of P.D. 220/2007: unaccompanied children, disabled people, elderly people, pregnant women, single parents with minor children, as well as persons who have been subjected to tortures, rape or other serious forms of psychological, physical or sexual violence.

According to Article 12 P.D. 114/10 asylum applications lodged by unaccompanied children shall always be examined by priority and according to the regular procedure. 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. In practice, this is not always applied; for example, at sea and land entry points there is no experienced staff available to

14 Law 3907/2011 on the establishment of an Asylum Service and a First Reception Service.
15 Law 4038/2012.
16 As mentioned above (see registration of the asylum procedure) the first 'First Reception Centre' in the Evros Region received its first "guests" in March 2013. NGOs were informed in June that only the Regional office of the Attica region would become operational in June as well as one mobile unit in the Evros region However, at the time of writing, it was not clear whether this materialised in practice.
17 The transitional phase is regulated by P.D. 114/10.
18 European Network for Technical Cooperation on the application of the Dublin II Regulation, National Report on Greece p. 13.

respond to the needs of unaccompanied children and vulnerable persons in general.[19] Furthermore, 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.

In practice, 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 can have access to the asylum procedure after the intervention of NGO. 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 in special reception centres for vulnerable groups as the Greek Action Plan foresees, renders access to the asylum procedure very difficult even for these people.[20] Sometimes only after the intervention of Ombudsman, taking the information by an NGO they can have access to the asylum procedure and to apply their right to family reunification.

Appeal

Indicators:

- Does the law provide for an appeal against the first instance decision in the regular procedure: ☒ Yes ☐ No
  - if yes, is the appeal ☐ judicial ☒ administrative
  - If yes, is it suspensive ☒ Yes ☐ No
- Average delay for the appeal body to make a decision:

According to the law[21], applicants shall have the right to appeal before the Appeals Committee, which was established by the Presidential Decree 114/10, against the following first instance decisions:

a. a decision rejecting their application for international protection or withdrawing such status within thirty (30) calendar days after the day of serving of the decision;
b. a decision considering their application for international protection as manifestly unfounded or as inadmissible, according to Articles 17 paragraph 3 and 18 (P.D 114/10) respectively within fifteen (15) calendar days after the day of serving of the decision;
c. a decision rejecting their application for international protection in the cases of the accelerated procedure described in Article 24 within ten (10) calendar days after the day of serving of the decision;
d. a decision rejecting their subsequent asylum application during the preliminary examination stage; and
e. within fifteen (15)calendar days after the day of serving of the decision.

By law, during the time-limit for lodging an appeal and, after an appeal has been lodged, until such time as the Appeals Committee issues its decision, all measures of removal of the applicant shall be suspended. The special asylum seekers' card ('pink card') shall be withdrawn and issued again when an appeal is lodged. This card will be valid for six months in the regular procedure[22] and for three months in all other cases (when the accelerated procedure is followed)[23].

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19 CPT, *Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 27 January 2011*, CPT/Inf(2012)1, Strasbourg, 10 January 2012, par.42.

20 Amnesty International, *Greece: The end of the road for refugees, asylum-seekers and migrants*, 20 December 2012, EUR 25/011/2012.

21 Article 25, P.D 114/10.

22 Article 25 par. 1 (a), P.D 114/10.

23 Article 25 paragraph 1 P.D. 114/10.

The practice of reissuing the pink card differs depending on the location. When an asylum claim is rejected by the Aliens' Directorate office in Athens, usually an appeal is prepared on the spot (containing only basic information on the applicant and the case) and the pink card is automatically renewed. However, in most of the other locations registering and processing asylum claims, there is no such automatic appeal, but the applicant must submit one within the time limits specified by law (30, 15 or 10 days, see section appeal below). In these cases, the following obstacles have been observed:
a. The applicants are not informed of their rights with regards to an appeal in a language they understand resulting in them missing the deadlines for the appeal.
b. Due to lack of interpreters and severe understaffing, the applicants may lack access to the appeal process, as they may present themselves to the authorities for filing an appeal but there may not be anyone available to receive the claims.

Ten Appeals Committees, under the responsibility of the Ministry of Citizen Protection, were established under Article 26 Presidential decree 114/10 and had started working. They are in charge of new appeals as well as the previous backlog of cases.

Nevertheless, their services have been suspended in the beginning of May 2013 due to issues with the professional licenses of the members and recent allegations with regards to abusive employment contracts. At the time of writing, the Committees have not resumed their operations, and the following description therefore remains theoretical for the time being. Each Committee shall consist of:

a. a civil servant from the Ministry of Interior, Decentralization and e-Governance or from the Ministry of Justice, Transparency and Human Rights with a university degree having graduated from a Law School. This person is the chair of the Appeals Committee,
b. a representative of the UNHCR, and
c. a jurist specialised in refugee law and human rights law.

The Ministry staff, who are members of the Committees and their substitutes shall be appointed by the competent Minister (Ministry of Interior or Ministry of Justice). The above mentioned third member of the Appeal Committees shall be chosen from a relevant experts list established under the responsibility of the National Commission for Human Rights according to its regulation[24]. Lawyers appointed as members of the Appeal Committee shall abstain from any legal action on behalf of third country nationals on immigration or international protection matters and shall not represent such clients before the authorities during the procedure at both first instance and appeal. In case the second and third members of the Appeal Boards, or their substitutes do not attend the meetings of the Appeal Committee for any reason, save cases of *force majeure*, for three consecutive meetings, despite having been duly invited, they shall be replaced by civil servants holding a University degree from the Ministry of Interior, Decentralization and e-Governance or from the Ministry of Justice, Transparency and Human Rights.

The chair and the members of the Appeal Committees are full-time employees.[25] Each Appeal Board is provided with support by a secretariat consisting of 5 staff members composed of duly qualified staff from the Ministry for the Protection of the Citizen in a full-time capacity.

By law, the Appeal Boards should rule on appeals against decisions in Article 25 par. 1 (a) P.D. 114/10 within six months (when the regular procedure is followed) and for all other appeals within three months, from the date the appeal was lodged. They shall operate on the basis of the rules of procedure laid down in a decision to be taken by the Minister of the Citizen Protection.

[24] Ministerial Decision Y139/2000, Regulation of the National Committee on Human Rights (in Greek).
[25] The members of the Appeal Committee shall receive an indemnity according to the provisions of Article 17 paragraph 2 (c) of law 3205/2003 (O. G. A 297). The indemnity for the representatives of the United Nations High Commissioner for Refugees shall be disbursed to this agency.

According to Article 25 (P.D. 114/10), each Appeal Committee shall summon the appellant, who shall be informed at least five days in advance and in a language that they understand of the place and date of the examination of their appeal as well as of their right to appear before the Committee in person, alone or with their lawyer or other counsellor, to state orally, with the assistance of an interpreter, their arguments and to give clarifications or present any additional elements. The decision of the Appeals Committees shall be served to the appellant according to the provisions of Article 7 (P.D.114/2010) and shall be notified to the Minister of the Citizen Protection.

A decision rejecting the administrative appeal at the Appeal's Boards must also set a specified time-frame of no more than ninety days for the applicant's departure from the Greek territory. The asylum seeker as well as the Minister of the Citizen Protection shall have the right to request the annulment of the decision of the Appeals Committees, before the Administrative Court of Appeals.

The filing of such request does not automatically suspend the measures of removal of the applicant taken with the rejection of the appeal at the Appeal's Boards. Moreover, access to judicial review (on points of law) before this Administrative Court of Appeals is limited by a number of practical and legal obstacles, which undermine the effectiveness of the remedy. These include:

- Complicated procedural rules for submitting applications for annulment of negative decisions of the Appeal Boards. The applications must be well substantiated, written in Greek and subscribed by a lawyer.
- Court decisions on a request for temporary suspension of execution of the challenged decision may take 10 days to 4 months, leaving the applicant without protection against deportation during that time; it is up to the applicant to request this suspension.
- Although free legal aid should be provided according to the law, the system does not function in practice, as there are gaps in coverage of expenses and huge delays in paying the lawyers for their work under legal aid. As a result, relatively few lawyers are willing to be included in the free legal aid list of the Lawyers' Associations.

With regard to lodging an appeal with the Appeals Committee, no legal obstacles have been observed thus far. However, given that the establishment of these Committees is fairly recent and that in May 2013 operations have been temporarily suspended, they cannot be considered to function in a satisfactory way.

Personal Interview

Indicators:

- Is a personal interview of the asylum seeker systematically conducted in practice in the regular procedure? ☒ Yes ☐ No
  - 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? ☐ Yes ☒ No

According to the law, before a decision is taken at first instance by the Ministry of the Citizen Protection, a personal interview should be conducted with the applicant by an official with the rank of officer of the Police Department, competent to examine, appointed to this purpose. The official recommends the decision to the Ministry of Citizen Protection after having completed a report of the interview. The

interview should take place with the assistance of an interpreter who is able to ensure adequate communication.[26]

Still according to the law, before the interview, the applicant should be given, upon their 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. The reasonable amount of time is at the discretion of the police officer who has the authority to examine the asylum application and conducts the interview and, including the prolongations, must not exceed two months. No criteria on the reasonable amount of time are given by the law.

In practice most of the interviews are postponed several times well over two months, due to lack of police officers or interpreters in the Aliens Police Directorate. The Greek Council for Refugees has witnessed instances where the interview has been postponed without renewal of the pink card. This puts applicants at risk of missing their deadlines and not appearing at the interview and consequently of being considered that they have silently withdrawn from the asylum claim according to the provisions of Article 14 P.D. 114/10. There have also been cases where the pink card is renewed but with no reference to the postponement of the interview. This results in the authorities taking the pink card the next time that the applicant appears before them.

The law furthermore provides that a representative of UNHCR or of an organisation cooperating with UNHCR, may be present during the interview and allowed to ask questions to the applicant. A legal advisor of the applicant may also be present and intervene when appropriate during the interview. The UNHCR office in Athens should be informed in time of the planning of interviews and the names of the applicants.

Nevertheless, in practice, there have been instances where the UNHCR office has not been informed, thus greatly compromising the quality of the interview. The legal advisors of the applicant are not informed of the planning of the interviews.

According to the law, if the interview concerns a female applicant, special efforts should be made so that the interview is conducted by a specialised female interviewer and that a female interpreter is present. If this is not possible, the relevant reasons should be stated in the report. A separate interview should be conducted with every adult family member. When children are concerned, the personal interview should be conducted taking into consideration their maturity and psychological consequences of their traumatic experiences.

The official who takes the interview recommends the decision after having completed a relevant report to the Determining Authority, namely the Secretary General of the Ministry of Public Order (regular procedure)/ Territorially Competent Police Director/The police Directors of the Aliens Directorate of Athens and Thessaloniki and the Police Director of the Athens International Airport (accelerated procedure/inadmissible applications) (hereinafter the 'Determining Authority').

According to the law,[27]the personal interview may be omitted where:

a. the Determining Authority , is able to take a positive decision on the basis of available evidence, or
b. it is not practically feasible , in particular where the applicant is unfit or unable to be interviewed due to enduring circumstances beyond their control. Such inability must be certified by a relevant medical or psychological certificate from a public hospital.

[26] According to the law the applicants must be allowed to confirm the facts stated in the application and to provide explanations, particularly as regards their exact identity data, the reasons for which they do not hold a passport or other official travel document, the exact itinerary they followed before entering the Greek territory and the reasons which forced them to leave their country of origin, or in the case of stateless persons the country of former habitual residence, and for seeking protection.

[27] Article 10 (P.D. 114/10).

In practice the applicants themselves or usually their legal advisor, if they had any, must get such a certificate. Certificates by NGOs providing psychological support have not been accepted neither by officials at first instance interview nor by the Appeal Boards.

According to the law, the recommendation drafted by the official of the Police Department shall also include the opinion of the representative of UNHCR or of the organisation cooperating with UNHCR, if this person was 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 of the Determining Authority diverges from the above mentioned opinion of the representative of the UNHCR or of the organisation cooperating with UNHCR and rejects the application, it shall be specifically reasoned. When the applicant or, where applicable, a family member of the applicant is not provided with the opportunity of a personal interview because of the fact that they are unfit or unable to be interviewed as mentioned above, the Determining Authority shall "make reasonable efforts", as referred to at the law in order to provide them with the possibility to submit further supplementary information.

The law provides that even if a personal interview is omitted, the determining authority can still make a decision on the application, but should explain the reasons for omitting the interview. The personal interview shall take place without the presence of the applicant's family members unless the competent official of the Police Department considers their presence necessary. The personal interview shall take place under conditions which ensure appropriate confidentiality.

The law provides that the person conducting the interviews should have sufficient knowledge and skills and be trained on the special needs of vulnerable applicants. The law also envisages that an interpreter of a language "reasonably supposed to be understood" by the applicant be present. In practice, however, there are serious problems with the interpreters. Apart from frequent postponement of interviews due to the lack of interpreters as mentioned above, the quality of these services is very often compromised. For example, GCR has reported poor knowledge of English of interpreters in the Xanthi police academy, as well as allegations of interpreters asking for money from detainees in return for their services.[28]

According to the law, a written report, but not an exact transcript should be presented to the applicant at the end of the interview in order for them to approve and sign it. To this end, the applicant should be assisted by the interpreter who also signs the report. When an applicant does not approve the report, it does not prevent the authority from making a decision on the case. The law provides that applicants shall have the right to receive, at any time, copy of the report of the personal interview. If there are strong indications during the interview that the applicant has been subjected to torture, they shall be referred to a specialized 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.

In practice, however, even applicants who mention that they are victims of torture are not referred to a specialized centre during the first instance personal interview. On the other hand their interview is postponed if they so request, in order to submit the above mentioned report. The Appeal Boards do not always make such referrals.

The above mentioned guarantees shall, according to the law, also apply during the interviews with regards to the appeals procedure 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.

[28] See Greek Council for Refugees, Thrace Report – October 2012, p. 4.

The quality of interviews in the asylum procedures in Greece have been repeatedly criticised by NGOs, as well as by UNHCR, the Parliamentary Assembly of the Council of Europe.[29]Even though UNHCR recognised some progress in 2012 in the quality of the interviews, it also highlights that "the asylum procedure was, for many years, characterized by a lack of essential procedural guarantees, including a lack of qualified interpretation during interviews, poor quality of interviews and interview records".[30]

Legal assistance

Indicators:

- Do asylum seekers have access to free legal assistance at first instance in the regular procedure in practice?
  ☐ 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

According to the law, asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their asylum application. In the case of an appeal before the Court, the applicant shall be provided with free legal assistance according to the procedure laid down in law 3226/2004 (O. G. A 24). Lawyers who represent asylum seekers shall have access to the information in the applicant's file, except in some circumstances related to national security, if this information is relevant to the examination of the asylum application.

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 that legal counsellors from NGOs in practice provide legal assistance to the applicants there was no opportunity to see the difference between the two above-mentioned provisions of the law.[31]

Lawyers who represent asylum seekers and other counsellors who assist them shall have access to closed areas, such as detention facilities and transit zones, for the purpose of consulting with the asylum seekers in specially arranged premises within such closed areas. The authorities competent to receive or examine an asylum application may only limit the possibility of these persons' access to closed areas where such limitation is deemed objectively necessary for the security, public order or administrative management of the area, or in order to ensure an efficient examination of the asylum application, provided that access by the lawyer or legal counsellor is not thereby severely limited or rendered impossible.

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29 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 ; Greek Ombudsman, *Findings after the 16.11.2010 visit in situ of the Ombudsman to the Attica Aliens Police Directorate in PetrouRalli, Athens*, 25 January 2011,(in Greek).

30 UNHCR Greece, *Contribution to the dialogue on migration and asylum*, May 2012.

31 It should be noted that the law provides that the Determining Authority may, in a reasoned decision, forbid the disclosure of the source of the information if it considers that such disclosure of sources may jeopardise national security, the international relations of Greece, the security or the necessary secrecy in the actions of the organisations or person(s) providing the information. The access to this confidential information or sources is, in any case, possible to the Administrative Court of Appeal, the court competent to examine a request for the annulment of a decision by the Determining Authority provided in Article 29 (P.D 114/10).

The law provides that lawyers and other counsellors shall have the right to represent the asylum seekers at all stages of the asylum procedure. The lawyer representing the asylum seeker or the counsellor assisting may be present during the personal interview together with the asylum seeker. The absence of a lawyer or a counsellor shall not prevent the personal interview from taking place.

According to the law, legal aid is provided only for lodging an Appeal and representing the case before the Administrative Court of Appeal (see chapter *Appeal*). Legal aid is provided upon the applicant's request and two criteria must be fulfilled: (a) the application must be founded and (b) the applicant's financial inability to pay for legal services must be established. The counsellor's choice is made according to a list created by the relevant Bar Association.[32]
There are a number of obstacles in having access to free legal aid. In order for the request to legal aid to be examined, the asylum seeker must submit an application to the court signed by a lawyer, so s/he must pay one for this service or find a lawyer that will work on this pro bono. In addition, there is no choice of lawyer, as the available ones are only those designated in the lists of the Bar Associations. Furthermore, the low remuneration accorded to lawyers in asylum cases under legal aid results in only a very small number of lawyers willing to take up such cases. This creates a shortage in the availability but also the quality of legal aid services.

In practice free legal assistance and representation is provided by NGOs through European Refugee Fund (ERF) funding which is limited vis-à-vis the number and the needs of asylum seekers. Although the Greek Government alleges that it provides sufficient free legal aid through ERF-funding, the previous funding ended in April 30th 2013 and an announcement on the launching of the new call for ERF funding took place on the 4th June 2013. Although the new funding will cover the gap retrospectively, nevertheless, during this period NGO funding has been suspended and uncertainty over when and whether the new Call for Proposals would take place resulted in the suspension of legal aid.

3. Dublin

Indicators:

- Number of outgoing requests in the previous year: 673
- Number of incoming requests in the previous year: 617
- Number of outgoing transfers carried out effectively in the previous year: 244
- Number of incoming transfers carried out effectively in the previous year: 175
  (all numbers are valid for the first 11 months of 2012.)

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? Not available

EURODAC is being rigorously applied in Greece. The cases of transferring back asylum seekers from another Member State to Greece are extremely rare because all EU Member States have stopped Dublin transfers to Greece as a result of the *M.S.S. v. Greece and Belgium* case.[33] However, in case a Dublin return occurs, the asylum application takes place in the airport where they are kept in detention.

[32] Law No. 3226/2004.
[33] European Court of Human Rights, *M.S.S. v. Belgium and Greece*, Application No. 30696/09, Judgment of 21 January 2011.

Many asylum seekers are directly returned to Greece from the Italian border outside the scope of the Dublin II Regulation.[34] A recent report by the Greek Council for Refugees and Pro Asyl indicated that "in the majority of cases at the Italian sea ports, people in need of international protection and unaccompanied children who are detected and apprehended in the Italian ports and in the southern coasts of Italy, are either refused entry to the Italian territory or are readmitted back to Greece, without being granted any access to international protection, to any sort of registration of their claim, identification and individual evaluation of their case and/or vulnerability".[35]Similar concerns have been raised with regard to the Bulgarian/ Greek border.

Dublin II returnees who have never previously lodged an asylum application in Greece will have their application examined according to the normal asylum procedure upon return to Greece.[36]

Appeal

Indicators:

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

The appeals against the decisions in the Dublin procedure do not differ from all the other appeals in judicial level, including their suspensive effect. In case of an outgoing asylum application there is no appeal system.

Personal Interview

Indicators:

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

A personal interview is required. The whole procedure takes place as in the regular procedure. There are no mentioned cases, in practice, of asylum seekers who were not personally interviewed on the application of the Dublin procedure. However personal interviews in cases relating to outgoing requests for transfer of asylum seekers are less detailed and much more concise.

In the rare cases where a Dublin Procedure is initiated by the Greek authorities, to the knowledge of the author of the report, there have been no specific complaints with regard to the way in which personal interviews on the application of the Dublin Regulation have been conducted.

[34] On returns from Italy to Greece see Human Rights Watch, Turned away. Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece, January 2013.

[35] Greek Council for Refugees and Pro Asyl, Human Cargo, Arbitrary Readmissions from the Italian Sea Ports to Greece, July 2012, p.4.

[36] See European Network for Technical Cooperation on the application of the Dublin II Regulation, Dublin II Regulation National Report Greece, 30 October 2012, at p. 15.

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 until a decision on the application of the Dublin Regulation is taken by the Ministry of the Citizens Protection is not guaranteed under the law. Access to free legal assistance and representation in the context of a Dublin procedure takes place under the same conditions as is described above with regard to legal assistance in the context of the regular procedure. The same problems and obstacles described in the relevant section under the regular procedure exist in the context of Dublin procedures, as well. The Dublin Unit in the Ministry of Public Order and Citizen's Protection, responsible for "Dubliners" is extremely understaffed. Although the Police should prepare the files for family reunification and be in contact with the Dublin Unit, in practice the files of those asylum seekers who are in contact with NGOs like GCR are entirely prepared by them (the NGOs).

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

In practice there are not such cases.

4. Admissibility procedures

There is no special admissibility procedure under Greek law. However, it should be noted that according to the art.18 PD 114/10 the Determining Authority (see above) can reject an application as inadmissible with a relevant act.

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 substantiated reports of refoulement at the border (based on NGO reports, media, testimonies, etc)? ☒ Yes ☐ No
- Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No

According to Article 24 P.D. 114/10, where applications for international protection are lodged at the border or at transit zones of sea ports or airports, the accelerated procedure, as described in Article 17 P.D 114/10 must be applied. This means that the applicants enjoy the guarantees provided for in Article 11 paragraph 1 as well as all guarantees provided for in Article 8 which includes communication in language the asylum seekers are reasonably supposed to be able to understand in terms of interpretation services, legal assistance offered by UNCHR or other organisations, information about the asylum procedure, free of charge provision of asylum seeker's special card - and Article 12 (see Section B2 Regular Procedure above) P.D.114/10 on the guarantees provided to unaccompanied minors.

However, if no decision on the asylum application is taken within four weeks, the applicant must be allowed to enter the territory of Greece in order for their application to be examined according to the regular asylum procedure. According to the third paragraph of Article 24 (P.D. 114/10), in the event that the accelerated procedure cannot be practically applied at the border or in a transit zone of sea ports or airports, in particular due to the arrival of a large number of persons lodging applications for international protection, the accelerated procedure may be used in other locations that are in the proximity of the border or transit zone, where these persons are accommodated.

In case this Article is applied and where an application of international protection is rejected and a deportation order is issued whose enforcement is suspended pending a judicial review before the Administrative Court of Appeal, the asylum seeker shall be allowed to enter Greece without any passport control until a judgment on the annulment appeal is taken by the Administrative Court of Appeal. The asylum seeker is then obliged to present themselves as soon as possible to the authority territorially competent to examine asylum applications in order to state, in practice quite difficult, their place of residence and to have the special asylum seeker's card issued. There is no information as to whether this Article is applied in practice and in which areas, as asylum seekers are automatically detained upon entry in Greece and can lodge an asylum claim from detention.

It had been reported that in practice, as it is the case for the personal interviews on the asylum application conducted at the border, the lack of interpreters in the police stations and the use of fellow-detainees as interpreters regularly results in inaccurate registration of personal details including age. Also the lack of information about the possibility to apply for international protection has been reported at the border, which obviously constitutes an important obstacle to access to the procedure.[37]

Appeal

Indicators:

- Does the law provide for an appeal against a decision taken in a border procedure?
  ☒ Yes ☐ No
  - if yes, is the appeal ☐ judicial ☒ administrative
  - If yes, is it suspensive? ☒ Yes ☐ No

The system of appeals against decisions taken in the border procedure does not differ from the appeal system in the regular procedure as described in section 2 above. The only difference is with regards to the time limit for lodging an appeal in the border procedures which, according to Article 25 (c) of the P.D. 114/10, is 10 calendar days from the date of the serving of the decision rejecting the claim.
In practice, it appears difficult to lodge an asylum claim outside Athens due to various reasons. Border authorities frequently refuse to register asylum applications and refuse entry, or remove persons arriving

[37] See for instance Greek Council for Refugees, GCR Mission Leros – Agathonissi – Kos (22 September 2012 – 24 September 2012) documenting the case of a group of Syrians in Leros who were first detained for 20 days on Farmakonnisiand than transferred to the Police Department of Leros, without having been informed about the asylum procedure or their legal status and rights.

irregularly. Greece lacks solid arrangements at points of entry at the border to ensure that people seeking international protection can be identified. This is despite the provisions in the Greek Action Plan for the operation of Mobile Units (MUs) in areas where there are no first reception centres.

Interpretation, legal advice[38] or other forms of assistance or procedural counselling are scarce at the border. Only a handful of structures are, periodically, in place which could provide such assistance, for instance under an EU-funded project[39], or other NGO activities.[40] At sea and land entry points, there is no experienced staff[41] available to respond to the needs of vulnerable persons such as unaccompanied children or traumatized individuals and as a result in most of the cases these persons are left helpless or do not receive the necessary attention, which discourages them from going on with the asylum procedure.

Personal Interview

Indicators:

- Is a personal interview of the asylum seeker systematically conducted in practice in a border procedure? ☐ Yes ☒ No
- If so, are interpreters available in practice, for interviews? ☐ Yes ☒ No
- Are personal interviews ever conducted through video conferencing? ☐ Yes ☒ No

The personal interview takes place at the borders according to the same rules as described under the regular procedure. However, the main problem in the procedure at the border is that there is serious lack of interpreters which also results in detainees not being informed in a language they understand.[42] Sometimes, the role of the interpreter is given to another asylum seeker or detainee of the same nationality who is presumed to speak the same language. A mission of the Greek Council for Refugees in the Thrace region in October 2012 found evidence of such practice for instance in the Xanthi police academy and reported poor knowledge of Greek or English of those "interpreters".[43] The same practice was found in Lesvos, where the Greek Council for Refugees noted in particular the lack of interpreters for Arabic and Farsi in the Mytilene Police Department.[44]

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38 "Nonetheless, the Working Group found that in numerous instances the accused did not enjoy this right in practice. Most detainees indicated that they did not have a lawyer because they could not afford it. Very few were aware of the right to free legal assistance. Moreover, a number of detainees who had chosen to engage a lawyer at their own expense complained that the lawyers simply took their money and did not follow up on their cases. Information leaflets on the rights of detainees found in detention facilities are very vague and refer only to the right of any detainee to contact a lawyer. They do not refer to the right to free legal assistance."United Nations Working Group on Arbitrary Detention, Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece (21 - 31 January 2013), 31 January 2013.

39 See for example the project under the European Refugee Fund setting up a centre for adolescents by the Society for the Care of Minors in Athens, which included the provision of legal advice as well as psycho-social support. For further information see.

40 Some of these activities are being funded through grants under the European Economic Area Agreement (EEA). EEA grants funding the NGOs in Greece for running reception centres and offering services to vulnerable asylum seekers, especially unaccompanied children. For further information see here.

41 CPT, *Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 27 January 2011*, CPT/Inf(2012)1, Strasbourg, 10 January 2012, par.42.

42 *Idem*, par.43 and *ECRE and ICJ second submission on M.S.S. v. Belgium and Greece, at p. 16.*

43 The mission furthermore received allegations of "interpreters" asking for money or other material compensation from the detainees they assist. See Greek Council for Refugees, Thrace Report – October 2012, p. 4.

44 See Greek Council for Refugees, Mission report Lesvos (31/12/2012 – 3/11/2012), p.2.

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

In practice, free legal assistance is not provided in the border procedure.

6. Accelerated procedures

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

According to Article 17 (3) of the P.D. 114/10, applications for international protection shall be examined in the accelerated procedure when they are manifestly unfounded or when the applicant is a national of a safe country of origin or comes from a safe third country.
The examination of asylum applications is conducted by a police officer and shall be concluded within three months when the accelerated procedure is applied. An application shall be considered to be manifestly unfounded when the applicant:

a. invokes reasons that are manifestly irrelevant to refugee or subsidiary protection status OR
b. has filed the application for abusive reasons or intentionally tried to mislead authorities.

Not meeting the three month deadline has no consequences. Indeed, the backlog of pending cases remains quite heavy although reducing it is one of the aims foreseen in the Greek Action Plan.

In practice, sometimes asylum applications are examined in the accelerated procedure even if they should have been examined with the regular procedure and vice-versa. The Greek Council for Refugees has had many cases where applications of people from Afghanistan, Somalia and even Syria are being processed according to the accelerated procedure even though it is obvious that these people may be in need of international protection, thus greatly compromising their rights. In both accelerated procedures and border procedures the authority who is responsible for taking the first instance decision is the Territorially Competent Police Director/The police Directors of the Aliens Directorate of Athens and Thessaloniki and the Police Director of the Athens International Airport (accelerated procedure/inadmissible applications). At the time of writing this report no detailed statistics were available indicating the percentage of cases that has been examined in an accelerated procedure.

Appeal

Indicators:

- Does the law provide for an appeal against a decision taken in an accelerated procedure?
  ☒ Yes ☐ No
  - if yes, is the appeal: ☐ judicial ☒ administrative
  - If yes, is it suspensive? ☒ Yes ☐ No

Applicants appealing under the accelerated procedure face the same problems as mentioned above in the regular procedure.

The only difference concerns the different time limits for lodging the appeal as these are provided in article 25 P.D. 114/10 (10 calendar days after the negative decision was taken).

Personal Interview

Indicators:

- Is a personal interview of the asylum seeker systematically conducted in practice in an accelerated procedure? ☐ Yes ☒ No

The personal interview takes place at the borders when the application is lodged at the borders and at the Police stations in the cases of Article 17 (3) of the P.D. 114/10 referred to above, according to the same rules as described under the regular procedure. However, the insufficient number of interpreters makes this procedure equally problematic. This understaffing of interpreters persists despite the statements in the Greek Action Plan on ensuring the provision of interpretation services while the establishment of the first reception services (FRCs) is pending.

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

In the accelerated procedure free legal assistance and representation is only provided under the law with regard to the appeal against the decision of the Appeals Board before the Administrative Court of Appeals. However in practice it is insufficient as is the case in the regular procedure described above.

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
- Is sufficient information provided to asylum seekers on their rights and obligations in practice? ☐ Yes ☒ not always/with difficulty ☐ No
- 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

Asylum-seekers arriving at the Greek borders, including land, air and sea borders, generally speaking have no access to information, in written or oral form, about the asylum procedure, including how to

apply for asylum or (re-)register their asylum application. Written leaflets that were previously provided at Athens Airport and, sporadically, at entry points in Evros, are no longer up-to-date nor available in many of the relevant languages and it is not known with certainty in which languages they are still available in practice.[45] Following the adoption of new legislation (Presidential Decree 114/2010 of 22 November 2010) regulating the asylum procedure during a transitional period which began on the date of publication of the aforementioned Presidential Decree and is still on-going, the authorities have announced plans to draft a new information leaflet which is, however, not yet available. Furthermore, the Greek Action Plan on the implementation of the asylum procedure during this transitional period foresees the dissemination and provision of information in various languages on the asylum seekers' rights and the relevant process.

Nevertheless, these provisions have yet to be implemented, as translation and interpretation is generally not available at land, air or sea borders. This prevents effective communication between asylum-seekers and border or other officials, thereby impeding access to the procedure, and the provision by the officials of relevant information, in languages that both parties, in other words, both the authorities and the asylum seeker would be able to fully and not only reasonably, as the law requires, understand. Exceptionally, interpretation services in certain languages have been available in the Evros region, near the border between Greece and Turkey, in the context of the operation conducted by Frontex Rapid Border Intervention Teams (RABITs) between November 2010 and March 2011[46] and currently in the context of the Poseidon operation[47] that replaced the RABIT operation. However, these interpretation services are aimed at ascertaining information for the purpose of the Frontex operation, specifically regarding nationalities and travel routes. According to UNHCR, these interpretation services have not focused on ascertaining whether those people intercepted are seeking asylum, or on providing them with relevant information on that subject. UNHCR has observed that few people explicitly request asylum in the Evros border area and this is also the experience of GCR.

When they do apply for asylum in that area, they face a number of legal and practical impediments. These include prolonged detention, frequently in deplorable conditions, which is used for a significant proportion of persons arriving irregularly. Other obstacles that persons who may wish to apply for asylum are facing include the lack of information, including on their legal situation and entitlements; the lack of legal assistance and the absence of effective communication with people outside the detention centre in general and with their potential lawyers specifically, all of which have a deterrent effect on potential asylum seekers.

D. Subsequent applications

Indicators:

- Does the legislation provide for a specific procedure for subsequent applications?
  ☒ Yes ☐ No
- Is a removal order suspended during the examination of a first subsequent application?
  ☒ Yes ☐ No
- Is a removal order suspended during the examination of a second, third, subsequent application? ☒ Yes ☐ No

According to Article 23 Presidential Decree 114/10 where the applicant for international protection lodges a subsequent asylum application, the authorities competent to examine the application, namely

[45] For an example of the information leaflets that should be translated in 14 languages see here.
[46] See European Commission, Press Release, Frontex and the RABIT operation at the Greek-Turkish border, Memo/11/130, 2 March 2011.
[47] See FRONTEX, RABIT operation 2010 ends, replaced by JO operation Poseidon.

the General Police Directorates of the Greek regions and the Security Departments of the Police Directorates of International Airports of Athens and Thessaloniki, as mentioned in Article 2 of Presidential Decree 114/10 shall look at the elements of the subsequent application in conjunction with the elements of the previous application or appeal.

A subsequent application shall be subject first to a preliminary examination during which it is examined whether new circumstances have arisen or whether the applicant has provided new, substantial elements. At this stage, the decision on the subsequent asylum application must be taken by the territorially competent Police Director or the Director of the Aliens' Directorate of Athens and Thessaloniki or the Director of the Athens Airport Police Directorate. The above mentioned competent authorities shall ensure that applicants whose application is being considered according to the previous paragraph enjoy the guarantees provided in Article 8 Presidential Decree 114/10.

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal with regard to the applicants who have lodged a subsequent asylum application must be suspended. If, following the preliminary examination referred to in Article 23 paragraph 2, new elements or findings arise or are presented which significantly add to the likelihood of granting the applicant international protection, the application shall be further examined in conformity with Chapter B of the Presidential Decree 114/10 .

The procedure referred to in Article 23 may also be applicable in the case of a family member of the applicant who lodges an asylum application after they have, in accordance with Article 4 paragraph 2 Presidential Decree 114/10, consented to have their case dealt with as part of an asylum application made on their behalf. In this case, the preliminary examination referred to above will consist of examining whether there are facts which justify a separate asylum application by the dependant. Any further lodging of a similar subsequent asylum application shall be examined by the territorially competent Police Director or the Director of the Aliens' Directorate of Athens and Thessaloniki or the Director of the Athens Airport Police Directorate according to the provisions of the Administrative Procedure Code[48] on abusive applications.

Substantiated subsequent applications in the Athens Aliens Police Directorate according to the experience of the Greek Council for Refugees pass the preliminary examination described above.

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

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

According to the law, the asylum authorities and local administrations shall make sure that special treatment is provided to applicants belonging to vulnerable groups such as 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. The authorities competent to receive and accommodate or to receive and examine an application for asylum, namely the Greek Police, shall ensure that persons who have been subjected to torture, rape or other serious

[48] The Administrative Procedure Code is the set of laws regulating the judicial procedure before the Administrative Courts.

acts of violence are referred to a specialized unit, namely, one of the NGOs METADRASI, GCR or BABEL, in order to receive support and the necessary treatment of psychological and physical injuries caused by the aforementioned acts.[49] This referral should preferably take place before the interview on the examination on the substance of the asylum application.

In practice, very few cases are dealt with properly and in accordance with the law. Currently, there are no public health structures specialised in working with or assisting torture survivors.
In the case of unaccompanied children, the first screening and registration usually takes place at the borders, by the police. In most cases, no interpreters are available.[50]

According to the law (Presidential Decree 114/2010, Articles 11 paragraph13 and 11 paragraph 14) if there are strong indications during the [eligibility] interview [at first instance] that the applicant has been submitted to torture, they shall be referred to a specialized medical centre, or a doctor or a psychologist of a public hospital, who shall make a report on existence or not of injuries, maltreatment or indications of torture. The above mentioned guarantee according to the law shall also apply during the examination of appeals and during any supplementary examination. Medical and psychosocial support for asylum seekers is also expressly provided for in the Greek Action Plan.

In practice, however, such referrals take place at the Appeals Board if the members are not convinced about the tortures the victim had suffered, or if the torture survivor is in such psychological situation that they cannot give enough information to the Board.

The Greek law foresees an identification and referral system based on Articles 17 and 20 of the Presidential Decree 220/2007 which transpose respectively Articles 17 and 20 of Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers.

Furthermore, Article 11paragraph 2 of Law 3907/ 2011 concerning screening centres states that: "the Head of the Centre of Unit shall, upon recommendation of the head of the medical screening and psychosocial support cell, refer persons belonging to vulnerable groups to the competent body of social support or protection. For the purposes of the present, vulnerable groups are: victims of torture, rape or other serious forms of psychological, physical or sexual violence."

According to Article 11 paragraph 5 "In the cases mentioned in paragraphs 2 and 3 above, the referral note to the competent authority shall be issued within fifteen days, at the latest, from the admission of the third-country national to first reception procedures. In exceptional circumstances, the period of admission to the verification and separation procedures may be extended, if reasoned, for another ten days maximum. If the delay in verification is due to wrongful or improper conduct of the person subjected to first reception procedures, this person shall be considered as refusing to cooperate for the preparation of his return and shall be transferred in view of his/her removal, deportation or return. Time limits and procedures of this article shall only apply in the context of the operation of the First Reception Centres."

The abovementioned law 3907/2011 cannot be applied yet, because there are no screening centres. In practice referrals are done by NGOs working in the field or in the few reception centers.

In practice, torture survivors were referred in the past to the Medical Rehabilitation Centre for Victims of Torture (MRCVT), when it used to work as an NGO on such issues. A decision by the Council of State has recently reflected doubts concerning the probative value of medico-legal reports by MRCVT.[51] Currently, torture survivors are referred to "Metadrasi", an NGO providing *inter alia* legal-medical reports. However, these reports are also considered to lack probative value, pursuant to the abovementioned Council of State decision. Torture survivors are also referred to "Babel" for their rehabilitation. "Babel" implements a mental health programme financed by the Ministry of Public Health. Both Metadrasi and Babel offer their services only in Athens.

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49 Article 20 PD 220/2007.

50 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.

51 Council of State Decision No. 1482/2011.

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

According to the law, if there are strong indications during the interview that the applicant has been subjected to torture, they shall be referred to a specialized 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.

However, in practice, even when applicants mention that they are victims of torture they are still not referred to a specialized centre during the first instance personal interview. On the other hand, their interview is postponed if they ask for it, in order to submit the above mentioned report. The Appeal Boards do not always make such referrals.

The above mentioned guarantees shall also apply during the interviews with regards to the appeals procedure as well as during any necessary supplementary examination, which takes place in case that doubts have arisen or more explicit information about the examined case is needed. According to Article 10 Presidential Decree 114/10 the personal interview may be omitted where:

a. the Determining Authority, namely the Secretary General of Public Order of the Ministry of Citizen Protection, is able to take a positive decision on the basis of available evidence, or
b. it is not feasible, in particular where the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond their control. Such inability must be certified by a relevant medical or psychological certificate from a public hospital.

In practice, the applicants themselves or usually their legal counsellor, if they had one, must get such a certificate. Certificates by NGOs providing psychological support had not been accepted neither by officials at first instance interview not by the Appeal Boards.

The medical examination and report is provided for free by the above mentioned NGO Metadrasi as long as it is funded by EU projects for this purpose. There is no provision by the law on the typology of medical reports. The medical reports provided by Metadrasi (the only one at the moment providing legal-medical reports) are based on the methodology laid down in the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment). However, in a recent Council of State decision[52] it has been ruled that the medico-legal reports of METADRASI, which is not a public organization, lack the necessary State authority and therefore cannot be considered as proof of torture. This leaves torture survivors in a limbo, as there are no public health structures specialised in assisting them and certifying their status and the established NGO METADRASI which provides such assistance and certification is considered non- authoritative and thus is not of use when it comes to proving their status.

3. Age assessment and legal representation of unaccompanied children

[52] 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

According to the law asylum applications lodged by unaccompanied children must always be examined by priority and according to the regular procedure. The Police officials conducting interviews with unaccompanied children and making recommendations for the decision on their application for international protection must have the necessary knowledge of the special needs of children and conduct the interview in a child-sensitive manner taking account, in particular, of the child's age in order to ensure that the child fully understands the questions and the process as such.
In practice, unaccompanied children crossing the borders of Greece are systematically treated as irregular migrants and therefore detained, without any information on the reasons of their detention and its possible length (see section below on detention).[53]

The Police Officers may use medical examinations to determine the age of unaccompanied children (it is not an obligation), even though no specific procedure for assessing the age is established.[54]Procedural guarantees related to the age assessment provided in the law include:

- the obligation for the child to be properly informed in a language they understand about the medical examinations itself and its consequences, including refusal to undergo the tests;
- the obligation to receive the consent of the child or their guardians to carry out the examinations;
- the guarantee that a negative decision cannot be based solely on refusal to undergo the age assessment
- the benefit of the doubt, both pending the results and in case the results are not conclusive

The fact that an unaccompanied child has refused to undergo such a medical examination shall not prevent the Determining Authority, namely the General Secretary of the Ministry of Public Order (regular procedure)/ the Territorially Competent Police Director/ the police Directors of the Aliens Directorate of Athens and Thessaloniki(accelerated procedure) from taking a decision on the asylum application.

In practice, the Greek Council for Refugees notes that "despite the provision, responsible services, procedures or even the types of appropriate exams are yet to be designated"[55]and in reality most children whose age is disputed do not go through an age assessment. Some children even claim to be adults in order to be released faster from detention. This leads to many children being treated like adults, either because they declare so or because the police register them as such.[56]It has been reported that younger children are usually officially registered to be a couple of years older than what they claim, while teenagers are likely to be registered as adults.

When there is one, the determination of the age is made by the doctors who work in the detention centres with cooperation of NGOs and after an interview with specialised police staff, where possible.

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53 Greek Council for Refugees, *Submission to the General Discussion (DGD) on the Rights of Migrant Children 28th September 2012 : Immigration Detention of Children*.
54 Greek Council for Refugees, *opus cite*.
55 Greek Council for Refugees, *opus cite*.
56 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.

According to the law, when an application is lodged by an unaccompanied child, the Public Prosecutor must appoint a guardian for the child concerned in accordance with Article 19, paragraph 1 of Presidential Decree 220/2007.[57] There is no specific time limit within which the guardian must be appointed. The competent Prosecutor is designated as temporary legal guardian, and should then propose a permanent guardian to be appointed by the Court. There are no specific requirements to act as a guardian.

In practice, the system is truly dysfunctional as prosecutors and the court's office do not have the resources to handle the number of cases referred to them and because there is no institution or body in place that prosecutors can refer to in order to appoint permanent guardians. In some cases, the permanent guardianship is transferred to directors of the reception centres or state social workers. In a report, UNHCR and Praksis note that it "seems 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)".[58]The Greek Government itself admits that the guardianship system has not reached yet a satisfying efficiency level.

The law requires that in every case, the best interests of the child must be a primary consideration when implementing the provisions of this Article. In practice the Police informs the juvenile Prosecutor who acts as guardian of the child. Little more than that is done and the guardian does not engage in any action as guardian; in fact, the same Prosecutor usually formally acts as guardian for many children.

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

According to Article 20 Presidential Decree 114/10, a country shall be considered as a *safe third country* for a specific applicant when all the following 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 Geneva Refugee Convention;
c. the applicant is not at risk of suffering serious harm as described in Article 15 of Presidential Decree 96/2008 on the entitlement of subsidiary protection (implementing Art 15 Council Directive 2004/83/ECon minimum standards for the qualification and status of third country

[57] Article 12 Presidential Decree 114/10.
[58] UNHCR *et alii, opus cite.*

nationals or statelesspersons as refugees or as persons who otherwise need international protection and the content ofthe protection granted)[59];

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;
e. the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention;
f. The applicant has a link with the third country concerned which would reasonably allow them to move to that country.

The fulfilment of these conditions must be examined in each individual case and for each applicant separately. When implementing a decision solely based on this Article, the authorities competent to examine an application, namely the Greek Police, must inform the applicant accordingly and must provide them with a document informing the authorities of the third country that the application has not been examined in substance. Where the third country does not permit the applicant to enter its territory, the asylum application must be examined in substance by the authorities competent to receive and examine the asylum application (the Greek Police).
In practice, to the knowledge of the author, Greece has had no such cases so far, therefore these legal provisions have not been subject to interpretation.

According to Article 21 Presidential Decree 114/10, paragraph 1, *safe countries of origin* are:

a. those included in the common list of safe countries of origin adopted by the Council of the EU
b. third countries, other than those included in the EU common list, which are included in the national list of safe countries of origin adopted and updated, for the purpose of the examination of an application for international protection, by the Central Authority, namely the Alien's Directorate of the Greek Police Headquarters on the basis of an evaluation according to the provisions of Article 23 paragraphs 3 and 4 Presidential Decree 114/10. Such evaluation shall take into account information from other Member States and international organisations, such as UNHCR and the Council of Europe.

The national list of countries may also include specific parts of a country, if these fulfil the conditions of Article 23 paragraphs 3 and 4 Presidential Decree 114/10. Such evaluation must be carried out on an annual basis taking into account changes occurring in each country. The national list of countries of origin must be notified by the Central Authority to the European Commission.

A third country may be considered according to Article 21 paragraph 2 Presidential Decree 114/2010 as a safe country of origin for a particular applicant only if, upon examination of the asylum application, it is confirmed that the applicant:

a. has the nationality of that country or is a stateless person and was formerly a habitual resident of that country, and
b. has not submitted any serious grounds for considering the country not to be a safe country of origin in their particular circumstances in terms of their qualification as a refugee in accordance with the present provisions (of Presidential Decree 114/2010)

The Central Authority has never had any national list of safe countries nor was an EU common list of safe countries of origin adopted. Therefore, the provision relating to the national list and EU common list of safe countries of origin have not been applied in practice to date and therefore there had been no reference or interpretation of the above mentioned provision of the law in the decision-making practice as such.

[59] "Serious harm consists of: death penalty or execution/torture or inhuman or degrading treatment or punishment of an applicant in the country of origin/serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

G. Treatment of specific nationalities

Asylum seekers from Bangladesh, Pakistan and Georgia usually are examined under the accelerated procedure. It often happens that even nationals of Syria or Somalia or other countries in political/humanitarian crisis get examined under the accelerated procedure.

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?
    ☐ Yes ☒Yes, but limited to reduced material conditions ☐ No
  - During border procedures:
    ☐ Yes ☒Yes, but limited to reduced material conditions ☐ No
  - During the regular procedure:
    ☐ Yes ☒Yes, but limited to reduced material conditions ☐ No
  - during the Dublin procedure:
    ☐ Yes ☒Yes, but limited to reduced material conditions ☐ No
  - During the appeal procedure (first appeal and onward appeal):
    ☐ Yes ☒Yes, but limited to reduced material conditions ☐ No
  - In case of a subsequent application:
    ☐ Yes ☒Yes, but limited to reduced material conditions ☐ No
- Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

In Greece, in practice, asylum seekers, including those transferred back to Greece or waiting for a transfer to another EU Member State under the Dublin Regulation, in general do not benefit from any material support, notwithstanding the legal obligation of the State to provide accommodation and minimum financial assistance laid down in legislation. Many asylum seekers, including children are homeless or living in sub-standard accommodation.

Article 12 of the Presidential Decree 220/2007 furthermore requires the authorities competent to receive and accommodate asylum seekers, namely the Services of the Ministry of health and Social Solidarity to 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 Presidential Decree 220/2007, the above mentioned standard of living must also be provided to persons who have special needs as well as to persons who are in detention.

In case of asylum seekers with a degree of disability of over 67%, certified by an assessment of the relevant Health Committee, the Ministry for Health and Social Solidarity must provide them with a disability benefit for the duration of the examination of their asylum application and if the accommodation of these persons in Accommodation Centres is not feasible. This benefit must be paid by the competent services of the Prefecture where the applicant resides. Prefectures are self- governing sub- units of the government divided according to certain geographical boundaries. There are 54 Prefectures, or Sub- Units in Greece.

The provision of all or some of the material reception conditions and health care is subject to the condition that applicants do not themselves have sufficient means, which allow them to maintain an adequate standard of living adequate for their health and capable of ensuring their subsistence. 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. 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.

The criteria and evidence to be used for assessing whether the applicant has sufficient means and any other relevant necessary detail, as well as the amount of the financial assistance and the pocket money set in Article 1 point (p) Presidential Decree 220/2007shall be in accordance with the provisions of legislative decree 57/73 (O. G. A'- 149 – measures for the social protection of the financially weak groups and abolishment of the law concerning the poverty state) and the decisions issued on the basis of this authorisation. It is foreseen by the Greek Action Plan that the task of the First Reception Service envisaged by law No 3907/2011 is, among other things, to ensure that accommodation, food and medical services provided to asylum seekers adheres to a defined set of quality criteria.

Renovating and increasing capacity of accommodation facilities for asylum seekers is foreseen in the Greek Action Plan and is considered key to the effective operation of the new asylum system in Greece. The action specifically includes the operation of accommodation structures with particular attention to unaccompanied children.

However, instead of increasing such accommodation capacity, Greece is tightening border controls in the Evros border, including the completion of a 10.5km fence last December forcing people to resort to more and more dangerous routes[60]. At the time of writing this report, there were in total less than 1000 reception places available for asylum seekers in Greece, while 15,928 asylum applications were lodged in 2009, 10,273 during 2010, 9,311 in 2011 and 9,577 in 2012.[61] As Nils Muižnieks, Commissioner for Human Rights of the Council of Europe notes: "this situation leaves a large number of asylum seekers homeless and destitute and renders them particularly vulnerable to manifestations of intolerance and racist violence."[62]Racist hate crimes are on the rise at an alarming rate in Greece. The impunity of perpetrators and even the discouragement of victims by the police to file an official complaint leave victims stuck between a rock and a hard place.[63] They are left homeless and at an increased risk of being subjected to xenophobic violence. UNHCR went further than Nils Muižnieks and qualified the situation as a "humanitarian crisis".[64]

2. Forms and levels of material reception conditions

Indicators:

- Amount of the financial allowance/vouchers granted to asylum seekers on 31/12/2012 (per month, in original currency and in euros): Not applicable. Small amounts are given ad hoc- no standard amount

To date, contrary to what is stipulated in the law, the vast majority of asylum seekers still do not receive adequate reception conditions in Greece.

According to Presidential Decree 220/2007 asylum seekers cannot stay in Reception Centres for longer than one year. During their stay in Reception Centres, families should be housed in the same place. Also the minor children of applicants or applicants who are minors should be lodged with their parents or with the adult family member responsible for them while respecting their specific needs with the aim

60 Amnesty International, Press Release, Refugees dying on dangerous routes to asylum in Europe, 20 March 2013.

61 Source: Hellenic Police, available here.

62 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, CommDH(2013)6, p. 5.

63 See for instance Human Rights Watch, Hate on the Streets. Xenophobic Violence in Greece, July 2012, p. 78-87.

64 UNHCR, *Contribution to the dialogue on migration and asylum*, May 2012.

of respecting their family life. Moreover, while providing accommodation to the applicant, the competent authorities, namely the department of Social Perception and Solidarity of the Ministry of Labour, shall take, to the extent possible, all adequate measures to keep the applicant's family that is present on the Greek territory together, with the applicant's consent. After one year, applicants must be given support in finding an adequate private place of living.

Each Accommodation Centre shall operate on the basis of its internal regulation establishing the "house rules". Housing in Accommodation Centres must ensure the protection of private life and access to adequate medical and health services. 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, giving emphasis to vulnerable cases. To that end, the employment of an adequate number of various experts such as doctors, psychologists and social workers is envisaged. Further, the authorities competent to receive and accommodate asylum seekers, namely the Services of the Ministry of Health and Social Solidarity and the persons responsible for the management of Accommodation Centers must ensure that the right to family life and to personal security are protected within those centers. They also must ensure that applicants have access to relatives, legal advisors, non-governmental organizations and representatives of the UNHCR. Staff working in Accommodation Centers must be adequately trained through seminars offered by the UNHCR, the Ministry for Health and Social Solidarity or other specialized organizations. 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 Centers. Legal advisors or lawyers and representatives of the UNHCR must have unlimited access to Accommodation Centers and other housing facilities in order to assist applicants. The Director of the Center may grant access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the Accommodation Centers and housing facilities and of the applicants themselves.

The Greek Action Plan provides for the safe and timely transportation of unaccompanied minors from entry points to accommodation structures. In addition, the Central Authority shall make sure that the transfer of asylum applicants from one accommodation centre to another takes place only when necessary. In case asylum seekers are being transferred to another accommodation centre, the Services of the Ministry of Health and Social Solidarity, authorities competent to receive and accommodate, 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. Exceptionally, the above mentioned Services 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.

There is no financial allowance in practice to cover the living expenses of asylum-seekers in Greece. Reports suggest that significant numbers of asylum-seekers, including persons transferred back to Greece under the Dublin Regulation mainly before the M.S.S. v. Greece and Belgium judgment are left unassisted, homeless or end up in overpriced and overcrowded shared rooms.[65] People who are not accommodated in accommodation centres also face serious obstacles in gaining access to services including health care and education, among others.

There are fifteen reception centres in Greece according to the latest report by UNHCR in the following locations and numbers: Crete (1), Volos (2), Lesvos island (1), Oraiokastro, Salonika (1), Konitsa (1), Attika region (6), Alexandroupoli (1), Lavrio (1) as well as apartments in Athens, Salonika and Lesvos.

[65] For further information see also the reports of missions recently conducted by the Greek Council for Refugees in Lesvos, Thrace, Leros, Agathonissi and Kos. See Greek Council for Refugees, Mission report Lesvos (31/12/2012 – 3/11/2012); Thrace Report – October 2012; GCR Mission Leros – Agathonissi – Kos (22 September 2012 – 24 September 2012).

Most of these fifteen reception centres that currently exist in Greece are run by NGOs, and depend on funding, mainly from the European Refugee Fund. Disbursement of this funding in Greece is very slow. In the absence of secure funding, the level of services delivered to the few asylum seekers provided with a space in one of the centres is equally low, including, for example, for referrals to hospitals and schools. As many asylum seekers are forced to sleep rough, they are unable to comply with the obligation to provide an address to the Police Directorate which also can prevent them from receiving notification of decisions taken on their asylum application, and from meeting procedural deadlines. The absence of legal aid further aggravates this situation. People who are not accommodated in reception centres also face serious obstacles in gaining access to services including health care and education, among others. At times, the authorities evacuate locations where third-country nationals, including asylum seekers, reside as squatters, because of conditions that pose a risk to public health. However, in case of such evictions, no measures are taken to accommodate them elsewhere. In central Athens, in 2009 and 2010, dozens of such sites were emptied and sealed in police operations. Those who had been living there were evicted and left homeless. Among them were asylum seekers, including families with young children. Another more recent police operation, in 2012, called Xenios Zeus had as a result that during its first six months of operation, 77,526 migrants were brought to Police Departments for data control and 4.435 of them got arrested for staying in Greece "sans papiers", among them many asylum seekers and unaccompanied children.[66]

An 'Action Plan'[67] was presented by Greece to the European Commission in August 2010 and was regularly updated since. During the informal EU Justice and Home Affairs Council meeting of January 2013[68] the latest version of the Greek Action Plan was presented. The action plan foresees an increase in reception places, as well as some specialized facilities for children, all of which would be welcome measures if adopted and implemented in practice. Initial EU emergency funding have 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 building of the new centres can start. 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. 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.

3. Types of accommodation

Indicators:

- Number of places in all the reception centres (both permanent and for first arrivals): 1006
- Number of places in private accommodation: N/A
- Number of reception centres: 15
- Are there any problems of overcrowding in the reception centres? ☒ Yes ☐ No
- What is, if available, the average length of stay of asylum seekers in the reception centres?
- Are unaccompanied children ever accommodated with adults in practice? ☒ Yes ☐ No

66 Kathimerini, *The Results of Operation Xenios Zeus of the Last 6 Months have been Published*, 6 February 2013 (in Greek).

67 European Commission, Press Release, 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, Memo 10/450, 27 September 2010.

68 Irish Presidency of the Council of the European Union, *Discussion Paper – Session II (Home Affairs) Greek National Action Plan on Asylum and Migration Management*, Informal Justice and Home Affairs Ministers' Meeting Dublin 17 - 18 January 2013.

At the time of writing this report, there were in total less than 1000 reception places available for asylum-seekers in Greece, while 16,000 asylum applications were lodged in 2009, 10,273 during 2010, 9,311 in 2011 and 9,577 in 2012. However, asylum-seekers in Greece, including those transferred back to Greece or waiting for a transfer to another EU Member State under the Dublin Regulation, in most cases have in practice no material support, notwithstanding the legal obligation of the State to provide accommodation and minimum financial assistance laid down in legislation as described above.

In Greece, according to UNHCR latest report of February 2013[69], there are fifteen centres open to asylum seekers and unaccompanied children, designed to accommodate altogether as a whole 1006 people. In view of the number of registered asylum seekers as well as the unknown number of persons in need of international protection but who are not registered as such for a variety of reasons on Greek territory, the number of available places falls short of the actual needs (See above under section A.2 – forms and levels of material reception conditions for more information).

Aggravating the accommodation problem, the authorities at times evacuate sites where third- country nationals reside as squatters raising concerns of public health. Nevertheless, where this takes place, no alternatives to accommodation are given, leaving hundreds of people, including many asylum seekers with families, destitute and homeless.

4. 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

According to Article 15 of Presidential Decree 220/2007, implementing Article 16of Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers, the Aliens Police Directorate (hereinafter the 'Central Authority') in cooperation with the services of the Ministry of Health and Social Solidarity may reduce or withdraw reception conditions in the following instances:

a. The asylum seeker abandons the place of stay indicated by the Central Authority without informing that authority or, where required, without obtaining permission,
b. Does not comply with the obligation of declaring information or does not respond to a request to provide information or does not attend the personal interview within the deadline or
c. Has already submitted an asylum application in the country or
d. Has concealed his/ her recourses and takes advantage of the material reception conditions in an illegitimate way.

There is no information if these provisions of the law are in practice applied.

5. 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

[69] UNHCR Greece, Accommodation Centres in Greece, February 2013 (in Greek).

According to Art 13 paragraph 7 Presidential Decree 220/2007 legal advisors or lawyers and representatives of the UNHCR shall have unlimited access to accommodation (Reception Centers) and other housing facilities in order to assist applicants. The Director of the Center may extend access to other persons, too. Limitations to such access may be imposed only on grounds relating to the security of the Accommodation Centers and housing facilities and of the applicants themselves. In pratice, lawyers, as well as NGOs, friends or family members have had access to Reception Centers.

6. Addressing special reception needs of vulnerable persons

Indicators:

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

Due to large number of asylum seekers and the extremely limited number of in total1006 beds in the Reception Centres NGOs which usually take care of the accommodation of the asylum seekers give priority to vulnerable persons.

It should be mentioned that despite the legal safeguards in relation to the treatment of unaccompanied children, Amnesty International has observed that 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. In the detention centre for unaccompanied boys in Amygdaleza, in August 2012 children were being detained in substandard conditions. Further, in detention centres in Athens and Evros, children were being detained together with adults and/ or they have been registered as adults[70].

As mentioned above in section E relating to asylum procedures the Greek law foresees an identification and referral system based on Articles 17 and 20 of the Presidential Decree 220/2007 which transpose respectively Articles 17 and 20 of Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers.

Article 20 states that: “the competent authorities to receive and accommodate or to receive and examine an application for asylum shall ensure that persons who have been subjected to torture, rape or other serious acts of violence are referred to specialized unit in order to receive support and the necessary treatment of the wounds caused by aforementioned acts.”

Furthermore, Article 11 paragraph 2 of Law 3907/ 2011 concerning screening centres states that: “the Head of the Centre of Unit shall, upon recommendation of the head of the medical screening and psychosocial support cell, refer persons belonging to vulnerable groups to the competent body of social support or protection. For the purposes of the present, vulnerable groups are: victims of torture, rape or other serious forms of psychological, physical or sexual violence.”

According to Article 11 paragraph 5 “In the cases mentioned in paragraphs 2 and 3 above, the referral note to the competent authority shall be issued within fifteen days, at the latest, from the admission of the third-country national to first reception procedures. In exceptional circumstances, the period of admission to the verification and separation procedures may be extended, if reasoned, for another ten days maximum. If the delay in verification is due to wrongful or improper conduct of the person subjected to first reception procedures, this person shall be considered as refusing to cooperate for the preparation of his return and shall be transferred in view of his/her removal, deportation or return. Time limits and procedures of this article shall only apply in the context of the operation of the First Reception Centers.”

[70] Amnesty International, *Greece: The end of the road for refugees, asylum-seekers and migrants*, 20 December 2012, EUR 25/011/2012.

The abovementioned law 3907/2011 cannot be applied yet, because there are no screening centers. In practice referrals are done by NGOs working in the field or in the few reception centers.

In practice torture survivors were referred in the past to the Medical Rehabilitation Centre for Victims of Torture (MRCVT), when it used to work as an NGO on such issues, and now are referred to "Metadrasi", an NGO providing *inter alia* legal-medical reports . They are also referred to "Babel" for their rehabilitation. "Babel" implements a mental health programme financed by the Ministry of Public Health. Both Metadrasi and Babel offer their services only in Athens.

In practice, NGOs manage the Accommodation Centres and choose which people to accommodate based on vulnerability. All vulnerable groups and not only unaccompanied children are given priority.

7. Provision of information

According to Article 3 of the Presidential Decree 220/07 the authorities competent to receive and examine an application for asylum, namely the General Police Directorates of the Greek regions and the Security Departments of the Police Directorates of International Airports of Athens and Thessaloniki, must inform the applicant immediately and in any case within 15 calendar days, providing them with information material in a language that they understand. This material, published with the care of the Greek Police Headquarters, mainly describes the asylum procedure, the rights and obligations of the applicant, with special emphasis on the applicant's obligation to cooperate with the authorities and to be at the disposal of the competent authorities throughout the asylum procedure, as well as the consequences of not complying with these obligations.

This material must also provide information on the existing reception conditions, including health and medical care, as well as on the operation of UNHCR in Greece and other organizations that provide assistance and legal counselling to asylum applicants. 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, Chios. This is envisaged as necessary action upon reception, pending the establishment of the First Reception Services.

In practice, however, the few brochures delivered do not include all the necessary information.

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 shall, in such case be kept in the applicant's file.

8. Freedom of movement

Without prejudice to Article 6 paragraph 5 Presidential Decree 220/07 - according to which the stay of the asylum seekers may be limited at a specific area for reasons of public interest, public order or if necessary with regards to the fast and effective completion of the asylum procedure -, applicants may move freely within the territory or within the area assigned to them by the Central Authority and choose their place of residence. The assigned area cannot affect their private life and must allow them sufficient scope so as to enjoy access to all benefits under this Decree (P.D 220/07). In any case, applicants must immediately inform the authorities competent to receive and examine their application, namely, the Greek police, of any change in their address. No previous authorization is needed for changing the place of residence.

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
- Are there restrictions to access employment in practice? ☒ Yes ☐ No

Applicants have access to the labour market under the conditions laid down in Article 4 paragraph 1 (c) of the Presidential Decree 189/1998. Specifically, they need to apply to the Ministry of Labour provided they have a valid asylum seekers' card -'pink card'- and provided that the work market for the specific profession has been researched by the Manpower Employment Organization (OAED) and no interest has been demonstrated by a Greek citizen, an EU citizen, or a recognized refugee. Applicants who want to work and fulfil these criteria shall receive a temporary work permit according to Article 4 paragraphs 2 and 3 of the Presidential Decree 189/1998. This temporary work permit is not subject to any fee and expires 30 days after the expiry of the pink card. Further, it is not to be withdrawn during the examination of an applicant's appeal, until a negative decision on the appeal is served.

This priority given to Greek and EU citizens makes it exceptionally difficult for asylum seekers to find employment. This restriction is aggravated in the current context of financial crisis and xenophobia in Greece resulting in a large number of asylum seekers being subjected to extreme poverty due to lack of any financial means. There have been cases where an employer may be requesting to employ a specific asylum seeker but due to this restriction prioritizing Greek and EU citizens, the work permit may not be renewed, posing obstacles to both employers and potential employees.
Illegal employment is also a practiced trend asylum seekers resort to with severe repercussions, mainly lack of certain basic social rights which in turn subjects them to further poverty.

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 to the author where an asylum seeker has found employment while staying there.

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 applicants who are minors 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. Children of citizens of a third country can enrol at public schools with incomplete documentation if they are:

a. 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.

Access to the education system shall not be postponed for more than three months from the date of reception of the asylum application by the child or the child's parents. This period may be extended to one year where specific language education is provided in order to facilitate access to the education system. Where access to the education system is not possible due to the specific situation of the child, appropriate measures, in accordance with existing legislation, can be taken. Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity.
In practice, except of ad hoc difficulties, there have been issues neither with children of asylum seekers nor with adults attending school.

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
- Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? ☒ Yes ☐ No

According to Article 14 Presidential Decree 220/07 applicants shall receive free of charge the necessary health, pharmaceutical and hospital care, on condition that they have no health insurance and are financially weak. According to the law such health care must include:

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, hospitalization at a class C room.

In all cases, emergency health care, in other words, first aid must be provided to applicants free of charge.
Applicants who have special needs according to Article 17 Presidential Decree 220/07 shall receive special medical assistance.
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 which can be provided to only a few children.

Detention of Asylum Seekers

A. General

Indicators:

- Number of asylum seekers who entered detention in the previous year: 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

At present, the number of detention centres in Greece and their total capacity is not known with certainty. In practice, any police station that has a detention facility is being used as a detention centre. The capacity of these places is also not known, but it has been observed by the Greek Council for Refugees' staff that severe overcrowding takes place. The number of asylum seekers in detention at the end of 2012 is not available. The situation has worsened since August 2012 with operation Xenios Zeus, a police 'sweep' operation whose objective have been (a) pushing back illegal immigrants from the Evros border and sealing the borders and (b) sending irregularly staying immigrants back to their countries of origin.

The size of the operation is demonstrated by the fact that 2.500 officers in the Evros region and 2.000 in Athens participated. The Xenios Zeus operation led to the widespread detention of migrants in different parts of the country. Between August 2012 and February 2013, the police forcibly took almost 85,000 foreigners to police stations for immigration status verification based on little more than their appearance. No more than 6% were found to be in Greece unlawfully.[71] Among them were many asylum seekers and unaccompanied children.[72] No screening for asylum seekers and people seeking international protection had been made. The police often transferred those individuals that did possess documents, to a police station where they detained them for hours pending verification of their legal status. This lengthy and intrusive procedure amounts to arbitrary and discriminatory deprivation of liberty.

B. Grounds for detention

Indicators:

- In practice, are asylum seekers automatically detained
  - on the territory: ☐ Yes ☒ No
  - at the border: ☒ Yes ☐ No
- Are asylum seekers detained in practice during the Dublin procedure? ☒ Yes ☐ No
- Are asylum seekers ever detained during a regular procedure? ☒ Yes ☐ No
- Are unaccompanied asylum-seeking children ever detained?
  ☒ Yes ☐ Yes, but only in border/transit zones ☐ No
- Are asylum seeking children in families ever detained?
  ☒ Yes ☐ Yes, but rarely ☐ No
- 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

[71] On the Xenios Zeus Operation, see for instance Human Rights Watch, Unwelcome Guests: Greek Police Abuses of Migrants in Greece, June 2013.

[72] Kathimerini, *The Results of Operation Xenios Zeus of the Last 6 Months have been Published*, 6 February 2013 (in Greek).

In Greece, irregular migrants and asylum seekers are systematically detained when apprehended at the border or without proper documents on the territory. Migrants and asylum seekers are initially held in police or border guards' stations and should then be transferred to specific detention facilities if a return order is issued or if the person is being prosecuted for illegal entry. However, it happens that people are held in police stations for the full duration of their detention.

In theory, however, according to Article 13 Presidential Decree 114/10, a third-country national or stateless person who applies for international protection shall not be held in detention for the sole reason that they entered and remain illegally in the country. The law further states that detention of applicants for international protection in appropriate facilities is exceptionally allowed when alternatives to detention cannot be applied for one of the following reasons:

e. the applicant does not possess or has destroyed their travel documents and it is necessary to determine the identity, the circumstances of entry and the nationality of the applicant, in particular in case of massive illegal entry of asylum applicants.
f. the applicant is a danger for national security or public order, the reasons being detailed in the detention order.
g. detention is considered necessary for the speedy and effective completion of the asylum procedure.

From now on, asylum seekers awaiting a decision on their application in Greece might be detained for up to 18 months. The provisions governing the maximum length of time by which asylum seekers' detention can be extended has recently changed. It used to be the case that, in accordance with Article 13 in Presidential Decree 114/2010, the maximum duration of asylum seekers' detention was of up to 90 days and, "If the applicant has been detained earlier in view of an administrative deportation order, the total detention time cannot exceed 180 days". According to the new amendment, detention can be further prolonged by up to 12 months, by a police administrative decision. This change was brought about by the new Presidential Decree 116/2012, published in the Greek Government Gazette on 19 October 2012. Applicants detained according to the above paragraphs are allowed to appeal and submit objections against their detention according to Article 76 paragraph 3 of law 3386/2005, a remedy which in practice cannot be considered as successfully effective. Also the UN Special of the UN Special Rapporteur on the human rights of Migrants in his recent report on the situation in Greece criticised the lack of effective judicial review with regard to immigration-related detention in particular in view of the lack of access to an interpreter and legal assistance as well as the scope of the review.[73]

At this point, attention should be drawn on a recent decision of the criminal court of first instance of Igoumenitsa in Greece, according to which a group of migrants who had escaped from a Greek detention centre were acquitted because the conditions of detention were judged as inhuman and in breach of Article 3 ECHR.[74]

As a result, asylum seekers awaiting a decision on their asylum application in Greece may be detained up to 18 months. The prospect of being detained for so long under appalling conditions may deter

[73] "Although migrants may present objections to their detention (Law 3386/2005, art.76.3 and Law 3907/2011, art.76.2), this is not automatic and does not provide for a direct review of the lawfulness of the detention. Moreover, objections need to be submitted in writing and in Greek. Access to an interpreter and lawyer is not guaranteed, which makes objection to the detention decision virtually impossible, particularly as detention and deportation orders are written in Greek". Furthermore the UN Special Rapporteur also considers the automatic judicial review as introduced by Law 3907/2011 not sufficient as it "regulates the extension of detention only and not the detention per se. The Special Rapporteur was also informed that the review is undertaken automatically, with no reference to the specificities of each case, and the fact that expulsion of a migrant has not yet been possible constitutes reason enough for the judge to extend the detention". See United Nations Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, François Crépeau. Mission to Greece*, 17 April 2013, at p. 13.

[74] Criminal Court of first instance of Igoumenitsa, Judgement of 2 October 2012 (in Greek).

asylum seekers from submitting a claim for international protection, especially in view of the authorities' practice of detaining for extended time periods those that lodge a claim while in detention.

The law does not explicitly mention alternatives to detention. In case, however, an administrative detention is necessary, the principle of proportionality requires it to be the last resort, permissible only for the shortest period of time and that alternatives to detention should be sought whenever possible. Such alternatives include regular visits of the individual to the authorities and an obligation to reside at a specific area. The UN Working Group on Arbitrary Detention during its mission to Greece for the period 21-31 January 2013[75]stated that non-application of alternatives to detention, the lack of effective judicial review and the excessive length of such detention may render the detention of an individual arbitrary.

Furthermore, the automatic detention of asylum seeker at the borders in practice, often for extended periods of time, is contrary to Article 24 Presidential Decree 114/10 which states that in cases where an asylum claim is lodged at the border, the accelerated procedure is followed according to which if no decision is taken within 4 weeks, the asylum seeker may enter the Greek territory and have their claim examined.

Until now, vulnerable people, including unaccompanied children, are also systematically detained in the same conditions as other migrants and asylum seekers. In January 2013, the Greek government announced that women, unaccompanied children and people with health problems should not be detained anymore and should be accommodated instead in two open reception centres. However those centres still have to be built.[76]

Furthermore, a new legislative provision introduced in 2012 establishes the rule that the health status of a person can be used as a ground for *de facto* detention of migrants and asylum seekers, including obligatory control of migrants and asylum seekers for a number of diseases such as HIV. This was issued on the basis of a decision of the Ministry of Health and Social Solidarity (G.I. 39a/02-04-2012).

C. Detention conditions

Indicators:

- Does the law allow to detain 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
- 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

The legislation provides some guarantees on detention conditions, even though those guarantees are not applied in practice. Indeed the law provides that in case applicants for international protection are being detained, the competent authorities to receive or examine asylum applications, namely the Greek police, without prejudice to the international and national legislation on detention, must ensure the following:

[75] United Nations Working Group on Arbitrary Detention, Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece (21 - 31 January 2013), 31 January 2013.

[76] 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, CommDH(2013)6, para. 145.

a. women are detained in a place separate from men.
b. detention of children must be avoided. Children separated from their families and unaccompanied minors shall be detained only for the time necessary until their safe referral to adequate centres for accommodation of children.
c. detention of women in an advanced state of pregnancy or who have recently given birth.
d. detainees must be provided with the necessary medical care.
e. the right of detainees to legal representation is fully guaranteed.
f. detainees are informed of the reasons and the duration of their detention.

It is generally acknowledged that the detention centres in Greece, including those for asylum-seekers, fall short of international and European standards. UNHCR has systematically documented this in field visits and other reports on this subject are available[77].The Council of Europe Commissioner for Human Rights noted in his report on his recent visit to Greece that between 2009 and 2012, the European Court on Human Rights issued 11 judgments against Greece related to violation of article 3 of the European Convention on human Rights (prohibition of torture or inhuman or degrading treatment or punishment) with regards to migrants' detention conditions.[78]The appalling detention conditions in Greece have also been illustrated by a recent decision of the criminal court of first instance of Igoumenitsa, Greece, according to which a group of 17 migrants who escaped from a Greek detention centre were acquitted on the grounds that the conditions of detention were judged as inhuman and in breach of Article 3 ECHR[79].

The Committee for the Prevention of Torture of the Council of Europe (CPT) noted in the report on their last visit in 2011 that the design of detention centres in Greece do not respect the CPT standards and have not respected them at least since 1997.[80]The CPT noted lack of privacy, the lack of maintenance of the building, poor lighting and ventilation, hygiene issues, lack of information, or inappropriate food. The Committee noted that the situation was "further aggravated by the overcrowding prevalent in most facilities". Finally the report highlights that "the CPT acknowledges the challenges faced by the Greek authorities in coping with the constant influx of irregular migrants. However, the conditions in which irregular migrants are held would appear to be a deliberate policy by the authorities in order to deliver a clear message that only persons with the necessary identity papers should attempt to enter Greece. Certainly this is the impression formed by successive CPT delegations ever since their visit in September 2005".

Although Greek law provides for proper conditions for persons deprived of their liberty, the UN Working Group on Arbitrary Detention found in January 2013 that in practice in most detention facilities the conditions fall far below international human rights standards. It was specifically observed that irregular migrants were mixed in with criminal detainees and that detention may take place for months in police holding cells and border guard stations designed for a maximum stay of 24 hours.[81]

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77 United Nations High Commissioner for Refugees- Office in Greece, *Contribution to the dialogue on migration and asylum*, May 2012; European Commission, Press Release, *Statement of Cecilia Malmström, European Commissioner for Home Affairs, following the judgement of the European Court of Human Rights on the transfer of asylum seekers under the EU Dublin Regulation*, Memo 11/35, Brussels, 21 January 2011. For an overview of European Court of Human Rights' judgments on detention conditions in Greece see http://infomobile.w2eu.net/2012/11/08/european-court-of-human-rights-rulings-against-greece-for-detention-conditions/.

78 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, CommDH(2013)6.

79 See Criminal Court of first instance of Igoumenitsa, Judgement of 2 October 2012 (in Greek).

80 CPT, *Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 27 January 2011*, CPT/Inf(2012)1, Strasbourg, 10 January 2012, par. 11.

81 United Nations Working Group on Arbitrary Detention, Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece (21 - 31 January 2013), 31 January 2013.

Severe overcrowding and poor conditions in migration detention facilities and police and border guard stations have worsened since the entry into force, in summer 2009, of the Presidential Decree 81/2009 dealing with the administrative detention of irregular migrants. This law extended the maximum detention period of detention from three months to six or in some cases to an additional period of twelve months, which has led to an increase in the number of persons detained. This deterioration of the situation with regard to detention is significantly more evident at border locations (Evros in particular), but similar bad conditions are observed in many urban settings, particularly in Athens (Athens Aliens Directorate) detention facilities – PetrouRalli, Athens International Airport and the numerous police stations where asylum seekers and irregular migrants are being detained.

Issues of great concern are the overall lack of information for detainees on the duration of detention, their rights in detention, the inability of detainees to communicate with the outside world and their limited ability to access legal aid (not least because the resources of NGOs providing legal aid are overstretched). The UN reported in January 2013 that few detainees are aware of their right to legal assistance and, in numerous instances, do not enjoy this right without payment[82]. Information leaflets on the rights of detainees found in detention facilities have been found to be very vague and to refer only to the right of detainees to contact a lawyer, but not to the right to free legal assistance. In those circumstances, lodging an asylum application while in detention is almost impossible. UNHCR also has received a number of reports of police violence, insults or degrading and inhuman treatment suffered by persons in detention.

Furthermore the Council of Europe Human Rights Commissioner noted in his report following his visit in January and February 2013 that the lack of access to adequate health in the police run detention facilities was an important issue.[83] He noted that even though the Ministry of Public Order is aware of it, "a lack of funds hinders the implementation of any regular health care programme".

An indication of the worsening detention conditions is provided by UNHCR's observations in the Evros region in October 2010. Evros has seen a dramatic increase in the number of irregular arrivals this year. According to most recent figures provided by the local police authorities, the number of arrivals reached 34,000 persons, compared to almost 9,000 persons in the same period in 2009. In addition, as many as 44 persons have been officially registered as having died while attempting to reach the Greek side of the Evros River in the first 10 months of 2010. The actual number of persons drowned is believed to be higher.

During its visit to Evros, UNHCR observed a severe deterioration of the detention situation for new arrivals in Greece due to overcrowding of existing detention centres. Men, women and children were crammed together with little space, in dire hygiene conditions and without access to open air. Essential services such as information to persons in detention, language interpretation and legal counselling on the asylum procedure were completely absent.[84] Access to medical treatment or care was very limited. The situation was particularly serious for persons with special needs, such as unaccompanied and/or separated children and single women with small children. UNHCR called for urgent measures to address the detention conditions and the lack of functioning screening procedures, including for persons in need of international protection. UNHCR has characterized the current situation at the borders as a humanitarian crisis.[85]

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82 See UN News Centre, *Greece must improve detention conditions for migrants – UN experts*, 31 January 2013.

83 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, CommDH(2013)6, para. 144.

84 UNHCR, Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: Greece, November 2010, p. 8

85 *Idem*.

D. Judicial Review of the detention order

Indicators:

- Is there an automatic review of the lawfulness of detention? ☐ Yes ☒ No

A detention order is issued when someone lodges an asylum claim where the conditions of Article 13 paragraph 2 Presidential Decree 114/10 apply. In practice, asylum seekers are routinely detained until their claim for international protection is examined. Since December 2012, the detention period has been extended from a maximum of 6 months to a maximum of 18 months. The law does not provide for a judicial review of these detention orders.

The routine and in most cases arbitrary detention of asylum seekers, coupled with the lack of judicial review of the lawfulness of these detention orders creates a very problematic situation for most people seeking international protection in Greece.

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

Under the Greek legislation (Presidential Decree 90/2008) free legal aid provided for by the State under the Greek legal aid system covers only the representation at the administrative court.

However, in practice detention centres are located in remote areas which is undermining effective access of asylum seekers in detention to a lawyer. Moreover, lawyers can only access detention centres if they have the name of their clients, which is only the case if they have been appointed as their lawyer. However there have been reports about lawyers refused access to a detention facility even if they had the name of the asylum seeker they wanted to visit as the director of the centre claimed that the asylum seeker concerned was not in their custody. Also the CPT has reported that access to lawyers for detainees in Greece is problematic in practice.[86]Legal aid clinics have only been used in Greece in cases of implementation of EU funded programmes on a case by case basis.

[86] "The Working Group notes that this situation also affects the proper preparation for the trial, given that a defendant who has a lawyer cannot communicate with him or her in private." See United Nations Working Group on Arbitrary Detention, Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece (21 - 31 January 2013), 31 January 2013.