

# Country Report: Greece



## Acknowledgements & Methodology

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The information in this report is up-to-date as of 31 December 2020, unless otherwise stated.

## The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey and the United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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# Table of Contents

Glossary .....	6
List of Abbreviations .....	7
Statistics .....	8
Overview of the legal framework .....	10
Overview of the main changes since the previous report update.....	19
Asylum Procedure .....	27
<b>A. General .....</b>	<b>27</b>
1. Flow chart .....	27
2. Types of procedures .....	29
3. List of authorities intervening in each stage of the procedure .....	29
4. Determining authority .....	30
5. Short overview of the asylum procedure.....	33
<b>B. Access to the procedure and registration .....</b>	<b>37</b>
1. Access to the territory and push backs .....	37
2. Reception and identification procedure.....	40
3. Registration of the asylum application .....	52
<b>C. Procedures .....</b>	<b>59</b>
1. Regular procedure .....	59
2. Dublin .....	75
3. Admissibility procedure .....	87
4. Border procedure (airport and port transit zones).....	90
5. Fast-track border procedure (Eastern Aegean islands).....	93
6. Accelerated procedure .....	107
<b>D. Guarantees for vulnerable groups .....</b>	<b>109</b>
1. Identification .....	109
2. Special procedural guarantees .....	127
3. Use of medical reports .....	131
4. Legal representation of unaccompanied children .....	133
<b>E. Subsequent applications.....</b>	<b>136</b>
<b>F. The safe country concepts.....</b>	<b>139</b>
1. Safe third country .....	139
2. First country of asylum .....	146
3. Safe country of origin .....	146
<b>G. Information for asylum seekers and access to NGOs and UNHCR .....</b>	<b>148</b>
1. Provision of information on the procedure .....	148
2. Access to NGOs and UNHCR.....	150
<b>H. Differential Treatment of specific nationalities in the procedure.....</b>	<b>151</b>
Reception Conditions.....	152

<b>A. Access and forms of reception conditions .....</b>	<b>153</b>
1. Criteria and restrictions to access reception conditions.....	153
2. Forms and levels of material reception conditions.....	153
3. Reduction or withdrawal of reception conditions.....	156
4. Freedom of movement .....	157
<b>B. Housing .....</b>	<b>161</b>
1. Types of accommodation .....	161
2. Conditions in reception facilities.....	169
<b>C. Employment and education .....</b>	<b>181</b>
1. Access to the labour market.....	181
2. Access to education .....	183
<b>D. Health care .....</b>	<b>186</b>
<b>E. Special reception needs of vulnerable groups .....</b>	<b>188</b>
1. Reception of unaccompanied children .....	189
<b>F. Information for asylum seekers and access to reception centres .....</b>	<b>193</b>
1. Provision of information on reception.....	193
2. Access to reception centres by third parties .....	194
<b>Detention of Asylum Seekers .....</b>	<b>195</b>
<b>A. General .....</b>	<b>195</b>
<b>B. Legal framework of detention .....</b>	<b>204</b>
1. Grounds for detention .....	204
2. Alternatives to detention.....	210
3. Detention of vulnerable applicants.....	212
4. Duration of detention .....	217
<b>C. Detention conditions .....</b>	<b>218</b>
1. Place of detention .....	218
2. Conditions in detention facilities.....	220
3. Access to detention facilities .....	223
<b>D. Procedural safeguards .....</b>	<b>224</b>
1. Judicial review of the detention order .....	224
2. Legal assistance for review of detention.....	227
<b>E. Differential treatment of specific nationalities in detention .....</b>	<b>228</b>
<b>Content of International Protection .....</b>	<b>229</b>
<b>A. Status and residence .....</b>	<b>229</b>
1. Residence permit .....	229
2. Civil registration.....	231
3. Long-term residence .....	232
4. Naturalisation .....	233
5. Cessation and review of protection status .....	236
6. Withdrawal of protection status .....	237

<b>B. Family reunification .....</b>	<b>239</b>
1. Criteria and conditions .....	239
2. Status and rights of family members.....	242
<b>C. Movement and mobility .....</b>	<b>243</b>
1. Freedom of movement.....	243
2. Travel documents.....	243
<b>D. Housing .....</b>	<b>245</b>
<b>E. Employment and education .....</b>	<b>248</b>
1. Access to the labour market .....	248
2. Access to education .....	249
<b>F. Social welfare .....</b>	<b>250</b>
<b>G. Health care .....</b>	<b>251</b>
<b>ANNEX I – Transposition of the CEAS in national legislation .....</b>	<b>253</b>

## Glossary

<b>EU-Turkey statement</b>	Statement of Heads of State or Government of 18 March 2016 on actions to address the refugee and migration crisis, including the return of all persons irregularly entering Greece after 20 March 2016 to Turkey.
<b>Fast-track border procedure</b>	Expedient version of the border procedure, governed by Article 90(3) IPA and applicable in exceptional circumstances on the basis of a Ministerial Decision.
<b>Objections against detention</b>	Procedure for challenging detention before the President of the Administrative Court, whose decision is non-appealable
<b>Reception and Identification Centre</b>	Centre in border areas where entrants are identified and referred to asylum or return proceedings. Six such centres exist in <b>Fylakio</b> , <b>Lesvos</b> , <b>Chios</b> , <b>Samos</b> , <b>Leros</b> and <b>Kos</b> .

## List of Abbreviations

<b>AEMY</b>	Health Unit SA   Ανώνυμη Εταιρεία Μονάδων Υγείας
<b>AIRE</b>	Advice on Individual Rights in Europe
<b>AFM</b>	Tax Number   Αριθμός Φορολογικού Μητρώου
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>AMKA</b>	Social Security Number   Αριθμός Μητρώου Κοινωνικής Ασφάλισης
<b>AAU</b>	Autonomous Asylum Unit   Αυτοτελές Κλιμάκιο Ασύλου
<b>AVRR</b>	Assisted Voluntary Return and Reintegration
<b>CERD</b>	United Nations Committee on the Elimination of Racial Discrimination
<b>DYEP</b>	Refugee Reception and Education Facilities   Δομές Υποδοχής και Εκπαίδευσης Προσφύγων
<b>EASO</b>	European Asylum Support Office
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>EKKA</b>	National Centre of Social Solidarity   Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης
<b>ELIAMEP</b>	Hellenic Foundation for European and Foreign Policy   Ελληνικό Ίδρυμα Ευρωπαϊκής και Εξωτερικής Πολιτικής
<b>ESTIA</b>	Emergency Support to Integration and Accommodation
<b>EODY</b>	National Organisation of Public Health   Εθνικός Οργανισμός Δημόσιας Υγείας
<b>GCR</b>	Greek Council for Refugees   Ελληνικό Συμβούλιο για τους Πρόσφυγες
<b>IPA</b>	International Protection Act   Νόμος Περί Διεθνούς Προστασίας
<b>JMD</b>	Joint Ministerial Decision   Κοινή Υπουργική Απόφαση
<b>KEA</b>	Social Solidarity Income   Κοινωνικό Επίδομα Αλληλεγγύης
<b>KEELPNO</b>	Hellenic Centre for Disease Control and Prevention   Κέντρο Ελέγχου και Πρόληψης Νοσημάτων
<b>L</b>	Law   Νόμος
<b>MD</b>	Ministerial Decision   Υπουργική Απόφαση
<b>NCHR</b>	National Commission for Human Rights   Εθνική Επιτροπή για τα Δικαιώματα του Ανθρώπου
<b>PAAYPA</b>	Foreigner's Temporary Insurance and Health Coverage Number   Προσωρινός Αριθμός Ασφάλισης και Υγειονομικής Περίθαλψης Αλλοδαπού
<b>PACE</b>	Parliamentary Assembly of the Council of Europe
<b>PRDC</b>	Pre-removal Detention Centers   Προαναχωρησιακά Κέντρα Κράτησης (Προ.Κε.Κ.Α)
<b>PD</b>	Presidential Decree   Προεδρικό Διάταγμα
<b>RIC</b>	Reception and Identification Centre   Κέντρο Υποδοχής και Ταυτοποίησης
<b>RIS</b>	Reception and Identification Service   Υπηρεσία Υποδοχής και Ταυτοποίησης
<b>RAO</b>	Regional Asylum Office   Περιφερειακό Γραφείο Ασύλου
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Statistics

### Overview of statistical practice

Since February 2020, the authorities have suspended the publication of statistical information by the Asylum Service, previously made available on a monthly basis. Limited information on the asylum procedure is made available in the form of monthly reports by the Ministry of Migration and Asylum. Moreover, there are substantial disparities between figures presented by the Ministry of Migration and Asylum monthly reports and Eurostat, pointing for example to respective first instance recognition rates of 44% and 69% for the first half of 2020.<sup>1</sup> At the same time, transparency and publication obligations imposed by Greek law on administrative bodies such as the Appeals Authority remain 'dead letter' to date. The Appeals Authority has never published quarterly activity reports pursuant to Article 4(3) L 4375/2016, in which it should include statistics on appeals lodged, the percentage of cases processed in written and oral procedures, processing times of appeals, recognition rates, applications for annulment lodged against Appeals Committee decisions, applications for legal aid and beneficiaries of legal aid.<sup>2</sup>

### Applications and granting of protection status at first instance in 2020:

	Applicants in 2020	Pending applications at the end of 2020	Refugee status	Subsidiary protection	Rejection (on the merits)	Total number of 1 <sup>st</sup> instance decisions/acts <sup>3</sup>	Refugee rate	Subs. Prot. rate	Rejection rate
<b>Total</b>	40,559	57,347 <sup>4</sup>	26,371	7,954	22,821	81,052	33%	10%	28%

Breakdown by countries of origin of the total numbers:

Afghanistan	11,514	19,327	4,606	6,164	5,494	2,330	28.3%	37.9%	33.8%
Syria	7,768	5,563	13,478	2	1,232	3,716	91.6%	0.01%	8.4%
Pakistan	4,146	4,711	99	9	4,061	917	2.4%	0.2%	97.4%
DR Congo	1,929	3,546	562	77	1,413	113	27.4%	3.8%	68.9%

Source: Ministry of Migration and Asylum, *Yearly Report 2020*, published in January 2021, available at: <https://bit.ly/3uBkAJC> and Information provided by the Asylum Service, 31 March 2021

<sup>1</sup> RSA, 'Majority of asylum seekers in need of international protection, according to Eurostat first instance asylum statistics', 3 September 2020, available at: <https://bit.ly/391WC2L>.

<sup>2</sup> RSA, 'Asylum statistics for 2020 should be published and unpacked', 15 July 2020, available at: <https://bit.ly/3fgR7yn>.

<sup>3</sup> It concerns: refugee status recognition, subsidiary protection, rejection on the merits, inadmissibility decisions, act of discontinuation, filing of a case without further action,

<sup>4</sup> Information provided by the Asylum Service, 31 March 2021. However, according to the official statistics of the Asylum Service the pending applications at the end of 2020 were 76,335; see Ministry of Migration and Asylum, *Yearly Report 2020*, published in January 2021, available at: <https://bit.ly/3uBkAJC>



### Gender/age breakdown of the total number of applicants: 2020

	Number	Percentage
<b>Total number of applicants</b>	40,559	100%
Men	27,807	68.56%
Women	12,752	31.44%
Children	14,490	35.73%
Unaccompanied children	2,799	6.9%

Source: Information provided by the Asylum Service, 31 March 2021.

The figures on children and unaccompanied children are part of the figures on men and women.

### Comparison between first instance and appeal in-merit decision rates: 2020

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	<b>81,052</b>	<b>100</b>	<b>25,011</b>	<b>100</b>
<b>Positive decisions</b>	<b>34,325</b>	<b>42.35%</b>	<b>1,045</b>	<b>4.2%</b>
<i>Refugee status</i>	26,371	33%	481	1.92%
<i>Subsidiary protection</i>	7,954	10%	564	2.26%
<b>Referral for humanitarian status</b>	<i>Not applicable</i>	<i>Not applicable</i>	<b>370</b>	<b>1.48%</b>
<b>Negative decisions (in merits)</b>	<b>22,821</b>	<b>28%</b>	<b>15,751</b>	<b>63%</b>

Source: Asylum Service 31/03/2021; Appeals Authority 09/02/2021.

The remaining decisions taken by the Appeals Committees concerned appeals rejected as inadmissible on formal grounds (53 cases) or due to the application of the concept of safe third country or appeals filed after the expiry of the deadline etc.<sup>5</sup>

<sup>5</sup> Information provided by the Appeals Authority, 9 February 2021.

## Overview of the legal framework

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

Title (EN)	Original Title (GR)	Abbreviation	Web Link
Law 4686/2020 "Improvement of the migration legislation, amendment of L. 4636/2019 (A' 169), 4375/2016 (A' 51), 4251/2014 (A' 80) and other provisions" Gov. Gazette A' 96 /12-5-2020	Νόμος 4686/2020 «Βελτίωση της μεταναστευτικής νομοθεσίας, τροποποίηση διατάξεων των νόμων 4636/2019 (Α' 169), 4375/2016 (Α' 51), 4251/2014 (Α' 80) και άλλες διατάξεις». ΦΕΚ Α' 96 /12-5-2020	L 4686/2020	<a href="https://bit.ly/2LGoOvI">https://bit.ly/2LGoOvI</a> (GR)
Law 4636/2019 "on international protection and other provisions" Gazette 169/A/1-11-2019	Νόμος 4636/2019 «Περί Διεθνούς Προστασίας και άλλες διατάξεις» ΦΕΚ 169/A/1-11-2019	IPA	<a href="https://bit.ly/2Q9VnFk">https://bit.ly/2Q9VnFk</a> (GR)
Law 4375/2016 "Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive 2013/32/EU of the European Parliament and of the Council 'on common procedures for granting and withdrawing international protection (recast)' (L 180/29.6.2013), provisions on employment of beneficiaries of international protection" and other provisions. Gazette 51/A/3-4-2016  <i>Amended by:</i> Law 4399/2016, Gazette 117/A/22-6-2016 <i>Amended by:</i> Law 4461/2017, Gazette 38/A/28-3-2017 <i>Amended by:</i> Law 4485/2017, Gazette 114/A/4-8-2017 <i>Amended by:</i> Law 4540/2018, Gazette 91/A/22-5-2018 <i>Amended by:</i> Law 4636/2019, Gazette 69/A/1-11-2019	Νόμος 4375/2016 «Οργάνωση και λειτουργία Υπηρεσίας Ασύλου, Αρχής Προσφυγών, Υπηρεσίας Υποδοχής και Ταυτοποίησης σύσταση Γενικής Γραμματείας Υποδοχής, προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/32/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου «σχετικά με τις κοινές διαδικασίες για τη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας (αναδιατύπωση)» (L 180/29.6.2013), διατάξεις για την εργασία δικαιούχων διεθνούς προστασίας και άλλες διατάξεις. ΦΕΚ 51/A/3-4-2016  <i>Τροπ.:</i> Νόμος 4399/2016, ΦΕΚ 117/A/22-6-2016 <i>Τροπ.:</i> Νόμος 4461/2017, ΦΕΚ 38/A/28-3-2017 <i>Τροπ.:</i> Νόμος 4485/2017, ΦΕΚ 114/A/4-8-2017 <i>Τροπ.:</i> Νόμος 4540/2018, ΦΕΚ 91/A/22-5-2018 <i>Τροπ.:</i> Νόμος 4636/2019, ΦΕΚ 169/A/1-11-2019	L 4375/2016 (Asylum Act)	<a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="https://bit.ly/2NU5U4A">https://bit.ly/2NU5U4A</a> (GR)  <a href="http://bit.ly/2IKABdD">http://bit.ly/2IKABdD</a> (GR) <a href="http://bit.ly/2y0vNq5">http://bit.ly/2y0vNq5</a> (GR) <a href="http://bit.ly/2FLLM3H">http://bit.ly/2FLLM3H</a> (GR) <a href="https://bit.ly/2KCbDx6">https://bit.ly/2KCbDx6</a> (GR) <a href="https://bit.ly/2Q9VnFk">https://bit.ly/2Q9VnFk</a> (GR)
Law 3907/2011 "on the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third country nationals" and other provisions.	Νόμος 3907/2011 «Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/ΕΚ «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη-μέλη για την επιστροφή των παρανόμως	L 3907/2011	<a href="http://bit.ly/1KHa9dV">http://bit.ly/1KHa9dV</a> (EN)

<p>Gazette 7/A/26-01-2011</p> <p><i>Amended by:</i>  Presidential Decree 133/2013, Gazette 198/A/25-09-2013  Law 4058/2012, Gazette 63/A/22-03-2012  Law 4375/2016, Gazette 51/A/3-4-2016</p>	<p>διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις»  ΦΕΚ 7/A/26-01-2011</p> <p><i>Τροποποίηση από:</i>  Προεδρικό Διάταγμα 133/2013, ΦΕΚ 198/A/25-09-2013  Νόμος 4058/2012, ΦΕΚ 63/A/22-03-2012  Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016</p>	<p>PD 133/2013  L 4058/2012  L 4375/2016</p>	<p><a href="https://bit.ly/3uMO9Zo">https://bit.ly/3uMO9Zo</a> (GR)  <a href="https://bit.ly/3onVTPe">https://bit.ly/3onVTPe</a> (GR)  <a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN)  <a href="https://bit.ly/2NU5U4A">https://bit.ly/2NU5U4A</a> (GR)</p>
<p>Presidential Decree 114/2010 “on the establishment of a single procedure for granting the status of refugee or of beneficiary of subsidiary protection to aliens or to stateless persons in conformity with Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status”  Gazette 195/A/22-11-2010</p> <p><i>Amended by:</i>  Presidential Decree 116/2012, Gazette 201/A/19-10-2012  Presidential Decree 113/2013, Gazette 146/A/14-06-2013  Presidential Decree 167/2014, Gazette 252/A/01-12-2014  Law 4375/2016, Gazette 51/A/3-4-2016</p>	<p>Προεδρικό Διάταγμα 114/2010 «Καθιέρωση ενιαίας διαδικασίας αναγνώρισης σε αλλοδαπούς και ανιθαγενείς του καθεστώτος του πρόσφυγα ή δικαιούχου επικουρικής προστασίας σε συμμόρφωση προς την Οδηγία 2005/85/ΕΚ του Συμβουλίου ‘σχετικά με τις ελάχιστες προδιαγραφές για τις διαδικασίες με τις οποίες τα κράτη μέλη χορηγούν και ανακαλούν το καθεστώς του πρόσφυγα», ΦΕΚ 195/A/22-11-2010</p> <p><i>Τροποποίηση από:</i>  Προεδρικό Διάταγμα 116/2012, ΦΕΚ 201/A/19-10-2012  Προεδρικό Διάταγμα 113/2013, ΦΕΚ 146/A/14-06-2013  Προεδρικό Διάταγμα 167/2014, ΦΕΚ 252/A/01-12-2014  Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016</p>	<p>PD 114/2010 (Old Procedure Decree)  PD 116/2012  PD 113/2013  PD 167/2014  L 4375/2016</p>	<p><a href="https://bit.ly/33FnpxY">https://bit.ly/33FnpxY</a> (EN)  <a href="http://bit.ly/1GfXCwV">http://bit.ly/1GfXCwV</a> (EN)  <a href="http://bit.ly/1M36apZ">http://bit.ly/1M36apZ</a> (EN)  <a href="http://bit.ly/1ENgV9B">http://bit.ly/1ENgV9B</a> (GR)  <a href="http://bit.ly/1ct2sZY">http://bit.ly/1ct2sZY</a> (GR)  <a href="https://bit.ly/2NU5U4A">https://bit.ly/2NU5U4A</a> (GR)</p>
<p>Law 4251/2014 “Immigration and Social Integration Code and other provisions”  Gazette 80/A/01-04-2014</p> <p><i>Amended by:</i> Law 4332/2015, Gazette 76/A/09-07-2015  <i>Amended by:</i> Law 4540/2018, Gazette 91/A/22-5-2018</p>	<p>Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις»  ΦΕΚ 80/A/01-04-2014</p> <p><i>Τροπ:</i> Νόμος 4332/2015, ΦΕΚ 76/A/09-07-2015  <i>Τροπ.:</i> Νόμος 4540/2018, ΦΕΚ 91/A/22-5-2018</p>	<p>Immigration Code  L 4332/2015</p>	<p><a href="http://bit.ly/1FOuxp0">http://bit.ly/1FOuxp0</a> (GR)  <a href="http://bit.ly/1LfUfDB">http://bit.ly/1LfUfDB</a> (GR)  <a href="https://bit.ly/2KCbDx6">https://bit.ly/2KCbDx6</a> (GR)</p>
<p>Law 3386/2005 “Entry, Residence and Social Integration of Third Country Nationals on the Greek Territory”</p>	<p>Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια»</p>	<p>L 3386/2005</p>	<p><a href="http://bit.ly/1Pps1eO">http://bit.ly/1Pps1eO</a> (EN)  <a href="http://bit.ly/1Qkzh9R">http://bit.ly/1Qkzh9R</a> (GR)</p>

Abolished by: Law 4251/2014 except for Articles 76, 77, 78, 80, 81, 82, 83, 89(1)-(3) Amended by: Law 4332/2015	Καταργήθηκε από: Νόμος 4251/2014 πλην των διατάξεων των άρθρων 76, 77, 78, 80, 81, 82, 83, 89 παρ. 1-3 Τροπ.: Νόμος 4332/2015		
Law 4554/2018 "Guardianship of unaccompanied children and other provisions" Gazette 130/A/18-7-2018	Νόμος 4554/2018 «Επιτροπεία ασυνόδευτων ανηλίκων και άλλες διατάξεις», ΦΕΚ 130/A/18-7-2018	L 4554/2018	<a href="https://bit.ly/2FAeL7z">https://bit.ly/2FAeL7z</a> (GR)
Presidential Decree 131/2006 on the transposition of Directive 2003/86/EC on the right to family reunification Gazette 143/A/13-7-2006  Amended by: PD 167/2008, PD 113/2013	Προεδρικό Διάταγμα 131/2006 Εναρμόνιση της ελληνικής νομοθεσίας με την Οδηγία 2003/86/ΕΚ σχετικά με το δικαίωμα οικογενειακής επανένωσης, ΦΕΚ 143/A/13-7-2006 Τροπ: ΠΔ 167/2008, ΠΔ 113/2013	PD 131/2006 (Family Reunification Decree)	<a href="http://bit.ly/2nHCPOu">http://bit.ly/2nHCPOu</a> (GR)

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

Title (EN)	Original Title (GR)	Abbreviation	Web Link
Decision No 7330 on the Prolongation of the validity of Residence Permits, Asylum Seekers cards and other deadlines related to the administrative examination procedure of application for international protection at first and second instance Gazette B/7330/15.4.2020  Amended by : Decision No TT 9028/2020, Gazette B/1854/15.05.2020, Amended by: Decision No TT 11341/2020, Gazette B'2252/11.6.2020, Amended by : Decision No TT 18602, Gazette B'3881/11.09.2020 Amended by: Law 4764/2020, article 156 (3) on the extension of the International Protection Applicant Cards validity period until 31 <sup>st</sup> March 2021 Gazette 256/A/23.12.2020	Απόφαση Αριθμ. οικ. 7330 /2020 (ΦΕΚ Β'-1426-15.04.2020) Παράταση ισχύος Αδειών Διαμονής, Δελτίων Αιτούντων Διεθνούς Προστασίας και λοιπών προθεσμιών που συνδέονται με τη διοικητική διαδικασία καταγραφής και εξέτασης αιτημάτων διεθνούς προστασίας α' και β' βαθμού.  Τροπ: Υπουργική Απόφαση Αριθμ. ΤΤ 9028/2020 (ΦΕΚ Β'-1854-15.05.2020), Τροπ : Υπουργική Απόφαση Αριθμ. ΤΤ 11341/2020, (ΦΕΚ Β'-2252/11.6.2020), Τροπ Υπουργική Απόφαση Αριθμ. ΤΤ 18602, Gazette (ΦΕΚ Β'-3881/11.09.2020) Τροπ: Νόμος 4764/2020 (ΦΕΚ/ Α/256/ 23.12.2020) Άρθρο 156 παρ.3 παράταση δελτίων αιτούντος διεθνή προστασίας έως 31 Μαρτίου 2021	Prolongation of the validity of Asylum Seekers Cards JMD/ L 4764/2020	<a href="https://bit.ly/3w5LMBb">https://bit.ly/3w5LMBb</a> (GR)  <a href="https://bit.ly/3bOF5Zu">https://bit.ly/3bOF5Zu</a> (GR) <a href="https://bit.ly/3bhvMUS">https://bit.ly/3bhvMUS</a> (GR) <a href="https://bit.ly/2RGldzE">https://bit.ly/2RGldzE</a> (GR) <a href="https://bit.ly/3tLn6g">https://bit.ly/3tLn6g</a> (GR)
Joint Ministerial Decision No 22066 on the establishment of the International Protection Applicant Cards Gazette B/4699/23-10-2020	Κοινή Υπουργική Απόφαση Αριθμ. 22066 (ΦΕΚ Β' 4699/23-10-2020)	Establishment of the international	<a href="https://bit.ly/3o4A8DX">https://bit.ly/3o4A8DX</a> (GR)

	Καθορισμός του τύπου του Δελτίου Αιτούντος Διεθνή Προστασία.	protection applicant cards JMD	
Joint Ministerial Decision 23/13532/2020 "General Regulation for the Operation of Temporary Reception and Accommodation Facilities for third countries nationals or stateless persons, operating under the care of the Reception and Identification Service, Gazette 5272/B/30.11.2020	Υπουργική Απόφαση 23/13532/2020 (ΦΕΚ 5272/B/30.11.2020) "Γενικός Κανονισμός Λειτουργίας Δομών Προσωρινής Υποδοχής και Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών που λειτουργούν με μέριμνα της Υπηρεσίας Υποδοχής και Ταυτοποίησης"	Regulation for the operation of temporary reception and accommodation JMD	<a href="https://bit.ly/3w8umDM">https://bit.ly/3w8umDM</a> (GR)
Decision No 3063 on the Register of Greek and foreigner NGOs and Register for the members of NGOs Gazette B/1382/14.4.2020	Απόφαση Αριθμ. 3063 (ΦΕΚ Β'-1382-14.04.2020) Καθορισμός λειτουργίας του «Μητρώου Ελληνικών και Ξένων Μη Κυβερνητικών Οργανώσεων (ΜΚΟ)» και του «Μητρώου Μελών Μη Κυβερνητικών Οργανώσεων (ΜΚΟ)», που δραστηριοποιούνται σε θέματα διεθνούς προστασίας, μετανάστευσης και κοινωνικής ένταξης εντός της Ελληνικής Επικράτειας.	NGO's Register Decision	<a href="https://bit.ly/3y3YNNk">https://bit.ly/3y3YNNk</a> (GR)
Decision No 13221 on the conditions of "ESTIA II" program for housing of international protection applicants, Gazette 1223/B/9.4.2020 <i>Amended by</i> Decision No 21260, Gazette 3093/B/24.07.2020 <i>Amended by</i> Decision No 14320, Gazette B/5269/30.11.2020	Υπουργική Απόφαση Αριθμ. οικ. 13221 (ΦΕΚ 1223/B/09.04.2020) Καθορισμός πλαισίου προδιαγραφών του προγράμματος «ESTIA II» για τη στέγαση αιτούντων διεθνή προστασία <i>Τροπ. :</i> Υπουργική Απόφαση Αριθμ. 21260 (ΦΕΚ 3093/B/24.07.2020) <i>Τροπ.:</i> Υπουργική Απόφαση Αριθμ. οικ: 14320 (ΦΕΚ Β 5269/30.11.2020).	Conditions for housing of international protection applicants JMD	<a href="https://bit.ly/2R0LjkZ">https://bit.ly/2R0LjkZ</a> (GR) <a href="https://bit.ly/3y0oGOB">https://bit.ly/3y0oGOB</a> (GR) <a href="https://bit.ly/3ezL49e">https://bit.ly/3ezL49e</a> (GR)
Decision No 13348 on the Terms and conditions for the provision of material reception conditions under ESTIA II program for housing of international protection applicants Gazette B/1199/7.4.2020	Απόφαση Αριθμ. οικ. 13348 (ΦΕΚ Β'-1199-07.04.2020) Όροι παροχής υλικών συνθηκών υποδοχής για το πρόγραμμα «ESTIA II» για τη στέγαση αιτούντων διεθνή προστασία	Material reception conditions under ESTIA II JMD	<a href="https://bit.ly/3fnltia">https://bit.ly/3fnltia</a> (GR)
Decision No 3686 on the provision of legal aid to applicants for international protection Gazette B/1009/24.3.2020  Decision No 3449 on the provision of legal aid to applicants for international protection Gazette B 1482/13.04.2021	Απόφαση αριθμ. 3686 (ΦΕΚ Β'-1009-24.03.2020) Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία  Απόφαση Αριθμ. 3449 (ΦΕΚ Β 1482/13.04.2021) Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία	Legal Aid JMD	<a href="https://bit.ly/3uLVnNm">https://bit.ly/3uLVnNm</a> (GR) <a href="https://bit.ly/2RSHZbw">https://bit.ly/2RSHZbw</a> (GR)

Decision No 2945 on the Establishment of Temporary Accommodation Facilities for third country nationals and stateless persons, who have applied for international protection Gazette B/2945/24.3.2020	Υπουργική Απόφαση αριθμ.2945 (ΦΕΚ Β'-1016-24.03.2020) Σύσταση Δομών Προσωρινής Υποδοχής Πολιτών Τρίτων Χωρών ή ανιθαγενών, οι οποίοι έχουν αιτηθεί διεθνή προστασία.	Establishment of Temporary Accommodation Facilities Decision	<a href="https://bit.ly/2RWInH1">https://bit.ly/2RWInH1</a> (GR)
Decision No Δ1α/ΓΠ.οικ. 20030 on Measures against the COVID-19 outbreak and its spread in Reception and Identification Centres across the country, valid from 21 March to 21 April 2020, Gazette B/985/31.1.2020	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ. 20030 (ΦΕΚ Β' – 985-22.03.2020) Λήψη μέτρων κατά της εμφάνισης και διασποράς κρουσμάτων του κορωνοϊού COVID-19 στα Κέντρα Υποδοχής και Ταυτοποίησης, στο σύνολο της Επικράτειας, για το χρονικό διάστημα από 21.03.2020 έως και 21.04.2020	Measures against COVID 19 in RICs facilities Decision	<a href="https://bit.ly/3tOx3ch">https://bit.ly/3tOx3ch</a> (GR)
<i>Extended by :</i>	<i>Τροποποιήθηκε/παρατάθηκε από τις:</i>		
Decision No. Δ1α/ΓΠ.οικ.25768/16.4.2020 (Gazette B'1472)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.25768/16.4.2020 (ΦΕΚ Β'1472)		
Decision No. Δ1α/ΓΠ.οικ.29105/9.5.2020 (Gazette B'1771)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.29105/9.5.2020 (ΦΕΚ Β'1771)		
Decision No. Δ1α/ΓΠ.οικ.31689/21.5.2020 (Gazette B'1972)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.31689/21.5.2020 (ΦΕΚ Β'1972)		
Decision No. Δ1α/ΓΠ.οικ.35115/05.6.2020 (Gazette B'2191)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.35115/05.6.2020 (ΦΕΚ Β'2191)		
Decision No. Δ1α/ΓΠ.οικ.38739/19.06.2020 (Gazette B'2543)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.38739/19.06.2020 (ΦΕΚ Β'2543)		
Decision No. Δ1α/ΓΠ.οικ.42069/3.7.2020 (Gazette B'2730)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.42069/3.7.2020 (ΦΕΚ Β'2730)		
Decision No. Δ1α/ΓΠ.οικ.45681/17.7.2020 (Gazette B'2947)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.45681/17.7.2020 (ΦΕΚ Β'2947)		
Decision No. Δ1α/ΓΠ.οικ.48490/01.08.2020 (Gazette B'3168)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.48490/01.08.2020 (ΦΕΚ Β'3168)		
Decision No. Δ1α/ΓΠ.οικ.52969/28.8.2020 (Gazette B'3574)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.52969/28.8.2020 (ΦΕΚ Β'3574)		
Decision No. Δ1α/ΓΠ.οικ.56363/14.9.2020 (Gazette B'3922)	Απόφαση Αριθμ. Δ1α/ΓΠ.οικ.56363/14.9.2020 (ΦΕΚ Β'3922)		
<i>Abolished by:</i> Decision No 1α/ΓΠ.οικ. 64450/11.10.2020 (Gazette B'4484), Rules of social distancing and other	<i>Καταργήθηκε με την:</i> Απόφαση Αριθμ. Δ1α/ΓΠ.οικ. 64450/11.10.2020 (ΦΕΚ Β'4484) Κανόνες τήρησης αποστάσεων και άλλα μέτρα προστασίας στο σύνολο της	Measures against COVID	<a href="https://bit.ly/3w6n97i">https://bit.ly/3w6n97i</a> (GR)



<p>measures for protection across the country in order to limit the spread of the Covid-19</p> <p><i>Amended by:</i> Decision No Δ1α/ΓΠ.οικ. 65910/15.10.2020 (Gazette B" – 4566)  <i>Amended by:</i> Decision No Δ1α/ΓΠ.οικ. 67723/22.10.2020 (Gazette B" – 4681)</p> <p>Decision No Δ1α/ΓΠ.οικ. 71342/06.11.2020 (Gazette B'4899) Urgent measures for the protection of public health against the Covid-19 outbreak and its spread across the country valid from 7 November to 30 November</p> <p><i>Amended by:</i> Decision No. Δ1α/ΓΠ.οικ. 71608/9.11.2020 (Gazette B' 4946)  <i>Amended by:</i> Decision No. Δ1α/ΓΠ.οικ.72687/12.11.2020 (Gazette B' 4999)  <i>Amended by:</i> Decision No. Δ1α/ΓΠ.οικ.72989/14.11.2020 (Gazette B' 5043)  <i>Amended by:</i> Decision No. Δ1α/ΓΠ.οικ.73325/16.11.2020 (Gazette B' 5060)  <i>Amended by:</i> Decision No. Δ1α/ΓΠ.οικ.76629/27.11.2020 (Gazette B' 5255)  <i>Amended by:</i> Decision No. Δ1α/ΓΠ.οικ.78363/05.12.2020 (Gazette B' 5350)  <i>Amended by :</i> Decision No Δ1α/ΓΠ.οικ.80189/12.12.2020 (Gazette B' 5486)</p>	<p>Επικράτειας προς περιορισμό της διασποράς του κορωνοϊού Covid-19</p> <p><i>Τροπ:</i> Απόφαση Αριθμ. Δ1α/ΓΠ.οικ. 65910/15.10.2020 (ΦΕΚ Β" – 4566)  <i>Τροπ:</i> Απόφαση Αριθμ. Δ1α/ΓΠ.οικ. 67723/22.10.2020 (ΦΕΚ Β" – 4681)</p> <p>Απόφαση Αριθμ. Δ1α/ΓΠ.οικ. 71342/06.11.2020 (ΦΕΚ Β'4899) Έκτακτα μέτρα προστασίας της δημόσιας υγείας από τον κίνδυνο περαιτέρω διασποράς του κορωνοϊού Covid-19 στο σύνολο της Επικράτειας για το διάστημα από Σάββατο 7 Νοεμβρίου έως και τη Δευτέρα 30 Δεκεμβρίου.</p> <p><i>Τροπ:</i> Απόφαση αριθμ. Δ1α/ΓΠ.οικ. 71608/9.11.2020 (ΦΕΚ Β' 4946)  <i>Τροπ:</i> Απόφαση αριθμ. Δ1α/ΓΠ.οικ.72687/12.11.2020 (ΦΕΚ Β' 4999)  <i>Τροπ:</i> Απόφαση αριθμ. Δ1α/ΓΠ.οικ.72989/14.11.2020 (ΦΕΚ Β' 5043)  <i>Τροπ:</i> Απόφαση αριθμ. Δ1α/ΓΠ.οικ.73325/16.11.2020 (ΦΕΚ Β' 5060)  <i>Τροπ:</i> Απόφαση αριθμ. Δ1α/ΓΠ.οικ.76629/27.11.2020 (ΦΕΚ Β' 5255)  <i>Τροπ:</i> Απόφαση αριθμ. Δ1α/ΓΠ.οικ.78363/05.12.2020 (ΦΕΚ Β' 5350)  <i>Τροπ:</i> Απόφαση αριθμ. Δ1α/ΓΠ.οικ.80189/12.12.2020 (ΦΕΚ Β' 5486)</p>	<p>19 across the country Decision</p>	<p><a href="https://bit.ly/3uSOtpG">https://bit.ly/3uSOtpG</a> (GR)</p>
<p>Strict coronavirus lockdown per RIC :  Leros RIC: Gazette 3953/B'/15.9.2020, <i>extended by</i> 4205/B'/29.9.2020  Lesvos RIC: Gazette ΦΕΚ 3665/B'/2.9.2020  Fylakio RIC : Gazette 3428/B'/14.8.2020 <i>extended by</i> Gazette 3576/B'/28.8.2020, <i>extended by</i> Gazette 3923/B'/14.9.2020</p>	<p>Αυστηρός υγειονομικός αποκλεισμός ανά ΚΥΤ:  ΚΥΤ Λέρου: ΦΕΚ 3953/B'/15.9.2020 <i>παράταση με</i> ΦΕΚ 4205/B'/29.9.2020  ΚΥΤ Λέσβου: ΦΕΚ 3665/B'/2.9.2020  ΚΥΤ Ορεστιάδας: ΦΕΚ 3428/B'/14.8.2020 <i>παράταση με</i> ΦΕΚ 3576/B'/28.8.2020, <i>παράταση με</i> ΦΕΚ 3923/B'/14.9.2020  ΚΥΤ Σάμου: ΦΕΚ 3954/B'/15.9.2020 <i>παράταση με</i> ΦΕΚ 4206/B'/29.9.2020, <i>παράταση με</i> ΦΕΚ 4500/B'/12.10.2020</p>	<p>Strict coronavirus lockdown per RIC Decision</p>	

Samos RIC: Gazette 3954/B'/15.9.2020 <i>extended by</i> Gazette 4206/B'/29.9.2020, <i>extended by</i> Gazette 4500/B'/12.10.2020 Chios RIC: Gazette 3400/B'/13.08.2020, Gazette 4533/B'/14.10.2020, <i>extended by</i> Gazette 4659/B'/21.10.2020, <i>extended by</i> Gazette 4842/B'/4.11.2020	ΚΥΤ Χίου: ΦΕΚ 3400/B'/13.08.2020, ΦΕΚ 4533/B'/14.10.2020, <i>παράταση με</i> ΦΕΚ 4659/B'/21.10.2020, <i>παράταση με</i> ΦΕΚ 4842/B'/4.11.2020		
Decision No 717/2020 on the Access to healthcare services for applicants for international protection– P.A.A.Y.P.A. issuance Gazette B/717/31.1.2020	Υπουργική Απόφαση αριθμ. 717 (ΦΕΚ Β'-199-31.01.2020) Ρυθμίσεις για τη διασφάλιση της πρόσβασης των αιτούντων διεθνούς προστασίας στις υπηρεσίες υγείας, την ιατροφαρμακευτική περίθαλψη, την κοινωνική ασφάλιση και την αγορά εργασίας – Έκδοση Π.Α.Α.Υ.Π.Α.	Access to healthcare services Decision	<a href="https://bit.ly/2yix8Oz">https://bit.ly/2yix8Oz</a> (GR)
Decision No 1333/2019 on the Application of the provisions of Article 90 paras.3 and 5 of L 4636/2020 Gazette B/4892/31.12.2019	Απόφαση αριθμ. 1333 (ΦΕΚ Β'-4892-31.12.2019) Εφαρμογή των διατάξεων των παραγράφων 3 και 5 του άρθρου 90 του ν. 4636/2019 (ΦΕΚ 169 Α').	Fast-Track Border Procedure JMD	<a href="https://bit.ly/3cPAojw">https://bit.ly/3cPAojw</a> (GR)
Decision No 1302(2)/2019 on the List of safe countries of origin Gazette B/4907/31.12.2019	Απόφαση αριθμ. 1302 (2) (ΦΕΚ Β 4907-31-12-2019) Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς σύμφωνα με το άρθρο 87 παρ. 5 του ν.4636/2019.  Κοινή Υπουργική Απόφαση Αριθμ. 778/2021 (ΦΕΚ 317/B/29-1-2021). Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς, σύμφωνα με την παρ. 5 του άρθρου 87 του ν. 4636/2019 (Α' 169).	List of safe countries of origin Decision	<a href="https://bit.ly/2AMPjgr">https://bit.ly/2AMPjgr</a> (GR)  <a href="https://bit.ly/3eCpwZL">https://bit.ly/3eCpwZL</a> (GR)
Decision No 1140/2019 of the Minister of Migration Policy on the restriction of movement of applicants for international protection Gazette B/ B/4736/20.12.2019	Υπουργική Απόφαση αριθμ. 1140 (ΦΕΚ Β'-4736-20.12.2019) Περιορισμός Κυκλοφορίας των Αιτούντων Διεθνή Προστασία.	Restriction of Movement Decision	<a href="https://bit.ly/2LG02eG">https://bit.ly/2LG02eG</a> (GR)
Joint Ministerial Decision Δ11/οικ.28303/1153 Definition of necessary formal and material conditions to be fulfilled for the selection of professional guardians, obstacles, establishment of number of unaccompanied minors by professional guardian, technical specifications on training and education, as well as regular evaluation, types, conditions, content of contracts, remuneration and necessary details	Κοινή Υπουργική Απόφαση Δ11/οικ.28303/1153 Καθορισμός απαιτούμενων τυπικών και ουσιαστικών προσόντων που πρέπει να πληρούνται για την επιλογή ενός προσώπου ως επαγγελματία επιτρόπου, τα κωλύματα, καθορισμός αριθμού ασυνόδευτων ανηλίκων ανά επαγγελματία επίτροπο, τεχνικές λεπτομέρειες εκπαίδευσης, διαρκούς επιμόρφωσής τους, καθώς και της τακτικής αξιολόγησής τους, είδος, όροι, περιεχόμενο της	Guardianship JMD	<a href="https://bit.ly/2qL7FJr">https://bit.ly/2qL7FJr</a> (GR)



Gazette B/2558/27-6-2019	σύμβασης, αμοιβή τους και κάθε αναγκαία λεπτομέρεια, ΦΕΚ B/2558/27.6.2019		
Decision οικ. 13411/2019 of the Minister of Migration Policy on restriction of movement of applicants for international protection Gazette B/2399/19.06.2019	Απόφαση αριθμ. οικ. 13411/2019 του Υπουργού Μεταναστευτικής Πολιτικής: Περιορισμός κυκλοφορίας των αιτούντων διεθνή προστασία, ΦΕΚ B/2399/19.06.2019	Restriction of Movement Decision	<a href="https://bit.ly/32GYtU5">https://bit.ly/32GYtU5</a> (GR)
Decision οικ. 868/2018 of the Director of the Asylum Service on the duration of international protection applicants' cards Gazette B/201/30.01.2018	Απόφαση αριθμ. οικ. 868/2018 της Διευθύντριας Υπηρεσίας Ασύλου: Διάρκεια ισχύος δελτίων αιτούντων διεθνή προστασία, ΦΕΚ B/201/30.01.2018	Asylum Seeker Card Decision	<a href="http://bit.ly/2DEDtka">http://bit.ly/2DEDtka</a> (GR)
Joint Ministerial Decision οικ. 13257/2016 on the implementation of the special border procedure (Article 60(4) L 4375/2016) Gazette B/3455/26.10.2016	Κοινή Υπουργική Απόφαση οικ. 13257/2016: Εφαρμογή των διατάξεων της παραγράφου 4 του άρθρου 60 του Ν. 4375/2016 (Α' 51), ΦΕΚ B/3455/26.10.2016	Fast-Track Border Procedure JMD	<a href="http://bit.ly/2maKUeC">http://bit.ly/2maKUeC</a> (GR)
Joint Ministerial Decision οικ. 12205 on the provision of legal aid to applicants for international protection Gazette B/2864/9-9-2016	Κοινή Υπουργική Απόφαση οικ. 12205: Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία, ΦΕΚ B/2864/9-9-2016	Legal Aid JMD	<a href="http://bit.ly/2kPSjzE">http://bit.ly/2kPSjzE</a> (GR)
Joint Ministerial Decision 1982/2016 on age assessment of applicants for international protection Gazette B/335/16-2-2016 <i>Amended and replaced by Ministerial Decision 9889/2020</i> Gazette B/3390/13-08-2020	Κοινή Υπουργική Απόφαση 1982/2016 διαπίστωση ανηλικότητας των αιτούντων διεθνή προστασία, ΦΕΚ B/335/16-2-2016 Τροποποιήθηκε και αντικαταστάθηκε από την Υπουργική Απόφαση Αριθμ. 9889/2020 (ΦΕΚ Β' 3390-13.08.2020) "Τροποποίηση και αντικατάσταση της υπ' αρ. 1982/15-02-2016 απόφασης «Διαπίστωση Ανηλικότητας των αιτούντων διεθνή προστασία» (Β' 335)"	Age Assessment JMD/ Decision	<a href="http://bit.ly/2lc8mDX">http://bit.ly/2lc8mDX</a> (GR) <a href="https://bit.ly/3vY5WNn">https://bit.ly/3vY5WNn</a> (GR)
Joint Ministerial Decision οικ. 10566 on the procedure for issuing travel documents to beneficiaries of and applicants for international protection Gazette B/3223/2-12-2014  Joint Ministerial Decision No 10302 on the procedure for issuing travel documents to beneficiaries of and applicants for international protection Gazette B/2036/30-05-2020	Κοινή Υπουργική Απόφαση οικ. 10566 Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους διεθνούς προστασίας, καθώς και στους αιτούντες διεθνή προστασία, ΦΕΚ B/3223/2-12-2014  Υπουργική Απόφαση Αριθμ. 10302 (ΦΕΚ Β' 2036/30-05-2020) Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους καθεστώτος του πρόσφυγα, σε δικαιούχους επικουρικής προστασίας καθώς και σε αιτούντες διεθνή προστασία.	Travel Documents JMD	<a href="http://bit.ly/2mfwqXA">http://bit.ly/2mfwqXA</a> (GR)  <a href="https://bit.ly/2P71hc8">https://bit.ly/2P71hc8</a> (GR)
Hellenic Police Circular 1604/17/681730/3-4-2017 on participation of applicants for international protection in	Εγκύκλιος Ελληνικής Αστυνομίας 1604/17/681730/3-4-2017 Συμμετοχή αλλοδαπών υπηκόων αιτούντων τη		<a href="http://bit.ly/2E8Mlmr">http://bit.ly/2E8Mlmr</a> (GR)

voluntary repatriation programmes of the International Organisation for Migration (IOM)	χορήγηση καθεστώτος διεθνούς προστασίας στα προγράμματα οικειοθελούς επαναπατρισμού του Διεθνούς Οργανισμού Μετανάστευσης (Δ.Ο.Μ.)		
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## Overview of the main changes since the previous report update

The report was previously updated in **June 2020**.

### General context

In 2020, 15,696 refugees and migrants arrived in Greece. This marks a decrease of 78.9% compared to 2019 (74,649 arrivals)<sup>6</sup>. Out of those, a total of 9,714 persons arrived in Greece by sea in 2020, compared to 59,726 in 2019. The majority originated from Afghanistan (35.2%), Syria (27.7%) and DRC (10.3%). More than half of the population were women (23.3%) and children (35.5%), while 41.2% were adult men. Moreover, 5,982 persons arrived in Greece through the Greek-Turkish land border of **Evros** in 2020, compared to a total of 14,887 in 2019. However, the figure of entries in 2020 may under-represent the number of people actually attempting to enter Greece, given that cases of alleged pushbacks at the Greek-Turkish border and at the Aegean Sea have been systematically reported in 2020.

The Asylum Service received 40,559 asylum applications in 2020 (47.52% decrease compared to 2019). Afghans were the largest group of applicants with 11,514 applications, followed by Syrians with 7,768 applications.

Following the July 2019 elections, the new government announced a more punitive policy on asylum, with a view to reduce the number of people arriving, increase the number of returns to Turkey and strengthen border control measures. Following the elections, the Ministry of Migration Policy has been repealed and subsumed to the Ministry of Citizens Protection. In January 2020, however, the Ministry for Migration and Asylum was re-established.

A new law on asylum has been issued in November 2019. L. 4636/2019 (hereinafter: International Protection Act/IPA). It has been repeatedly criticised by national and international human rights bodies including the Greek Ombudsman, the Greek National Commission for Human Rights (GNCHR), UNHCR and civil society organisations, as *inter alia* an attempt to lower protection standards and create unwarranted procedural and substantive hurdles for people seeking international protection. As noted by UNHCR, the new law reduces safeguards for people seeking international protection and creates additional pressure on the overstretched capacity of administrative and judicial authorities. “The proposed changes will endanger people who need international protection [...] [the law] puts an excessive burden on asylum seekers and focuses on punitive measures. It introduces tough requirements that an asylum seeker could not reasonably be expected to fulfil” [...] “As a result, asylum seekers may be easily excluded from the process without having their international protection needs adequately assessed. This may expose them to the risk of refoulement”. In May 2020, less than 5 months after the entry into force of the IPA, national legislation has been reamended. These amendments have been significantly criticised by human rights bodies, including the Council of Europe Commissioner for Human Rights as they further weaken basic guarantees for persons in need of protection and introduces a set of provisions that can lead to arbitrary detention of asylum seekers and third country nationals.

Following an increasing number of cases of alleged pushbacks at the Greek-Turkish border of Evros during the previous years, allegations of pushbacks were also reported during 2020. The persisting practices of alleged pushbacks have been reported *inter alia* by UNHCR, the UN Working Group on Arbitrary Detention, the UN Committee against Torture, the Greek National Commission on Human Rights and civil society organisations. These allegations do not only refer to push backs at the land borders with Turkey (Evros) but also at the Aegean Sea. The CoE Commissioner for Human Rights

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<sup>6</sup> UNCHR, Operational Portal, Mediterranean Situation: Greece, available at: <https://bit.ly/3t8i3GD>.

thus stated on 3 March 2020: “I am alarmed by reports that some people in distress have not been rescued, while others have been pushed back or endangered”. In June 2020, the United Nations High Commissioner for Refugees invited Greece to investigate the numerous complaints for illegal refoulement operations in the land and sea borders of the country: “UNHCR has continuously addressed its concerns with the Greek government and has called for urgent inquiries into a series of alleged incidents reported in media, many of which corroborated by non-governmental organizations and direct testimonies. Such allegations have increased since March and reports indicate that several groups of people may have been summarily returned after reaching Greek territory”.

#### *Asylum procedure*

- ❖ **Operation of the Asylum Service:** Similarly to 2019, the Asylum Service operated in 24 locations throughout the country at the end of 2020, compared to 23 locations at the end of 2018. The recognition rate at first instance in 2020 was 33%, down from 55.9%, in 2019.
- ❖ **Access to the asylum procedure:** Without underestimating the number of applications lodged in 2020, access to asylum on the mainland continued to be problematic throughout 2020. Access to the asylum procedure for persons detained in pre-removal centres is also a matter of concern. Following tension erupted on the Greek-Turkish land borders at the end of February 2020, on 2 March 2020, the Greek Authorities issued an Emergency Legislative Order (*Πράξη Νομοθετικού Περιεχομένου/ΠΝΠ*) by which access to the asylum procedure had been suspended for persons entering the country during March 2020. According to the Emergency Legislative Order, those persons were about to be returned to their country of origin or transit ‘without registration’. As noted by several actors, *inter alia* by UNHCR, “[a]ll States have a right to control their borders and manage irregular movements, but at the same time should refrain from the use of excessive or disproportionate force and maintain systems for handling asylum requests in an orderly manner. Neither the 1951 Convention Relating to the Status of Refugees nor EU refugee law provides any legal basis for the suspension of the reception of asylum applications”. On 30 March 2020, following a legal action supported by the Greek Council for Refugees (GCR), the Council of State partially accepted the request for interim orders for two vulnerable individuals, subject to the suspension of access to asylum, and ordered the Authorities to refrain from any forcible removal, while it rejected the request in a third case. The Asylum Service, the Regional Asylum Offices (RAO) and the Autonomous Asylum Units (AAU) have all suspended the reception of public between 13 March and 15 May 2020. During this period, applications for international protection were not registered, interviews were not conducted and appeals were not registered. On the basis of a ministerial decision, the asylum seekers’ cards that expired between 13 March 2020 and 31 May 2020 were renewed for six months from the day of the expiry of the card.

The Asylum Service resumed its operation on 18 May 2020, which included the service of first instance decisions and the lodging of appeals. Since 18 May 2020, a number of administrative procedures (e.g. applications to change: the address, the telephone number, personal data, the separation of files, the procurement of copies from the personal file, the rescheduling and the prioritisation of hearings, the provision of legal aid etc.) can take place online. Interviews scheduled during the suspension of the work of the Asylum Service (13 March 2020 - 15 May 2020) were rescheduled. With the exception of persons under administrative detention, following the resumption of the operation of the Asylum Service, no registration of new asylum applications took place by the end of May 2020. The extension of international protection applicant cards was further extended with relevant ministerial decisions in 2020. After the second wave of Covid-19 cases in Greece, “in order to protect public health and impede the further spread of the COVID-19 virus”, the Director of the Asylum Service decided to suspend the operation of RAOs in the Attica region from 6 October 2020 to 9 October 2020. Said suspension was extended until 16 October. Moreover, between 7 and 30 November 2020, new measures against Covid-19 were applied to RAOs and

AAUs nationwide. During this period, even though “programmed interviews and registrations via Skype took place according to schedule”, full registrations of asylum applications were not conducted except for those of very vulnerable applicants. According to L 4764/2020 and L 4790/2021 the validity of asylum seekers’ cards was further extended; in the beginning until 31 March 2021 and then until 30 June 2021. Thus, applicants of international protection do not have to renew their cards until 30 June 2021.

- ❖ **Processing times:** For applications lodged on the mainland exclusively within 2020, the average period between the registration and the personal interview, is 61 days, while the average period between registration and the issuance of a first instance decision is 67 days. However, and despite the significant decrease on the number of new asylum applications registered in 2020 and the number of first instance decisions issued during the year, significant delays occur in processing applications at first instance if the total number of pending applications is taken into consideration, i.e. applications registered within 2020 and applications registered the previous years and pending by the end of 2020. More precisely, more than 1 out of 2 of the applications pending at first instance at the end of 2020 (68.3%), was pending for a period over 12 months since the day they were registered (39,211 out of the total 57,347 applications pending at the end of 2020).<sup>7</sup> In addition, in the 60.85% of the applications pending by the end of 2020, the personal interview has not been conducted (34,896 out of the total 57,347 applications pending at the end of 2020). Out of those applications in which the interview has not been conducted by the end of 2020, in 43.3% of the pending cases the interview has been scheduled after 2021 (15,142 cases). This is for example the cases of Turkish applicants to the knowledge of GCR, that the interview is scheduled no earlier than 2025. In 13,198 cases (37.8%) the interview has been scheduled within the first semester of 2021 and in 6,599 cases (18.7%) the interview has been scheduled within the second semester of 2021. Thus, given the number of the applications, the backlog of cases pending for prolonged periods is likely to increase, if the capacity of the Asylum Service is not further increased.
- ❖ **First instance procedure:** The IPA foresees an extended list of cases in which an application for international protection can be rejected as “manifestly unfounded” without any in-merits examination and without assessing the risk of *refoulement*, even in case that the applicant did not manage to comply with (hard to meet) procedural requirements and formalities. In addition, the IPA introduced the possibility of a ‘fictitious service’ (πλασματική επίδοση) of first instance decisions, with a registered letter to the applicant or to the authorised lawyers, consultants, representatives or even the Head of the Regional Asylum Office/Independent Asylum Unit, where the application was submitted or the Head of the Reception or Accommodation Centre. Given that the deadline for lodging an appeal starts from the day following the (fictitious) service, this deadline may expire without the applicant being actually informed about the issuance of the decision, for reasons not attributable to the latter. As noted by the Greek Ombudsman, the provisions relating to this fictitious service effectively limit the access of asylum seekers to legal remedies.
- ❖ **Fast-track border procedure:** The EU-Turkey statement, adopted in March 2016 and initially described as “a temporary and extraordinary measure” continues to be implemented to those arrived by sea on the Aegean islands. The impact of the EU-Turkey statement has been *inter alia* a *de facto* dichotomy of the asylum procedures applied in Greece. Asylum seekers arriving after 20 March 2016 on the Greek islands are subject to a fast-track border procedure with limited guarantees. As noted by the EU Fundamental Rights Agency (FRA) “almost three years of experience [of processing asylum claims in facilities at borders] in Greece shows, [that] this approach creates fundamental rights challenges that appear almost insurmountable”.

<sup>7</sup> Information provided by the Asylum Service, 31 March 2021. However, according to the official statistics of the Asylum Service the pending applications at the end of 2020 were 76,335; see Ministry of Migration and Asylum, *Yearly Report 2020*, published in January 2021, available at: <https://bit.ly/3uBkAJC>

- ❖ **Legal assistance:** No state-funded free legal aid is provided at first instance, nor is there an obligation to provide it in law. A state-funded legal aid scheme in the appeal procedure on the basis of a list managed by the Asylum Service operates since September 2017. Despite this welcome development, the capacity of the second instance legal aid scheme remains limited and almost 2 out of 3 appellants do not benefit from free legal assistance at second instance.
- ❖ **Appeal:** Recognition rates at second instance remained low in 2020. Out of the total in-merits second instance decision issued in 2020, 4.2% resulted in the granting of international protection; 1.48% resulted in the granting of humanitarian protection and 63% resulted in a negative decision. Effective access to the second instance procedure has been restricted in practice severely by the 2019 legislative amendment (IPA). According to the IPA, an appeal against a first instance decision *inter alia* should be submitted in a written form (in Greek) and mention the “specific grounds” of the appeal. Otherwise, the appeal is rejected as inadmissible without any in-merits examination. Given the fact that said requisites can only be fulfilled with the assistance of a lawyer, and the significant shortcoming in the provision of free legal assistance under the free legal aid scheme, appeals procedures are practically non-accessible for the vast majority of applicants, in violation of Article 46 of the Directive 2013/32/EU and Article 47 of the EU Charter for Fundamental Rights. As stated by UNHCR, “[i]n some circumstances, it would be so difficult to appeal against a rejection that the right to an effective remedy enshrined in international and EU law, would be seriously compromised”. The IPA abolished the automatic suspensive effect for certain appeals, in particular those concerning applications rejected in the accelerated procedure or dismissed as inadmissible under certain grounds. A ‘fictitious service’ of the second instance decision is also foreseen by the IPA, which entails the risk that deadlines for judicial review have expired without the appellant having been actually informed about the issuance of the decision.
- ❖ **Dublin:** There has been a considerable increase of take-charge requests compared to the previous year. In 2020, Greece addressed 7,014 outgoing requests to other Member States under the Dublin Regulation of which 1,922 were not sent within the three-month deadline. Out of them, 2,009 requests were rejected by the requested Member states, while 2,385 requests were accepted. Article 22 (7) was enacted in 80 cases, raising the number of the finally accepted take-charge requests to 2,465. Compared to last year, the cases that were accepted were more than those rejected, thus returning to a pattern that had been established from the entry into force of the Dublin III Regulation until the year of 2018. By the end of 2020, the procedure is still pending for 277 cases that have been rejected, but no final decision has been issued. Additional obstacles to family reunification continued to occur in 2020 due to practices adopted by a number of the receiving Member States, and due to Covid-19 restrictions, which may underestimate the right to family life. In a number of cases domestic courts in different Member States have suspended Dublin transfers.
- ❖ **Relocation:** In January 2020, the Alternate Minister for Migration Policy reiterated Portugal’s willingness to accept up to 1,000 asylum seekers and stated that Greece and Portugal have already been working on this project. A new project for the relocation of 400 vulnerable asylum seekers to France has also been announced in January 2020, aiming at the completion of the relocations by the summer of 2020. In March of 2020, the Commission launched a relocation scheme, under which vulnerable people from Greece would be transferred to other EU Member States, aiming to support Greece in its efforts to cope with the critical situation. Unaccompanied children and children with severe medical conditions who are accompanied by their families, are the two categories of persons of concern who could be included in the program. Eleven EU countries are participating in this scheme, among which are France, Germany, Luxembourg, Portugal and Bulgaria. The Commission is implementing this program with the assistance of UNHCR, the International Organization for Migration (IOM) and UNICEF, following the eligibility criteria as set in the relevant SOPs. Homeless children, children living in precarious conditions, such as safe zone areas in camps and minors

being previously detained, are considered eligible for the program. By December of 2020, 2,209 asylum seekers and refugees have been relocated from Greece to other EU countries, such as Germany, Finland, Portugal, Belgium, Luxemburg, Ireland, France, Bulgaria and Lithuania. Of these, 573 are unaccompanied children and 1,292 vulnerable families and adults.

- ❖ **Safe third country:** Since mid-2016, the same template decision is issued to dismiss claims of Syrians applicants as inadmissible on the basis that Turkey is a safe third country for them. Accordingly, negative first instance decisions qualifying Turkey as a safe third country for Syrians are not only identical and repetitive – failing to provide an individualised assessment – but also outdated insofar as they do not take into account developments after that period, such as the current legal framework in Turkey, including the derogation from the principle of *non-refoulement*. Second instance decisions issued by the Independent Appeals Committees for Syrian applicants systematically uphold the first instance inadmissibility decisions. In 2020 and as far as GCR is aware, most cases of Syrian applicants examined under the fact track border procedure have been rejected at 2nd instance as inadmissible on the basis of the safe third country concept (1,234 inadmissible and 302 admissible). Contrary to the requirements of the recast Asylum Procedures Directive, no rules on the methodology by which the competent authorities satisfy themselves that the safe third country concept may be applied to a particular country or to a particular applicant is provided by national legislation (IPA). According to the IPA, “transit” as such through a third country in conjunction with specific circumstances may be considered as a valid ground in order to be considered that the applicant could reasonably return in this country. The compatibility of said provision with the EU *acquis* should be further assessed, in particular by taking into consideration the recent CJEU case law (C924/19 PPU and C-925/19 PPU).

According to the official statistics of the Ministry of Migration and Asylum published in January 2021, “Returns under the EU- Turkey Joint Declaration have not been made since March [2020] due to Covid-19 [and] despite the lifting of the measures for the pandemic, from 01/06[2020] the requests of missions-returns of the Greek authorities have not been answered.” Moreover, article 86(5) IPA provides that “when the safe third country does not allow the applicant to enter its territory, his/her application should be examined on the merits from the competent Authorities”. However, despite the suspension of returns to Turkey since March 2020 and the aforementioned provision of article 86(5) IPA, during 2020 the applications lodged by Syrians in the Eastern Aegean Islands whose geographical restriction was not lifted, were still examined in the context of the safe third country concept and the Fast-Track Border Procedure.

On 7 June 2021, a Ministerial Decision of the Ministry of Foreign Affairs and the Ministry of Migration and Asylum was issued, designating Turkey as “safe third country” in a national list for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia.<sup>8</sup> As a result, the applications lodged by those nationalities can be rejected as “inadmissible” without being examined on the merits.

- ❖ **Identification of vulnerability:** Even though in 2020 there were no long delays between the arrival and the vulnerability assessment, as was the case before, the low quality of the process of medical and psychosocial screening remained a source of serious concern. Until now, alarming reports indicate that vulnerabilities are often missed, with individuals going through the asylum procedure without having their vulnerability assessment completed first. UNHCR reported that “access to health care for asylum-seekers and refugees continued to be limited at several locations across Greece, in particular on the islands, mainly due to the limited public sector medical staff and difficulties in obtaining the necessary documentation.” The regulatory framework for the

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<sup>8</sup> JMD 42799– Gov. Gazeete 2425/B/7-6-2021, available in Greek at: <https://bit.ly/3zbSojR>.



guardianship of unaccompanied children initially introduced in 2018 was still not operational as of May 2021.

#### *Reception conditions*

- ❖ **Freedom of movement:** Asylum seekers subject to the EU-Turkey statement are issued a geographical restriction, ordering them not to leave the respective island until the end of the asylum procedure. The practice of geographical restriction has led to a significant overcrowding of the facilities on the islands and thus to the deterioration of reception conditions. In 2018, following an action brought by GCR, the Council of State annulled the Decision of the Director of the Asylum Service regarding the imposition of the geographical limitation. However, following a new Decision of the Director of the Asylum Service, the geographical restriction on the Eastern Aegean islands has been reintroduced. Legal action filed against the new Decision for the geographical limitation by GCR before the Council of State was still pending as of May 2021. A new regulatory framework for the geographical restriction on the islands entered into force in January 2020, which has significantly limited the categories of applicants for whom the restriction can be lifted. Thus, the implementation of the latter increased the number of applicants remaining on the Greek islands and further deteriorated the conditions there.
- ❖ **Reception capacity:** Most temporary camps on the mainland, initially created as emergency accommodation facilities continued to operate throughout 2020. In December 2020, a number of 28,356 persons were accommodated in mainland camps, most of whom were children (43%) and women (24%).<sup>9</sup> Additionally, 28,148 people were accommodated under the ESTIA II accommodation scheme in December 2020, nearly 52% were children. Of the ESTIA II residents in December 2020, 14,392 were asylum seekers and 6,827 beneficiaries of international protection. Respectively, as of 15 January 2020, despite an overall and welcome increase in relevant capacity, there were 4,048 unaccompanied and separated children in Greece but only 1,715 places in long-term dedicated accommodation facilities, and 1,094 places in temporary accommodation. As of 31 December 2020, 17,005 persons remained on the Eastern Aegean islands, of which 397 were in detention in police cells and the Pre-Removal Detention Centre (PRDC) of Kos. The nominal capacity of reception facilities, including RICs, the temporary Mavrovouni camp and other accommodation facilities, was at 16,710 places. The nominal capacity of the RIC facilities (hotspots) was of 3,338, while 7,093 persons were residing there. Another 7,172 persons were residing in the temporary Mavrovouni camp, which had a nominal capacity of 10,000 places.<sup>10</sup> Meanwhile, capacity in alternative accommodation facilities has been reduced in 2020, following the closure of PIKPA Lesvos and PIKPA Leros. Both facilities were offering dignified reception to particularly vulnerable asylum applicants. Particularly in the case of Lesvos, the closure of PIKPA took place just a month after the fires that destroyed the Moria RIC left more than 12,000 homeless asylum seekers, who were subsequently transferred to the emergency Mavrovouni facility (Kara Tepe), which remains unfit for purpose to this day.
- ❖ **Living conditions:** As it has been widely documented, reception facilities on the islands remain substandard. Overcrowding, a lack of sufficient access to basic services, including medical care, limited sanitary facilities, and violence and lack of security continued to pose significant protection risks in 2020. The mental health of the applicants on the islands has also continued aggravating due to prolonged containment that became even stricter during 2020, in the context of disproportionate restrictions imposed on camps and RICs amid measures aimed at restricting the

<sup>9</sup> IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS), December 2020, available at: <https://bit.ly/3vnZTBV>.

<sup>10</sup> National Coordination Center for Border Control, Immigration and Asylum (N.C.C.B.C.I.A.), National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2020), 1 January 2021, available at: <https://bit.ly/3nApkx6>.



spread of COVID-19. In February 2020, the UN High Commissioner for Refugees “called for urgent action to address the increasingly desperate situation of refugees and migrants in reception centres in the Aegean islands”. The High Commissioner underlined that “[c]onditions on the islands are shocking and shameful”. On the mainland, several mainland camps have continued to operate below standards provided under EU and national law, especially for long-term living. The main gaps relate to the remote and isolated location, the type of shelter, the lack of security, and *inter alia* restrictions on movement which continued to impact on access to social services, including for persons with specific needs and children.

#### *Detention of asylum seekers*

- ❖ **Statistics:** The number of asylum seekers detained in pre-removal detention facilities in Greece decreased considerably in 2020, as well as the total number of third country nationals under administrative detention. The total number of third-country nationals detained in pre-removal detention facilities during 2020 was 10,130. At the end of 2020, there were 3,271 persons in administrative detention in pre-removal facilities and in several other detention facilities countrywide such as police stations; border guard stations etc, of whom 1,851 were asylum seekers. Furthermore, at the end of 2020, the total number of unaccompanied children in administrative detention in pre-removal detention centers countrywide was 16 and in other detention facilities such as police stations was 18. Additionally, at the end of 2020, the total number of unaccompanied children in “protective custody” was 30, according to the official statistics of EKKA (National Center for Social Solidarity).
- ❖ **Detention facilities:** There were 6 active pre-removal detention facilities (PRDF) in Greece at the end of 2020. Police stations continued to be used for prolonged immigration detention.
- ❖ **Amendments to the legal framework on detention:** The IPA introduced extensive provisions for the detention of asylum seekers and significantly lowered guarantees regarding the imposition of detention measures against asylum applicants, threatening to undermine the principle that detention of asylum seekers should only be applied exceptionally and as a measure of last resort. *Inter alia* the IPA increases the maximum time limit for the detention of asylum seekers to 18 months and additionally provides that the period of detention on the basis of return or deportation procedures is not calculated in the total time of detention, and thus the total detention period of a third country national within the migration context may reach 36 months (18 months while the asylum procedure + 18 months in view of removal). On May 2020, L. 4686/2020 introduced new amendments to IPA, regarding the detention of asylum seekers and their rights while in detention. Moreover L. 4686/2020 introduced a new type of “closed” facilities and amended relevant provision of L. 3907/2011 on pre-removal detention. No measures with regard to the decongestion of detention facilities and the reduction of the number of detainees have been taken during the COVID-19 outbreak. The proportionality/necessity of the detention measures have not been re-examined, despite the suspension of the returns to a number of countries of origin or destination, including Turkey, and the delays occurred due to the suspension of the work of the Asylum Service, during the COVID-19 crisis. Despite the fact that detention of recognised refugees is nowhere prescribed within the relevant legislation, during 2020 the authorities detained systematically beneficiaries of international protection on public order grounds.
- ❖ **Detention of vulnerable persons:** Persons belonging to vulnerable groups are detained in practice, without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order. Due to the lack of accommodation facilities or transit facilities for children, detention of unaccompanied children is systematically imposed and may be prolonged for periods. In the field of detention of unaccompanied and separated children, there has been significant progress in the Greek legislation despite the fact that the former continued to be detained

(either in administrative detention or in “protective custody”) during 2020. On 11 December 2020, L. 4760/2020 entered into force and abolished the possibility of keeping unaccompanied migrant children in protective police custody only on the basis that they have no residence, as part of an overall reform by the Greek authorities to improve living conditions of unaccompanied migrant children in Greece. However, other legal provisions that allow the detention of unaccompanied minors are still in force.

- ❖ **Detention conditions:** In many cases, the conditions of detention in pre-removal centres fail to meet adequate standards, *inter alia* due to their carceral and prison-like design. Police stations and other police facilities, which are not suitable for detention exceeding 24 hours by nature, continue to fall short of basic standards. Overall, available medical services provided in pre-removal centres are inadequate compared to the needs observed. At the end of 2020, there were ten doctors in total in the detention centres across the country (3 in Amygdaleza, 2 in Tavros, 1 in Korinthos, 2 in Xanthi, 1 in Paranesti and 1 in Kos). Medical and psychological services are not provided in police stations.
- ❖ **Legal Remedies against Detention:** The ability for detained persons to challenge detention orders is severely restricted in practice due to gaps in the provision of interpretation and a lack of free legal aid, resulting in the lack of access to judicial remedies against detention decisions. Limited judicial control regarding the lawfulness and the conditions of detention remains a long-lasting matter of concern.

#### *Content of international protection*

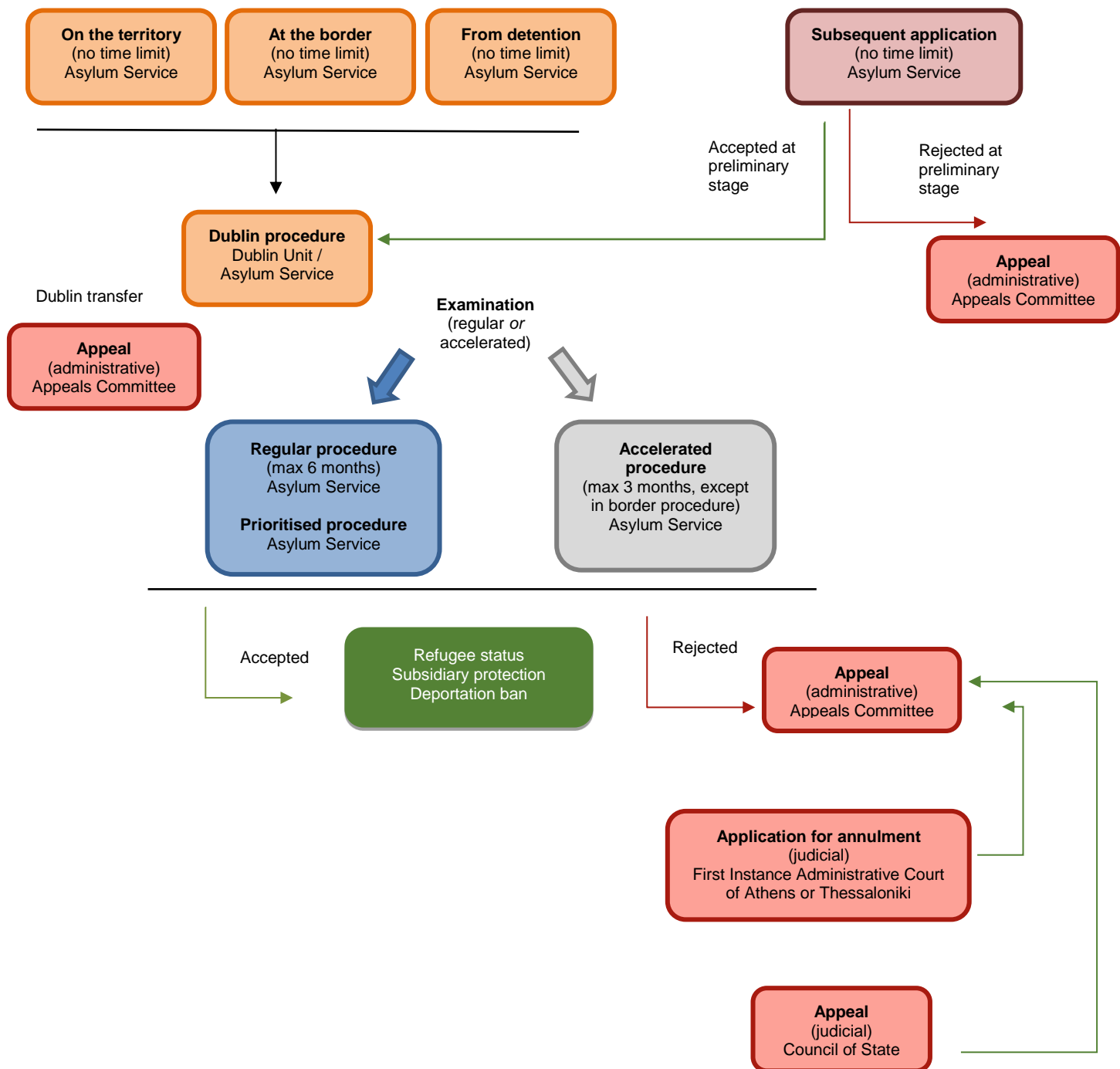
- ❖ **Family reunification:** Administrative obstacles, in particular for the issuance of visas even in cases where the application for family reunification has been accepted, continue to hinder the effective exercise of the right to family reunification for refugees.
- ❖ **Naturalization:** Following an amendment of the Citizenship Code in March 2020, the minimum period of lawful residence required for submitting an application for citizenship in the case of recognised refugees has been increased from 3 to 7 years, despite the legal obligation of the Greek Authorities under Article 34 of the Geneva Convention 1951 to “facilitate the assimilation and naturalisation of refugees” and “in particular make every effort to expedite naturalisation proceedings”.
- ❖ **Housing of recognised refugees:** Following an amendment to the asylum legislation in early March 2020, beneficiaries of international protection residing in accommodation facilities must leave these centres within a 30-days period after the granting of international protection. As regards unaccompanied minors, they must also comply with that 30-days deadline once they reach the age of majority. Given the limited integration of recognised beneficiaries of international protection in Greece, this results in a high risk of homelessness and destitution.

# Asylum Procedure

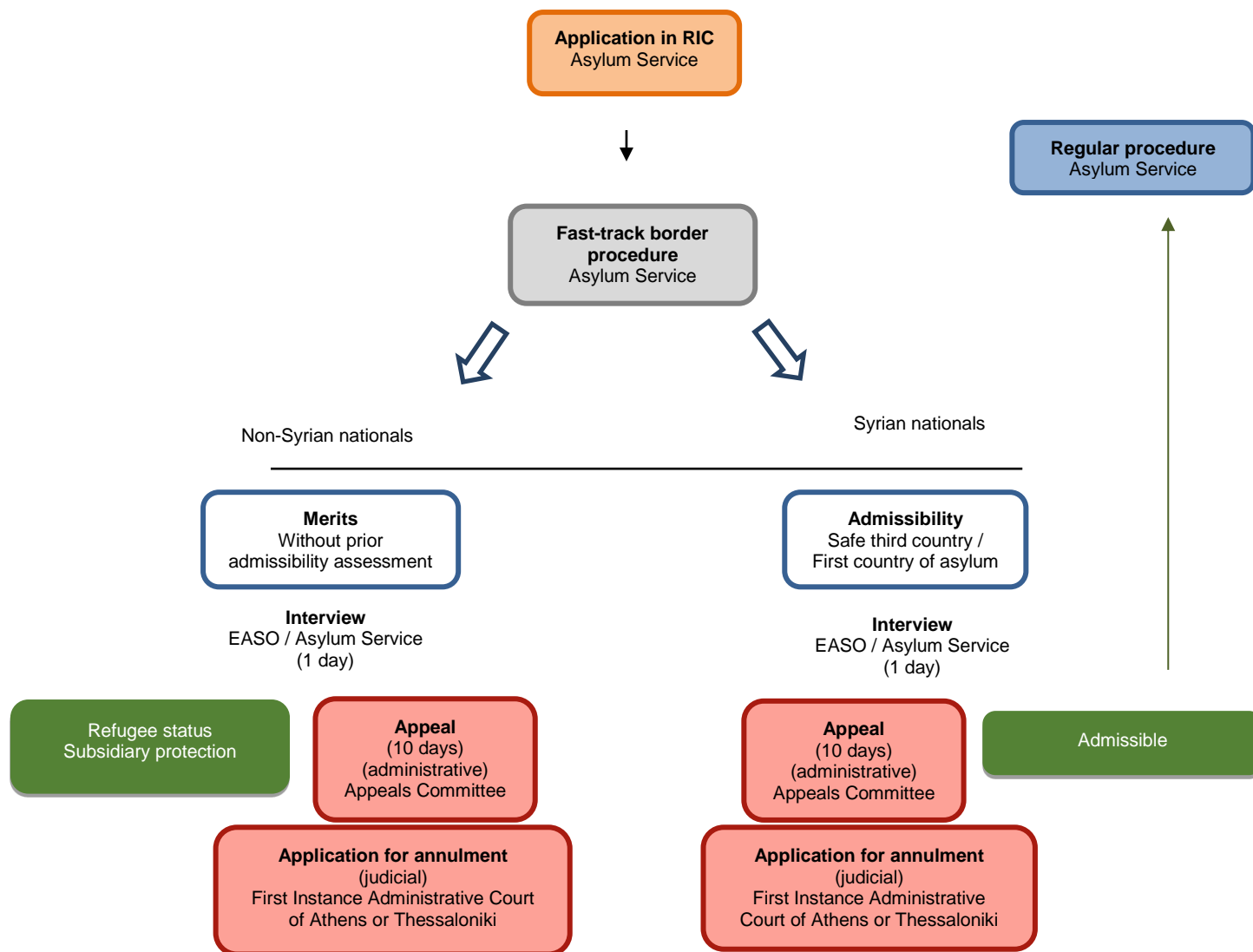
## A. General

### 1. Flow chart

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



## 1.2. Fast-track border procedure: Applications on the Eastern Aegean islands subject to the EU-Turkey statement



Overview of the asylum procedure in 18 languages published by the Asylum Service:  
<https://bit.ly/3umNwVg>

## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

- |  |   |                             |
|--|---|-----------------------------|
| ❖ Regular procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: <sup>11</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: <sup>12</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure:                      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure:               | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure:                      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: <sup>13</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other:                                 |   |                             |

Are any of the procedures that are foreseen in national legislation, not being applied in practice? If so, which one(s)? ☐ Yes ☒ No

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

Stage of the procedure	Competent authority (EN)	Competent authority (GR)
Application <ul style="list-style-type: none"> <li>❖ At the border</li> <li>❖ On the territory</li> </ul>	Asylum Service Asylum Service	Υπηρεσία Ασύλου Υπηρεσία Ασύλου
Dublin (responsibility assessment)	Asylum Service	Υπηρεσία Ασύλου
Refugee status determination	Asylum Service	Υπηρεσία Ασύλου
Appeal <ul style="list-style-type: none"> <li>❖ First appeal</li> <li>❖ Second (onward) appeal</li> </ul>	Independent Appeals Committees (Appeals Authority) First Instance Administrative Court of Athens or Thessaloniki	Ανεξάρτητες Επιτροπές Προσφυγών (Αρχή Προσφυγών) Διοικητικό Πρωτοδικείο Αθηνών ή Θεσσαλονίκης
Subsequent application (admissibility)	Asylum Service	Υπηρεσία Ασύλου

The European Asylum Support Office (EASO) is also involved at different stages of the procedure, as will be explained further below.

<sup>11</sup> For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) recast Asylum Procedures Directive.

<sup>12</sup> Accelerating the processing of specific caseloads as part of the regular procedure; “Fast-track processing” is not foreseen in the national legislation as such. The Asylum Service implements since September 2014 a fast-track processing of applications lodged by Syrian nationals, provided that they are holders of a national passport or ID and lodge an asylum claim for the first time. Under this procedure asylum claims are registered and decisions are issued on the same day.

<sup>13</sup> Labelled as “accelerated procedure” in national law. See Article 31(8) recast Asylum Procedures Directive.

#### 4. Determining 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 determining authority? <sup>14</sup>
Asylum Service	Not available	Ministry on Migration and Asylum	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

The Asylum Service is responsible for examining applications for international protection and competent to take decisions at first instance. The responsibility for the Asylum Service has shifted several times to different Ministries in 2019 and early 2020.

In July 2019, the Ministry for Migration Policy, which used to be responsible for the Asylum Service, was subsumed under the Ministry of Citizen Protection.<sup>15</sup> The latter is primarily responsible for internal security, public order, natural disasters and border security. This institutional reform led to strong criticism from civil society organisations, who raised concerns with regard to the fact that asylum and migration would no longer be treated as a separate portfolio, as was the case under the previous Ministry of Migration Policy.<sup>16</sup> The latter had been established in 2016 specifically with the aim to centralize all activities and policies on asylum and migration, which had been welcomed by several international actors.<sup>17</sup> NGOs had further expressed their fear that allocating the responsibility for asylum to a Ministry primarily in charge of public order and security-related issues would contribute to stigmatize asylum seekers and thus reinforce racist behaviors against them.<sup>18</sup>

However, on 15 January 2020, a new Ministry on Migration and Asylum was (re)established. The latter is since then responsible for the Asylum Service.

#### Staffing and capacity

##### Asylum Service

PD 104/2012, as modified by L 4375/2016, provides for Regional Asylum Offices (RAO) to be set up in Attica, Thessaloniki, Thrace, Epirus, Thessaly, Western Greece, Crete, Lesbos, Chios, Samos, Leros and Rhodes. It is possible to establish more than one Regional Asylum Office per region by way of Ministerial Decision for the purpose of covering the needs of the Asylum Service.<sup>19</sup>

<sup>14</sup> No relevant information has come to the attention of GCR as regards the first instance. Pressure on the Greek asylum system is reported from the European Commission in relation to the implementation of the EU-Turkey Statement, as for example to abolish the existing exemptions from the fast-track border procedure and to reduce the number of asylum seekers identified as vulnerable.

<sup>15</sup> Article 2 Greek Presidential Decree 81/2019, 8 July 2019, available in Greek at: <https://bit.ly/2kl2wQ5>.

<sup>16</sup> Campaign for access to asylum, 'Ξανά το Άσυλο και η Μετανάστευση στο Υπουργείο Προστασίας του Πολίτη - Μια θεσμική οπισθοδρόμηση', 18 July 2019, available in Greek at: <https://bit.ly/2N12VIR>.

<sup>17</sup> Council of Europe, Decisions adopted by the Committee of Ministers – Compilation 2014-2017, available at: <https://bit.ly/2kkwqcG>, 269; European Commission, Commission Regulation of 10.2.2016 addressed to the Hellenic Republic on the urgent measures to be taken by Greece in view of the resumption of transfers under Regulation (EU) No. 604/2013, 10 February 2016, available at: <https://bit.ly/2m1NGE0>, para 13; Office of the United Nations High Commissioner for Human Rights (OHCHR), Full text of the press statement delivered by the United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance M. Mutuma Ruteere on 8 May 2015 in Athens, Greece, 8 May 2015, available at: <https://bit.ly/2m3f708>.

<sup>18</sup> Campaign for access to asylum, 'Ξανά το Άσυλο και η Μετανάστευση στο Υπουργείο Προστασίας του Πολίτη - Μια θεσμική οπισθοδρόμηση', 18 July 2019, available in Greek at: <https://bit.ly/2N12VIR>.

<sup>19</sup> Article 1(3) L 4375/2016.

At the end of 2020, the Asylum Service operated in 24 locations throughout the country, as at the end of 2019, compared to 23 locations at the end of 2018, 22 locations at the end of 2017 and 17 locations at the end of 2016.<sup>20</sup> A new Autonomous Asylum Unit (AAU) in **Nikaia**, Attika Region started operating mid-November 2019.<sup>21</sup>

12 RAO and 12 AAU were operational as of 31 December 2020:

Operation of Regional Asylum Offices and Autonomous Asylum Units: 2020		
Regional Asylum Office	Start of operation	Registrations 2020
Attica	Jun 2013	3,894
Thrace (Alexandroupoli)	Jul 2013	1,141
Lesvos	Oct 2013	9,351
Rhodes	Jan 2014	366
Western Greece (Patra)	Jun 2014	610
Thessaloniki	Jul 2015	2,759
Samos	Jan 2016	5,199
Chios	Feb 2016	3,842
Leros	Mar 2016	1,093
Kos	Jun 2016	2,028
Alimos	Sep 2016	1,949
Piraeus	Sep 2016	1,575
Crete	Dec 2016	533
Nikaia	Sep 2017	-
Autonomous Asylum Unit	Start of operation	Registrations 2020
Fylakio	Jul 2013	1,382
Amygdaleza	Sep 2013	1,293
Xanthi	Nov 2014	498
Corinth	Aug 2016	1,516
Fast-Track Syria (Attica)	Nov 2016	-
Applications from Pakistani nationals	Dec 2016	110
Applications from Albanian and Georgian nationals	Mar 2017	535
Beneficiaries of international protection	Jun 2017	-
Applications from custody	Jun 2017	403
Ioannina	Mar 2018	482
Nikaia	Nov 2019	-

Source: Asylum Service 31 March 2021. See also, Ministry of Migration and Asylum, Asylum Service <https://bit.ly/3fgdxBk>. Applications lodged in **Attica** include applications lodged before the AAU Fast-Track Syria.

The number of employees of the Asylum Service at the end of 2019, distributed across the Central Asylum Service, RAO and AAU, was 886, compared to 679 at the end of 2018 and 515 at the end of 2017. The total number of staff of the Asylum Service includes 318 permanent employees and employees on indefinite term contracts, 22 employees of other Public Sector Authorities on secondment

<sup>20</sup> Information provided by the Asylum Service, 17 February 2020; Information provided by the Asylum Service, 26 March 2019; Asylum Service, 'The work of the Asylum Service in 2017', 25 January 2018, available at: <http://bit.ly/2BsCDGd>.

<sup>21</sup> Ministerial Decision 14715, Gov. Gazette B' 3264/01.09.2017 and Asylum Service Director Decision 28162, Gov. Gazette B' 4265/21.11.2019.

and 546 staff members on fixed-term contracts. 200 officials were hired in 2019 all of which on fixed-term contracts. A further 220 employees on fixed-term contracts were expected to be recruited in the first semester of 2020.<sup>22</sup> Such data are not available for 2020 despite the several requests addressed to the Asylum Service.

The short-term working status of almost two thirds of the total number of the employees of the Asylum Service staff, coupled with the precarious working environment for employees, arises concerns and may create problems in the operation of the Asylum Service.

## EASO

In April 2016, the law introduced the possibility for the Asylum Service to be assisted by European Asylum Support Office (EASO) personnel “exceptionally” and “in case where third-country nationals or stateless persons arrive in large numbers”, within the framework of the [Fast-Track Border Procedure](#).<sup>23</sup> By a subsequent amendment in June 2016, national legislation explicitly provided the possibility for the asylum interview within that procedure to be conducted by an EASO caseworker.<sup>24</sup> The IPA has maintained this option, and has inserted the possibility for fast-track border procedure and admissibility interviews to be conducted by personnel of the Hellenic Police or the Armed Forces in particularly urgent circumstances.<sup>25</sup>

Since May 2018, Greek-speaking EASO personnel can also assist the Asylum Service in the [Regular Procedure](#). The law provides that in case of urgent need, EASO personnel can carry out any administrative procedure needed for processing applications.<sup>26</sup> EASO caseworkers have conducted interviews under the regular procedure since the end of August 2018.<sup>27</sup>

Following the signature of the Seat Agreement for the Hosting of the EASO Operational Office in Greece on 28 January 2020, EASO announced that the Agency’s operations in Greece are expected to double in size to over 1,000 personnel in 2020.<sup>28</sup> Within this increase, the operational presence on the Greek mainland will increase by four times the level of 2019, including personnel being permanently deployed to eight new locations in **Thessaloniki** and **Ioannina** to support the country’s regular asylum procedure. At the same time, the number of caseworkers will double on the islands (from approximately 100 to 200) and triple on the mainland (from approximately 30 to 100). EASO’s operations in Greece in 2020 will translate to a financial commitment of at least €36 million.<sup>29</sup>

The agreement foresees that EASO staff will support the Greek Asylum Service, the national Dublin Unit, the Reception and Identification Service and the Appeals Authority. The personnel will include caseworkers, field support staff, reception staff, research officers for the Appeals Authority, interpreters and administrative staff. Moreover, on 12 May 2020, EASO and the Greek Government agreed to an amendment to the Greek Operating Plan, which allows for the Agency to facilitate the relocation of 1,600 unaccompanied children from Greece to participating Member States in the relocation scheme.<sup>30</sup>

In 2020, EASO deployed 643 different experts in Greece. The large majority of them were caseworkers (263), followed by reception assistants (90), administrative assistants (55), operations assistants (51),

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<sup>22</sup> Information provided by the Asylum Service, 17 February 2020.

<sup>23</sup> Article 60(4)(b) L 4375/2016.

<sup>24</sup> Article 60(4)(b) L 4375/2016, as amended by Article 80(13) L 4399/2016.

<sup>25</sup> Articles 77(1) and 90(3)(b) IPA.

<sup>26</sup> Article 36(11) L 4375/2016, inserted by Article 28(7) L 4540/2018; Article 65(16) IPA.

<sup>27</sup> Information provided by EASO, 13 February 2019.

<sup>28</sup> EASO, ‘EASO operations in Greece to expand significantly’, 28 January 2020, available at: <https://bit.ly/3cMwXu5>.

<sup>29</sup> Ibid.

<sup>30</sup> EASO, ‘EASO facilitating relocation of Unaccompanied Minors from Greece’, 13 May 2020, available at: <https://bit.ly/3cNd99U>.



registration assistants (43) and a series of other programme and support staff (e.g. security staff, coordination staff, legal officers, Dublin staff, info providers etc). As of 14 December 2020, there were still a total of 533 EASO experts present in Greece, out of which 191 were caseworkers, 83 reception assistants, 44 administrative assistants, 42 operations assistants and 29 registration assistants.<sup>31</sup>

As regards previous involvement of the EASO personnel in the national asylum procedure in Greece, the European Ombudsman has highlighted that:

“In light of the Statement of the European Council of 23 April 2015[25] (Point P), in which the European Council commits to ‘deploy EASO teams in frontline Member States for joint processing of asylum applications, including registration and finger-printing’, EASO is being encouraged politically to act in a way which is, arguably, not in line with its existing statutory role. Article 2(6) of EASO’s founding Regulation (which should be read in the light of Recital 14 thereof, which speaks of “direct or indirect powers”) reads: ‘The Support Office shall have no powers in relation to the taking of decisions by Member States’ asylum authorities on individual applications for international protection’.”<sup>32</sup>

No amendment of the EASO Regulation has taken place up until to the time of the writing.

## 5. Short overview of the asylum procedure

The asylum procedure in Greece has undergone substantial reforms throughout 2016, many of which driven by the adoption of the EU-Turkey statement on 18 March 2016. The adoption of Law (L) 4375/2016 in April 2016 and its subsequent amendments in June 2016 have overhauled the procedure before the Asylum Service. Provisions of L 4375/2016 related *inter alia* to the implementation of the EU-Turkey statement were re-amended in March 2017, August 2017 and May 2018.

Following the July 2019 elections, the new government announced a more restrictive policy on migration and asylum, with a view to reduce the number of arrivals, increase the number of returns to Turkey and strengthen border control measures.<sup>33</sup> As a result, national asylum legislation has been radically re-amended in November 2019. L. 4636/2019 (hereinafter International Protection Act/IPA), which was adopted on 1 November 2019 without any significant prior consultation, entered into force on 1 January 2020 and replaced the previous legislation on asylum and reception.

The IPA has been repeatedly and heavily criticised by national and international human rights bodies including the Greek Ombudsman,<sup>34</sup> the Greek National Commission for Human Rights (GNCHR),<sup>35</sup> UNHCR<sup>36</sup> and several civil society organisations<sup>37</sup>. It has been categorised *inter alia* as an attempt to

<sup>31</sup> Information provided by EASO, 26 February 2021.

<sup>32</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office’s (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, available at: <https://bit.ly/2XVUfXq>, para 33. The Decision of the European Ombudsman refers to the EASO involvement in the fast-track border procedure, however this finding is also valid with regard to EASO involvement in the regular procedure.

<sup>33</sup> Amnesty International, *Annual Report 2019*, Greece, available at: <https://bit.ly/2LDT5L6>.

<sup>34</sup> Greek Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου του Υπουργείου Προστασίας του Πολίτη περί διεθνούς προστασίας*, 23 October 2019, available in Greek at: <https://bit.ly/2LAxCCC>.

<sup>35</sup> GNCHR, *Παρατηρήσεις της ΕΕΔΑ στο Σχέδιο Νόμου του Υπουργείου Προστασίας του Πολίτη «Περί Διεθνούς Προστασίας»*, 24 October 2019, available in Greek at: <https://bit.ly/3ciUBYa>.

<sup>36</sup> UNHCR, ‘UNHCR urges Greece to strengthen safeguards in draft asylum law’, 24 October 2019, available at: <https://bit.ly/3fXkm9j>.

<sup>37</sup> See *inter alia* GCR, *Observation on the draft law on international protection*, 23 October 2019, available at: <https://bit.ly/3ciFluD>; Amnesty International, *Το προτεινόμενο σχέδιο νόμου για το άσυλο υποβαθμίζει την προστασίας και τα δικαιώματα των προσφύγων και παραβιάζει τα διεθνή πρότυπα*, 24 October 2019, available at: <https://bit.ly/3dWduqV>; Refugee Support Aegean, *RSA Comments on the International Protection Bill*, 21 October 2019, available at: <https://bit.ly/2LCfJU7>; Actionaid Greece et al, 15 civil society organisations call upon the Government to organise a substantial public consultation prior of voting the draft

lower protection standards and create unwarranted procedural and substantive hurdles for people seeking international protection. As noted by UNHCR, the new Law reduces safeguards for people seeking international protection and creates additional pressure on the overstretched capacity of administrative and judicial authorities. “The proposed changes will endanger people who need international protection [...] [the law] puts an excessive burden on asylum seekers and focuses on punitive measures. It introduces tough requirements that an asylum seeker could not reasonably be expected to fulfil”<sup>38</sup> [...] “As a result, asylum seekers may be easily excluded from the process without having their international protection needs adequately assessed. This may expose them to the risk of refoulement”.<sup>39</sup>

Four months after the entry into force of the new law L.4636/2019 (IPA) on 1 January 2020, the Ministry of Migration and Asylum submitted on 10 April 2020, a bill entitled “Improvement of migration legislation”, aiming at speeding up asylum procedures and at “responding to practical challenges in the implementation of the law”. It was submitted for public consultation amid a public health crisis. The proposed amendment further weakens basic guarantees for persons in need of protection. *Inter alia*, the draft law increases the number of applications which can be rejected as manifestly unfounded and introduces a set of provisions that can lead to arbitrary detention of asylum seekers and third country nationals.<sup>40</sup> The draft law was adopted by the Parliament on 9 May 2020,<sup>41</sup> despite concerns of human rights bodies, including the Council of Europe Commissioner for Human Rights and civil society organizations.<sup>42</sup>

### First instance procedure

Asylum applications are lodged before the Asylum Service. Twelve Asylum Offices and twelve Asylum Units were operational at the end of 2020. The Asylum Service is also competent for applying the **Dublin procedure**, with most requests and transfers concerning family reunification in other Member States. The Asylum Service may be assisted by European Asylum Support Office (EASO) staff in registration and interviews. Access to the asylum procedure still remains an issue of concern.

A **fast-track border procedure** is applied to applicants subject to the EU-Turkey statement, i.e. applicants arriving on the islands of Eastern Aegean islands after 20 March 2016, and takes place in the Reception and Identification Centres (RIC) where hotspots are established (Lesvos, Chios, Samos, Leros, Kos) and before the RAO of Rhodes. Under the fast-track border procedure, *inter alia*, interviews may also be conducted by EASO staff and, in urgent cases, the Police and Armed Forces. Short deadlines are provided to applicants for most steps of the procedure. The concept of “safe third country” is applied within the framework of this procedure for Syrian applicants.

### Appeal

First instance decisions of the Asylum Service are appealed before the Independent Appeals Committees under the Appeals Authority. An appeal must be lodged within 30 days in the regular

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law on asylum, 31 October 2019, <https://bit.ly/2Zf4tFe>; Amnesty International et al., *Joint press conference regarding the draft law on asylum*, 30 October 2019, available at: <https://bit.ly/3bDUgVr>.

<sup>38</sup> UNHCR, ‘UNHCR urges Greece to strengthen safeguards in draft asylum law’, 24 October 2019, available at: <https://bit.ly/3fXkm9j>.

<sup>39</sup> UNHCR, ‘UNHCR’s Intervention at the hearing for actors to the Standing Committee of Public Administration, Public Order and Justice of the Hellenic Parliament regarding the Draft Law on the Improvement of Migration Legislation’, 9 May 2020, available at: <https://bit.ly/3dJEB8H>.

<sup>40</sup> Ibid; See also GCR, *GCR’s comments on the draft law amending asylum legislation*, 27 April 2020, available at: <https://bit.ly/2ywlMWa>; RSA, *Comments on the Reform of the International Protection Act*, 23 April 2020, available at: <https://bit.ly/2WrMwQR>.

<sup>41</sup> L. 4686/2020, Gov. Gazette A’ 96 /12 May 2020; Amendments introduced by L. 4686/2020 in May 2020 are not included in the present report.

<sup>42</sup> Council of Europe, Commissioner for Human rights, 7 May 2020, <https://bit.ly/2YY5PnS>.

procedure, 20 days in the accelerated procedure, in case of an inadmissibility decision or where the applicant is detained, 15 days in the Dublin procedure, 10 days in the border procedure and in the fast-track border procedure and 5 days in the case of a subsequent application.

The IPA has abolished the rule of automatic suspensive effect for certain appeals, in particular those concerning applications rejected in the accelerated procedure or dismissed as inadmissible under certain grounds. Moreover, the IPA re-modified the composition of the Appeals Authorities. The procedure before the Appeals Committees remains as a rule written. Significant gaps in the provision of free legal aid at second instance hinder in practice the effective access to an appeal.

By the end of 2020, an application for annulment could be filed before the First Instance Administrative Court of Athens or Thessaloniki against a negative second instance decision within 30 days from the notification. No automatic suspensive effect is provided.



## B. Access to the procedure and registration

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

#### Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No
2. Is there a border monitoring system in place? ☐ Yes ☒ No
  - ❖ Who is responsible for border monitoring? ☐ National authorities ☐ NGOs ☐ Other
  - ❖ How often is border monitoring carried out? ☐ Frequently ☐ Rarely ☐ Never

#### Statistical overview

In 2020, 15,696 refugees and migrants arrived in Greece. This marks a decrease of 78.9% compared to 2019 (74,649)<sup>43</sup>, which can be attributed to the increase of pushbacks, the militarisation of the borders, and the restrictions stemming from the Covid-19 pandemic.

A total of 9,714 persons arrived in Greece by sea in 2020, compared to 59,726 in 2019. The majority originated from Afghanistan (35.2%), Syria (27.7%) and DRC (10.3%). More than half of the population were women (23.3%) and children (35.5%), while 41.2% were adult men.<sup>44</sup>

Moreover, 5,982 persons arrived in Greece through the Greek-Turkish land border of Evros in 2020, compared to a total of 14,887 in 2019, according to UNHCR.<sup>45</sup> According to police statistics, 4,666 arrests were carried out in 2020 for irregular entry on the Evros land border with Turkey,<sup>46</sup> compared to 8,497 arrests in 2019. According to the Reception and Identification Service (RIS), 2,998 persons were registered by the First Reception Service in the RIC of Fylakio (Evros) in 2020.<sup>47</sup>

However, the figure of entries through the Turkish land border in 2020 may under-represent the number of people actually attempting to enter Greece through Evros, given that cases of alleged pushbacks at the Greek-Turkish border have been systematically reported in 2020, as was the case in 2019.

The persisting practice of alleged pushbacks have been reported *inter alia* by UNHCR, the UN Working Group on Arbitrary Detention, the UN Committee against Torture, the Greek National Commission on Human Rights and civil society organisations.

In 2020 the established practice of illegal refoulements continued being utilised as a “front-line” tool of the country’s migration policy, as a first option in order to halt the flows of refugees and deterring others from attempting to irregularly cross the borders. The practice is, according to the published reports, testimonies and media coverage of serious incidents, a permanent eventuality for the people attempting to cross the borders, while serious incidents of illegal refoulements have been monitored regarding the arbitrary removal of people residing in the mainland (mainly Thessaloniki) or are detained in Pre-removal detention centers.

#### February-March 2020

During the period from the 28<sup>th</sup> February until 27<sup>th</sup> March 2020, when the troubles at the Greek-Turkish border took place, the border zones were characterised by the intensified presence of police, army and

<sup>43</sup> UNCHR, Operational Portal, Mediterranean Situation: Greece, available at: <https://bit.ly/3t8i3GD>.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.

<sup>47</sup> Information provided by Reception and Identification Service (RIS) as of 26 February 2021.

Frontex officials, especially in Evros River. Also, the presence of armed paramilitary groups or persons was observed, who participated in the patrols alongside the official authorities or independently to them<sup>48</sup>. During this period, violent incidents were recorded as a result of the intensified border patrols, which, in some occasions have led to the loss of lives; according to research conducted on those incidents, at least in one serious case, the bullet that led to the migrant's death is proven to have been shot from the Greek side of the border<sup>49</sup>.

During this period many incidents of pushbacks were recorded at the Evros border. The shift of the flows to the Aegean islands was also met with heavy patrols from the Hellenic Coastguard and Frontex, which resulted in many serious incidents of pushbacks at sea. Also, the presence of citizens in the shores of East Aegean islands for the condemnation of the boats that managed to cross the borders was recorded. What is most alarming is the attacks of citizens to refugees and NGO employees in the island of Lesbos: the citizens organised patrols in order to deter NGO members to reach Moria, or attacked refugees and said people in the streets of the island. The police did nothing to stop those illegal activities<sup>50</sup>.

The official state response to these unprecedented events was the suspension of the right to apply for asylum regarding all those who irregularly crossed the borders during March 2020, with the immediate effect of an Act of Legislative Content, which was subsequently ratified by Parliament, as the constitutional procedure states (art. 44 para. 1 and 72 para. 1).

Refugees who managed to cross the sea and land borders were, in the majority of cases, prosecuted for illegal entry in the country, despite the legal provision that allows the Public Prosecutor not to prosecute, which is what used to happen in most past cases. The trials were characterised by the failure to comply with the principle of fair trial, and led to the imposition of high prison sentences, some of which were not suspended and led to the imprisonment of the defendants, who were directly led to prison without having the opportunity to appeal against their conviction. If they managed to appeal the decision this was possible mostly due to the assistance of NGOs. This practice of high sentences is contrary to the low penalties that were imposed on earlier occasions (i.e. 30 days- 3 months of prison sentence, suspended or converted to monetary penalty). The CPT considers that the trials were not in full respect of the fundamental rights of those subjected to them, both as defendants and as asylum seekers<sup>51</sup>.

### **Covid-19 measures and pushbacks from the mainland**

During the first measures imposed regarding the Covid-19 pandemic, various incidents of pushbacks were observed, some of them having been initiated in the mainland, especially in Thessaloniki. Irregular residents of Diavata camp were targeted<sup>52</sup>, while the police also raided various other places (such as food distribution points)<sup>53</sup> and led the informally arrested persons to the Evros border, where they were refouled to Turkey. During April-May 2020 the reported incidents concerned 194 people having been subjected to this illegal practice (although the practice was so widespread therefore impossible to know its full extent).

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<sup>48</sup> Amnesty International (2020). *Trapped in political games. Refugees in the Greek-Turkish borders pay the price for Europe's failure*. Available at: <https://bit.ly/3mEeHZI> (in Greek), and HumanRights360 (2020). *During and After Crisis: Evros Border monitoring Report (November 2019- April 2020)*. Available at: <https://bit.ly/3264iwl>

<sup>49</sup> Forensic Architecture (2020c) *The killing of Muhammad Gulzar*. Available online at <https://bit.ly/3s3OmVP>

<sup>50</sup> Papataxiarhis, E. (2020). The new geography of the refugee issue: Violence and multiplication of borders in the Aegean. *Synhrona Themata*, Vol. 157-148, p. 21-25 (in Greek).

<sup>51</sup> Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2020). *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020*. Available at: <https://bit.ly/31ZanLO>

<sup>52</sup> Border Violence Monitoring Network, Wave- Thessaloniki, Mobile Info Team (2020). *Press Release: Documented Pushbacks from Centers on the Greek Mainland*. Available at: <https://bit.ly/3a09Lca>, and Human Rights Watch (2020). *Greece: Investigate Pushbacks, Collective Expulsions*. Available at: <https://bit.ly/31ZRN5k>

<sup>53</sup> Border Violence Monitoring Network (2020a). *Police raid humanitarian distribution site and pushback people in need*. Available at: <https://bit.ly/3fXzRAD>

In June 2020 at least 39 people were illegally refouled to Turkey as the outcome of one documented operation<sup>54</sup>. Similar practices were also observed in Paranesti Pre-removal center, where detainees were officially released, only to be led to the Evros River and refouled to Turkey. The numbers could be as high as 400 people<sup>55</sup>, as information dictates that detainees from other detention centers around Greece were transferred to Paranesti, only to be subsequently refouled.

The continuance and increase of pushbacks in the Aegean Sea is indicative of a well-founded practice with specific methodology, which is not only in violation of national, European and international law, but is also extremely dangerous for the lives of those subjected to it. The Legal Center Lesvos recorded 8 such operations between 5 March and 19 June 2020<sup>56</sup>; also, the practice was observed throughout 2020, as “ongoing and systematic”, according to reports that cover the period until the end of the year<sup>57</sup>.

The publication of the “Black Book of Pushbacks” by the Border Violence Monitoring Network raises the issue of pushbacks as a severe human rights violation affecting many countries across the EU<sup>58</sup>.

### The role of Frontex

An important incident took place in early March 2020, where the Danish crew of FRONTEX refused to follow the order to push back rescued third country nationals, an order given by the Greek Coastguard<sup>59</sup>.

Regarding FRONTEX’s involvement in pushback operations, despite its initial denial of any knowledge or participation<sup>60</sup>, several incidents have been disclosed, leading, on the one hand to an internal inquiry by the Organisation<sup>61</sup>, and, on the other hand, to the initiation of investigations at EU level<sup>62</sup>, pointing either to a direct involvement or to a concealment of such practices when conducted by the Greek authorities.

### Institutional reactions

On 10 June 2020 the International Organisation for Migration issued a statement expressing its deep concerns “about persistent reports of pushbacks and collective expulsions of migrants, in some cases violent, at the European Union (EU) border between Greece and Turkey”. The organisation states its opposition to a practice which is extremely dangerous for human lives that are already in danger and advised the Greek authorities to “investigate these allegations and testimonies given by people forced to cross the Greece-Turkey border”<sup>63</sup>.

On 12 June 2020, the United Nations High Commissioner for Refugees invited Greece to investigate the numerous complaints for illegal refoulement operations at the land and sea borders of the country:

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<sup>54</sup> Border Violence Monitoring Network, Wave- Thessaloniki, Mobile Info Team (2020), op. cit., and Border Violence Monitoring Network (2020a), op. cit.

<sup>55</sup> Border Violence Monitoring Network, Wave- Thessaloniki, Mobile Info Team (2020), op. cit.

<sup>56</sup> Legal Center Lesvos (2020). *Collective expulsions documented in the Aegean Sea: March-June 2020*. Available at: <https://bit.ly/3s8fKCf>; See also the “anatomy” of a pushback operation: Deeb B. (2020) “Samos and the anatomy of a maritime push-back”. *Belingcat*. Available online at <https://bit.ly/322VTK2>

<sup>57</sup> Legal Center Lesvos (2021). *Crimes against humanity in the Aegean*. Available at: <https://bit.ly/326F4O8>.

<sup>58</sup> Border Violence Monitoring Network (2020b). *The Black Book of Pushbacks. Vol. I and II*. Available at: <https://bit.ly/3202jcZ>. For Greece see Vol. 1 p. 529-669.

<sup>59</sup> PoliticoEu (2020). *Danish boat in Aegean refused order to push back rescued migrants*. Available at: <https://politi.co/3g04YeU>

<sup>60</sup> European Council on Refugees and Exiles (2020). *Greece: Frontex Denies Involvement in Pushbacks, Expert Council Critique of NGO Registration Rules*. Available at: <https://bit.ly/3saZ1Oy>

<sup>61</sup> Frontex (2020). *Frontex launches internal inquiry into incidents recently reported by media*. Available at: <https://bit.ly/326Fcx6>

<sup>62</sup> European Council on Refugees and Exiles (2020). *Frontex: Commission Calls for Urgent Meeting over Complicity in Pushbacks, Critique of 100 Million Euro Investment in Drone Surveillance*. Available at: <https://bit.ly/2PQBLs5> and European Commission (2020). *Extraordinary meeting of Frontex Management Board on the alleged push backs on 10 November 2020*. Available at: <https://bit.ly/3wKExjm>

<sup>63</sup> International Organisation for Migration (2020). *IOM Alarmed over Reports of Pushbacks from Greece at EU Border with Turkey*. Available at: <https://bit.ly/3wM2AhO>



“UNHCR has continuously addressed its concerns with the Greek government and has called for urgent inquiries into a series of alleged incidents reported in media, many of which corroborated by non-governmental organizations and direct testimonies. Such allegations have increased since March and reports indicate that several groups of people may have been summarily returned after reaching Greek territory”<sup>64</sup>.

On 18 June 2020, the Third Sub-Commission of the Greek National Commission for Human Rights (NCHR) held a hearing with the public authorities, representatives of international organisations, independent authorities and civil society organisations on the issue of pushbacks and police violence. The Greek authorities repeated their denial concerning the validity of the reports on illegal refoulements, which are considered to be lies and the product of pressure on Greece to weaken its border control policy. For the Commission it is evident that there is a progressive and steady consolidation of unofficial refoulements and a steady methodology. Thus, the state is invited to guarantee that the principle of non-refoulement will invariably be respected and that the authorities will promptly rescue people at sea; also an independent body should be put in place, which will record and follow up such complaints. Moreover, the culpable should be led to justice, the collection of objective evidence for the investigation of the complaints should be ensured and the meaningful collaboration of the judicial authorities should be guaranteed. In addition to that, measures should be adopted to treat the victims of those practices in the same manner as victims of trafficking and forced labor. Frontex is invited to guarantee that the operations at the external EU borders respect the principle of non-refoulement and the obligations to rescue those at danger<sup>65</sup>.

On 6 July 2020, in the meeting of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament (LIBE), the members of the Committee asked Greece to investigate the pushback incidents that have been brought to light. The Minister of Citizen Protection and the Alternate Minister on Asylum and Migration denied the existence of such incidents, labeling them as “fake news”. The majority demanded from Greece to ensure its compliance with EU law on asylum and to impose punishment in the cases that the latter is violated<sup>66</sup>.

## 2. Reception and identification procedure

### 2.1 The European Union policy framework: ‘hotspots’

The “hotspot approach” was first introduced in 2015 by the European Commission in the European Agenda on Migration as an initial response to the exceptional flows.<sup>67</sup> Its adoption was part of the immediate action to assist Member States, which were facing disproportionate migratory pressures at the EU’s external borders and was presented as a solidarity measure.

The initial objective of the “hotspot approach” was to assist Italy and Greece by providing comprehensive and targeted operational support, so that the latter could fulfill their obligations under EU law and swiftly identify, register and fingerprint incoming migrants, channel asylum seekers into asylum procedures, implement the relocation scheme and conduct return operations.<sup>68</sup>

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<sup>64</sup> United Nations High Commission for Refugees (2020). *UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey*. Available online at <https://bit.ly/2Qh2jIZ>

<sup>65</sup> Greek National Commission for Human Rights (2020). *Announcement regarding reported pushback practices*. Available at: <https://bit.ly/3wJNlQO>

<sup>66</sup> European Parliament (2020) *Investigate alleged pushbacks of asylum-seekers at the Greek-Turkish border, MEPs demand*. Available at: <https://bit.ly/3uBahp9>

<sup>67</sup> European Commission, *European Agenda on Migration*, COM(2015) 240, 13 May 2015.

<sup>68</sup> European Commission, *The hotspot approach to managing migration flows*, 11 September 2015, available at: <http://bit.ly/2kESJFK>.



For the achievement of this goal, EU Agencies, namely the EASO, Frontex, Europol and Eurojust, work alongside the Greek authorities within the context of the hotspots.<sup>69</sup> The hotspot approach was also expected to contribute to the implementation of the temporary relocation scheme, proposed by the European Commission in September 2015.<sup>70</sup> Therefore, hotspots were envisaged initially as reception and registration centres, where all stages of administrative procedures concerning newcomers – identification, reception, asylum procedure or return – would take place swiftly within their scope.

Five hotspots, under the legal form of First Reception Centres – now Reception and Identification Centres (RIC) – were inaugurated in Greece on the following islands:

Hotspot	Start of operation	Capacity	Occupancy
<b>Lesvos</b> Moria Kara Tepe (Mavrovouni)	October 2015 - September 2020 <sup>71</sup>	Non-operational 10,000	Non-operational 7,172
<b>Chios</b>	February 2016	1,014	2,396
<b>Samos</b>	March 2016	648	3,547
<b>Leros</b>	March 2016	860	667
<b>Kos</b>	June 2016	816	483
<b>Total</b>	-	<b>13,338</b>	<b>14,265</b>

Source: National Coordination Centre for Border Control, Immigration and Asylum, Situation as of 31 December 2020, available at: <https://bit.ly/3g4Tk2e>

The total capacity of the five hotspot facilities was initially planned at 7,450 places.<sup>72</sup> According to official data available their capacity has been increased to 13,338 places, by the end of 2020. This is partially due to the construction of a new facility in Kara Tepe/ Mavrovouni, following the fires that devastated Moria RIC in Lesvos in September 2020. As the official data show, the facilities on the islands of Chios and Samos remained significantly overcrowded at the end of 2020, while the conditions on all RICs have not improved and people continue to be hosted in degrading conditions. A few days after Moria burned down, fires also broke out in Samos, one inside the RIC. Médecins Sans Frontières (MSF) highlighted the critical situation in Vathy camp, stating that some 4,500 persons remained stranded there, while more than 1,000 children lived next to rubbish, rats and scorpions<sup>73</sup>.

It is also noted that, according to the official statistics of the National Coordination Centre for Border Control, on 7 September 2020, one day before the Moria fire, 12,589 people were hosted at Lesvos RIC (Moria), while its capacity was 2,757 places.<sup>74</sup> Moreover, as reported on 21 October 2020 by GCR and Oxfam, nearly 8,000 people have been moved to a new emergency camp in the area of Kara Tepe (Mavrovouni) where they live in precarious conditions. The new camp was built by the Ministry with the assistance of the army in a former military shooting range, which first had to be swept for potential landmine sand unexploded grenades. In the meantime, far from being an actual shelter, the new camp

<sup>69</sup> *Ibid.*

<sup>70</sup> European Commission, <https://bit.ly/2wWHXVE>, Council Decisions (EU) 2015/1523 of 14 September 2015, OJ 2015, L239/146 and 2015/1601 of 22 September 2015, establishing provisional measures in the area of international protection for the benefit of Italy and Greece, OJ 2015, L248/80.

<sup>71</sup> A new facility in Kara Tepe (Mavrovouni) was established in September 2020 after Moria RIC burnt down.

<sup>72</sup> European Commission, *Third Report on the Progress made in the implementation of the EU-Turkey Statement*, COM(2016) 634, 28 September 2016.

<sup>73</sup> MSF, Γιατροί Χωρίς Σύνορα: Σήμα κινδύνου για τον καταυλισμό στο Βαθύ της Σάμου, 29/09/2020, available at : <https://bit.ly/3dZvxzn>.

<sup>74</sup> National Coordination Centre for Border Control, Immigration and Asylum, Situation as of 7 September 2020, available at: <https://bit.ly/3tZYRuZ>

has earned the moniker 'Moria 2.0' from its residents, while many consider it even worse. Conditions in the 'Moria 2.0' camp remained dreadful. The camp hosts 7,660 people, primarily consisting of families (women account for 22%, men for 44% and children for 34%).<sup>75</sup>

### Hotspot transformation following the EU-Turkey statement

In March 2016, the adoption of the highly controversial EU-Turkey Statement committing "to end the irregular migration from Turkey to the EU",<sup>76</sup> brought a transformation of the so-called hotspots on the Aegean islands.<sup>77</sup>

With the launch of the EU-Turkey Statement<sup>78</sup>, hotspot facilities turned into closed detention centres. People arriving after 20 March 2016 through the Aegean islands, and thus subject to the EU-Turkey Statement, were automatically *de facto* detained within the premises of the hotspots in order to be readmitted to Turkey in case they did not seek international protection or their applications were rejected, either as inadmissible under the [Safe Third Country](#) or [First Country of Asylum](#) concepts, or on the merits. Following criticism by national and international organisations and actors, as well as due to the limited capacity to maintain and run closed facilities on the islands with high numbers of people, the practice of blanket detention has largely been abandoned from the end of 2016 onwards. It has been replaced by a practice of systematic geographical restriction, i.e. an obligation not to leave the island and reside at the hotspot facility, which is imposed indiscriminately to every newly arrived person (see [Freedom of Movement](#)).

From April 2016 to 31 March 2020, 2,140 individuals had been returned to Turkey on the basis of the EU-Turkey Statement, of which, 801 in 2016, 683 in 2017, 322 in 2018, 195 in 2019 and 139 in 2020. In total, between 21 March 2016 and 31 March 2020, Syrian nationals account for 404 persons (19%) of those returned. 43 of them have been returned on the basis that their asylum claims were found inadmissible at second instance, on the basis of the "safe third country" concept. Moreover, of all those returned, 23% did not express a will to apply for asylum or withdrew their asylum applications in Greece.<sup>79</sup>

According to the official statistics of the Ministry of Migration and Asylum published in January 2021<sup>80</sup>, "Returns under the EU-Turkey Joint Declaration have not been made since March [2020] due to Covid-19. It should be noted that despite the lifting of the measures for the pandemic, from 01/06 [2020] the requests of missions-returns of the Greek authorities have not been answered." However, despite the suspension of returns to Turkey since March 2020, the applications lodged by Syrians in the Eastern Aegean Islands whose geographical restriction was not lifted, were still examined in the context of the Safe third country concept and the Fast-Track Border Procedure.

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<sup>75</sup> Lesbos Bulletin, Update on the EU 'hotspot' Moria2.0, by the Greek Council for Refugees & Oxfam, available at: <https://bit.ly/3dZKJN6>

<sup>76</sup> European Council, *EU-Turkey statement*, 18 March 2016, available at: <http://bit.ly/1VjZvOD>.

<sup>77</sup> The Greens / European Free Alliance in the European Parliament, *The EU-Turkey Statement and the Greek Hotspots, a failed European ilot project in refugee policy*, June 2018, available at: <https://bit.ly/38TAhkb>.

<sup>78</sup> In this respect, it should be mentioned that on 28 February 2017, the European Union General Court gave an order, ruling that "the EU-Turkey Statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure." Therefore "the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States".<sup>78</sup> The order became final on 12 September 2018, as an appeal lodged before the Court of Justice of the European Union (CJEU) was rejected. General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: <http://bit.ly/2IWZPrr>; CJEU, Cases C-208/17 P, C-209/17 P and 210/17 P *NF, NG and NM v European Council*, Order of 12 September 2018.

<sup>79</sup> UNHCR, *Returns from Greece to Turkey, Returns from Greece to Turkey, in the framework of the EU - TUR Statement*. Source: Greek Ministry of Citizen Protection, 31 March 2020, available at: <https://bit.ly/3a4rcIV>

<sup>80</sup> Ministry of Migration and Asylum, MoMa Yearly Report 2020, December 2020, available at: <https://bit.ly/3uBkAJC>, p. 5

## 2.2 The domestic framework: Reception and Identification Centres

The hotspot approach is implemented in Greece through the legal framework governing the reception and identification procedure in the IPA. In practice, the concept of reception and identification procedures for newly arrived people under Greek law predates the “hotspot” approach.

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

- (a) Identity and nationality verification;
- (b) Registration;
- (c) Medical examination and any necessary care and psychosocial support;
- (d) Provision of proper information about newcomers’ obligations and rights, in particular about the conditions under which they can access the asylum procedure; and
- (e) Identification of those who belong to vulnerable groups so that they be given the proper procedure.<sup>81</sup>

This approach was first implemented by the First Reception Centre (FRC) set up in **Evros** in 2013,<sup>82</sup> which has remained operational to date even though it has not been affected by the hotspot approach. The Joint Ministerial Decision 2969/2015 issued in December 2015 provided for the establishment of five FRCs in the Eastern Aegean islands of **Lesvos, Kos, Chios, Samos and Leros**,<sup>83</sup> the regulation of which was provided by existing legislation regarding the First Reception Service.<sup>84</sup> However, this legislative act failed to respond to and regulate all the challenges arising within the scope of hotspots’ functions. As a result, issues not addressed by the existing legal framework, for example the involvement of EU Agencies in different procedures, long remained in a legislative vacuum.

In the light of the EU-Turkey statement of 18 March 2016, the Greek Parliament adopted on 3 April 2016 a law “On the organisation and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EU, provisions on the employment of beneficiaries of international protection and other provisions”. This reform was passed through L 4375/2016.<sup>85</sup>

L 4375/2016 has partially attempted to regulate the establishment and function of hotspots and the procedures taking place there. However, national legislation has failed to effectively regulate the involvement of the EU Agencies, for example Frontex agents. Following the enactment of L 4375/2016, the FRS was succeeded by the Reception and Identification Service (RIS). The RIS is currently subsumed under the General Secretariat of Reception of the Ministry of Citizenship.<sup>86</sup> The IPA, in force since 1 January 2020, regulates the functioning of the RICs and the conduct of the reception and identification procedure in a similar way.

Article 39 IPA, in force since 1 January 2020, provides that:

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<sup>81</sup> Article 7 L 3907/2011.

<sup>82</sup> Joint Ministerial Decision 11.1/1076/2012, Gov. Gazette 3543/B/31.12.2012; Reception and Identification Service, *RIC at Fylakio, Evros*.

<sup>83</sup> Joint Ministerial Decision No 2969/2015, Gov. Gazette 2602/B/2-12-2015.

<sup>84</sup> Law 3907/2011 “On the Establishment of an Asylum Service and a First Reception Service, transposition into Greek Legislation of the provisions of the Directive 2008/115/EC ‘on common standards and procedures in Member States for returning illegally staying third-country nationals’ and other provisions”.

<sup>85</sup> L 4375/2016, Gov. Gazette 51/A/3-4-2016, available at: <http://bit.ly/2kKm2cu>.

<sup>86</sup> Article 8(1) L 4375/2016, as amended by Article 116(3) IPA.

All third-country nationals and stateless persons who enter without complying with the legal formalities in the country, shall be submitted to reception and identification procedures.”<sup>87</sup> Reception and identification procedures include five stages:<sup>88</sup>

1. Information on rights and obligations, transfer to other facilities, the possibility to seek protection or voluntary return, in a language the person understands or in a language that a person may reasonably be supposed to understand and in an accessible manner, by the Information Unit of the Reception and Identification Centre (RIC) or by the Police, Coast Guard or Armed Forces in case of mass arrivals;<sup>89</sup>
2. Channelling to reception and identification procedure: According to the law, newly arrived persons should be directly transferred to a RIC, where they are subject to a 5-day “restriction of freedom within the premises of the centre” (*περιορισμός της ελευθερίας εντός του κέντρου*), which can be further extended by a maximum of 25 days if reception and identification procedures have not been completed.<sup>90</sup> This restriction of freedom entails “the prohibition to leave the Centre and the obligation to remain in it”.<sup>91</sup> Such a restriction is ordered on the basis of a written, duly motivated decision;<sup>92</sup>
3. Registration and medical checks, including **Identification** of vulnerable groups;<sup>93</sup>
4. Referral to the asylum procedure: As soon as asylum applications are made, the Special Rapid Response Units (*Ειδικά Κλιμάκια Ταχείας Συνδρομής*) of the Asylum Service distribute the cases according to country of origin. Subsequently, they proceed to prioritisation of applications according to nationality (see **Prioritised Examination**);<sup>94</sup>
5. Further referral and transfer to other reception or detention facilities depending on the circumstances of the case.<sup>95</sup>

### 2.2.1. Reception and identification procedures on the islands

At the early stages of the implementation of the Statement, persons arriving on the Eastern Aegean islands and thus subject to the EU-Turkey Statement, were systematically and indiscriminately imposed a detention measure. Such measure was imposed either *de facto*, under the pretext of a decision restricting the freedom within the premises of the RIC for a period of 25 days, or under a deportation decision together with a detention order. This differs from the “geographical restriction” on the island, mentioned below.

Following criticism by national and international organisations and actors, and due to limited capacity to maintain and run closed facilities on the islands with high numbers of populations,<sup>96</sup> the “restriction of freedom” within the RIC premises as a *de facto* detention measure is no longer applied in the RIC of **Lesvos, Chios, Samos, Leros and Kos**, as of the end of 2016. In most cases, newly arrived persons are allowed to exit the RIC, at least after some days. However, those arrived since March 2020 on the

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<sup>87</sup> Article 39(1) IPA.

<sup>88</sup> Article 39(2) IPA.

<sup>89</sup> Article 39(3) IPA.

<sup>90</sup> Article 39(4)(a) IPA.

<sup>91</sup> *Ibid.*

<sup>92</sup> Article 39(4)(a) IPA.

<sup>93</sup> Article 39(5) IPA.

<sup>94</sup> Article 39(6) IPA.

<sup>95</sup> Article 39(7) IPA.

<sup>96</sup> UNHCR, *Explanatory Memorandum pertaining to UNHCR’s submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, available at: <http://bit.ly/2BbSrAA>, 2.

Eastern Aegean Islands were subject to a 7-day or 14-day quarantine period<sup>97</sup> so as to prevent the potential spread of the virus, prior to their transfer to RICs in order to undergo reception and identification procedures. It was observed that on Lesbos the quarantine was sometimes extended beyond 14 days. Also, a geographical restriction is systematically imposed on every newly arrived person on the Greek islands, initially by the police and subsequently by the Head of the Asylum Service, imposing the obligation to remain on the islands and the RIC facilities. For more details on the geographical limitation on the Greek Eastern Aegean Islands, see [Reception Conditions, Freedom of movement and Identification](#).

In practice, those arriving on the Eastern Aegean islands and falling under the EU-Turkey Statement are subject to a “restriction of freedom of movement” decision issued by the Head of the RIC<sup>98</sup>. The decision is revoked once the registration by the RIC is completed, usually within a couple of days. At the same time, a removal decision “based on the readmission procedure” and a pre-removal detention order are issued by the competent Police Directorate upon arrival, parallel to the decision of the Head of the RIC. The removal decision and detention order are respectively suspended by a “postponement of deportation” decision of the General Regional Police Director.<sup>99</sup> The latter decision imposes a geographical restriction, ordering the individual not to leave the island and to reside – in most cases – in the RIC or another accommodation facility on the island until the end of the asylum procedure. Once the asylum application is lodged, the same geographical restriction is imposed by the Asylum Service. For more details on the geographical limitation on the Greek Eastern Aegean Islands, see [Reception Conditions, Freedom of Movement](#). It is due to this practice of indiscriminate and *en mass* imposition of the geographical limitation measures to newly arrived persons on the islands that a significant deterioration of the living conditions on the islands has occurred. Newly arrived persons are obliged to reside for prolonged periods in overcrowded facilities, where food and water supply is reported insufficient, sanitation is poor and security highly problematic, while their mental health is aggravated (see [Reception Conditions](#)).

Moreover, unaccompanied children, as a rule, are prohibited from moving freely on the islands and remain in the RIC under “restriction of liberty” or in “protective custody”. Despite the positive developments regarding the treatment of unaccompanied minors and the abolishment of the “protective custody” at the end of 2020, during 2020 UAMs spent lengthy periods in the RIC while waiting for a place in age-appropriate shelters or other facilities (see [Detention of Vulnerable Applicants](#)).<sup>100</sup>

Since the implementation of the EU-Turkey Statement all newcomers are registered by the RIS.<sup>101</sup> In 2020, the registration of the newcomers carried out by the RIS on the island RICs has been conducted within few days, however significant shortcomings and delays occur in the provision of medical and psychosocial assessment/services as required by law, due to the insufficient number of medical staff working in the RIC on the islands (see also [Identification](#)) and the persisting severe overcrowding.

On 20 November 2019, the Greek authorities have announced a plan to replace RICs facilities on the islands with “closed facilities” (closed RICs and pre-removal detention centres) with a total capacity of at least 18,000 places and to detain all newly arrived persons there, including families, vulnerable applicants etc., upon arrival, during the reception identification procedures and up until the competition of the asylum

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<sup>97</sup> Information provided by the Reception and Identification Service, 26 February 2021

<sup>98</sup> Article 39 IPA, See also FRA, *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the ‘hotspots’ set up in Greece and Italy*, 3/2019, 4 March 2019, 8 «The implementation of the EU-Turkey Statement is linked to the hotspots approach», available at: <https://bit.ly/2WpjLCF>

<sup>99</sup> Pursuant to Article 78 L 3386/2005.

<sup>100</sup> UNHCR, Fact Sheet, 1-31 December 2019, available at: <https://bit.ly/2xJgTJZ>; UN High Commissioner for Refugees (UNHCR), Submission by the Office of the United Nations High Commissioner for Refugees in the case of International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece (Complaint No. 173/2018) before the European Committee of Social Rights, 9 August 2019, available at: <https://bit.ly/32Vtxlo>

<sup>101</sup> Article 8(2) L 4375/2016 as amended by Article 116(3) L 4636/2019, Article 9 L 4375/2016 as amended by Article 39 IPA; see also, Ministerial Decree No 1/7433, Governmental Gazette B 2219/10.6.2019, *General Operation Regulation of the RICs and the Mobile Units of Reception and Identification*.



procedure or the removal of the person, respectively.<sup>102</sup> With a letter addressed to the Greek Authorities on 25 November 2019, the CoE Commissioner for Human Rights requested further clarifications regarding the government's announcement.<sup>103</sup> The establishment of these facilities was halted due to *inter alia* the reaction of the local communities on the islands.<sup>104</sup> On 3 August 2020, the Greek Ministry of Migration and Asylum announced that the funding they had requested in June for the building out of closed facilities on the hotspots of Samos, Kos and Leros had been approved by the European Commission.<sup>105</sup> In November 2020 EU funding was granted to Greece for the construction of the aforementioned facilities and on 3 December 2020 the European Commission agreed a detailed plan with Greek authorities and EU agencies to establish a new reception center on the island of Lesbos. Said facilities is reported to be established by early September 2021.<sup>106</sup>

As of 26 January 2020, in the context of implementing the IPA and following the visit of the Minister for Migration and Asylum<sup>107</sup>, all the newly arrived persons on the island of Kos were immediately subject to detention in the Kos Pre-removal Detention Facility (PRDF), except persons evidently falling under vulnerability categories. For example, and as far as GCR is aware, following a mission on the island of Kos conducted on 11 to 14 February 2020, the first group of individuals, who have been detained upon their arrival on 26 January 2020 consisted of 55 nationals of Syria, Palestine and Somalia. Until 12 February 2020, there were 355 detainees at the PRDF.

On the island of Lesbos, according to GCR's knowledge, the policy of automatic detention upon arrival persisted until the beginning of 2020 for newly arrived persons who belong to a so-called "low recognition rate" nationality. The latter were immediately detained upon arrival despite their explicit wish to apply for asylum and without prior application of reception and identification procedures as provided for by the law (see [Detention: 2. Detention policy following the EU-Turkey statement, 21. Pilot Project](#)).

### **Procedures followed for those arrived in March 2020 (suspension of access to asylum)**

As mentioned in Suspension of access to the Asylum Procedure on the basis of the Emergency Legislative Order (March 2020), tensions erupted at the Greek-Turkish land borders since the end of February 2020 due to an increased movement of thousands of persons, encouraged by the Turkish authorities.<sup>108</sup> On 2 March 2020, the Greek authorities issued an Emergency Legislative Order (*Πράξη Νομοθετικού Περιεχομένου*, ΠΝΠ) which foresees the suspension of asylum applications for those who arrived "*illegally*" between 1 March 2020 and 31 March 2020. According to the Emergency Legislative order these persons are to be subject to return to their country of origin or transit "without registration."<sup>109</sup>

As far as GCR is aware, on the islands and following the issuance of the Emergency Legislative Order, persons arrived after 1 March 2020, were not transferred to the RIC facilities and were not subject to

<sup>102</sup> Greek Government, Ενημέρωση Πολιτικών Συντακτών – Το Επιχειρησιακό Σχέδιο της Κυβέρνησης για την αντιμετώπιση του μεταναστευτικού, 20 November 2019, available at: <https://bit.ly/3cORChk> (in Greek).

<sup>103</sup> Council of Europe, Office of the Commissioner for Human Rights, CommHR/sf/042-2019, 25 November 2019, available at: <https://bit.ly/2WsNbDt>.

<sup>104</sup> Kathimerini.gr, Clashes break out on islands over new migrant camps, 25 February 2020, available at: <https://bit.ly/2TWaqTd>.

<sup>105</sup> Available at <https://bit.ly/32ZcHSs>

<sup>106</sup> European Commission, Press release, Migration: Commission and Greece agree joint plan for a new reception centre in Lesbos, 3 December 2020, available at: <https://bit.ly/3eBzFEN>

<sup>107</sup> Press Release, Ministry for Migration and Asylum, 26.01.2020, available at: <https://bit.ly/39Z2Myk> (in Greek) and TVXS, 'Οι πρώτοι μετανάστες σε κλειστό κέντρο στην Κω, την ώρα που ο Μηταράκης επισκέπτεται το νησί - Πανηγυρίζει ο Βορίδης', 26 January 2020, available in Greek at: <https://bit.ly/3oMEj6W>.

<sup>108</sup> Council of Europe, Commissioner for Human Rights, Time to immediately act and to address humanitarian and protection needs of people trapped between Turkey and Greece, 3 March 2020, available at: <https://bit.ly/39Hm0sd>.

<sup>109</sup> Emergency Legislative Order (ΠΝΠ) as of 2 March 2020, Gov. Gazette A/45/2 March 2020; with regards the lawfulness of the suspension of the asylum procedure see *inter alia* UNHCR, UNHCR statement on the situation at the Turkey-EU border, 2 March 2020, available at: <https://bit.ly/2Q62sWN>; Greek National Commission for Human Rights, Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 5 March 2020, available at: <https://bit.ly/39HtXh3>.

reception and identification procedure. Instead some of them faced penal prosecution due to “illegal entry” while others are subject of administrative detention in different places on the Islands and they do not have access to the asylum procedure.

As of mid-March 2020, the Union of Police Officers of the Islands of Lesbos, Chios Samos and of North and South Dodecanese reported that the situation was as follows:<sup>110</sup>

- ❖ In **Lesvos** more than 450 people arrived since 1 March 2020. They are detained on a naval vessel at Lesbos port in significant substandard conditions and are refused to lodge asylum claims.<sup>111</sup> The naval vessel departed on 14 March 2020 from Lesbos and persons have been transferred for further detention to the mainland (Malakasa).
- ❖ On **Chios** island, 258 persons have arrived after 1 March 2020. 136 are detained in a municipal building with only one toilet, while 122 are detained in an open area of the Port and inside a police bus, which are used in order to sleep, but only have two chemical toilets.
- ❖ In **Samos**, 93 persons were detained in a room of Samos Port Authority without access to toilet or water.
- ❖ In **Symi** island (administrative jurisdiction of Kos), 21 persons remained at the balcony of the Police Station.
- ❖ In **Kos**, 150 persons are detained in the waiting room of the Port, with access to two toilets.
- ❖ In **Leros**, 252 persons remain detained in a semi-covered part of the Port with access to two chemical toilets.

The Unions of the Police Officers of said islands, underlined that “the areas where foreigners are detained do not meet the very basic standards of hygiene and security, neither for people remaining there (lack of water, toilets, concentration of a lot of people in small places without ventilation, no personal hygienic ets.) nor for duty police officers responsible for guarding them”.<sup>112</sup>

By the end of March 2020, those arrived on the Greek islands during March 2020 have been transferred in two new detention facilities on the mainland, specifically established to that end (**Malakasa** and **Serres**).<sup>113</sup> Conditions in both facilities have been denounced by local police unions as a “ticking bomb”, with a complete lack of health and safety measures against the backdrop of the COVID-19 pandemic.<sup>114</sup>

As reported by RSA in April 2020, “After the effect of the Decree came to an end, the authorities started to register the detained persons’ intention to seek international protection. On 7 April 2020, the Aliens Directorate of Attica of the Hellenic Police handed several individuals detained in the ‘new’ Malakasa facility referral notes (παραπεμπτικό σημείωμα) to appear before the Asylum Service to register their asylum applications. These notes mention that the individuals in question “were released” from detention. Until the end of the month, however, no one was permitted to exit the facility under any circumstances, while the facility is under police guard. The same situation prevails in Serres for approximately 700 persons, according to reports of asylum seekers detained therein. According to the Ministry of Migration and Asylum, both Malakasa and Serres continue to operate as closed centres after the suspension of the asylum procedure came to an end.”<sup>115</sup> As reported at the beginning of April 2020 these two facilities have been turned into open facilities.<sup>116</sup>

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<sup>110</sup> Stonisi.gr, Μαζικά εξώδικα από τους Αστυνομικούς για το μεταναστευτικό, 13 March 2020, available in Greek at: <https://bit.ly/2TXyhU5>.

<sup>111</sup> Human Right Watch, Greece/EU: Allow New Arrivals to Claim Asylum, 10 March 2020, available at: <https://bit.ly/3cNyW1z>.

<sup>112</sup> Stonisi.gr, *Ibid*.

<sup>113</sup> Human Rights Watch (HRW), ‘Greece: Nearly 2,000 New Arrivals Detained in Overcrowded, Mainland Camps, 31 March 2020’, available at: <https://bit.ly/2WOBMfK>.

<sup>114</sup> RSA, Rights denied during Greek asylum procedure suspension, April 2020, available at: <https://bit.ly/3nrGk8u>, p.5

<sup>115</sup> RSA, *Ibid*.

<sup>116</sup> Efsyn.gr, Άτακτη υπαναχώρηση για τα ανοιχτά «κλειστά» κέντρα Μαλακάσας και Σερρών, 7 April 2020, available in Greek at: <https://bit.ly/2YV62It>.

## Procedures followed on the islands amid the COVID-19 outbreak

In addition to those who arrived during March 2020 and who were subject to the Emergency Legislative Order suspending the access to the asylum procedure (and accordingly where not transferred to RICs but detained and transferred to mainland), those who arrived since April 2020 on the Greek Islands were subject to a 7 or 14-day quarantine so as to prevent the potential spread of the virus, prior to their transfer to RICs in order to undergo reception and identification procedures. It is also observed that in some cases the quarantine was extended beyond 14 days.

As specific places/sites were not available to that end, individuals subject to quarantine had to remain at the point of arrival in a number of cases, i.e. in isolated beaches or in other inadequate locations, *inter alia* ports, buses etc.<sup>117</sup> The degrading treatment of the new arrivals has been publicly criticized by the Association of Doctors of the Public Health System of Lesbos<sup>118</sup>. However, since 8 May 2020, a dedicated site for these purposes has been in operation on the island Lesbos.<sup>119</sup>

Moreover, on 21 March 2020, Greece imposed a lockdown to tackle the Covid-19 pandemic, including severe limitations on the movement of people hosted in RICs and Temporary Accommodation Facilities. Said restrictions applied to refugee camps were successively prolonged and remained in force, despite the nationwide lifting of general COVID-19 measures in early May 2020<sup>120</sup> “resulting in a deterioration of [the asylum seekers’] medical and mental health” (See [Reception Conditions](#)).<sup>121</sup>

## Actors present in the RIC

On top of civil society organisations, a number of official actors are present in the RIC facilities on the islands, including RIS, Frontex, Asylum Service, EASO and the Hellenic Police.

**Police:** The Police is responsible for guarding the external area of the hotspot facilities, as well as for the identification and verification of nationalities of newcomers. According to the IPA, the registration of the applications of international protection, the notification of the decisions and other procedural documents, as well as the registration of appeals, may be carried out by police staff.<sup>122</sup> Moreover, in exceptional circumstances, the interviews of the applicants under the “fast track border procedure” may be carried out by police staff, provided that they have received the necessary basic training in the field of international human rights law, the EU asylum acquis and interview techniques.<sup>123</sup> Decisions on applications for international protection are always taken by the Asylum Service, however.

**Frontex:** Frontex staff is also engaged in the identification and verification of nationality. Although Frontex should have an assisting role, it conducts nationality screening almost exclusively in practice, as the Greek authorities lack relevant capacity such as interpreters. The conduct of said procedures by Frontex is defined by an internal regulation. It should be noted that, even though the Greek authorities may base their decision concerning the nationality of a newcomer exclusively on an assessment by Frontex, documents issued by the latter are considered to be ‘non-paper’ and thereby inaccessible to individuals. Assessments by Frontex are thus extremely difficult to challenge in practice.

**UNHCR/IOM:** provide information to newly arrived persons.

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<sup>117</sup> In.gr, Παρατηρήσεις σε παραλίες εν μέσω κοροναϊού πρόσφυγες που φτάνουν στη Λέσβο, 4 April 2020, available in Greek at: <https://bit.ly/2WqQ7zJ>.

<sup>118</sup> Association of Doctors of the Public Health System of Lesbos, ‘ΝΕΕΣ ΑΦΙΞΕΙΣ ΚΑΙ ΜΕΤΡΑ ΑΠΟΜΟΝΩΣΗΣ’, 29 April 2020, available at: <https://bit.ly/3tZbtTr>

<sup>119</sup> Capital.gr, Μυτιλήνη: Λειτουργεί από το πρωί η “καραντίνα” των νεοεισερχόμενων προσφύγων και μεταναστών, 9 May 2020, available at: <https://bit.ly/2WsrTPm>.

<sup>120</sup> Joint Ministerial Decision Δ1 α/Γ.Π.οικ 45681/2020, Gov. Gazette B’ 2947/17.7.2020.

<sup>121</sup> Médecins Sans Frontières, ‘Greek government must end lockdown for locked up people on Greek islands’, 16 July 2020, <https://bit.ly/2CN6S0W>

<sup>122</sup> Article 90(2) IPA.

<sup>123</sup> Article 90(3), b IPA.



**Asylum Service:** According to IPA the Asylum Service has presence in the hotspots. Specifically:  
“(a) third-country national or stateless person wishing to seek international protection, shall be referred to the competent Regional Asylum Office, Unit of which may operate in the RIC;  
(b) both the receipt of applications and the interviews of applicants may take place within the premises of the RIC, in a place where confidentiality is ensured”.<sup>124</sup>

**EASO:** EASO is also engaged in the asylum procedure. EASO experts have a rather active role within the scope of the [Fast-Track Border Procedure](#), as they conduct first instance personal interviews and they issue opinions regarding asylum applications. During 2020, the number of caseworkers doubled on the islands (from approximately 100 to 200)<sup>125</sup>. Following a legislative reform in 2018, Greek-speaking EASO personnel can also conduct any administrative action for processing asylum applications, including in the [Regular Procedure](#).<sup>126</sup> Following a mission conducted in Greece in 2019, ECRE published a report in November 2019 which provides a detailed overview on the role of EASO in Greece.<sup>127</sup>

**RIS:** The RIS previously outsourced medical and psychosocial care provision to NGOs until mid-2017. Since then, the provision of said services have been undertaken by the Ministry of Health, throughout different entities under its supervision. At the end of 2019, the National Organisation for Public Health (*Εθνικός Οργανισμός Δημόσιας Υγείας, ΕΟΔΥ*), a private entity supervised and funded directly by the Ministry of Health and Social Solidarity,<sup>128</sup> was the competent body for the provision of medical and psychosocial services. Serious shortcomings have been noted in 2020 due to the insufficient number of medical staff in the RIC (see also [Identification](#)).

### 2.2.2. Reception and identification procedures in Evros

People arriving through the Evros border are not subject to the EU-Turkey statement. Therefore, they are not subject to the fast-track border procedure, their claims are not examined under the safe third country concept, and they are not imposed a geographical restriction upon release.

Persons entering Greece through the Greek-Turkish land border in Evros are subject to reception and identification procedures at the RIC of **Fylakio**, Orestiada, which is the only RIC that continues to operate as a closed facility. People transferred to the RIC in Fylakio are subject to a “restriction of freedom of movement” applied as a *de facto* detention measure, meaning that they remain restricted within the premises of the RIC for the full 25-day period. In some cases in 2020, detention in the RIC has exceeded one month, as an initial quarantine period has been applied.

Depending on the number of arrivals, new arrivals, including families and children, once detected and apprehended by the authorities may be firstly transferred to a border guard police station or the pre-removal centre in **Fylakio**, where they remain in detention (so called ‘pre-RIC detention’) pending their transfer to the RIC **Fylakio**. Prolonged ‘pre-RIC detention’ has occurred in instances where new arrivals surpassed the accommodation capacity of RIC **Fylakio**.<sup>129</sup> Their detention “up to the time that [the person] will be transferred to Evros (**Fylakio**) RIC in order to be subject to reception and identification procedures”, as justified in the relevant detention decisions, has no legal basis in national law (see [Grounds for](#)

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<sup>124</sup> Article 39(6) IPA

<sup>125</sup> EASO Press Release, EASO operations in Greece to expand significantly, 28 January 2020, available at: <https://bit.ly/3aLaDln>

<sup>126</sup> Article 65(16) and 90(3) b IPA; ECRE Report, *The Role of EASO Operations in National Asylum Systems*, November 2019, available at: <https://bit.ly/39JFEDI>.

<sup>127</sup> ECRE, *The Role of EASO Operations in national asylum systems*, November 2019, available at: <https://bit.ly/3cSt5rs>.

<sup>128</sup> Established by L 4633/2019.

<sup>129</sup> Communication from the UNHCR (15.5.2019) in the M.S.S. and Rahimi groups v. Greece (Applications No.30696/09, 8687/08), available at: <https://bit.ly/39PPbt7>.

**Detention**). By the end of 2020, the period of pre-RIC detention has been limited to several days as far as GCR is aware.

According to official data, as of 31 December 2020 the capacity of **Fylakio** RIC was 282 places, while at the same date there were 259 persons remaining there.<sup>130</sup>

In 2020, a number of 2,998 persons were registered by the **Fylakio** RIC, out of which 129 have been identified as belonging to a vulnerable group. Reception and identification procedures, including vulnerability assessment are reported to be conducted in one to three days on average.<sup>131</sup>

After the maximum period of 25 days, or in some cases more than 25 days, newly arrived persons are released, with the exception of those referred to pre-removal detention facilities, where they are further detained in view of removal. As mentioned by UNHCR, “[a]t times of overcrowding in the RIC in **Evros**, new arrivals may be directed to detention facilities in the region instead of the RIC. A number of persons from so-called ‘refugee-producing countries’ may be directly released, with a 6-month suspension of the deportation decision, but without having had the opportunity to apply for asylum”.<sup>132</sup> Upon release, asylum seekers from **Evros** are not referred by the State to open reception facilities due to lack of space and the priority given to referrals from the islands.<sup>133</sup> According to GCR’s observations, these remarks are valid also for the year 2020.

Unaccompanied children may remain in the RIC of **Fylakio** for a period exceeding the maximum period of 25 days under the pretext of “protective custody”, while waiting for a place in a reception facility to be made available. As stated by UNHCR in 2019, **Fylakio** RIC “often has an average of 100 to 140 UAC staying under ‘protective custody’ beyond the 25 days and up to 3-5 months. During this period, the children are restricted in a facility without adequate medical and psychosocial services and without access to recreational and educational activities. Due to overcrowding, they stay together with families and adults, at risk of exposure to exploitation and abuse. UNHCR has observed gaps in the age registration procedure followed by the police and Frontex as well as in the referral to the age assessment procedure, which is applied contrary to the provisions provided in Greek law, which foresees a step-by-step and holistic assessment by the medical and psychosocial support unit in the RIC defining the referral to the hospital as the last step and only if the medical and psychosocial assessment in the RIC is not conclusive. In practice, the medical and psychosocial assessment in the RIC is skipped and a referral takes place directly to the hospital for an x-ray assessment, which usually concludes that the child is an adult”.<sup>134</sup>

As reported in February 2021 by Human Rights 360 “In the framework of the abolishment of protective custody for the unaccompanied minors and the acceleration of their placement into suitable shelters, the Special Secretary for the Protection of Unaccompanied Minors, Irene Agapidaki, stated that the unaccompanied minors should be registered during the first day that they enter the RIC and before their 14-day quarantine. However, the fear of the spread of COVID-19 and the caution of the registration officers, puts the application of the above decision in danger, as up until now, newly arrived UASCs and the rest of the people are being placed in a 14-day quarantine before their registration at the RIC. The procedure, though, that is being followed is that the population is formally recorded with the temporary data from the Border Guard Units before being put into quarantine and if after the end of the quarantine there are differences in their temporary registrations, then an amending act follows, which could lead to

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<sup>130</sup> Information provided by the Reception and Identification Service, 26 February 2021.

<sup>131</sup> *Ibid.*

<sup>132</sup> Communication from the UNHCR (15.5.2019) in the M.S.S. and Rahimi groups v. Greece (Applications No.30696/09, 8687/08), *ibid.*

<sup>133</sup> *Ibid.*

<sup>134</sup> UN High Commissioner for Refugees (UNHCR), Submission by the Office of the United Nations High Commissioner for Refugees in the case of International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece (Complaint No. 173/2018) before the European Committee of Social Rights, 9 August 2019, available at: <https://www.refworld.org/docid/5d9745494.html> .

even criminal consequences for false statement etc”.<sup>135</sup> Moreover, according to said report “the provision of article 43 of Law 4760/2020 regarding the abolishment of protective custody does not clarify the legal status of the unaccompanied minors which are currently present at the RIC of Fylakio and continue to stay there until the placement to a suitable shelter is completed. The problematic arises especially, when the obligatory 14-day quarantine is applied as measure against the spread of Covid19 and the procedures of the RIC follow under the new unified registration system, in anticipation of the placement to appropriate accommodation facilities. In most cases like these, unaccompanied minors stay at the RIC of Fylakio way more than 25-day time in which the procedures are supposed to be completed.”<sup>136</sup>

In 2020, 74 unaccompanied children were registered in the RIC of **Fylakio**, while the average waiting period to be transferred to appropriate accommodation was seven to eight months.<sup>137</sup>

### **Procedures followed for those arrived in March 2020 (suspension of access to asylum)**

As mentioned in Suspension of access to the Asylum Procedure on the basis of the Emergency Legislative Order (March 2020), following the tensions that erupted at the Greek-Turkish land border,<sup>138</sup> the Greek authorities issued an Emergency Legislative Order on 2 March 2020 which suspended access to asylum for those who arrived “*illegally*” (sic) between 1 March 2020 and 31 March 2020. According to the Order, newly arrived persons subject to this Order, are subject to return to their country of origin or transit “without registration.”<sup>139</sup> As far as GCR is aware, newly arrived persons during March, were not subject to reception and identification procedures nor did they have access to the asylum procedure. They were prosecuted for “illegal entry” and depending of the decision of the Penal Court, they either remain in penal custody or were (administratively) detained in pre-removal detention facilities.

As reported in the media, the Penal Court in **Orestiada (Evros Region)** has found 30 newly arrived persons, (15 men and 15 women) guilty for “illegal entry” on 2 March 2020. According to this information, all men have been sentenced to three to four years of imprisonment and a fine of €10,000, while the women have been sentenced to a €5,000 fine and suspended prison sentence of 3 years. Moreover, on 1 March 2020, 17 newly arrived men of Afghan origin were sentenced to 3.5 years of imprisonment and a €10,000 fine.<sup>140</sup> A total of 410 persons were reportedly arrested in the Evros Region (Greek – Turkish land borders) between 29 February and 16 March 2020.<sup>141</sup>

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<sup>135</sup> Human Rights 360, The European and National Asylum Policy at the land borders of Evros, 18 February 2021, available at: <https://bit.ly/3vpE9Fd>

<sup>136</sup> *Ibid.*

<sup>137</sup> Information provided by Reception and Identification Service, 26 February 2021.

<sup>138</sup> Council of Europe, Commissioner for Human Rights, Time to immediately act and to address humanitarian and protection needs of people trapped between Turkey and Greece, 3 March 2020, available at: <https://bit.ly/39Hm0sd>.

<sup>139</sup> Emergency Legislative Order (ΠΝΠ) as of 2 March 2020, Gov. Gazetta A/45/2 March 2020; with regards the lawfulness of the suspension of the asylum procedure see *inter alia* UNHCR, UNHCR statement on the situation at the Turkey-EU border, 2 March 2020, available at: <https://bit.ly/2Q62sWN>; Greek National Commission for Human Rights, Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 5 March 2020, available at: <https://bit.ly/39HtXh3>.

<sup>140</sup> The Press Project, Δικαστήριο επέβαλε σε δεκάδες ανθρώπους ποινή φυλάκισης έως 4 χρόνια με την κατηγορία της παράνομης εισόδου στην ελληνική επικράτεια, 3 March 2020, available at: <https://bit.ly/2W3s4qU> (in Greek).

<sup>141</sup> Radioevros.gr, Μηδενικές συλλήψεις μεταναστών το τελευταίο 24ωρο, 16 March 2020, available at: <https://bit.ly/3b3vRbR> (in Greek).

### 3. Registration of the asylum application

#### Indicators: Registration

1. Are specific time limits laid down in law for making an application?  
❖ If so, what is the time limit for lodging an application? ☐ Yes ☒ No
2. Are specific time limits laid down in law for lodging an application?  
❖ If so, what is the time limit for lodging an application? ☐ Yes ☒ No
3. Are registration and lodging distinct stages in the law or in practice? ☒ Yes ☐ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

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

Article 65 IPA transposes Article 6 of the recast Asylum Procedures Directive relating to access to the procedure.

As outlined below, Greek law refers to simple registration (*απλή καταγραφή*) to describe the notion of “registration” and full registration (*πλήρης καταγραφή*) to describe the notion of “lodging” of an application for international protection under the Directive.

##### Registration of applications for international protection (“*Καταγραφή*”)

Article 65(1) IPA provides that any foreigner or stateless person has the right to “make” an application for international protection. In this case, the application is submitted before the competent receiving authorities, i.e. the Regional Asylum Offices (RAO), the Autonomous Asylum Units (AAU) or Mobile Asylum Units of the Asylum Service or the Regional Reception and Identification Services,<sup>142</sup> depending on their local jurisdiction, which shall immediately proceed with the “full registration” (*πλήρης καταγραφή*) of the application. Following a legislative reform in 2018, in case of urgent need, the Asylum Service may be supported by Greek-speaking personnel provided by EASO for the registration of applications.<sup>143</sup> This is now also exclusively foreseen by the IPA.<sup>144</sup>

Following the “full registration” of the asylum claim,<sup>145</sup> the application for international protection is considered to be lodged (*κατατεθειμένη*).<sup>146</sup>

IPA foresees that the time limit in which such a full registration should take place, should not exceed 15 days. More precisely, according to the IPA, where “for whatever reason” full registration is not possible, following a decision of the Director of the Asylum Service, the Receiving Authorities may conduct a “basic registration” (*απλή καταγραφή*) of the asylum seeker’s necessary details within 3 working days, and then proceed to the full registration by way of priority within a period not exceeding 15 working days from “basic registration”.<sup>147</sup> In such a case, the applicant receives upon “basic registration” a document indicating his or her personal details and a photograph, to be replaced by the International Protection Applicant Card upon the lodging of the application.<sup>148</sup>

<sup>142</sup> Articles 63(d) as amended by Article 5 L. 4686/2020 and 65(1) IPA as amended by Article 6(1) L.4686/2020.

<sup>143</sup> Article 36(11) L 4375/2016, as amended by Article 28(7) L 4540/2018.

<sup>144</sup> Article 65(16) IPA.

<sup>145</sup> Article 65(1) IPA as amended by Article 6(1) L.4686/2020.

<sup>146</sup> Article 65(3) IPA.

<sup>147</sup> Article 65(2) IPA as amended by Article 6(2) L.4686/2020.

<sup>148</sup> *Ibid.*

According to the IPA, if the application is submitted before a non-competent authority, that authority is obliged to promptly notify the competent receiving authority and to refer the applicant thereto.<sup>149</sup> However, in practice in order for an asylum application to be properly lodged, the applicant should lodge an application in person before the Asylum Service.

For third-country nationals willing to apply for asylum while in detention or under reception and identification procedures, the detention authority or RIS must register the intention to apply on an electronic network connected to the Asylum Service no later than within 3 working days under the IPA.<sup>150</sup>

Moreover, according to the IPA, the lodging of the application with the Receiving Authorities must be carried out within 7 working days after the “basic registration” by the detention authority or the RIS.<sup>151</sup> In order for the application to be fully registered, the detainee is transferred to the competent RAO or AAU.<sup>152</sup>

### Lodging of applications (“Κατάθεση”)

No time limit is set by law for lodging an asylum application. Article 78 IPA transposes Article 13 of the recast Asylum Procedures Directive that refers to applicants’ obligations and foresees that applicants are required to appear before competent authorities in person, without delay, in order to submit their application for international protection.

Applications must be lodged in person,<sup>153</sup> except under *force majeure* conditions.<sup>154</sup> According to the IPA, the lodging of the application must contain *inter alia* the personal details of the applicant and the full reasons for seeking international protection.<sup>155</sup>

For those languages where a Skype line is available, an appointment through Skype should be fixed by the applicant before he or she can present him or herself before the Asylum Service in order to lodge an application.

As a general rule, the IPA foresees that the asylum seeker’s card, which is provided to all persons who have fully registered i.e. lodged their application, is valid for 6 months, which can be renewed as long as the examination is pending.<sup>156</sup> However, asylum seeker’s cards for applicants remaining on the islands of **Lesvos, Samos, Chios, Leros, Kos** and **Rhodes** subject to a “geographical limitation” is valid for 1 month, which can be also renewed.

Moreover, the IPA provides for a number of cases where the asylum seeker’s card can be valid for shorter periods. Thus the validity of the asylum seeker’s card can be set for a period:

- No longer than 3 months, in case that the applicant belongs to a nationality with a recognition rate lower than 35% in accordance with the official EU statistics and by taking into consideration the period for the issuance of a first instance decision expected;<sup>157</sup>
- No longer than 30 days, in case that the communication of a decision or a transfer on the basis of the Dublin Regulation is imminent;<sup>158</sup>

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<sup>149</sup> Article 65(9) IPA.

<sup>150</sup> Article 65(7) (b) IPA as amended by article 6(3) L.4686/2020.

<sup>151</sup> *Ibid.*

<sup>152</sup> *Ibid.*

<sup>153</sup> Article 65(6) IPA.

<sup>154</sup> Article 78(3) IPA.

<sup>155</sup> Article 65(1) IPA as amended by Article 6(1) L.4686/2020.

<sup>156</sup> Article 70 (1) IPA.

<sup>157</sup> Article 70 (2) IPA

<sup>158</sup> Article 70(3) IPA

- No longer than 30 days, in case that the application is examined “under absolute priority”, “under priority”, under the accelerated procedure, under Art. 84 (inadmissible) or under the border procedure.<sup>159</sup>

In total, the Asylum Service registered 40,559 asylum applications in 2020. Afghans were the largest group of applicants with 11,514 applications, followed by Syrians with 7,768 applications.<sup>160</sup>

### Role of EASO in registration

EASO deploys Registration Assistants to support the Greek Asylum Service in charge of registration across the territory. Registration Assistants are almost exclusively locally recruited interim staff, not least given that, in countries such as Greece, citizenship is required for access to the database managed by the police (*Αλκυόνη*) which is used by the Asylum Service. As of July 2019, registration support was provided in areas including **Lesvos, Chios, Samos, Leros, Kos, Athens, Piraeus, Thessaloniki, Crete, Alexandroupoli, Fylakio**, as well as pre-removal detention centres such as **Paranesti**.<sup>161</sup>

In the first half of 2019, out of a total of 30,443 asylum applications lodged in Greece, 16,126 were lodged with the support of EASO. This means that more than half of the applications (53%) were lodged with the support of EASO during that period.<sup>162</sup> In 2020, EASO carried out a total of 16,619 registrations, mainly of **Afghan, Syrian and Pakistani** applicants.<sup>163</sup>

### 3.2. Access to the procedure on the mainland

Access to the asylum procedure remains a structural and endemic problem in Greece. Difficulties with regard to access to the asylum procedure had already been observed since the start of the operation of the Asylum Service in 2013, in particular due to Asylum Service staff shortages and the non-operation of all RAO provided by law. A system for granting appointments for registration of asylum applications through Skype, in place since 2014, has not solved the problem.

The Ombudsperson has constantly highlighted that accessing the asylum procedure through Skype is a “restrictive system, which appears to be in contrast with the principle of universal, continuous and unhindered access to the asylum procedure”. According to the Ombudsperson, the Skype system has become part of the problem, rather than a technical solution.<sup>164</sup>

The UN Committee Against Torture, in its concluding observations on the seventh periodic report of Greece (September 2019), highlighted the fact that access to asylum on the mainland remains problematic, largely due to difficulties in accessing the Skype-based appointment system in place for registration, which has limited capacity and availability for interpretation and recommended to the State party to “reinforce the capacity of the Asylum Service to substantively assess all individual applications for asylum or international protection”.<sup>165</sup> Said observations were confirmed by Greek NCHR in September 2020.<sup>166</sup>

During 2020 there was a considerable decrease in the number of applications lodged on the mainland (18,680 applications out of a total of 40,559<sup>167</sup> compared to 37,708 applications out of a total of 77,287 in

<sup>159</sup> Art 70 (4) IPA as amended by Article 8(1) L.4686/2020

<sup>160</sup> Information provided by the Asylum Service 31 March 2021.

<sup>161</sup> ECRE, *The Role of EASO Operations in national asylum systems*, November 2019, available at: [bit.ly/3cSt5rs](https://bit.ly/3cSt5rs), 7.

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

<sup>163</sup> Information provided by EASO, 26 February 2021.

<sup>164</sup> See e.g. Greek Ombudsman, *Special Report: Migration flows and refugee protection*, April 2017.

<sup>165</sup> UN Committee Against Torture, Concluding Observations on the seventh periodic report of Greece, 3 September 2019, CAT/C/GRC/CO/7, available at: <https://bit.ly/39Sp8la>.

<sup>166</sup> NCHR, Available in Greek at: <https://bit.ly/3aLsA3m>, p. 57

<sup>167</sup> Information provided by the Asylum Service, 31 March 2021



2019<sup>168</sup>). However, access to asylum on the mainland continued to be highly problematic and intensified throughout 2020.

The Skype line is available in 17 languages for 29 hours per week for access to the Asylum Service on the mainland and on the Eastern Aegean Islands for some specific languages. The detailed registration schedule through Skype is available on the Asylum Service's website. However, despite the fact that the schedule was updated in November 2020, at the end of March 2021 it is available only in Greek.<sup>169</sup> During 2019 two staff members of the Asylum Service together with an interpreter were dealing with the operation of the Skype application system for six hours on a daily basis<sup>170</sup>. More recent information is not available despite GCR's request to the Asylum Service.

Deficiencies in the Skype appointment system, stemming from limited capacity and availability of interpretation and barriers to applicants' access to the internet, hinder the access of persons willing to apply for asylum to the procedure. Consequently, prospective asylum seekers frequently have to try multiple times, often over a period of several months, before they manage to get through the Skype line and to obtain appointment for the full registration of their application, meanwhile facing the danger of a potential arrest and detention by the police. They are deprived of the assistance provided to asylum seekers, including reception conditions and in particular access to housing. Moreover, even if an appointment for full registration is scheduled via Skype, in the meanwhile the applicant is not provided with any document in order to prove that he/she has already contacted the Asylum Service and he/she faces arrest and detention in view of removal.

GCR has encountered cases of applicants being detained during 2020 because they lacked legal documentation either due to the fact that they did not manage to get a Skype appointment or that they did not possess any document proving that he/she had already fixed an appointment with the Asylum Service for registration through Skype, as such documents do not exist.

Additionally, since the start of June 2020, an electronic system for the full "self-registration" of the asylum application has been launched by the Asylum Service<sup>171</sup>. However, that option was available only for persons whose intention to apply for asylum (βούληση) was already officially registered. This is the case of persons whose application is already pre-registered either by the Reception and Identification Service (RIS) when they entered Greece or by the Hellenic Police during an administrative detention period or by the Asylum Service via Skype and the application has not been fully registered yet. Thus, the system does not address the endemic and longstanding lack of access to the asylum procedure on the mainland. Moreover, following the "self-registration", applicants are not informed on the next steps they have to follow concerning their asylum procedure. More precisely, after the self-registration is completed, no information is provided on whether an appointment for the provision of the asylum seeker's card or for the interview before the Asylum Service has to be fixed. GCR is aware of cases of people who were "self-registered" and then had to have a new appointment fixed for the "full registration" before the Asylum Service "due to technical issues of the electronic self-registration" as reported by the competent RAO.

The average time between the moment of fixing an appointment for registration through Skype and full registration was 44 days in 2019.<sup>172</sup> Such data is not available for 2020 despite several requests addressed by GCR to the Asylum Service. In 2020 the Asylum Service suspended the reception of the

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<sup>168</sup> Information provided by the Asylum Service, 17 February 2020

<sup>169</sup> Asylum Service, *Registration Schedule from 22 June 2020*, available at: <https://bit.ly/2R8qR15>, Asylum Service, *Registration Schedule from 10 August 2020* Asylum Service, available only in Greek at: <https://bit.ly/3t2ubrR>, Asylum Service, *Registration Schedule from 2 November 2020*, available only in Greek at: <https://bit.ly/3t8Xp8l>

<sup>170</sup> Information provided by the Asylum Service, 17 February 2020

<sup>171</sup> Asylum Service, Electronic self-registration available at: <https://bit.ly/332MF0K>, Login instructions can be found here: <https://bit.ly/2S64ABu>

<sup>172</sup> Information provided by the Asylum Service, 17 February 2020



public several times within the framework of Covid-19 preventive measures (See below), which led to considerable delays concerning full registrations.

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

Access to the asylum procedure for persons detained for the purpose of removal is highly problematic. The application of a detained person having expressed his or her will to apply for asylum is registered only after a certain period of time. The person remains detained between the expression of the intention to seek asylum and the registration of the application, by virtue of a removal order. He is deprived of any procedural guarantees provided to asylum seekers,<sup>173</sup> despite the fact that according to Greek law, the person who expresses his/her intention to lodge an application for international protection is an asylum seeker. Since the waiting period between expression of intention and registration is not counted in the **Duration of Detention**, asylum seekers may be detained for a total period exceeding the maximum detention time limit for asylum seekers.<sup>174</sup>

In July 2020 the UN Working Group on Arbitrary Detention<sup>175</sup> “observed that many detainees did not understand their right to apply for asylum and the corresponding procedure, with some individuals incorrectly believing that the process was initiated when they were fingerprinted. There was no established scheme for providing legal aid during the first-instance asylum application, and interpretation was not consistently provided, with asylum seekers relying on second-hand information from fellow applicants. The Working Group was informed that no information was provided by the police to detainees on their right to apply for international protection or on the procedural stages, and that such information was provided by non-governmental actors only.”

The time period between the expression of intention to apply for asylum and the registration varies depending on the circumstances of each case, and in particular the capacity of the competent authority, the availability of interpretation, and the number of people willing to apply for asylum from detention.

### 3.4. Suspension of access to the Asylum Procedure on the basis of the Emergency Legislative Order (March 2020)

As mentioned in Reception and identification procedures on the islands, following the tension that erupted at the Greek-Turkish land borders at the end of February 2020,<sup>176</sup> the Greek Authorities issued an Emergency Legislative Order (*Πράξη Νομοθετικού Περιεχομένου/ΠΝΠ*) on 2 March 2020 which suspends access to the asylum procedure for persons entering illegally in the country during March 2020.<sup>177</sup> “The extremely urgent and unpredictable need to face the asymmetrical threat against the security of the country” and the “the sovereign right[s]” of the country have been invoked in order to justify the issuance of the Order.<sup>178</sup>

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<sup>173</sup> Global Detention Project & Greek Council for Refugees, Joint Submission to the Working Group on Arbitrary Detention in Preparation for its Mission to Greece in December 2019, Submitted in October 2019, available at: <https://bit.ly/2TRYmna>.

<sup>174</sup> Communication from the UNHCR (15.5.2019) in the M.S.S. and Rahimi groups v. Greece (Applications No.30696/09, 8687/08).

<sup>175</sup> Report of the Working Group on Arbitrary Detention Visit to Greece 2 - 13 December 2019, A/HRC/45/16/Add.1, 29 July 2020, available at: <https://bit.ly/3dPiHSX>, para. 61-62

<sup>176</sup> Council of Europe, Commissioner for Human Rights, Time to immediately act and to address humanitarian and protection needs of people trapped between Turkey and Greece, 3 March 2020, available at: <https://bit.ly/39Hm0sd>.

<sup>177</sup> Emergency Legislative Order as of 2 March 2020, Gov. Gazette A/45/2 March 2020.

<sup>178</sup> Emergency Legislative Order as of 2 March 2020, recitals 2 and 3.

According to the Order:

- “1. The lodging of the asylum application from persons who enter the country illegally(sic) since the entry into force of the present Order is suspended. These persons are returned in their country of origin or transit without registration.*
- 2. The provision of para. 1 is valid for (1) one month [until 31 March 2020]*
- 3. With and act of the Ministerial Council the period set in para. 2 can be shortened.”*

As stated by UNHCR on the same day of the issuance of the Emergency Legislative Order,

*“[a]ll States have a right to control their borders and manage irregular movements, but at the same time should refrain from the use of excessive or disproportionate force and maintain systems for handling asylum requests in an orderly manner.*

*Neither the 1951 Convention Relating to the Status of Refugees nor EU refugee law provides any legal basis for the suspension of the reception of asylum applications”.*<sup>179</sup>

Moreover the Greek National Commission for Human Rights (GNCHR), in a public statement issued on 5 March 2020, noted that:

*“there are no clauses allowing for derogation from the application of the aforementioned provisions [the right to seek asylum and the prohibition of refoulement] in the event of an emergency situation, on grounds of national security, public health etc” and*

*“Call[ed] upon the Greek Government: [...]to lift the decision to suspend the lodging of asylum applications as well as the decision to automatically return newcomers to the states of origin or transit, while providing for a legal access route to asylum in a coordinated manner”.*<sup>180</sup>

Respectively, in an open letter addressed to the Greek Government and the EU institutions, 152 civil society organisations urged

*“the Greek Government to [w]ithdraw the illegal and unconstitutional Emergency Legislative Decree and to respect the obligations of the Greek State concerning the protection of human life and rescue at sea and at the land borders” and the European Commission “as the guardian of the Treaties, [to] protect the right to asylum as enshrined in EU law”.*<sup>181</sup>

On 12 March 2020, the EU Commissioner for Home Affairs Ylva Johansson has stated: “Individuals in the European Union have the right to apply for asylum. This is in the treaty, this is in international law. This we can’t suspend”.<sup>182</sup>

As a result of the Emergency Legislative Order, access to the asylum procedure for potential applicants who entered Greece in an irregular manner during March 2020 was suspended by law. In practice, this means that third country nationals who entered the Greek territory irregularly throughout March 2020, were arrested and a number of them were prosecuted due to the “illegal entry”.<sup>183</sup> Depending on the decision of the Penal Court they either remained in (penal) custody or they were transferred to migration detention facilities where they are detained in view of removal without having access to asylum. In

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<sup>179</sup> UNHCR, UNHCR statement on the situation at the Turkey-EU border, 2 March 2020, available at: <https://bit.ly/2Q62sWN>.

<sup>180</sup> Greek National Commission for Human Rights, Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 5 March 2020, available at: <https://bit.ly/39HtXh3>.

<sup>181</sup> Open Letter of 152 organizations regarding the current developments at the Greek border, 4 March 2020 available at: <https://bit.ly/2vWgnrr>.

<sup>182</sup> The Guardian, ‘Greece warned by EU it must uphold the right to asylum’, 12 March 2020, available at: <https://bit.ly/3d2TfrV>.

<sup>183</sup> Art. 83 L. 3386/2005.

particular those arriving on the islands were transferred for detention on the mainland in two new detention facility operating since mid-March 2020, namely in **Malakasa** (Attica Region) and **Serres** (North Greece).

According to UNHCR, 347 persons have arrived through the land borders in Evros region (Greek – Turkish land borders) and 2,207 persons arrived on the Greek islands during the month of March 2020.<sup>184</sup>

GCR filed an application for annulment and an application for suspension against the said Emergency Legislative Order before the Council of State, along with a request of interim order due to the refusal of the authorities to register asylum applications of three Afghan women who entered Greece on 1 March 2020 from Evros and were subsequently deprived access to asylum. On 30 March 2020, the Council of State, partially accepted the request for interim order for 2 of these cases, and ordered the authorities to refrain from any forcible removal.<sup>185</sup>

In April 2020, the suspension of access to asylum on the basis of the Emergency Legislative Order was lifted and persons who had entered Greece during March 2020 were allowed to access the asylum procedure. However, given that the Asylum Service was not operating at that time due to the COVID-19 measures, the registration of the applications was not feasible up until the resumption of the operation of the Asylum Service (18 May 2020).<sup>186</sup> For those entered Greece during March 2020 and remained detained after the lift of the suspension of access to asylum on the basis of the Emergency Legislative Order, police authorities gradually recorded their will to apply for asylum, while the registration of the application took place following the resumption of the work of the Asylum Service on 18 May 2020.

### 3.5. Suspension of access to the Asylum Procedure due to the COVID-19 measures

Within the framework of the measures taken for the prevention of the spread of the COVID 19, since 13 March 2020 the Asylum Service and all RAO and AAU had suspended the reception of public, including the registration of new asylum applications.<sup>187</sup> The suspension was valid up until 15 May 2020 and the Asylum Service resumed its operation on 18 May 2020.<sup>188</sup> However, with the exception of persons under administrative detention, the registration of new asylum applications did not take place until the end of May.

After the second wave of Covid-19 cases in Greece, “in order to protect public health and impede the further spread of the COVID-19 virus”, the Director of the Asylum Service decided to suspend the operation of RAOs in the Attica region from 6 October 2020 to 9 October 2020<sup>189</sup>. Said suspension was extended until 16 October<sup>190</sup>. Moreover, between 7 and 30 November 2020, new measures against Covid-19 were applied to RAOs and AAUs nationwide<sup>191</sup>. During this period, even though “programmed interviews and registrations via Skype took place according to schedule”, full registrations of asylum applications were not conducted except for those of very vulnerable applicants.

<sup>184</sup> UNHCR, Operational Portal, available at: <https://bit.ly/36b7w2X>.

<sup>185</sup> GCR, *Σχόλιο του ΕΣΠ σχετικά με την προσωρινή διαταγή του ΣτΕ*, 30 March 2020, available in Greek at: <https://bit.ly/2WusMNL>.

<sup>186</sup> Emergency Legislative Order as of 11 March 2020, Gov Gazette A' 55/11.3.2020.

<sup>187</sup> Emergency Legislative Order as of 11 March 2020, Gov Gazette A' 55/11.3.2020.

<sup>188</sup> The Guidance of the EU Commission on the implementation of relevant EU provisions in the area of asylum during the COVID 19 prevention measures, issued in April 2020, stated that “even if there are delays, the third-country nationals who apply for international protection must have their application registered by the authorities and be able to lodge them”. Communication from the Commission, COVID-19: Guidance on the implementation of relevant EU provisions in the area of asylum and return procedures and on resettlement, 17 April 2020, 2020/C 126/02.

<sup>189</sup> See Ministry of asylum and migration, «Temporary suspension of operation of Asylum Service offices», available at: <https://bit.ly/3eSbzWj>

<sup>190</sup> See, Ministry of asylum and migration, available at : <https://bit.ly/3gV2u1F>

<sup>191</sup> See, Ministry of asylum and migration, New measures for the protection of public health (Saturday 11 Nov 2020 until Monday 30 Nov 2020), available at : <https://bit.ly/3vApJIS>

## C. Procedures

### 1. Regular procedure

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

##### Indicators: Regular Procedure: General

1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: 6 months
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☒ Yes ☐ No
3. Backlog of pending cases at first instance as of 31 December 2020: 57,347<sup>192</sup>

The Asylum Service received 40,559 new applications in 2020, which amounts to a decrease of 47.5% compared to 2019. Out of the 40,559 new applications, 19,742 have been examined under the regular procedure while 20,814 were examined under the **Fast-Track Border Procedure**.<sup>193</sup> According to the information provided by the Asylum Service, in total a number of 57,347 applications were pending by the end of 2020.<sup>194</sup> Data provided by the Ministry of Migration and Asylum (Annual Factsheet 2020) refer to a number of 76,335 pending applications at first instance on 31 December 2020.<sup>195</sup>

According to the IPA, an asylum application should be examined “the soonest possible” and, in any case, within 6 months, in the framework of the regular procedure.<sup>196</sup> This time limit may be extended for a period not exceeding a further 3 months, where a large number of third country nationals or stateless persons simultaneously apply for international protection.<sup>197</sup> According to the new IPA, in any event, the examination of the application should not exceed 21 months.<sup>198</sup>

Where no decision is issued within the maximum time limit fixed in each case, the asylum seeker has the right to request information from the Asylum Service on the timeframe within which a decision is expected to be issued. As expressly foreseen in the IPA, “this does not constitute an obligation on the part of the Asylum Service to take a decision within a specific time limit.”<sup>199</sup>

Decisions granting status are given to the person of concern in extract, which does not include the decision’s reasoning. According to the IPA, in order for the entire decision to be delivered to the person recognised as a beneficiary of international protection, a special legitimate interest (*ειδικό έννομο συμφέρον*) should be proven by the person in question.<sup>200</sup>

#### Duration of procedures

According to the official statistics, for applications lodged on the mainland exclusively within 2020, the average period between the registration and the personal interview, is 61 days, while the average period

<sup>192</sup> Information provided by the Asylum Service, 31 March 2021; please note that data published by the Ministry of Migration and Asylum (Annual Factsheet 2020) refers to a number of 76.335 pending applications at first instance on 31 December 2020, see Ministry of Migration and Asylum, Annual Factsheet 2020, p.10, available at: <https://bit.ly/2QRt415> (in Greek).

<sup>193</sup> Information provided by the Asylum Service, 31 March 2021.

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

<sup>195</sup> Ministry of Migration and Asylum, *Ibid.*

<sup>196</sup> Article 83(3) IPA.

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

<sup>198</sup> Article 83(3) IPA.

<sup>199</sup> Article 83(6) IPA.

<sup>200</sup> Article 69(5) IPA

between registration and the issuance of a first instance decision is 67 days. More precisely, the average period between registration and issuance of first instance decision is 71 days for Afghans applicants, 163 days for Iraqi applicants, 24 days for Syrian applicants (fast track- mainland), 85 days for applicants from Turkey and 94 days for applicants belonging to vulnerable groups<sup>201</sup>. In any event, in practice average processing time is longer, if the period between pre-registration and **Registration** of the application is taken into consideration. These data are not available.<sup>202</sup>

However, and despite the significant decrease on the number of new asylum applications registered in 2020 and the number of first instance decisions issued during the year, significant delays occur in processing applications at first instance if the total number of pending applications is taken into consideration, i.e. applications registered within 2020 and applications registered the previous years and pending by the end of 2020.

More precisely, more than 1 out of 2 of the applications pending at first instance at the end of 2020 (68.3%), was pending for a period over 12 months since the day they were registered (39,211 out of the total 57,347 applications pending at the end of 2020).

In addition:

- ❖ In 60.85% of the applications pending by the end of 2020, the personal interview has not yet been conducted (34,896 out of the total 57,347 applications pending at the end of 2020).
- ❖ Out of those applications in which the interview has not yet been conducted by the end of 2020:
  - In 15,142 (43.3%) of the pending cases the interview has been scheduled after 2021. This is for example the cases of Turkish applicants to the knowledge of GCR, that the interview is scheduled no earlier than 2025.<sup>203</sup>
  - In 13,198 cases (37.8%) the interview has been scheduled within the first semester of 2021 and in 6,599 cases (18.7%) the interview has been scheduled within the second semester of 2021.<sup>204</sup>

## 1.2. Prioritised examination and fast-track processing

The IPA that entered into force on 1 January 2020 sets out two forms of prioritised examination of asylum applications.

First, the Asylum Service shall process “by way of absolute priority” claims concerning:

- (a) Applicants undergoing reception and identification procedures who do not comply with an order to be transferred to another reception facility;<sup>205</sup>
- (b) Applicants who are detained.<sup>206</sup>

Processing by way of “absolute priority” means the issuance of a decision within 20 days.<sup>207</sup>

Second, the law provides that an application may be registered and examined by way of priority for persons who:<sup>208</sup>

- (a) Belong to vulnerable groups, insofar as they are under a “restriction of liberty” measure in the

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<sup>201</sup> Information provided by the Asylum Service, 31 March 2021.

<sup>202</sup> Ibid.

<sup>203</sup> see also RSA & Stiftung PRO ASYL Submission to the Committee of Ministers of the Council of Europe in the cases of M.S.S. v. Belgium and Greece & Rahimi v. Greece, July 2020, available at: <https://bit.ly/3sM7YPp>.

<sup>204</sup> Information provided by the Asylum Service, 31 March 2021 .

<sup>205</sup> Articles 39(1) and 83(7) IPA, citing Article 39(10)(c) IPA.

<sup>206</sup> Ibid, citing Article 46(8) IPA.

<sup>207</sup> Ibid.

<sup>208</sup> Articles 39(2) and 83(7) IPA.

- context of [Reception and Identification](#) procedures;
- (b) Fall under the scope of the [Border Procedure](#);
- (c) Are likely to fall within the [Dublin Procedure](#);
- (d) Have cases which may be considered as manifestly unfounded;
- (e) Represent a threat to national security or public order; or
- (f) File a [Subsequent Application](#);
- (g) Come from a [First Country of Asylum](#) or a [Safe Third Country](#);
- (h) Have cases reasonably believed to be well-founded.

Moreover, a fast-track procedure for the examination and the granting of refugee status to Syrian nationals and stateless persons with former habitual residence in Syria, is in place since September 2014. Eligible for the fast-track procedure are only Syrians and stateless persons with former habitual residence in Syria in case that:

- a) they hold original documents (especially passports) or;
- b) they have been identified as Syrian/persons with former habitual residence in Syria within the scope of the Reception and Identification Procedure, under the conditions that the EU-Turkey Statement is not applicable in their case, i.e. have been exempted by the “Fast-Track Border Procedure”.<sup>209</sup>

In 2020, a total of 3,894 positive decisions were issued in the framework of the Syria fast-track procedure.<sup>210</sup>

### 1.3. Personal interview

#### Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
  - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☒ Frequently ☐ Rarely ☐ Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? ☒ Yes ☐ No
  - If so, is this applied in practice, for interviews? ☒ Yes ☐ No

According to the IPA, the personal interview with the applicant may be omitted where:<sup>211</sup>

- a) The Asylum Service is able to take a positive decision on the basis of available evidence;
- b) It is not practically feasible, in particular when the applicant is declared by a medical professional as unfit or unable to be interviewed due to enduring circumstances beyond their control.

Moreover, the IPA foresees that when the applicant is not in the position to continue the interview for reasons attributable to him/her “the interview is terminated”. In this case, the applicant is provided with the opportunity to submit a written memo and supplementary evidences within 5 days.<sup>212</sup> According to the IPA, the omission of a personal interview does not adversely affect the merits decision on the application in which the reasons for omitting the interview should be stated.<sup>213</sup>

<sup>209</sup> Information provided by the Asylum Service, 31 March 2021.

<sup>210</sup> *Ibid.*

<sup>211</sup> Article 77(7) IPA.

<sup>212</sup> Article 77(7) IPA.

<sup>213</sup> Article 77(9) IPA.



The IPA further provides that, where the interview has been scheduled within 15 days from the lodging of the application and where the applicant is vulnerable, the authorities provide him or her with reasonable time not exceeding 3 days to prepare for the interview and obtain counselling. The possibility to request reasonable time is not granted to asylum seekers who are not vulnerable or whose interview has been scheduled more than 15 days after the submission of the application.<sup>214</sup>

As mentioned in [Regular Procedure: General](#), significant delays continue to be observed in 2020 with regard to the conduct of interviews.

Under the regular procedure, the interview takes place at the premises of the RAO on the designated day and is conducted by one caseworker. According to the IPA, the personal interview takes place without the presence of the applicant's family members, unless the competent Asylum Service Officer considers their presence necessary.<sup>215</sup> Moreover, the personal interview must take place under conditions ensuring appropriate confidentiality.<sup>216</sup> However, GCR and other civil society organisations express concerns relating to confidentiality in certain RAO or AAU due to the lack of appropriate spaces, lack of isolation and technical difficulties. As reported, this is for example the case in the RAO of **Lesvos**, in particular for the remote interviews that took place within the COVID-19 prevention measures.<sup>217</sup>

The person conducting the interviews should be sufficiently qualified to take into account the personal or general circumstances regarding the application, including the applicant's cultural origin. In particular, the interviewer must be trained concerning the special needs of women, children and victims of violence and torture.<sup>218</sup> In case of female applicants, the applicant can request a case worker/interpreter of the same sex. If this is not possible, a note is added to the transcript of the interview.<sup>219</sup>

### **EASO's role in the regular procedure**

Prior to L 4540/2018, only Asylum Service caseworkers could conduct interviews in the regular procedure, as opposed to the [Fast-Track Border Procedure: Personal Interview](#). In case of applications referred from the fast-track border procedure to the regular procedure following an interview held by an EASO officer (e.g. due to vulnerability), a supplementary first instance interview should be conducted by an Asylum Service caseworker.<sup>220</sup>

Following the amendments introduced by L 4540/2018, which have been maintained in the IPA,<sup>221</sup> EASO can now be involved in the regular procedure,<sup>222</sup> while the EASO personnel providing services at the Asylum Service premises are bound by the Asylum Service Rules of Procedure.<sup>223</sup> EASO caseworkers have started conducting interviews under the regular procedure since the end of August 2018.<sup>224</sup> The main form of support provided by EASO caseworkers involves the conduct of interviews with applicants and drafting of opinions to the Asylum Service, which retains responsibility for issuing a decision on the asylum application. According to the relevant provision, said personnel involved in the regular procedure should be consisted by Greek speaking case workers.<sup>225</sup>

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<sup>214</sup> Article 77(4) IPA.

<sup>215</sup> Article 77(10) IPA.

<sup>216</sup> Article 77(11) IPA.

<sup>217</sup> Diotima et al., The conduct of (remote) asylum interviews on Lesvos, 8 December 2020, available at: <https://bit.ly/3fxZ9oz>.

<sup>218</sup> Article 77(12)(a) IPA.

<sup>219</sup> Article 77(5) IPA.

<sup>220</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>221</sup> Article 65(16) IPA.

<sup>222</sup> Article 65(16) IPA.

<sup>223</sup> Article 1(2) Asylum Service Director Decision No 3385 of 14 February 2018.

<sup>224</sup> Information provided by EASO, 13 February 2019.

<sup>225</sup> Article 65(16) IPA.



According to the announcement of the EASO in early 2020, the Agency's operations in Greece was about to double in size to over 1,000 personnel in 2020.<sup>226</sup>

The number of interviews and opinions carried out by EASO has significantly increased in comparison to previous years. In 2020, EASO caseworkers carried out a total of 18,394 interviews and drafted a total of 16,406 concluding remarks mainly regarding applicants from **Afghanistan, Syria, Somalia, DRC and Iraq**.<sup>227</sup>

### 1.3.1. Quality of interviews and decisions

Without underestimating the fact that the recognition rate of the first instance procedure remains high (in-merit decisions), a number of first instance cases to the knowledge of GCR, and *inter alia* the way the interview was conducted, the assessment of the asylum claims and/or the decisions delivered, corroborates concerns already expressed with regards a “deterioration in quality at first instance”.<sup>228</sup> Among other, example of such cases include:

- ❖ The case of a family with minor children for Somalia (Moghadishu). Their application has been rejected on the basis of incorrect use of COI/use of outdated COI contrary to the opinion of the EASO case worker who had conducted the interview, by which the caseworker suggested subsidiary protection pursuant to Art. 15 (c) of Directive 2011/95/EU to be granted to them, by taking into consideration available COI and the the particular circumstances of the case.
- ❖ The rejection of the credibility of an LGBT applicant from Cameroon on the basis of allegations which the applicant has never invoked during the interview or misinterpretation of the allegation of the applicant.
- ❖ The rejection of the applications of a number of applicants from Afghanistan, arrested during the events of March 2020 in Evros land borders, following very short interviews (less than or about 30') and without assessing any updated COI.

### 1.3.2. Interpretation

The law envisages that interpretation is provided to the applicants for making their application, for submitting their case to the competent authorities, for conducting their interview and at stages at first and second instance.<sup>229</sup> In accordance to an amendment of the IPA in May 2020, in case that interpretation in the language of the choice of the applicant is proven to be not possible, interpretation is provided in the official language of the country of origin or in a language that the applicant may reasonably be supposed to understand.<sup>230</sup>

Interpretation is provided both by interpreters of the NGO METAdrasi and EASO's interpreters. The capacity of interpretation services remains challenging. The use of remote interpretation has been observed especially in distant RAO and AAU. Technical deficiencies and constraints should be taken into consideration when assessing the quality of remote interpretation. When it comes to rare languages, if no interpreter is available to conduct a direct interpretation from that language to Greek (or English in cases examined by EASO case workers), more interpreters might be involved in the procedure.

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<sup>226</sup> EASO, 'EASO operations in Greece to expand significantly' 28 January 2020, available at: <https://bit.ly/3cMwXu5>.

<sup>227</sup> Information provided by EASO, 26 February 2021.

<sup>228</sup> AIDA, Report on Greece, update 2019, p. 58-59

<sup>229</sup> Article 77(3) IPA.

<sup>230</sup> Article 69(3) IPA, as amended by L. 4686/2020.

### 1.3.3. Recording and transcript

The IPA envisages audio recording of the personal interview. A detailed report is drafted for every personal interview, which includes the main arguments of the applicant for international protection and all its essential elements. Where the interview is audio recorded, the audio recording accompanies the report. For interviews conducted by video-conference, audio recording is compulsory. Where audio recording is not possible, the report includes a full transcript of the interview and the applicant is invited to certify the accuracy of the content of the report by signing it, with the assistance of the interpreter who also signs it, where present.<sup>231</sup> The applicant may at any time request a copy of the transcript, a copy of the audio file or both.<sup>232</sup>

### 1.3.4. Notification of First Instance Decisions

The IPA further introduced the possibility for first instance decisions not to be communicated in person to the applicant ('fictitious service' *πλασματική επίδοση*) or the first instance decision to be communicated to the applicant by administrative authorities other than the Asylum Service, which both may significantly underestimate the possibility of the applicant to be informed about the issuance of the first instance decision and/or the content of said decision and/or the possibility to lodge an appeal. Consequently deadlines for submitting an appeal against a negative first instance decision may expire without the applicant being actually informed about the decision, for reasons not attributable to him/her. As the Greek Ombudsman has noted with regards the provisions of fictitious service, said provisions effectively limit the access of asylum seekers to legal remedies.<sup>233</sup>

More precisely, according to the IPA, a first instance decision can be communicated:

- in person or;
- with a registered letter sent by the Asylum Service to the applicant or;
- by e-mail to the applicant or;
- by uploading the Decision on an electronic application managed by the Asylum Service or ;
- by communicating the decision to the authorized lawyers, consultants, representatives. To this regards it should be mentioned that According to the IPA, once a lawyer is appointed by the applicant at any stage of the procedure, the lawyer is considered as a representative of the applicant for all stages of the procedures, including the service of the decision regardless of the actual representation of the applicant at the time of the fictitious service, unless the appointment of the lawyer will be revoked by a written declaration of the applicant with an authenticated signature.<sup>234</sup>

In these cases the deadline for lodging the Appeal begins on the next day of the fictitious service, with the exception of the cases that the service of the decision is taking place with electronic means; in that case the deadline begins 48 hours after the dispatch of the electronic message.<sup>235</sup> According to Art. 83(2) IPA, together with the decision, a document in the language that the applicant understands or in language that they may reasonably be supposed to understand is also communicated to the Applicant, where the content of the document is explained in a simple language as well as the consequences of the decision and action he/she may pursue. Alternatively a link to the webpage of the Ministry of Migration and Asylum where relevant information is provided is mentioned to said document.

In cases that the Applicant remains in a Reception and Identification Center or remains detained in a detention facility, the Decision is sent to the Head of the RIC or the Detention facility, who announces the

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<sup>231</sup> Article 77(13)-(15) IPA.

<sup>232</sup> Article 77(13)-(15) IPA. .

<sup>233</sup> Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ (αναδιατύπωση 29.6.13) σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία κ.ά. διατάξεις*, April 2018.

<sup>234</sup> Article 71 (7) IPA.

<sup>235</sup> Article 82(3) IPA, , as amended by L. 4686/2020

receipt of the Decision and the time schedule so that the Applicant presents himself/herself to receive the decision. The deadline for lodging an Appeal begins 3 days after the communication of the Decision to the Head of the RIC or the Detention Facility.<sup>236</sup>

No force majeure reasons should be invoked in order for a decision to be serviced with one of the ways described above. In case that the Applicant cannot be found/contacted with one of the means/ways described above and no lawyer has been appointed, the Decision is served to the Head of the RAO/AAU of the Asylum Service or the head of the RIC or the detention facility, and following this service of the Decision it is considered that the applicant took knowledge of the Decision.<sup>237</sup>

In practice, for applicants on the mainland among these procedures it is mainly the communication of first instance decisions by a registered letter which has been used by the end of the year. However, in these cases no proof of notification is provided to the applicant, with the exception of a handwritten note and the provision of an official document proving the date of the notification can only be provided by post upon the request of the applicant. Moreover, in these cases and as the communication is not made by the Asylum Service, provision for legal aid for the appeals procedure in practice it is to be requested by the electronic application of the Ministry for Migration and Asylum,<sup>238</sup> which significantly hinders access for those not familiar with the use of electronic applications or who do not have access to the required equipment/internet. Moreover, in practice the notification of first instance decisions is also taking place by the Head of the RICs on the islands and Evros and the Head of Pre-removal detention facilities in Athens (Amigdaleza and Tavros). In both cases, inability of the applicants to understand the content of the communicated documents and the procedure they have to follow has been observed.

#### 1.4. Appeal

##### Indicators: Regular Procedure: Appeal

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

<ul style="list-style-type: none"><li>❖ If yes, is it</li><li>❖ If yes, is it suspensive</li></ul>	<table border="0"><tr><td><input checked="" type="checkbox"/> Yes</td><td><input type="checkbox"/> No</td></tr><tr><td><input type="checkbox"/> Judicial</td><td><input checked="" type="checkbox"/> Administrative</td></tr><tr><td><input type="checkbox"/> Yes</td><td><input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No</td></tr></table>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No						
<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative						
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Some grounds <input type="checkbox"/> No						
2. Average processing time for the appeal body to make a decision: Varies

Since the entry into force of the IPA on 1 January 2020, the Independent Appeals Committees are the sole administrative bodies competent for the examination of Appeals lodged against first instance asylum decisions.

#### Establishment and Composition of the Independent Appeals Committees of the Appeals Authority

The legal basis for the establishment of the Appeals Authority was amended several times in recent years and has been further amended by the IPA.<sup>239</sup> More precisely and following an amendment in 2016, the composition of the Appeals Authorities was consisting of the participation of two active Administrative Judges in the new three-member Appeals Committees (*Ανεξάρτητες Αρχές Προσφυγών*) and a third member, holding a university degree in Law, Political or Social Sciences or Humanities with specialisation and experience the fields of international protection, human rights or international or administrative law.<sup>240</sup> According to the amendment introduced by the IPA, the three-member Appeals Committees are

<sup>236</sup> Article 82(4) IPA, as amended by L. 4686/2020.

<sup>237</sup> Article 82(5) IPA, as amended by L. 4686/2020.

<sup>238</sup> See: <https://applications.migration.gov.gr/ypiresies-asylou/>.

<sup>239</sup> More precisely, it was amended twice in 2016 by L 4375/2016 in April 2016 and L 4399/2016 in June 2016, in 2017 by L 4461/2017 and in 2018 by L 4540/2018; see AIDA Report on Greece, update 2019

<sup>240</sup> Art. 5 L. 4375/2016 as amended; the third member is appointed by UNHCR or the National Commissioner for Human Rights if UNHCR is unable to appoint one. If both are unable, the (now) Minister for Migration Policy appoints one.

composed by three active Administrative Judges of First Instance Administrative Courts and Administrative Courts of Appeal. Moreover, a single member/Judge Committee has been introduced.<sup>241</sup>

These amendments have been highly criticized and issues of unconstitutionality have been raised due to the composition of the Committees exclusively by active Administrative Judges *inter alia* by the Union of Administrative Judges,<sup>242</sup> and the Union of Bar Associations.<sup>243</sup> An Application for Annulment with regards *inter alia* the compliance with the Greek Constitution of the single member/Judge Appeals Committee has been filled by GCR before the Council of State in 2020. The hearing of the case is pending by the time of writing

Moreover, and as mentioned above Appeals Committees are composed by active Administrative Judges of both First Instance and Appeal Administrative Courts. However, and following the entry into force of the IPA, the responsibility for judicial review of the second instance decisions issued by the Appeals Committees has been attributed to the First instance Administrative Courts and thus further issues of constitutionality may occur. In October 2020, the Council of State triggered its pilot procedure upon referral of three cases from the Administrative Court of Athens, supported by RSA, with a view to adjudicating on the constitutionality of the competence of Administrative Courts to judicially review decisions of the Appeals Committees, given that decisions of the second instance decisions on asylum applications may be – and often are – taken by Committees composed by higher-court judges (Administrative Judges of the Administrative Courts of Appeal).<sup>244</sup> The hearing before the Council of State took place in February 2021 and the Decision is pending by the time of writing.

### EASO's role at second instance

Since 2017, the law foresees that “in case of a large number of appeals”, the Appeals Committees might be assisted by “rapporteurs” provided by EASO.<sup>245</sup> These rapporteurs have access to the file and are entrusted with the drafting of a detailed and in-depth report, that will contain a record and edit of the facts of the case along with the main claims of the appellant, as well as a matching of said claims (*αντιστοίχιση ισχυρισμών*) with the country of origin information that will be presented before the competent Committee in order to decide.<sup>246</sup> The IPA maintained the same tasks for “rapporteurs” provided by EASO.<sup>247</sup> However, according to the IPA, this is not only foreseen “in case of a large number of appeals”. Article 95(4) IPA stipulates that each member of the Appeals Committee may be assisted by “rapporteurs” provided by EASO. On 31 December 2020, 24 Rapporteurs were assisting the Appeals Committees members pursuant to Art. 95(4) IPA.<sup>248</sup> Since they are seconded to the individual Committees, these Rapporteurs are not supervised or line-managed by EASO.<sup>249</sup>

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<sup>241</sup> Article 116(2) and (7) IPA.

<sup>242</sup> Union of Administrative Judges, *Υπόμνημα Ενόψει της συζήτησης του σχεδίου νόμου του Υπουργείου Προστασίας του Πολίτη «Περί Διεθνούς Προστασίας και άλλες διατάξεις»*, 30 October 2019, available in Greek at: <https://bit.ly/376ZGXW>, para 8.

<sup>243</sup> Union of Bar Associations, *Επιστολή του Προέδρου της Ολομέλειας των Δικηγορικών Συλλόγων προς τον Υπουργό Προστασίας του Πολίτη για το σχέδιο νόμου για τη Διεθνή Προστασία*, 25 October 2019, available in Greek at: <https://bit.ly/32KGSKL>.

<sup>244</sup> Council of State, *Γνωστοποίηση της υπ' αριθ. 19/12-10-2020 πράξης της Επιτροπής του άρθρου 1 παρ. 1 του ν. 3900/2010*, 19 October 2020, available in Greek at: <https://bit.ly/3kUeHSV>; RSA, *The Council of State pilot procedure on judicial review in the asylum procedure*, 1 February 2021, available at: <https://bit.ly/2R8uOTx>.

<sup>245</sup> Article 62(6) L 4375/2016, as inserted by Article 101(2) L 4461/2017.

<sup>246</sup> Article 62(6) L 4375/2016, Article 95(5) IPA.

<sup>247</sup> Article 62(6) L 4375/2016, Article 95(5) IPA.

<sup>248</sup> Information provided by the Appeals Authority, 9 February 2021.

<sup>249</sup> ECRE, *The role of EASO operations in national asylum systems*, November 2019, available at: <https://bit.ly/2VNULrd>, 18

## Number of appeals and recognition rates at second instance

A total of 12,929 appeals were lodged in front of the Independent Appeals Committees in 2020.<sup>250</sup>

Appeals before the Independent Appeals Committees: 2020	
Nationality	Appeals lodged
Pakistan	2,731
Afghanistan	1,757
Albania	1,229
Iraq	1,043
Bangladesh	745
Other	5,424
<b>Total</b>	<b>12,929</b>

Source: Appeals Authority, 2021.

The Independent Appeals Committees took 25,011 decisions in 2020 out of which 17,166 on the merits:

Decisions on the merits by the Independent Appeals Committees: 2020			
Refugee status	Subsidiary protection	Humanitarian protection	Rejection
481	564	370	15,751

Source: Appeals Authority, 2021.

The remaining decisions taken by the Appeals Committees concerned appeals rejected as inadmissible on formal grounds (53 cases) or due to the application of the concept of safe third country or appeals filed after the expiry of the deadline etc.<sup>251</sup>

As it was also the case in the previous years,<sup>252</sup> the recognition rate at second instance remains significant low in 2020. Out of the total in merits decisions, the rejection rate in 2020 is 91.75% (87.9% in 2019), refugee recognition rate is 2.8% (2.9% in 2019), subsidiary recognition rate is 3.28 (2.9% in 2019) and cases referred for permission to stay on humanitarian grounds was 2.15% (5.93% in 2019).

## Time limits for lodging an Appeal before the Appeals Committees

An applicant may lodge an Appeal before the Appeals Committees against a first instance decision of the Asylum Service rejecting the application for international protection.<sup>253</sup>

An applicant may lodge an appeal before the Appeals Committees against the first instance decision of the Asylum Service rejecting the application for international protection as unfounded under the regular procedure, as well as against the part of the decision that grants subsidiary protection for the part rejecting refugee status, within 30 days from the notification of the decision or from the date he or she is presumed to have been notified thereof.<sup>254</sup> In cases where the appeal is submitted while the applicant is in detention, the appeal should be lodged within 20 days from the notification of the decision.<sup>255</sup>

<sup>250</sup> Information provided by the Appeals Authority, 9 February 2021.

<sup>251</sup> Information provided by the Appeals Authority, 2021.

<sup>252</sup> See AIDA Report on Greece, update 2019

<sup>253</sup> Article 92(1) IPA.

<sup>254</sup> Article 92(1)(a) IPA.

<sup>255</sup> Article 92(1)(b) IPA.

## Form of the Appeal

According to Article 93 IPA, the Appeal should *inter alia* be submitted in a written form and mention the “specific grounds” of the Appeal. If these conditions are not fulfilled the Appeal is rejected as inadmissible without an examination on the merits. Said provision has been largely criticized as severely restricting access to the appeal procedure in practice, and seems to be in contradiction with EU law, namely Article 46 of the recast Asylum Procedures Directive and Article 47 of the EU Charter of Fundamental rights. The requisites set by Article 93 IPA, in practice, can only be fulfilled when a lawyer assists the applicant, which is practically impossible in the majority of the cases, considering the gaps in the provision of free legal aid. *Inter alia* and as stated by the UNHCR, “[i]n some circumstances, it would be so difficult to appeal against a rejection that the right to an effective remedy enshrined in international and EU law, would be seriously compromised”.<sup>256</sup> Moreover, as noted “the obligation for the applicant to provide specific reasons instead of simply requesting the *ex nunc* examination of his/her application for international protection, does not seem to be in accordance with the [Asylum Procedural Directive]”.<sup>257</sup> During 2020, the number of the Appeals rejected pursuant to Article 93 IPA remained low (53 Decisions) as the Appeals Committees interpreted broadly said provision and considered as admissibly lodged even Appeals written by the Applicants in his/her native language and without mentioning “specific grounds”.

## Suspensive effect

Appeals before the Appeals Authority had automatic suspensive effect in all procedures under the previous law.<sup>258</sup> The IPA has abolished the automatic suspensive effect for certain appeals,<sup>259</sup> in particular those concerning applications rejected in the accelerated procedure or dismissed as inadmissible under certain grounds. In such cases, the appellant may submit an application before the Appeals Committees, requesting their stay in the country until the second-instance appeal decision is issued. However, considering the significant lack of an adequate system for the provision of free legal aid, it is questionable if such appellants will actually be able to submit the relevant request. Suspensive effect covers the period “during the time limit provided for an appeal and until the notification of the decision on the appeal”.<sup>260</sup>

More precisely according to Article 104 IPA, the appeal does not have an automatic suspensive effect in case of an appeal against a first instance decision rejecting the application as inadmissible:

- i) in case that another EU Member State has granted international protection status;
- ii) in virtue of the first country of asylum concept;
- iii) the application is a subsequent application, where no new elements or findings have been found during the preliminary examination; in case of an appeal against a second subsequent asylum application, and in a number of cases examined under the Accelerated Procedure.

## Procedure before the Appeals Authority

**Written procedure:** According to the IPA, the procedure before the Appeals Committee is as a rule a written one and the examination of the Appeal is based on the elements in the case file.<sup>261</sup> According to the IPA, the Appeals Committees shall invite the appellant to an oral hearing when:<sup>262</sup>

- a) The appeal is lodged against a decision which withdraws the international protection status (see [Cessation](#) and [Withdrawal](#));

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<sup>256</sup> UNHCR, UNHCR urges Greece to strengthen safeguards in draft asylum law, 24 October 2019.

<sup>257</sup> UN High Commissioner for Refugees (UNHCR), UNHCR Comments on the Law on "International Protection and other Provisions" (Greece) , February 2020, available at: <https://bit.ly/31Oh4zm>.

<sup>258</sup> Article 104(1) IPA.

<sup>259</sup> Article 104(2) IPA.

<sup>260</sup> Article 104(1) IPA.

<sup>261</sup> Article 97(1) IPA.

<sup>262</sup> Article 97(3) IPA.



- b) Issues or doubts are raised relating to the completeness of the appellant's interview at first instance;
- c) The appellant has submitted substantial new elements

Under the previous law (L 4375/2016), the appellant could also be invited to an oral hearing if the case presented particular complexity,<sup>263</sup> which is no longer the case.

During 2020, a number of 102 appellants have been invited for an oral hearing before the Appeals Committees.<sup>264</sup>

**Obligation of the Appellant to present in person before the Appeals Committees on the day of the examination:** Despite the fact that the procedure before the Appeals Committees remains written as a rule Articles 97(2) and 78(2) and (3) IPA impose the obligation to the appellant to personally appear before the Appeals Committee on the day of the examination of their appeals on penalty of rejection of their appeal as "manifestly unfounded".<sup>265</sup> This is an obligation imposed on the appellant even if he/she has not been called for an oral hearing.

Alternatively,

- i) an appointed lawyer can appear before the Committee on behalf of the appellant; or
- ii) in case the appellant resides in a RIC or Accommodation Centre, a written certification of the Head of the RIC or the Accommodation Centre can be sent to the Committee prior of the date of the examination, by which it is certified that he/she remains there. Said certification should have been issued no more than 3 days prior of the examination of the appeal; or
- iii) in case that a geographical limitation has been imposed to the appellant or an obligation to reside in a given place of residence, a declaration signed by the appellant and the authenticity of the signature of the appellant is verified by the Police or the Citizens Service Centre (KEP), can be send to Committee, prior of the date of the examination. Said certification should have been issued no more than 3 days prior of the examination of the appeal.

As noted these provisions impose an unnecessary administrative obligation (in-person appearance of the applicant/lawyer as well as transmission of extra certifications) and further introduced a disproportionate "penalty", as the in merits rejection of the Appeals without examination of the substance, raises serious concerns with regard to the effectiveness of the remedy and the principle of non-refoulment. This obligation imposed by the IPA confirms the criticism that the new law on asylum "*puts an excessive burden on asylum seekers and focuses on punitive measures. It introduces tough requirements that an asylum seeker could not reasonably be expected to fulfill*".<sup>266</sup> As UNHCR has noted these provisions "are expected to have a negative impact on applicants' access to the second instance and the proper examination of their appeal, and as such seriously undermine the right to an effective remedy".<sup>267</sup>

During 2020, GCR has documented cases of appellants residing in RICs Facilities on the islands or Accommodation Facilities on the mainland, whose appeal has been rejected as "manifestly unfounded" and without any in merits examination, due to the fact that the required certifications has not been send on time to the Committees by the administration of the facilities.

These include:

- The case of a Syrian pregnant woman, residing in Lesvos RIC, whose appeal has been rejected as manifestly unfounded due to the fact that the certification by the Head of the RIC has been sent on the day of the examination of the Appeal and not the day prior of the examination.

<sup>263</sup> Article 62(1)(d) L 4375/2016.

<sup>264</sup> Information provided by the Appeals Authority, 2021.

<sup>265</sup> Article 97(2) IPA.

<sup>266</sup> UNHCR, UNHCR urges Greece to strengthen safeguards in draft asylum law, 24 October 2019.

<sup>267</sup> UNHCR, UNHCR Comments on the Law on "International Protection and other Provisions" (Greece), *Ibid*.



- The case of an asylum seeker from D.R. Congo, residing in an open accommodation facility on the mainland, whose Appeal has been rejected as manifestly unfounded, due to the fact the certification of residence sent by the Head of the Accommodation facility was not issued within the 3 days period prior of the examination of the Appeal.
- The case of an Afghan asylum seeker, residing in an open accommodation facility in North Greece, whose appeal has been rejected due to the fact no certification of residence has been sent by the facility.

From 1 January 2020 to 31 December 2020, a number of 1,072 Appeals have been rejected as “manifestly unfounded” on the basis of the above mentioned provisions imposing the in person appearance of the appellant or his/her lawyer before the Committee or the communication of a certification to the Committee.<sup>268</sup>

**Examination under a single-member Appeals Committee/three members Appeals Committee:** the IPA provides that appeals are examined under a collegial format by the three members Committee<sup>269</sup> or in a single judge format when it comes to appeals filed after the deadline as well as for certain appeals in the *Accelerated Procedure* and the *Admissibility Procedure*, which should thus be examined by a single-judge.<sup>270</sup> Following an amendment of the Regulation for the functioning of the Appeals Committees, issued in November 2020, the categories of cases examined under a single-judge format has been extended, as all appeals submitted by applicant residing in Lesbos, Samos, Chios, Kos, Leros are examined by a single judge committee irrespectively of the procedure applied.<sup>271</sup>

**Issuance of a Decision:** According to the law, the Appeals Committee must reach a decision on the appeal within 3 months when the regular procedure is applied.<sup>272</sup>

Following the amendment of the IPA in May 2020, the right to remain in the country is terminated once the second instance decision is issued, irrespectively of the time that the decision is communicated.<sup>273</sup> As noted by the UNHCR, “UNHCR is concerned that such amendment would allow for the removal of a person from the territory before a second instance decision is notified to him/her. The parallel notification of a negative appeal decision is also undermining the right to judicial protection [...], as persons whose claims are rejected will not be able to submit an application for annulment or an application for suspension in practice, which could ultimately lead to a violation of the principle of non-refoulement. The deprivation of legal stay before a notification of a negative decision has further premature negative repercussions on the enjoyment of the rights of asylum seekers from which they are to be excluded only following the notification of negative decision (e.g. the right to shelter and cash assistance)”.<sup>274</sup>

**Notification of second instance decision:** Similarly, to the fictitious service at first instance, the IPA also provides the possibility of a fictitious service (*πλασματική επίδοση*) of second instance decisions as described above.<sup>275</sup> Once again, as a result of this provision on the possibility of a “fictitious” service of the second instance decision - which triggers the deadline for lodging an appeal - said deadlines for legal remedies against a negative second instance decision may expire without the applicant being actually informed about the decision. To this regards it should be noted that the IPA has reduced the deadline for lodging a legal remedy before Court against a second instance negative decision from a period of 60 days

<sup>268</sup> Information provided by the Appeals Authority, 2021.

<sup>269</sup> Article 116(2) IPA.

<sup>270</sup> Article 116(2) IPA.

<sup>271</sup> Art. 114, Ministerial Decision 26750, Gov. Gazette B' 4852/4 November 2020.

<sup>272</sup> Article 101(1)(a) IPA.

<sup>273</sup> Article 104(1) IPA, as amended by L. 4686/2020.

<sup>274</sup> UN High Commissioner for Refugees (UNHCR), UNHCR Comments on the Draft Law "Improvement of Migration Legislation, amendment of provisions of Laws 4636/2019 (A' 169), 4375/2016 (A' 51), 4251/2014 (A' 80) and other Provisions", 12 June 2020, available at: <https://bit.ly/3wtPV2V>, p. 9.

<sup>275</sup> Article 82 and 103 IPA, as amended by L. 4686/2020.

to a period 30 days from the notification of the decision (see [Judicial review](#)).<sup>276</sup> As noted by the Greek Ombudsman, already since the initial introduction of the possibility of a fictitious service in 2018, said provisions “effectively limit the access of asylum seekers to judicial protection” and even if “the need to streamline procedures is understandable ... in a state governed by law, it cannot restrict fundamental democratic guarantees, such as judicial protection”.<sup>277</sup>

Persons whose asylum application is rejected at second instance no longer have the status of “asylum seeker”,<sup>278</sup> and thus do not benefit from reception conditions.

#### 1.4.1. Judicial review

As mentioned, the IPA reduced the deadlines for submitting a judicial remedy against a second instance negative decision and additionally the IPA provides that said remedies can be lodged solely before the Administrative Court of Athens and Thessaloniki. More precisely, according to the IPA, applicants for international protection may lodge an application for annulment (*αίτηση ακύρωσης*) of a second instance decision of the Appeals Authority Committees solely before the Administrative Court of First Instance of Athens or Thessaloniki<sup>279</sup> within 30 days from the notification of the decision.<sup>280</sup>

According to the IPA,<sup>281</sup> following the lodging of the application for annulment, an application for suspension/interim order can be filed. The decision on this single application for temporary protection from removal should be issued within 15 days from the lodging of the application.

The effectiveness of these legal remedies is severely undermined by a number of practical and legal obstacles:

- ❖ The application for annulment and application for suspension/interim order can only be filed by a lawyer. In addition, no legal aid is provided in order to challenge a second instance negative decision. The capacity of NGOs to file such application is very limited due to high legal fees. Legal aid may only be requested under the general provisions of Greek law,<sup>282</sup> which are in any event not tailored to asylum seekers and cannot be accessed by them in practice due to a number of obstacles. For example, the request for legal aid is submitted by an application written in Greek; free legal aid is granted only if the legal remedy for which the legal assistance is requested is not considered “manifestly inadmissible” or “manifestly unfounded”.<sup>283</sup> As noted by the UN Working Group on Arbitrary Detention “[i]nadequate legal aid is provided for challenging a second instance negative decision on an asylum application, and the capacity of NGOs to file this application is very limited given the number of persons in need of international protection”.<sup>284</sup>
- ❖ The application for annulment and application for suspension/interim order do not have automatic suspensive effect.<sup>285</sup> Therefore between the application of suspension/interim order and the decision of the court, there is no guarantee that the applicant will not be removed from the territory.

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<sup>276</sup> Article 109 IPA.

<sup>277</sup> Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ (αναδιάρθρωση 29.6.13) σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία κ.ά. διατάξεις*, April 2018.

<sup>278</sup> Article 2(c) IPA.

<sup>279</sup> Article 108 and 115 IPA.

<sup>280</sup> Article 109 IPA.

<sup>281</sup> Article 15(6) L 3068/2002, as amended by Article 115 IPA.

<sup>282</sup> Articles 276 and 276A Code of Administrative Procedure.

<sup>283</sup> *Ibid.*

<sup>284</sup> UN Human Rights Council, Report of the Working Group on Arbitrary Detention, Addendum : Mission to Greece, 29 July 2020, A/HRC/45/16/Add.1, available at: <https://bit.ly/3dL8l0U>, para. 85.

<sup>285</sup> See e.g. ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.

- ❖ The Administrative Court can only examine the legality of the decision and not the merits of the case.
- ❖ The judicial procedure is lengthy. GCR is aware of cases pending for a period of about two years for the issuance of a decision of the Administrative Court of Appeals following an application for annulment.

Moreover, according to Article 108(2) IPA, the Minister on Migration and Asylum, also has the right to lodge an application for annulment against the decisions of the Appeals Committee before the Administrative Court. In 2020, the Minister on Migration and Asylum has lodged one Application for Annulment against a second instance decision of the Appeals Committees. By this decision, the Appeals Committee has ruled that the applicant for whom a decision to discontinue the examination of the asylum application due to implicit withdrawal has been issued, cannot be removed before the nine months period during which she can report again to the competent authority in order to request her case be reopened.

A total number of 1,118 Applications for Annulment before the Administrative Court of Athens and Thessaloniki have been lodged against second instance negative decisions during 2020. By the end of the year a total number of 111 Decisions have been issued on Applications for Annulments, out of which 109 were rejecting the legal remedy and 2 accepted the remedy (1.8%).<sup>286</sup>

To this regard it should be mentioned that since the decision of the Council of State, on 12 October 2020, to initiate a pilot procedure on the constitutionality of the competence of Administrative Courts to judicially review decisions of the Appeals Committees, given that decisions of the second instance decisions on asylum applications may be – and often are – taken by Committees composed by higher-court judges (Administrative Judges of the Administrative Courts of Appeal),<sup>287</sup> the examination of the Applications for Annulment before the First Instance Administrative Courts of Athens and Thessaloniki, has been suspended while waiting the final decision of the Council of State.

#### 1.4.2. Legal assistance

Asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their application.<sup>288</sup>

##### Legal assistance at first instance

No state-funded free legal aid is provided at first instance, nor is there an obligation to provide it in law. A number of non-governmental organisations provide free legal assistance and counselling to asylum seekers at first instance, depending on their availability and presence across the country. The scope of these services remains limited, taking into consideration the number of applicants in Greece and the needs throughout the whole asylum procedure – including registration of the application, first and second instance, judicial review and the complexity of the procedures followed, in particular after the entry into force of the IPA. As noted by the UN Working Group on Arbitrary Detention “[t]he Working Group urges the Government to expand the availability of publicly funded legal aid so that persons seeking international protection have access to legal advice at all stages of the process, from the moment of filing their application until a final determination is made”.<sup>289</sup>

<sup>286</sup> Ministry of Migration and Asylum, Annual Factsheet 2020, available at: <https://bit.ly/3dKWaXx> (in Greek).

<sup>287</sup> Council of State, ‘Γνωστοποίηση της υπ’ αριθ. 19/12-10-2020 πράξης της Επιτροπής του άρθρου 1 παρ. 1 του ν. 3900/2010’, 19 October 2020, available in Greek at: <https://bit.ly/3kUeHSV>; RSA, The Council of State pilot procedure on judicial review in the asylum procedure, 1 February 2021, available at: <https://bit.ly/2R8uOTx>.

<sup>288</sup> Article 71(1) IPA.

<sup>289</sup> UN Human Rights Council, Report of the Working Group on Arbitrary Detention, Addendum : Mission to Greece, 29 July 2020, A/HRC/45/16/Add.1, available at: <https://bit.ly/3dL8l0U>, para. 85.

## Legal assistance at second instance

According to the IPA, free legal assistance shall be provided to applicants in appeal procedures before the Appeals Authority under the terms and conditions set in the Ministerial Decision 3686/2020.<sup>290</sup>

The first Ministerial Decision concerning free legal aid to applicants, was issued in September 2016.<sup>291</sup> However, the state-funded legal aid scheme on the basis of a list managed by the Asylum Service started operating, for the first time, on 21 September 2017.

According to Ministerial Decision 3686/2020, currently in force,<sup>292</sup> regulating the state-funded legal aid scheme, asylum seekers must request legal aid at least:

- ❖ 10 days before the date of examination of the appeal under the regular procedure,
- ❖ 5 days before the date of examination of the appeal under the **Accelerated Procedure** or the application has been rejected as inadmissible,
- ❖ 3 days before the date of examination of the appeal in case the appellant is in RIC or in case of revocation of international protection status.

When Article 90(3) IPA (“fast track border procedure”) applies, the application for legal assistance is submitted at the time of lodging the appeal.<sup>293</sup> The decision also explicitly provides for the possibility of legal assistance through video conferencing in every Regional Asylum Office.<sup>294</sup> The fixed fee of the Registry’s lawyers has been raised from €120 (in 2019) to €160 per appeal.<sup>295</sup>

In practice and given the fact that as described above, first instance decisions may be notified to the applicants with a registered letter or other ways of notification and the fact that access of applicant to RAOs/AAU has been restricted during the year due to COVID-19 preventive measure, requests for legal aid at second instance can be mainly submitted on-line, by filling a relevant electronic form on the electronic application of the Ministry of Migration and Asylum.<sup>296</sup> This may pose additional obstacles to applicants not familiar with the use of electronic applications or who do not have access to the required equipment/internet.

As of 31 December 2019 there were 37 registered lawyers on the list managed by the Asylum Service countrywide.<sup>297</sup> On September 2020, an open call has been published in order the registry of the Asylum Service to be completed. According to the open call a number of 95 lawyers were about to form the Registry of the Asylum Service.<sup>298</sup> More recent data regarding the number of the lawyers present by the end of the year are not available. Moreover, no data are available with regards the number of applicants who received free legal assistance in appeals procedures under the scheme in 2020.

However, as reported and on the basis of cases to the knowledge of GCR , considerable obstacles have been occurred during 2020 in the provision of free legal aid at second instance under the State managed legal aid scheme.

For example these include cases of

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<sup>290</sup> Ministerial Decision 3686/2020, Gov. Gazette 1009/B/24-3-2020. MD 12205/2016 was repealed by MD 3686/2020 according to Article 6(2) MD 3686/2020.

<sup>291</sup> Ministerial Decision 12205/2016, Gov. Gazette 2864/B/9-9-2016.

<sup>292</sup> Ministerial Decision 3686/2020, Gov. Gazette 1009/B/24-3-2020. MD 12205/2016 was repealed by MD 3686/2020 according to Article 6(2) MD 3686/2020.

<sup>293</sup> Article 1(3) MD 3686/2020.

<sup>294</sup> Article 1(7) MD 3686/2020.

<sup>295</sup> Article 3 MD 3686/2020.

<sup>296</sup> See : <https://applications.migration.gov.gr/ypiresies-asylou/>.

<sup>297</sup> Information provided by the Asylum Service, 17 February 2020.

<sup>298</sup> Decision of the Head of the Asylum Service, 25.9.2020.

- Applicants in Thessaloniki who expressively asked for the provision of free legal aid upon notification of the first instance decision in July and August 2020, however no legal aid was provided due to the abstention of the lawyers of the registry.
- Detainee in Xanthi Pre-removal Detention Facility who following the first instance decision on his asylum application in January 2020, requested legal aid for lodging the Appeal, however up until the last day of the deadline for lodging an Appeal no lawyer has been appointed.
- Detainee in Amigdaleza Pre-removal Detention Facility, to whom the first instance decision has been communicated by the Police in November 2020, was never granted legal assistance for lodging an appeal, despite his request.
- Notification of first instance negative decision on the island of Lesbos in January 2021, despite the fact that legal aid was not ensured to applicant willing to submit an appeal.<sup>299</sup>

As reported by the National Commission for Human Rights in September 2020,

*“a basic problem, remaining over the time and which it has not been resolved in practice, despite the corrective actions of the Administration, is the limited capacity of covering all requests of appellants for free legal aid at second instance in line with national and EU law”.*

The National Commission for Human Rights notes as “worrying”, the information received by the registry of lawyers of the Asylum Service regarding

*“an unusual dramatic reduction in the requests submitted for legal aid, after the entry into force of the IPA, as amended by L. 4686/2020. Amendments of the procedure for the notifications of first instance decision (fictitious service to the Head of the RAO/AAU and notification from RICs) and the digitalization of the procedure throughout the platform of the Asylum Service result in the inability of the asylum applicants to request on time free legal aid. Moreover delays occur in the assignments of cases by the RAOs to Registry’s lawyers, resulting in certain cases [...] the assignment of the case to take place after the lodge of the appeal, with an imminent risk the appeal to be rejected as inadmissible”.*<sup>300</sup>

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<sup>299</sup> Diotima et alt., Legal actors express serious concerns regarding the lack of state free legal aid for asylum applicants in Lesbos, 21 January 2021, available at: <https://bit.ly/3rSPllx>.

<sup>300</sup> National Commission for Human Rights, GNCHR Reference Report on the Refugee and Migrant Issue (Part B), September 2020, available at: <https://bit.ly/3wzcNhm> (in Greek), pp. 61-62.

## 2. Dublin

### 2.1. General

#### Dublin statistics: 2020

Outgoing procedure			Incoming procedure		
	Requests	Accepted		Requests	Accepted
<b>Total</b>	<b>7,014</b>	<b>2,465</b>	<b>Total</b>	<b>8,869</b>	<b>284</b>
Germany	2,703	528	Germany	5,831	163
United Kingdom	1,093	538	Croatia	925	9
France	885	67	Sweden	480	36
Switzerland	503	473	Belgium	412	11
Sweden	392	199	Italy	260	4
Italy	202	89	Slovenia	251	-
Belgium	179	90	Ireland	231	20
Finland	174	78	Norway	144	13
Netherlands	173	87	Netherlands	66	11
Austria	162	68	Switzerland	57	6
Spain	92	24	Finland	47	2
Malta	88	41	Malta	27	2

Source: Information provided by the Asylum Service, 31 March 2021

There has been a considerable increase of take-charge requests compared to the previous year. In 2020, Greece addressed 7,014 outgoing requests to other Member States under the Dublin Regulation, of which 1,922 were not sent within the three-month deadline. Out of them, 2,009 requests were rejected by the requested Member states, while 2,385 requests were accepted. Article 22 (7)<sup>301</sup> was enacted in 80 cases, raising the number of the finally accepted take-charge requests to 2,465. Compared to last year, the cases that were accepted were more than those rejected, thus returning to a pattern that had been established from the entry into force of the Dublin III Regulation until the year of 2018. By the end of 2020, the procedure is still pending for 277 cases that have been rejected, but no final decision has been issued.

Outgoing Dublin requests: 2015 - 2020						
Year	2015	2016	2017	2018	2019	2020
Number	1,073	4,886	9,784	5,211	5,459	7,014

Particularities have been observed in the handling of cases, based on the Member State to which an outgoing request is addressed. More specifically, all take charge requests are being made within the three-month deadline provided in the Regulation EU 604/2003, which starts counting from the moment an application for international protection is being officially registered before the Asylum Service.

However, based on the information shared by the Greek Dublin Unit, the German Authorities continue to implement the Mengesteab ruling of CJEU. Consequently, the German Dublin Unit is counting the above-mentioned deadline from the moment the applicant expressed her/ his will to seek international protection before the Police Authorities of the requesting Member State, meaning prior to the official registration of the request for international protection before the Asylum Service. In order to avoid receiving rejection

<sup>301</sup> «Failure to act within the two-month period mentioned in paragraph 1 and the one-month period mentioned in paragraph 6 shall be tantamount to accepting the request, and entail the obligation to take charge of the person, including the obligation to provide for proper arrangements for arrival.»



letters based on this argument, the Greek Dublin Unit is trying to address the relevant take charge requests within the three-month time limit as of the time the will for international protection is expressed. For cases of family reunification requests that the Dublin Unit of Greece was informed three months after the person expressed her/his will to seek for international protection, but within three months from the registration of her/his claim, the Unit proceeds with the take charge request to the German Authorities under the non-discretionary Articles (8, 9, 10), considering the request to be addressed within the time limit set in the Regulation.

Another reason for rejecting a case is the interpretation of the CJEU judgment in the Joined Cases C-47/17 and C-48/17<sup>302</sup> by the Dublin Units of some Member States. According to the information provided by the Greek Dublin Unit, the German Authorities continue to implement this judgment during 2020, by accepting only one re-examination request for each case. In practice, it has been observed that many re-examination requests addressed to the German Dublin Unit remain unanswered for a long period of time, which exceeds the two-week time limit mentioned in the CJEU judgment. The final response usually comes only after a reminder is sent by the Greek Authorities. France, Sweden and the United Kingdom are among the Member States which also follow the interpretation of the CJEU judgment and reject cases on this ground. An extension of deadline is asked in case a DNA procedure is still pending and will not be completed within this timeframe. This request is accepted by almost all Member States, apart from Germany, which might reject a re-examination request on the basis that the results proving the family link were not submitted in due time.

For cases in which no final answer has ever being received and remain pending for a considerable period of time, the Greek Dublin Unit acts internally and refers them to the regular procedure.<sup>303</sup>

The Covid-19 pandemic affected the asylum procedure in general, and the family reunification procedure under the Regulation EU 604/2013 in particular. Access of asylum seekers to many Regional Asylum Offices was not allowed for a period of time, due to the implementation of the measures imposed by the Greek Government, aiming to minimize the spread of the COVID 19 virus. Consequently, registration appointments were cancelled and the submission of family reunification requests did not take place on time.

Apart from the procedure of submitting a reunification request, the nature of the responses received on take charge requests that were addressed throughout the year are also affected by the pandemic. GCR is aware of cases in which holding letters were sent by a number of requested Member States stating that the family reunification request could not be accepted, because the respective authorities were not able to finalize the assessment required within the time frame set in the Regulation, due to the lockdown.

The registration of family reunification requests has also been affected by another key factor, which is the imminent Brexit and the subsequent inability for someone to apply for family reunification under the Dublin Regulation as of the 11.00 pm GMT on 31 December 2020<sup>304</sup>. The Regional Asylum Offices across Greece, in coordination with the Greek Dublin Unit, prioritized the registration of applications and the submission of the relevant take charge request of people who wished to be reunited with family members or relatives residing in the United Kingdom. A great number of such asylum applications were submitted in December of 2020, in an effort for the relevant outgoing requests to be made before the end of the year.

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<sup>302</sup> CJEU, Joined Cases C-47/17 and C-48/17, X v. Staatssecretaris van Veiligheid en Justitie, Request for a preliminary ruling, Judgment of 13 November 2018, available at: <https://bit.ly/2KpcqiA>.

<sup>303</sup> Information provided by the Dublin Unit, 19 February 2021.

<sup>304</sup> Home Office: Overview of family reunion options in the Immigration Rules, Published for Home Office staff on 31 December 2020

### 2.1.1. The application of the Dublin criteria

The majority of outgoing requests continue to take place in the context of family reunification:

Outgoing and incoming Dublin requests by criterion: 2020		
Dublin III Regulation criterion	Outgoing	Incoming
Family provisions: Articles 8-11	2,970	72
Documentation: Articles 12 and 14	2	223
Irregular entry: Article 13	1	2,296
Dependent persons clause: Article 16	37	1
Humanitarian clause: Article 17(2)	3,740	28
“Take back”: Articles 18, 20(5)	264	6,249
<b>Total requests</b>	<b>7,014</b>	<b>8,869</b>

Source: Asylum Service, 31 March 2021

#### **Family unity**

Out of 2,970 outgoing requests based on family reunification provisions in 2020, 1,655 were accepted by other Member States.<sup>305</sup>

In order for a “take charge” request to be addressed to the Member State where a family member or relative resides, the written consent of this relative is required, as well as documents proving her/his legal status in the receiving country (e.g. residence permit, asylum seeker’s card or other documents certifying the submission of an asylum application) and documentation bringing evidence of the family link (e.g. certificate of marriage, civil status, passport, ID). For cases of unaccompanied minors, the written consent of her or his guardian is required. Based on GCR’s experience, an outgoing request will not be sent until the written consent of the relative and the documents proving the legal status in the other Member State have been submitted to the Greek Dublin Unit.

On the contrary, according to information shared by the Greek Dublin Unit, the non-existence of documents proving the family relationship between the applicant and the family member or relative with whom she/he wishes to be reunited, is not a sufficient reason for the request not to be sent. In such cases, the availability of circumstantial evidence is assessed (e.g. photographs of the applicant and the sponsor, statement of the sponsor describing her/his relationship with the applicant, transcript of the sponsor’s interview before the authorities of the requested Member State, in which the details of the applicant are mentioned). These cases, though, have little chances to be accepted<sup>306</sup>. Germany is the only Member State which refuses to undertake responsibility for applicants who cannot prove the relationship with the person they wish to be reunited with, while other states are taking into consideration any circumstantial evidence and might proceed with the conduction of interviews with the family members/ relatives.

Furthermore, according to GCR’s experience, only documents in English seem to be taken into account by the Dublin Units of other Member States, thus making it more difficult for the applicants to provide those. The United Kingdom, Germany, the Netherlands, Spain and Italy are among the EU countries which request for the documents submitted to be translated in English. According to the latest information received by the Greek Dublin Unit, Afghan identification documents and documents provided by other nationals, such as Somali nationals, are not considered by Germany’s BAMF as enough evidence to prove the family link, given that they could be easily forged.<sup>307</sup> Despite the submission of the above-

<sup>305</sup> Information provided by the Ministry of Migration and Asylum, 31 March 2021.

<sup>306</sup> Information provided by the Greek Dublin Unit, 19 February 2021.

<sup>307</sup> *Ibid.*

mentioned documents and circumstantial evidence, the German Authorities tend to reject more and more cases due to lack of DNA test results. Spain and Irish authorities though have taken it a step further, by rejecting every take charge request in which a DNA test result proving the relationship between the persons concerned is not available, regardless of the submission of identification documents. Therefore, the DNA procedure seems to be the only way for a family link to be considered as established by the particular Dublin Units. However, this is not the common practice of other Member States, which consider the conduction of the DNA test to be the last resort.

COVID-19 restrictions imposed throughout the year, have greatly affected the conduct of DNA tests. According to GCR's experience, the procedure of finding Greek laboratories willing to proceed with the collection of the DNA sample, and then coordinate with the laboratory in the requested Member State which would also agree to proceed with the collection of the family member's sample, has been proven to be extremely difficult and time-consuming. The transfer of the kit containing the sample was another impediment that had to be overcome, given the delay on courier transfers.

Subsequent separation of family members which entered the Greek territory together and applied for international protection before the competent authorities, was the subject of the Asylum Service's circular 1/2020 which was implemented throughout the year. According to this circular, requests with which the reunification of family members or / and relatives who were subsequently separated is asked, will not be sent, and the case will be examined with the regular procedure. The same principle will apply for those cases in which a minor child was subsequently separated from its family, and travelled to another member state. The only exception is if the other Member State asks for a take charge request to be made. In any case, an assessment on the particularities of each case always precedes the referral to the regular procedure. Based on GCR's experience, such requests have been accepted by the Swiss authorities, but not by the German ones. Germany has the tendency to reject these requests, arguing that the family was together at the time the application for international protection was lodged (Article 7 par. 2 of the Regulation EU 604/2013), adding that the humanitarian grounds of Article 17 (2) are not present, emphasizing at times, that further consideration of such cases would undermine the meaning of Dublin III Regulation, which is the prevention of secondary migration.

Family relationship is difficult to be established in cases of marriages by proxy. Such reunification requests might be rejected, based on the ground that such marriages are not recognizable by the receiving state's domestic law.

### **Unaccompanied children**

Family reunification requests of unaccompanied minors with family members or/ and relatives present in another EU country have been affected by the delay of the implementation of the guardianship system in Greece. According to the legal framework, the Public Prosecutor is the temporary guardian of all the unaccompanied minors residing in the Greek territory<sup>308</sup>. The Special Secretariat for the Protection of the Unaccompanied Minors (SSPUAM) of the Ministry of Migration & Asylum, in collaboration with the National Center for Social Solidarity (NCSS -EKKA), bears the responsibility to proceed to any necessary action aiming to the appointment of guardian to unaccompanied children<sup>309</sup>. Although the establishment of the Supervisory Board for the Guardianship of Unaccompanied Minors was to be established and be entered into force by March of 2020, the procedure has still not been completed by the end of the year. Temporary guardians have been appointed only for cases of unaccompanied minors who are eligible for the relocation scheme, and are authorized only to proceed with the necessary arrangements of the BIA and the security interviews. As a consequence, the minors' access to legal assistance is limited.

The Best Interest Assessment tool, which was drafted and launched by the Greek Dublin Unit based on previous correspondence with other EU countries and was enhanced after the provision of inputs by

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<sup>308</sup> Law 4554/2018, Chapter C.

<sup>309</sup> Art. 4 IPA (amended by the Law 4686/2020)

international and local organizations and NGOs, is an indispensable element of take-charge requests of unaccompanied minors. In case the assessment cannot be included in the outgoing request, it is forwarded afterwards as a supplementary document. Omission of a best interest assessment, is a factor that has led in rejection of reunification requests of unaccompanied minors by several Member States, such as Switzerland, Sweden, Italy, Germany, French, Malta, Belgium and Germany.<sup>310</sup> The validity of the assessment can be a reason for rejection by other countries, if the professional who has completed and signed the document is not officially appointed by the Public Prosecutor or the unaccompanied child itself<sup>311</sup>.

However, the submission of the best interest assessment does not necessarily lead to the acceptance of a take charge request, since other elements are also taken into consideration by the requested Member States, regardless the fact that no such requirement is provided in Article 8 of the Regulation EU 604/2013. These elements are considered evidence of the relative's ability (or inability) to support the minor applicant. GCR is aware of cases in which house contracts, photos of the place the minor will be accommodated in the relative's house and proof of income have been requested in order to prove the family member's or/ and relative's ability to take care of the applicant. Social workers were also appointed by the authorities of member states, in order to contact the sponsor and the child and assess whether it would be on the child's best interest to be reunited with her/his family member/ relative.

Another factor that is being taken into account while assessing the best interest of the minor, is the existence of a family member/ relative in the requesting Member State. Although the mere existence of this person does not change the legal status of the minor applicant as unaccompanied, requested member states, such as Germany, misinterpret the 'best interest of the minor' by considering him accompanied by her/his distant relative. Based on that argument, they reject family reunification requests of unaccompanied minors and therefore, prevent the child from being reunited with a closer family member<sup>312</sup>. Spain, on the other hand, does not proceed with the examination of take-charge requests of unaccompanied minors that are addressed based on Articles other than Article 8 of the Regulation. According to GCR's knowledge on this issue, an outgoing request of a minor who wished to be reunited with his adult cousin, was not accepted, because, as explicitly mentioned in the rejection letter, the position of the Spain Unit is that all requests concerning minors are to be examined under the criterion of article 8; Article 17.2 in this particular case was not applicable as this is not considered a discretionary case for the Spanish authorities. Thus, the case was rejected, without the information included in the Best Interest Assessment Form being previously taken into account and no exact reason to be provided for the non-acceptance of the application, as required by the provisions of Article 17 (2) of the Regulation EU 604/2013.

The establishment of the family link in cases of unaccompanied minors is another factor that affects the reunification procedure. Applicants are not always able to provide the Authorities with identification documents. Therefore, the only solution remaining in order for the family relationship to be proven, is a DNA test. Throughout 2020, DNA tests were conducted for more than one hundred cases, with the expenses to be approximately €500 per person; an amount which might be difficult to be covered by the person of concern<sup>313</sup>. For some countries, this procedure is considered as mandatory in order for the family link to be established. Spain has decided that the relationship between a minor applicant in Greece, who wishes to be reunited with her/his relative in the requested member state, can only be established after a DNA or blood test<sup>314</sup>. The notion behind this guideline, is that the Spanish Authorities have faced some issues in relation to take charge requests of unaccompanied minors with their relatives, in which

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<sup>310</sup> Information provided by the Greek Dublin Unit, 19 February 2021.

<sup>311</sup> "Tipping the scales": a joint Oxfam and GCR briefing paper, published in February of 2021, available at: <https://bit.ly/3mJHpsd>

<sup>312</sup> Information provided by the Greek Dublin Unit, 19 February 2021.

<sup>313</sup> "Tipping the scales": a joint Oxfam and GCR briefing paper, published in February of 2021, available at: <https://bit.ly/3mJHpsd>

<sup>314</sup> Information provided by the Greek Dublin Unit, 12.3.2021

reasonable doubts were raised regarding the authenticity of the documents that were meant to prove the alleged relationship.

Age assessment is another matter that might affect the outcome and the processing time of a reunification request. EU countries, such as Austria and Scandinavian member states, are questioning the age assessment results and tend to reject outgoing requests made by Greece, because the assessment procedure was not conducted according to the methods followed by the receiving member state<sup>315</sup>.

### 2.1.2. The dependent persons and discretionary clauses

Outgoing take charge requests based on the humanitarian clause of Article 17(2) have almost been doubled compared to the previous year, reaching 3,740 in 2020. At the same time, outgoing requests based on Article 16 are 37 in total; more than 50% decrease compared to 2019. Throughout the year, 683 outgoing requests Article 17(2) have been accepted, while 746 have been rejected. From the take charge requests based on Article 16, 30 have been rejected, while only 11 have been finally accepted<sup>316</sup>.

According to GCR's knowledge, requests are sent under the humanitarian clause, either when Articles 8-11 and 16 are not applicable, or in cases for which the take charge request has been sent after the three-month time-frame, regardless the reason.

As mentioned below in Transfers, Article 17(2) has broadly been used by the Greek Dublin Unit for cases in which the deadline for transfer was not met due to COVID-19 restrictive measures. Based on the information shared by the Greek Dublin Unit, Sweden, Italy, the United Kingdom, Austria, Germany and Norway are among the EU countries for which the submission of a subsequent take charge request based on humanitarian grounds is considered a prerequisite, in order for the procedure to be '*activated*' again. However, each Member State reacts in a different way in such occasions: Sweden asks for the submission of updated written consents and accepts the majority of the requests, while for some others the answer is still pending. The outgoing requests addressed to the United Kingdom and Italy are more '*typical*' and accepted without the submission of new written consents. On the contrary, the German and Austrian authorities are stricter and tend to reject most of these requests, arguing that the humanitarian grounds are not present in these cases<sup>317</sup>.

### 2.1.3. The Relocation Scheme

In March of 2020, the Commission launched a relocation scheme, under which vulnerable people from Greece would be transferred to other EU Member States, aiming to support Greece in its efforts to cope with the critical situation. Unaccompanied children and children with severe medical conditions who are accompanied by their families, are the two categories of persons of concern who could be included in the program<sup>318</sup>. Eleven EU countries are participating in this scheme, among which are France, Germany, Luxembourg, Portugal and Bulgaria. The Commission is implementing this program with the assistance of UNHCR, the International Organization for Migration (IOM) and UNICEF, following the eligibility criteria as set in the relevant SOPs. Homeless children, children living in precarious conditions, such as safe zone areas in camps and minors being previously detained, are considered eligible for the program.

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<sup>315</sup> "Tipping the scales": a joint Oxfam and GCR briefing paper, published in February of 2021, available at: <https://bit.ly/3mJHpsd>

<sup>316</sup> Information provided by the Ministry of Migration and Asylum, 31 March 2021.

<sup>317</sup> Information provided by the Greek Dublin Unit, 19 February 2021.

<sup>318</sup> European Commission: Relocation of unaccompanied children from Greece to Portugal and to Finland – Questions and answers, available at: <https://bit.ly/2OGowty>

The process consists of three phases<sup>319</sup>:

- ❖ Phase 1: the preparatory phase, in which a list of identified unaccompanied minors is drafted and shared by the Special Secretary of Unaccompanied Minors with the Greek Asylum Service and then with EASO.
- ❖ Phase 2: a Best Interest Assessment interview is taking place, during which the eligibility of each minor is assessed. The procedure is led by EASO with the support of UNCHR and the child protection partners. After the completion of the interview, the assessment and any other supportive documentation are submitted to the Greek Authorities and the receiving countries.
- ❖ The third and last phase: the transfer of the person to the Member State which accepted the responsibility for her/him. Prior to this final step, some countries, such as France, hold another interview before the Consulate or Embassy of their country in Greece. This interview is called '*security interview*'.

Although the eligibility criteria might differ based on the Member State, some criteria seem to be unnegotiable. According to GCR's knowledge, an applicant cannot be included to the program in case a family reunification request under the Dublin III Regulation is pending. Furthermore, in case an applicant has been accused or convicted of committing a crime, regardless the severity of it, will be considered ineligible.

By December of 2020, 2,209 asylum seekers and refugees have been relocated from Greece to other EU countries, such as Germany, Finland, Portugal, Belgium, Luxembourg, Ireland, France, Bulgaria and Lithuania. Of these, 573 are unaccompanied children and 1,292 vulnerable families and adults.<sup>320</sup>

## 2.2. Procedure

### Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications? ☒ Yes ☐ No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility?  
Jan – Mar 2020 : 3 to 4 months  
Apr – Dec 2020 : approx. 6 months

The Dublin procedure is handled by the Dublin Unit of the Asylum Service in Athens. Regional Asylum Offices are competent for registering applications and thus potential Dublin cases, as well as for notifying applicants of decisions after the determination of the responsible Member State has been carried out. Regional Asylum Offices are also competent for receiving pending cases' documents and uploading them to an online system of the Asylum Service where the Dublin Unit has access to.

As already mentioned in Determining authority and Regular Procedure, EASO also assists the authorities in the Dublin procedure. According to the 2020 Operational and Technical Assistance Plan agreed by EASO and Greece<sup>321</sup>, EASO provided support to the Asylum Service for processing applications for international protection at first instance in mainland and in the islands, so as to improve, among others, the timely identification of Dublin cases and the quality of the files submitted to the Dublin Unit<sup>322</sup>.

As mentioned in Dublin: General, during 2020, measures for the prevention of Covid-19 spreading were in place for most of the year, resulting in a much more complicated or in some cases hindered access to

<sup>319</sup> UNHCR \_ Explainer: Relocation of unaccompanied children from Greece to other EU countries, available at: <https://bit.ly/2RrhwlN>

<sup>320</sup> UNHCR Greece Factsheet December 2020, available at: <https://bit.ly/3dVLZiX>

<sup>321</sup> EASO and Greece, *2020 Operational & Technical Assistance Plan*, December 2019, available at: <https://bit.ly/3dROld9>

<sup>322</sup> *Idem.* p.14



the Regional Asylum Offices. That meant that applications for international protection were difficult to get lodged (registered) and thus apply for family reunification, which in some cases resulted in exceeding the three-month deadline of Article 21<sup>323</sup>. Also, it was more difficult to submit documents for pending cases and conclude transfers as is mentioned below. In line with Article 21 of the Dublin III Regulation, where an asylum application has been lodged in Greece and the authorities consider that another Member State is responsible for examining the application, Greece must issue a request for that Member State to take charge of the applicant no later than three months after the lodging of the application. However, as noted in [Dublin: General](#), following a change of practice on the part of the German Dublin Unit following the CJEU's ruling in *Mengesteab*, the Greek Dublin Unit strives to send "take charge" requests within three months of the expression of the will to seek international protection, rather than of the lodging of the claim by the Asylum Service, although Greece considers the actual lodging of the application and not the expression of a will to seek asylum as the starting point of this three-month deadline<sup>324</sup>.

Given the severe restrictions posed by other Member States on family reunification, as they were described in The application of the Dublin criteria the Unit consistently prepares for a rejection, and anticipates re-examination requests.<sup>325</sup> Other challenges identified by the Greek Dublin Unit during the reporting period include, among others, delays due to the pandemic (e.g. for conducting a DNA test when deemed necessary), lack of updated contact details with the applicant which results in delays in submitting documents, lack of legal aid for the applicants, DNA – tests' translations and more<sup>326</sup>.

227 days is the overall average time of the duration of the procedure between the lodging of the application and the actual transfer to the responsible Member State<sup>327</sup>. Also, during 2020 a change in statistical practices of the Dublin Unit has been noted, as the publication of monthly statistics of the Unit has stopped since March for it to be substituted by Monthly Reports<sup>328</sup> issued by the Ministry of Migration and Asylum. These Reports include some but not all<sup>329</sup> of the data previously provided by the monthly statistics of the Greek Dublin Unit.

### 2.2.1 Individualised guarantees

The Greek Dublin Unit requests individual guarantees on the reception conditions of the applicant and the asylum procedure to be followed.<sup>330</sup> In any event, in family reunification cases, the applicant is willing to be transferred there and additionally he or she relinquishes his or her right to appeal against the decision rejecting the asylum application as inadmissible

For children's Best Interest Assessment, see more at The application of the Dublin criteria

<sup>323</sup> Information provided by the Greek Dublin Unit, 12.3.2021

<sup>324</sup> Information provided to GCR by the Greek Dublin Unit on 23.02.2021

<sup>325</sup> ECRE, '*The Role of EASO Operations in National Asylum Systems*', 29 November 2019, available at: <https://bit.ly/2x2uzzN>.

<sup>326</sup> Information provided to GCR by the Greek Dublin Unit on 12.03.2021

<sup>327</sup> Information provided by the Asylum Service, 31.3.2020

<sup>328</sup> Indicatively, one can go through the information provided in the Note of August 2020 here <https://bit.ly/3mKS8CE>

<sup>329</sup> Information provided by RSA, 4 January 2021

<sup>330</sup> Information provided by the Dublin Unit, 31 January 2020.

## 2.2.2 Personal interview

### Indicators: Dublin: Personal Interview

☒ Same as regular procedure

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

Under the Dublin procedure, a personal interview is not always required.<sup>331</sup>

In practice, detailed personal Dublin interviews on the merits do not usually take place, when outgoing requests are pending for the transfer of asylum seekers under the family reunification procedure, although questions mostly relating to the Dublin procedure are almost always addressed to the applicant in an interview framework. The applicant identifies the family member with whom he or she desires to reunite and provides all the relevant contact details and documentation.

Questions relating to the Dublin procedure (e.g. on the presence of other family members in other Member States) are always addressed to the applicant during the [Regular Procedure: Personal Interview](#) examining his or her asylum claim. According to GCR's experience, applicants who at this later stage, well after the three-month deadline, express their will to be reunited with a close family member in another EU Member State, are given the chance to apply for family reunification. In several cases handled by GCR, the Dublin Unit strives to send the outgoing request as soon as possible, after the written consent and all necessary documents have been submitted.

Interviews in non-family reunification cases tend to be more detailed when it is ascertained that an asylum seeker, after being fingerprinted, has already applied for asylum in another EU Member State before Greece.

## 2.3. Transfers

During 2020, transfers under Dublin were subject to member states' measures for the prevention of Covid-19 spreading and the relevant air travel restrictions, factors that led to significant delays in concluding them in due time. Transfers' initial planning was being overturned throughout 2020, as there were no transfers between March and July -except for 2 group transfers- and during the second half of 2020 available flights were significantly limited<sup>332</sup>.

More specifically, diminished availability of flights and destinations led to series of problems in handling Dublin transfers. For example, a major obstacle for family members to be reunited in the Nordic countries was the fact that Amsterdam airport announced that it would stop being used as a "transit" airport unless applicants travel with escorts<sup>333</sup>. This makes it difficult to travel to the Nordic countries, where there are no direct flights from October to March - with the exception of Stockholm, which has only one per week. On the latter flight, though, only four (4) people were accepted on board<sup>334</sup>. There have been no flights at all to Austria or Italy since November 2020 and regarding France there were no flights to Lyon or Nantes. A large number of flights of the last trimester of 2020 to Germany were canceled as well.

A second issue is that most, if not all, MS have now set strict time limits for the arrival of the applicants. Most of them require that the flight must have landed by 14:00, so that it is within the working hours of the

<sup>331</sup> Article 5 Dublin III Regulation.

<sup>332</sup> Information provided by the Greek Dublin Unit on 12.03.2021

<sup>333</sup> *Ibid*

*Ibid*. According to the same source, the Greek Dublin Unit has repeatedly suggested charter flights to resolve the issue, but is still not accepted.

intake local unit and recording of the arrival is possible. Upon special arrangement only the UK accepts arrivals until 15:30. However, transfers are only possible to London.

Thirdly, all MS ask for a Covid-19 molecular testing before departure (72 hours before) and some of them ask, additionally, for a rapid test 3 hours prior to departure. Given that applicants should be at the airport at least 2 hours before departure and the aforementioned restrictions in terms of arrival time that often mean that the applicant must take a morning flight of 7.00 am, taking the rapid test is rendered practically impossible. In other cases, the beneficiaries did not even have the opportunity and / or information that they had to take the test. Two (2) cases missed their flight to a MS because of these newly set perquisites. In this regard, the Greek Dublin Unit is trying to find solutions on a case by case basis and enhance cooperation with the Unit of other MS<sup>335</sup>.

Last but not least, the Transfers Department of the Unit employs 9 people that are now overwhelmed with cases and have already a backlog of cases that the Unit is trying to manage<sup>336</sup>. This challenging situation regarding the capacity of the Greek Dublin Unit reflects also on the communication with the beneficiaries of legal aid projects, especially those whose cases are near the six-month deadline for transfer. This situation resulted in a joint complaint addressed, among others, to the Minister of Migration and Asylum and the Director of the Asylum Service signed by 15 NGOs working in Greece in early 2021<sup>337</sup>.

All the above have led to significant delays in concluding the transfer within the six-month deadline of article 29 of the Regulation. As the pandemic is an unforeseen environment drastically influencing the *modus operandi* of the procedure until now, the vast majority of the delays have been handled in cooperation with other MS under a *force majeure* prism, although Dublin Units' practices vary significantly among EU countries. There were several cases where the transfer did not take place within six months due to COVID-19 and the Unit had to resend an outgoing item under Article 17.2., as already mentioned in The dependent persons and discretionary clauses.

Travel costs for transfers were covered by the Asylum Service in 2020, as did in 2019.

A total of **1,923** transfers were completed in 2020 compared to 2,542 transfers in the previous year, resulting at an approximately 25% decrease. In the table below one can see the outgoing Dublin transfers per month in 2020, noting that there were zero (0) transfers in April, the month following the Covid-19 outbreak in Greece, whereas in May, June and August, transfers failed to exceed a double-digit number.

Outgoing Dublin transfers by month: 2020												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
154	165	188	0	73	37	411	80	184	205	219	207	<b>1,923</b>

Source: Asylum Service, 31 March 2021

## 2.4. Incoming Dublin requests and transfers

Contrary to the “take charge requests” that are issued based on one of Dublin Regulation criteria, “take back requests” are issued for applicants who already have an ongoing, abandoned or rejected asylum application in a MS<sup>338</sup>.

During 2020, Greek Dublin Unit received 8,869 incoming requests, with the majority of them (80%) being based on Article 18.1 (b) of the Regulation, followed by Article 13.1. Top 5 nationalities of these requests

<sup>335</sup> *Ibid.*

<sup>336</sup> *Ibid.*

<sup>337</sup> Letter by GCR, which co-signed it (in Greek), 19.03.2021

<sup>338</sup> European Parliamentary Research Service, *Dublin Regulation on international protection applications*, February 2020, available at: <https://bit.ly/2PLN19g>, p.57

were citizens of Syria, Afghanistan, Iraq, Iran and of Palestinian origin<sup>339</sup>. The country that sent the most take back requests was Germany, followed by Croatia, Sweden, Belgium, Italy and more. Of these requests, 284 were accepted and approximately 7,335 were rejected<sup>340</sup>.

Incoming Dublin requests by sending country: 2020			
Country	Total requests	Accepted requests	Refused requests
Germany	5,831	163	4,577
Croatia	925	9	843
Sweden	480	36	504
Belgium	412	11	400
Italy	260	4	250
<b>Total</b>	<b>8,869</b>	<b>284</b>	<b>7,335</b>

Regarding transfers, the Greek Dublin Unit reported to GCR that four (4) took place during the first trimester of 2020, just before the outbreak of the pandemic crisis in Greece.

## 2.5 Appeal

### Indicators: Dublin: Appeal

☐ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☐ Judicial

☒ Yes

☐ No

☒ Administrative

☐ No

According to the IPA, applications for international protection are declared inadmissible where the Dublin Regulation applies.<sup>341</sup> An applicant can lodge an appeal against a first instance decision rejecting an application as inadmissible due to the application of the Dublin Regulation within 15 days.<sup>342</sup> Such an appeal can also be directed against the transfer decision, which is incorporated in the inadmissibility decision.<sup>343</sup>

Contrary to other appeals against inadmissibility decisions, the appeal will have automatic suspensive effect.<sup>344</sup> Appeals against Dublin decisions will be examined by the Appeals Committees in single-judge format.<sup>345</sup>

## 2.6. The situation of Dublin returnees

Transfers of asylum seekers from another Member State to Greece under the Dublin Regulation had been suspended since 2011, following the *M.S.S. v. Belgium & Greece* ruling of the ECtHR and the Joined Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department* ruling of the CJEU.<sup>346</sup>

<sup>339</sup> Information provided by the Greek Dublin Unit on 12.03.2021

<sup>340</sup> Data provided by the Asylum Service, 31.3.2021

<sup>341</sup> Article 84(1)(b) and Article 92(1)(b) IPA.

<sup>342</sup> Article 84(1)(b) and Article 92(1)(b) IPA.

<sup>343</sup> *Ibid.*

<sup>344</sup> Article 104(1) and (2)(a) IPA

<sup>345</sup> Article 116(2) IPA.

<sup>346</sup> ECtHR, *M.S.S. v. Belgium and Greece*, Application No. 30696/09, Judgment of 21 January 2011; CJEU, Joined Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department*, Judgment of 21 December 2011.

Following three Recommendations issued to Greece in the course of 2016,<sup>347</sup> and despite the fact that the Greek asylum and reception system remained under significant pressure, *inter alia* due to the closure of the so-called Balkan corridor and the launch of the EU-Turkey Statement, the European Commission issued a Fourth Recommendation on 8 December 2016 in favour of the resumption of Dublin returns to Greece, starting from 15 March 2017, without retroactive effect and only regarding asylum applicants who have entered Greece from 15 March 2017 onwards or for whom Greece is responsible from 15 March 2017 onwards under other Dublin criteria.<sup>348</sup> Persons belonging to vulnerable groups such as unaccompanied children are to be excluded from Dublin transfers, according to the Recommendation.<sup>349</sup>

The National Commission for Human Rights in a Statement of 19 December 2016, expressed its “grave concern” with regard to the Commission Recommendation and noted that “it should be recalled that all refugee reception and protection mechanisms in Greece are undergoing tremendous pressure... the GNCHR reiterates its established positions, insisting that the only possible and effective solution is the immediate modification of the EU migration policy and in particular of the Dublin system, which was proven to be inconsistent with the current needs and incompatible with the effective protection of human rights as well as the principles of solidarity and burden-sharing among the EU Member-States.”<sup>350</sup>

An interesting court case in Germany of January 2021<sup>351</sup> seems to set the protection threshold to a level that corresponds to the actual situation in Greece. According to this decision returns to Greece are expected to put migrants at serious risk of degrading treatment due to inadequate living conditions for beneficiaries of international protection. The court also noted that the COVID-19 situation and restrictions pose additional hardship for refugees, specifically to access the labour market<sup>352</sup>. This judgment seems to be in line with the case law of both the ECtHR and the CJEU that confirms that it is not necessary to show ‘systemic deficiencies’ for a transfer to be unlawful and that any source of risk is reason enough<sup>353</sup>.

According to the Greek Dublin Unit, in the context of return, some MS (e.g. Germany and the Netherlands) ask for housing guarantees<sup>354</sup>.

Finally, it should be mentioned that, applicants who are subject to the EU-Turkey statement and left the islands, despite the geographical restriction imposed, upon return in Greece from another Member State within the framework of the Dublin Regulation, will be returned to said island, in virtue of a 2016 police

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<sup>347</sup> Commission Recommendation of 10 February 2016, C(2016) 871; Commission Recommendation of 15 June 2016, C(2016) 2805; Commission Recommendation of 28 September 2016, C(2016) 6311.

<sup>348</sup> Commission Recommendation of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) No. 604/2013, C(2016) 8525. For a critique, see Doctors of the World Greece, ‘Επανεξέταση των επιστροφών «Δουβλίνου»’, 14 December 2016, available in Greek at: <http://bit.ly/2gHDKMJ>; Amnesty International, ‘EU pressure on Greece for Dublin returns is “hypocritical”’, 8 December 2016, available at: <http://bit.ly/2kG8Dzf>; Human Rights Watch, ‘EU: Returns to Greece Put Refugees at Risk’, 10 December 2016, available at: <http://bit.ly/2hgVaNi>; ECRE, GCR, Aitima and SolidarityNow, *Letter to the President of the European Commission and the Greek Minister of Migration Policy “Re: Joint Action Plan on EU-Turkey Statement and resumption of Dublin transfers to Greece”*, 15 December 2016, available at: <http://bit.ly/2kGcc8P>; National Commission for Human Rights, ‘Statement in response to the recommendation of the European Commission to reactivate the refugee return mechanism under the Dublin system’, 19 December 2016, available at: <http://bit.ly/2kGi7us>.

<sup>349</sup> Commission Recommendation C(2016) 8525, para 9.

<sup>350</sup> National Commission for Human Rights, ‘Statement in response to the recommendation of the European Commission to reactivate the refugee return mechanism under the Dublin system’, 19 December 2016, available at: <http://bit.ly/2kGi7us>.

<sup>351</sup> High Administrative Courts (Oberverwaltungsgerichte / Verwaltungsgerichtshöfe), Applicant (Eritrea) v Federal Office for Migration and Refugees, 21/01/2021

<sup>352</sup> Full case summary can be found at EASO Case Law Database, available at: <https://bit.ly/2PMoOzG>

<sup>353</sup> European Parliamentary Research Service, *Dublin Regulation on international protection applications*, February 2020, available at: <https://bit.ly/2PLN19g>, p.57

<sup>354</sup> Information provided by the Greek Dublin Unit on 12.03.2021

circular,<sup>355</sup> and their application will be examined under the fast track border procedure, which offers limited guarantees.<sup>356</sup>

### 3. Admissibility procedure

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

Under Article 84 IPA, an application can be considered as inadmissible on the following grounds:

- Another EU Member State has granted international protection status;
- Another EU Member State has accepted responsibility under the Dublin Regulation;
- When the [First Country of Asylum concept](#) is applied;
- When the [Safe Third Country concept](#) is applied;
- The application is a [Subsequent Application](#) and no “new essential elements” have been presented;
- A family member has submitted a separate application to the family application without justification for lodging a separate claim.

Unless otherwise provided, the Asylum Service must decide on the admissibility of an application within 30 days.<sup>357</sup>

The Asylum Service dismissed 9,471 applications as inadmissible in 2020<sup>358</sup>:

Inadmissibility decisions: 2020	
Type of decision	Number
Safe third country	2,812
Dublin cases	N/A
Subsequent application	2,372
Formal reasons	N/A
<b>Total</b>	<b>9,471</b>

#### 3.2 Personal interview

##### Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

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

Principally on Lesbos Island - when the interviews resumed after the fire that out in Moria's Refugee Camp - the interviews were conducted exclusively remotely via teleconference or videoconference. During this 'remote interviews', the applicant and his lawyer were in a room, whereas the case worker and the interpreter are located elsewhere. Concerns have been raised regarding the respect of certain procedural

<sup>355</sup> Police Circular No 1604/16/1195968, available at: <https://bit.ly/3dVQ05t>.

<sup>356</sup> See to this regard: RSA/PRO ASYLI, *Legal Status and Living Conditions of a Syrian asylum-seeker upon his return to Greece under the Dublin Regulation*, December 2019, available at: <https://bit.ly/3fMEfzH>.

<sup>357</sup> Article 83(2) IPA. Different deadlines are provided ie. for subsequent applications; when the safe third country concept is examined under the fast track border procedure, etc

<sup>358</sup> Information provided by the Asylum Service, 31 March 2021



safeguards.<sup>359</sup> Certain interviews were conducted by caseworkers of RAOs of other islands. In these cases, the competency to issue a decision remained to the RAO of Lesbos.

On the island of Kos, between September and mid-October, an informal administrative practice was implemented according to which scheduled appointments for interviews were canceled by servicing a new call for an interview. These interviews were conducted by the caseworkers in Kos, yet the decision were issued by other RAOs, mainly by the RAO of Lesbos.

The conduct of an interview on the admissibility procedure varies depending on the admissibility ground examined. For example, according to Article 89(2) IPA, in force since 1 January 2020 as a rule no interview takes place during the preliminary examination of a subsequent application.<sup>360</sup> The interview is conducted only if the subsequent application for asylum is deemed admissible. In Dublin cases, an interview limited to questions on the travel route, the family members' whereabouts etc. takes place (see section on Dublin).

Personal interviews in cases examined under the "safe third country" concepts focus on the circumstances that the applicants faced in Turkey. More specifically focus is laid on:

- ❖ Whether they have asked for international protection in Turkey and;
- ❖ if not, which reasons have prevented them from doing so;
- ❖ whether they have family and friends in Turkey;
- ❖ how long they remained in Turkey;
- ❖ if they had access to work, housing, education and health care;
- ❖ and in general if Turkey is a safe country for them.

The examination under the safe third country concept in practice takes place in the scope of fast track border procedure and more specifically exclusively for Syrians who fall under the EU Turkey Statement, namely those who have entered Greece via the Greek Aegean islands and a geographical restriction is posed to them. Syrians whose geographical limitation is lifted are channeled to the mainland and are examined under the regular procedure.

The vast majority of Syrians' applications examined under the fast track border procedure are rejected as inadmissible. By exception, certain applications filed by Syrian single women or single mothers, have been deemed admissible by the RAO of Samos and Leros. However, this is not a common practice, since GCR is aware of cases with a similar profile, which have been rejected at first instance as Turkey has been considered as a safe third country for them. For example the RAO of Lesbos has rejected the application of a Syrian single mother with eight children as inadmissible.

From 1 January 2020 onwards, it is possible for the admissibility interview to be carried out by personnel of EASO or, in particularly urgent circumstances, trained personnel of the Hellenic Police or the Armed Forces.<sup>361</sup> Such personnel is not allowed to wear military or law enforcement uniforms during interviews.<sup>362</sup>

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<sup>359</sup> Report of Legal Organizations on the quality of remote asylum interviews at RAO Lesbos and the conditions they are conducted under, which pose a health risk to asylum seekers and employees, December 2020, available at: <https://bit.ly/3v9BHCH>

<sup>360</sup> According to the second limb of Article 59(2), "Exceptionally, the applicant may be invited, according to the provisions of this Part, to a hearing in order to clarify elements of the subsequent application, when the Determining Authority considers this necessary".

<sup>361</sup> Article 77(1) IPA.

<sup>362</sup> Article 77(12)(c) IPA.

### 3.3 Appeal

#### Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?

- ❖ If yes, is it
- ❖ If yes, is it suspensive

☒ Yes      ☐ No  
☐ Judicial      ☒ Administrative  
☐ Yes      ☒ Some grounds      ☐ No

According to the IPA, the deadlines for appealing an inadmissibility decision, the automatic suspensive effect of appeals and the format of the Committee examining them depend on the inadmissibility ground invoked in the first instance decision under the regular procedure.<sup>363</sup>

Time limits and automatic suspensive effect: Appeals against inadmissibility			
Ground	Deadline (days)	Suspensive	Format
Protection in another EU Member State	20	×	Single judge
Dublin	15	✓	Single judge
First country of asylum	20	×	Collegial
Safe third country	20	✓	Collegial
Subsequent application with no new elements	5	×	Single judge
Application by dependant	20	✓	Single judge

The Appeals Committee must decide on the appeal within 20 days, as opposed to 30 days in the regular procedure.<sup>364</sup>

The vast majority of Syrians' appeals examined under the fast track border procedure are rejected as inadmissible. By exception, certain appeals of Syrian single woman have been considered as admissible. In one of the cases, the Appeals Committee considered that despite the existence of a protection system in Turkey, the applicant stayed in Turkey for a particularly short period of time (18 days) without being able to access a support network and did not have the right to live in one of the accommodation centers. Furthermore, the applicant had no contact with the Turkish authorities or other links with the country, such as previous long-term visits or studies. Moreover, the Appeals Committee took into consideration that the appellant is an unmarried woman without a supportive family environment, which would make it particularly difficult for her to obtain social and employment ties in Turkey. Also, it took into account the problems regarding accessing protection and services, as well as the gender discrimination and the living and working conditions for Syrian women prevailing in Turkey. Following the above, the Committee considered that in this case the legally required condition of 'connection' on the basis of which it would be reasonable for the appellant to return to Turkey is not established and, therefore, Turkey could not be considered a safe third country for her. Thus, under said second instance decision the appeal of the Syrian woman has been considered admissible and she was granted with subsidiary protection status.

Similarly, certain appeals of Syrians of Kurdish origin have been considered as admissible in second instance. Also, few appeals of Syrian who used to reside in Syrian areas where Turkey has military activity have been considered admissible due to the fact that the condition of 'connection' could not be fulfilled given the violent military intervention of Turkey in their region of origin. Lastly, GCR is aware of a second instance decision, which considered the appeal of a Syrian who has remained in Turkey for the short

<sup>363</sup> Article 92(1)(b) and (d) IPA as amended by Article 20 L 4686/2020 and 104(2)(a) IPA as amended by Article 26 (2) L 4686/2020 and Article 116(2) IPA. Kindly note that the deadline for appealing against decisions issued under the provision of Article 90 IPA (border procedure) is 10 days. All the appeals filed by residents of Lesbos, Chios, Samos, Leros and Kos are examined by Single Judge Committee [Article 5 (7) L. 4375/2016, as amended by Article 30(2) L4686/2020].

<sup>364</sup> Article 101 (d) L4636/2019, as amended by Article 25 (d) L4686/2020.

period of 15 days as admissible, on the ground that crossing *per se* is not in itself sufficient or significant connection with the country.

### 3.4 Legal assistance

#### Indicators: Admissibility Procedure: Legal Assistance

☒ Same as regular procedure

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

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

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

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

#### Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. Where is the border procedure mostly carried out? ☒ Air border ☐ Land border ☐ Sea border
3. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
4. Is there a maximum time limit for a first instance decision laid down in the law? ☒ Yes ☐ No  
❖ If yes, what is the maximum time limit? 28 days
5. Is the asylum seeker considered to have entered the national territory during the border procedure? ☐ Yes ☒ No

The previous Article 60 L.4375/2016 established two different types of border procedures. The first will be cited here as “normal border procedure” and the second as “fast-track border procedure”. In the second case, many of the rights of asylum seekers are severely restricted, as it will be explained in the section on [Fast-Track Border Procedure](#). This distinction between the “normal border procedure” and the “fast-track border procedure” are still applicable following the entry into force of the IPA on 1 January 2020. However, the IPA has amended several aspects of the border procedure.

More particularly, Article 90 IPA establishes the border procedure, limiting its applicability to admissibility or to the substance of claims processed under an accelerated procedure, whereas under the terms of Article 60(1) L 4375/2016, the merits of any asylum application could be examined at the border.<sup>365</sup>

In the “normal border procedure”, where applications for international protection are submitted in transit zones of ports or airports, asylum seekers enjoy the same rights and guarantees with those whose

<sup>365</sup> Article 90(1) IPA, citing Article 83(9) IPA.

applications are lodged in the mainland.<sup>366</sup> However, deadlines are shorter: asylum seekers have no more than 3 days for interview preparation and consultation of a legal or other counselor to assist them during the procedure and, when an appeal is lodged, its examination can be carried out at the earliest 5 days after its submission.

According to Article 66 IPA, the Asylum Service, in cooperation with the authorities operating in detention facilities and at Greek border entry points and/or civil society organisations, shall ensure the provision of information on the possibility to submit an application for international protection. Interpretation services shall also be provided to the extent that this is necessary for the facilitation of access to the asylum procedure. Organisations and persons providing advice and counselling, shall have effective access, unless there are reasons related to national security, or public order or reasons that are determined by the administrative management of the crossing point concerned and impose the limitation of such access. Such limitations must not result in access being rendered impossible.

Where no decision is taken within 28 days, asylum seekers are allowed entry into the Greek territory for their application to be examined according to the provisions concerning the [Regular Procedure](#).<sup>367</sup> During this 28-day period, applicants remain *de facto* in detention (see [Grounds for Detention](#)).

In practice, the abovementioned procedure is only applied in airport transit zones. In particular to people arriving at **Athens International Airport** – usually through a transit flight – who do not have a valid entry authorisation and apply for asylum at the airport.

With a Police Circular of 18 June 2016 communicated to all police authorities, instructions were provided *inter alia* as to the procedure to be followed when a third-country national remaining in a detention center or a RIC wishes to apply for international protection, which includes persons subject to border procedure.<sup>368</sup>

The number of asylum applications subject to the border procedure at the airport in 2020 is not available.

## 4.2. Personal interview

### Indicators: Border Procedure: Personal Interview

☒ Same as regular procedure

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

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If so, are questions limited to nationality, identity, travel route?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ If so, are interpreters available in practice, for interviews?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

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

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

<sup>366</sup> Articles 47,69, 71 and 75 IPA

<sup>367</sup> Art. 90(2) IPA.

<sup>368</sup> Police Circular No 1604/16/1195968/18-6-2016, available in Greek at: <http://bit.ly/2ngIEj6>.

### 4.3. Appeal

#### Indicators: Border Procedure: Appeal

☐ Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☐ No

☐ Judicial

☒ Administrative

☒ Yes

☐ No

The IPA foresees that the deadline for submitting an appeal against a first instance negative decision is 7 days,<sup>369</sup> compared to 5 days under the previous Article.61(1)(d) of L.4375/2016. While the latter foresaw an automatic suspensive effect for all appeals under the border procedure, this is no longer the case under the IPA. The automatic suspensive effect of appeals depends on the type of negative decision challenged by the applicant (see [Admissibility Procedure: Appeal](#) and [Accelerated Procedure: Appeal](#)). For the case of applications examined under the border procedure, the derogation from automatic suspensive effect of appeals is applicable under the condition that the individual benefits from the necessary assistance of an interpreter, legal assistance and at least one week to prepare the appeal before the Appeals Committee.<sup>370</sup>

In case where the appeal is rejected, the applicant has the right to file an application for annulment before the Administrative Court (see [Regular Procedure: Appeal](#)).

### 4.4. Legal assistance

#### Indicators: Border Procedure: Legal Assistance

☒ Same as regular procedure

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

☐ Yes

☐ With difficulty

☒ No

❖ Does free legal assistance cover:

☐ Representation in interview

☐ Legal advice

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

☐ Yes

☒ With difficulty

☐ No

❖ Does free legal assistance cover

☐ Representation in courts

☒ Legal advice

The law does not contain special provisions regarding free legal assistance in the border procedure. The general provisions and practical limitations regarding legal aid are also applicable here (see section on [Regular Procedure: Legal Assistance](#)).

<sup>369</sup> Article 92(1)(c) IPA.

<sup>370</sup> Article 104(3) IPA.

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

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

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

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
3. Is there a maximum time limit for a first instance decision laid down in the law? ☒ Yes ☐ No  
❖ If yes, what is the maximum time limit? 7 days

Although the fast-track border procedure was initially introduced as an exceptional and temporary procedure, it has become the rule for a significant number of applications lodged in Greece. In 2020, the total number of applications lodged before the RAO of **Lesvos, Samos, Chios, Leros** and **Rhodes** and the AAU of Kos was 21,879, which represents more than half out of a total of 40,559 applications lodged in Greece the same year. During the same year, a total of 20,815 applications has been lodged before RAOs and AAUs that apply the procedure of Article 90 (3) L. 4636/2019, out of which 862 concerned unaccompanied minors.<sup>371</sup>

Under the L 4375/2016, applied until December 2019 [Article 60(4)] a special border procedure had been established, known as a “fast-track” border procedure, visibly connected to the implementation of the EU-Turkey Statement. In particular, the fast-track border procedure as initially foreseen by Article 60(4) L 4375/2016, voted some days after the launch of the EU-Turkey statement, provided an extremely truncated asylum procedure with fewer guarantees.<sup>372</sup>

The impact of the EU-Turkey Statement has been, *inter alia*, a *de facto* dichotomy of the asylum procedures applied in Greece.<sup>373</sup> This is because, the procedure is applied in cases of applicants subject to the EU-Turkey Statement, i.e. applicants who have arrived on the Greek Eastern Aegean islands after 20 March 2016 and have lodged applications before the RAO of **Lesvos, Chios, Samos** and **Leros**, as well as the AAU of **Kos**. On the contrary, applications lodged before the Asylum Unit of **Fylakio** by persons who entered through the Greek-Turkish land border and remaining in the RIC of Fylakio in Evros are not examined under the fast-track border procedure.

#### The fast-track border procedure since the entry into force of the IPA on 1 January 2020

As of January 2020, asylum procedures are regulated by the new law on asylum (IPA), L. 4636/2019, amended in May 2020 by Law 4686/2020. A “fast-track border procedure” is also foreseen by the IPA. However, as opposed to the previous Article 60(4) L. 4375/2016, the IPA does not refer to the fast track border procedure as a procedure applied by way of exception.

More particularly, Article 90(3) IPA foresees that said procedure can be applied for as long as third country nationals who have applied for international protection at the border or at airport / port transit zones or while remaining in Reception and Identification Centres, are regularly accommodated in a spot close to the borders or transit zones. A Joint Ministerial Decision issued on 31 December 2019, foresees the

<sup>371</sup> Information provided by the Asylum Service, 31 March 2021.

<sup>372</sup> GCR, *Παρατηρήσεις επί του νόμου 4375/2016*, 8 April 2016, available in Greek at: <http://bit.ly/1Sa2lmH>.

<sup>373</sup> Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of *M.S.S. v. Belgium & Greece* (Appl. No 30696/09) and related case, 9 May 2019, available at: <https://bit.ly/2XYhHpj>



application of the fast track border procedure under Art. 90 (3) up until 31 December 2020.<sup>374</sup> In practice it is also applicable to those arrived on the Greek Eastern Aegean islands.

### **Main features of the procedure of the fast-track border procedure under the IPA**

The fast-track border procedure under Article 90(3) IPA, in force since January 2020, repeats to a large extent the previous legal framework and provides among others that:

- (a) The registration of asylum applications, the notification of decisions and other procedural documents, as well as the receipt of appeals, may be conducted by staff of the Hellenic Police or the Armed Forces, if police staff is not sufficient.
- (b) The interview of asylum seekers may also be conducted by personnel deployed by EASO. However, Article 90(3) also introduced the possibility, “in particularly urgent circumstances”, the interview to be conducted by trained personnel of the Hellenic Police or the Armed Forces –as long as they have received specific training, as opposed to the strict limitation to registration activities under the previous L. 4375/2016.
- (c) The asylum procedure shall be concluded in a short time period.

This may result –and it often has- in compromising the procedural guarantees provided by the international, European and national legal framework, including the right to be assisted by a lawyer. As these extremely brief time limits undoubtedly affect the procedural guarantees available to asylum seekers subject to an accelerated procedure, as such, there should be an assessment of their conformity with Article 43 of the recast Asylum Procedures Directive, which does not permit restrictions on the procedural rights available in a border procedure for reasons related to large numbers of arrivals.

More precisely, according to Article 90(3)(c) IPA:

- ❖ The Asylum Service shall issue a first instance decision within 7 days;
- ❖ The deadline for submitting an appeal against a negative decision is 10 days
- ❖ The deadline and submission of the appeal does not always have an automatic suspensive result, as provided by Article 104(3) IPA and a separate application for suspension of removal needs to be submitted before the Appeals' Authority, within the deadline for the submission of the appeal;
- ❖ The examination of an appeal shall be carried out within 4 days. The appellant is notified within 1 day to appear for a hearing before the Appeals' Committees or to submit supplementary evidence.
- ❖ The second instance decision shall be issued within 7 days.

It should be noted that these very short time limits seem to be to exclusively at the expense of applicants for international protection in practice. In fact, whereas timelines are, by general principle, not compulsory for the Authorities and case processing at the borders take several months on average, applicants still have to comply with the very short time limits provided by Article 90(3) IPA.<sup>375</sup> In 2020, the average time between the full registration of the asylum application and the issuance of a first instance decision under the same procedure, has been 145 days, i.e. approximately 5 months<sup>376</sup>.

The Greek Asylum Service is under a constant pressure to accelerate the procedures on the islands, which was also one of the reasons invoked for the amendment of national legislation in late 2019. The FRA concerns related with the very limited processing time imposed in the scope of the previous legal

<sup>374</sup> Joint Ministerial Decision for the application of the provisions of par. 3 and 5 of article 90 of IPA, No 1333/30.12.2019, Gov. Gazette 4892/B/31.12.2019.

<sup>375</sup> FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 4 March 2019, available at: <https://bit.ly/2HeRg79>, 26.

<sup>376</sup> Information provided by the Asylum Service, 31 March 2021.

framework and the impact that this could have to the quality of the procedure still remain. More specifically, FRA emphatically underlined that “even with the important assistance the European Asylum Support Office provides, it is difficult to imagine how the processing time of implementing the temporary border procedure under Article 60(4) L.4375/2016 or the regular asylum procedure on the islands can be further accelerated, without undermining the quality of decisions. Putting further pressure on the Greek Asylum Service may undermine the quality of first instance asylum decisions, which in turn would prolong the overall length of procedure, as more work would be shifted to the appeals stage.”<sup>377</sup>

In 2020, the fast-track border procedure has continued being variably implemented depending on the profile and nationality of the asylum seekers concerned (see also [Differential Treatment of Specific Nationalities in the Procedure](#)). Within the framework of that procedure:

- Applications by Syrian asylum seekers have been primarily examined on admissibility on the basis of the [Safe Third Country](#) concept; During 2020, a total of 11,099 first degree decisions were issued concerning Syrian nationals and 5,490 new applications of Syrian nationals were filed. Out of the above, a total of 2,812 inadmissibility decisions were issued, based on the “safe third country” concept, while 2,113 cases were referred to the regular procedure due to vulnerability. In Lesbos, Syrian nationals submitting subsequent asylum applications during 2020 did not undergo a preliminary assessment regarding the admissibility of the subsequent application, but were directly invited for a new interview under the safe third country concept.
- Applications by non-Syrian asylum seekers have been examined only on the merits;

A large number of asylum seekers with specific profiles (i.e. asylum seekers from Palestine, Eritrea, and single women/single-parent families from Afghanistan) have been granted refugee status on the basis of their administrative file, without undergoing an asylum interview. However, this has not been a consistent practice of the Asylum Service throughout the year or even between different Regional Asylum Offices applying the border procedure.

Applications by asylum seekers from countries listed in the National List of countries of origin characterized as safe, according to Article 87 par. 5 of the IPA, have been examined in the merits only to the extent of their claims against the application of the safe country of origin assumption. A total of 518 of such applications has been examined under border procedures during 2020<sup>378</sup>.

It has been highlighted that “the practice of applying different asylum procedures according to the nationalities of the applicants is arbitrary, as it is neither provided by EU nor by domestic law. In addition, it violates the principle of non-discrimination as set out in Article 3 of the Geneva Convention of 28 July 1951 relating to the status of refugees. Instead, it is explicitly based on EASO’s undisclosed internal guidelines, which frame the hotspot asylum procedures in order to implement the EU-Turkey statement.”<sup>379</sup>

### **Exempted categories from the fast-track border procedure under the IPA**

As opposed to the previous legislation, the IPA repeals the exception of persons belonging to vulnerable groups and applicants falling under Dublin Regulation from the fast-track border procedure (see Identification and [Special Procedural Guarantees](#)). Only 5,885 decisions have been issued during 2020 under border procedures, by which applicants have been referred to the regular procedure and transferred

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<sup>377</sup> FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 4 March 2019, 26 “in **Kos**, the average time from the lodging of the application until the first interview with EASO was 41 days while from the date of the interview until the issuance of the recommendation by EASO was 45 days”.

<sup>378</sup> Information provided by the Asylum Service, 31 March 2021.

<sup>379</sup> Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, available at: <https://bit.ly/2sJM2H4>, 17.

to the mainland, due to vulnerability after the issuance of a decision of “lift of geographical restriction” by the Head of the RIS<sup>380</sup>.

Furthermore, a total of 862 unaccompanied minors have been examined under border procedures in 2020<sup>381</sup>. In particular, as far as unaccompanied minors are concerned, Article 75 (7) IPA provides that application filled by minors under the age of 15, as well as minors who are victims of human trafficking, torture, rape or other serious forms of psychological, physical or sexual violence shall be examined under the regular procedure. However, Article 90(4) IPA provides that unaccompanied minors are examined under the fast track border procedure in case that:

- the minor comes for a country designated as a safe country of origin in accordance with the national list (according to article 87 par.5 IPA)
- he/she submits a subsequent application
- he/she is considered a threat to the public order/national security
- there are reasonable grounds that a country can be considered as a safe third country for the minor; and given that it is in line with the best interest of the minor.
- the unaccompanied minor has misled the authorities by submitting false documents or he/she has destroyed or he/she has lost in bad faith his/her identification documents or travel document, under the conditions that he/she or his/her guardian will be given the opportunity to provide sufficient grounds on this.

As already outlined above, the IPA provides for an even faster border procedure than the previous L. 4375/2016, with extremely short deadlines. Although these deadlines have not been met by the authorities, they have created a double-standard procedure: arrivals of 2020 have been prioritized in asylum procedures over arrivals of 2019, creating a big backlog of cases of people who, having arrived before the entry into force of the IPA (1/1/2020), saw their psychosocial and medical screening in the scope of the Reception and Identification Services, as well as their complete asylum registrations and/or their interviews before RAOs being postponed indefinitely and delayed without being given adequate explanations by the authorities, so that the asylum applications of people who arrived in 2020 could be processed more quickly. This resulted in significant procedural delays for people who had arrived in 2019, sometimes for periods of up to four or five months or more.

## 5.2. Personal interview

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

☐ Same as regular procedure

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

❖ If so, are questions limited to nationality, identity, travel route?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
❖ If so, are interpreters available in practice, for interviews?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Are interviews conducted through video conferencing? ☒ Frequently ☐ Rarely ☐ Never

According to Article 65 (1) of the IPA, asylum applicants are already required at the stage of the complete registration of their asylum application before RAOs to be exhaustive about the reasons for fleeing their country of origin; if they fail to mention all reasons during the complete registration, they have no right to develop claims which are only for the first time mentioned during their asylum interview.

According to Article 77 (4) of the IPA, asylum applicants that have been considered vulnerable, may have reasonable time to prepare for their interviews and consult a lawyer, if the interview is scheduled within 15 days from the submission of the asylum application. The preparation time may not exceed three days. If the interview is scheduled within more than 15 days from the submission of the asylum application, no

<sup>380</sup> Information provided by the Asylum Service, 31 March 2021

<sup>381</sup> Information provided by the Asylum Service, 31 March 2021.

reasonable time is granted for their interview preparation. If the interview is postponed, no time is granted again for their interview preparation. Decisions at first instance shall be issued within seven (7) days, according to Article 90(3)(c) of the IPA.

According to Article 90(3)(b) IPA, the personal interview may be conducted by Asylum Service staff or EASO personnel or, “in particularly urgent circumstances”, by trained personnel of the Hellenic Police or the Armed Forces.<sup>382</sup>

As regards EASO, its competence to conduct interviews had already been introduced by an amendment to the law in June 2016, following an initial implementation period of the EU-Turkey Statement marked by uncertainty as to the exact role of EASO officials, as well as the legal remit of their involvement in the asylum procedure. The EASO Special Operating Plans to Greece foresaw a role for EASO in conducting interviews in different asylum procedures, drafting opinions and recommending decisions to the Asylum Service throughout 2017, 2018, 2019 and 2020.<sup>383</sup> A similar role is foreseen in the Operational & Technical Assistance Plan to Greece 2021, including in the Regular procedure.<sup>384</sup>

EASO’s involvement has not been without criticism.

As found by the European Ombudsman in 2018,

*“in light of the Statement of the European Council of 23 April 2015 (Point P), in which the European Council commits to ‘deploy EASO teams in frontline Member States for joint processing of asylum applications, including registration and finger-printing’, EASO is being encouraged politically to act in a way which is, arguably, not in line with its existing statutory role. Article 2(6) of EASO’s founding Regulation (which should be read in the light of Recital 14 thereof, which speaks of “direct or indirect powers”) reads: ‘The Support Office shall have no powers in relation to the taking of decisions by Member States’ asylum authorities on individual applications for international protection’”.*<sup>385</sup>

Furthermore, in 2019 and following a complaint with regards an individual case, the European Ombudsman found that

*“EASO’s failure to address adequately and in a timely way the serious errors committed in [...] case constituted maladministration”.*<sup>386</sup>

During 2020, the content of the personal interview varied depending on the asylum seeker’s nationality. Interviews of Syrians mostly focused only on admissibility under the [Safe Third Country](#) concept and were mainly limited to questions regarding their stay in Turkey. Non-Syrian applicants were in most cases examined on the merits, in interviews which could also be conducted by EASO caseworkers.

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<sup>382</sup> Article 90(3)(b) IPA.

<sup>383</sup> EASO, *Special Operating Plan to Greece 2017*, December 2016, available at: <http://bit.ly/2h1M2dF>, p. 9; EASO, *Operating Plan to Greece 2018*, December 2017, available at: <http://bit.ly/2BO6EAo>, p. 13-14, EASO, *Operating Plan to Greece 2019*, 19 December 2018, available at: <https://bit.ly/2W6vJB2>, p. 14-15, EASO, *Operational & Technical Assistance Plan to Greece*, 20 December 2019, available at: <https://bit.ly/2VUAj6P>, p. 14.

<sup>384</sup> EASO, *Operational & Technical Assistance Plan to Greece*, 20 December 2019, available at: <https://bit.ly/2VUAj6P>, p. 14.

<sup>385</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office’s (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, 5 July 2018, available at: <https://bit.ly/2XVUfXq>, para 33.

<sup>386</sup> European Ombudsman, *Decision in case 1139/2018/MDC on the conduct of experts in interviews with asylum seekers organised by the European Asylum Support Office*, 30 September 2019, available at: <https://bit.ly/3azSi7Y>, para. 18

In practice, in cases where the interview is conducted by an EASO caseworker, they provide an opinion / recommendation (πρόταση / εισήγηση) on the case to the Asylum Service, that remains the competent authority for the issuance of the decision. The transcript of the interview and the opinion / recommendation may be written either in Greek, or in English, which is not, however, the official language of the country.<sup>387</sup> The issuance of an opinion / recommendation by EASO personnel to the Asylum Service is not foreseen by any provision in national law and thus lacks legal basis.<sup>388</sup> Finally, a caseworker of the Asylum Service, without having had any direct contact with the applicant e.g. to ask further questions, issues the decision based on the interview transcript and recommendation provided by EASO.<sup>389</sup>

Under the amendment of the IPA in May 2020 (L 4686/2020), it is expressly foreseen that communication with asylum applicants (including interviews) may be conducted in the official language of their country of origin, if their native language is rare and it has been proven manifestly impossible for the Authorities to provide interpretation in that language. A refusal of the applicants to undergo procedures in the official language of their countries of origin, rather than their native languages, may be considered as a violation of their obligation to cooperate with the Authorities and lead to the rejection of their application.

In February 2020, in at least 3 cases known to GCR, the Asylum Service on **Lesvos** (Lesvos RAO) rejected the applications for international protection as manifestly unfounded on the grounds of non-cooperation with the competent authority, as they had to undergo an interview in the official language of their country of origin and not in their native language and consequently communication was not possible during the interview. This is for example the case of a Senegalese applicant, member of the Wolof ethnic group, who had to undergo his asylum interview in French. The interview lasted for five minutes and at the end of the transcript of the interview the caseworker notes: “The procedure is interrupted due to the inability of the applicant to understand the declared language for conducting the interview”.<sup>390</sup> Despite this and in accordance with the provisions of the IPA, the application has been rejected as manifestly unfounded,<sup>391</sup> without offering the applicant the possibility to undergo an interview in a language that he understands or that he is able to communicate clearly.

With regard to the possibility of personnel of Hellenic Police or Armed Forces to conduct personal interviews, Amnesty international has underlined that the application of such provision “would be a serious backward step that will compromise the impartiality of the asylum procedure”.<sup>392</sup>

Principally on Lesvos island, when the interviews resumed after the fire that broke out on Moria’s Refugee Camp, the interviews were conducted exclusively remotely via teleconference or videoconference. During this so called ‘remote interviews’, the applicant and his lawyer were in a room, whereas the case worker and the interpreter are located elsewhere. Concerns have been raised regarding the respect of certain procedural safeguards by the way these interviews have been conducted in practice.<sup>393</sup> Lawyers

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<sup>387</sup> This issue, among others, was brought before the Council of State, which ruled in September 2017 that the issuance of EASO opinions / recommendations in English rather than Greek does not amount to a procedural irregularity, insofar as it is justified by the delegation of duties to EASO under Greek law and does not result in adversely affecting the assessment of the applicant’s statements in the interview. The Council of State noted that Appeals Committees are required to have good command of English according to Article 5(3) L 4375/2016: Council of State, Decisions 2347/2017 and 2348/2017, 22 September 2017, para 33.

<sup>388</sup> Article 60(4)(b) L 4375/2016 and 90(3)(b) only refer to the conduct of interviews by EASO staff; Information provided by the Asylum Service, 17 February 2020.

<sup>389</sup> AIRE Centre, et al., *Third party intervention in J.B. v. Greece*, 4 October 2017, available at: <http://bit.ly/2qSRxoU>, 10-11.

<sup>390</sup> Efsyn.gr, Απόρριψη ασύλου σε 5 λεπτά και με 7 λέξεις, 10 February 2020, available at: <https://bit.ly/2yuk7Bn>.

<sup>391</sup> Article 78(9) and 88(2) IPA.

<sup>392</sup> Amnesty International, Submission on the Human Rights implications on the Government proposal to change the Greek Law on international protection, reception and returns, 24 October 2019, available at: <https://bit.ly/2XYyY1D>.

<sup>393</sup> Report of Legal Organizations on the quality of remote asylum interviews at RAO Lesvos and the conditions they are conducted under, which pose a health risk to asylum seekers and employees, December 2020, available at: <https://bit.ly/3ayNNxw>



accompanying applicants have identified several issues related to the quality and confidentiality of interviews, including the following:<sup>394</sup>

- Due to limitations in technical infrastructure and the lack of sound isolation in the interview rooms used in Pagani, the voice of the interpreter could simultaneously be heard throughout the interview from the computer speakers and from the next room, where they were physically present. This created echoes and posed severe problems in terms of ability of the parties to communicate clearly;
- Given the aforementioned lack of sound isolation and technical difficulties, conversations from one interview could be heard by parties involved in a different interview.
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Additionally, certain interviews were even conducted by case workers of RAOs of other islands. In these cases, the competency to issue a decision remained to the RAO of Lesbos. On the island of Kos, between September and mid- October, an informal administrative practice was implemented according to which scheduled appointments for interviews were canceled by servicing a new call for an interview. These interviews were conducted by the case workers in Kos, yet the decision were issued by other RAOs, mainly by the RAO of Lesbos.

Moreover, in a number of cases, decisions have been issued by the AAU of Nikaia - operating supportively to the RAOs of islands, while the interviews have been conducted by the case workers on the islands.

### Quality of interviews

The quality of interviews conducted by EASO and RAO caseworkers has been highly criticized and its compatibility even with EASO standards has been questioned. *Inter alia*, quality gaps such as lack of knowledge about countries of origin, lack of cultural sensitivity, questions based on a predefined list, closed and leading questions, repetitive questions, frequent interruptions and unnecessarily exhaustive interviews and conduct preventing lawyers from asking questions at the end of the interview have been reported.<sup>395</sup>

In 2018, following the ECCHR complaint, the European Ombudsman found that “there are genuine concerns about the quality of the admissibility interviews as well as about the procedural fairness of how they are conducted”.<sup>396</sup> In the same year, a comparative analysis of 40 cases of Syrian applicants whose claims were examined under the fast-track border procedure further corroborated the use of “inappropriate communication methods and unsuitable questions related to past experience of harm and/or persecution” which include closed questions impeding a proper follow-up, no opportunity to explain the case in the applicant’s own words, failure to consider factors that are likely to distort the applicant’s ability to express him- or herself properly (such as mental health issues or prior trauma), lack of clarification with regard to vague or ambiguous concepts mentioned by the interviewer, potential inconsistencies or misunderstandings regarding critical aspects of the case that could lead to confusion and/or the inability of the applicant to express him- or herself effectively, and more generally, violations of the right to be heard.”<sup>397</sup>

In a 2019 comparative analysis, it has been noted that in a number of cases EASO opinions often rely on outdated sources both with regard to the examination of the safe third country concept vis-a-vis Turkey

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<sup>394</sup> RSA, ‘The conduct of (remote) asylum interviews on Lesbos’, 8 December 2020, available at: <https://bit.ly/2WUY2VB>.

<sup>395</sup> See AIDA, Country Report Greece, 2017 Update, March 2018, 71-72.

<sup>396</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office’s (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, 5 July 2018, available at: <https://bit.ly/2XVUfXq>, para 46.

<sup>397</sup> Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, 19.



and the examination of the merits of the applications. Moreover, failures as of the legal analysis in the EASO opinions have been identified.<sup>398</sup>

In 2019, following a complaint submitted before the European Ombudsman, EASO mentioned that in the context of quality feedback report, it had thoroughly examined the complainant's case and stated that "EASO considered that the quality feedback report showed that the interviewer pursued a line of questioning that was inappropriate for the case, and displayed a misunderstanding of the complainant's situation. Consequently, the case officer had "made a severe error of judgment when dealing with [that] case", and this should not have been approved by his manager. EASO also acknowledged that there were problems with the work of the interpreter". As found by the European Ombudsman, the "EASO's failure to address adequately and in a timely way the serious errors committed in Mr [...]’s case constituted maladministration".<sup>399</sup>

In 2020, concerns about the quality of the interviews as well as about the procedural fairness of how they are conducted continued to raise. Specifically, concerns have been raised about the use of inappropriate communication methods and unsuitable questions related to past experience of harm and/or persecution which include closed questions impeding a proper follow-up, no opportunity to explain the case in the applicant's own words, failure to consider factors that are likely to distort the applicant's ability to express him- or herself properly (such as mental health issues or prior trauma and/or illiteracy), lack of clarification with regard to vague or ambiguous concepts mentioned by the interviewer, potential inconsistencies or misunderstandings regarding critical aspects of the case that could lead to confusion and/or the inability of the applicant to express him- or herself effectively, and more generally, violations of the right to be heard. Moreover, concerns have been raised regarding the use of inappropriate methods and questions unsuitable for applicants' age, in cases of alleged minors, and more generally, violations of the right to a child-friendly environment and procedure.

In 2020, it has been noted that, in a number of cases, EASO opinions and decisions continued to rely primarily on outdated sources, especially with regard to the examination of the safe third country concept vis-a-vis Turkey. Additionally, in a number of cases, an absence of country-of-origin information with regard to the examination of the merits of the applications has been noted (such as absence of sources regarding gender-based violence, honor crimes, persecution of rare ethnic origin groups in the country of origin).

Regarding, more specifically, asylum procedures in the RAO Lesvos, it has to be noted that they were significantly altered after the fire that completely destroyed the RIC Moria in September 2020, including the facilities in which most services of the RAO Lesvos operated. The operations of RAO Lesvos were transferred to its premises in Pagani, where previously only asylum interviews were being conducted, and remained closed to the public. As a result, all procedures on Lesvos island were suspended, including registrations of asylum applications, asylum interviews, notification of decisions and submission of appeals. Despite multiple interventions by the Legal Subworking Group of Lesvos, as well as the Greek Ombudsman, no legislative or administrative acts were issued in order to officially regulate this unprecedented condition. Procedures were interrupted and recommenced as by internal guidelines of the RAO Lesvos, without any legislative provisions. This has been severely criticized for lacking transparency and violating the principles of legality, legitimate expectations and sound administration. Asylum interviews started again being conducted in November 2020, exclusively through videoconference or teleconference, without physical presence of the caseworker or the interpreter. Concerns were raised regarding the poor conditions in which they were being conducted (lack of timely notification, poor connection with the caseworker and/or the interpreter, interview rooms not properly soundproofed, resulting in troubles in communication as well as a breach of the interview confidentiality).

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<sup>398</sup> ECRE, *the role of EASO operations in national asylum systems*, November 2019, 24.

<sup>399</sup> European Ombudsman, *Decision in case 1139/2018/MDC on the conduct of experts in interviews with asylum seekers organised by the European Asylum Support Office*, 30 September 2019, available at: <https://bit.ly/2yEqUs6>, para. 18

Finally, it has been noted that the facilities and the environment in which the interviews have been conducted were unsuitable and insufficient; parallel interviews have been conducted in the same container, with disruptive noise as a result, applicants' inability to concentrate and climate of intensity and anxiety between the applicants and the interviewer. More specifically, interview rooms are not fitted with adequate sound insulation and as a result the principle of confidentiality, which should govern the asylum procedure, is not guaranteed, in violation of national and European legislation; similarly concerns apply in regards to the protection of the data of applicants for international protection whose interviews are conducted remotely through a questionable platform. It is clear that these conditions have a detrimental effect on the quality of the process. In addition, significant technical difficulties, such as poor sound quality and poor connectivity, have led to the frequent interruption of interviews, prolonging their duration. As a result, asylum seekers have been forced to recount / relive their traumatic experiences multiple times and have been often left without water or food until late at night, as no relevant provisions have been made.

### 5.3. Appeal

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

☐ Same as regular procedure

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

- ❖ If yes, is it
- ❖ If yes, is it suspensive

☒ Yes ☐ No  
☐ Judicial ☒ Administrative  
☐ Yes ☒ Some grounds ☐ No

#### Changes in the Appeals Committees

The legal basis for the establishment of the Appeals Authority was amended twice in 2016 by L 4375/2016 in April 2016 and L 4399/2016 in June 2016, and then in 2017 by L 4661/2017 (see [Regular Procedure: Appeal](#)). These amendments were closely linked with the examination of appeals under the fast-track border procedure, following reported pressure on the Greek authorities from the EU on the implementation of the EU-Turkey Statement,<sup>400</sup> and “coincided with the issuance of positive decisions of the – at that time operational – Appeals Committees (with regard to their judgment on the admissibility) which, under individualised appeals examination, decided that Turkey is not a safe third country for the appellants in question”,<sup>401</sup> as highlighted by the National Commission on Human Rights.

Further amendments to the procedure before the Appeals Committees that had been introduced by L 4540/2018 which echo the 2016 Joint Action Plan on Implementation of the EU-Turkey Statement,<sup>402</sup> and were visibly connected with pressure to limit the appeal steps and the procedure to be accelerated. This includes the possibility to replace judicial members of the Appeals Committee in the event of “significant and unjustified delays in the processing of appeals” by a Joint Ministerial Decision, following approval from the General Commissioner of the Administrative Courts.<sup>403</sup>

As noted in the Regular procedure, following the 2019 Reform the composition of the Appeals Committees has been re-amended. According to Article 116 IPA, the Appeals Committees shall consist of three judges and it is envisaged that the Independent Appeal Committees may operate in a single or three-member composition.

<sup>400</sup> See e.g. NCHR, ‘Δημόσια Δήλωση για την τροπολογία που αλλάζει τη σύνθεση των Ανεξάρτητων Επιτροπών Προσφυγών’, 17 June 2016, available in Greek at: <http://bit.ly/2k1Buhz>.

<sup>401</sup> NCHR, ‘Public Statement regarding the amendment of the composition of the Independence Appeals Committees’, 17 June 2016, available at: <http://bit.ly/2k1Buhz>. Unofficial translation by the author.

<sup>402</sup> European Commission, *Joint Action Plan on Implementation of the EU-Turkey Statement*, 8 December 2016, available at: <https://bit.ly/2JwpFQS>.

<sup>403</sup> Article 5(4) L 4375/2016, as amended by Article 28(3) L 4540/2018.

## Rules and time limits for appeal

Similarly to the first instance fast-track border procedure, truncated time limits are also foreseen in the appeal stage, although a few improvements have been made following the introduction of the IPA. Whereas according to the previous Article 60(4) L 4375/2016, appeals against decisions taken in the fast-track border procedure had to be submitted before the Appeals Authority within 5 days,<sup>404</sup> contrary to 30 days in the regular procedure, the deadline for appealing a negative decision is now 10 days.<sup>405</sup>

As far as the appeal procedure is concerned, apart from the concerns related to the admissibility of appeals in general (see Regular Procedure) it shall be noted that it is practically impossible for the applicants to submit an appeal on their own –without legal aid– as they could so before the implementation of the IPA. Specifically, Article 93 of the IPA requires, for the appeal to be admissible, *inter alia*, reference and development of specified reasons for the appeal. At the same time, the negative decisions are served on the applicants in Greek, so it is impossible for them to read and be aware of the basis on which their asylum application has been rejected. It is evident that without legal aid applicants cannot adequately articulate the legal and factual grounds on which their appeals are based, particularly taking into consideration the requirement that such appeals be submitted in writing in Greek language.

In practice, Regional Asylum Offices have been receiving hand-written appeals by asylum seekers themselves – written in their own language, some of which have been considered admissible by the Appeals Committee.

Moreover, in a number of cases, due to the non-provision of state free legal aid, “typical appeals”, provided by legal aid NGOs, have been submitted by applicants, asking for a postponement of the appeal process until their access to free legal aid has been ensured, stating in parallel the unavailability of limited NGO legal actors to undertake those applicants’ cases. The results regarding the admissibility of these “typical appeals” before the Appeals Committee have been varied by case and by responsible for the examination of the appeal each time Appeals Committee.

The provisions of the IPA relating to the fictitious service (*πλασματική επίδοση*) of first instance decisions are also applicable to the fast track border procedure and thus the deadline for lodging an appeal against a first instance negative decision may expire without the applicant having been actually informed about the decision.<sup>406</sup>

## Suspensive effect

Since the entry into force of the IPA, the appeals before the Appeals Committees no longer have automatic suspensive effect as a general rule. The automatic suspensive effect of appeals depends on the type of decision challenged by the applicant (see [Admissibility Procedure: Appeal](#) and [Accelerated Procedure: Appeal](#)). With regard to applications rejected at first instance within the framework of the fast-track border procedure, the IPA states, that a derogation from automatic suspensive effect of appeals can only be ordered provided that the individual benefits from the necessary assistance of an interpreter, legal assistance and at least one week to prepare and file a relevant application before the Appeals Committee reasoning why he/she shall be granted with the right to remain in the Greek territory.<sup>407</sup>

The Appeals Committee examining the appeal must take a decision within 7 days,<sup>408</sup> contrary to 3 months in the regular procedure.<sup>409</sup> In practice this very short deadline is difficult to be met by the Appeals Committees.

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<sup>404</sup> Article 61(1)(d) L 4375/2016.

<sup>405</sup> Article 90(3)(c) IPA.

<sup>406</sup> Article 82 and 103 IPA.

<sup>407</sup> Article 104(3) IPA.

<sup>408</sup> Article 90(3)(c) IPA.

<sup>409</sup> Article 101(1)(a) IPA.

As a rule, the procedure before the Appeals Committees must be written, based on the examination of the dossier. It is the duty of the Appeals Committee to request an oral hearing when the same conditions as in the regular procedure are met.<sup>410</sup>

Moreover, according to Article 97(2) on the date of examination of the appeal, the applicant or an authorized lawyer must present themselves before the Appeals Authority which are located in Athens. However, this obligation does not apply to those who reside in Reception/Accommodation Centers or those that reside in areas other than Athens under a geographical restriction. More specifically, under Article 78(3) L. 4636/2019 as laid down before the amendment, in case an appellant resided in an accommodation center and he could not be represented by a lawyer or other authorized person/consultant, a written certification of the Head of the Reception/Accommodation Centre by which it is certified that he/she resides/remains there, should be sent to the Appeals Committee at least one day before the examination of his/her appeal. Similarly, those against whom a geographical restriction has been imposed should send to the Appeal Committees a declaration of their presence to the area of restriction certified by the Police or a Citizens' Service Centre (ΚΕΠ). The said declaration should be sent at least one day before the examination of the appeal. According to the same article, in case the above mentioned certificates and declarations were not received by the Appeal Committees timely, appeals shall be rejected as "manifestly unfounded", without any examination of the substance. It shall be noted that certain practical constraints, often hindered appellants for granting such a certification/declaration. Based on this provision, the Appeals Committees have rejected appeals, due to the submission of the aforementioned certifications not until the preceding day before the examinations of the appeals.

Following the amendment of Article 78 IPA (by virtue of Article 11 L. 4686/2020), the obligation to present oneself before the Appeal Committees remains waived for the appellants who are either under geographical restriction or reside in a Reception/Accommodation facility. In case these cannot be represented by a lawyer or other authorized person/consultant, a certificate shall be submitted before the Appeal Authority. More specifically, for the appellants who reside in a Reception/Accommodation facility a residence certificate shall be issued by the Director of the Reception/Accommodation facility, upon application that should not be filed earlier than 3 days before the date of examination of the appeal. This certificate certifies that the appellant resided in the facility at the day the application for the certificate has been filed. Appellants, against whom a geographical restriction is imposed must submit by the day before the examination of their appeal a certificate issued by the Police or a Citizens' Service Centre located at the area of restriction, certifying that they presented themselves before said authorities. The application for such a certificate must not be filed longer than 2 days before the date of examination of the appeal.

However, it has been noted that for a considerable period following the above amendment, the information provided to the appellants by the RAOs regarding the issuance and submission of the aforementioned residence certificates before the Appeals Authority have not been accurate; indeed, the written information provided within the 'Document – Proof of Submission of the Appeal' explicitly stated the appellants' are obliged to submit a residence certificate before Appeals Authority until the day before the examination of their appeal. No mention was made for their obligation to apply for said certificate no earlier than 3 days before the date of examination of the appeal. As a result, in several cases, appellants had submitted outdated residence certificates before the Appeals Authority, and, subsequently, in some of these cases, appeals were rejected by Appeals Committee (with no examination either of the admissibility or the merits of asylum applications) on the grounds of the submission of an out-of-date residence certificate by the Head of RIC. Such cases have been introduced by GCR before the Greek administrative courts and are pending for examination.

Similarly to the concerns raised under the Regular procedure as regards the severity of these new procedural requirements, serious concerns with regard to the effectiveness of the remedy and the risk of

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<sup>410</sup> Article 97 IPA.

a violation of the principle of non-refoulement are thus also applicable to appeals in the context of fast-track border procedures.

As regards appeals against first instance inadmissibility decisions issued to Syrian asylum seekers based on the “safe third country” concept in the fast-track border procedure, it should be highlighted that in 2016, the overwhelming majority of second instance decisions by the Backlog Appeals Committees overturned the first instance inadmissibility decisions based on the safe third country concept. The Special Rapporteur on the human rights of migrants “commended the independence of the Committee, which, in the absence of sufficient guarantees, refused to accept the blanket statement that Turkey is a safe third country for all migrants — despite enormous pressure from the European Commission.”<sup>411</sup>

Conversely, following the amendment of the composition of the Appeals Committees, 98.2% of decisions issued by the Independent Appeals Committees in 2017 upheld the first instance inadmissibility decisions on the basis of the safe third country concept.

In 2018, the Appeals Committees issued 78 decisions dismissing applications by Syrian nationals as inadmissible based on the safe third country concept. As far as GCR is aware, there have been only two cases of Syrian families of Kurdish origin, originating from Afrin area, in which the Appeals Committee ruled that Turkey cannot be considered as a safe third country for said Syrian applicants due to the non-fulfilment of the connection criteria (see [Safe Third Country](#)).<sup>412</sup>

Respectively, in 2019 and as far as GCR is aware, all cases of Syrian Applicants examined under the fast-track border procedure have been rejected as inadmissible on the basis of the safe third country concept (29 Decisions),<sup>413</sup> if no vulnerability was identified or no grounds in order the case to be referred for humanitarian status were present. Although relevant official statistics are not available for 2020, GCR is aware of the fact that the majority of the appeals of Syrian citizens, which are examined under the fast track border procedure are rejected as inadmissible (see **Safe Third Country and Admissibility**).

Finally, it has to be noted that, up until today, asylum applicants in Lesvos notified with a first instance negative decision, whose deadline to appeal had not expired until the Moria fire (09-09-2020), still have not been allowed to file appeals unless they find a lawyer by their own means. As a result, they remain in limbo not only regarding their asylum procedure, but also regarding other related procedures as well, i.e the lift of geographic restrictions for vulnerable cases and their transfer to the mainland or inclusion in relocation programs. Additionally, in November, notification of decisions granting refugee status or subsidiary protection also resumed, without, however, providing the possibility to appeal against those granting subsidiary protection and request refugee status. Negative decisions were not being notified until the end of 2020.

## Judicial review

The general provisions regarding judicial review, as amended in 2018 and 2019, are also applicable for judicial review issued within the framework of the fast-track border procedure and concerns raised with regard to the effectiveness of the remedy are equally valid (see [Regular Procedure: Appeal](#)). Thus, among others, the application for annulment before the Administrative Court does not have automatic suspensive effect, even if combined with an application for suspension. Suspensive effect is only granted by a relevant decision of the Court. This judicial procedure before the Administrative Courts is not accessible to asylum seekers without legal representation.

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<sup>411</sup> Human Rights Council, *Report of the Special rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, para 85.

<sup>412</sup> 9<sup>th</sup> Independent Appeals Committee, Decisions 20802/25.9.2018 and 20898/26.9.2018, 25 September 2018, available at: <https://bit.ly/2CjbmcD>.

<sup>413</sup> Information provided by the Appeals Authority on 21 April 2020.



According to practice, appellants whose appeals are rejected within the framework of the fast-track border procedure might be immediately detained upon the notification of the second instance negative decision and face an imminent risk of readmission to Turkey. The findings of the Ombudsman, that detainees arrested following a second instance negative decision are not promptly informed of their impending removal,<sup>414</sup> are still valid. In 2020, Appeals Committees, in numerous cases, have issued second instance decisions granting a period of ten (10) days for leaving the country.

Concerns regarding the effective access to judicial review for appellants for whom their appeal has been rejected within the framework of the fast-track border procedure, i.e. who remain under a geographical restriction on the Aegean Islands or are detained on the Aegean Islands following the notification of the second instance decision were not abolished by the IPA. More specifically, Article 115(2) IPA foresees that the First Instance Administrative Court of Athens is the competent Court for submitting legal remedies against second instance negative decisions with regards application submitted on the Aegean islands. Thus, legal remedies regarding appellants who reside or even are detained on the Aegean Islands, should be submitted by a lawyer before the Administrative Court of Athens. By taking into consideration the geographical distance and the practical obstacles (for example to appoint a lawyer able to submit the legal remedy in Athens) this may render the submission of legal remedies non accessible for those persons.<sup>415</sup>

Given the constraints that individuals geographically restricted or detained in the Aegean Islands face vis-à-vis access to legal assistance, the fact that legal aid is not foreseen by law at this stage, as well as that an application for annulment can only be submitted by a lawyer, and lack of prompt information about impending removal, access to judicial review for applicants receiving a second instance negative decision within the framework of the fast-track border procedure is severely hindered.

#### 5.4. Legal assistance

##### Indicators: Fast-Track Border Procedure: Legal Assistance

☒ Same as regular procedure

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

❖ Does free legal assistance cover:

☐ Representation in interview
 ☐ Legal advice

☐ Yes
 ☐ With difficulty
 ☒ No
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 

☐ Yes
 ☒ With difficulty
 ☐ No

❖ Does free legal assistance cover

☐ Representation in courts
 ☒ Legal advice

The IPA does not contain special provisions regarding free legal assistance in the fast-track border procedure. The general provisions and practical hurdles regarding legal aid are also applicable here (see section on [Regular Procedure: Legal Assistance](#)).

State-funded legal aid is not provided for the fast-track border procedure at first instance. Therefore, legal assistance at first instance is made available only by NGOs based on capacity and areas of operation, while the scope of these services remains severely limited, bearing in mind the number of applicants subject to the fast-track border procedure.

<sup>414</sup> Ombudsman, *Return of third-country nationals – Special Report 2017*, 2018, available at: <https://bit.ly/2TG2wjv>.

<sup>415</sup> *Mutandis mutandis* ECHR, *Kaak v. Greece*, Application No 34215/16, Judgment of 3 October 2019.



As regards the second instance, as of 31 December 2019, there were in total 5 lawyers registered in the register of lawyers, under the state-funded legal aid scheme, who had to provide legal aid services to the rejected applicants at the appeal stage under the fast-track border procedure on the five islands of Eastern Aegean and Rhodes. More specifically, there was one lawyer on **Lesvos**, one lawyer on **Chios**, one lawyer on **Kos** and two lawyers on **Rhodes**.<sup>416</sup> No lawyers under the state-funded legal aid scheme were present as of 31 December 2019 on **Samos** – one of the two islands with the largest number of asylum seekers and **Leros**.

By decision of the Asylum Service issued as of 31 December 2019, 9 lawyers were appointed on the islands in order to provide free legal aid on the second instance. These lawyers have been appointed to provide free legal aid under the state funded legal aid scheme at second instance as follows: 2 lawyers on **Lesvos**, 1 lawyer on **Samos**, 1 lawyer on **Chios**, 1 lawyer on **Kos**, 2 lawyers on **Rhodes**.<sup>417</sup>

In a number of cases, due to the non-provision of state free legal aid, “standardized appeals”, provided by legal aid NGOs, have been submitted by rejected applicants, asking for a postponement of the appeal examination until their access to free legal aid is ensured, stating in parallel the unavailability of limited NGO legal actors to undertake those applicants’ cases. The results regarding the admissibility of these “standardized appeals” before the Appeals Committee have been varied by case and by responsible for the examination of the appeal each time Appeals Committee.

Since June 2020, by decision of the administration of Central Asylum Service, there has been a “*Provision of legal assistance through video conference to the Regional Asylum Services of Leros, Samos, Chios and Lesvos due to increased needs in the provision of legal aid services in the second degree to applicants for international protection*”. However, in practice, in a significant number of cases taken over by lawyers on the mainland, the latter had no communication with the rejected applicants before drafting the appeals. As a result, appeals have taken into consideration solely the material already included in the filr and the appellants had no way to communicate to their appointed lawyer any new elements related to their case and/or new significant documents; please note that often enough the applicants have not even been informed that a state run lawyer has been appointed to represent them neither by the Asylum Service nor by the lawyer him/herself). In practice, there was no provision for informing the rejected applicants applying for legal aid whether a Registry lawyer has been appointed for their case or not; the majority of the applicants for legal aid services at second instance have been informed regarding the availability or not of legal aid after the expiration of the 10-day period for filing their appeal; there are numerous cases where an appeal has been submitted by the Registry lawyer without the applicant's knowledge.

Given the number of the lawyers appointed under the state funded legal aid scheme and the number of persons who are in need of legal assistance, the provision of free legal aid for appellants under the fast track border procedure remained limited, if not available also for 2020.

As underlined in a report issued by Oxfam and GCR, “[o]n the Greek islands the situation is far worse, with only two out of 100 people able to get the free legal aid needed to appeal their cases. On Lesvos, for most of 2018, there were no state funded lawyers for the appeal stage and now, in 2019, there is only one. Every month approximately 50 to 60 asylum seekers who are rejected in the first instance require legal aid at the appeal stage. But the single state-appointed lawyer only has capacity to assist a maximum of 10 to 17 new cases, depending on the month”.<sup>418</sup>

As also mentioned in the Regular Procedure: Legal assistance no tailored state funded free legal aid scheme exists for submitting judicial remedies before Courts against a second instance negative decision.

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<sup>416</sup> Information provided by Asylum Service.

<sup>417</sup> Asylum Service, Decision No 20165/2019, 13 December 2019.

<sup>418</sup> Oxfam and GCR Briefing Paper – December 2019, *No-Rights Zone. How people in need of protection are being denied crucial access to legal information and assistance in the Greek islands’ EU ‘hotspot’ camps*, available at: <https://go.aws/3azMUly>.

## 6. Accelerated procedure

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

The IPA provides that the basic principles and guarantees applicable to the regular procedure are applied to the accelerated procedure and that “the accelerated procedure shall have as a sole effect to reduce the time limits”.<sup>419</sup> The wording of the law is misleading, however, given that the accelerated procedure as amended by the reform entails exceptions from automatic suspensive effect and thereby applicants’ right to remain on the territory. According to Art. 83(4) IPA the examination of an application under the accelerated procedure must be concluded within 20 days, subject to the possibility of a 10-day exception.

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

An application is being examined under the accelerated procedure when<sup>420</sup>:

- (a) The applicant during the submission of his/her application invoked reasons that manifestly do not comply with the status of refugee or of subsidiary protection;
- (b) The applicant comes from a [Safe Country of Origin](#);
- (c) The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents regarding his/her identity and/or nationality which could adversely affect the decision;
- (d) The applicant has likely destroyed or disposed in bad faith documents of identity or travel which would help determine his/her identity or nationality;
- (e) The applicant has presented manifestly inconsistent or contradictory information, manifestly lies or manifestly gives improbable information, or information which is contrary to adequately substantiated information on his or her country of origin which renders his or her statements of fearing persecution as unconvincing;
- (f) the applicant submitted a subsequent application;
- (g) The applicant has submitted the application only to delay or impede the enforcement of an earlier or imminent deportation decision or removal by other means;
- (h) the applicant entered the country “illegally” (sic) or he/she prolongs “illegally” his/her stay and without good reason, he/she did not present himself/herself to the authorities or he/she did not submit an asylum application as soon as possible, given the circumstances of his/her entrance;
- (i) The applicant refuses to comply with the obligation to have his or her fingerprints taken in accordance with Regulation (EU) No 603/2013.
- (j) the applicant may be considered on serious grounds as a threat to the public order or national security;
- (k) The applicant refuses to comply with the obligation to have his or her fingerprints taken according to the legislation

Until the amendment of IPA by L.4686/2020, according to Art 83(9) IPA the following case was also examined under the accelerated procedure:

- the applicant is a person belonging to a vulnerable group under the conditions that he/she receives appropriate support in accordance with the provisions with regards “Applicants in need of special procedural guarantees”.

However, this provision was abolished by Article 61 L.4686/2020.

The number of asylum applications subject to the accelerated procedure in 2020 is not available.<sup>421</sup>

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<sup>419</sup> Art. 83(2) IPA.

<sup>420</sup> Art. 83(9) IPA.

<sup>421</sup> Information provided by the Asylum Service, 31 March 2021.

## 6.2 Personal interview

### Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

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

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

## 6.3 Appeal

### Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

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

Since the entry into force of the IPA, the time limit for lodging an appeal against a decision in the accelerated procedure is 20 days,<sup>422</sup> as opposed to 30 days under the regular procedure. Before the amendment of IPA, the Appeals Committee had to reach a decision on the appeal within 40 days of the examination<sup>423</sup>. Since the entry into force of L.4686/2020 the Appeals Committee must reach a decision on the appeal within 20 days of the examination<sup>424</sup>

Appeals in the accelerated procedure in principle do not have automatic suspensive effect.<sup>425</sup> The Appeals Committee decides on appeals in the accelerated procedure and appeals against manifestly unfounded applications in single-judge format.<sup>426</sup>

## 6.4 Legal assistance

### Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

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

<sup>422</sup> Article 92(1)(b) IPA.

<sup>423</sup> Article 101(1)(b) IPA

<sup>424</sup> Article 101(1)(b) IPA as amended by Article 25 L. 4686/2020

<sup>425</sup> Article 104(2)(e) IPA, citing Article 83(9) & (10) IPA.

<sup>426</sup> Article 116(7) IPA.

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

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☒ Yes ☐ For certain categories ☐ No  
 ❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

The IPA, entered into force in January 2020, has made significant amendments to the definition of vulnerable persons and persons in need of special procedural guarantees.

According to Articles 39(5)(d) and 58(1) IPA the following groups are considered as **vulnerable groups**: “children; unaccompanied children; direct relatives of victims of shipwrecks (parents, siblings, children, husbands/wives); disabled persons; elderly; pregnant women; single parents with minor children; victims of human trafficking; persons with serious illness; persons with cognitive or mental disability and victims of torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation.” Persons with post-traumatic stress disorder (PTSD) have been deleted as a category of persons belonging to vulnerable groups.

According to Article 58(2) IPA “The assessment of vulnerability shall take place during the identification process of the Art. 39 of this law without prejudice to the assessment of international protection needs”. According to article 58(4) L 4636/2019 “Only the persons belonging to vulnerable groups are considered to **have special reception needs and thus benefit from the special reception conditions**”. Article 58(3) IPA provides that “[...] the special condition of applicants, even if it becomes apparent at a later stage of the examination of the application for international protection, is taken into account throughout this procedure [...]”

According to article 67 (1) IPA **relating to special procedural guarantees** “The Receiving Authorities shall assess within a reasonable period of time after an application for international protection is submitted, or at any point of the procedure the relevant needs arise, whether the applicant requires special procedural guarantees, due to their age, gender, sexual orientation, gender identity, psychological disorder or because they are a victim of torture, rape or other serious forms of psychological, physical or sexual violence.”

The number of asylum seekers registered by the Asylum Service as vulnerable in 2020 is as follows:

Vulnerable persons registered among asylum seekers: 2020		
Category of vulnerability	Applicants	Pending end 2020
Unaccompanied children	2,799	4,249
Persons suffering from a disability or a serious or incurable illness	543	1,963
Pregnant women / new mothers	708	1,138
Single parents with minor children	834	1,262
Victims of torture, rape, or other serious forms of violence or exploitation	99	235

Elderly persons	100	168
Victims of human trafficking	1	0
Minors accompanied by members of extended family	93	106
<b>Total</b>	<b>5,167</b>	<b>9,121</b>

Source: Asylum Service, 31 March 2021. Overlap in some cases is due to applicants falling in multiple vulnerability categories. The numbers refer to cases classified under these categories at the time of registration and not to the number of cases in which the vulnerability arose at a later stage.

The number and type of decisions taken at first instance on cases of vulnerable applicants are as follows:

First instance decisions on applications by vulnerable persons: 2020			
Category	Refugee status	Subsidiary protection	Rejection
Unaccompanied children	319	61	965
Persons suffering from a disability or a serious or incurable illness	387	49	659
Pregnant women / new mothers	662	120	235
Single parents with minor children	646	24	184
Victims of torture, rape, or other serious forms of violence or exploitation	99	11	65
Elderly persons	82	24	27
Victims of human trafficking	1	0	0
Minors accompanied by members of extended family	32	3	15

Source: Asylum Service, 31 March 2021.

During 2020, only 2,228 out of 9,470 (23.5%) first instance decisions granting refugee status concerned vulnerable persons. 292 out of 7,275 (4%) first instance decisions granting subsidiary protection concerned vulnerable applicants.

## 1.1. Screening of vulnerability

### 1.1.1. Vulnerability identification in the border regions

The identification of vulnerability of persons arriving at the border regions shall take place, according to IPA, either by the RIS before the registration of the asylum application or during the asylum procedure.

#### Vulnerability identification by the RIS

According to Article 39(5) (d) IPA, in the context of reception and identification procedures carried out by the RIS, “[...] **The Manager of [RIC] or the Unit**, acting on a motivated proposal of the competent medical staff of the Center, **shall refer persons belonging to vulnerable groups to the competent public institution of social support or protection as per case**. A copy of the medical screening and psychosocial support file is transmitted to the Head of the institution where the person resides or is being referred. In all cases the continuity of the medical treatment followed shall be ensured, where necessary. The assessment that a person is vulnerable shall have as only consequence the immediate provision of special reception conditions.”

According to Article 75 (3) IPA “In case of doubt, the competent Receiving Authorities shall refer the unaccompanied minor to the age assessment procedures as per the provisions in force. In the case where the above-mentioned referral is considered necessary and until the completion of the procedure, special

attention should be paid to the particular characteristics of the minor, especially those related to their gender or cultural peculiarities” (see below).

Since the end of 2019, the authority competent for carrying out medical checks is the National Public Health Organisation (EODY) which was established by the L 4633/2019 as the successor of KEELPNO.

The number of asylum seekers identified as vulnerable by the Reception and Identification Service in the border regions in 2020 is as follows:

Category of Vulnerability	KOS	LEROS	LESVOS	SAMOS	CHIOS	FYLAKIO (EVROS REGION)
Unaccompanied minors	60	35	228	37	35	74
Disabled persons	4	0	8	17	6	5
Elderly (over 65 years old)	4	0	19	11	4	2
Pregnant women/ women who have recently given birth	2	6	49	37	18	6
Single parents with minor children	17	6	139	115	70	42
Victims of sexual violence	14	0	27	2	18	0
Victims of human trafficking	0	0	0	0	0	0
Total number	101	47	470	219	151	129

Source: Information provided by the Ministry for Migration and Asylum, General Secretariat for Reception of Asylum Seekers, 26 February 2021.

According to the International Rescue Committee (IRC) “Three out of five (60%) of the people who attended the IRC mental health program were categorized as presenting with a vulnerability or multiple vulnerabilities. About one in six (16%, 142 people) had survived at least one incident of gender-based violence, either in their country of origin or during their journey. At least one in six (15%, 139 people) were victims of torture. A further 29 people (3%) reported being subjected to both gender-based violence and torture. Of those referred to the IRC for psychosocial support, one in twenty (5%, 47 people) identified as members of the LGBTQI community and explained that they had faced difficulties as a result, while another one in twenty (5%, 46 people) were survivors of shipwrecks or relatives of shipwreck victims.”<sup>427</sup>

In 2020 the average time between the completion of a 14-day quarantine period imposed upon arrival to all newcomers and the completion of the medical/psychosocial examination/ vulnerability assessment in the border regions is as follows:

Location	The average time between the completion of a 14-day quarantine period imposed upon arrival to all newcomers and the completion of the medical/psychosocial examination/ vulnerability assessment
RIC Lesvos	10 days
RIC Chios	1-2 days
RIC Samos	1 day

<sup>427</sup> IRC, The Cruelty of Containment: The Mental Health Toll of the EU’s ‘Hotspot’ Approach on the Greek Islands, December 2020, available at <https://bit.ly/3wxlnMx>, p.14.



RIC Leros	1 day
RIC Kos	1 day
RIC Fylakio (Evros region)	1 day

**Source:** Information provided by the Ministry for Migration and Asylum, General Secretariat for Reception of Asylum Seekers, 26 February 2021.

Even though in 2020 there were no long delays between the arrival and the vulnerability assessment (as was the case before) the low quality of the process of medical and psychosocial screening remained a source of serious concern. Until now, alarming reports indicate that vulnerabilities are often missed, with individuals going through the asylum procedure without having their vulnerability assessment completed first. UNHCR reported<sup>428</sup> that “access to health care for asylum-seekers and refugees continued to be limited at several locations across Greece, in particular on the islands, mainly due to the limited public sector medical staff and difficulties in obtaining the necessary documentation.”

The following issues exacerbate problems in the identification of vulnerabilities:

- **Staffing deficit/ lack of treatment space, medicines, equipment**

The number of healthcare professionals involved in the provision of medical and psychosocial services at different Reception and Identification Centers in the border regions is as follows<sup>429</sup>:

Healthcare professionals	Kos	Leros	Lesvos (Moria)	Lesvos (Mavrovouni/Kara Tepe)	Fylakio (Evros)	Samos	Chios
Doctors	4	4	44	17	5	3	6
Nurses	4	6	34	32	4	4	12
Psychologists	4	5	25	15	5	4	5
Social Workers	3	3	4	10	4	3	4
Midwives	3	2	2	3	2		3
Coordinators		2	1	18	2	2	1
Interpreters/Cultural mediators	3		7	74		4	20
Health visitors						2	
Rescuers			1	2	3		2
Pharmacists							2
Social scientists	2		10	6			
Epidemiologists							
Carers			14				
Nurseries							3
Health experts				16			

**Source:** Information provided by the Ministry for Migration and Asylum, General Secretariat for Reception of Asylum Seekers, 26 February 2021.

According to IRC<sup>430</sup>, “EODY consistently deals with staffing deficits and EODY staff on the islands consistently report a lack of treatment space, medicines, and equipment. This creates significant delays and backlogs, which adversely impact the health and mental health outcomes for asylum-seekers in the

<sup>428</sup> UNHCR, Factsheet, Greece 1-31 December 2020, available at: <https://bit.ly/39PMtWv>.

<sup>429</sup> Average number of staff at RICs throughout 2020.

<sup>430</sup> IRC, as above, p.17.

hotspots. [...] With limited numbers of EODY staff to conduct these assessments, people's symptoms, especially the more 'invisible' ones, including those related to mental health, are often missed. When people are identified later, their symptoms have frequently worsened. EODY staff has explained to the IRC that their organization lacks sufficient numbers of specialized medical staff, such as psychiatrists, child psychiatrists, dermatologists, pulmonologists and dentists, to meet some of the most urgent needs identified in the hotspots. EODY also reported a lack of essential equipment, such as x-ray machines, defibrillators and gynecological chairs. This means that doctors have to make referrals from the camp to the hospital for examinations they should have been able to perform in the hotspots. This delays critical diagnoses and treatments and creates further backlogs in hospitals. In addition, as a result of poor layout and consistent overcrowding in the camps, there is insufficient space to see and treat the numbers of people who require basic care there. So even when there are more staff available, limited space prohibits concurrent appointments. For the last four years, the medical response on the islands has relied heavily on volunteer medical staff and NGOs who have sought to fill critical staffing gaps. In Moria camp, for example, all primary health care was provided by NGOs before the September fires. However, the number of volunteers and funding for NGOs can fluctuate, so this is not a sustainable response to the real healthcare needs of asylum-seekers on the islands. Added to this, doctors who are not registered in the Greek system do not have permission to perform some key duties, such as making referrals to hospitals or providing prescriptions for medicine."

- **Provision of psychosocial assessment upon request/ no provision of psychosocial assessment**

Despite the relevant provision in national law which states that all newly arrived persons should be subject to reception and identification procedures, including medical screening and psychosocial assessment, it has been reported that during 2020 a psychosocial assessment was not offered to all newly arrived persons registered by the RIS. In fact, in some cases a relevant request of the applicant or a referral by the competent RAO, Health Unit SA (Ανώνυμη Εταιρεία Μονάδων Υγείας, AEMY), or civil society organisations needed to be made. According to IRC<sup>431</sup>, "There are insufficient counseling services available externally to meet the needs of all the people who require this support. While there are state-provided psychologists in the hotspots who can refer people to counseling services outside, such as those run by the IRC, they do not provide any counseling themselves. However, one of the most glaring gaps in mental health care provision is the shortage of psychiatrists for people in the RICs. As of November 2020, there were no psychiatrists working inside any of the island hotspots, while NGOs providing mental health services that included support from a psychiatrist continued to operate at full capacity and with considerable waiting lists. The situation is equally serious outside of the RICs. This reflects the reality that there is a shortage of mental health staff and specialists throughout Greece".

- **Difficulties regarding referrals to public hospitals**

As noted by several civil society organisations "Where needed, EODY may issue a referral note (παραπεμπτικό σημείωμα) to a public health institution for the person to undergo the necessary examinations for identification and/or receive care. In the meantime, however, the RIS declares the person as non-vulnerable before the outcome of medical examinations. Requesting a re-assessment may be difficult in practice, especially for applicants who do not benefit from legal representation. As regards applicants suffering from disabilities or chronic diseases in particular, to the knowledge of the authors, the RIS has never referred an applicant to undergo a medical examination so as to identify the exact nature of disability and to medically certify its percentage by the competent disability certification centre<sup>432</sup>"

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<sup>431</sup> *Ibid*, p. 18

<sup>432</sup> RSA, HIAS, GCR, Legal Center Lesbos, DRC, Fenix, ActionAid, Mobile Info Team, The Workings of the Screening Regulation. Juxtaposing proposed EU rules with the Greek reception and identification procedure, January 2021, available at: <https://bit.ly/3fL8xFF>, p.14

- **Low quality of medical screening and psycho-social support**

As noted by several civil society organisations<sup>433</sup>: “The RIS issues a Foreigner’s Medical Card (Κάρτα Υγείας Αλλοδαπού) containing basic medical information. However, in several cases on the islands, medical problems are not recorded on the Foreigner’s Medical Card. The lack of recognition of medical issues renders access to special care and facilities extremely difficult. In addition, medical assessments are often transmitted incorrect, even for visible conditions such as mobility problems. [...]. Appropriate care and protection are systematically not provided to vulnerable persons undergoing reception and identification procedures. In addition, when the RIS authorities identify an applicant as belonging to one of the ‘evident’ categories of vulnerability e.g. pregnancy, single-parent family, elderly, they certify them as vulnerable, without however assessing the applicability other vulnerability categories prescribed by law, which may not be visible e.g. victims of violence or torture. Accordingly, the RIS does not provide the applicant with appropriate special reception conditions. Moreover, as stated above, due to capacity gaps and delays in the conduct of medical checks and vulnerability assessments, many asylum seekers have undergone asylum procedures without prior identification of vulnerability. Relevant vulnerabilities are thus not identified until the applicant has completed their asylum procedure.” The NCHR is also concerned “about the deficiencies and difficulties in the process of identifying persons with serious diseases and/or persons with mental and intellectual disabilities during the process of reception of applicants for international protection.”<sup>434</sup> According to GCR’s observations, mental health issues or “not obvious” diseases, were not, in many cases, identified and, thus, people were not considered as vulnerable.

- **Classification of vulnerability and non-vulnerability**

Since the end of 2017 a medical vulnerability template, entitled “Form for the medical and psychosocial evaluation of vulnerability”, was adopted by KEELPNO. Before the entry into force of IPA, this template included, in the beginning, two levels of vulnerability ((A) Medium vulnerability, and (B) High vulnerability), and then three relevant indicators to be used by the medical unit of each RIC [(A) High vulnerability”, “(B) Medium vulnerability” and “(C) No vulnerability”]

Since January 2020, a new classification was introduced by EODY, despite the fact that such provision is not included in the IPA:

- (A) Vulnerable: The vulnerability is evident. The continuation of assessment and the development of a care plan are recommended. A referral for support should take place.
- (B) Non-vulnerable with special needs of hospitality: The following-up of his/her condition is recommended. If preventive measures for support are not provided, these persons could be vulnerable due to their clinical and/or psychosocial condition.
- (C) Non-vulnerable who doesn’t need any care: Non-vulnerable person who also don’t need any support.

- **Lack of information on the outcome of the procedure**

Since the end of 2018, applicants are not informed about the outcome of the vulnerability assessment and are not provided with a copy of the vulnerability assessment template unless a relevant application is submitted by his/her lawyer. However, even in that case, the applicant is informed only on the final assessment, namely if he or she has been identified as “vulnerable”, “non-vulnerable with special needs of hospitality”, or “non-vulnerable without need of care”. Thus, there is no access to the medical documents/psychosocial reports. The RIS informs directly the Asylum Service regarding the outcome of the assessment, but the latter omits to provide information to the applicant. As noted by several civil society organisations: <sup>435</sup> “Crucially, asylum seekers on the islands do not have access to their medical

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<sup>433</sup> *Ibid* p.18

<sup>434</sup> Greek National Commission for Human Rights, ΕΚΘΕΣΗ ΑΝΑΦΟΡΑΣ ΓΙΑ ΤΟ ΠΡΟΣΦΥΓΙΚΟ ΚΑΙ ΤΟ ΜΕΤΑΝΑΣΤΕΥΤΙΚΟ ΖΗΤΗΜΑ, Β' Μέρος, September 2020, available in Greek at: <https://bit.ly/3dEfTbk>, p. 95.

<sup>435</sup> RSA and other civil society organisations, as above, p.14.

case file, unless an application is filed by their legal representative. Medical documents and psycho-social reports, whether submitted by the applicant or passed on by public health institutions to the RIS, are in most cases not transmitted to the legal representative. Vulnerability assessment forms and recommendations of the EODY Medical and Psychosocial Unit are often withheld on the islands, on the ground that these documents are only internally to the Asylum Service.”

Also, “Several obstacles hinder effective referral from the RIS to the Asylum Service, however. As authorities do not have coordinated access to the national asylum database (Αλκυόνη) maintained by the Police, vulnerability assessments done by the RIS are not immediately visible to the Asylum Service.”<sup>436</sup> RSA & Stiftung PRO ASYL mention that<sup>437</sup> “There have been reported cases of asylum seekers having to receive copies from the RIS to produce them before asylum authorities”. At the end of 2020, the government announced its plan to develop a new integrated asylum database (Αλκυόνη II) with financial support from the Internal Security Fund (ISF).<sup>438</sup> According to MSF, RSA and Pro Asyl<sup>439</sup>, “an illustrative example of the deficiencies in the coordination between the different branches of the administration is that, even though the applicant had been recognised as vulnerable by the RIS several months prior to the interview summons, the Asylum Service was never informed of the aforementioned recognition.”

The following examples of the situation at the Eastern Aegean Islands reflect the aforementioned issues regarding the vulnerability assessment in the context of reception and identification procedures by RIS:

**Lesvos:** According to GCR’s observations, on Lesvos the quarantine period imposed upon arrival could last from two weeks up to about two months depending on several factors, such as the availability of EODY and RIS staff, the number of Covid-19 cases, etc. Furthermore, only evident vulnerabilities were identified given the low quality of the medical screening. Psychosocial support was conducted only upon request and mostly after the first instance interview. Given that most of the medical documents were in hard copy, many of them were lost following the destruction of the RIC of Moria in September 2020. Due to these shortcomings, a considerable number of newcomers and asylum seekers had never been (properly) assessed regarding potential vulnerabilities.

**Chios:** As mentioned by Equal Rights Beyond Borders<sup>440</sup> in a letter submitted to the European Court of Human Rights on 6 May 2020, in a case regarding an applicant represented by Equal Rights, the Greek government reported the following medical services at Vial: “an infirmary of the National Public Health Organization (EODY), staffed with three doctors and six nurses, provides primary medical care. The NGO Salvamento Marítimo Humanitario, staffed with one doctor and one nurse, provides for complementary services in the afternoon. The infirmary is in contact with the Chios General Hospital by making referrals in case of cases which cannot be dealt with on the spot.” The Greek government further explained that the Chios General Hospital suspended its regular operations in order to prevent the spread of COVID-19. Beginning on 16 March 2020, the hospital only accepted emergencies referred to them directly by Vial’s medical unit. One camp employee explained the situation in the following way: “We have to minimise referrals and transports to the hospital unless it’s extremely urgent and necessary.”

**Samos:** Shortcomings related to understaffing and other issues mentioned above, apply also for Samos. Even though during 2020 the medical screening was conducted a few days after the arrival, in most of the cases it was insufficient and of bad quality. Additionally, prioritization was given to the vulnerability

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<sup>436</sup> *Ibid*, p.23.

<sup>437</sup> RSA & Stiftung PRO ASYL, Submission in M.S.S. v. Belgium and Greece and Rahimi v. Greece, July 2020, para 8.

<sup>438</sup> Greek Government, Ολοκληρωμένο σύστημα διαχείρισης ασύλου –Αλκυόνη II, available at: <https://bit.ly/2JXIIon>

<sup>439</sup> MSF, RSA, Pro Asyl, “Border procedures on the Greek islands violate asylum seekers’ right to special procedural guarantees”, 15th February 2021, available at: <https://bit.ly/3mp0Bes>

<sup>440</sup> Equal Rights Beyond Borders, ‘Abandoned and Neglected’ - The Failure to Prepare for a COVID-19 Outbreak in the Vial Refugee Camp, November 2020 update of report 05/20, <https://bit.ly/39NEGIZ>, p. 26

assessment of newcomers (arrivals of 2020) and thus, there was a big backlog of cases of 2019. It was also observed that in some cases the psychosocial support was carried out even after the registration of the asylum application by the RAO. According to GCR's findings, in Samos RIC, during 2020 there were one or two doctors of EODY. At the same time, the NCHR mentions that<sup>441</sup> "the situation regarding the reception and living conditions of asylum seekers in and around the Reception and Identification Center in Vathi was out of control and abolished every aspect of human dignity of those living in its premises".

**Leros:** Difficulties in access to the psychosocial support and the outcome of the vulnerability assessment and other issues mentioned above, apply also for Leros.

**Kos:** Shortcomings related to understaffing mentioned above, also apply for the medical and psychosocial division of RIS in Kos, as during 2020 there was only one doctor of EODY. According to GCR's findings. Additionally, even though newcomers were subjected to medical screening one day after the completion of the 14-day quarantine period imposed upon their arrival, the medical examination conducted was superficial and insufficient. It is also mentioned that in many cases the applicants received a copy of the vulnerability assessment no earlier than the conduct of their interview before the Asylum Service or the completion of the examination of their asylum application at 2<sup>nd</sup> instance.

**Rhodes:** Even if Rhodes is among the Eastern Aegean islands and constitutes an entry point, together with other islands neighboring to Turkey (eg Simi, Megisti, Kastellorizo), there is no RIC, no medical/psychosocial screening and the RAO does not examine asylum applications lodged by newcomers. The majority of third-country nationals, who entered Greece through Rhodes or the nearby islands during 2020, were transferred –after the 14-day quarantine period imposed upon their arrival- to Kos and Leros Island where they were either detained or subject to reception conditions at the RIC. However, According to GCR's knowledge, there were cases of asylum seekers who, due to the Covid-19 measures, were transferred to Kos or Leros several months after they arrived and, in the meantime, they remained under administrative detention in Rhodes without having been subject to any vulnerability assessment.

#### **Lift of the geographical restriction** (see also [Freedom of movement](#))

Under IPA, the recognition of vulnerability of asylum seekers has no bearing on the asylum procedure under which their application is examined. Therefore, vulnerable groups, even when identified as such, are no longer referred to the Regular procedure, unless it is proven that no appropriate health care regarding their individual medical problem is available on the island where they reside (See below). In the latter cases, the geographical restriction imposed upon arrival is lifted and persons are transferred or allowed to travel to the mainland. In light of this, the exemption of vulnerable individuals from the Fast-Track Border procedure has become much more difficult.

More precisely, for asylum-seekers who entered Greece through the islands of Lesbos, Chios, Samos, Kos, Leros, and Rhodes during 2020, a restriction of movement within each island ('geographical restriction') has been imposed as per the Ministerial Decision 1140/2.12.2019 (GG B' 4736/20.12.2019) which has been in force since 1 January 2020<sup>442</sup>. Greek law transposes Article 7 RCD allowing Member States to impose a restriction of movement to asylum-seekers within a specific area assigned to them, provided that it does not affect the unalienable sphere of private life and that allows sufficient scope for guaranteeing access to all benefits under the Directive. Until 31 December 2019, the geographical restriction could be lifted, *inter alia*, in respect of vulnerable persons. Following amendments to the law, after 1 January 2020, the geographical restriction may *inter alia*<sup>443</sup> be lifted by a decision of the Manager

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<sup>441</sup> NCHR, as above, p. 23

<sup>442</sup> This act is based on Article 45 L. 4636/2019. It is worth noting that the act mentions that the geographical restriction is necessary for the implementation of the EU-Turkey statement

<sup>443</sup> Except for the case of vulnerable persons and persons in need of special reception conditions the geographical restriction may be lifted in the case of: a. unaccompanied minors; b. persons falling under the family reunification provisions of Articles 8-11 of Dublin Regulation, only after the person is accepted by the

of the RIC for vulnerable persons or persons in need of special reception conditions if appropriate support may not be provided within the area of restriction,<sup>444</sup> without sufficiently describing what such appropriate support entails.<sup>445</sup>

The number of decisions of lift of geographical restriction per RIC and per category of vulnerability (or other cases) is as follows<sup>446</sup>:

Reasons for the lifting of the geographical restriction during 2020	Kos	Leros	Lesvos <sup>447</sup>	Samos	Chios
Unaccompanied minors	18	62	311	145	194
Disabled persons	11	7	28	11	27
Persons with cognitive or mental disability	8	5	10	91	12
Persons with serious/incurable illness	79	202	57	272	63
Pregnant women	32	79	33	647	85
Single parents with minor children	35	0	65	550	21
Victims of torture, rape, or other serious forms of psychological, physical, or sexual violence (FGM, etc)	30	7	15	11	39
Victims of human trafficking	14	2	0	1	0
Elderly	8	54	7	49	12
Vulnerable persons and persons in need of special reception conditions (Art. 58 and 67 L. 4636/2019)	30	0	987	0	281
Direct relatives of victims of shipwrecks (parents and siblings)	15	0	0	0	0
Persons falling under the family reunification provisions of Articles 8-11 of Dublin Regulation (after the person is accepted by the concerned member state)	7	7	0	0	6
Persons whose applications for international protection are reasonably considered to be founded	18	0	0	0	9
Other reasons (eg urgent needs due to increased flows, family union, etc)	0	32	0	0	742
Total amount of lifts of geographical restriction per RIC during 2020	305	457	1,513	1,777	1,491

concerned member state; and c. persons whose applications for international protection are reasonably considered to be founded

<sup>444</sup> See Article 67 (2) L. 4636/2019 and Article 2 (d) of the Ministerial Decision 1140/2.12.2019.

<sup>445</sup> According to article 67 (2) L. 4636/2019, '[w]here applicants have been identified as applicants in need of special procedural guarantees, they shall be provided with adequate support in order to allow them to benefit from the rights and comply with the obligations of this Part throughout the duration of the procedure. Forms of adequate support shall, in particular, consist of additional break times during the personal interview in accordance with Article 77, allowing the applicant to move during the personal interview if this is necessary because of his or her health condition, as well as showing leniency to non-major inaccuracies and contradictions, where these are related to his/her health condition.'

<sup>446</sup> Except for Lesvos RIC, the numbers refer to individuals and not cases. Also, if a member of a family is considered vulnerable and thus the geographical restriction is lifted, it is lifted also for the same reason for the rest of the family (eg pregnant woman of 4-member family = 4 decisions of lift of geographical restrictions "due to pregnancy").

<sup>447</sup> In the case of Lesvos RIC, numbers refer to individuals considered as vulnerable. The category "Vulnerable persons and persons in need of special reception conditions (Art. 58 and 67 L. 4636/2019)" refers to members of families with vulnerable individuals and other cases.



Source: Information provided by the Ministry for Migration and Asylum, General Secretariat for Reception of Asylum Seekers, 8 March 2021.

**Lesvos:** According to GCR's knowledge, following the Moria fire on 9 September 2020 and the destruction of many documents in the RIS, there were cases of applicants identified already as "vulnerable in need of special reception conditions" who, upon notification of the first instance decision, could not file an appeal because Lesvos RAO had informally suspended - without the issuing of a relevant legislative act, therefore infringing the vital principle of legal certainty - the deadline for the submission of appeals for the first instance rejections that had been notified until 8 September 2020. Thus, RIS did not proceed to the lift of the "geographical restriction" of the aforementioned persons despite their vulnerability because the latter were considered as "non-applicants" as they were notified of a first instance rejection but an appeal was not submitted in due course. On 11 January 2021, and for the first time in 4 months, Lesvos RAO would begin notifying applicants on Lesvos with first instance rejections and would start accepting appeals against these decisions<sup>448</sup>. However, following the concerns expressed by legal actors, the notification of first instance rejections was postponed due to lack of legal assistance.<sup>449</sup> According to GCR, up until March 2021 there are still vulnerable persons with first instance rejections who are not able to submit an appeal due to lack of legal aid, and thus their geographical restriction is still not lifted.

**Chios:** An example of the shortcomings related to the identification of vulnerability and the respective lift of geographical restriction is the following: In the case of a Syrian family of Palestinian origin consisted of the mother, two minor children, and a 20-year-old daughter, residing at Chios RIC (VIAL), a decision of vulnerability and lift of geographical restriction was issued only for the mother and the minor children ("single parent with minor children"). It was only after the intervention of the Greek Ombudsperson<sup>450</sup>, based on a request by GCR to all the competent Authorities (RIS, Chios RAO, UNHCR, Greek Ombudsperson), that the geographical restriction of the older daughter was also lifted and the whole family was transferred to the mainland. GCR and thus the Greek Ombudsperson made the abovementioned request on the grounds of a) family unity, b) vulnerability of other family members, c) dire living conditions at Vial camp and need for preventive measures against Covid-19 for the protection of vulnerable persons, e) need for preventive measures so that young woman will not be exposed to any risk related to her gender/need to protect women and girls during reception procedures.

**Samos:** According to GCR's observations, in principle, during 2020 the geographical restriction was not lifted for vulnerable persons, except for very few cases or for vulnerable cases running "the risk of exposure to Covid-19". Even though there were no decisions of lift of geographical restriction "due to increased flows" according to the information provided by the Ministry (see above), according to GCR's findings during 2020 such decisions were issued for several vulnerable persons who had arrived at Samos during 2019 (eg. pregnant or single women). GCR asked on 2 October 2020 through a Letter - Intervention, addressed to the Ministry of Migration and Asylum, the Greek Ombudsman, Samos RIC and RAO administration for immediate measures for the protection and removal from Samos RIC of high risk groups due to exposure to Covid-19, in view of the daily increase of Covid-19 positive cases within Samos RIC and the extension of Samos RIC lockdown. The announcement of the transfer of some urgent vulnerable cases both to ESTIA apartments on the island and to the mainland followed.

**Kos:** According to GCR, during 2020 the geographical restriction was not lifted for all persons identified as vulnerable, but only in cases where "appropriate medical support could not be provided within the

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<sup>448</sup> GCR and other civil society organisations, 11 January 2021, "Legal actors express serious concerns regarding the lack of state free legal aid for asylum applicants in Lesvos", available at : <https://bit.ly/3sWzU3j>

<sup>449</sup> Ενημέρωση εξελίξεων σχετικά με το Δελτίο Τύπου 11.01.21 από την ομάδα εργασίας Legal Aid Working Group Lesvos, available in Greek : <https://bit.ly/3oVmVxx>

<sup>450</sup> Greek Ombudsperson, Letter of 30rd April 2020, No 277398/19259/2020, available in Greek at: <https://bit.ly/3uoSGAH> & Σύνοψη Διαμεσολάβησης Προστασία αιτουσών διεθνούς προστασίας ως ατόμων που ανήκουν σε ευάλωτες ομάδες και χρήζουν ειδικών διαδικαστικών εγγυήσεων, February 2021, available in Greek at: <https://bit.ly/31Sgock>

island". Also, even though the geographical restriction was lifted by a decision of the Manager of the RIC, the departure could not take place without the approval of the Asylum Service. In some cases, a decision of temporary lift of the restriction was issued for the person to visit a hospital in Athens and then return to Kos. The following example of a family of Syrian origin (pregnant mother, father, two minor children) arrived at Kos in October 2019 reflects the numerous issues arising in regard with the vulnerability assessment and the lift of the geographical restriction: For 9 months, until June 2020, the registration and identification procedures were not carried out by RIS and the family was staying at Kos RIC despite the mother's pregnancy, the father's several health issues and the young age of the other two members of the family. It was only after the intervention of the Greek Ombudsperson<sup>451</sup> that the family was identified as vulnerable and transferred to the mainland. Through the abovementioned intervention the lift of geographical restriction was requested on the grounds of a) pregnancy, b) serious disease of the father (mental and physical health problems), c) vulnerability of the children, d) harsh living conditions, e) need for preventive measures against Covid-19 for the protection of vulnerable groups.

### **Vulnerability identification in the asylum procedure**

According to Article 72 (3) IPA "During the Reception and Identification procedure or the border procedure of art. 90 of this law, the Receiving Authorities or the Decision Authorities and especially the Regional Asylum Offices or the Autonomous Asylum Units shall refer the applicant for international protection to doctors of Public Hospitals or Public Mental Health Institutions or other contracted physicians or the Medical Screening and Psychosocial Support Unit of the RIC for the vulnerability assessment under the article 39(4) of this law. Upon the completion of medical and psychosocial assessment, the Unit, acting on a written motivated proposal, shall inform the Head of the competent RAO. The above-mentioned proposal is also notified to the Manager of the RIC. That assessment shall have as only consequence the immediate provision of special reception conditions and special procedural guarantees to the applicant."

According to Article 75 (3) IPA "In case of doubt, the competent Receiving Authorities shall refer the unaccompanied minor to the age assessment procedures as per the provisions in force. In the case where the above-mentioned referral is considered necessary and until the completion of the procedure, special attention should be paid to the particular characteristics of the minor, especially those related to their gender or cultural peculiarities." (See below)

Article 67(1) IPA provides that "The Receiving Authorities shall assess within a reasonable time after the application for international protection is lodged or at any point of the procedure the relevant need arises, whether the applicant requires special procedural guarantees as a consequence, *inter alia*, of age, gender, sexual orientation, gender identity, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence". According to Article 67(3) IPA "When adequate support cannot be provided [to the applicants] within the framework of the accelerated procedure (art. 83 (9) IPA) and border procedure (art. 90 IPA), especially when the applicant needs to be provided with special procedural guarantees as a consequence of torture, rape or other forms of serious psychological, physical or sexual violence, the abovementioned procedures do not apply or cease to apply [...]"

Also, according to article 58 (5) IPA "In case the competent Authorities identify victims of human trafficking, they are obliged to inform as soon as possible the National System of Recognition and Referral of Victims of Human Trafficking in accordance with the article 6 L. 4198/2019"

Despite these provisions, the shortage of medical and psychosocial care can make it extremely complicated and sometimes impossible for people seeking asylum to be (re-)assessed during that

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<sup>451</sup> Greek Ombudsperson, Letter of 17<sup>th</sup> June 2020, No: 279706/25934/2020, available in Greek at: <https://bit.ly/3rTl37d> & Σύνοψη Διαμεσολάβησης Προστασία αιτουσών διεθνούς προστασίας ως ατόμων που ανήκουν σε ευάλωτες ομάδες και χρήζουν ειδικών διαδικαστικών εγγυήσεων, February 2021, available in Greek at: <https://bit.ly/31Sgock>

process. Following the medical and psychosocial assessment, the medical psychosocial unit of the RIC should inform the competent RAO or AAU of the Asylum Service.

Accordingly, where vulnerability is not identified before the asylum procedure the initiation of a vulnerability assessment and further referral for vulnerability identification lies to a great extent at the discretion of the caseworker. As mentioned above, due to significant gaps in the provision of reception and identification procedures in 2020, owing to a significant understaffing of EODY units and other issues, GCR has found that for a considerable number of applicants the asylum procedure was initiated without a proper medical screening and/or a psychosocial assessment having been concluded.

For example, on **Chios** the understaffing of state authorities in combination with the constant pressure to process more asylum applications more quickly, resulted in a serious undermining of procedural legal safeguards and thus to decisions of poor quality and unjustified rejections in many cases. GCR has documented many cases where the asylum interview took place before the medical examination of the asylum seeker, who was afterwards rejected as non-credible because of his/her inability to provide all the dates and details of certain events and narrate his/her story in a chronological order, although the person suffered from acute psychiatric problems (e.g. psychosis), as was later proved.

As it was mentioned above, according to GCR's observations, most of the time **on Samos** the vulnerability of the person in concern had not even been examined, meaning that interventions and referrals to medical and psychosocial staff, both of public services (Samos RIC and Samos General Hospital) and NGOs providing medical care and/or psychological support, had to precede the legal request to Samos RIC Administration for a lift of geographical restriction. Between the exceptional cases has been the case of a deaf and with reduced vision young asylum applicant from Ghana, whose vulnerability, according to responsible services, could not be proved due to the absence of a medical diagnosis. Indeed, there was no specialized doctor- otolaryngologist in Samos General Hospital to examine the asylum applicant and diagnose his auditory disability. GCR represented the vulnerable beneficiary during his interview, noted beneficiary's disability (which was challenged by EASO interview operator on the basis of no proof) and the violation of procedural guarantees and requested his case referral to regular asylum procedure, the lift of geographical restriction and his transfer to the mainland, in order to have access to medical care in a tertiary care hospital and continue his interview after his vulnerability recognition and with possible proper technical support and psychosocial support. Nevertheless, Samos RAO had been examining the possibility of issuing a decision from asylum applicant's file data, which would definitely lead to a rejection, as there were no documents proving neither beneficiary's personal story nor beneficiary's vulnerability. After repeated interventions by GCR, over a period of months, a decision to lift the geographical restriction was issued despite the absence of medical documents and the case was referred to the regular procedure.

According to GCR's observations, article 67(3) IPA (exemption from the fast-track border procedure and referral to the regular procedure due to vulnerability) was not applied by the Asylum Service to any case without a prior lift of the geographical restriction. On **Samos**, According to GCR's knowledge, after the lift of geographical restriction for reasons not related to vulnerability, article 67(3) IPA was applied and the case was referred to the normal procedure without the person being identified as vulnerable by the RAO. If the interview of first instance had already been conducted before the decision of lift of geographical restriction and the referral to the normal procedure due to vulnerability, it was not conducted again in accordance with the guarantees provided by article 67(2) IPA.

RSA, Pro-Asyl and MSF also reported that<sup>452</sup> "The gravity of non-compliance of the Greek authorities with the above obligations is reflected in the case of a particularly vulnerable asylum seeker, survivor of serious and repeated violence. Despite having been recognised by the Reception and Identification Service (RIS) as a survivor of torture, rape or other form of violence, the applicant was repeatedly summoned to conduct the asylum interview within the border procedure. The authorities' indifference

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<sup>452</sup> MSF, RSA, PRO-ASYL, as above.

to his already fragile psychological state led to systematic re-traumatisation on four different occasions ending up to repeated urgent transfers from the Asylum Service offices to the hospital's emergency ward culminating to the deterioration of his mental health condition. The Asylum Service at no point assessed whether the applicant was in need of special procedural guarantees on account of his health condition, and whether or not adequate support could be provided in his case, despite the prior submission of medical documents from the public hospital, documents attesting the person's inability to follow the demanding process of the asylum interview and recount extremely traumatic experiences, as well as documents highlighting the deterioration of his health condition stemming from the interview process. As a result, his case was not exempted from the border procedure as required by the law, even though the competent authorities were fully aware of the state of his health."

### 1.1.2. Vulnerability identification in the mainland

In the Attica region, depending on their nationality, vulnerable groups are referred to the RAOs of Attica, Alimos, or Piraeus. In the rest of the mainland vulnerable groups are registered by the RAO competent for the area they reside in. According to information provided by the Asylum Service<sup>453</sup>, during 2020 4,196 vulnerable asylum seekers were registered by RAOs and AAUs in the mainland.

However, obstacles to **Registration** through Skype in the mainland also affect vulnerable persons. As referrals of vulnerable persons to the competent RAOs in order to be registered are taking place through NGOs or other entities, GCR is aware of cases of vulnerable applicants who, before being supported by NGOs or other entities and have an appointment fixed, have repeatedly and unsuccessfully tried to fix an appointment themselves to register their application through Skype. Moreover, appointments for the registration of vulnerable persons in the mainland can be delayed due to capacity reasons or due to the suspension of services provided by the Asylum Service due to the preventive measures against Covid-19 (See above, "Registration").

In case that indications or claims as of past persecution or serious harm arise, the Asylum Service refers the applicant for a medical and/or psychosocial examination, which should be conducted free of charge and by specialised scientific personnel of the respective specialisation. Otherwise, the applicant must be informed that he or she may be subject to such examinations at his or her initiative and expenses.<sup>454</sup> However, article 72(2) IPA provides that "Any results and reports of such examinations are deemed as justified by the Asylum Service where it is established that the applicant's allegations of persecution or serious harm are likely to be well-founded".

Currently, there are no public health structures specialised in identifying or assisting torture survivors in their rehabilitation process. As a result, it is for the NGOs running relative specialised programmes, to handle the identification and rehabilitation of victims of torture. This is rather problematic for reasons that concern the sustainability of the system, as NGOs' relevant funding is often interrupted. In **Athens**, torture survivors may be referred for identification purposes to **Metadras** in the context of the programme "VicTorious: Identification and Certification of Victims of Torture". However, those referrals take place mostly by other NGO's.

Also, according to article 58 (5) IPA "In case the competent Authorities identify victims of human trafficking, they are obliged to inform as soon as possible the National Referral Mechanism (NRM) for the identification and referral of victims of Human Trafficking<sup>455</sup> in accordance with the article 6 L. 4198/2019".

The following case supported by GCR mirrors several of the aforementioned issues arising in the context of vulnerability identification by RIS and during the asylum procedure both at the border region and on the mainland:

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<sup>453</sup> Asylum Service, 31 March 2021

<sup>454</sup> Article 72(1) IPA.

<sup>455</sup> Office Of The National Rapporteur On Trafficking In Human Beings, <https://bit.ly/3rVPLxB>

A single woman from the Democratic Republic of Congo, victim of sexual and gender-based violence in her country of origin, arrived on Chios Island in June 2019 and applied for international protection before the competent RAO. A month later she was sexually assaulted by a man and she tried to report the incident to the local Police but to no avail. She then addressed to “Médecins sans Frontières” who referred her to the public hospital due to severe gynecological problems. In October 2019 she breached the geographical restriction and she arrived at the mainland. It is mentioned that until her departure she was residing at Vial camp (Chios) in inhuman and degrading conditions without having been subject to any adequate medical support, psychosocial assessment and vulnerability identification by the RIS. Her interview before Chios RAO was still pending at that time. In July 2020 she was arrested on the mainland and remained in administrative detention with a view of return to Chios Island and without her asylum application being taken into consideration. Despite the several requests submitted by GCR to Chios RIS and RAO in order for the geographical restriction to be lifted and her case to be channeled to the regular procedure in accordance with article 67(3) IPA on the grounds of a) vulnerability (victim of sexual violence-mental health problems), b) need of special reception conditions given that appropriate support could not be provided within Chios, c) need for preventive measures so that young woman will not be exposed to any risk related to her gender/need to protect women and girls during reception procedures, the applications were rejected or remained unanswered. Following a suicidal attempt committed in the PRDC of Amygdaleza (Athens), the young woman was released by the Police and stayed in Athens where she was supported by several NGOs. The Police Directorate of Chios proceeded to the lift of geographical restriction for reasons other than the vulnerability. Despite a new request by GCR to RAO Chios and RAO Alimos (Athens) in order for the applicant to be exempted from the fast-track border procedure and for the asylum procedure to be continued in Athens due to the fact that the geographical restriction was already lifted, that the person in question already resides in Athens and is in need of special conditions and procedural guarantees due to her vulnerability, the Asylum Service, despite GCR’s several requests and the Greek Ombudsperson’s numerous interventions, has not replied to that demand up until May 2021 and the young asylum seeker remains in Athens in legal limbo.

## 1.2. Age assessment of unaccompanied children by the RIS and in the asylum procedure

Until August 2020, two Ministerial Decisions provided for the age assessment procedure of unaccompanied children. Ministerial Decision 92490/2013 laid down the age assessment procedure in the context of reception and identification procedures and Joint Ministerial Decision 1982/2016 provided for an age assessment procedure for persons seeking international protection before the Asylum Service,<sup>456</sup> as well as persons whose case was still pending before the authorities of the “old procedure”.<sup>457</sup>

On 13 August 2020 the Joint Ministerial Decision 9889/2020<sup>458</sup> entered into force, which sets out a common age assessment procedure both in the context of reception and identification procedures and the asylum procedure. However, the scope of the JMD 9889/2020, as was the case with the previous ones, does not extend to age assessment of unaccompanied children under the responsibility of the Hellenic Police (meaning minors under administrative detention or protective custody) (see [Detention of Vulnerable Applicants](#)).

**Article 39(5) (f) IPA related to reception and identification procedures refers to JMD 9889/2020.** According to article 1(2) JMD 9889/2020, in case of doubt of the person’s age, i.e. when the authority’s initial assessment is not consistent with the person’s statements<sup>459</sup>, the RIS or the Asylum Service or any authority/organisation competent for the protection of minors or the provision of healthcare or the Public

<sup>456</sup> Joint Ministerial Decision 1982/2016, Gov. Gazette B’335/16-2-2016.

<sup>457</sup> Article 22(A)11 JMD 1982/2016, citing Article 34(1) PD 113/2013 and Article 12(4) PD 114/2010.

<sup>458</sup> Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020.

<sup>459</sup> See Article 1(3) JMD 9889/2020.

Prosecutor should inform -at any point of the reception and identification procedures or the asylum procedure- the Manager of the RIC or the Facility of temporary reception/hospitality, where the individual resides, or the Head of RIS or the Asylum Service -if the doubt arises for the first time during the personal interview for the examination of the asylum application-, who, acting on a motivated decision, is obliged to refer the individual for age assessment. Age assessment is carried out by EODY within the RIC, by any public health institution, or otherwise, by a private practitioner under a relevant programme.<sup>460</sup>

The age assessment is conducted with the following successive methods:

- Initially, the assessment will be based on the macroscopic features (i.e. physical appearance) such as height, weight, body mass index, voice, and hair growth, following a clinical examination from properly trained healthcare professionals (physicians, paediatricians, etc) who will consider body-metric data<sup>461</sup>.
- In case the person's age cannot be adequately determined through the examination of macroscopic features, a psychosocial assessment is carried out by a psychologist and a social worker to evaluate the cognitive, behavioural and psychological development of the individual. If a psychologist is not available or there is no functioning social service in the nearest public health institution, this assessment can be conducted by a specially trained psychologist and a social worker available from a certified civil society organisation but it cannot be conducted by an organisation in charge of providing care or housing to the person whose age is in question. The outcome of the age assessment at this point is a combination of the psychosocial assessment and the examination of the development of macroscopic features<sup>462</sup>.
- Whenever a conclusion cannot be reached after the conduct of the above procedures, the person will be subjected to the following medical examinations: either left wrist and hand X-rays for the assessment of the skeletal mass, or dental examination or panoramic dental X-rays or to any other appropriate means which can lead to a firm conclusion according to the international bibliography and practice.<sup>463</sup>

According to Art. 1(7) JMD 9889/2020 the opinions and evaluations are delivered to the person responsible for the referral, who issues a relevant act to adopt the abovementioned conclusions, registers the age in the database of Reception and Asylum, and notifies the act to the Special Secretariat for the Protection of Unaccompanied Minors.

After the age assessment procedure is completed, the individual should be informed in a language he or she understands about the content of the age assessment decision, against which he or she has the right to appeal in accordance with the Code of Administrative Procedure. The appeal has to be submitted to the authority that issued the contested decision within 15 days from the notification of the decision on age assessment<sup>464</sup>.

In practice, the 15-day period may pose an insurmountable obstacle to receiving identification documents proving their age, as in many cases persons under an age assessment procedure remain restricted in the RIC. These appeals are in practice examined by the Central RIS. According to the data provided by the RIS, during 2020, 28 appeals were submitted against age assessment decisions. Out of 28 appeals, 1 was accepted, 19 were rejected and 8 were pending on 31 December 2020<sup>465</sup>. The NCHR highlights that

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<sup>460</sup> See Art 4 JMD 9889/2020.

<sup>461</sup> See Article 1(5)(a) JMD 9889/2020.

<sup>462</sup> See Art. 1(5)(b) JMD 9889/2020.

<sup>463</sup> See Art 1(5)(c) JMD 9889/2020. Contrary to MD 92490/2013 and JMD 1982/2016 which provided for left wrist, hand X-rays, dental examination and panoramic dental X- rays cumulatively and not alternatively.

<sup>464</sup> See Art1(9) JMD 9889/2020.

<sup>465</sup> Information provided from the Ministry of Migration and Asylum, General Secretariat of Reception of Asylum Seekers, 26 February 2021.



the applicants for international protection are often not notified of their decisions on age determination and as a result they are unable to file an appeal against that decision<sup>466</sup>.

Several civil society organisations report that “Medical methods for age assessment are systematically used, despite well-documented concerns as to their accuracy and reliability. The authorities do not systematically comply with the procedure set out in secondary legislation”<sup>467</sup>. Persons are subjected to an X-ray examination at the First-Line National Health Network Centre (ΠΕΔΥ) or general hospital, without prior assessment by a psychologist and a social worker. Moreover, EODY does not perform a step-by-step process starting from less invasive methods, as established by JMD 9889/2020. The alleged minors go through a one-time appointment, which includes an age assessment interview and a medical and psychological evaluation. Many are only asked about aspects irrelevant to age assessment such as their family relationships, country of origin, and reasons for fleeing. The sessions take less than 15 minutes and involve no explanation of the procedure or its outcome.”<sup>468</sup>

In the same report, it is mentioned that “Errors in the registration of personal details e.g. name, parents’ names, date of birth, are frequently reported in the different RICs. [...]. Particularly as regards the date of birth, the RIS frequently sets artificial dates such as 1 January. This is especially relevant in the case of alleged minors. In several cases, documents held by individuals are disregarded on the ground that the authorities cannot access the documents’ authenticity, and the authorities assign a new date of birth to the applicant. This practice is verified, for instance, vis-à-vis applicants from Afghanistan. [...] Complaints also relate to wrong registration of children as adults. Frontex officers are reported to systematically register declared minors as adults, without recording their declared age and without referring them to age assessment procedures”<sup>469</sup>.

Moreover, UNHCR has also observed gaps in the age registration procedure followed by the police and Frontex as well as in the referrals to the age assessment procedure, which is applied contrary to the provisions provided in Greek law. The latter foresees a step-by-step and holistic assessment by the medical and psychosocial support unit in the RIC defining the referral to the hospital as the last resort and only if the medical and psychosocial assessment of the RIS is not conclusive. However, in practice, the medical and psychosocial assessment in the scope of the RIS is skipped and a referral takes place directly to the hospital for an x-ray assessment, which usually concludes the age assessment procedure. Furthermore, issues of concern are the gaps in the age assessment procedures that result in instances of repeated age assessments requested by different actors, a practice that prolongs the stay of unaccompanied children in dire conditions in RICs.<sup>470</sup>

According to GCR’s findings, in practice, the age assessment of unaccompanied children is an extremely challenging process and the procedure prescribed is not followed in a significant number of cases, *inter alia* due to the lack of qualified staff. During 2020, the practice of not following the prescribed procedure persisted due to lack of specialized personnel.

Several civil society organisations<sup>471</sup> also mention that “[C]oncerns [...] as regards the involvement of Frontex experts in document checks are particularly relevant to age assessment. Besides, the Asylum Service only deems IDs, passports, and original birth certificates, translated and sealed by the embassy of the country of origin, as proof of the applicant’s age. Age assessment practice falls far short of legislative standards. Many alleged minors report arbitrary age assessments, conducted in dereliction of legal provisions. Starting from their first registration in the RIC, minors have claimed their minority but

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<sup>466</sup> NHCR, as above, p. 86.

<sup>467</sup> Psychosocial assessments appear to be conducted on Lesbos as of August 2020.

<sup>468</sup> RSA and other civil society organisations, as above, p.21

<sup>469</sup> *Ibid*, p.10-11

<sup>470</sup> Submission by the Office of the United Nations High Commissioner for Refugees in the case of International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece (Complaint No. 173/2018) before the European Committee of Social Rights.

<sup>471</sup> RSA and other civil society organisations, as above, p. 20-21

have not been considered credible and have been met with mistrust from interpreters and authorities. Responses include phrases such as "you do not look like a minor". Several alleged minors have reported that they were not informed of the age assessment process or its consequences; they were only called to the facilities of EODY inside **Moria on Lesbos**. Furthermore, severe capacity shortages in medical staff on the islands result in prolonged delays in the conduct of age assessments. [...] Individuals are not treated as minors during the age assessment procedure. **On all islands**, the Public Prosecutor does not appoint a guardian for the person, while alleged minors are excluded from safe zones in the RIC. Accordingly, on islands such as **Kos**, alleged minors remain in the pre-removal detention centre for prolonged periods pending the outcome of the process<sup>472</sup>."

According to GCR's findings, during 2020, on **Lesbos**, big delays were observed regarding the age assessment procedure. The alleged minors were subjected to psychosocial screening by RIS and, then, the medical staff, depending on their estimation about the age of the person, referred him/her to the public hospital for hand and wrist X-rays. During his visit in the camp the pediatrician of the public hospital (once per month) signed the result of the aforementioned procedure; in practice it was a conclusion (minor/adult). On **Samos**, around twenty alleged minors were referred to the public hospital in order to be subjected to medical examinations for age assessment. However, since the entry into force of the JMD 9889/2020, the age assessment procedures are suspended for reasons that remain unknown up until March 2021. On **Kos**, minors were treated as adults unless their lawyer submitted a request for age assessment. It is also observed that, in case of doubt, the medical and psychosocial assessment in the scope of the RIS was skipped and the individuals were directly referred to the public hospital for X-rays.

**Concerning the age assessment in the asylum procedure**, the IPA includes procedural safeguards and refers explicitly to the JMD 1982/2016 (amended by JMD 9889/2020 since 13 August 2020) (see above).

More specifically, Article 75(3) IPA provides that "when in doubt the competent receiving authorities may refer unaccompanied minors for age determination examinations according to the provisions of the Joint Ministerial Decision 1982/16.2.2016 (O.G. B' 335)<sup>473</sup>. When such a referral for age determination examinations is considered necessary and throughout this procedure, attention shall be given to the respect of gender-related special characteristics and of cultural particularities."

The provision also sets out guarantees during the procedure:

- (a) A guardian for the child is appointed who shall undertake all necessary action in order to protect the rights and the best interests of the child, throughout the age determination procedure;
- (b) Unaccompanied children are informed prior to the examination of their application and in a language which they understand, of the possibility and the procedures to determine their age, of the methods used, therefore, the possible consequences of the results of the above-mentioned age determination procedures for the examination of the application for international protection, as well as the consequences of their refusal to undergo this examination;
- (c) Unaccompanied children or their guardians consent to carry out the procedure for the determination of the age of the children concerned;
- (d) The decision to reject an application of an unaccompanied child who refused to undergo this age determination procedure shall not be based solely on that refusal; and
- (e) Until the completion of the age determination procedure, the person who claims to be a minor shall be treated as such.

The law also states that "the year of birth can be modified after the age determination procedure under Article 75, unless during the interview it appears that the applicant who is registered as an adult is

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<sup>472</sup> This was also the case on Lesbos when the pre-removal detention centre was in operation.

<sup>473</sup> Amended on 13 August 2020 by JMD 9889/2020

manifestly a minor; in such cases, a decision of the Head of the competent Receiving Authority, following a recommendation by the case-handler, shall suffice.”<sup>474</sup>

The JMD was an anticipated legal instrument, filling the gap of dedicated age assessment procedures within the context of the Asylum Service and limiting the use of medical examinations to a last resort while prioritising alternative means of assessment. Multiple safeguards prescribed in both the IPA and JMD 9889/2020 regulate the context of the procedure sufficiently, while explicitly providing the possibility of remaining doubts and thus providing the applicant with the benefit of the doubt even after the conclusion of the procedure. However, the lack of an effective guardianship system also hinders the enjoyment of procedural rights guaranteed by national legislation (see [Legal Representation of Unaccompanied Children](#)).

In practice, the lack of qualified staff within the reception and identification procedure and shortcomings in the age assessment procedure in the RIC undoubtedly have a spill-over effect on the asylum procedure, as the issuance of an age determination act by the RIS precedes the registration of the asylum application with the Asylum Service. While registration of date of birth by the Hellenic Police could be corrected by merely stating the correct date before the Asylum Service, this is not the case for individuals whose age has been wrongly assessed by the RIS. In this case, in order for the personal data e.g. age of the person to be corrected, the original travel document, or identity card should be submitted. Additionally, a birth certificate or family status can be submitted, however, these two documents require an “apostille” stamp,<sup>475</sup> which in practice is not always possible for an asylum seeker to obtain. In practice though, in a few cases the employees in the RAOs proceed to the correction of the age of the person, based on documents without “apostille”. Alternatively, according to the law, the caseworker of the Asylum Service can refer the applicant to the age assessment determination procedure in case that reasonable doubt exists as to his or her age.<sup>476</sup> In this case, referral to the age assessment procedure largely lies at the discretion of the Asylum Service caseworker.

The number of age assessments conducted within the framework of the asylum procedure in 2020 is not available.

According to GCR’s knowledge, on **Lesvos** during 2020 in many cases the interview for the examination of the asylum application was conducted and the first instance decision was issued by the RAO of Lesvos before the completion of the age assessment procedure.

Several civil society organisations reported that<sup>477</sup> “In one case on **Samos**, the Asylum Service referred an alleged minor to the General Hospital of Samos to undergo the examination in December 2019. The applicant’s lawyer was informed in October 2020 that the examination had not taken place until then because the General Hospital of Samos could only examine 8 persons and the Asylum Service had decided to give priority to minors who had submitted a family reunification request under the Dublin Regulation. Moreover, the General Hospital of Samos informed the lawyer that it had never received a request by the Asylum Service concerning her client”.

According to GCR’s findings, in a case of an unaccompanied minor of Syrian origin registered as an adult by **Kos RIS**, GCR submitted a copy of his national id card proving that he was under-age. Then, RIS referred the individual for age assessment to the public hospital where he was subjected to left-hand X-rays. According to the doctor’s opinion, the individual was 19 years old. In the meantime, the individual’s application for international protection was rejected at 1<sup>st</sup> instance as inadmissible (safe third country concept). Then an appeal was filed against the decision of 1<sup>st</sup> instance and the Appeals Authority (decision No 19885/11-08-2020) decided that the application for international protection should not be examined

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<sup>474</sup> Article 79(4) IPA.

<sup>475</sup> Decision of the Director of the Asylum Service No 3153, Gov. Gazette B’ 310/02.02.2018.

<sup>476</sup> Article 75(3) IPA.

<sup>477</sup> RSA and other civil society organisations, as above, p.21.

unless the age assessment was properly conducted. According to the 2<sup>nd</sup> instance decision, the three methods of age assessment were not applied successively and, in any case, left-hand X-rays should always be accompanied by left wrist X-rays, dental examination, and panoramic dental X-rays, in accordance with the JMD 1982/2016 that was in force at that time. Thus, doubts arose regarding the individual's actual age and, the appellant was to be referred again for age assessment in accordance with the provisions of JMD 1982/2016.

In light of the persisting gaps in child protection in Greece, including the lack of effective guardianship, lack of qualified staff for age assessment procedures, inconsistencies in the procedure followed, and the lack of any legal framework governing the age assessments conducted by the Police (see [Detention of Vulnerable Applicants](#)) the 2017 findings of the Ombudsperson are still valid: "The verification of age appears to still be based mainly on the medical assessment carried out at the hospitals, according to a standard method that includes x-ray and dental examination, while the clinical assessment of the anthropometric figures and the psychosocial assessment is either absent or limited. This makes more difficult the further verification of the scientific correctness of the assessment."<sup>478</sup>

Moreover, in the past, the Greek Ombudsperson had expressed serious doubts as to the proper and systematic implementation of the age assessment procedures provided by both ministerial decisions and the implementation of a reliable system.<sup>479</sup> On 30 August 2018, the Greek Ombudsperson had sent a letter to the Director of the Asylum Service on issues that hinder access to the asylum procedure for the unaccompanied minors as well as other issues, such as delays, erroneous implementation of the age assessment procedure, etc. This document remained unanswered, thus the Ombudsperson sent a kind reminder on 30 September 2019, emphasizing that age assessments based on diagnostic examinations (such as a wrist X-ray scan) should not be accepted given the fact that the accuracy of these exams is questionable.

## 2. Special procedural guarantees

### Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

☒ Yes

☐ For certain categories

☐ No

❖ If for certain categories, specify which:

### 2.1. Adequate support during the interview

According to article 67 (2) IPA, '[w]here applicants have been identified as applicants in need of special procedural guarantees, they shall be provided with adequate support in order to be in the position to benefit from the rights and comply with the obligations in the framework of the asylum procedure.

IPA provides examples of forms of adequate support that can be granted in the procedure. More specifically:<sup>480</sup>

- The possibility of additional breaks during the personal interview;
- The possibility for the applicant to move during the interview if his or her health condition so requires;
- Leniency to minor inconsistencies and contradictions, to the extent that they relate to the applicant's health condition.

National legislation expressively provides that each caseworker conducting an asylum interview shall be

<sup>478</sup> Ombudsperson, *Migration flows and refugee protection: Administrative challenges and human rights*, Special Report 2017, 25-25 and 75.

<sup>479</sup> *Ibid*, 25.

<sup>480</sup> Article 67(2) IPA.

“trained in particular as of the special needs of women, children, and victims of violence and torture.”<sup>481</sup>

The law also provides that, when a woman is being interviewed, the interviewer, as well as the interpreter, should also be female where this has been expressly requested by the applicant.<sup>482</sup>

In practice, GCR is aware of cases where the vulnerability or particular circumstances of the applicant have not been taken into account or have not properly been assessed at first or/and second instance.

Examples include the following:

- ❖ In a case of a young woman, national of Cameroon, victim of sexual and gender-based violence and human trafficking, who fled her country of origin due to persecution because of her sexual orientation, the first instance decision was full of contradictions and her serious psychological and mental health problems were not taken into account by the caseworker, even though she had been already identified as “vulnerable” by RIS (victim of torture) and her case had been channeled to the regular procedure. She had also submitted certificates from both a psychiatrist and a psychologist. In fact, failing to properly evaluate her medical problems, it was stated that “she was not considered credible since the descriptions she gave were considered insufficiently detailed”. The case is still pending before the Appeals Committee.<sup>483</sup>
- ❖ In a case of a young man, national of the Democratic Republic of Congo, suffering from serious mental health disorders, the Asylum Service as well as the Appeals Authority did not take into consideration the medical certificates that were submitted and the respective allegations of the applicant and considered him as non-credible concerning his persecution in his country of origin. Legal remedies were lodged before the competent Administrative Court; the application for suspension was accepted and the application for annulment is still pending<sup>484</sup>.
- ❖ Where they have referred to Article 67 IPA, the Appeals Committees have found that the onus is on the applicant to specify which forms of “adequate support” are not available to him or her in the fast-track border procedure. In one case, concerning a victim of torture whose claim was not exempted from the fast-track border procedure, the Appeals Committee held that the duty to provide adequate support had been fulfilled insofar as the interviewer agreed to split the interview into two parts, upon request; Médecins Sans Frontières (MSF) was providing health care and psychological support to the applicant; the applicant was able to fully and clearly respond to the questions of the interviewer without any evident impact of their health condition on their answers; and the applicant was able to appeal the negative decision, with the assistance of a legal representative.<sup>485</sup>
- ❖ In a case of a young man, national of Afghanistan, the interview before the RAO of Lesvos was conducted with him being treated as an adult, even though the age determination procedure was still ongoing. Meanwhile, it was proved that he was a minor. However, the caseworker did not take it into consideration and the 1<sup>st</sup> instance decision was issued. After an appeal was lodged against that decision, the Appeals Authority accepted that a violation of the procedure took place and invited the appellant, accompanied by a guardian/representative, for an interview. The decision is still pending.<sup>486</sup>

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<sup>481</sup> Article 77(12)(a) IPA.

<sup>482</sup> Article 77(5) IPA, as well as Administrative Court of Appeal of Athens, Decision 3043/2018, available in Greek at: <https://bit.ly/2Jk1Bk6>, which found that an applicant who has not requested an interpreter of the same gender for the interview cannot rely on this provision at a later stage.

<sup>483</sup> Decision on file with the author.

<sup>484</sup> Decisions on file with the author.

<sup>485</sup> 14<sup>th</sup> Independent Appeals Committee, Decision 4334/2020, 9 April 2020: Information provided by RSA, 4 January 2021.

<sup>486</sup> Decisions on file with the author.

- ❖ According to GCR's experience, in several cases, when evaluating claims made by persons of a particular nationality - mainly Pakistani or Bangladeshi- the caseworkers and the Appeals Committee seem to discriminate and minors are not given the benefit of the doubt. All decisions rejecting minors' claims have troubling similarities. Procedural deficits (absence of a guardian, of appropriate legal representation and legal aid during the process), as well as substantial deficits regarding the determination of refugee status (lack of any reference to the Best Interest of the Child or lack of assessment of the Best Interest, obvious lack of knowledge regarding forms of child persecution in general and in countries of origin in particular or the lack of a proper assessment of a minor's credibility), make it almost impossible for unaccompanied minors undergoing the procedure themselves to qualify for international protection, with the sole exception of children of Syrian nationality.<sup>487</sup> This is reflected in the official statistics provided by the Asylum Service. According to the data provided, during 2020 there were only 319 decisions granting refugee status to unaccompanied children and 61 granting subsidiary protection, whereas there were 965 rejecting decisions. There are still 4,249 pending decisions for UACs.<sup>488</sup>

## 2.2. Exemption from special procedures

The IPA no longer provides for exemption of vulnerable persons from special procedures as a general rule<sup>489</sup> (see [Identification](#)). Applicants in need of special procedural guarantees are only exempted from the [Accelerated Procedure](#), the [Border Procedure](#), and the [Fast-Track Border Procedure](#) where adequate support cannot be provided<sup>490</sup> (see above). Nevertheless, L. 4686/2020 abolished the rule introduced by L.4636/2019 allowing for the standard processing of vulnerable cases through accelerated procedures<sup>491</sup>.

According to the information provided by the Asylum Service, in 2020, 5,885 cases were exempted from the fast-track border procedure and were channeled into the regular procedure for reasons of vulnerability. However, the specific vulnerabilities presented by each case are not available.<sup>492</sup>

In a 2020 case, the 4<sup>th</sup> Independent Appeals Committee found no basis to order exemption of an asylum-seeking victim of torture from the fast-track border procedure on the ground that the individual had suffered no procedural damage (*δικονομική βλάβη*) from the processing of his asylum claim under the truncated timeframes of the fast-track border procedure. To support its reasoning, the Appeals Committee held that the applicant was ultimately able to obtain legal representation and to lodge an appeal against the first instance rejection of his claim within the deadline.<sup>493</sup>

Unaccompanied children below the age of 15, as well as unaccompanied children who are victims of trafficking, torture, rape, or other forms of serious psychological, physical and sexual violence, are always processed under the regular procedure.<sup>494</sup> For those aged 15 or over who are not victims of trafficking,

<sup>487</sup> Rosa Luxemburg Foundation, *Children Cast Adrift: Exclusion and exploitation of unaccompanied minors (UAMs) in Greece* (2019), available at: <https://bit.ly/35b4jjn>.

<sup>488</sup> Information provided from the Asylum Service, 31<sup>st</sup> March 2021.

<sup>489</sup> Articles 39(5)(d) and 72(3) IPA provide state that the determination of an applicant as vulnerable has the sole effect of triggering immediate care of particular reception. L 4375/2016, previously in force, expressly foresaw that applicants in need of special procedural guarantees and unaccompanied minors shall always be examined under the regular procedure.

<sup>490</sup> Article 67(3) IPA. This provision clarifies that, where the applicant falls within the cases where no appeals have no automatic suspensive effect, he or she must have access to interpretation services, legal assistance and at least one week to prepare the appeal (see also [Border Procedure](#) and [Fast-Track Border Procedure](#)).

<sup>491</sup> Article 60 L.4686/2020, provides for the repeal, among other provisions, of Article 83 para. 9(l) of L. 4636/2019

<sup>492</sup> Information provided by the Asylum Service, 31 March 2021.

<sup>493</sup> 4<sup>th</sup> Independent Appeals Committee, Decision 12645/2020, 21 July 2020: Information provided by RSA, 4 January 2021.

<sup>494</sup> Article 75(7) IPA.



torture or violence, exemption from special procedures depends on the individual grounds applied by the authorities in each case.<sup>495</sup>

Exemption of unaccompanied children aged 15 or over from special procedures			
Accelerated procedure		Border and fast-track border procedures	
Ground		Ground	
Claim unrelated to protection	✓	Protection in another Member State	✓
Safe country of origin	x	First country of asylum	✓
False information or documents	✓	Safe third country	x
Destruction or disposal of documents	✓	Subsequent application	x
Clearly unconvincing application	✓	Application by dependant	✓
Subsequent application	x	Claim unrelated to the protection	✓
Application to frustrate return proceedings	✓	Safe country of origin	x
Application not as soon as possible	✓	False information or documents	x
Refusal to be fingerprinted under Eurodac	✓	Destruction or disposal of documents	x
Threat to public order or national security	x	Clearly unconvincing claim	✓
Refusal to be fingerprinted under national law	✓	Application to frustrate return proceedings	✓
Vulnerable person	✓	Application not as soon as possible	✓
		Refusal to be fingerprinted under Eurodac	✓
		Threat to public order or national security	x
		Refusal to be fingerprinted under national law	✓
		Vulnerable person	✓

As far as the **Safe Third Country** concept is concerned, the law specifies that unaccompanied children may only be subject to the border and fast-track border procedure where this is in line with their best interests.<sup>496</sup>

Pressure on the Greek authorities to abolish the exemptions of vulnerable applicants from the fast-track border procedure and to “reduce the number of asylum seekers identified as vulnerable”, for the sake of the implementation of the EU-Turkey statement and the increase of returns to Turkey is already reported since late 2016.<sup>497</sup> However, as underlined by *inter alia* Médecins Sans Frontières “far from being over-identified, vulnerable people are falling through the cracks and are not being adequately identified and cared for.”<sup>498</sup>

Within this framework, L 4540/2018, transposing the recast Reception Conditions Directive, has omitted persons suffering from PTSD from the list of vulnerable applicants.<sup>499</sup> Subsequently, following the 2019 and 2020 amendment, IPA has not included persons suffering from post-traumatic stress disorder (PTSD) in the list of vulnerable individuals.

## 2.3. Prioritisation

Both definitions “vulnerable group” and “applicant in need of special procedural guarantees” were used

<sup>495</sup> Articles 83(10) and 90(4) IPA.

<sup>496</sup> Article 90(4)(d) IPA.

<sup>497</sup> European Commission, *Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey Statement*, Annex 1 to COM(2016) 792, 8 December 2016, paras 2 and 3; Human Rights Watch, ‘EU/Greece: Pressure to minimise numbers of migrants identified as vulnerable’, 1 June 2017, available at: <http://bit.ly/2qD2fQb>; AIDA, *The concept of vulnerability in European asylum procedures*, September 2017, 17.

<sup>498</sup> MSF, *A dramatic deterioration for asylum seekers on Lesbos*, July 2017, 3.

<sup>499</sup> Article 20(1) L. 4540/2018.

by IPA before the amendment by L4686 in relation to other procedural guarantees such as the examination of applications by way of priority.<sup>500</sup> Although article 39(5)(d) IPA provided that applications of persons belonging to vulnerable groups were examined “under absolute priority”<sup>501</sup>, this provision was abolished by L. 4686/2020<sup>502</sup>.

The number of applications by vulnerable persons which were examined by priority until the entry into force of L.4686/2020 is not available<sup>503</sup>. However, as stated in [Regular Procedure: Personal Interview](#), GCR is aware of applications by persons officially recognized as vulnerable whose interview has been scheduled over one year after registration.

### 3. Use of medical reports

#### Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? ☒ Yes ☐ In some cases ☐ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☒ Yes ☐ No

Upon condition that the applicant consents to it, the law provides for the possibility for the competent authorities to refer him or her for a medical and/or psychosocial diagnosis where there are signs or claims, which might indicate past persecution or serious harm. These examinations shall be free of charge and shall be conducted by specialised scientific personnel of the respective specialisation and their results shall be submitted to the competent authorities as soon as possible. Otherwise, the applicants concerned must be informed that they may be subjected to such examinations at their own initiative and expense. Any results and reports of such examinations had to be taken into consideration by the Asylum Service.<sup>504</sup> The new IPA provides that any results and reports of such examinations are taken into consideration, in order for the deciding authorities to establish if the applicant's allegations of persecution or serious harm are likely to be well-founded”.<sup>505</sup>

Specifically, for persons who have been subjected to torture, rape, or other serious acts of violence, a contested provision was introduced in 2018,<sup>506</sup> according to which, such persons should be certified by a medical certificate issued by a public hospital or by an adequately trained doctor of a public sector health care service provider.<sup>507</sup> The provision has been maintained by the IPA.<sup>508</sup>

The main critiques against this provision are that doctors in public hospitals and health care providers are not adequately trained to identify possible victims of torture and that the law foresees solely a medical procedure. According to the Istanbul Protocol, a multidisciplinary approach is required – a team of a doctor, a psychologist, and a lawyer – for the identification of victims of torture. Moreover, stakeholders have expressed fears that certificates from other entities than public hospitals and public health care providers would not be admissible in the asylum procedure and judicial review before courts.

<sup>500</sup> See also Articles 39(6)(c) and 83(7) IPA.

<sup>501</sup> Article 39(5)(d) L.4636/2019.

<sup>502</sup> Article 2(3) L. 4686/2020.

<sup>503</sup> Information provided by the Asylum Service, 31 March 2021

<sup>504</sup> Article 53 L 4375/2016.

<sup>505</sup> Article 72(2) IPA.

<sup>506</sup> Article 23 L 4540/2018.

<sup>507</sup> Immigration.gr, ‘Η πιστοποίηση θυμάτων βασανιστηρίων αποκλειστικό «προνόμιο» του κράτους;’, May 2018, available in Greek at: <https://bit.ly/2TVAMXv>.

<sup>508</sup> Article 61(1) IPA.

Few such cases of best practice, where Asylum Service officers referred applicants for such reports, were recorded by GCR in 2020. However, several cases have been reported to GCR where the Asylum Service officer did not take into account the medical reports provided (see [Special Procedural Guarantees](#)).

As reported by several civil society organisations<sup>509</sup>, “Certain categories such as victims of torture are systematically not identified as such, where certification does not take place. Certification of victims of torture is impossible in the country in practice, given that public health authorities do not have the processes and capacity in place to carry out certification. The authors have contacted public health institutions on the islands on various occasions to inquire whether they certify victims of torture in accordance with the Istanbul Protocol, victims of rape of other serious form of violence, as well as whether hospital staff is appropriately trained for such a certification and whether the victims are able to receive the necessary care for their rehabilitation. The following replies have been provided by authorities:

**Lesvos:** In response to requests inter alia by RSA, HIAS and METAdrasi in the course of 2020, the “Vostanio” General Hospital of Mytilene has stated that it does not operate a specialised service for the certification of victims of torture. The hospital referred the applicants to the Northern Aegean Forensic Service (ιατροδικαστική υπηρεσία). Said authority, however, has stated that it solely conducts examinations upon order from police authorities or the prosecutor.<sup>510</sup>

Regarding the other islands, in response to written requests by METAdrasi lawyers: The “Skylitsio” General Hospital of **Chios** responded that it does not operate a specialised service for the certification of victims of torture; The General Hospital of **Samos** did not provide information on certification and rehabilitation of victims of torture, albeit stating that it applies the practices and guidelines on handling sexual and gender-based violence inside RIC; The General Hospital of **Leros** responded that persons are referred to a forensic examination at the nearest hospital that carries out such examinations. In any case, the medical and nursing staff of the General Hospital of Leros would treat anyone who needs medical help; The General Hospital of **Kos** stated that the Dodecanese Forensic Service of Kos is able to certify torture and other serious forms of sexual or physical violence only upon order from the prosecutor. According to the Forensic Service, however, the outcome of such an examination is not reliable where a relatively long lapse of time and where offences have been committed in an unknown place.” The Northern Aegean Forensic Authority has explained in turn that it only conducts examinations for certification of victims of torture upon order from police authorities or the prosecutor. For its part, the prosecutor refuses to issue such orders on the ground that the IPA entrusts responsibility for certification to public health authorities. Due to this, it is currently impossible for victims of torture to be certified as such by the authorities in practice.”<sup>511</sup>

On 18 June 2020, in a case supported by GCR, the Administrative Court of Appeal of Piraeus accepted the application for annulment of a woman from Ethiopia – victim of human trafficking and sexual violence in her country of origin - and annulled the second instance decision of the 2<sup>nd</sup> Committee of the Appeals Authority (Decision A252/18-6-2020). Specifically, the Court held that the applicant’s Appeal was illegally rejected, as the Committee did not take into consideration neither the documents certifying that she is a vulnerable person and specifically that she is a victim of human trafficking and victim of sexual violence nor her relevant allegations. Also, according to the Court, the fact that the Committee did not examine if the applicant belongs to the special social group of “women from Ethiopia, victims of violence and human trafficking, who lack supportive family or any other network and do not have professional training” violated the law. Moreover, it was held that the Committee should have examined if the violence she was subjected

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<sup>509</sup> RSA, p.16

<sup>510</sup> RSA & Stiftung PRO ASYL, Submission in M.S.S. v. Belgium and Greece and Rahimi v. Greece, July 2020, para 48, available at: <https://bit.ly/2VAa31T> HIAS, Communication in the M.S.S. and Rahimi groups v. Greece, August 2020.

<sup>511</sup> HIAS Greece, *Submission in M.S.S. / Rahimi*, August 2020, 9, available at: <https://bit.ly/34T72zz>; RSA & Stiftung PRO ASYL, *Submission in M.S.S. / Rahimi*, July 2020, para. 48, available at: <https://bit.ly/3fgLFLH>.

to amounted to persecution and also the risk that she would face in case of return to her country of origin.<sup>512</sup>

#### 4. Legal representation of unaccompanied children

##### Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?

☒ Yes

☐ No

Under Greek law, any authority detecting the entry of an unaccompanied or separated child into the Greek territory shall take the appropriate measures to inform the closest Public Prosecutor's office, the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, ΕΚΚΑ), the Special Secretariat for the Protection of Unaccompanied Minors or any other competent authority for the protection of unaccompanied and/or separated children<sup>513</sup>. According to IPA, before the amendment by L.4756/2020<sup>514</sup>, the General Directorate of Social Solidarity of the Ministry of Labour and Social Affairs was responsible for further initiating and monitoring the procedure of appointing a guardian to the child and ensuring that his or her best interests are met at all times<sup>515</sup>. However, since the entry into force of L.4756/2020, the responsible authority for the procedure of guardianship of unaccompanied children is the Directorate for the Protection of the Child and the Family of the Ministry of Labour and Social Affairs in collaboration with the National Centre for Social Solidarity (ΕΚΚΑ) or other authorities<sup>516</sup>.

L 4554/2018 introduced for the first time a regulatory framework for the guardianship of unaccompanied children in Greek law. According to the new law, a guardian will be appointed to a foreign or stateless person under the age of 18 who arrives in Greece without being accompanied by a relative or non-relative exercising parental guardianship or custody. The Public Prosecutor for Minors or the local competent Public Prosecutor, if no Public Prosecutor for minors exists, is considered as the temporary guardian of the unaccompanied minor. This responsibility includes, among others, the appointment of a permanent guardian of the minor.<sup>517</sup> The guardian of the minor is selected from a Registry of Guardians created under the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, ΕΚΚΑ).<sup>518</sup> Also, the law provides a best interest of the child determination procedure following the issuance of standard operational procedure to be issued.<sup>519</sup> The law also creates the Supervisory Guardianship Board, which will be responsible for ensuring legal protection for unaccompanied children with respect to disabilities, religious beliefs and custody issues.<sup>520</sup> Additionally, the law established the Department for the Protection of Unaccompanied Minors at ΕΚΚΑ, which had the responsibility of guaranteeing safe accommodation for unaccompanied children and evaluating the quality of services provided in such accommodation.<sup>521</sup> However, since the amendment of IPA by L.4686/2020 and later by L.4760/2020, the authority responsible for the accommodation of unaccompanied minors is the Special Secretariat for the Protection of Unaccompanied Minors of Ministry of Migration and Asylum<sup>522</sup>.

Under Article 18 L 4554/2018, the guardian has responsibilities relevant to the integration of unaccompanied children, which include:

<sup>512</sup> Decision of file with the author.

<sup>513</sup> Article 60(1) IPA.

<sup>514</sup> L. 4756/2020, Gov. Gazette A' 235/26-11-2020

<sup>515</sup> See Article 32(1) & (2) IPA and Article 60(3) IPA (before the entry into force of L.4686/2020), article 60(4) IPA (after the entry into force of L. 4686/2020).

<sup>516</sup> Articles 13 and 14 L.4756/2020 amending respectively articles 32 and 60 IPA.

<sup>517</sup> Article 16 L 4554/2018.

<sup>518</sup> *Ibid.*

<sup>519</sup> Article 21 L 4554/2018.

<sup>520</sup> Article 19 L 4554/2018.

<sup>521</sup> Article 27 L 4554/2018.

<sup>522</sup> The Special Secretariat for the Protection of Unaccompanied Minors was established with 1(3) of the Presidential Decree 18/2020. It operates according to Articles 35 and 42 L. 4622/2019 and reports directly to the Minister of Migration and Asylum, <https://bit.ly/3fMN5jn>. Article 32(4) IPA and Article 60(3) IPA.

- ❖ ensuring decent accommodation in special reception structures for unaccompanied children;
- ❖ representing and assisting the child in all judicial and administrative procedures;
- ❖ accompanying the child to clinics or hospitals;
- ❖ guaranteeing that the child is safe during their stay in the country;
- ❖ ensuring that legal assistance and interpretation services are provided to the child;
- ❖ providing access to psychological support and health care when needed;
- ❖ taking care of enrolling the child in formal or non-formal education;
- ❖ taking necessary steps to assign custody of the child to an appropriate family (foster family), in accordance with the applicable legal provisions;
- ❖ ensuring that the child's political, philosophical and religious beliefs are respected and freely expressed and developed; and
- ❖ behaving with sympathy and respect to the unaccompanied child.

In practice, the system of guardianship is still not operating. According to the initial version of L. 4554/2018 (Art. 32), the Guardianship Law should have entered into force at the time that the Ministerial Decision approving the Rules of Procedure of the Supervision Board provided by Art. 19(6) L. 4554/2018 would be issued. Following an amendment introduced in May 2019 (Art. 85(2) L. 4611/2019, Gov. Gazette A 73/17.5.2019), the entry into force of L. 4554/2018 has been postponed until the 1st of September 2019. However, the entry into force of L. 4554/2018 has been further postponed until the 1st of March 2020 (Art. 73 (1) L. 4623/2019, Gov. Gazette A 134/9.8.2019).<sup>523</sup> By the end of March 2021, the system was not in place.

In May 2019, the European Committee on Social Rights of the Council of Europe, following a collective complaint lodged by ECRE and ICJ, with the support of GCR, adopted its Decision on Immediate Measures, and indicated to the Greek Authorities, *inter alia*, to immediately appoint effective guardians.<sup>524</sup> Greek Authorities have not complied with said Decision by the end of March 2021.

The fact that the public sector is severely untrained and understaffed hinders the situation even more. Especially, assigning this additional task of guardianship to prosecutors has proved to be disastrous over the years, especially given the number of prosecutors and their actual workload as prosecuting authorities.<sup>525</sup>

Several civil society organisations mention that<sup>526</sup> “Unaccompanied children are not immediately appointed a guardian for the purposes of reception and identification procedures. However, at different times in recent years, on the basis of a general authorisation of guardians coordinated by METAdrasi by public prosecutors, unaccompanied children on Lesbos, Chios, Leros and Kos have been able to be accompanied by guardians during the aforementioned procedure before Frontex. The presence of guardians has had visible impact on the transparency of the registration of the individuals’ personal details, including declared age”.

Despite the welcome development of the legal framework under L 4554/2018, the proper implementation of the guardianship system should be further monitored. The Greek Ombudsman noted in his Observations on the draft bill on Law 4636/2019 that there are several provisions, which may complicate the protection of migrant children and hinder the implementation of existing legislation. According to his report, there is a concerning lack of clarity in the definitions of unaccompanied and separated children, uncertainty over the competent services, and absence of any reference to the Guardianship Law

<sup>523</sup> Response by the International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) to the Observations of the Greek Government on the Merits of Collective Complaint 173/2018.

<sup>524</sup> European Committee on Social Rights, Decision on admissibility and on immediate measures, International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, 23 May 2019.

<sup>525</sup> Rosa Luxemburg Foundation, *Children Cast Adrift: Exclusion and exploitation of unaccompanied minors (UAMs) in Greece (2019)*, available at: <https://bit.ly/2y9sEd3>.

<sup>526</sup> RSA and other civil society organisations, as above, p.24



4554/2018 and secondary legislation setting out age assessment procedures<sup>527</sup>. Despite the fact that the new L. 4756/2020 amending IPA introduces a direct reference to the Guardianship Law 4554/2018 and includes more details on the responsibilities of the competent authorities, there are still several issues to be addressed.

In 2020 few steps have been made towards the improvement of the housing situation for unaccompanied minors. According to the Greek Authorities<sup>528</sup> “Due to the gradual transfer of UMs to facilities on the mainland that the Special Secretary had initiated, in August 2020 the total number of UMs at the islands was 830, while in November 2019 the said number was 1,746. Further coordinated steps led to an additional transfer of 733 UMs in September-October 2020 from RICs to facilities on the mainland. Ever since, the Accommodation Requests’ Managing Unit (within the Special Secretary for UMs) has been prioritizing the cases of UMs that are under precarious conditions and/or at the RICs; due to the above intensive efforts, on 23 February 2021 only 68 UMs were residing at RICs; the procedure for placement to an accommodation was pending for 19 out of those (conclusion of medical tests and coordination of their escort).” However, according to the official statistics of *EKKA* (National Center for Social Solidarity) as of 31 December 2020, there were 924 children in insecure housing conditions.<sup>529</sup>

It should also be acknowledged that the average waiting time for the placement of a UAM to a proper facility has decreased in 2020. According to the Special Secretariat for the Protection of Unaccompanied Minors, in December 2020, the average waiting time for the placement in an accommodation facility for unaccompanied minors was:

- ❖ 9.2 days, for UAMs in “protective custody”
- ❖ 6.4 days in Evros/Fylakio RIC
- ❖ 11.2 days for UAMs residing at the RICs of the Eastern Aegean Islands. More precisely, for UAMs in “protective custody” the average waiting time was 1.9 days, which constitutes a great development<sup>530</sup>.

Moreover, the Greek State, following a series of convictions by the European Court of Human Rights and being already under supervision for relevant decisions, proceeded to the deletion of article 118 of the Presidential Decree 141/1991, regarding “protective custody’ of unaccompanied minors, which de facto amounts to detention, and introduced a new provision with article 43 of Law 4760/2020<sup>531</sup>, which was applied on 11 December 2020. According to the official statistics of *EKKA* (National Center for Social Solidarity) as of 31 December 2020, there were 30 children in ‘protective custody’, and 127 children in RICs.

Concerning the access of unaccompanied minors to the asylum procedure, contrary to the FRA’s opinion regarding the significant improvements in speeding up the registration of the asylum claim of unaccompanied minors in the “hotspots”,<sup>532</sup> the GCR’s findings show that there are massive delays in the registration on the mainland, especially for Pakistani and Bangladeshi minors, who can wait up to six months for an appointment in the RAOs of Athens and Piraeus.

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<sup>527</sup> Response by the International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) to the Observations of the Greek Government on the Merits of Collective Complaint 173/2018.

<sup>528</sup> SECRETARIAT OF THE COMMITTEE OF MINISTERS, DH-DD(2021)363, date 01/04/2021, Communication from the authorities (16/03/2021) concerning the cases of M.S.S. v. Belgium and Greece and RAHIMI v. Greece (Applications No. 30696/09, 8687/08), para. 12

<sup>529</sup> Situation Update: Unaccompanied Children (UAC) in Greece 31 December 2020, available at: <https://bit.ly/2PZYAcH>

<sup>530</sup> Information provided by the Special Secretariat for the Protection of Unaccompanied Minors, 28 January 2021

<sup>531</sup> Law 4760/2020, Gov. Gazette 247/A/11-12-2020

<sup>532</sup> FRA - Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the ‘hotspots’ set up in Greece and Italy (February 2019).



According to the official statistics provided by the Asylum Service, during the year 2020, there were 2,799 applications for international protection from unaccompanied minors, of which 2,593 from boys and 206 from girls.<sup>533</sup>

## E. Subsequent applications

### Indicators: Subsequent Applications

Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No

Is a removal order suspended during the examination of a first subsequent application?

- ❖ At first instance ☒ Yes ☐ No
- ❖ At the appeal stage ☐ Yes ☐ No ☒ In some cases (under the IPA)

Is a removal order suspended during the examination of a second, third, subsequent application?

- ❖ At first instance ☐ Yes ☒ No
- ❖ At the appeal stage ☐ Yes ☒ No

The law sets out no time limit for lodging a subsequent application.<sup>534</sup>

A subsequent application can also be lodged by a member of a family who had previously lodged an application. In this case the preliminary examination concerns the eventual existence of evidence that justifies the submission of a separate application by the depending person.<sup>535</sup>

**2,711** subsequent asylum applications were submitted to the Asylum Service in 2020:

Subsequent applications 2020	
Five main countries of origin	Number of applications
Pakistan	635
Afghanistan	414
Syria	350
Albania	314
Iran	211

Source: Asylum Service 31 March 2021.

A total of 699 subsequent applications were considered admissible and referred to be examined on the merits, while 2,372 subsequent applications were dismissed as inadmissible in 2020.<sup>536</sup>

The definition of “final decision” was amended in 2018. According to the new definition, as maintained in the IPA, a “final decision” is a decision granting or refusing international protection:

- (a) taken [by the Appeals Committees] following an administrative appeal, or
  - (b) which is no longer amenable to an administrative appeal due to the expiry of the time limit to appeal.<sup>537</sup>
- An application for annulment can be lodged against the final decision before the Administrative Court.<sup>538</sup>

The registration of a subsequent application in practice is suspended for as long as the deadline for the submission of an application for the annulment of the second instance negative decision before the Administrative Court is still pending,<sup>539</sup> unless the applicant proceeds to waive his or her right to legal

<sup>533</sup> Information provided from the Asylum Service, 31 March 2021.

<sup>534</sup> Article 89 IPA.

<sup>535</sup> Article 89(5) IPA.

<sup>536</sup> Information provided by the Asylum Service, 31 March 2021.

<sup>537</sup> Article 63(a) IPA.

<sup>538</sup> Article 108(1) IPA.

<sup>539</sup> Said deadline was up until the end of 2019 60 days – Since the entry into force of the IPA is 30 days.

remedies. The applicant can only waive this right in person or through a proxy before the competent Administrative Court of Appeal. This procedure poses serious obstacles to applicants subject to the [Fast-Track Border Procedure](#) who intend to submit a subsequent application.

This is in particular the case for applicants whose application has been examined without having being processed by the RIS due to the shortcomings in the [Identification](#) procedure and without having their vulnerability been identified, or cases regarding vulnerabilities appeared or identified in a later stage. Cases where vulnerability has been identified by the RIS or medical actors operating on the islands, e.g. public hospitals, and in which relevant certificates were issued after the second instance examination or even after the issuance of the second instance decision have been encountered by GCR. Therefore, the identification of vulnerability is a “new, substantial element” as prescribed by law.

However, according to the practice followed in some of the Eastern Aegean Islands during 2020, applicants, whose application was rejected within the framework of the fast-track border procedure, had to leave the country within 10 days of the notification of the decision (voluntary departure). However, upon their arrival to the mainland they found themselves in a legal limbo given that their right to submit a subsequent application was hindered as RAOs and AAUs did not accept to register subsequent applications submitted by persons who were rejected under fast-track border procedure despite the fact they had left the islands legally.

The next example concerning a vulnerable single – parent Syrian family (a 9-month-pregnant mother, victim of domestic violence suffering from mental health disorders with three minors) reflects the aforementioned issues arising in the registration of subsequent applications in the mainland:

Following the 2<sup>nd</sup> instance decision on their asylum application which was dismissed as “inadmissible” on the grounds that Turkey is a safe third country, the family left Chios given that, according to the abovementioned decision and the accompanying document, “the applicants have to leave the country within 10 days (voluntary departure) and the RIC within 30 days from the notification of the decision”. Upon their arrival to the mainland, GCR addressed a request to the Asylum Service in order for a subsequent application to be lodged in Athens. However, the said request was rejected on the grounds that “there was no decision for the lift of the geographical restriction and, thus, there is lack of competence of the authorities in question”. Then, GCR addressed a second intervention to the Asylum Service as well as to the Greek Ombudsperson, claiming, that the applicants left the island of Chios legally and in any case they cannot go back due to their vulnerability and Covid-19 movement restrictions. It was also underlined that their right to asylum and access to asylum procedure is violated, since they were de facto in a legal limbo situation, as, on the one hand, they could not return to the island (pregnancy and movement restrictions) and on the other hand, they were not able to apply for international protection in Athens, since the RAO of Alimos and Fast-Track Asylum Unit did not accept to register their subsequent application. Furthermore, it was highlighted that the applicant’s access to healthcare was denied by the public hospitals in Athens and that they were utterly homeless. Despite two interventions of the Greek Ombudsperson followed by another request by GCR addressed to Chios RIS and Chios Police Directorate in order for the geographical restriction to be lifted, the subsequent application was still not registered by the Asylum Service in March 2021.

Furthermore, according to GCR’s findings, the same practice is followed by AAUs in the mainland in cases of persons under administrative detention who had infringed the geographical restriction and are detained with a view of return to the island: in 2020, the Asylum Service did not accept to register their subsequent application “due to lack of competence”.

Moreover, legal practitioners have witnessed cases in 2020 in which the Asylum Service incorrectly interprets the concept of “final decision” by deeming that a second instance decision against which an application for annulment has been lodged at the Administrative Court is not final until the court has delivered its ruling. In one case, the RAO of **Western Greece** held that the individual’s new application could therefore not be considered a subsequent application, and was dismissed as inadmissible due to

lack of competence of the Asylum Service. Following intervention, the decision was withdrawn and the RAO deemed the subsequent claim admissible.<sup>540</sup>

### **Preliminary examination procedure**

When a subsequent application is lodged, the relevant authorities examine the application in conjunction with the information provided in previous applications.<sup>541</sup>

Subsequent applications are subject to a preliminary examination, during which the authorities examine whether new substantial elements have arisen or are submitted by the applicant. The preliminary examination of subsequent applications is conducted within 5 days to assess whether new substantial elements have arisen or been submitted by the applicant.<sup>542</sup> According to the IPA, the examination takes place within 2 days if the applicant's right to remain on the territory has been withdrawn.<sup>543</sup>

During that preliminary stage, according to the law all information is provided in writing by the applicant,<sup>544</sup> however in practice subsequent applications have been registered with all information provided orally.

If the preliminary examination concludes on the existence of new elements "which affect the assessment of the application for international protection", the subsequent application is considered admissible and examined on the merits. The applicant is issued a new "asylum seeker's card" in that case. If no such elements are identified, the subsequent application is deemed inadmissible.<sup>545</sup>

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal if applicants who have lodged a subsequent asylum application are suspended.<sup>546</sup>

Exceptionally, under the IPA, "the right to remain on the territory is not guaranteed to applicants who  
(a) make a first subsequent application which is deemed inadmissible, solely to delay or frustrate removal, or  
(b) make a second subsequent application after a final decision dismissing or rejecting the first subsequent application".<sup>547</sup>

Any new submission of an identical subsequent application is dismissed as inadmissible.<sup>548</sup>

Until the completion of this preliminary procedure, applicants are not provided with proper documentation and have no access to the rights attached to asylum seeker status or protection. The asylum seeker's card is provided after a positive decision on admissibility.

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<sup>540</sup> Information provided by RSA, 4 January 2021.

<sup>541</sup> Article 89(1) IPA.

<sup>542</sup> Article 89(2) IPA.

<sup>543</sup> Articles 89(2) and 89(9) IPA.

<sup>544</sup> Article 89(2) IPA.

<sup>545</sup> Article 89(4) IPA.

<sup>546</sup> Article 89(9) IPA.

<sup>547</sup> Article 89(9) IPA.

<sup>548</sup> Article 89(7) IPA.

## F. The safe country concepts

### Indicators: Safe Country Concepts

1. Does national legislation allow for the use of “safe country of origin” concept? ☒ Yes ☐ No
  - ❖ Is there a national list of safe countries of origin? ☒ Yes ☐ No
  - ❖ Is the safe country of origin concept used in practice? ☒ Yes ☐ No
2. Does national legislation allow for the use of “safe third country” concept? ☒ Yes ☐ No
  - ❖ Is the safe third country concept used in practice? ☒ Yes ☐ No
3. Does national legislation allow for the use of “first country of asylum” concept? ☒ Yes ☐ No

Following the EU-Turkey Statement of 18 March 2016, the provisions concerning the “first country of asylum” and the “safe third country” concepts were applied for the first time in Greece vis-à-vis Turkey. Serious concerns about the compatibility of the EU-Turkey Statement with international and European law, and more precisely the application of the “safe third country” concept, have been raised since the publication of the Statement.<sup>549</sup>

On 28 February 2017, the General Court of the European Union gave an order with regard to an action for annulment brought by two Pakistani nationals and one Afghan national against the EU-Turkey Statement. The order stated that “the EU-Turkey Statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure.”<sup>550</sup> Therefore “the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States.”<sup>551</sup> The decision became final on 12 September 2018, as an appeal against it before the CJEU was rejected.<sup>552</sup>

### 1. Safe third country

The “safe third country” concept is a ground for inadmissibility (see [Admissibility Procedure](#)).

According to Article 86 (1) IPA, a country shall be considered as a “safe third country” for a specific applicant when all the following criteria are fulfilled:

- (a) The applicant's life and liberty are not threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion;
- (b) This country respects the principle of *non-refoulement*, in accordance with the Refugee Convention;
- (c) The applicant is in no risk of suffering serious harm according to Article 15 of IPA;
- (d) The country prohibits the removal of an applicant to a country where he or she risks to be subject to torture or cruel, inhuman or degrading treatment or punishment, as defined in international law;
- (e) The possibility to apply for refugee status exists and, if the applicant is recognised as a refugee, to receive protection in accordance with the Refugee Convention; and

<sup>549</sup> See e.g. NCHR, *Έκθεση για τη συμφωνία ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 για το προσφυγικό/μεταναστευτικό ζήτημα υπό το πρίσμα του Ν. 4375/2016*, 25 April 2016, available in Greek at: <http://bit.ly/2mxAncu>; Parliamentary Assembly of the Council of Europe (PACE), Resolution 2109 (2016) “The situation of refugees and migrants under the EU-Turkey Agreement of 18 March 2016”, available at: <http://bit.ly/2fISxLY>; United Nations Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, available at: <http://bit.ly/2rHF7kl>, para 31.

<sup>550</sup> General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: <http://bit.ly/2IWZPrr>.

<sup>551</sup> *Ibid.*

<sup>552</sup> CJEU, Cases C-208/17 P, C-209/17 P and C-210/17 P *NF, NG and NM v European Council*, Order of 12 September 2018.

- (f) The applicant has a connection with that country, under which it would be reasonable for the applicant to move to it<sup>553</sup>. The transit of the applicant from a third country may, in combination with specific circumstances, in particular (a) the time of stay there, (b) any contact or objective and subjective possibility of contact with the authorities, for access to work or granting right of residence, (c) possible, prior to transit, residence such as long-term visits or studies, (d) existence of any, even distant, kinship, (e) existence of social or professional or cultural relations, (f) existence of property, (g) connection with a wider community; (h) knowledge of the language concerned; (i) geographical proximity of the country of origin, be considered as the applicant's connection with the third country, on the basis of which it would be reasonable to

The IPA provides the possibility for the establishment of a list of safe third countries by way of Joint Ministerial Decision.<sup>554</sup> There is no list of safe third countries in Greece at the time of writing. According to the law, the aforementioned criteria are to be assessed in each individual case, except where a third country has been declared as generally safe in the national list.<sup>555</sup> Such provision seems to derogate from the duty to carry out an individualized assessment of the safety criteria where the applicant comes from a country included in the list of "safe third countries", contrary to the Directive and to international law. Even where a country has been designated as generally safe, the authorities should conduct an individualized examination of the fulfillment of the safety criteria. Moreover, there should be a possibility to challenge both the general designation of a country as safe and the application of the concept in an individual case.<sup>556</sup>

Until the end of 2020, the safe third country concept was only applied in the context of the [Fast-Track Border Procedure](#) under Article 84 IPA on the islands for those arrived after 20 March 2016 and subject to the EU-Turkey Statement, and in particular *vis-à-vis* Syrians, who fall under the EU Turkey Statement, namely those who have entered Greece via the Greek Aegean islands and a geographical restriction is imposed to them. Syrians whose geographical limitation is lifted are channeled to the mainland and are examined under the regular procedure.

According to the official statistics of the Ministry of Migration and Asylum published in January 2021<sup>557</sup>, "Returns under the EU- Turkey Joint Declaration have not been made since March [2020] due to Covid-19 [and] despite the lifting of the measures for the pandemic, from 01/06/[2020] the requests of missions-returns of the Greek authorities have not been answered." Moreover, article 86(5) IPA provides that "when the safe third country does not allow the applicant to enter its territory, his/her application should be examined on the merits from the competent Authorities". However, despite the suspension of returns to Turkey since March 2020 and the aforementioned provision of article 86(5) IPA, during 2020 the applications lodged by Syrians in the Eastern Aegean Islands whose geographical restriction was not lifted, were still examined in the context of the safe third country concept and the Fast-Track Border Procedure.

On 7 June 2021, a new Joint Ministerial Decision of the Ministry of Foreign Affairs and the Ministry of Migration and Asylum was issued, designating Turkey as "safe third country" in a national list for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia.<sup>558</sup> As a result, the

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<sup>553</sup> In LH the CJEU examined the compatibility of said provision with Article 38(2) of the Recast Asylum Procedures Directive 2013/32/EU and ruled that "the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country", C-564/18 (19 March 2020). Moreover, contrary to Article 38(2) of the Directive, national law does not foresees the methodology to be followed by the authorities in order to assess whether a country qualifies as a "safe third country" for an individual applicant.

<sup>554</sup> Article 86(3) IPA.

<sup>555</sup> Article 86(2) IPA.

<sup>556</sup> RSA Comments on the International Protection Bill, October 2019, available at: <https://bit.ly/3eqsDC0>, p. 4-5.

<sup>557</sup> Ministry of Migration and Asylum, MoMa Yearly Report 2020, December 2020, available at: <https://bit.ly/3uBkAJC>, p. 5

<sup>558</sup> MD 42799– Gov. Gazeete 2425/B/7-6-2021, available in Greek at: <https://bit.ly/3zbSojR>.

applications lodged by those nationalities can be rejected as "inadmissible" without being examined on the merits.

## 1.1. Safety criteria

### 1.1.1. Applications lodged by Syrian nationals

In 2020, the Asylum Service issued 11,099 first instance decisions regarding applications submitted by Syrian applicants initially subject to the fast-track border procedure. Out of those, the vast majority of applications submitted by Syrian applicants and examined under the safe third country concept, i.e. not exempted by the fast track border procedure, have been rejected as inadmissible on the basis of the safe third country concept.<sup>559</sup>

Since mid-2016, namely from the very first decisions applying the safe third country concept in the cases of Syrian nationals, until today, first instance decisions dismissing the applications of Syrian nationals as inadmissible on the basis that Turkey is a safe third country in the [Fast-Track Border Procedure](#), are based on a pre-defined template provided to Regional Asylum Offices or Asylum Units on the islands, and are identical, except for the applicants' personal details and a few lines mentioning their statements, and repetitive.<sup>560</sup>

Specifically, the Asylum Service, reaches the conclusion that Turkey is a safe third country for Syrian nationals, relying on:

- (a) the provisions of Turkish legal regime in force, i.e. the Turkish Law on Foreigners and International Protection (LFIP), published on 4 April 2013,<sup>561</sup> the Turkish Temporary Protection Regulation (TPR), published on 2014<sup>562</sup> and the Regulation on Work Permit for Applicants for and Beneficiaries of International Protection, published on 26 April 2016,<sup>563</sup>
- (b) the letters, dated 2016, exchanged between the European Commission and Turkish authorities,<sup>564</sup> (c) the letters, dated 2016, exchanged between the European Commission and the Greek authorities,<sup>565</sup>
- (d) the 2016 letters of UNHCR to the Greek Asylum Service, regarding the implementation of Turkish law about temporary protection for Syrians returning from Greece to Turkey and
- (e) on sources, indicated only by title and link, without proceeding to any concrete reference and legal analysis of the parts they base their conclusions.

Although a number of more recent sources<sup>566</sup> have been added to the endnotes of some decisions issued since late 2018 and up until today, their content is not at all assessed or taken into account and

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<sup>559</sup> Information provided by the Asylum Service, 31 March 2021; 2,812 applications have been rejected as inadmissible; 306 applications have been considered as admissible following examination on the basis of the safe third country concept.

<sup>560</sup> ECRE, The role of EASO operations in national asylum systems, An analysis of the current European Asylum Support Office (EASO) Operations involving deployment of experts in asylum procedures at Member State level, 29 November 2019, available at: <https://bit.ly/2RVALRt>, p. 33 and 35, ECRE et al., *The implementation of the hotspots in Italy and Greece*, December 2016, 38. On **Lesvos**, see GCR, *GCR Mission to Lesvos – November 2016*, available at: <http://bit.ly/2kbN7F0>, 20; On **Samos**, see GCR, *GCR Mission to Samos – June 2016*, available at: <http://bit.ly/2kCHMDm>, 20 On **Leros** and **Kos**, see GCR, *GCR Mission to Leros and Kos – May to November 2016*, 32.

<sup>561</sup> Turkey: Law No. 6458 of 2013 on Foreigners and International Protection, 4 April 2013, as amended by the Emergency Decree No 676, 29 October 2016, available at: <https://www.refworld.org/docid/5167fbb20.html>.

<sup>562</sup> National Legislative Bodies / National Authorities, *Turkey: Temporary Protection Regulation*, 22 October 2014, available at: <https://www.refworld.org/docid/56572fd74.html>

<sup>563</sup> National Legislative Bodies / National Authorities, *Turkey: Regulation on Work Permit of International Protection Applicants and International Protection Status Holders*, 26 April 2016, available at: <https://www.refworld.org/docid/582c6ff54.html>.

<sup>564</sup> Letters between the European Commission and the Turkish and Greek authorities, available at: <https://bit.ly/2ygrz32>.

<sup>565</sup> Ibid.

<sup>566</sup> Sources made public since 2018 and mentioned in the first instance decision are: UNHCR, Turkey: Key facts and figures, May 2019; AIDA Report on Turkey, Update 2017; United States Department of State, Turkey



applications continue to be rejected as inadmissible on the same reasoning as before. No 2020 source is mentioned.

Similarly, as reported in a comparative analysis issued in 2019:

- most EASO opinions reviewed with regards admissibility cases of Syrian nationals, “do not examine the individual safety criteria of Article 38(1) of the recast Asylum Procedures Directive in order, and deem that the safety criteria are met. None of the reviewed opinions makes an assessment of the connection requirement under Article 38(2)(a) of the Directive [...] Caseworkers affirm that the applicant can access and benefit from protection in accordance with the 1951 Refugee Convention and is not at risk of persecution, serious harm or refoulement in Turkey”.<sup>567</sup>
- “based on the sample of cases reviewed, it appears that the citation of sources such as AIDA by both EASO and the Asylum Service is selective. The opinions and decisions systematically cite introductory passages of the report referring to Turkey’s legal framework, while critical passages documenting gaps in practice and legislation in areas such as access to employment, or the derogation from the non-refoulement principle introduced since 2016, are not included in the vast majority of cases”.<sup>568</sup>
- “the country information cited in opinions and decisions is often out of date. For example, several opinions of EASO on Syrians cite the December 2015 version of the AIDA Country Report on Turkey, and not the more recent updates of the report. The Asylum Service decisions have updated some of the sources cited... Yet, the content of the decision remains intact despite the updated footnotes”.<sup>569</sup>

Accordingly, negative first instance decisions, qualifying Turkey as a safe third country for Syrians, are not only identical and repetitive – failing to provide an individualised assessment, in violation of Articles 10 and 38 of the Directive 2013/32/EU, but also outdated insofar, as they do not take into account developments after 2016, failing to meet their obligation to investigate *ex officio* the material originating from reliable and objective sources as regards the situation in Turkey, and the actual regime in the country, given the absolute nature of the protection afforded by Article 3 ECHR.

As the same template decision is used since 2016, the finding of the United Nations Special Rapporteur on the human rights of migrants in 2017, that “admissibility decisions issued are consistently short, qualify Turkey as a safe third country and reject the application as inadmissible: this makes them practically unreviewable”<sup>570</sup> remains valid. Respectively, as far as GCR is aware, second instance decisions issued by the Independent Appeals Committees for Syrian applicants systematically uphold the first instance inadmissibility decisions.

As mentioned above, during 2020, as a rule applications examined under the Fast Track Border Procedure submitted by Syrians applicants are rejected as inadmissible on the basis of the safe third country concept. However, as it was also the case in previous years, in 2020 a number of first instance decisions issued for Syrian applicants were declared admissible. As far as GCR is aware, such decisions include: certain applications filed by single women or single – parent families, citizens of Syria, have been deemed admissible by the RAO of Samos and Leros. However, this shall not be considered as common

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2017, Human Rights Report; European Commission, Turkey 2018 Report, SWD(2018) 153 final, 17 April 2018; European Commission, ECHO Factsheet – Turkey Refugee Crisis – June 2018.

<sup>567</sup> ECRE, The role of EASO operations in national asylum systems, An analysis of the current European Asylum Support Office (EASO) Operations involving deployment of experts in asylum procedures at Member State level, 29 November 2019, available at: <https://bit.ly/2VcFFLU>, pp. 24, 38

<sup>568</sup> Ibid, p. 36.

<sup>569</sup> Ibid, p. 37.

<sup>570</sup> United Nations Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, para 81.

practice, since GCR is aware of cases with similar profiles, which have been rejected at first instance as Turkey has been considered as a safe third country for them- i.e. the application of a Syrian single mother with eight children has been rejected as inadmissible by the RAO of Lesbos.

For a detailed analysis of the first instance decisions rejecting applications submitted by Syrian as inadmissible on the basis of safe third country, see [Admissibility](#), AIDA Report on Greece, update 2016, 2017, 2018 and 2019 respectively. These findings are still relevant as the same template is used since mid-2016.

An indicative example of a first instance inadmissibility decision can be found in the 2017 update of the AIDA report on Greece, which remains the same up until today.

Respectively, as far as GCR is aware, second instance decisions issued by the Independent Appeals Committees for Syrian applicants systematically uphold the first instance inadmissibility decisions, if no vulnerability is identified.

In this regard, it should be recalled that in 2016, the overwhelming majority of second instance decisions issued by the [Backlog Appeals Committees](#) rebutted the safety presumption.<sup>571</sup> However, following reported pressure by the EU with regard to the implementation of the EU-Turkey statement,<sup>572</sup> the composition of the Appeals Committees was – again – amended two months after the publication of L 4375/2016.

In 2020 and as far as GCR is aware, most cases of Syrian applicants examined under the fact track border procedure have been rejected at 2<sup>nd</sup> instance as inadmissible on the basis of the safe third country concept (1,234 applications were found inadmissible and 302 admissible)<sup>573</sup>.

Decisions of the Appeals Committees rejecting the case as inadmissible follow the line of reasoning of the Asylum Service to a great extent. Appeals Committees have continued to refrain from taking into consideration up-to-date, reliable sources of information concerning risks of inhuman or degrading treatment and *refoulement* facing individuals in Turkey.<sup>574</sup> Even where reliable reports on risks of non-compliance by Turkey with the principle of *non-refoulement* are cited in decisions, Committees have not engaged with available evidence in their legal analysis of the applicability of the safety criteria of the “safe third country” concept and the risks of exposure of individuals to ill-treatment.<sup>575</sup> Second instance decisions rely on the information provided by the letters of the Turkish authorities, considered as diplomatic assurances “of particular evidentiary value”, on the relevant legal framework of Turkey, without taking into consideration any amendment or its application in practice and on a selective use of available sources, so as to conclude in a stereotypical way that the safety criteria are fulfilled. In a number of decisions issued in 2020, the Appeals Committees cited the aforementioned letters and selected provisions of Turkish legislation as reliable evidence of compliance by Turkey with the principle of *non-refoulement*.<sup>576</sup> In addition, Appeals Committee decisions in 2020 have dismissed alleged risks of

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<sup>571</sup> The United Nations Special Rapporteur on the human rights of migrants commended their independence against “enormous pressure from the European Commission”: *Report on the visit to Greece*, 24 April 2017, para 85.

<sup>572</sup> New Europe, ‘EU Council: Why Greece should consider Turkey safe for Syrian refugees’, 9 June 2016, available at: <http://bit.ly/2IWdYOa>; Keep Talking Greece, ‘EU presses Greece to change asylum appeal committees that consider “Turkey is not a safe country”’, 11 June 2016, available at: <http://bit.ly/2kNWR5D>.

<sup>573</sup> Information provided by the Appeals Authority, 9 February 2021

<sup>574</sup> See e.g. 6<sup>th</sup> Appeals Committee, Decision 25449/2019, 20 January 2020; 6<sup>th</sup> Appeals Committee, Decision 2411/2019, 28 February 2020; 17<sup>th</sup> Appeals Committee, Decision 3576/2020, 10 March 2020, para 12; 13<sup>th</sup> Appeals Committee, Decision 2727/2020, 9 April 2020; 14<sup>th</sup> Appeals Committee, Decision 4334/2020, 9 April 2020.

<sup>575</sup> See e.g. 6<sup>th</sup> Appeals Committee, Decision 2411/2019, 28 February 2020, paras 11, 14 and 15; 13<sup>th</sup> Appeals Committee, Decision 2727/2020, 9 April 2020, para 19; 6<sup>th</sup> Appeals Committee, Decision 5892/2020, 27 May 2020, paras 12 and 15.

<sup>576</sup> 13<sup>th</sup> Appeals Committee, Decision 2727/2020, 9 April 2020, para 19; 16<sup>th</sup> Appeals Committee, Decision 19219/2019, 15 May 2020, para 16.

*refoulement* on the ground that the evidence put forward by the appellants did not point to “structural problems” (δομικού χαρακτήρα),<sup>577</sup> to “systematic violations” (συστηματικές παραβιάσεις)<sup>578</sup> or to “mass *refoulement*” (μαζικές επαναπροωθήσεις) of Syrian refugees from Turkey.<sup>579</sup>

To the knowledge of GCR, there have been certain appeals of Syrians of Kurdish origin, which have been considered as admissible in second instance. For instance, two Appeals Committee’s decisions, issued in 2020, in cases supported by GCR, reversed the first instance inadmissible decision and declared the appeals as admissible (cases concerning two Syrian families with minor children of Kurdish origin). The Committee considered that the safe third country concept with regards Turkey could not be applied in these cases, on the basis that the connection requirement was not satisfied. The Committee took into consideration the short stay of the applicants in Turkey (10 days and 15 days respectively), the lack of supportive network, the lack of any living or professional ties in that country and the involvement of Turkey in the Syrian war, due to “any tie of the Applicants with said country has been destroyed”. In addition, certain appeals of Syrian single woman have been considered as admissible. In one of the cases, the Commission considered that despite the existence of a protection system in Turkey, the applicant stayed in Turkey for a particularly short period of time (18 days) without being able to access a support network and did not have the right to live in one of the accommodation centers. Furthermore, the applicant had no contact with the Turkish authorities or other links with the country, such as previous long-term visits or studies. The Commission took in to consideration that the appellant is an unmarried woman without a supportive family environment, which would make it particularly difficult to obtain social and employment ties in Turkey. Also, it took into account the problems regarding accessing protection and services, as well as the gender discrimination and the living and working conditions of Syrian women prevailing in Turkey. Following the above the Committee considered that in this case the legally required condition of ‘connection’ on the basis of which it would be reasonable for the appellant to return to Turkey is not established and, therefore, Turkey could not be considered a safe third country for her. Thus, under said second instance decision the appeal of the Syrian woman has been considered admissible and she was granted with subsidiary protection status.

Lastly, few appeals of Syrian who used to reside in Syrian areas where Turkey has military activity have been considered admissible due to the fact that the condition of ‘connection’ could not be fulfilled given the violent military intervention of Turkey in their region of origin. Lastly, GCR is aware of a second instance decision which considered the appeal of a Syrian who have remained in Turkey for the short period of 15 days as admissible, on the ground that transit *per se* shall not be conceived in itself sufficient or significant connection with the country.

For a more detailed analysis of Appeals Committees’ decisions and the Council of State Decision on safe third country concept *vis-a vis* Turkey, with regards Syrian Applicants, see the 2017 update of the AIDA report on Greece.

## 1.2. Connection criteria

Article 86(1)(f) IPA requires there to be a connection between the applicant and the “safe third country”, which would make return thereto reasonable. Whereas no further guidance was laid down in previous legislation<sup>580</sup> as to the connections considered “reasonable” between an applicant and a third country,<sup>581</sup>

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<sup>577</sup> 6<sup>th</sup> Appeals Committee, Decision 25449/2019, 20 January 2020, para 12; 6<sup>th</sup> Appeals Committee, Decision 2411/2019, 28 February 2020, para 15; 6<sup>th</sup> Appeals Committee, Decision 5892/2020, 27 May 2020, para 15.

<sup>578</sup> 14<sup>th</sup> Appeals Committee, Decision 2548/2020, 24 April 2020, 11: Information provided by RSA, 4 January 2021.

<sup>579</sup> 13<sup>th</sup> Appeals Committee, Decision 6722/2020, 9 April 2020, 12: Information provided by RSA, 4 January 2021.

<sup>580</sup> Article 56(1)(f) L 4375/2016.

<sup>581</sup> Article 56(1)(f) L 4375/2016.

the IPA has introduced further detail in the determination of such a connection. Transit through a third country may be considered as such a connection in conjunction with specific circumstances such as:<sup>582</sup>

- a. Length of stay;
- b. Possible contact or objective and subjective possibility of contact with the authorities for the purpose of access to the labour market or granting a right to residence;
- c. Stay prior to transit e.g. long-stay visits or studies;
- d. Presence of relatives, including distant relatives;
- e. Existence of social, professional or cultural ties;
- f. Existence of property;
- g. Connection to a broader community;
- h. Knowledge of the language concerned;
- i. Geographical proximity to the country of origin.

The proposed article attempts to incorporate into Greek law the decision of the Plenary Session of the Council of State No 2347-2348/2017, which ruled on the resignation of Turkey as a safe third country for Syrian citizens. However, in view of the strong minority of 12 members out of a total of 25 advocating for the referral of a preliminary question to the Court of Justice of the European Union, the judgment of the majority of the Plenary Session of the Council of State cannot be regarded as a reliable case-law, neither at a national, nor at European and International level, so as to be integrated in Greek law. It should be noted that among the issues raised in the Plenary Session, the issue of the applicant's safe connection with the third country was of particular concern as well as whether the applicant's simple transit through that country was sufficient in this respect, in combination with certain circumstances, such as the duration of their stay there and the proximity to their country of origin. Said provision adopts uncritically the rationale of the majority of the Plenary Session, despite the strong minority.

The compatibility of said provision with the EU *acquis* should be further assessed, in particular by taking into consideration the recent CJEU Decision, C-564/18 (19 March 2020) in which the Court ruled that “the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country”.<sup>583</sup>

Moreover, as no provision on the methodology to be followed by the authorities in order to assess whether a country qualifies as a “safe third country” for an individual applicant, the compatibility of national legislation with Art. 38 of the Directive 2013/32/EU should be assessed, in particular under the light of and the recent case law of the CJEU<sup>584</sup>. To this regard, it should also be also mentioned that the lack of a “methodology” provided by national law, could render the provision non-applicable.<sup>585</sup>

In practice, as it appears from first instance inadmissibility decisions issued to Syrian nationals, to the knowledge of GCR, the Asylum Service holds that the fact that an applicant would be subject to a temporary protection status upon return is sufficient in itself to establish a connection between the applicant and Turkey, even in cases of very short stays and in the absence of other links.<sup>586</sup>

Respectively, the Appeals Committees find that the connection criteria can be considered established by taking into consideration *inter alia* the “large number of persons of the same ethnicity” living in Turkey, the “free will and choice” of the applicants to leave Turkey and “not organize their lives in Turkey”, “ethnic

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<sup>582</sup> Article 86(1)(f) IPA.

<sup>583</sup> Article 86(1)(f) IPA.

<sup>584</sup> CJEU, Case C-564/18, *LH v Bevándorlási és Menekültügyi Hivatal*, 19 March 2020; see Refugee Support Aegean, Comments on the Reform of the International Protection Act, <https://bit.ly/3dLzGUt>, p.14

<sup>585</sup> CJEU, Case C-528/15, *Policie ČR, Krajské ředitelství policie Ústeckého kraje, odbor cizinecké policie v Salah Al Chodor*, 15 March 2017; see Refugee Support Aegean, Comments on the Reform of the International Protection Act, *idem*.

<sup>586</sup> Note that the decision refers to the applicant's “right to request an international protection status”, even though persons under temporary protection are barred from applying for international protection, see Tempalte Decision in AIDA, Country Report Turkey, 2017 Update, March 2018.

and/or cultural bonds” without further specification, the proximity of Turkey to Syria, and the presence of relatives or friends in Turkey without effective examination of their status and situation there. Additionally, in line with the 2017 rulings of the Council of State,<sup>587</sup> transit from a third country, in conjunction with *inter alia* the length of stay in that country or the proximity of that country to the country of origin), is also considered by second instance decisions as sufficient for the fulfillment of the connection criteria. It should be recalled that in the case presented before the Council of State where the Court found that the connection criteria were fulfilled, that applicants had stayed in Turkey for periods of one month and two weeks respectively.

As mentioned above, as far as GCR is aware, a few second instance decisions issued in 2020 regarding Syrian applicants examined under the safe third country concept have found that the safe third country requirements, including in some cases the connection criteria, were not fulfilled<sup>588</sup>. In one case, the Appeals Committee deemed a 45-day stay in Turkey, of which 30 days were spent in prison, as sufficient to establish a connection between the applicant and the country.<sup>589</sup> In another case, the three-week stay of a family was deemed sufficient *per se* to substantiate a connection.<sup>590</sup> There have also been negative decisions of Appeals Committees where the connection criterion has been fully disregarded.<sup>591</sup>

### 1.3. Procedural safeguards

Where an application is dismissed as inadmissible on the basis of the “safe third country” concept, the asylum seeker must be provided with a document informing the authorities of that country that his or her application has not been examined on the merits.<sup>592</sup> This guarantee is complied with in practice.

## 2. First country of asylum

The “first country of asylum” concept is a ground for inadmissibility (see [Admissibility Procedure](#) and [Fast-Track Border Procedure](#)).

According to Article 85 IPA, a country shall be considered to be a “first country of asylum” for an applicant provided that he or she will be readmitted to that country, if the applicant has been recognised as a refugee in that country and can still enjoy of that protection or enjoys other effective protection in that country, including benefiting from the principle of *non-refoulement*. The “first country of asylum” concept is not applied as a stand-alone inadmissibility ground in practice. No application was rejected solely on this ground in 2020.<sup>593</sup>

## 3. Safe country of origin

According to Article 87(1) IPA, in force since January 2020, safe countries of origin are:

- (a) Those included in the common list of safe countries of origin by the Council of the EU; and
- (b) Third countries, in addition to those of case (a), which are included in the national list of safe countries of origin and which shall be established and apply for the examination of

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<sup>587</sup> Council of State, Decision 2347/2017, 22 September 2017, para 62; Decision 2348/2017, 22 September 2017, para 62. Note the dissenting opinion of the Vice-President of the court, stating that transit alone cannot be considered a connection, since there was no voluntary stay for a significant period of time.

<sup>588</sup> Decisions on file with the author.

<sup>589</sup> 14<sup>th</sup> Appeals Committee, Decision 4334/2020, 9 April 2020, para 13: Information provided by RSA, 4 January 2021.

<sup>590</sup> 13<sup>th</sup> Appeals Committee, Decision 2727/2020, 9 April 2020, para 24: Information provided by RSA, 4 January 2021.

<sup>591</sup> 6<sup>th</sup> Appeals Committee, Decision 25449/2019, 20 January 2020: Information provided by RSA, 4 January 2021.

<sup>592</sup> Article 56(2) L 4375/2016 and Article 86(4) IPA.

<sup>593</sup> Information provided by the Asylum Service, 26 March 2019.



applications for international protection and published in accordance with Article 87 paragraph 5, issued by a Joint Ministerial Decision by the Ministers of Citizen Protection and Foreign Affairs, following a recommendation of the Director of the Asylum Service.<sup>594</sup>

A country shall be considered as a “safe country of origin” if, on the basis of legislation in force and of its application within the framework of a democratic system and the general political circumstances, it can be clearly demonstrated that persons in these countries do not suffer persecution, generally and permanently, nor torture or inhuman or degrading treatment or punishment, nor a threat resulting from the use of generalised violence in situations of international or internal armed conflict.<sup>595</sup>

To designate a country as a “safe country of origin”, the authorities must take into account *inter alia* the extent to which protection is provided against persecution or ill-treatment through:<sup>596</sup>

- ❖ The relevant legal and regulatory provisions of the country and the manner of their application;
- ❖ Compliance with the ECHR, the International Covenant on Civil and Political Rights (ICCPR), namely as regards non-derogable rights as defined in Article 15(2) ECHR, the Convention against Torture and the Convention on the Rights of the Child;
- ❖ Respect of the *non-refoulement* principle in line with the Refugee Convention; and
- ❖ Provision of a system of effective remedies against the violation of these rights.

A country may be designated as a “safe country of origin” for a particular applicant only if, after an individual examination of the application, it is demonstrated that the applicant (a) has the nationality of that country or is a stateless person and was previously a habitual resident of that country; and (b) has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances and in terms of his or her qualification as a beneficiary of international protection.<sup>597</sup> The “safe country of origin” concept is a ground for applying the [Accelerated Procedure](#).

Until the implementation of IPA, there was no national or EU common list of safe countries. Therefore, the rules relating to safe countries of origin in Greek law had not been applied in practice and there had been no reference or interpretation of the abovementioned provisions in decision-making practice.

However, following a joint Ministerial Decision issued on 31 December 2019,<sup>598</sup> 12 countries have been designated as safe countries of origin. These are Ghana, Senegal, Togo, Gambia, Morocco, Algeria, Tunisia, Albania, Georgia, Ukraine, India and Armenia. In relation to Togo, the authorities have issued positive decisions at first and second instance on account of risks of persecution on grounds of political opinion or sexual orientation.<sup>599</sup>

During 2020 9,337 asylum applications were submitted by citizens of countries considered as safe countries of origin<sup>600</sup>. In January 2021 Pakistan and Bangladesh were also included in the list.<sup>601</sup>

According to Art. 86(8) IPA, the asylum applications by applicants for international protection, coming from “safe countries of origin”, are examined under the Accelerated Procedure.

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<sup>594</sup> Article 87(5) IPA

<sup>595</sup> Article 87(3) IPA.

<sup>596</sup> Article 87(4) IPA.

<sup>597</sup> Article 87(2) IPA.

<sup>598</sup> Joint Ministerial Decision No 1302/20.12.2019, Gov. Gazette 4907/B/31.12.2019.

<sup>599</sup> RSA, ‘Αναγκαία η επανεξέταση της προβληματικής έννοιας της «ασφαλούς χώρας καταγωγής»’, 7 November 2020, available in Greek at: <https://bit.ly/38WccNg>.

<sup>600</sup> Information provided by the Asylum Service, 31 March 2021.

<sup>601</sup> Joint Ministerial Decision No 778/2021, Gov. Gazette 317/B/29-1-2021.



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

### 1. Provision of information on the procedure

#### Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No

According to Article 69 IPA (as amended by Article 7 L.4686/2020), applicants should be informed, in a language that they understand and in a simple and accessible manner, on the procedure to be followed, their rights and obligations. Interpretation, (or tele-interpretation when the physical presence of the interpreter is not possible) is provided during the submission of the application for international protection, as well as in all the stages of the examination of the asylum application, meaning both in first and second instance. The Greek State is responsible to cover the cost of this service.

In 2020 the Asylum Service's website was deactivated. Since then, all information regarding the operation and structure of the Reception and Identification Service, the operation of the Asylum Service and the Regional Asylum Offices, information and updates about the Asylum Procedure on first and second instance, as well as press releases and announcements pertinent to those seeking for or/ and have been granted international protection are available in Greek and English language at the Ministry of Migration and Asylum's website<sup>602</sup>.

For accurate and timely dissemination of the latest update on asylum and migration issues, the Ministry has also created a viber community.<sup>603</sup>

Another initiative for 2020 is the launching of the new platform of the Ministry of Migration and Asylum<sup>604</sup>, where applicants and beneficiaries of international protection, as well as their representatives, can proceed to the following actions:

- Set an appointment with the competent Regional Asylum Office
- Be informed on the renewal of international protection cards
- Proceed by self-registering an application for international protection
- Apply for change of personal data and contact information
- Submit application for separation of files
- Submit application to request statement of application status
- Submit application to postpone/ expedite the interview date
- Submit additional documents
- Request for copies of personal file
- Apply for legal aid on second instance
- Apply for notification of ΠΑΑΥΠΑ (Provisional Social Security and Health Care Number)
- Apply for notification of Tax Registration Number

The above-mentioned applications are available in multiple languages.

Although these initiatives were supposed to make the Asylum Service accessible to everyone, as well as to avoid congestion and long waiting queues outside the Regional Asylum Offices, especially during the pandemic crisis, the adjustment of the applicants and beneficiaries to this new reality was not easy, and at times, not even impossible. The main difficulty was the actual access to the platform, since many of the persons of concern were either illiterate or technologically illiterate. This issue, combined with the fact

<sup>602</sup> See: <https://bit.ly/39WDeDR>

<sup>603</sup> See: <https://migration.gov.gr/en/>

<sup>604</sup> See: <https://applications.migration.gov.gr/en/ypiresies-asylou/>.

that the Asylum Offices did not serve requests that could be submitted through the online system, eventually excluded many applicants and beneficiaries of those services. Another impediment in using this new system is the lack of access to internet in all the Registration and Identification Centers (RICs). The need for improvement and for the provision of alternative solutions was raised by the Legal Aid Working Group and GCR teams on the ground<sup>605</sup>.

Additionally, a number of actors are engaged in information provision concerning the asylum procedure.

The whole year brought constant changes, not only in the legal framework, but in the asylum procedure *per se* as well<sup>606</sup>, which required follow up on a daily basis. This reality, combined with the pandemic lockdown, the restriction of movement, especially to those residing in Open Reception Facilities across Greece<sup>607</sup> and the consecutive suspension of activities of the Regional Asylum Offices<sup>608</sup> hindered the applicants' and beneficiaries' access to comprehensive information. In March 2020, access of Non-Governmental Organizations' staff was restricted to the hotspots on the Aegean islands and the temporary accommodation sites in mainland due to the COVID-19 pandemic<sup>609</sup>.

Provision of legal aid in second instance remained limited throughout 2020. Given that legal aid is provided by law only for appeal procedures and remains limited in practice (see [Regular Procedure: Legal Assistance](#)), applicants often have to navigate the complex asylum system on their own, without sufficient information. NGOs present in the field raised their concerns on the matter of the provision of insufficient information to the applicants of international protection by signing a joint statement at the beginning of 2021, following the decision of the Regional Asylum Office of Lesbos to restart the delivery of rejection decisions, without prior notice. This service, along with the deadline for the submission of appeals on first instance rejection decisions, was informally suspended in the aftermath of the fire that destroyed Moria camp in the beginning of September of 2020, and was resumed in the beginning of January "*without any explanation or information being provided to the applicants*"<sup>610</sup>.

For those detained and due to the total lack of sufficient interpretation services provided in detention facilities, access to information is even more limited. According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)'s report to the Greek Government, foreign nationals detained in facilities across the country are deprived from their right to be informed about their rights in a language they could understand. Based on the delegation's findings, "*...a two-page information leaflet (Δ-33 form) detailing the rights of detained persons was generally available and pinned to the wall in various languages in most police stations visited, none of the persons interviewed by the CPT's delegation had obtained a copy of it*". Furthermore, the detainees complained that "*they had signed documents in the Greek language without knowing their content and without having been provided with the assistance of an interpreter*"<sup>611</sup>. The same issue is raised in the report published in November of 2020, in which the Committee refers to migrants held in the two cells in the Coastguard premises, who "*were not even provided with the notification on detainees' rights in a language they could understand*". Use of fellow detainees as interpreters is a practice that, according to the Committee's suggestion, should be avoided.

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<sup>605</sup> GCR & OXFAM Bulletin, December 2020, available at: <https://bit.ly/3d7UkRn>

<sup>606</sup> Press Release, co-signed by 20 Organizations and lawyers calling for a vote against provisions that endanger the fundamental rights of applicants for international protection, available at: <https://bit.ly/3dRmgrT>

<sup>607</sup> The relevant announcements for restrictive measures for residents of Reception and Identification Centres are available at: <https://bit.ly/2PVvgEf>

<sup>608</sup> The relevant announcements for suspension of provision of services by the Regional Asylum Offices are available at the Ministry of Migration and Asylum's website: <https://bit.ly/3scl8nl>

<sup>609</sup> Refugee Support Aegean publication titled "In this place, we have to help ourselves" – Malakasa camp, available at: <https://bit.ly/2RqlxVY>

<sup>610</sup> Legal Aid Organizations are seriously objecting regarding the lack of free legal aid to asylum seekers in Lesbos, available at: <https://bit.ly/3daoV0C>

<sup>611</sup> CPT, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 March to 9 April 2019, CPT/Inf (2020) 15, April 2020, para. 100.

In this most recently publication of the CPT in November of 2020, the delegation reports that “[...] access to a lawyer often remained theoretical and illusory for those who did not have the financial means to pay for the services of a lawyer. The provision of legal advice for issues related to detention and deportation was generally inadequate in all the detention places visited, including the Filakio RIC and the Filakio pre-departure centre. As a result, detainees’ ability to raise objections against their detention or deportation decisions or to lodge an appeal against their deportation was conditional on them being able to access a lawyer”<sup>612</sup>.

## 2. Access to NGOs and UNHCR

### Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

Access of NGOs to Reception and Identification Centres, camps on the mainland and pre-removal detention facilities is subject to prior permission by the competent authorities. UNHCR is present in **Athens, Lesvos, Chios, Samos, Kos, Leros, Kalymnos, Rhodes, Thessaloniki, Ioannina, Larissa and Kavala**, covering through *physical presence, field missions* and *ad hoc visits* all sites in their area of responsibility.<sup>613</sup> UNHCR’s teams present in the Aegean islands and the land border in Evros continue to assist new arrivals by helping them gain access to necessary services, and by providing them with information on procedures, rights and obligations. They also ensure that people with specific needs, who require special assistance, are being identified as such by the authorities.

During 2020, 2,300 vulnerable homeless and vulnerable children have received psychological support, legal aid and cultural mediation by UNHCR<sup>614</sup>.

Access of asylum seekers to NGOs and other actors depends on the situation prevailing on each site, for instance overcrowding, in conjunction with the availability of human resources. Amid the fire that destroyed the hotspot of ‘Moria’ in September of 2020, almost 8,000 people were transferred to the temporary camp that was located just a few metres from the sea. Apart from inadequate access to shelter, limited healthcare facilities and hardly any running water, the residents of the ‘new camp’ had no access to legal aid, based on joint reports of the Greek Council for Refugees and Oxfam.<sup>615</sup>

<sup>612</sup> CPT, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 of March 2020, CPT/Inf (2020) 36, Strasbourg, 19 November 2020, para.22 -23.

<sup>613</sup> UNHCR, *About UNHCR in Greece*, available at: <https://bit.ly/3d7ugG1>

<sup>614</sup> UNHCR Greece Factsheet December 2020: <https://bit.ly/3dVLZiX>

<sup>615</sup> Conditions in ‘Moria 2.0 camp are abysmal, say GCR and Oxfam, Athens, 21/10/2020, available at: <https://bit.ly/3s54TbZ>

## H. Differential Treatment of specific nationalities in the procedure

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No  
❖ If yes, specify which: Syria
2. Are applications from specific nationalities considered manifestly unfounded?<sup>616</sup> ☐ Yes ☒ No  
❖ If yes, specify which:

### 1. Syria fast-track

Fast-track processing under the regular procedure has been applied since 23 September 2014 for Syrian nationals and stateless persons with former habitual residence in Syria (see section on [Regular Procedure: Fast-Track Processing](#)). In 2020, a total of 3,894 positive decisions were issued under this procedure.<sup>617</sup> The Syria fast-track procedure is available only for Syrian nationals and stateless persons with former habitual residence in Syria who entered the Greek territory before the entry into force of the EU-Turkey Statement or entering the Greek territory through the Greek-Turkish land borders. *A contrario* applications of those arrived on the islands after 20 March 2016 are examined under the [Fast-Track Border Procedure](#).

### 2. Fast-track border procedure on the islands

Following the amendment of the IPA by L.4686/2020<sup>618</sup>, applications for international protection submitted by Syrian nationals are the only ones examined on admissibility on the basis of the [Safe Third Country](#) concept mentioned. Asylum seekers of other nationalities are examined only on the merits. Previously decisive criteria regarding whether a request for international protection is examined on the both admissibility and merits (“merged procedure”) or only on the merits, based on recognition rate, is no longer applicable.

<sup>616</sup> Whether under the “safe country of origin” concept or otherwise.

<sup>617</sup> Information provided by the Ministry of Migration and Asylum, 31 March 2020.

<sup>618</sup> Article 83 (7) L. 4636/2019, as amended by Article 15 L. 4686/2020.

## Reception Conditions

In May 2018, L 4540/2018 transposed the recast Reception Conditions Directive into national law, almost three years after the transposition deadline set by the Directive. In 2019 L 4540/2018 was replaced by the IPA, which entered into force on 1 January 2020 and was amended in May by L. 4686/2020.

L 4540/2018 reformed the authorities responsible for the reception of asylum seekers. Further reforms were introduced following the national election as of July 2019. In 2018, the Reception and Identification Service (RIS) and the Directorate for the Protection of Asylum Seekers (DPAS) within the Secretariat General of Migration Policy under the Ministry of Migration Policy (MoMP), where relevant, have been appointed as the responsible authorities for reception.<sup>619</sup>

Following the merge of the MoMP with the Ministry of Citizen Protection (MoCP) and the transfer of responsibility for migration and asylum policy to the MoCP by the new Government elected in July 2019,<sup>620</sup> both the RIS and DPAS have been transferred within the General Secretariat of Migration Policy, Reception and Asylum, under the new Ministry of Citizen Protection. On 15 January 2020, the MoMP has been reinstalled (Ministry of Migration and Asylum- MoMA). The GS of Migration Policy, Reception and Asylum, as well as the Special Secretariat on Reception, alongside relevant Services, have been transferred under the new MoMA.<sup>621</sup>

The UNHCR accommodation scheme as part of the “ESTIA” programme, in collaboration with DPAS, received and processed relevant referrals for vulnerable asylum seekers eligible to be hosted under the scheme in 2019<sup>622</sup>, and in 2020, albeit as of 1 January 2021, the Greek state has undertaken responsibility of the ESTIA scheme, which will be operating under the competence of the RIS, as per the new organisation of the Ministry of Migration and Asylum<sup>623</sup>.

As of the 1 January 2020, when the IPA entered into force, the relevant provisions of L 4540/2018 have been repealed. However, no changes initially took place with respect to the competencies of the aforementioned authorities. As per article 41(h) IPA, the RIS and DPAS remain responsible for reception, while article 60(3) IPA maintained GDSS as the competent authority for the protection of unaccompanied minors, while explicitly referring to the latter’s collaboration with EKKA “or other authorities based on their competencies”, towards this purpose.

Following the establishment of the Special Secretary for Unaccompanied Minors (SSUM) under the MoMA in February 2020<sup>624</sup>, and the entry into force of L. 4756/2020 in November of the same year, the SSUM has become the competent authority for the protection of UAM, including the accommodation of UAM, while EKKA, under the supervision of the Directorate for the Protection of Children and Families of the Ministry of Labor and Social Affairs is *inter alia* responsible for the representation of UAM, including through the guardianship foreseen under L. 4554/2018,<sup>625</sup> which has yet to become operational as of the time of writing.

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<sup>619</sup> Article 3(b) L 4540/2018.

<sup>620</sup> P.D. 81/2019, Gov. Gazette A' 119/08.07.2019, 'Establishment, merger, renaming and abolition of Ministries and definition of their responsibilities - Transfer of services and responsibilities between Ministries'; P.D. 84/2019, Gov. Gazette A' 123/17.07.2019, 'Establishment and abolition of General Secretariats and Special Secretariats/Single Administrative Sections of Ministries'.

<sup>621</sup> P.D. 4/2020, Gov. Gazette 4/A/15-1-2020.

<sup>622</sup> As per article 6 (3) of Ministerial Decision 6382/19 on Defining the framework for the implementation of the financial allowance and accommodation programme 'ESTIA', which was issued on 12 March 2019 by the (former) Minister of Migration Policy, referrals to the ESTIA accommodation scheme are made in collaboration with the Department for the Management of Accommodation Requests of the DPAS.

<sup>623</sup> Article 37, para. 2(z) of P.D. 106/2020 on the Organisation of the Ministry of Migration and Asylum, Gov. Gazette 255/A/23-12-2020.

<sup>624</sup> Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.

<sup>625</sup> Articles 13 & 14 L.4756/2020.

## A. Access and forms of reception conditions

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

#### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Fast-track border procedure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

Article 55(1) IPA provides that the competent authority for the reception of asylum seekers in cooperation with competent government agencies, international organisations and certified social actors shall ensure the provision of reception conditions. These conditions must “secure an adequate standard of living for asylum seekers that ensures their subsistence and protects their physical and mental health, based on the respect of human dignity”. As per the same article, the same standard of living is guaranteed for asylum seekers in detention. Special care is provided for those with special reception needs.<sup>626</sup>

The law foresees that the provision of all or part of the material reception conditions depends on asylum seekers’ lack of employment or lack of sufficient resources to maintain an adequate standard of living.<sup>627</sup> The latter is examined in connection with the financial criteria set for eligibility for the Social Solidarity Benefit (*Κοινωνικό Επίδομα Αλληλεγγύης*, KEA).<sup>628</sup> The law also provides that reception conditions can be reduced or withdrawn following an individual and justified decision by the competent reception authority, based on the full set of grounds provided under article 20 of the Reception Directive, including if it is established that the applicant has concealed his or her financial means or if they have lodged a subsequent asylum application.<sup>629</sup>

### 2. Forms and levels of material reception conditions

#### Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to single adult asylum seekers as of 31 December 2020 (in original currency and in €): €150 (€75 if accommodation is catered)

Material reception conditions may be provided in kind or in the form of financial allowances.<sup>630</sup> According to Article 56(1) IPA, where housing is provided in kind, it should take one or a combination of the following forms:

- a. Premises used for the purpose of housing applicants during the examination of an application for international protection made at the border or in transit zones;

<sup>626</sup> Article 55(1) IPA, which maintains the same standards, transposing article 17 (2) of the (recast) Reception Directive.

<sup>627</sup> Article 55(3) IPA.

<sup>628</sup> Article 235 L 4389/2016.

<sup>629</sup> Article 57 IPA.

<sup>630</sup> Article 55(1) IPA.



- b. Accommodation centres, which can operate in properly customised public or private buildings, under the management of public or private non-profit entities or international organisations and guarantee a suitable standard of living;
- c. Private houses, flats and hotels, rented for the purposes of accommodation programmes implemented by public or private non-profit entities or international organisations.

In all cases, the provision of housing is under the supervision of the competent reception authority, in collaboration, where appropriate, with other competent state bodies. The law provides that the specific situation of vulnerable persons should be taken into account in the provision of reception conditions.<sup>631</sup>

In practice, a variety of accommodation schemes remain in place as of the end of 2020. These include large-scale camps, initially designed as emergency accommodation facilities, hotels, apartments and NGO-run facilities (see [Types of Accommodation](#)), albeit reduced compared to the previous year, following the closure of alternative accommodation facilities such as PIKPA Lesvos and PIKPA Leros, in October and November, respectively. Both facilities were offering dignified reception to particularly vulnerable asylum applicants. Their closure raised reaction by civil society organizations<sup>632</sup> and the media<sup>633</sup>. Particularly in the case of Lesvos, the closure of PIKPA took place just a month after the fires that destroyed the Moria RIC left more than 12,000 homeless asylum seekers, who were subsequently transferred to the emergency Mavrovouni facility (Kara Tepe), which remains unfit for purpose to this day<sup>634</sup>.

As noted at the time:

*“One month after the fire in Moria, which once more accentuated the squalid conditions under which asylum seekers are hosted on the Greek islands, the first rain proved the inadequacy of the temporary facility in which Moria’s displaced asylum seekers and refugees were transferred to. Particularly amid these circumstances and the COVID-19 pandemic, the evacuation of one of the most humane facilities in Greece and particularly the Greek islands seems to lack reasoning and humaneness and is directly at odds with Greece and the EU’s obligation to respect human rights and provide proper reception conditions to asylum seekers, particularly the most vulnerable.”*<sup>635</sup>

Throughout 2020, UNHCR continued to provide cash assistance in Greece in the context of the cash-based intervention component of the “ESTIA II” programme, though this is expected to be gradually handed over to the Greek government in 2021.<sup>636</sup> The cash card assistance programme is being implemented throughout Greece. In December 2020, UNHCR collaborated with the International Federation of Red Cross and Red Crescent Societies (IFRC), the Catholic Relief Services (CRS) and METAdrasi for the implementation of the cash assistance programme.<sup>637</sup>

Under the ESTIA II programme, the beneficiaries for the cash card assistance are:<sup>638</sup>

<sup>631</sup> Article 58(1) IPA).

<sup>632</sup> *Inter alia* “SAVE DIGNITY, SAVE PIKPA AND KARA TEPE”, Joint statement of More than 160 Greek and international organizations, academics and other actors from all over Europe urge the Greek authorities to revoke decision to close dignified alternatives in accommodating refugees on Lesvos, 30 September 2020, available at: <https://bit.ly/3u3shs9> and “Protect dignity and human rights: call for solidarity gathering in support of PIKPA on Wednesday”, 14 October 2020, available at: <https://bit.ly/32X8uPc>.

<sup>633</sup> For instance, Efsyn, “They have also shut down PIKPA Leros and opening a closed camp for refugees” (“Εκλείσαν και το ΠΙΚΠΑ Λέρου, ανοίγουν κλειστό στρατόπεδο για τους πρόσφυγες”), 26 November 2021, available in Greek at: <https://bit.ly/32W9bsc>.

<sup>634</sup> *Inter alia*, GCR & Oxfam, “Conditions in ‘Moria 2.0’ camp are abysmal, say GCR and Oxfam”, 21 October 2020, available at: <https://bit.ly/3gOnYgQ>; Lesbos Bulletin, *Update on the EU response in Lesbos, by the Greek Council for Refugees & Oxfam*, 21 April 2021, available at: <https://bit.ly/3u45hJO>.

<sup>635</sup> Protect dignity and human rights: call for solidarity gathering in support of PIKPA on Wednesday”, 14 October 2020, available at: <https://bit.ly/32X8uPc>.

<sup>636</sup> UNHCR, *UNHCR and Cash assistance: 2020 annual report*, 23 February 2021, available at: <https://bit.ly/2PayhQY>, p.3.

<sup>637</sup> UNHCR, *Cash assistance update: December 2020*, 5 January 2021, available at: <https://bit.ly/3gqiYyH>.

<sup>638</sup> Article 1(d) [Ministerial Decision 16987/2020](#) on the “Terms of financial assistance to applicants for international protection - year 2020”, Gov. Gazette 2587/B/26-6-2020.

- Adult asylum seekers who have been pre-registered and/or fully registered in accordance with article 65 (1)(2)&(7) L. 4636/2019, with the exception of those detained for any reason.
- Beneficiaries of international protection who upon turning 18 reside in accommodation centres for UAM or in temporary accommodation spaces for UAM, for a period of three months following their departure from these spaces.

In December 2020, 70,445 eligible refugees and asylum-seekers (38,715 families) received cash assistance in 118 locations throughout Greece<sup>639</sup>, marking a 32% decrease of the programme's beneficiaries, compared to the same period in 2019 (90,537)<sup>640</sup>. Since April 2017, 193,355 eligible individuals have received cash assistance in Greece at least once.

Of the 70,445 individuals who received cash assistance in December 2020, 6,059 have received international protection in Greece (61% decrease compared to December 2019). Out of 38,715 families, 21% were women, 44% men and 35% children. 27% of all who received cash assistance in December 2020 were families of five members or more and a further 38% were single adults. The majority of individuals in the cash assistance scheme were from Afghanistan (35%), followed by Syrians (18%), applicants from Iraq (8%), Pakistan (7%) and the Democratic Republic of Congo (7%)<sup>641</sup>.

Asylum seekers and refugees receiving cash assistance reside in 118 locations throughout Greece. The vast majority, however, are located in **Attica** (45%), the **islands** (22.5%)<sup>642</sup>, and **Central Macedonia** (17%).

The amount distributed to each household is proportionate to the size of the family and has ranged between €90 for single adults in catered accommodation to €550 for a family of seven in self-catered accommodation.<sup>643</sup> Following a Ministerial Decision in June 2020<sup>644</sup>, these amounts have been reconfigured in the context of the ESTIA II programme and are ranging from €75 for single adults in catered accommodation to €490 for a family of six or more in self-catered accommodation, as of 1 September 2020. As per article 2(4) the same decision, beneficiaries of the cash card can only withdraw up to 20% of the financial allowance they receive.

In addition to the fact that cash assistance preserves refugees' dignity and facilitates the process of regaining an autonomous life, by inter alia allowing them to choose what they need most, the programme has also had a significant, positive impact on local communities, as this assistance is eventually injected into the local economy, family shops and service providers. In proportion to programme's beneficiaries, approximately €7.4 million in cash assistance were expected to be injected into the local economy in December 2020.<sup>645</sup> For the whole of 2020, this amounts to more than €104 million, or to an average of approximately €8.7 million per month, that would eventually be injected in local economies.<sup>646</sup>

<sup>639</sup> UNHCR, *Cash assistance update: December 2020*, 5 January 2021, available at: <https://bit.ly/3gqiYyH>.

<sup>640</sup> UNHCR, *Cash assistance update: December 2019*, 16 January 2020, available at: <https://bit.ly/3n5rMuZ>.

<sup>641</sup> UNHCR, *Cash assistance update: December 2020*, *op.cit.*

<sup>642</sup> Includes Lesbos (11%), Chios (4%), Samos (5%), Leros (0.3%), Kos (1%), Rhodes (0.2%) and Crete (1%).

<sup>643</sup> Article 3 of [Ministerial Decision 6382/19](#) on Defining the framework for the implementation of the financial allowance and accommodation programme 'ESTIA'.

<sup>644</sup> Articles 3 & 8 [Ministerial Decision 16987/2020](#) on the "Terms of financial assistance to applicants for international protection - year 2020", Gov. Gazette 2587/B/26-6-2020.

<sup>645</sup> UNHCR, *Factsheet: Greece*, 1-31 December 2020, available at: <https://bit.ly/2QVbl8l>, p.3.

<sup>646</sup> The data has been collected from the monthly factsheets issued by UNHCR in 2019 on the situation in Greece. They can be found at: <https://bit.ly/3tT6OC0>.

### 3. Reduction or withdrawal of reception conditions

#### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions? ☒ Yes ☐ No
2. Does the legislation provide for the possibility to withdraw material reception conditions? ☒ Yes ☐ No

Reception conditions may be reduced or withdrawn, following a decision of the competent reception authority, where applicants:<sup>647</sup>

- a. If provided with housing, abandon the accommodation to which they have been referred, without informing the competent administration or without permission or abandon the place of residence determined by the competent authority without permission;
- b. Do not comply with reporting duties or do not respond to requests for information or do not attend, in the process of the examination of their application for international protection, to a personal interview within the deadline set by the receiving and examining authorities;
- c. Have lodged a [Subsequent Application](#);
- d. Have concealed their resources and illegitimately takes advantage of material reception conditions; or
- e. Have seriously breached the house rules of the reception centre, in particular by demonstrating violent behaviour, in which case the competent police authority is also notified, in order to ascertain whether detention should be applied, on grounds of national security or public order or due to a risk of absconding.

Moreover, material reception conditions may be reduced, in cases where the competent reception authority can establish that the applicant, for no justifiable reason, has not lodged an application for international protection as soon as reasonably practicable after arrival on the Greek territory.<sup>648</sup>

In order for material reception conditions to be reduced and/or withdrawn, the RIS or the Directorate for the Protection of Asylum Seekers need to take a justified decision following an individualised and objective assessment, which takes into account the applicant's vulnerability. The decision to reduce or withdraw material reception conditions cannot concern the applicant's access to medical care and cannot result in making it impossible for them to access the basic means for ensuring a decent standard of living.<sup>649</sup>

The procedure is laid down in the General Regulation of Reception Facilities under the responsibility of the RIS (*Γενικός Κανονισμός Λειτουργίας Δομών Φιλοξενίας υπηκόων τρίτων χωρών που λειτουργούν με μέριμνα της Υπηρεσίας Πρώτης Υποδοχής*) and the General Regulation for the Operation of Reception and Identification Centres and Mobile Reception and Identification Units (*Γενικός Κανονισμός Λειτουργίας Κέντρων Υποδοχής και Ταυτοποίησης και Κινητών Μονάδων Υποδοχής και Ταυτοποίησης*) and foresees: (a) an oral recommendation; followed by (b) a written warning; followed by (c) a withdrawal decision.<sup>650</sup>

Between June and December 2020, reception conditions were withdrawn in the case of 4,957 beneficiaries that were accommodated in camps (2,924) and the ESTIA accommodation scheme (2,033), following recognition of their status or after receiving a second instance negative decision. Relevant data for the period of January-May or on potential decisions reducing and/or withdrawing material reception conditions on the basis of article 57 IPA remain unavailable.

<sup>647</sup> Article 57(1), (3) and (4) IPA.

<sup>648</sup> Article 57(2) IPA, which provides that "The competent reception Authority shall reduce material reception conditions when it ascertains that the applicant has without justifiable cause not applied for international protection as soon as possible after their arrival in the Greek territory").

<sup>649</sup> Article 57(5) IPA.

<sup>650</sup> Article 18B(2) Ministerial Decision 11.1/6343/25-11-2014, Gov. Gazette, 3295/B/09.12.2014 and article 10(1) Joint Ministerial Decision 1/7433/10-6-2019, Gov. Gazette 2219/B/10.6.2019.

## 4. Freedom of movement

### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  
☐ Yes ☒ No
2. Does the law provide for restrictions on freedom of movement?  
☒ Yes ☐ No

Asylum seekers may move freely within the territory of Greece or the area assigned by a regulatory (*κανονιστική*) decision of the Minister of Citizen Protection (formerly, the Minister of Migration Policy).<sup>651</sup> Restriction of freedom movement within a particular geographical area should not affect the inalienable sphere of private life and should not hinder the exercise of rights provided by the law.<sup>652</sup>

Following the entry into force of the IPA, on 1 January 2020, asylum seekers' freedom of movement may also be restricted through assignment to a specific place, only if this is necessary for the swift processing and effective monitoring of the applications for international protection or for duly justified reasons of public interest or reasons of public order. The limitation is imposed by the Director of the Asylum Service and is mentioned on the asylum seekers' cards.<sup>653</sup>

Applicants are required to notify the competent authorities of any change of their address, as long as the examination of their asylum application is pending.<sup>654</sup>

Finally, applicants have the right to lodge an appeal (*προσφυγή*) before the Administrative Court against decisions that restrict their freedom of movement.<sup>655</sup> However, as explained below, the remedy provided by this provision is not available in practice.

### 4.1. The geographical restriction on the Eastern Aegean islands

In practice, the imposition of a restriction on freedom of movement is particularly applied to persons subject to the EU-Turkey statement and the [Fast-Track Border Procedure](#), whose movement is systematically restricted within the island where they have arrived, under a "geographical restriction". As mentioned in [Reception and Identification Procedure](#), the geographical restriction on the given island is imposed both by the Police Authorities and the Asylum Service.

**Imposition of the "geographical restriction" by the Police:** Following an initial "Deportation decision based on the readmission procedure" issued for every newly arrived person upon arrival, a "postponement of deportation" decision is issued by the Police,<sup>656</sup> by which the person in question is ordered not to leave the island and to reside in the respective RIC "until the issuance of a second instance negative decision on the asylum application". The automatic issuance of a deportation decision upon arrival against every newly arrived person on the Greek islands is highly problematic, given that the majority of newly arrived persons have already expressed the intention to seek asylum upon arrival, thus prior to the issuance of a deportation decision.<sup>657</sup> Moreover, the decision of the Police which imposes the geographical restriction on the island is imposed indiscriminately, without any prior individual assessment or proportionality test. It is also imposed indefinitely, with no maximum time limit provided by law and with no effective remedy in place.<sup>658</sup>

<sup>651</sup> Article 45(1) IPA.

<sup>652</sup> *Ibid.*

<sup>653</sup> Article 45(2) IPA.

<sup>654</sup> Article 45(6) IPA).

<sup>655</sup> Article 112(1) IPA.

<sup>656</sup> Pursuant to Article 78 L 3386/2005.

<sup>657</sup> Article 34(d) L 4375/2016 (replaced by article 2(c) IPA) clarifies that a person who expresses orally or in writing the intention to submit an application for international protection is an asylum seeker.

<sup>658</sup> See e.g. Human Rights Committee, *General Comment No 27 – Article 12 (Freedom of Movement)*, CCPR/C/21/Rev.1/Add.9, 2 November 1999, available at: <http://bit.ly/2uG06Fj>.

**Imposition of the “geographical restriction” by the Asylum Service:** The imposition of the geographical restriction on the islands in the context of the asylum procedure was initially based on a June 2017 Decision of the Director of the Asylum Service.<sup>659</sup> This decision was annulled by the Council of State on 17 April 2018, following an action brought by GCR. The Council of State ruled that the imposition of a limitation on the right of free movement on the basis of a regulatory (*κανονιστική*) decision is not as such contrary to the Greek Constitution or to any other provision with overriding legislative power. However, it is necessary that the legal grounds, for which this measure was imposed, can be deduced from the preparatory work for the issuance of this administrative Decision, as otherwise, it cannot be ascertained whether this measure was indeed necessary. That said the Council of State annulled the Decision as the legal grounds, which permitted the imposition of the restriction, could not be deduced neither from the text of said Decision nor from the elements included in the preamble of this decision. Moreover, the Council of State held that the regime of geographical restriction within the Greek islands has resulted in unequal distribution of asylum seekers across the national territory and significant pressure on the affected islands compared to other regions.<sup>660</sup> A new regulatory Decision of the Director of the Asylum Service was issued three days after the judgment and restored the geographical restriction on the Eastern Aegean islands.<sup>661</sup> This Decision was replaced in October 2018 by a new Decision of the Director of the Asylum Service.<sup>662</sup> Following an amendment introduced in May 2019 the competence for issuing the Decision imposing the geographical restriction has been transferred from the Director of the Asylum Service to the Minister of Migration Policy.<sup>663</sup> In June 2019, a decision of the Minister of Migration Policy on the imposition of the geographical restriction has been issued.<sup>664</sup> Following the amendment of the IPA in November 2019, a new decision on the imposition of the geographical limitation has been issued by the Minister of Citizen Protection in December 2019, which remains in effect.<sup>665</sup> A new application for annulment was filed by GCR before the Council of State against said Decisions, however the hearing has been since postponed on several occasions and is still pending examination in December 2021.

The Decision of the Minister of Citizen Protection as of December 2019, which regulates the imposition of the geographical restriction since 1 January 2020, states the following:

“1. A restriction on movement within the island from which they entered the Greek territory is imposed on applicants of international protection who enter the Greek territory through the islands of Lesbos, Rhodes, Samos, Kos, Leros and Chios. Said restriction is mentioned on the asylum seekers’ cards.

2. The restriction on movement shall be lifted subject to a decision of the Director of the RIC, which is issued as per the provisions of para. 7, article 39 of L.4636/2019, in cases of

- (a) unaccompanied minors,
- (b) persons subject to the provisions of Articles 8 to 11 of Regulation (EU) No 604/2013, under the condition that after the take charge request submitted by the Greek Authorities has been accepted by another member State
- (c) persons whose applications can reasonably be considered to be well founded and
- (d) persons belonging to vulnerable groups or who are in need of special reception conditions according to the provisions of L. 4636/2019, as long as it is not possible to provide them with appropriate support as per what is provided in article 67 IPA (“applicants in need of special procedural guarantees”).

<sup>659</sup> Asylum Service Director Decision 10464, Gov. Gazette B 1977/7.06.2017.

<sup>660</sup> Council of State, Decision 805/2018, 17 April 2018, EDAL, available at: <https://bit.ly/2GmnbTI>.

<sup>661</sup> Asylum Service Director Decision 8269, Gov. Gazette B 1366/20.04.2018. See GCR and Oxfam, ‘GCR and Oxfam issue joint press release on CoS ruling’, 24 April 2018, available at: <https://bit.ly/2N0Rwqv>.

<sup>662</sup> Asylum Service Director Decision 18984, Gov. Gazette B 4427/05.10.2018.

<sup>663</sup> Art. 7 L.4540/2018 as amended by L. 4609/2019.

<sup>664</sup> Ministerial Decision 13411/2019, Gov. Gazette 2399/B/19.6.2019.

<sup>665</sup> Ministerial Decision 1140/2019, Gov. Gazette 4736/B/20.12.2019.



Thus and in line with said Decisions in force during 2019 and since 1 January 2020, the geographical restriction on each asylum seeker who entered the Greek territory through the Eastern Aegean Islands is imposed automatically when the asylum application is lodged before the RAO of **Lesvos, Rhodes, Samos, Leros and Chios** and the AAU of **Kos**. The applicant receives an asylum seeker's card with a stamp on the card mentioning: "Restriction of movement on the island of [...]". No individual decision is issued for each asylum seeker.

The lawfulness of the aforementioned practice is questionable, *inter alia* for the following reasons:

- No prior individual decision for the imposition of the geographical limitation is issued, as the limitation is imposed on the basis of a regulatory ('κανονιστική') Decision of the Minister and no proper justification on an individual basis is provided for the imposition of the restriction of movement on each island, within the frame of the asylum procedure.<sup>666</sup> According to the relevant Decisions, any asylum seeker who enters the Greek territory from **Lesvos, Rhodes, Samos, Leros, Chios and Kos** is initially subject to a geographical restriction on said island. The restriction can be lifted only in case that the applicant falls within one of the categories provided by the Ministerial Decision. Consequently, the geographical restriction in the asylum procedure is applied indiscriminately, *en masse* and without any prior individual assessment. The impact of the geographical restriction on applicants' "subsistence and... their physical and mental health",<sup>667</sup> on the ability of applicants to fully exercise their rights and to receive reception conditions, by taking into consideration reception conditions prevailing on the islands is not assessed.
- No time limit or any re-examination at regular intervals is provided for the geographical limitation imposed;
- No effective legal remedy is provided in order to challenge the geographical limitation imposed by the Minister of Citizen Protection, contrary to Article 26 of the recast Reception Conditions Directive. The remedy provided under article 112(1) (formerly introduced by the amended Article 24 L 4540/2018 in December 2018) remained illusory, since an individual cannot lodge an appeal pursuant to the Code of Administrative Procedure in the absence of an individual, enforceable administrative act. In addition, no tailored legal aid scheme is provided for challenging such decisions (see [Regular Procedure: Legal Assistance](#)). *A fortiori*, no legal remedy is provided by the IPA to challenge said restriction.

During 2020, and in line with the legal framework in place at that time, the geographical restriction was *inter alia* lifted in the following cases:

- Persons granted international protection
- Applicants exempted due to the applicability of the family provisions of the Dublin Regulation
- Vulnerable applicants for whom appropriate support could not be provided within the area of restriction, though GCR is aware of several cases of vulnerable applicants for whom the restriction was not lifted, even though neither special reception conditions nor special procedural guarantees could be applied, not least, due to diverging practices between locations (also see Lift of geographical Restriction)

Since 1 January 2020, the new regulatory framework for the geographical restriction on the islands has significantly limited the categories of applicants for whom the restriction can be lifted. Thus, the

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<sup>666</sup> Article 7 recast Reception Conditions Directive.

<sup>667</sup> Article 17(2) recast Reception Conditions Directive.



implementation of this framework can increase the number of applicants stuck on the Greek islands and serves as a constant risk that can deteriorate the conditions there.

Throughout 2020, a total of 5,543 persons had their geographical restriction lifted, following a decision of the RIS on the islands of Lesbos (1,513), Samos (1,777), Chios (1,491), Leros (457) and Kos (305). These concerned the following categories of asylum seekers per island:

Lift of geographical restriction by the RIS in 2020 <sup>(1)</sup>					
Reason	Kos	Leros	Lesvos <sup>(2)</sup>	Samos	Chios
Unaccompanied minors	18	62	311	145	194
Persons with physical disabilities	11	7	28	11	27
Persons with mental disorders	8	5	10	91	12
Persons with serious illnesses	79	202	57	272	63
Pregnant women	32	79	33	647	85
Single-headed families	35	0	65	550	21
Survivors of torture, rape or other serious forms of psychological, physical or sexual violence	30	7	15	11	39
Victims of human trafficking	14	2	0	1	0
Elderly persons	8	54	7	49	12
Vulnerable or persons with special reception needs or in need of special proecdural guarantees	30	0	987	0	281
Immediate relatives of victims of shipwreck (parents, siblings, children, spouses)	15	0	0	0	0
Art. 8-11 of <b>Dublin III</b> Regulation (take charge)	7	7	0	0	6
Applications with a reasonable probability of well-foundedness	18	0	0	0	9
Other (urgent needs due to increased flows, principle offam. Unity etc.)	0	32	0	0	742
<b>Total decisions per RIC facility</b>	<b>305</b>	<b>457</b>	<b>1,513</b>	<b>1,777</b>	<b>1,491</b>

Source: RIS. (1) with the exception of Lesbos, number regard persons and not cases and include family members of the applicant concerned. (2) For Lesbos RIC the numbers only regard vulnerable applicants.

In sum, the practice of indiscriminate imposition of the geographical restriction since the launch of the EU-Turkey Statement has consistently led to significant overcrowding in the island RICs. People are obliged to reside for prolonged periods in overcrowded and/or unsuitable facilities, where food and water supply have been consistently reported insufficient, sanitation is poor and security highly problematic (see [Conditions in Reception Facilities](#)).

In September 2020,<sup>668</sup> the Greek National Commission for Human Rights (GNCHR) reiterated its firm and consistently expressed position, calling the Greek Government to “review the dead-end policy with regards to the imposition of a geographical restriction on the Eastern Aegean islands and to move forward with the abolition of this onerous measure”. The GNCHR also noted that regardless of circumstances “any geographical restriction must be imposed following an individual assessment and a reasoned administrative act, giving the applicant the possibility of effective judicial protection, as this [measure] introduces a restriction on [the applicant’s] freedom of movement”.

Respectively, in May 2021, amid the lowest levels of overcrowding observed since 2015, the Council of Europe Commissioner for Human Rights similarly underlined that “action to improve the lingering

<sup>668</sup> National Commission for Human Rights, *Report on the refugee and migration issue* (“Εκθεση αναφοράς για το προσφυγικό και το μεταναστευτικό ζήτημα”), September 2020, available at: <https://bit.ly/3vulqre>, p.44.

substandard living conditions in the Reception and Identification Centres must not be delayed and that all appropriate standards must be met, and overcrowding prevented. With the new reception facilities reportedly set to operate as closed centres, the Commissioner is concerned that this will lead to large-scale and long-term deprivation of liberty. She urges the Greek authorities to reconsider the closed nature of these centres, in order to ensure that the regime applicable to these facilities safeguards the freedom of movement of their residents, in line with the relevant Council of Europe standards.” The Commissioner also reiterated that “the policy of containment of refugees, asylum seekers and migrants on the Aegean islands lies at the heart of many of the long-standing problems Greece has experienced in protecting the rights of these persons”<sup>669</sup>.

Failure to comply with the geographical restriction has serious consequences, including [Detention of Asylum Seekers](#), as applicants apprehended outside their assigned island are – arbitrarily – placed in pre-removal detention for the purpose of returning to their assigned island. They may also be subject to criminal charges under Article 182 of the Criminal Code. Moreover, access to asylum is also restricted to those who have not complied with the geographical restriction since, according to the practice of the Asylum Service, their applications are not lodged outside the area of the geographical restriction and/or the applicant in case he or she has already lodged an application, cannot renew the asylum seeker card and the examination is interrupted.

## B. Housing

### 1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of temporary accommodation centres:	32
2. Total number of places in MoMA/UNHCR accommodation:	28,504
3. Type of accommodation most frequently used in a regular procedure:	
<input checked="" type="checkbox"/> Reception centre <input checked="" type="checkbox"/> Hotel or hostel <input checked="" type="checkbox"/> Emergency shelter <input checked="" type="checkbox"/> Private housing <input type="checkbox"/> Other	
4. Type of accommodation most frequently used in an accelerated procedure:	
<input checked="" type="checkbox"/> Reception centre <input checked="" type="checkbox"/> Hotel or hostel <input checked="" type="checkbox"/> Emergency shelter <input checked="" type="checkbox"/> Private housing <input type="checkbox"/> Other	

The Greek reception system has been long criticised as inadequate, not least in the *M.S.S. v. Belgium and Greece* ruling of the ECtHR. Subsequent jurisprudence of the ECtHR has also found violations of Article 3 ECHR due to the failure of national authorities to provide asylum seekers with adequate living conditions.<sup>670</sup>

Since mid-2015, when Greece was facing large-scale arrivals of refugees, those shortcomings have become increasingly apparent. The imposition of border restrictions and the subsequent closure of the Western Balkan route in March 2016, resulting in trapping a number of about 50,000 third-country nationals in Greece. This created *inter alia* an unprecedented burden on the Greek reception system.<sup>671</sup>

<sup>669</sup> Council of Europe, “Greek authorities should investigate allegations of pushbacks and ill-treatment of migrants, ensure an enabling environment for NGOs and improve reception conditions”, 3 May 2021, available at: <https://bit.ly/3fpRIOC>.

<sup>670</sup> ECtHR, *F.H. v. Greece*, Application No 78456/11, Judgment of 31 July 2014; *Al.K. v. Greece*, Application No 63542/11, Judgment of 11 March 2015; *Amadou v. Greece*, Application No 37991/11, Judgment of 4 February 2016; *S.G. v. Greece*, Application No 46558/12, Judgment of 18 May 2017.

<sup>671</sup> See also AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, 7-8.

Since then, the number of reception places has increased mainly through temporary camps and the UNHCR accommodation scheme. Despite this increase, destitution and homelessness remain a risk, which has been affecting an increasing number of asylum seekers and refugees<sup>672</sup>.

As mentioned by UNHCR in January 2019, “with steady new arrivals reaching the sea and land borders and limited legal pathways out of the country, there is an ever-increasing need for more reception places for asylum-seekers and refugees, especially children who are unaccompanied and other people with specific needs.”<sup>673</sup>

Since then, throughout 2019, more than 70,000 persons arrived on the Greek islands and the mainland, amounting to a 50% increase, compared to 2018 arrivals,<sup>674</sup> thus further impacting on the state’s ability to provide material reception conditions. This trend continued to apply well into the first months of 2020. For instance, by 29 February 2020, more than 38,000 persons were forced to remain in island RICs with a nominal capacity of no more than 6,178 places<sup>675</sup>.

Since then, conditions of overcrowding started gradually improving, as transfers of asylum seekers took place, with the process being undoubtedly facilitated by the decreased number of arrivals on the islands, in the context of an observed general reduction of cross-border movements in the eastern Mediterranean in 2020<sup>676</sup>, and particularly since March, when the COVID-19 pandemic hit Greece and Europe<sup>677</sup>. Yet despite the diminished instances of overcrowding by year’s end, the situation on the islands remained below acceptable standards, while the timing of diminished number of arrivals also coincides with a documented increase in reports and testimonies on pushbacks carried out at Greece’s land and sea borders, which have yet to be effectively investigated<sup>678</sup>.

The Reception and Identification Service (RIS) and the Directorate for the Protection of Asylum Seekers (DPAS) within the Secretariat General of Migration Policy, Reception and Asylum under the Ministry of Citizen Protection, where relevant, are appointed as the responsible authorities for the reception of asylum seekers.<sup>679</sup> Additionally, the UNHCR accommodation scheme as part of the “ESTIA” programme receives and processes relevant referrals for vulnerable asylum seekers eligible to be hosted under the scheme in 2020. As of 1 January 2021, the Greek state has undertaken responsibility of the ESTIA scheme, which will be operating under the competence of the RIS, as per the new organisation of the Ministry of Migration and Asylum<sup>680</sup>.

Following the establishment of the Special Secretary for Unaccompanied Minors (SSUM) under the MoMA in February 2020<sup>681</sup>, and the entry into force of L. 4756/2020 in November of the same year, the SSUM has become the competent authority for the protection of UAM, including the accommodation of

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<sup>672</sup> Refugees in Greece: Risk of Homelessness and Destitution for Thousands during Winter, Joint Announcement of 74 civil society organisations, 22 December 2020, available at: <https://bit.ly/3nIBofT>.

<sup>673</sup> UNHCR, *Factsheet: Greece*, January 2019, available at: <https://bit.ly/2SYh3qr>.

<sup>674</sup> UNHCR, *Factsheet: Greece, December 2019*, available at: <https://bit.ly/37QBhFY>.

<sup>675</sup> General Secretariat for Information and Communication, National Situational Picture Regarding the Islands at Eastern Aegean Sea (29/2/2020), 1 March 2020, available at: <https://bit.ly/3sZT47v>.

<sup>676</sup> FRONTEX, “Irregular migration into EU last year lowest since 2013 due to COVID-19”, 8 January 2021, available at: <https://bit.ly/3xxceVO>.

<sup>677</sup> New York Post, “WHO Says Europe is New Epicenter of Coronavirus Pandemic”, 13 March 2020, available at: <https://bit.ly/3nB3bhZ>.

<sup>678</sup> Amongst many others, ARSIS, GCR *et al*, *Joint Statement on push backs practices in Greece*, 1 February 2021, available at: <https://bit.ly/36Lez3N>; RSA, *Push backs and violations of human rights at sea: a timeline*, 29 December 2020, available at: <https://bit.ly/3sWarrd> and Campaign for the Access to Asylum, *Illegal pushbacks, Lives at risk, NGOs under prosecution: Investigations on pushbacks at the EU level, targeting of those highlighting them in Greece*, 16 March 2021, available at: <https://bit.ly/3e2dQ2f>.

<sup>679</sup> Article 41(h) IPA. As of 15 January 2020 and the institution of the Ministry of Migration and Asylum, through P.D. 4/2020, Gov. Gazette 4/A/15.1.20, the Secretariat General of Migration Policy, Reception and Asylum, as well as the Special Secretariat of Reception have been transferred under the competence of the new Ministry.

<sup>680</sup> Article 37, para. 2(z) of P.D. 106/2020 on the Organisation of the Ministry of Migration and Asylum, Gov. Gazette 255/A/23-12-2020.

<sup>681</sup> Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.

UAM, while EKKA, under the supervision of the Directorate for the Protection of Children and Families of the Ministry of Labor and Social Affairs is *inter alia* responsible for the representation of UAM, including through the guardianship foreseen under L. 4554/2018,<sup>682</sup> which has yet to become operational as of the time of writing.

### 1.1. Temporary accommodation centres

In 2016, in order to address the needs of persons remaining in Greece after the imposition of border restrictions along the so-called Western Balkan route, a number of temporary camps have been created on the mainland in order to increase accommodation capacity.

The law provides a legal basis for the establishment of different accommodation facilities. In addition to [Reception and Identification Centres](#),<sup>683</sup> the Ministry of Economy and the Ministry of Internal Affairs may, by joint decision, establish open Temporary Reception Facilities for Asylum Seekers (*Δομές Προσωρινής Υποδοχής Αιτούντων Διεθνή Προστασία*),<sup>684</sup> as well as open Temporary Accommodation Facilities (*Δομές Προσωρινής Φιλοξενίας*) for persons subject to return procedures or whose return has been suspended.<sup>685</sup> As of 17 December 2019, the sites for the construction of controlled, open and closed facilities, as well as all facilities, including those intended for the accommodation of unaccompanied minors, throughout the Greek territory, is approved by the newly constituted position of the National Coordinator for the response to and management of the migration-refugee issue (*Εθνικός Συντονιστής για την αντιμετώπιση και διαχείριση του μεταναστευτικού - προσφυγικού ζητήματος*), following recommendations of the competent services.<sup>686</sup> Following a further amendment in February 2020, the specific competency of the National Coordinator was revoked and replaced with the authority for “organising, directing, coordinating and controlling the Unified Border Surveillance Body (“Ενιαίο Φορέα Επιτήρησης Συνόρων” or ΕΝ.Φ.ΕΣ)<sup>687</sup>. Lastly, and amongst others, as per the amendments brought forth by L. 4686/2020, the Ministers of Finance, of Citizen Protection and of Migration & Asylum can decide on the establishment of Closed Temporary Reception Centers and Closed-Controlled Island Centers for asylum applicants subject to a detention order and for applicants or persons subject to a return procedure or whose removal has been suspended, provided that restrictive conditions have been imposed on them<sup>688</sup>. As per the same amendment<sup>689</sup>, Reception and Identification Centers (RICs), Closed Temporary Reception Structures, Pre-Removal Detention Centers (PRDCs), as well as separate areas with appropriate specifications for the accommodation of third country nationals or stateless persons belonging to vulnerable groups can operate within the aforementioned Closed Temporary Reception Centers and Closed-Controlled Island Centers.

As of 24 March 2020, following the issuance of a relevant Joint Ministerial Decision of the Ministers of Finance and of Migration & Asylum<sup>690</sup>, all temporary accommodation centers (i.e. mainland camps) and emergency facilities (i.e. hotels) have been regulated. Before that, the only three facilities officially established on the mainland were **Elaionas**,<sup>691</sup> **Schisto** and **Diavata**,<sup>692</sup> with the rest operating without

<sup>682</sup> Articles 13 & 14 [L.4756/2020](#).

<sup>683</sup> Article 10(1)-(2) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>684</sup> Article 10(4) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>685</sup> Article 10(5) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>686</sup> Article 11 (2)(d) of L. 4650/2019, on the Regulation of Issues pertaining to the Ministry of Defence and other matters.

<sup>687</sup> Article 190 L. 4662/2020.

<sup>688</sup> Article 30 (4) and (5) L. 4686/2020 amending articles 8 and 10 of L. 4375/2016 respectively.

<sup>689</sup> Article 30(4) L. 4686/2020

<sup>690</sup> JMD 2945/2020 on the “Establishment of Temporary Reception Structures for Third-Country Nationals or Stateless Persons who have applied for international protection”, Gov. Gazette 1016/B/24-3-2020.

<sup>691</sup> JMD 3/5262, “Establishment of the Open Facility for the hospitality of asylum seekers and persons belonging to vulnerable groups in Eleonas Attica Region”, 18 September 2015, Gov. Gazette B2065/18.09.2015; JMD 3.2/6008 “Establishment of the Open Facility for the temporary reception of applicant of international protection”, 18 September 2015, Gov. Gazette B’ 1940/6.06.2017.

<sup>692</sup> JMD 3/14762, “Establishment of Open Facilities for the Temporary Hospitality of applicant for international protection”, Gov. Gazette B’ 3720/16.11.2016.

an official manager, through Site Management & Support. As of May 2020, following a decision issued by the Minister of Migration and Asylum<sup>693</sup>, Directors have also been assigned for a period of a year, which is renewable for up to an additional 2 years, to all of the island RICs and the temporary mainland accommodation centers. In the same month, as per Joint Ministerial Decisions issued by the Ministers of Environment and Energy, of Internal Affairs and of Migration and Asylum, the locations and the construction of the new island RICs on Leros ("Ormos Lakki" location, with a surface area of 25,514.09 m<sup>2</sup>), Samos ("Zervou" location, with a surface area of 244,789.34 m<sup>2</sup>) and Kos ("Mesovouni" location, with a surface area of 25,514.09 m<sup>2</sup>) were decided<sup>694</sup>.

The referral pathway for placement in these camps entails the engagement of multiple actors, amongst which the RIS, the DPAS, SMS agencies and UNHCR. For instance, applicants identified as homeless and/or living in precarious conditions on the mainland are initially referred to DPAS which, following the assessment of their vulnerability, proceeds with further referring them to UNHCR, for placement in the ESTIA accommodation scheme (high vulnerability), or to the RIS (low vulnerability), which is to then further examine the possibility of their accommodation in a camp.<sup>695</sup>

During 2019, 950 requests from homeless or under precarious living conditions asylum seekers on the mainland were sent from the Directorate for the Protection of Asylum Seekers (DPAS) to the Reception and Identification Service (RIS), for a place in an open accommodation facility on the mainland. Only 55 applicants were finally offered an accommodation place in a facility (5.7%).<sup>696</sup> Relevant data for 2020 have not been provided.

Though still publicly unavailable, official data on the capacity and occupancy of these accommodation sites, as of 31 December 2020, can be seen in the following table<sup>697</sup>. They are complemented by data on nationalities, ages and genders, which are issued by IOM:<sup>698</sup>

Occupancy of temporary accommodation centres: December 2020										
Facility	Population	Capacity	Occupancy (rounded)	Nationality (%)				Age / Gender		
				Afg.	Syria	Iraq	Other	Men	Women	Children
Alexandreia	738	614	120%	43.60	33.05	17.02	6.33	30%	20%	50%
Andravida-Kyllini	284	312	91%	-	98.73	1.27	-	25%	23%	52%
Diavata	1,091	936	117%	46.75	16.92	19.63	16.7	33%	24%	43%
Doliana	159	177	90%	-	47.17	26.42	26.42	18%	26%	56%
Drama	409	420	97%	-	74.29	20	5.71	22%	18%	60%
Elefsina	193	180	107%	14.36	62.38	18.32	4.96	17%	20%	63%
Elaionas	2,196	1,914	115%	43.77	29.07	5.33	21.83	31%	27%	42%
Filipiada	694	672	103%	55.28	21.56	8.39	14.77	24%	23%	53%

<sup>693</sup> Ministerial decision 4512/19.05.2020 of the Minister of Migration and Asylum, Gov. Gazette Government Gazette, Volume of Special Position Employees and Administration Bodies of the Public Sector and the Broader Public Sector Agencies, no.381/23-05-2021.

<sup>694</sup> JMD 4712, 4711 and 5099, Gov. Gazette 2043/B/30-5-2020.

<sup>695</sup> Information provided by DPAS on 14 January 2020.

<sup>696</sup> Idem.

<sup>697</sup> Information provided by the RIS on 11 February 2021

<sup>698</sup> IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS): December 2020 Factsheet, available at: <https://bit.ly/3eAyHsi>.



Grevena (SMS Hotels)	730	742	98%	20.33	56.59	12.09	11	28%	26%	46%
Kato Milia	344	340	101%	23.55	53.78	12.79	9.87	29%	25%	46%
Katsikas	1,265	1,147	110%	46.25	21.90	11.94	19.91	32%	23%	45%
Kavala	1,022	1,237	83%	75.30	4.94	10.28	9.48	25%	21%	54%
Klidi - Sintiki	344	1,500	23%	32.27	9.59	1.45	56.69	59%	25%	16%
Korinthos	690	784	88%	50.28	19.47	1.82	28.43	39%	28%	33%
Koutsochero (Larisa)	1,386	1,500	92%	43.38	27.80	7.75	78.93	40%	25%	35%
Lagadikia	447	456	98%	3.34	28.64	55.37	12.65	34%	23%	43%
Lavrio	267	269	99%	24.61	38.67	2.34	34.38	37%	21%	42%
Malakasa	1,861	1,589	117%	96.46	-	-	3.54	38%	23%	39%
Nea Malakasa	802	1,500	53%	27.88	29.16	1.53	41.43	40%	27%	33%
Nea Kavala-Polykastro	1,521	1,921	79%	56.75	19.44	4.03	19.78	38%	22%	40%
Oinofyta	596	621	96%	14.31	79.44	6.09	0.16	36%	23%	41%
Pirgos SMS facilities	81	80	101%	55	40	2.50	2.50	-	49%	51%
Ritsona	2,871	2,978	96%	34.11	46.70	4.15	15.04	30%	25%	45%
Schisto	985	1,100	90%	65.25	24.68	6.10	3.97	30%	23%	47%
Serres	1,057	1,679	63%	11.17	5.92	80.47	2.44	30%	29%	41%
Skaramagass	2,699	2,772	97%	33.48	45.35	7.12	14.05 %	36%	24%	40%
Thermopiless	339	560	61%	-	80.83	14.16	5.01	25%	22%	53%
Thiva	870	956	91%	59.42	23.47	11.91	5.21	36%	19%	45%
Vagiochori	799	792	101%	80.31	12.69	2.33	4.66	23%	26%	51%
Veria	479	519	92%	1.32	58.33	23.03	17.32	26%	24%	50%
Volos	141	150	92%	-	41.55	20.42	38.03	38%	20%	42%
Volvi – Nea Apolonia	1,021	1,011	101%	30.91	35.23	8.15	25.71	30%	28%	42%
<b>Grand total</b>	<b>28,381</b>			<b>42.44</b>	<b>31.51</b>	<b>11.08</b>	<b>14.95</b>	<b>33%</b>	<b>24%</b>	<b>43%</b>

Source: Ministry of Migration and Asylum; IOM

## 1.2. UNHCR accommodation scheme

UNHCR started implementing an accommodation scheme dedicated to relocation candidates (“Accommodation for Relocation”) through its own funds in November 2015.<sup>699</sup> Following a Delegation Agreement signed between the European Commission and UNHCR in December 2015,<sup>700</sup> the project was continued and UNHCR committed to gradually establishing 20,000 places in open accommodation, funded by the European Commission and primarily dedicated to applicants for international protection eligible for relocation.

<sup>699</sup> UNHCR, *Greece: Accommodation for Relocation Project Factsheet*, 1 July 2016, available at: <http://bit.ly/2INOmLG>.

<sup>700</sup> European Commission, ‘European Commission and UNHCR launch scheme to provide 20,000 reception places for asylum seekers in Greece’, IP/15/6316, 14 December 2015.



In July 2017, as announced by the European Commission, the accommodation scheme was included in the Emergency Support to Integration and Accommodation (ESTIA) programme funded by DG ECHO, aiming to provide urban accommodation and cash assistance, aiming at hosting up to 30,000 people by the end of 2017. As stated by the UNHCR Representative in Greece in February 2018, the European Commission has provided assurances that funding for the accommodation programme of asylum seekers in apartments will also continue in 2019, probably by DG HOME.<sup>701</sup> The takeover of activities by AMIF, managed by DG HOME, was confirmed in February 2019.<sup>702</sup>

A year and a half later, in July 2020, the Commission's commitment to the continuation and expansion of the programme was re-affirmed by the Ministry of Migration and Asylum, during the ceremonial tripartite agreement between the EC, UNHCR and the Ministry, for the gradual handover of the renewed ESTIA II programme to the Greek state. As per the Ministry's announcement<sup>703</sup>, a total of €91.5 million, through AMIF funds, was approved for the programme's continuation, with the Ministry's aim being to increase the number of accommodation places to 40,000 by 2021. As *inter alia* noted, at the time, by the former UNHCR representative in Greece, "[e]nsuring the viability, efficiency and quality of this exemplary programme, should be our common goal, as it has proven to enable a successful 'living together' between refugees and local communities across Greece"<sup>704</sup>. In November 2020, another €91.5 million were approved for the programme's continuation in 2021.<sup>705</sup>

By the end of December 2020, 28,148 places were provided in the accommodation scheme as part of the ESTIA II programme, amounting to a 9% increase when compared to the same period during 2019<sup>706</sup> (total of 25,766 places). Of these, 16,596 were operating under the Ministry of Migration and Asylum, and the rest under UNHCR, pending the conclusion of the scheme's handover, which was accomplished by 1 January 2021, as per information provided by the RIS<sup>707</sup>. Accommodation places were provided in these were in 4,409 apartments and 21 buildings, in 16 cities and 7 islands across Greece<sup>708</sup>:

UNHCR accommodation scheme: 28 December 2020	
Type of accommodation	Capacity
Total number of places in Greece	28,504
Actual capacity	21,621
Current population	20,805
Occupancy rate	96.2%

Source: UNHCR, *ESTIA Accommodation Capacity Weekly Update (as of 28 December 2020)*, 29 December 2020, available at: <https://bit.ly/3alloVw>.

<sup>701</sup> UNHCR, 'Interview with UNHCR Representative in Greece on housing programme for asylum-seekers', 19 February 2018, available at: <http://bit.ly/2sJf6lh>.

<sup>702</sup> European Commission, 'Greece – End of activation of the Emergency Support Instrument (DG ECHO)', 13 February 2019, available at: <https://bit.ly/2SI15UV>.

<sup>703</sup> Ministry of Migration and Asylum, "European funding of 92 mil. Has been approved and a contract has been signed for the ESTIA II-2020 Programme" ("Εγκρίθηκε η Ευρωπαϊκή Χρηματοδότηση ύψους 92 εκ και υπεγράφη σύμβαση για το Πρόγραμμα ESTIA II-2020"), 15 July 2020, available in Greek at: <https://bit.ly/3gG3B5c>.

<sup>704</sup> UNHCR, "Towards ESTIA II: UNHCR welcomes Greece's commitment to ensure the continuation of flagship reception programme for asylum-seekers", 15 July 2020, available at: <https://bit.ly/3vpoRk6>.

<sup>705</sup> Ministry of Migration and Asylum, "The ESTIA programme continues in 2021 with full European funding" ("Συνεχίζεται το 2021 το πρόγραμμα ΕΣΤΙΑ, με πλήρη Ευρωπαϊκή Χρηματοδότηση"), 30 November 2020, available in Greece at: <https://bit.ly/3tWxPow>.

<sup>706</sup> UNHCR, *ESTIA Accommodation Capacity Weekly Update (as of 31 December 2019)*, 3 January 2020, available at: <https://bit.ly/2FoLop2>.

<sup>707</sup> Information provided on 11 February 2021.

<sup>708</sup> UNHCR, *Greece Accommodation Scheme - December 2020 update*, 11 January 2021, available at: <https://bit.ly/3eD90Y8>.

Out of the total of 28,504 places on 28 December 2020, 1,869 were located on the islands.

In total, since November 2015, close to 73,000 individuals have benefitted from the accommodation scheme. By the end of December 2020, 20,356 people were accommodated under the scheme, 6,199 of whom were recognised refugees and 14,157 asylum seekers.

Nearly 52% of the residents are children. The clear majority of those accommodated continued being families with children, with an average family size of four people. More than one in four residents have at least one of the vulnerabilities that make them eligible for the accommodation scheme. Moreover, close to 88% of individuals in the accommodation scheme are Syrians (34%), Afghans (31%), Iraqis (15%), Iranians (2%) and from DRC (2%).<sup>709</sup>

### 1.3. The islands and accommodation in the hotspots

Immediately after the launch of the EU-Turkey Statement on 20 March 2016, Reception and Identification Centres (RIC) –the so-called “hotspot” facilities– were transformed into closed detention facilities due to a practice of blanket detention of all newly arrived persons.<sup>710</sup> Following criticism by national and international organisations and actors, as well as due to the limited capacity to maintain and run closed facilities on the islands with a large population,<sup>711</sup> this practice has largely been abandoned. As a result, RIC on the islands are used mainly as open reception centres, albeit similar to mainland camps, since March 2020 their residents have been subject to ongoing and disproportionate restriction of their freedom of movement in the context of measures aimed at restricting the spread of the COVID-19 pandemic<sup>712</sup>.

Following a controversial press briefing of the Government’s operational plan for responding to the refugee issue, on 20 November 2019,<sup>713</sup> it was announced that the island RICs would be transformed into Closed Reception and Identification Centres that would simultaneously function as Pre-Removal Detention Centres and which would have a capacity of at least 18,000 places. The announcements *inter alia* raised serious concerns and/or were condemned by a wide array of actors, including members of the European Parliament, which addressed an open letter to the Justice and Home Affairs Council, the CoE Commissioner for Human Rights,<sup>714</sup> as well as GCR and other civil society actors,<sup>715</sup> and local communities in Greece, who have on several occasions continued to display their opposition to the creation of new centres on the islands.<sup>716</sup>

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<sup>709</sup> *ibid.*

<sup>710</sup> AIDA, Country Report Greece, 2016 Update, March 2017, 100 et seq.

<sup>711</sup> UNHCR, *Explanatory Memorandum to UNHCR’s Submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, 10.

<sup>712</sup> Though measures for the general population have largely fluctuated throughout the year, also depending on the epidemiological actualities of each location, residents of RICs and camps have been consistently subject to a horizontal restriction of their movement between 7pm-7am, with representatives of families or groups only allowed exit the respective facilities in order to cover essential needs, as per consecutive Joint Ministerial Decisions issued since 21 March 2020. Amongst others, see HRW, “Greece Again Extends Covid-19 Lockdown at Refugee Camps”, 12 June 2020, available at: <https://bit.ly/3fmYncl>.

<sup>713</sup> Greek Government, “Political Press Briefing – the Government’s Operational Plan for dealing with the migrant issue”, 20 November 2019, available at: <https://bit.ly/2RO2Kml>.

<sup>714</sup> Council of Europe, “Commissioner seeks information from the Greek government on its plans to set-up closed reception centres on the Aegean islands”, 3 December 2019, available at: <https://bit.ly/38X2GX4>.

<sup>715</sup> For instance, see GCR, “The Greek Authorities announcements on the refugee issue are in contrast to national and international law”, 21 November 2019, available (in Greek) at: <https://bit.ly/36Q4Oyu>; The Guardian, “Aid groups condemn Greece over ‘prison’ camps for migrants”, 25 November 2019, available at: <https://bit.ly/2S4YXzW>.

<sup>716</sup> For instance, see ekathimerini, “More protests against new island centres on the way”, 10 January 2020, available at: <https://bit.ly/31fwkEp>; Efsyn, “The papers say one thing and N. Mitarakis says another”, 26 April 2021, available at: <https://bit.ly/3t2kiuc> and GCR - SCI, GREECE – ADVOCACY UPDATE: March-April 2021, available at: <https://bit.ly/2SNlsw2>, pp.4-5 [may change].

Notwithstanding this, it should be mentioned that throughout 2019 people residing in the RICs continued being subjected to a “geographical restriction”, based on which they are under an obligation not to leave the island and to reside in the RIC facility (see [Freedom of Movement](#)). Moreover, as mentioned, since March 2020, asylum seekers residing in RICs and mainland camps remain subject to a further and disproportionate restriction of their movement, in the context of measures aimed at countering the spread of the COVID-19 pandemic. As per the latest relevant Joint Ministerial Decisions as of the time of writing, which repeats the wording of previous such Decisions, exit from the facilities is only allowed between 7am-7pm, only for one family member or representative of a group, and only in order “to meet essential needs”<sup>717</sup>.

As noted by FRA in November 2020: “Greece never lifted all the restrictions on refugee camps and reception facilities adopted at the outset of the pandemic. These included restricting residents’ movement within the limits of the camps and banning or restricting visitors, which affected the provision of social services”<sup>718</sup>.

A total of 23 Joint Ministerial Decisions, *inter alia* imposing and/or renewing or amending restrictions in the RICs and camps were issued between March and December 2020. Additionally, full lockdowns were imposed on several occasions on the island RICs, and namely: the RIC of Lesbos, between 2-15 September 2020, the RIC of Leros between 15 September-12 October 2020, the RIC of Samos, between 15 September-25 October 2020, and the RIC of Chios, between 13-25 August, and again between 14 October and 11 November 2020, based on relevant Ministerial Decisions<sup>719</sup>.

Beyond the hotspots, each island has an additional, though limited, number of facilities, *inter alia* operating under the ESTIA II accommodation scheme or NGOs for the temporary accommodation of vulnerable groups, including unaccompanied children. Albeit, following the Ministry of Migration and Asylum decisions to shut down dignified accommodation alternatives, and namely PIKPA Lesbos and PIKPA Leros in November 2020, as well as the municipal Kara Tepe camp in Lesbos in April 2021<sup>720</sup>, PIKPA Lesbos, and the announced plan to terminate the ESTIA accommodation scheme on the islands by November 2021<sup>721</sup>, these are expected to give way to the new Closed-Controlled island facilities in 2021<sup>722</sup>, as the exclusive form of first-line reception starting 2021.

As of 31 December 2020, 17,005 persons remained on the Eastern Aegean islands, of which 397 were in detention in police cells and the Pre-Removal Detention Centre (PRDC) of Kos. The nominal capacity of reception facilities, including RICs, the temporary Mavrovouni camp and other accommodation

<sup>717</sup> Annex II, JMD 26380/2021, Gov. Gazette 1682/24-04-2021, available at: <https://bit.ly/3e2l1aH>.

<sup>718</sup> FRA, Coronavirus pandemic in the EU – fundamental rights implications: focus on social rights, Bulletin 6, November 2020, available at: <https://bit.ly/3eUZDEC>, p.31.

<sup>719</sup> Summary of information provided by the RIS on 11 February 2021.

<sup>720</sup> ECRE, “Greece: Well-run PIKPA Camp Evicted while Situation on Islands and Mainland Continue to Deteriorate”, 6 November 2020, available at: <https://bit.ly/3hwbbQo>; Ministry of Migration and Asylum, “Termination of the temporary hosting site of PIKPA Leros” (“Τερματισμός λειτουργίας προσωρινής δομής φιλοξενίας ΠΙΚΠΑ Λέρου”), 27 November 2020, available in Greek at: <https://bit.ly/2SSrMnb>; Oxfam & GCR, “Closure of model camp on Greek islands amidst horrific living conditions is cause for concern”, 21 April 2021, available at: <https://bit.ly/33Ns54W>.

<sup>721</sup> As per the Ministry’s call for proposals for the ESTIA scheme for 2021, no new applications for the (a) Regional Unit of Lesbos, (b) Regional Units of Evros, Rodopi and Xanthi, (c) Regional Unit of Chios, (d) Regional Unit of Samos, (e) the Municipality of Leros and (f) the Municipality of Kos will be accepted under the programme. Furthermore, the remaining apartments operating under the scheme in Lesbos and Chios are eligible for renewed funding only up to 30 November 2021, after which they will cease to operate. Ministry of Migration and Asylum, Call for proposals for the ESTIA 2021 programme with the title “ESTIA 2021”: Accommodation scheme for international protection applicants, 30 November 2020, available in Greek at: <https://bit.ly/3fm9ZfV>, p.11, 13.

<sup>722</sup> Amongst others, see AMNA, “The RIC of Kara Tepe was closed – N. Mitarakis: an important step in the national effort to decongest the islands” (“Εκλείσε το KYT του Καρά Τεπέ - Ν. Μητράκης: Σημαντικό βήμα στην εθνική προσπάθεια αποσυμφόρησης των νησιών”), 7 May 2021, available in Greek at: <https://bit.ly/3eTMM5s>, and astraparis, “An end to “ESTIA” on Chios and Lesbos, all refugees in closed centers” (“Τέλος το «Εστία» σε Χίο και Λέσβο, όλοι οι πρόσφυγες στα κλειστά κέντρα”), 30 November 2020, available in Greek at: <https://bit.ly/3yePnyG>.

facilities, was at 16,710 places. The nominal capacity of the RIC facilities (hotspots) was of 3,338, while 7,093 persons were residing there. Another 7,172 persons were residing in the temporary Mavrovouni camp, which had a nominal capacity of 10,000 places<sup>723</sup>.

More precisely, the figures reported by the National Coordination Centre for Border Control, Immigration and Asylum, as issued by the General Secretariat for Information and Communication, were as follows:

Accommodation on the Eastern Aegean islands: 31 December 2020								
Island	RIC		UNHCR scheme		EKKA		Other facilities	
	Nominal capacity	Occupancy (rounded)	Nominal capacity	Occupancy	Nominal capacity	Occupancy	Nominal capacity	Occupancy
Lesvos	10,000	7,172 (72%)	832	765	148	135	1,300	1,112
Chios	1,014	2,396 (236%)	320	285	18	12	-	-
Samos	648	3,547 (547%)	282	0	17	9	-	-
Leros	860	667 (78%)	136	0	-	-	-	-
Kos	816	483* (59%)	216	0	-	-	-	-
Others	-	-	103	25	-	-	-	-
<b>Total</b>	<b>13,338</b>	<b>14,265</b>	<b>1,889</b>	<b>1,075</b>	<b>183</b>	<b>156</b>	<b>1,300</b>	<b>1,112</b>

Source: General Secretariat for Information and Communication, *National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2020)*, 1 January 2021, available at: <https://bit.ly/3nApkx6>. The term “other facilities” refers to Kara Tepe on Lesvos. \*In the case of Kos, data provided by the RIS on 26 February 2021, mention occupancy of 612 persons as of 31 December 2020.

## 2. Conditions in reception facilities

### Indicators: Conditions in Reception Facilities

- Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☒ Yes ☐ No
- What is the average length of stay of asylum seekers in the reception centres? Varies
- Are unaccompanied children ever accommodated with adults in practice? ☒ Yes ☐ No

Article 55(1) IPA provides that material reception conditions must provide asylum seekers with an adequate standard of living that guarantees their subsistence and promotes their physical and mental health, based on the respect of human dignity.

However, no mechanism for the monitoring and oversight of the level of the reception conditions, including the possibility to lodge a complaint regarding conditions in reception facilities, has been established, contrary to the obligations under Article 28 of the recast Reception Conditions Directive. Thus, no designated body is in place to oversee reception conditions, and no possibility to lodge a complaint against conditions in reception facilities exists in Greece.<sup>724</sup>

<sup>723</sup> National Coordination Center for Border Control, Immigration and Asylum (N.C.C.B.C.I.A.), *National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2020)*, 1 January 2021, available at: <https://bit.ly/3nApkx6>.

<sup>724</sup> See for example: FRA, *Current migration situation in the EU: Oversight of reception facilities*, September 2017, available at: <http://bit.ly/2xObtYA>, p. 2.

## 2.1. Conditions in temporary accommodation facilities on the mainland

A total of 32 camps, most of which created in 2015-2016 as temporary accommodation facilities in order to address urgent reception needs on the mainland, following the imposition of border restrictions, are still in use. However, following the significant 79% drop in the number of arrivals at Greece's land and sea borders in 2020<sup>725</sup>, and particularly since March, which also coincides with the start of a documented increase in reported pushback practices at Greece's borders<sup>726</sup>, the Greek government announced its plan to move forward with the closure of 6 out of the remaining mainland camps, which is reportedly expected to take place by the end of 2021<sup>727</sup>.

This comes after a June 2020 announcement by the MoMA that 60 mainland facilities, consisting of hotels used as emergency accommodation under the Filoxenia programme on the mainland, would be closed by the end of 2020. As noted at the time by the Minister, "henceforth in 2020 there is a negative trend [with respect to arrivals] compared to the previous year. In conjunction with the speeding-up of the asylum procedure, this allows us to discuss about the closure of facilities within 2020, instead of the creation of new ones"<sup>728</sup>, while in another statement it was also noted that the process was also *inter alia* made possible by "the systematic departure of those who are no longer entitled to hospitality from the [accommodation] sites"<sup>729</sup>. By 7 January 2021, the Filoxenia programme was officially terminated, pending the transfer of the last 130 beneficiaries to other accommodation facilities<sup>730</sup>.

In what concerns conditions in the mainland camps, these vary across facilities, as different types of accommodation and services are offered at each site. Compliance of reception conditions with the standards of the recast Reception Conditions Directive should be assessed against the situation prevailing in each camp.

Overall, though conditions in the mainland are reported generally better, when compared to those on the island RICs<sup>731</sup>, challenges regarding their remoteness and their residents' accessibility to rights and services continued being reported throughout 2020<sup>732</sup>. The disproportionate restrictions imposed on camps, in the context of measures aimed at limiting the spread of the COVID-19 pandemic, further compounded the already limited access of the children living in mainland camps to education, during the periods when schools were open. As noted in a joint letter issued by 33 civil society organisations, including GCR, "[i]n some places the issues observed have to do with inconsistent interpretation of COVID-19 related movement restriction policies by the Greek authorities, which ends up discriminating

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<sup>725</sup> Ministry of Migration and Asylum, Annual Briefing Note 2020, 19 January 2021, available in Greek at: <https://bit.ly/3wetf5Q>, p.2.

<sup>726</sup> As noted by UNHCR in June 2020 "Such [pushback] allegations have increased since March and reports indicate that several groups of people may have been summarily returned after reaching Greek territory". UNHCR, "UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey", 12 June 2020, available at: <https://bit.ly/3tZ01Gt>. Amongst many others, also see Arsis et. al., "Joint Statement on push backs practises in Greece", 1 February 2021, available at: <https://bit.ly/3tWOTdc>.

<sup>727</sup> Ta Nea, "Shutdown of 9 migrant facilities" ("«Λουκέτο» σε εννέα δομές μεταναστών"), 2 December 2020, available in Greek at: <https://bit.ly/3ony0Hu>.

<sup>728</sup> MoMa, "Guarding of the borders, decreased arrivals and the speeding up of the asylum procedure allow us to close 60 of the 92 facilities on the mainland by the end of the year" ("Η φύλαξη των συνόρων, οι μειωμένες ροές και η επιτάχυνση των διαδικασιών ασύλου μας επιτρέπουν να κλείσουμε τις 60 από τις 92 δομές στην ενδοχώρα μέχρι το τέλος του έτους"), 10 June 2020, available in Greek at: <https://bit.ly/3uZ4NoC>.

<sup>729</sup> Mitarakis.gr, "The first 8 hospitality sites for asylum seekers on the mainland have been closed. 59 more to follow by the end of the year" ("Εκλείσαν οι 8 πρώτες δομές φιλοξενίας αιτούντων άσυλο στην ενδοχώρα. Ακολουθούν άλλες 59 έως το τέλος του έτους"), 14 August 2020, available in Greek at: <https://bit.ly/3eUfuDm>.

<sup>730</sup> MoMa, "Completion of the Filoxenia programme for asylum seekers in hotels" ("Ολοκλήρωση του προγράμματος Φιλοξενίας Αιτούντων Άσυλο σε ξενοδοχεία"), 7 January 2021, available in Greek at: <https://bit.ly/3wfctn3>.

<sup>731</sup> For instance, UNHCR, *Greece Update No. 16: Lesbos*, 9 March 2021, available at: <https://bit.ly/3opJQkl>.

<sup>732</sup> For instance, U.S. Embassy & Consulate in Greece, "Country Reports on Human Rights Practices 2020: Greece", 30 March 2021, available at: <https://bit.ly/3oCmF6F>.



against children who, as a result, are not being allowed to leave these camps [in order to attend school]”<sup>733</sup>.

Tents and rubhalls have also continued being used in some mainland camps in order to address the ongoing accommodation demand in 2020, particularly following the Greek government’s decision to reduce the time beneficiaries of international protection are allowed stay in accommodation designated for asylum seekers, which has exacerbated the risk of homeless and destitution faced by refugees in Greece, due to the ongoing lack of a comprehensive integration strategy<sup>734</sup>. As noted by UNHCR in June, just days following the decision’s entry into force, “[m]any of those affected are vulnerable, including but not only most staying in ESTIA accommodation. Their effective inclusion in national systems offering services and for cash or in-kind support has not been possible so far. The situation is aggravated by the COVID-19 pandemic”<sup>735</sup>.

The situation has particularly affected camps near Athens, all of which were, much like the island RICs, reported as overcrowded and filled with tents and containers by December 2020, in what has been parallelised, *inter alia*, by MsF, with transferring the conditions of Moria to the mainland<sup>736</sup>. This includes the previously model Eleonas camp near Athens, which since the summer of 2020 has been increasingly overcrowded, as tents were hastily set up in order to accommodate the hundreds of refugees who were granted status on the islands, only to then be forced to leave their accommodation, without access to feasible alternatives<sup>737</sup>.

During the winter, conditions were similarly reported as highly substandard, as several mainland camps, including Schisto, Eleonas and the old Malakasa camp were covered by snow during adverse weather conditions in February 2021, and hundreds of persons, and particularly those living in tents, were unable to warm themselves, not least, due to reported electricity shortages in several mainland camps<sup>738</sup>. In the old Malakasa camp near Athens, even though tents were fully replaced by containers, these were reportedly not equipped with showers and toilets, forcing many, including families with small children, to walk into the snow in order to access common facilities/lavatories, and leaving many refugees in fear for the health of their new-borns, due to the lack of electricity amid freezing temperatures<sup>739</sup>.

Substandard conditions were similarly reported in the New Malakasa camp, which, alongside Kleidi camp in Serres, northern Greece, was hastily established for the purposes of detaining new arrivals in March 2020, when the Greek government decided to suspend newcomers’ access to asylum for a period of a month<sup>740</sup>, raising mass reactions from civil society actors<sup>741</sup>. As highlighted by RSA in December 2020,

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<sup>733</sup> Open letter: “All children have the right to go to school. Do not take that away from them”, 9 March 2021, available at: <https://bit.ly/3yhWB4V>.

<sup>734</sup> Amongst others, see Joint Press Release of 74 organizations, “Refugees in Greece: risk of homelessness and destitution for thousands during winter”, December 2020, available at: <https://bit.ly/33TXZwE>; IRC, “Over two thousand refugees in Greece at risk of homelessness as support programme closes, warns IRC”, 5 March 2021, available at: <https://bit.ly/3oqF1Hu>.

<sup>735</sup> Euronews, “Thousands of migrants face eviction in Greece sparking fears over homelessness”, 2 June 2020, available at: <https://bit.ly/2SZa6Xb>.

<sup>736</sup> DW, “Moria is transferred to the mainland” (“Η Μόρια μεταφέρεται στην ενδοχώρα»), 8 December 2020, available at: <https://bit.ly/3eWV78M>.

<sup>737</sup> For more, *inter alia*, see Efsyn, “Suffocation in the facility of Eleonas” (“Ασφυξία στη δομή του Ελαιώνα”), 1 July 2020, available in Greek at: <https://bit.ly/3bzO3Ne> and Efsyn, “Kara Tepe closes, Eleonas becomes wretched” (“Το Κάρα Τεπέ κλείνει, ο Ελαιώνας εξαθλιώνεται”), 7 May 2021, available at: <https://bit.ly/33Pz6SW>.

<sup>738</sup> In.gr., “The snow is not pleasant when you are living in a tent – “Medea” buried the refugee camps (“Το χιόνι δεν είναι ευχάριστο όταν μένεις σε σκηνή – Η «Μήδεια» έθαψε τους προσφυγικούς καταυλισμούς”), 16 February 2021, available at: <https://bit.ly/3fmDFJl>.

<sup>739</sup> Efsyn, “Last minute improvisations for the refugees in Eleonas” (“Αυτοσχεδιασμοί της τελευταίας στιγμής για τους πρόσφυγες στον Ελαιώνα”), 16 February 2021, available in Greek at: <https://bit.ly/3wfWTrf>.

<sup>740</sup> Emergency Legislative Decree on the suspension of submission of applications for international protection, 2 March 2020, Gov. Gazette 45/A/2020, available in Greek at: <https://bit.ly/3oGZaru>.

<sup>741</sup> Amongst others, Open letter by 256 organisations, “Protect our laws and humanity!”, 6 March 2020, available at: <https://bit.ly/3op0l3d>.



“almost the entire population lives in tents, and a few even in makeshift shelters during winter and an intensifying pandemic. Tents offer wholly inadequate shelter against low temperatures, wind, and rain. In September, for instance, the authorities moved residents from New Malakasa and other camps to sports facilities due to weather warnings. In addition, heavy rainfall has caused flooding in the tents, forcing residents to withstand three consecutive days under the rain, cold and humidity. Following requests, people received nylon covers to protect their tents. Beyond the cold, tents do not ensure humidity insulation, thereby exacerbating risks of infection”<sup>742</sup>.

Notwithstanding poor conditions, security concerns have also been raised with respect to the new Malakasa mainland camp. As noted by the CPT in November 2020, following its March 2020 visit to the camp, “[t]he delegation was concerned that the list of detained persons drawn up by the police did not record the specific tent to which each person had been allocated. For example, a tent occupied by an Afghan man and his wife, together with their three small children, also accommodated three single adult men, to whom they were unrelated. Further, the delegation found that the tents were not equipped with beds or mattresses and had no heating or artificial lighting”<sup>743</sup>.

By April 2021, it was also reported that works had commenced on the construction of 2.5 to 3-meter concrete walls and/or fences around the open (covid restrictions notwithstanding) mainland camps of Ritsona, Diavata and Nea Kavala, raising questions to the camp’s employees, who were reportedly not informed of the initiative, but also “discomfort to refugees who have for year been living in isolation, outside the urban fabric”<sup>744</sup>. This came close to a month after the MoMA issued a public call for tenders for the construction of fencing and the necessary infrastructures aimed at enhancing security in the Migrant Accommodation Structures<sup>745</sup>.

On this note, it should be recalled that camps are not *per se* suitable for long-term accommodation as “camps can have significant negative impacts over the longer term for all concerned. Living in camps can engender dependency and weaken the ability of refugees to manage their own lives, which perpetuates the trauma of displacement and creates barriers to solutions, whatever form they take. In some contexts, camps may increase critical protection risks, including sexual and gender-based violence (SGBV) and child protection concerns.”<sup>746</sup>

In a number of cases, asylum seekers and refugees residing in mainland camps continued to protest against substandard living conditions and their ongoing exclusion from the Greek society. Indicatively, in May 2020, beneficiaries of international protection of various nationalities joined a protest outside **Eleonas** camp, requesting to not be evicted before their uninterrupted housing could be secured. Similar protests reportedly took place simultaneously outside the camps of **Malakasa**, **Schisto** and **Diavata**<sup>747</sup>. In August 2020, residents of the **Thermopiles** camp protested via sit-in on the old national highway

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<sup>742</sup> RSA, *New Malakasa: Inhuman subsistence, nine months on*, 17 December 2020, available at: <https://bit.ly/3u6cd8B>.

<sup>743</sup> Council of Europe, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020, 19 November 2020, available at: <https://bit.ly/33QXvYj>, p.21.

<sup>744</sup> Alterthess, “New fence in the Diavata camp raises questions” (“Νέος φράχτης στο καμπ των Διαβατών προκαλεί ερωτήματα”), 21 April 2021, available in Greek at: <https://bit.ly/2Rs9Gbl>. Also see Eidiseis.gr, “Three meter wall surrounds the hospitality center of Nea Kavala” (“Τείχος τριών μέτρων κυκλώνει τη δομή φιλοξενίας Νέας Καβάλας”), 22 April 2021, available in Greek at: <https://bit.ly/3wiwE3h> and Efsyn, “Walls of shame in refugee facilities” (“Τείχη της ντροπής σε προσφυγικές δομές”), 23 April 2021, available in Greek at: <https://bit.ly/2S1IHTV>.

<sup>745</sup> MoMA, Conducting a public tender according to article 27 of law 4412/2016, through the National System of Electronic Public Procurement (ESIDIS), for the assignment of an Agreement - Framework of the project “Fencing works and installation of security infrastructure” in the facilities of the mainland”, 31 March 2021, available in Greek at: <https://bit.ly/3op9p59>.

<sup>746</sup> UNHCR, Policy on Alternatives to Camps, 22 July 2014, UNHCR/HCP/2014/9, available at: <http://bit.ly/1DAf2kz>, p. 4.

<sup>747</sup> Naftemporiki, “Gathering outside the facility of Eleonas” (“Συγκέντρωση έξω από τη δομή του Ελαιώνα”), 31 May 2020, available in Greek at: <https://bit.ly/3opNScx>.

conditions in the camp, requesting for their rights to be respected<sup>748</sup>. A month later, in September, residents of the **Malakasa** camp protested following the death of one of the camp's residents from Covid-19, amid severe conditions of overcrowding and the impossibility of following rudimentary hygiene measures in the camp<sup>749</sup>.

Finally, it should be noted that as discussed in [Types of Accommodation: Temporary Accommodation Centres](#), up until March 2020, the legal status of the vast majority of temporary camps, i.e. with the exception of **Elaionas**, **Schisto** and **Diavata**, remained unclear, as they operated without the requisite prior Joint Ministerial Decisions. Due to the lack of a legal basis for the establishment of the vast majority of the camps, no minimum standards and house rules were in force and there was no competent authority for the monitoring or evaluation of these facilities or any competent body in place for oversight. Moreover, most sites operated without official – under the Greek authorities – site management, which is substituted by site management support.<sup>750</sup> The impact of the Joint Ministerial Decision issued in March 2020, by which temporary accommodation facilities have been officially established, should be further assessed.

### Measures taken with regards the COVID 19 pandemic

Accommodation facilities on the mainland in which COVID-19 cases were identified, were put in quarantine for 14 days and all residents, i.e. COVID-19 cases and residents which have not been identified as such, were not allowed to exit the facility. COVID-19 cases have been confirmed, followed by a 14-day quarantine in Ritsona (Evoia region) accommodation facility (camp), Malakasa (Attica region) accommodation facility (camp) and Koutsohero (Larisa region) accommodation facility (camp) in the beginning of April 2020 and in a hotel used for the accommodation of applicants in Kranidi (Peloponnese) in late April 2020.<sup>751</sup> Since then, the lockdown in Ritsona, Malakasa and Koutsohero has been successively prolonged up until 7 June 2020, contrary to the lockdown on the general population which has been ended on 4 May 2020.<sup>752</sup> As reported, the “management of COVID-19 outbreaks in camps and facilities by the Greek authorities follows a different protocol compared to the one used in cases of outbreaks in other enclosed population groups. The Greek government protocol for managing an outbreak in a refugee camp, known as the ‘Agnodiki Plan’, details that the facility should be quarantined and all cases (confirmed and suspected) are isolated and treated in situ. In similar cases of outbreaks in enclosed population groups (such as nursing homes or private haemodialysis centres) vulnerable individuals were immediately moved from the site to safe accommodation, while all confirmed and suspected cases were isolated off-site in a separate facility”.<sup>753</sup>

By 26 October 2020, an estimated 800 asylum seekers living in camps had been reportedly found positive to Covid-19.<sup>754</sup>

Moreover, since March 2020, asylum seekers residing in RICs and mainland camps have continued to be subject to a further and disproportionate restriction of their movement, in the context of measures aimed at countering the spread of the COVID-19 pandemic. Namely, as per the latest relevant Joint Ministerial Decisions as of the time of writing, which repeats the wording of previous such Decisions, exit

<sup>748</sup> Ta Nea, “Thermopiles: Refugee protest in the Old National Highway” (“Θερμοπύλες: Διαμαρτυρία προσφύγων στην Παλαιά Εθνική”), 17 August 2020, available in Greek at: <https://bit.ly/3bzEUv0>.

<sup>749</sup> Efsyn, “Refugee protest in Malakasa” (“Διαμαρτυρία προσφύγων στη Μαλακάσα”), 28 September 2020, available in Greek at: <https://bit.ly/3tZ4I39>.

<sup>750</sup> Refugee Support Aegean, ‘Reception Crisis in Greece: The malignancy of Attica’s refugee camps’, 13 August 2018, available at: <https://bit.ly/2sE5sgL>.

<sup>751</sup> See inter alia Papadatos-Anagnostopoulos D, Kourahanis N, Makridou E, Exclusion of refugees by the national strategy in response to COVID-19, Κέντρο Έρευνας και Εκπαίδευσης στη Δημόσια Υγεία, την Πολιτική Υγείας και την Πρωτοβάθμια Φροντίδα Υγείας, 2020, available at: <https://bit.ly/3cLvcwY>, 20.

<sup>752</sup> Joint Ministerial Decision No Δ1α/Γ.Π.οικ.26792/24.4.2020; Joint Ministerial Decision Δ1α/Γ.Π.οικ.28597/6.5.2020; Joint Ministerial Decision No Δ1α/Γ.Π.οικ. 31690/21.5.2020.

<sup>753</sup> Lancet-Migration, Carruthers E., Veizis A., Kondilis E., Orcutt M., Situational brief: Asylum seekers, refugees & migrants in Greece during covid-19, 27 May 2020, available at: <https://bit.ly/2zRUFGS>.

<sup>754</sup> Liberal, “N. Μηττάρακης: 800 κρούσματα του ιού στους μετανάστες - Αφορά το 1% των αιτούντων άσυλο”, 26 October 2020, available in Greek at: <https://bit.ly/3nvi5GJ>.

from the facilities is only allowed between 7am-7pm, only for one family member or representative of a group, and only in order “to meet essential needs”<sup>755</sup>.

## 2.2. Conditions on the Eastern Aegean islands

The situation on the islands has been widely documented and remains extremely alarming, despite the gradual decrease in the levels of overcrowding. Reception conditions prevailing in particular in the hotspot facilities may reach the level of inhuman or degrading treatment, while conditions of overcrowding, though significantly diminished by the end of 2020<sup>756</sup> compared to the previous year, still leave a significant number of asylum seekers without access to their rights, particularly on the islands of Samos, Chios and Lesbos, where the temporary Mavrovouni camp has been an object of concern since its very establishment<sup>757</sup>.

The imposition of the “geographical restriction” on the islands since the launch of the EU-Turkey Statement (see [Freedom of Movement](#)) has consistently led to significant overcrowding of the reception facilities on the islands throughout the past years, which continued being observed throughout 2020, despite significant efforts to alleviate it. Between January-December 2020 a total of 15,069 persons from the islands of Lesbos, Samos, Chios, Kos and Leros were able to leave the islands, through transfers organised by the RIS (10,782) or with the support of UNHCR (4,287), while another 580 were transferred to the mainland from other islands.<sup>758</sup> Yet by the end of December 2020, more than 7,000 asylum seekers and refugees were living in facilities with a designated capacity of 3,338, while another 7,172 remained in the temporary Mavrovouni site<sup>759</sup>, which remains unfit for purpose, without access to heating during the winter. Lack of access to heating was also reported in 2021 for the RIC of Chios, as well as mainland camps of Oinofyta and Thiva, as even in cases where heating devices had been secured, such as in Mavrovouni, insufficient and/or unstable power supplies made it impossible for beneficiaries to use them.<sup>760</sup> Conditions are largely described as woefully inadequate, dangerous, with dire consequences on asylum seekers’ mental health, while a number of fatal events have been reported.

As highlighted in a research carried by IRC between 2018-2020 on the islands of Lesbos, Samos and Chios, with the examination of more than 900 records of patients received by IRC, movement restrictions in the camps, particularly following the lockdowns imposed in the context of the COVID-19 pandemic, led to “a marked deterioration in the mental health of people in the camps. The research found an alarming spike in the number of people who disclosed psychotic symptoms, jumping from one in seven (14%) to almost one in four (24%). There was also a sharp rise in people reporting symptoms of PTSD, which climbed from close to half (47%) of people beforehand to almost two in three people (63%)”<sup>761</sup>, while asylum seekers increasingly reported suicidal thoughts, and one in five had already attempted to take their lives due to the impact of prolonged containment<sup>762</sup>.

On March 2020, a 6-year-old child was killed by a fire that broke out in Moria RIC, Lesbos.<sup>763</sup>

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<sup>755</sup> Annex II, JMD 26380/2021, Gov. Gazette 1682/24-04-2021, available at: <https://bit.ly/3e2l1aH>.

<sup>756</sup> As of 31 December 2020, the facilities in Samos and Chios operated at approximately 547% and 236% of their respective accommodation capacities. General Secretariat for Information and Communication, National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2020), 1 January 2021, available at: <https://bit.ly/2SQQF2A>.

<sup>757</sup> For more, *inter alia* see GCR & Oxfam’s Lesbos bulletins from September 2020 onwards, available at: <https://www.gcr.gr/en/>.

<sup>758</sup> Information provided by the RIS on 26 February 2021. Information on the body that organised the transfer from the other islands was not provided.

<sup>759</sup> General Secretariat for Information and Communication, National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2020), 1 January 2020, available at: <https://bit.ly/3nApkx6>.

<sup>760</sup> GCR & Oxfam, Lesbos Bulletin: Update on the EU response in Lesbos, by the Greek Council for Refugees & Oxfam, 15 February 2021, available at: <https://bit.ly/3e0NsFO>, p.2.

<sup>761</sup> IRC, *The Cruelty of Containment: The Mental Health Toll of the EU’s ‘Hotspot’ Approach on the Greek Islands*, December 2020, available at: <https://bit.ly/3nwb0pf>.

<sup>762</sup> IRC, *The Cruelty of Containment*, op.cit., pp.14-15.

<sup>763</sup> Efsyn.gr, Ένα νεκρό παιδί από τη φωτιά στη Μόρια, 16 March 2020, available at: <https://bit.ly/3bPkzsk>.

Following a number of recommendations to the Greek authorities regarding the living conditions on the islands issued in previous years,<sup>764</sup> similar recommendations have been addressed in 2020 *inter alia* by the Council of Europe Commissioner for Human Rights, UNHCR, and civil society organisations working in the field of human rights and humanitarian assistance<sup>765</sup>.

On 7 February 2020, UNHCR called for “for decisive action to end alarming conditions on Aegean islands”. As noted in the statement:

“UNHCR, the UN Refugee Agency, is urging Greece to intensify efforts to address alarming overcrowding and precarious conditions for asylum seekers and migrants staying on the five Greek Aegean islands of Lesbos, Chios, Samos, Kos, and Leros [...] Thousands of women, men, and children who currently live in small tents are exposed to cold and rain with little or no access to heating, electricity or hot water. Hygiene and sanitation conditions are unsafe. Health problems are on the rise. Despite the dedication of medical professionals and volunteers, many cannot see a doctor as there are simply too few medical staff at the reception centres and local hospitals.”<sup>766</sup>

On 21 February 2020, the UN High Commissioner for Refugees “called for urgent action to address the increasingly desperate situation of refugees and migrants in reception centres in the Aegean islands”. As noted:

“Conditions in facilities on Lesbos, Chios, Samos, Kos and Leros are woefully inadequate, and have continued to deteriorate since Grandi last visited in November [...] ‘Conditions on the islands are shocking and shameful,’ said Filippo Grandi, UN High Commissioner for Refugees [...] Winter weather is now also adding to the suffering on the islands. Many people are without power, and even water, living amid filth and garbage. Health services are negligible. The risks faced by the most vulnerable individuals, pregnant women, new mothers, the elderly and children are among the worst seen in refugee crises around the world. Action is also needed to address the understandable concerns of the local communities hosting the refugees and migrants, to avoid social tensions rising still further. And of course, Greece should not be left alone [...] responsibility-sharing measures such as the relocation of unaccompanied children and other vulnerable people [are still needed]. Since the end of the emergency relocation scheme in September 2017, only a handful of European countries have pledged to take asylum seekers and refugees from Greece under relocation and expedited family reunion”.<sup>767</sup>

Seven months later, following the events that led to the destruction of the Moria RIC, leaving thousands on the streets, before they were transferred in the temporary Mavrovouni facility, the CoE Commissioner for Human Rights noted that:

“The fire that destroyed most of the Registration and Identification Centre of Moria and the informal settlements surrounding it, on the Greek island of Lesbos on Tuesday night has dramatically worsened the living conditions of more than 12 000 asylum seekers and migrants, including more than 4,000 children, who are held in a centre whose capacity is less than 2,800 people [...] The situation on other Greek islands which host refugees, asylum seekers and migrants is not much different from Lesbos, with the risk that there too the situation might further degenerate. As I and many others have repeatedly stated, this appears inevitable if the authorities in Greece and other Council of Europe member states continue the approach taken in recent years. While the short-term focus will have to be on dealing with the humanitarian needs of those

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<sup>764</sup> AIDA, Country Report Greece, 2017 Update, March 2018, 131-133.

<sup>765</sup> Joint Statement: Greece: Move Asylum Seekers, Migrants to Safety, Immediate Hotspot Decongestion Needed to Address COVID-19, 24 March 2020, available at: <https://bit.ly/3uYSLf6>.

<sup>766</sup> UNHCR, ‘UNHCR calls for decisive action to end alarming conditions on Aegean islands’, 7 February 2020, available at: <https://bit.ly/3xJmcng>.

<sup>767</sup> UNHCR, Act now to alleviate suffering at reception centres on Greek islands, 21 February 2020, <https://bit.ly/3dUhV6u>.

affected, the incident in Moria shows the urgency of fundamentally rethinking this approach, which has led to the overcrowded, inhumane and completely unsustainable situation in Moria and elsewhere on the Aegean islands”.<sup>768</sup>

Two weeks later, on 24 September 2020, the representative of UNHCR in Greece noted:

“The events in Moria are a wake-up call of the long-standing need to address the precarious situation for thousands of people in the islands and to accelerate their safe and orderly transfer to more appropriate accommodation on mainland [...] What is crucial is comprehensive response, going beyond short-term fixes. This means ensuring adequate reception conditions, access to fair and fast asylum procedures, integration opportunities for those granted asylum and swift returns for those not in need of international protection. Unless all elements of the response are adequately and promptly addressed, we will see more Morias emerging.”<sup>769</sup>

Moreover, a number of cases with regards the situation on the Greek Islands have been examined before international jurisdictional bodies and respectively temporary protection has been granted.

*Inter alia*, in May 2019, in response to a collective complaint brought before the Committee by ICJ, and ECRE, with the support of GCR, the European Committee on Social Rights exceptionally decided to indicate immediate measures to Greece to protect the rights of migrant children and to prevent serious and irreparable injury or harm to the children concerned, including damage to their physical and mental health, and to their safety, by *inter alia* removing them from detention and from Reception and Identification Centres (RICs) at the borders.

In December 2019, in a case supported by GCR, the European Court of Human Rights (ECtHR), under Rule 39 of the Rules of Court, granted interim measures to five unaccompanied teenagers, asylum seekers, who had been living for many months in the Reception and Identification Centre (RIC) and in the "jungle" of Samos. The interim measures indicated to the Greek authorities their timely transfer to a centre for unaccompanied minors and to ensure that their reception conditions are compatible with Article 3 of the Convention (prohibition of torture and inhuman and degrading treatment) and the applicants' particular status.<sup>770</sup>

Moreover, in three cases of vulnerable applicants living on the Greek Islands under a geographical restriction, supported by Equal Rights Beyond Borders, the European Court of Human Rights ordered the Greek Authorities to provide reception conditions in line with Art. 3. These include the case of a pregnant woman and persons with medical conditions during the Covid-19 pandemic.<sup>771</sup>

The ECtHR granted interim measures in an April 2020 case concerning several vulnerable individuals in the RIC of **Moria**, to ensure their immediate placement in appropriate reception conditions.<sup>772</sup>

In May 2020, in the case supported by METAdrasi, the ECtHR granted interim measures for a Syrian family in the RIC of Samos with 10-month-old baby girl who is suffering from severe bronchiolitis. Doctors recommended to improve the girls living conditions and gave her special medication that requires the use

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<sup>768</sup> Council of Europe, "Commissioner calls on the Greek authorities to provide adequate support to all those affected by the fire in Moria", 9 September 2020, available at: <https://bit.ly/3v3uBQA>.

<sup>769</sup> UNHCR, UNHCR: alleviating suffering and overcrowding in Greek islands' reception centres must be part of the emergency response, 24 September 2020, available at: <https://bit.ly/3u3F523>.

<sup>770</sup> GCR, The European Court of Human Rights provides interim measures to unaccompanied minors living in the RIC and the "jungle" of Samos island, 30 December 2019, available at: <https://bit.ly/2GYQY2p>.

<sup>771</sup> Equal Rights Beyond Border, Application No. 15192/20 - M.A. v. Greece, 26/03/2020, Vial evacuation COVID-19; Application No. 15782/20 - M.A. v. Greece, 07/04/2020 Vial evacuation COVID-19; Application No. 59841/19 - A.R. v. Greece, 21/11/2019 SGBV-evacuation Kos – Lifting of Geographical Restriction, available at: <https://www.equal-rights.org/greece>.

<sup>772</sup> ECtHR, *E.I. v. Greece*, Application No 16080/20, Order of 16 April 2020. See further RSA, 'Evacuation of overcrowded island camps a legal imperative', 21 April 2020, available at: <https://bit.ly/3fbQdDi>



of a rechargeable device. However, the use of this device was impossible, as the family lived in inhumane conditions in a tent that they had bought for themselves, in an open space next to the RIC. In addition, due to the fact that they had not been registered by the Regional Asylum Office of Samos, despite the expiry of almost 4 months since their arrival in Greece, they were deprived of access to free medical care, when they did not even have the means to get the necessary medicines for the little girl<sup>773</sup>.

In September 2020, in case supported by RSA, the ECtHR indicated to the Government of Greece to protect the life and physical integrity of two vulnerable asylum seekers held in the new emergency facility in Kara Tepe set up on Lesbos following the destruction of the Moria camp in early September 2020. The case concerned two asylum seekers who had their geographical restriction on Lesbos lifted due to their identification by the Reception and Identification Service (RIS) as vulnerable persons on 17 July 2020. Despite the prior decision of the Greek authorities to allow their transfer to appropriate conditions on the mainland, the applicants are still confined on the island in the aftermath of the Moria fires in dire conditions, following the Greek government's announcement of a general prohibition on departures from Lesbos. The ECtHR indicated interim measures under Rule 39 of the Rules of Court "take all necessary measures to safeguard the applicants' life and limb in accordance with Articles 2 and 3 of the Convention, in view of the particular circumstances and the applicants' vulnerability<sup>774</sup>."

However, and despite the repeated calls by international and national human rights bodies to address the increasingly desperate situation of refugees and migrants in reception centres in the Aegean islands and the increasing number of Courts' Decisions dealing with the situation on the Islands, the situation on the Greek Islands remained dangerous and persons there were exposed to significant protection risks throughout 2020.

By the end of 2020 and despite for example the Decision of the European Committee on Social Rights to indicate immediate measures and *inter alia* to order the Greek Authorities, to ensure that migrant children in RICs are provided with immediate access to age-appropriate shelters,<sup>775</sup> some 19,100 refugees and asylum-seekers resided on the Aegean islands, the majority of whom from Afghanistan (46%), Syria (18%) and DRC (7%). Women accounted for 21% of the population, and children for 27% of whom nearly 7 out of 10 are younger than 12 years old. Approximately 6% of the children were unaccompanied or separated, mainly from Afghanistan<sup>776</sup>. Out of the total number of asylum seekers and refugees remaining on the islands at the end of 2020, 7,093 were residing in the RICs of Samos, Chios, Leros and Kos, with a total nominal capacity of 3,338 accommodation places, while 7,172 persons were residing in the temporary camp of Mavrovouni, Lesbos.<sup>777</sup>

### Measures taken with regards the COVID 19 pandemic

On 22 March 2020 and within the framework of measure taken against the spread of COVID-19, with a Joint Ministerial Decision, a number of measures have been taken as of the islands' RICs facilities. In accordance with said JMD, *inter alia* since 22 March 2020, there has been a lockdown in islands' RICs facilities and annexes of these facilities. Residents of these facilities are restricted within the perimeter of the Centre and exit is not allowed with the exception of one representative of each family or group of residents who is allowed to exit the facility (between 7 am and 7 pm) in order to visit the closest urban centre to cover basic needs. No more than 100 persons per hour could exit the facility for this purpose if public transport was not available.<sup>778</sup> For the same period, all visits or activities inside the RICs not related

<sup>773</sup> METAdrasi, "The European Court of Human Rights grants interim measures in favour of a family from Syria", 28 May 2021, available at: <https://bit.ly/2S18uvu>.

<sup>774</sup> RSA, "European Court of Human Rights orders Greece to safeguard asylum seekers' life and limb on Lesbos", 24 September 2020, available at: <https://bit.ly/3uXUp0D>.

<sup>775</sup> European Committee of Social Rights, *Idem*.

<sup>776</sup> UNHCR, Aegean Islands Weekly Snapshot, 28 December 2020 – 03 January 2021, available at: <https://bit.ly/33UxE1C>.

<sup>777</sup> General Secretariat for Information and Communication, National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2020), 1 January 2021, available at: <https://bit.ly/3bAvSXG>.

<sup>778</sup> JMD No. Δ1α/ΓΠ.οικ. 20030, Gov. Gazette B' 985/22-3-2020.



to the accommodation, food provision and medical care of RIC residents, are only permitted following authorization of the RIC management. For the provision of legal services, access shall also be granted following authorization from the RIC management and in a specific area, where this is feasible. Special health units were also established in order to treat any case of COVID-19 and to conduct health screening for all RIC staff.<sup>779</sup>

Civil society organizations have urged the Greek Authorities to urgently evacuate the squalid Greek camps on the islands. As they note, “camps, especially on the Aegean islands, suffer from severe overcrowding and lack of adequate sanitary facilities, making it impossible to ensure social distancing and hygiene conditions for both residents and employees. This poses a major threat to public health for both asylum seekers and for society as large”.<sup>780</sup> As reported “Conditions in the island RICs are overcrowded and unhygienic, putting residents at risk from communicable disease and making it all but impossible to follow public health guidance around prevention of COVID-19. The RICs are currently several times over capacity, and many residents are living in informal areas around the official camps. The provision of water and sanitation services are not sufficient for the population, thereby presenting significant risks to health and safety. In some parts of the settlement in Moria, there are 167 people per toilet and more than 242 per shower. Around 5,000 people live in an informal extension to the Moria camp known as the ‘Olive Grove’ who have no access to water, showers or toilets. 17 Residents of island RICs must frequently queue in close proximity to each other for food, medical assistance, and washing. In such conditions, regular handwashing and social distancing are impossible”.<sup>781</sup>

A plan to transfer vulnerable asylum seekers out of the RICs was also announced in March 2020. In early April 2020, UNHCR launched an open call for renting hotel rooms on the Greek Islands and boats for the accommodation of vulnerable applicants residing in the Aegean RICs facilities, with a view to face a potential spread of COVID-19 in the reception facilities and its impact on local communities.<sup>782</sup> Furthermore, a number of 1,138 applicants have been transferred from the islands to the mainland during April 2020.<sup>783</sup> However, islands RICs remain significantly overcrowded. 34,544 persons remained in islands’ RICs facilities with a nominal capacity of 6,095 places as of 30 April 2020.<sup>784</sup>

The restriction of the movement of persons residing on the island RICs, out of these facilities was successively prolonged up to 3 June 2020,<sup>785</sup> contrary to the lockdown on the general population which has been ended on 4 May 2020, and remains in effect as of the time of writing (May 2021).

Additionally, as mentioned in Reception and identification procedures on the islands, newly arrived persons on the Greek Islands, since late March- April 2020 are subject in a 14 days quarantine outside of the RIC facilities, prior to their transfer to RICs, which caused challenges due to limited suitable facilities for isolating new arrivals on the islands. Particular concerns arise on Lesbos, where newly arrived persons are quarantined in the Megala Therma facility, from where 13 asylum seekers, among which were pregnant women and families with children, were reportedly forcibly removed and illegally sent back to Turkey at the end of February, after being beaten with batons and stripped of their belongings<sup>786</sup>.

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<sup>779</sup> UNHCR, Help-Greece, About Coronavirus, available at: <https://help.unhcr.org/greece/coronavirus/#Restrictions>

<sup>780</sup> Protect the most vulnerable to ensure protection for everyone!-Open letter of 121 organizations, 25 March 2020, available at: <https://bit.ly/3ejX5xl>.

<sup>781</sup> Lancet-Migration, Carruthers E., Veizis A., Kondilis E., Orcutt M., SITUATIONAL BRIEF: ASYLUM SEEKERS, REFUGEES & MIGRANTS IN GREECE DURING COVID-19, 27 May 2020, available at: <https://bit.ly/2zRUFGS>.

<sup>782</sup> Tonisi.gr, Κίνηση προστασίας ντόπιων και προσφύγων από την Ύπατη Αρμοστεία του ΟΗΕ, 10 April 2020, available at: <https://bit.ly/3cbHLRG>.

<sup>783</sup> Ministry of Migration and Asylum, Press Release, 7 May 2020, available at: <https://bit.ly/36IX5DG>.

<sup>784</sup> General Secretariat for Information and Communication, National Situational Picture Regarding the Islands at Eastern Aegean Sea, 30 April 2020, available at: <https://bit.ly/3esys0X>.

<sup>785</sup> JMD No Δ1Α/ΓΠ.οικ.29105/2020, Gov. Gazette B’ 1771/9-5-2020; JMD No Δ1Α/ΓΠ.οικ. 20030/2020, Gov. Gazette B’ 985/22-3-2020.

<sup>786</sup> GCR & Oxfam, Lesbos Bulletin: April 2021, 21 April 2021, available at: <https://bit.ly/2SUxV29>, p.3, refers to Aegean Boat Report, “Small Children Left Drifting In Life Rafts In The Aegean Sea!”, 22 February 2021,

By 26 October 2020, an estimated 800 asylum seekers living in camps had been reportedly found positive to Covid-19.<sup>787</sup>

### 2.3. Destitution

Destitution and homelessness still remain matters of concern, despite the efforts made in order to increase reception capacity in Greece (see [Types of Accommodation](#)).

As stated by UNHCR in February 2020, “Housing options and services to cater for the present population are scarce countrywide”.<sup>788</sup>

The number of applicants who face homelessness is not known, as no official data are published on the matter. Yet organisations have continued to report cases of applicants reaching Greece’s mainland camps in search of a shelter, without any previous referral from authorities, while many continue living in tents and makeshift shelters. As reported in April 2020 by RSA, “Throughout last year, the refugee camp in Malakasa, has been extensively used by homeless refugees to find emergency shelter – most of them newcomers from the Evros region. As of February 2020, near 250 people resided in common areas and makes-shift shelters in dire conditions and more than half of the camp’s population were not registered as residents by the Ministry of Migration and Asylum”<sup>789</sup>.

Throughout the year, GCR’s Social Unit also continued to receive requests from applicants to support them in finding accommodation. Up to November 2020, more than 700 new requests for accommodation (close to 900 persons in total) were received by GCR. The vast majority concerned the cities of Athens (48%) and Thessaloniki (31%), and to the largest extent (roughly 94% of requests) concerned asylum seekers, many of whom unregistered and/or with police notes, all of whom were registered as homeless by GCR’s services<sup>790</sup>.

The IPA, in force since January 2020, imposed a 6 months restriction to asylum seekers for accessing the labour market (see Access to Labour). Asylum seekers are thus exposed to a situation of potential destitution and homelessness. This should be taken into consideration, as during this period asylum seekers are exclusively dependent on benefits and scarce reception options.

Moreover, as mentioned above, living conditions on the Eastern Aegean islands do not meet the minimum standards of the recast Reception Conditions Directive and thus asylum seekers living there are exposed to deplorable conditions, frequently left homeless and without access to decent housing or basic services.<sup>791</sup> Overcrowding also occurs in mainland sites. Given the poor conditions and the protection risks present in some of these sites, homelessness and destitution cannot be excluded by the sole fact that an applicant remains in one of these sites.

Persons identified as vulnerable also face destitution risks. For instance, despite significant improvements with respect to broader aspects of UAM protection, as of 30 April 2021, an estimated 853 unaccompanied

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available at: <https://bit.ly/3wzapHi>; EU Observer, “Afghan asylum family beaten in Greece, set adrift at sea”, 25 February 2021, available at: <https://bit.ly/3dAA1ew>; The Guardian, “We were left in the sea’: asylum seekers forced off Lesbos”, 19 March 2021, available at: <https://bit.ly/3mq5JyM>.

<sup>787</sup> Liberal, “N. Μητράκης: 800 κρούσματα του ιού στους μετανάστες - Αφορά το 1% των αιτούντων άσυλο”, 26 October 2020, available in Greek at: <https://bit.ly/3nvi5GJ>.

<sup>788</sup> UNHCR, Factsheet, Greece: 1-29 February 2020.

<sup>789</sup> RSA, “In this place, we have to help ourselves!” – Malakasa Camp, 19 April 2020, available at: <https://bit.ly/3eVyOA1>.

<sup>790</sup> Data does not include persons in-between locations, who lack uninterrupted access to stable accommodation. Also see, GCR, “Staying at home” or “staying on the streets”; GCR PR on homelessness amid the pandemic” (“«Μένουμε σπίτι» ή «Μένουμε στο δρόμο»; ΔΤ του ΕΣΠ για την αστεγία υπό συνθήκες κορονοϊού”), 16 April 2020, available in Greek at: <https://bit.ly/3fmc0bS>.

<sup>791</sup> For instance, see ethnos, ‘Samos: Hundreds of homeless migrants sleep in the streets’, 17 October 2019, available at: <https://bit.ly/2OsBw2m>.

minors were still reported as homeless and/or living in informal/insecure housing conditions, while 102 were still reported as living in the RICs<sup>792</sup>.

In any event, in order for the Greek authorities' compliance with their obligations relating to reception conditions to be assessed, the number of available reception places that are in line with the standards of the recast Reception Conditions Directive should be assessed against the total number of persons with pending asylum applications, i.e. 57,347 applications pending at first instance and 899 appeals pending before different Appeals Committees,<sup>793</sup> at the end of 2020.

## 2.4. Racist violence

An alarming expansion of racism, continuation of the culture of violence at neighborhoods<sup>794</sup> and incidents of racist violence and tension was recorded throughout 2019. Both on the islands and the mainland refugees and asylum seekers remained at a heightened risk of racist violence.<sup>795</sup> These *inter alia* concerned hate speech on public transportation;<sup>796</sup> racist attacks against migrants and asylum seekers that have affected even minors,<sup>797</sup> RICs and attacks on humanitarian workers.

Moreover, Situations such as the one giving rise to the condemnation of Greece in *Sakir v. Greece* continue to occur, with examples drawn from a case on **Leros** in spring 2020, where an asylum-seeking victim of crime who complained before the police for assault and bodily injury with racist bias by police officers had his complaint set aside and found himself subject to a criminal prosecution and subsequent conviction under a hearing raising fairness concerns.<sup>798</sup>

The Racist Violence Recording Network (RVRN) coordinated by UNHCR and the Greek National Commission for Human Rights, witnessed an increasing number of xenophobic and racist incidents in 2019 and early 2020, targeting the transfers of asylum-seekers to reception facilities on the mainland, newly arrived refugees and migrants, as well as staff of international organizations and NGOs, members of civil society and journalists, due to their association with the defence of the rights of refugees, on the Islands and in Evros. As noted by the RVRN, in March 2020, "such targeted attacks have escalated with physical assaults on staff providing services to refugees, arsons in facilities used for shelter and for services to refugees, NGO vehicles and blocking of the transfer or the disembarkation of new arrivals with the parallel use of racist comments".<sup>799</sup>

In 2020, the Network recorded a further increase in incidents of racist violence against refugees, migrants but also human rights defenders who were targeted due to their affiliation with the above-mentioned groups. In 2019, the incidents against these groups were 51, while in 2020 they amounted to 74. The periodic intensification of these incidents is inextricably linked to the institutional targeting of refugees, migrants, and supporters. At the same time, as noted by RVRN, "the restriction of movement for refugees in public spaces, in the context of measures adopted against the pandemic, combined with reduced flows, seems to contribute to the invisibility of the specific target group and to the reduction of recorded incidents

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<sup>792</sup> EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 30 April 2021, available at: <https://bit.ly/3tZxCjo>.

<sup>793</sup> Information provided by the Asylum Service, 31 March 2021, Information provided by the Appeals Authority, 2 February 2021.

<sup>794</sup> News.gr, 'Διευρύνεται η βάση του ρατσισμού και η κουλτούρα της βίας στις γειτονιές', 14 March 2019, available in Greek at: <https://bit.ly/2usL2rQ>.

<sup>795</sup> UNHCR, 'Refugees in Greece remain exposed to racist violence', 21 March 2019, available (in Greek) at: <https://bit.ly/2UnjNOf>.

<sup>796</sup> Ta nea, 'Racist attack of bus ticket controller against refugee: "I will put you in the garbage"', 14 January 2020, available (in Greek) at: <https://bit.ly/2RXv6dQ>.

<sup>797</sup> CNN Greece, 'Attack against refugees at Vilia: they even hit a child', 18 March 2019, available (in Greek) at: <https://bit.ly/2UooOW9>.

<sup>798</sup> RSA, *Submission in Sakir v. Greece*, July 2020, available at: <https://bit.ly/331Tmkh>.

<sup>799</sup> RVRN, 'Racist Violence Recording Network expresses concern over xenophobic reactions against refugees', 11 November 2019, available at: <https://bit.ly/3963YPt>.

against them [...] indicat[ing] that in 2020 the Networks recordings are, more than ever, the tip of the iceberg”<sup>800</sup>.

## C. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers? ☒ Yes ☐ No  
❖ If yes, when do asylum seekers have access the labour market? 6 months
2. Does the law allow access to employment only following a labour market test? ☐ Yes ☒ No
3. Does the law only allow asylum seekers to work in specific sectors? ☐ Yes ☒ No  
❖ If yes, specify which sectors:
4. Does the law limit asylum seekers' employment to a maximum working time? ☐ Yes ☒ No  
❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice? ☒ Yes ☐ No

Up to the end of 2019, asylum seekers had access to the labour market as employees or service or work providers from the moment an asylum application had been formally lodged and they had obtained an asylum seeker's card.<sup>801</sup> Applicants who had not yet completed the full registration and lodged their application (i.e. applicants who were pre-registered), did not have access to the labour market. As noted in [Registration](#), the average time period between pre-registration and full registration across mainland Greece (registration via Skype) was 44 days in 2019.<sup>802</sup> Relevant data on the time between pre- and full registration for 2020 are not available up to the time of writing.<sup>803</sup>

Following the entry into force of the IPA on 1 of January 2020, a 6-month time limit for asylum seekers' access to the labour market has been introduced. This right is granted if no first instance decision has been taken by the Asylum Service within 6 months of the lodging of the application, through no fault of the applicant.<sup>804</sup> The right is automatically withdrawn upon issuance of a negative decision which is not subject to an automatically suspensive appeal.<sup>805</sup>

The new law specifies that access to employment shall be “effective”.<sup>806</sup> As observed, in 2018, by the Commissioner for Human Rights of the Council of Europe, access to the labour market is seriously hampered by the economic conditions prevailing in Greece, the high unemployment rate, further obstacles posed by competition with Greek-speaking employees, and administrative obstacle in order to obtain necessary document, which may lead to undeclared employment with severe repercussions on the enjoyment of basic social rights.<sup>807</sup> These findings remain valid, amid a minimal decrease in the unemployment rate in Greece from 16.8% in Q4 2019 to 16.2% in Q4 2020. Higher unemployment rates were reported for persons aged up to 29 years old (29.6% for age group 25-29, 34.3% for age group 20-

<sup>800</sup> RVRN, Annual Report 2020, 5 May 2021, available at: <https://bit.ly/3tY6xgG>.

<sup>801</sup> Article 71 L 4375/2016, as previously in force; Article 15 L 4540/2018.

<sup>802</sup> Information provided by the Greek Asylum Service on 17 February 2020.

<sup>803</sup> Information provided by the Office of Analysis and Studies of the Ministry of Migration and Asylum on 31 March 2021.

<sup>804</sup> Article 53(1) IPA; Article 71 L 4375/2016, as amended by Article 116(10) IPA.

<sup>805</sup> Article 53(2) IPA.

<sup>806</sup> Article 53(1) IPA.

<sup>807</sup> Council of Europe, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, available at: <https://bit.ly/2lwG4EG>, paras 54-55.

24 and 44.7% for age group 15-19), while overall the highest unemployment rate was recorded amongst women (19.9% as opposed to 13.3% for men).<sup>808</sup>

Difficulties in accessing the labour market have been more marked for applicants residing in open mainland camps and/or informal accommodation<sup>809</sup>. As of the end of 2020, less than 33% of the resident adult population (approx. 16,099 out of 28,356) had managed to obtain an AFM, and even less of the residents above 15 years of age had managed to obtain an unemployment card from OAED (10.57%).<sup>810</sup> Moreover, as opposed to the previous year, the situation reported for those residing in accommodation under the ESTIA II scheme in 2020, did not significantly differ compared to residents of the camps, potentially on account of the pandemic and concomitant measures that impacted on the renewal of documents. As of 28 December 2020, only 33% of eligible ESTIA II residents had managed obtain an AFM, and 13% had been registered with OAED. The challenges were more pronounced for applicants (AFM: 28%; OAED: 11%), compared to beneficiaries of international protection (AFM: 43%, OAED: 20%).<sup>811</sup>

In addition, both asylum seekers and beneficiaries of international protection have continued to face significant obstacles in opening bank accounts, including those dedicated for the payment of the salary, which are a precondition for payment in the private sector.<sup>812</sup> The four major banks in Greece have repeatedly refused to open bank accounts to asylum seekers, even in cases where a certification of recruitment is submitted by the employer. “In fact, this policy offends against the spirit and the letter of the law, excluding thus the asylum seekers from the labour market. At the same time, employers willing to recruit asylum seekers are discouraged because of this significant barrier or, even when hiring them, face the risk of penalties”, as highlighted by the civil society organisation Generation 2.0.<sup>813</sup>

By December 2020, only 3% of eligible residents of ESTIA II had managed to open a bank account, highlighting the magnitude of the challenges applicants and beneficiaries face in accessing the labour market. The situation was again more pronounced for asylum seekers (2% with bank account), when compared to recognised refugees (6% with bank account)<sup>814</sup>, though the difference is practically negligible and even more concerning for the latter, *inter alia* considering the severely restricted time (1 month) during which they can remain in reception-based accommodation post-recognition, following 2020 legislative amendments<sup>815</sup>, and that they need a bank account, in order to be able to access the sole accessible rent subsidy, under the Helios II integration programme.

Lastly, applicants' access to the labour market has been further hindered by obstacles in acquiring a temporary social security number (PAAYPA, see healthcare), which is a requirement for employment, that have continued being reported in 2020. As highlighted by HumanRights360 in June 2020, “access to healthcare and to the labor marked is nearly impossible due to the severe delays in acquiring a PAAYPA. The framework under which PAAYPA is granted remains vague, while the transition from AMKA to

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<sup>808</sup> Hellenic Statistical Authority, *Labor force survey: Fourth quarter 2020* (Έρευνα εργατικού δυναμικού: Δ' τρίμηνο 2020), 24 March 2021, available in Greek at: <https://bit.ly/2QwjFfs>.

<sup>809</sup> See AIDA, Country Report for Greece: 2019 update

<sup>810</sup> IOM, Improving the Greek Reception System through Site Management Support and Targeted Interventions in Long-Term Accommodation Sites: factsheet December 2020, available at: <https://bit.ly/3sX9DAT>.

<sup>811</sup> UNHCR, Population breakdown in ESTIA II Accommodation Scheme (as of 28 December 2020), 29 December 2020, available at: <https://bit.ly/3sTG4Ak>.

<sup>812</sup> JMD 22528/430/2017, Gov. Gazette B' 1721/18.5.2017.

<sup>813</sup> Generation 2.0, 'When the Greek banks deprive asylum seekers of their right to work', 16 January 2019, available at: <https://bit.ly/2TVwTCV>.

<sup>814</sup> UNHCR, Population breakdown in ESTIA II Accommodation Scheme (as of 28 December 2020), *op.cit.* Data on residents of mainland camps/sites is not available.

<sup>815</sup> Article 114 IPA, as amended by article 111 L.4674/2020 in March 2020.



PAAYPA proved particularly time-consuming (already in many cases it reaches a year!) and hindered even more access of this population to the labor market and to healthcare”.<sup>816</sup>

As further noted by the Greek National Commission for Human Rights in September 2020, “in practice, it is ascertained that asylum seekers cannot benefit from the right to work, as the documents of ERGANI have not yet been adapted so that PAAYPA holders can be included, while due the coronavirus and the difficulty in renewing international protection applicants’ cards, employers are reluctant to employ staff with an expired card”.<sup>817</sup>

As regards vocational training, Article 17(1) L 4540/2018 provides that applicants can have access to vocational training programmes under the same conditions and prerequisites as foreseen for Greek nationals. The same is reiterated in Article 54(1) IPA. However, the condition of enrolment “under the same conditions and prerequisites as foreseen for Greek nationals” does not take into consideration the significantly different position of asylum seekers, and in particular the fact that they may not be in a position to provide the necessary documentation.<sup>818</sup> Article 17(2) L 4540/2018, provides that the conditions for the assessment of applicants’ skills who do not have the necessary documentation will be set by a Joint Ministerial Decision. The same is reiterated in Article 54(2) IPA. Such a decision had not been issued by the end of 2020.

## 2. Access to education

### Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children? ☒ Yes ☐ No
2. Are children able to access education in practice? Depending on location, though access has been severely impacted during the pandemic

According to Article 51 IPA, asylum-seeking children are required to attend primary and secondary school under the public education system under similar conditions as Greek nationals. Contrary to the previous provision,<sup>819</sup> the IPA does not mention education as a right but as an obligation. Facilitation is provided in case of incomplete documentation, as long as no removal measure against minors or their parents is actually enforced. Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity. Registration may not take longer than 3 months from the identification of the child, while non-compliance on behalf of the applicants, on account of a potential “*unwillingness to be included in the education system*” is subject to the reduction of material reception conditions and to the imposition of the administrative sanctions foreseen for Greek citizens to the adult members of the minor’s family<sup>820</sup>.

A Ministerial Decision issued in September 2016, which was repealed in October 2016 by a Joint Ministerial Decision, established a programme of afternoon preparatory classes (*Δομές Υποδοχής και Εκπαίδευσης Προσφύγων*, DYEP) for all school-aged children aged 4 to 15.<sup>821</sup> The programme is implemented in public schools neighbouring camps or places of residence, with the location and operationalisation of the afternoon preparatory classes being subject to the yearly issuance of a Joint Ministerial Decision (exceptionally a Decision by the Minister of Education and as of 2019 a Decision by

<sup>816</sup> HumanRights360, Υπόμνημα για την ακρόαση φορέων στο πλαίσιο του Γ’ Τμήματος της Εθνικής Επιτροπής για τα Δικαιώματα του Ανθρώπου (ΕΕΔΑ) για ζητήματα μεταναστών και προσφύγων, June 2020, available in Greek at: <https://bit.ly/3eYSpiW>, p.3.

<sup>817</sup> GNCHR, *Annual Report on the Refugee and Migration Issue: Part B*, September 2020, available in Greek at: <https://bit.ly/3fugGfW>, p.124.

<sup>818</sup> GCR, *Observations on the Draft Law transposing the Reception Directive*, 31 October 2016, available in Greek at: <https://goo.gl/MBRqno>.

<sup>819</sup> Article 13 L 4540/2018.

<sup>820</sup> Article 51(2) IPA.

<sup>821</sup> Joint Ministerial Decision 180647/ΓΔ4/2016, GG 3502/2016/B/31-10-2016, available in Greek at: <https://bit.ly/36W3cDn>.



the Deputy Minister of Education). Such decisions have been respectively issued for each school year in [January](#) and [November 2017](#), [August 2018](#), [October 2019](#), and [August 2020](#), for school years 2016-2017, up to 2020-2021.

Children aged between 6-15 years, living in dispersed urban settings (such as ESTIA accommodation, squats, apartments, hotels, and reception centres for asylum seekers and unaccompanied children), may go to schools near their place of residence, to enrol in the morning classes alongside Greek children, at schools that will be identified by the Ministry. This is done with the aim of ensuring balanced distribution of children across selected schools, as well as across preparatory classes for migrant and refugee children where Greek is taught as a second language.<sup>822</sup>

Although the refugee education programme implemented by the Ministry of Education is highly welcome, the school attendance rate should be reinforced, while special action should be taken in order for children remaining on the islands to be guaranteed access to education.

In October 2019, the estimated number of refugee and migrant children in Greece was 37,000, among whom 4,686 were unaccompanied. Out of the number of children present in Greece, it was estimated that only a third (12,800) of refugee and migrant children of school age (4-17 years old) were enrolled in formal education during the school year 2018-2019. The rate of school attendance was higher for those children living in apartments and for unaccompanied children benefitting from reception conditions (67%).<sup>823</sup>

For the school year of 2020-2021, conflicting data provided by the Ministry of Education, seem to highlight either a 32.52% decrease in the number of children enrolled to education compared to the aforementioned 2019 estimates, or a 12.67% increase in the number of children enrolled to education compared to the same estimates. Namely, as per the response of the Deputy Minister of Education to a Parliamentary question in March 2021<sup>824</sup>, there were 8,637 children enrolled to education, while as per an April 2021 reply of the Ministry to relevant findings of the Greek Ombudsman (see further below), there were 14,423 children enrolled to education by 21 February 2021<sup>825</sup>. In both cases, reference is made to the same “My school” database, albeit in the latter case, it is specified that due to reasons *inter alia* stemming from the mobility of the specific population (e.g. due to change of status or a transfer decision), relevant “accurate quantitative data are not guaranteed”<sup>826</sup>.

In either case, the number of children enrolled to education for the school year 2020-2021 remains well below the number of 20,000 school-aged (aged 4-17) children provided in the Ministry’s April 2021 reply<sup>827</sup>. Moreover, in lack of available, broken-down data, it remains uncertain whether this number includes all refugee and asylum-seeking children present in Greece at the time of the reply, or if it only regards beneficiaries of international protection, as the reply’s wording (“refugees”) seems to imply. Either way, by the end of 2020, a total of 44,000 refugee and migrant children were estimated to be in Greece<sup>828</sup>, which could indicate an even wider gap between the number of refugee and migrant children present in Greece and the number of those enrolled to education.

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<sup>822</sup> Ministry of Education, Q&A for access to education for refugee children, 1 February 2017, available at: <http://bit.ly/2malzAv>.

<sup>823</sup> UNICEF, Refugee and migrant children in Greece as of 31 October 2019, available at: <https://uni.cf/2Sloe92>.

<sup>824</sup> RSA, *Excluded and segregated: the vanishing education of refugee children in Greece*, 13 April 2021, available at: <https://bit.ly/3ozTZuY>.

<sup>825</sup> Ministry of Education and Religious Affairs, “Reply with respect to the findings regarding the educational integration of children residing in facilities and RICs of the Ministry of Migration & Asylum”, 21 April 2021, available in Greek at: <https://bit.ly/3yAoDc1>, p.3.

<sup>826</sup> *Ibid*, p.2

<sup>827</sup> *Ibid*, p.2.

<sup>828</sup> UNICEF, *Refugee and Migrant Response in Europe: Humanitarian Situation Report No. 38*, 28 January 2021, available at: <https://bit.ly/3fjMjdi>, p.3.

Furthermore, in 2020, children's' access to education was further challenged by a number of factors, also related to the Covid-19 pandemic, which led to record levels of exclusion of refugee children from the Greek system of education<sup>829</sup>. As noted by 33 civil society organisations in March 2021, with respect to children accommodated in mainland camps, "[i]n some places the issues observed have to do with inconsistent interpretation of COVID-19 related movement restriction policies by the Greek authorities, which ends up discriminating against children who, as a result, are not being allowed to leave these camps [in order to attend school]. At the same time, during the lockdowns, due to the lack of necessary technical infrastructure for online learning at the camps, refugee and asylum-seeking children are further excluded from the education process"<sup>830</sup>. The lack of transportation, understaffing of reception classes and negativity and/or reported reluctance by some local communities, as well as refugee families, to the potential of children attending school, were also amongst reported factors hindering refugee children's access to education for the school year of 2020-2021<sup>831</sup>. Particularly in what concerns mainland camps, even though slightly more than 62% of school-aged children living in the camps were formally enrolled to education (6,472 out of 10,431 children), only 14.2% (or 1,483) were actually able to attend it, as per findings of the Greek Ombudsman in March 2021.<sup>832</sup>

In **New Malakasa**, no child has access to public schools, as the competent authorities have not taken measures to transport children to schools. Due to the lack of Wi-Fi in the facility, children are unable to follow the current conduct of classes via videoconference. Only non-formal education activities are offered inside the camp through IOM.<sup>833</sup>

As noted by the Ombudsman in March 2021, "[t]he number of children [living in] facilities of the Ministry of Migration and Asylum and [in] RICs that are enrolled to school is dramatically far apart from their actual attendance"<sup>834</sup>.

The vast majority of children on the **Eastern Aegean islands**, where they have to remain for prolonged periods under a geographical restriction together with their parents or until an accommodation place is found in the case of unaccompanied children, remained without access to formal education in 2020 as well. Indicatively, out of a total of 2,090 school-aged children living in the RICs by January 2021, only 178 (8.5%) were enrolled to school, out of which only 7 (0.3%) had actually been able to attend it, primarily due to being accommodated in the urban fabric, as opposed to the RIC, as pointed out in the findings of the Greek Ombudsman in March 2021.<sup>835</sup>

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<sup>829</sup> For more, RSA, *Excluded and segregated*, op.cit.

<sup>830</sup> Open letter: "All children have the right to go to school. Do not take that away from them", 9 March 2021, available at: <https://bit.ly/3yhWB4V>.

<sup>831</sup> For more Greek Ombudsman, Educational integration of children living in facilities and RICs of the Ministry of Migration & Asylum, 11 March 2021, available in Greek at: <https://bit.ly/3ounIWc>

<sup>832</sup> Greek Ombudsman, Educational integration of children living in facilities and RICs of the Ministry of Migration & Asylum, 11 March 2021, available in Greek at: <https://bit.ly/3ounIWc>, p.12.

<sup>833</sup> RSA, 'New Malakasa: Inhuman subsistence, nine months on', 17 December 2020, available at: <https://bit.ly/3aUSoeu>.

<sup>834</sup> Greek Ombudsman, Educational integration of children living in facilities and RICs of the Ministry of Migration & Asylum, 11 March 2021, available in Greek at: <https://bit.ly/3ounIWc>, p.12.

<sup>835</sup> Greek Ombudsman, Educational integration of children living in facilities and RICs of the Ministry of Migration & Asylum, 11 March 2021, available in Greek at: <https://bit.ly/3ounIWc>, p.9.

## D. Health care

### Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?  
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?  
☐ Yes ☒ Limited ☒ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?  
☐ Yes ☐ Limited ☒ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?  
☒ Yes ☐ Limited ☐ No

L 4368/2016, which provides free access to public health services and pharmaceutical treatment for persons without social insurance and vulnerable social groups<sup>836</sup> is also applicable for asylum seekers and members of their families<sup>837</sup>. However, in spite of the favorable legal framework, actual access to health care services has been consistently hindered in practice by significant shortages of resources and capacity for both foreigners and the local population, as the public health sector is under extreme pressure and lacks the capacity to cover all the needs for health care services. A 2019 research documents the impact of the ten years financial crisis and the austerity measures on the Greek public Health System.<sup>838</sup>

Furthermore, challenges in accessing healthcare due to the lack of interpreters and cultural mediators in the majority of public healthcare facilities (hospitals, social clinics etc.) have also continued to persist in 2020. Yet even in cases where interpretation was available, this was limited in scope (e.g. only Arabic), and there remain very few civil society actors who can provide interpretation to cover the gap throughout Greece, which usually lack the capacity to address the level of needs. In addition to the limited capacity of the public Health system, applicants' access to healthcare was further hindered as far back as 2016,<sup>839</sup> due to the reported "generalised refusal of the competent public servants to provide asylum seekers with an AMKA"<sup>840</sup> (i.e. social security number), which up to the entry into force of article 55 IPA served as the *de facto* requirement for accessing the public healthcare system. This was further aggravated following a Circular issued on 11 July 2019, which in practice revoked asylum seekers' access to the AMKA. As noted by Amnesty International in October 2019, "the administrative obstacles faced by many asylum seekers and unaccompanied children in issuing an AMKA have significantly deteriorated following 11 July 2019, when the Ministry of Labour revoked the circular which regulated the issuance of AMKA to non-Greek citizens. Following the circular's revocation, no procedure was put in place for the issuance of AMKA to asylum seekers and unaccompanied minors".<sup>841</sup>

Article 55 of the IPA, introduced a new a Foreigner's Temporary Insurance and Health Coverage Number (Προσωρινός Αριθμός Ασφάλισης και Υγειονομικής Περίθαλψης Αλλοδαπού, ΠΑΑΥΠΑ), replacing the previous Social Security Number (AMKA). ΠΑΑΥΠΑ is to be issued to asylum seekers together with their asylum seeker's card.<sup>842</sup> With this number, asylum seekers are entitled free of charge access to necessary health, pharmaceutical and hospital care, including necessary psychiatric care where

<sup>836</sup> Article 33 L 4368/2016.

<sup>837</sup> Article 17(2) L. 4540/18 referring to art. 33 L. 4368/16

<sup>838</sup> Amnesty International, *Greece: resuscitation required – the Greek health system after a decade of austerity*, April 2020, available at: <https://bit.ly/3cAKeG0>.

<sup>839</sup> SolidarityNow, "Issues with the issuance of AMKA to international protection applicants", 10 November 2016, available (in Greek) at: <https://bit.ly/3bgttja>.

<sup>840</sup> Joint Agency Briefing Paper, Transitioning to a Government-run Refugee and Migrant Response in Greece: A joint NGO roadmap for more fair and humane policies, December 2017, available at: <https://bit.ly/2S3yiVn>, 12.

<sup>841</sup> Amnesty International, "Greece must immediately secure the free access of asylum seekers, unaccompanied minors, and children of undocumented migrants to the public healthcare system", 14 October 2019, available (in Greek) at: <https://bit.ly/372T4sz>.

<sup>842</sup> Article 55(2) IPA.

appropriate. The PAAYPA is deactivated if the applicant loses the right to remain on the territory.<sup>843</sup> Said provisions of the IPA entered into force since 1 November 2019. However, the necessary mechanism for their implementation was not activated until the start of 2020.

In a welcome development, the publication of the Joint Ministerial Decision for the issuance of the PAAYPA was issued on 31 January 2020,<sup>844</sup> officially triggering the mechanism. The activation of the PAAYPA number was announced in April 2020.<sup>845</sup> yet acquisition of the PAAYPA by its beneficiaries (i.e. applicants) was recorded slow up to the end of the year. Indicatively, by 7 December 2020, out of the 14,392 asylum applicants residing in the ESTIA II accommodation scheme, only 35% (approx. 5,037) had acquired the PAAYPA<sup>846</sup>. It needs to be pointed out that another 39% (approx. 5,612) of asylum seekers residing in ESTIA II were recorded as holding an AMKA during the same time<sup>847</sup>, potentially due to having arrived in Greece before the issuance of the July 2019 Circular, which, nevertheless still means that 36% of beneficiaries did not have access to Greece's healthcare system, unless in cases of emergency. By the end of the year (31 December), the number of PAAYPA and/or AMKA holders in ESTIA II (asylum seekers & beneficiaries of international protection) was recorded at 45%, highlighting the ongoing challenges<sup>848</sup>. Relevant data for residents of the camps are not available, at least, to GCR's awareness.

Furthermore, throughout 2020 challenges were also observed due to the automatic extension of documents, amid measures aimed at restricting spread of the COVID-19 pandemic, i.e. the suspension of GAS services towards the public. This created delays in the ability of applicants to issue and/or renew their PAAYPA during the foreseen renewal of their documents, since no similar automatic extension of the PAAYPA was foreseen.

That being said, even though challenges persist, as far as GCR is aware, by February 2021, the issue of PAAYPA seems to have been increasingly resolved, with 80% of eligible beneficiaries holding a PAAYPA and efforts being made to cover the rest of the population. Nevertheless, as access to PAAYPA is *inter alia* dependent on a full registration of a claim, and considering ongoing relevant delays particularly on the mainland, the extent to which and the time it takes for unregistered asylum seekers or applicants with police notes and/or only an initial registration of their claim to enjoy access to Greece's healthcare system should be further assessed.

GCR is also aware of a limited number of cases who have remained without either an AMKA or a PAAYPA for up to even 2 years or more, as they had arrived in Greece during the gap that followed the issuance of the 2019 Circular and seem to have fallen through the cracks, also due to the aforementioned challenges that ensued in the context of the pandemic.

Indicatively, in a case handled by GCR's Social Unit, the beneficiary, a vulnerable applicant with a chronic and serious health conditions and holder of an active asylum seeker's card since October 2019, has been unable to obtain a PAAYPA by March 2021 and as a result has been unable to access necessary medication for his condition, as prescribed by his doctor. Following multiple yet unfruitful attempts to resolve the issue by referring the case to the competent service (GAS), GCR's social worker intervened to the Ombudsperson requesting their intervention. In the relevant March 2021 intervention<sup>849</sup>, the Ombudsperson *inter alia* recalls their previously submitted proposal to the GAS to "move forward with the necessary arrangements...[for the extension of the validity of PAAYPA for all active cards up to 31/3/2021 – and obviously, until the [expiry] of each potential subsequent extension...]", while also recalling the

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<sup>843</sup> Article 55(2) IPA.

<sup>844</sup> Joint Ministerial Decision 717/2020, Gov. Gazette 199/B/31-1-2020.

<sup>845</sup> Skai.gr, Προσωρινός αριθμός ασφάλισης - περιθάλψης: Από σήμερα σε όλους τους αιτούντες άσυλο, 1 April 2020, available at: <https://bit.ly/3cjTyh4>.

<sup>846</sup> UNHCR, Population breakdown in ESTIA II Accommodation Scheme (as of 7 December 2020), 12 December 2020, available at: <https://bit.ly/2RM76NA>.

<sup>847</sup> *Ibid.*

<sup>848</sup> UNHCR, *Fact Sheet: Greece (1-31 December 2020)*, 27 January 2021, available at: <https://bit.ly/34nl7Te>.

<sup>849</sup> Greek Ombudsperson, Letter to the GAS on "The non-issuance of PAAYPA to an applicant of international protection with a serious health condition", 26 March 2021, protocol no. 294463/16706/2021.

institutions proposal to also enable this for “potential applicants that have not received the PAAYPA, even though they have a valid card”. As noted by the Ombudsperson, “[s]uch a holistic regulation of the issue seems to be able resolve the serious obstacles in accessing healthcare services that arise in various individual cases of applicants”.

In 2020, a seeming and welcome increase in the medical/ staff in the RICs was observed. Throughout 2020, though presumably during different time intervals depending on location, a total of 113 doctors have been present in the island RICs and namely 4 in the RIC of Kos, 4 in the RIC of Leros, 5 in the Evros RIC, 3 in the RIC of Samos and 6 in the RIC of Chios. Another 17 doctors were present in the temporary Mavrovouni RIC, which is, however, 27 doctors less than the number of doctors that had been present in the Moria RIC during the year (44), and until the latter’s destruction in September 2020. Nevertheless, challenges remain, particularly with respect to residents’ access to mental healthcare services<sup>850</sup>, amid a recorded growing mental health crisis on account of prolonged containment.<sup>851</sup>

As stated by the Minister of Migration and Asylum in a February 2021 interview, refugees and migrants in Greece would be vaccinated against COVID-19 in accordance with their age<sup>852</sup>. However, as of May 2021, information on when the vaccination of asylum seekers and refugees living in camps and RICs will start remain unavailable.<sup>853</sup>

## E. Special reception needs of vulnerable groups

### Indicators: Special Reception Needs

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

The law provides that, when applying the provisions on reception conditions, competent authorities shall take into account the specific situation of vulnerable persons such as minors, unaccompanied or not, direct relatives of victims of shipwrecks (parents and siblings), disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses, persons with cognitive or mental disability and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, victims of female genital mutilation and victims of human trafficking.<sup>854</sup> The assessment of the vulnerability of persons entering irregularly into the territory takes place within the framework of the [Reception and Identification Procedure](#) and, since the entry into force of the IPA, on 1 January 2020, it is no longer connected to the assessment of the asylum application.<sup>855</sup>

Under the reception and identification procedure, upon arrival, the Head of the RIC “shall refer persons belonging to vulnerable groups to the competent social support and protection institution.”<sup>856</sup>

However, shortages in the [Identification](#) of vulnerabilities, together with a critical lack of reception places on the islands (see [Types of Accommodation](#)) prevents vulnerable persons from enjoying special reception conditions. This could also be the case on the mainland, due to the limited capacity of facilities under the National Centre for Social Solidarity (EKKA), the lack of a clear referral pathway to access temporary camps and the poor reception conditions reported in many of those. Moreover, the high

<sup>850</sup> For instance, GCR & Oxfam, Lesbos Bulletin (April 2021), 21 April 2021, available at: <https://bit.ly/3wyyD3N>.  
<sup>851</sup> For more International Rescue Committee. (2020). *The Cruelty of Containment: The Mental Health Toll of the EU’s ‘Hotspot’ Approach on the Greek Islands*. <https://bit.ly/2XWKyJA>.

<sup>852</sup> Capital, “N. Mitarakis: refugees and migrants will be normally vaccinated against the coronavirus” (“N. Μητταράκης: Θα εμβολιαστούν κανονικά κατά του κορονοϊού πρόσφυγες και μετανάστες”), 15 February 2021, available in Greek at: <https://bit.ly/3fLRMbM>.

<sup>853</sup> As per information shared through the Greek advocacy working group on 26 May 2021.

<sup>854</sup> Article 58(1) IPA.

<sup>855</sup> Article 58(2) IPA, citing Article 39 IPA.

<sup>856</sup> Article 39(4)(d) IPA.



occupancy rate of reception places under UNHCR scheme may deprive newly arriving vulnerable families and individuals from access this type of accommodation.

## 1. Reception of unaccompanied children

Following the establishment of the Special Secretary for Unaccompanied Minors (SSUM) under the MoMA in February 2020<sup>857</sup>, and the entry into force of L. 4756/2020 in November of the same year, the SSUM has become the competent authority for the protection of UAM, including the accommodation of UAM, while EKKA, under the supervision of the Directorate for the Protection of Children and Families of the Ministry of Labor and Social Affairs remains responsible for the representation of UAM, including through the guardianship provided under L. 4554/2018.<sup>858</sup> As far as GCR is aware, the handover of activities (e.g. referrals) in the context of accommodation for UAM had been fully handed over to the office of the Special Secretary by the end of 2020.

### Increased, yet still insufficient reception capacity for unaccompanied children

As of 15 January, 2021, there were 4,048 unaccompanied and separated children in Greece but only 1,715 places in long-term dedicated accommodation facilities, and 1,094 places in temporary accommodation.<sup>859</sup> An estimated 930 UAM were still living in insecure and/or precarious conditions, with unknown adults and/or homeless.

The total number of referrals of unaccompanied children received by EKKA and/or SSUM in 2020 was 6,006, marking a 39% decrease when compared to the same period in 2019 (9,816). At the same time, the number of long-term accommodation spaces, specifically designated for unaccompanied minors, continued to increase, reaching a total of 1,715 places by year's end, as opposed to 1,286 by the end of 2019 (approx. 33% increase)<sup>860</sup>. Of the 6,006 UAM that were referred to accommodation, 5,530 were boys, the majority of who above the age of 12 (97%), and 476 were girls, most of who (78%) older the 12 years old.<sup>861</sup>

The average waiting period for the placement of unaccompanied minors residing in and/or outside of island RICs to suitable accommodation places for UAMs throughout the whole of 2020 remains unavailable up to the time of writing. Yet out of the total UAM referred to accommodation throughout the year, an increasing number were placed to a dedicated facility for UAM closer to the time of their referral, highlighting a positive trend as the year progressed.

Q 2020	No. of requests for accommodation	% of UAM that were placed to accommodation within the specific quarter*	% of UAM that were placed to accommodation after the specific quarter *
Q1	2,458	31.6	58.0
Q2	975	29.1	57.7
Q3	1,398	59.2	20.0
Q4	1,175	57.0	10.7
Total	6,006		

<sup>857</sup> Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.

<sup>858</sup> Articles 13 & 14 L.4756/2020.

<sup>859</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 15 January 2021, available at: <https://bit.ly/36ILJa3>.

<sup>860</sup> AIDA, Country Report for Greece: 2019 Update and EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 15 April 2021, available at: <https://bit.ly/3vpPEMR> [last accessed 28 April 2021].

<sup>861</sup> Information provided by Special Secretariat for Reception of the Ministry of Migration and Asylum on 28 January 2021



Source: Special Secretary for the Protection of Unaccompanied Minors. Data received on 28 January 2021\* The percentage of UAM that were placed within the specific quarter or afterwards, includes accommodation requests that were addressed or rejected after verification

This positive trend was reaffirmed in December 2020. More precisely, the average waiting time for the placement of UAMs from RICs to an accommodation place for UAMs in December 2020 was 11.2 days, amounting to a highly welcome reduction in the waiting times compared to previous years. Following the abolition in “protective custody” in law, waiting times were even shorter for UAMs in detention. In December 2020, the average waiting time for the placement of UAMs in “protective custody” to an accommodation place was 6.4 days for the Evros RIC and 1.9 days for other facilities<sup>862</sup>.

Overall, however, it should be noted that delays with respect to transfers from RICs to dedicated accommodation for UAM remained pertinent in 2020, with the average waiting time for transfer from the RICs to dedicated shelters throughout the whole of 2020 being 4 months for the RIC of Kos, 7-8 months for the RIC of Leros and the Evros RIC, 3 months for the RIC of Lesbos, and 6-7 months for the RICs of Samos and Chios.<sup>863</sup>

Yet despite significant improvements, by the beginning of 2021, more than 900 UAM remained homeless and/or were living in precarious conditions that expose them to safety risks.

The lack of appropriate care, including accommodation for unaccompanied children, in Greece has been repeatedly raised by human rights bodies.<sup>864</sup> Among others in 2019, in the context of his visit to the Lesbos, the UN High Commissioner for Refugees stated he was “very worried about children, especially children travelling alone...[who] are the most exposed to violence and exploitation”,<sup>865</sup> while Human Rights Watch *inter alia* noted that “the lack of prompt transfers [from the islands] put vulnerable people, including people with invisible disabilities and children, at higher risk of abuse and violation of their rights”.<sup>866</sup>

In November 2018, ECRE and ICJ, with the support of GCR lodged a collective complaint before the European Committee for Social Rights of the Council of Europe with regards the situation of *inter alia* unaccompanied children in Greece.<sup>867</sup> In response to the complaint, In May 2019, the Committee on Social Rights exceptionally decided to indicate immediate measures to Greece to protect the rights of migrant children and to prevent serious and irreparable injury or harm to the children concerned, including damage to their physical and mental health, and to their safety, by *inter alia* removing them from detention and from Reception and Identification Centres (RICs) at the borders.<sup>868</sup>

Furthermore, in December 2019, in a case represented by GCR, in cooperation with ASGI, Still I Rise and Doctors Without Borders, the European Court of Human Rights (ECtHR), under Rule 39 of the Rules of Court, granted interim measures to five unaccompanied teenagers, asylum seekers, who had been living for many months in the Reception and Identification Centre (RIC) and in the “jungle” of Samos. The interim measures indicated to the Greek authorities their timely transfer to a centre for unaccompanied

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<sup>862</sup> Information provided by Special Secretariat for Reception of the Ministry of Migration and Asylum on 28 January 2021

<sup>863</sup> Information provided by the RIS on 26 February 2021.

<sup>864</sup> For instance, see UNHCR, ‘Lone children face insecurity on the Greek islands’, 14 October 2019, available at: <https://bit.ly/36XQ6pf>.

<sup>865</sup> Euronews, ‘U.N. refugees chief urges Greece to improve ‘miserable’ camp conditions’, 27 November 2019, available at: <https://bit.ly/2vWsjt3>.

<sup>866</sup> HRW, ‘Human Rights Watch Submission to the United Nations Committee against Torture on Greece’, 4 July 2019, available at: <https://bit.ly/2S5ewch>.

<sup>867</sup> Council of Europe, ‘New complaint registered concerning Greece’, 21 December 2018, available at: <https://bit.ly/2SG0FpF>.

<sup>868</sup> European Committee of Social Rights, Decision on admissibility and on immediate measures in the case *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, Complaint No. 173/2018, 23 May 2019, available at: <https://bit.ly/39clrGj>.

minors and to ensure that their reception conditions are compatible with Article 3 of the Convention (prohibition of torture and inhuman and degrading treatment) and the applicants' particular status.<sup>869</sup>

In March 2020, a number of EU Member States have accepted to relocate a number of about 1,600 unaccompanied children from Greece.<sup>870</sup> Despite the fact that the number of children to be relocated remains significantly low, compared to the number of unaccompanied children present in Greece (3,776 children as of 15 April 2021<sup>871</sup>), this a welcome initiative and tangible display of responsibility sharing that facilitate UAM's access to durable solutions.

The first relocation under the scheme took place on 15 April 2020, with the first 12 UAM being relocated from Greece to Luxembourg, after previously having stayed for months in the overcrowded, unsuitable and unsafe RICs of Lesbos, Samos, and Chios. As noted by the Regional Director of IOM at the time *"[t]he importance of this crucial initiative is amplified now due to the challenges we are all facing from COVID-19. Relocation of vulnerable children especially at a time of heightened hardship, sends a strong message of European solidarity and we hope to see this expand soon"*<sup>872</sup>.

By 27 April 2021, a total of 749 UAM, amongst who 95% boys and 5% girls, had been relocated to 12 EU member states, most of whom to France (271), followed by Germany (204) and Finland (98)<sup>873</sup>.

### Types of accommodation for unaccompanied children

Out of the total number of available places for unaccompanied children in Greece at the end of 2020:

- 1,621 were in 62 shelters for unaccompanied children;
- 412 places were in 103 Supported Independent Living apartments for unaccompanied children over the age of 16;
- 450 places were in 15 Safe Zones for unaccompanied children in temporary accommodation centres; and
- 1,085 places were in 15 hotels for unaccompanied children.<sup>874</sup>

**Shelters for unaccompanied children:** long-term and short-term accommodation facilities for unaccompanied children (shelters) are managed by civil society entities and charities as well as by and with the support of IOM. There is only one shelter, operating by a non-profit, public institution established as a legal person governed by private law and supervised by the Ministry of Education, Research and Religious Affairs, the Youth and Lifelong Learning Foundation (INEDIVIM).

Shelters (December 2020)			
Region	Number of units	Capacity (min-max)	Implementing actors
Attiki (mainly Athens)	36	903 (12-40 places)	The HOME Project, Nostos, Medin, Apostoli, Arsis, IOM, Hellenic Red Cross, European Expression, Iliaktida, Medin,

<sup>869</sup> GCR, The European Court of Human Rights provides interim measures to unaccompanied minors living in the RIC and the "jungle" of Samos island, 30 December 2019, available at: <https://bit.ly/2GYQY2p>.

<sup>870</sup> EU Commissioner for Home Affairs, Intervention (via video conference) in European Parliament LIBE Committee on the situation at the Union's external borders in Greece, 2 April 2020, available at: <https://bit.ly/3adzSKI>.

<sup>871</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 15 April 2021, available at: <https://bit.ly/3vpPEMR> [last accessed 28 April 2021].

<sup>872</sup> IOM, UNHCR & UNICEF, "UN agencies welcome first relocation of unaccompanied children from Greece", 15 April 2020, available at: <https://bit.ly/2Pv0BNY>.

<sup>873</sup> IOM, *Voluntary Scheme for the Relocation from Greece to other European Countries*, updated up to 27 April 2021, available at: <https://bit.ly/3gTfi8G>. [last accessed 28 April 2021]

<sup>874</sup> All data provided by the office of the Special Secretary for Unaccompanied Minors on 28 January 2021.

			KEAN, Kinoniko EKAV, METAdrasi, Zeuxis, ERP, SMAN, Pharos
Central Macedonia	6	169 (15-34)	Arsis, IOM, ERP
Eastern Macedonia & Thrace	3	61 (10-26)	Arsis, The Smile of the Child
Epirus	3	120 (40)	ICSD, Youth Center of Epirus
Northern Aegean (mainly Lesvos)	8	183 (16-36)	Iliaktida, METAdrasi
Thessalia	2	60 (30)	Arsis, Hellenic Red Cross
Western Greece	2	49 (19-30)	IOM, Hellenic Red Cross
Western Macedonia	2	76 (36-40)	Kinoniko EKAV, Municipality

Source: Information provided by Special Secretary for the Protection of Unaccompanied Minors of the Ministry of Migration and Asylum on 28 January 2021

**Supported Independent Living:** “Supported Independent Living for unaccompanied minors” is an alternative housing arrangement for unaccompanied children aged 16 to 18 launched in 2018. The programme includes housing and a series of services (education, health etc.) and aims to enable the smooth coming of age and integration to Greek society.<sup>875</sup>

SILs (December 2020)			
Area	Number	Capacity (per unit)	Implementing actor
Athens	56	224 (4)	IRC, METAdrasi, PRAKSIS, SolidarityNow
Ioannina	10	40 (4)	Arsis, METAdrasi
Kalamata	1	4 (4)	METAdrasi
Kozani	4	16 (4)	Arsis
Thessaloniki	32	128 (4)	Arsis, METAdrasi, SolidarityNow

Source: Information provided by Special Secretary for the Protection of Unaccompanied Minors of the Ministry of Migration and Asylum on 28 January 2021

**Safe zones in temporary accommodation centres:** Safe zones are designated supervised spaces within temporary open accommodation sites dedicated to unaccompanied children. They should be used as a short-term measure to care for unaccompanied minors in light of the insufficient number of available shelter places, for a maximum of 3 months. Safe zone priority is given to unaccompanied children in detention as well as other vulnerable children.

Safe Zones (December 2020)		
Unit	Capacity	Implementing actor
Agia Eleni	30	Arsis
Alexandria	30	GCR
Elaionas	30	GCR
Diavata	30	Arsis
Drama	30	Arsis

<sup>875</sup> Metadrasi, *Supported Independent Living for unaccompanied minors*, available at: <https://bit.ly/2tPEljv>.

Kavala	30	Arsis
Lagadikia	30	Arsis
Malakasa	30	IOM
Philipiada	30	IOM
Ritsona	30	Arsis
Schisto	30	Arsis
Skaramangas	30	IOM
Thiva	30	Arsis
Vagiochori	30	IOM
Veria	30	IOM

Source: Information provided by Special Secretary for the Protection of Unaccompanied Minors of the Ministry of Migration and Asylum on 28 January 2021

**Hotels for unaccompanied children:** Hotels are emergency accommodation spaces being used as a measure to care for unaccompanied children in light of the insufficient number of available shelter places. Priority is given to children in RIC.

Hotels (December 2020)			
Area	Number	Capacity (min.-max.)	Implementing actor
Athens	3	410 (60-200)	IOM
Ioannina	2	85 (35-50)	Arsis, SolidarityNow
Konitsa	1	52	SolidarityNow
Kamena Vourla	1	70	IOM
Kozani	2	131 (60-71)	IOM
Serres	1	90	IOM
Thessaloniki	5	247 (35-65)	IOM

Source: Information provided by Special Secretary for the Protection of Unaccompanied Minors of the Ministry of Migration and Asylum on 28 January 2021

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

According to Article 43(1) IPA, competent authorities shall inform the applicant, within 15 days after the lodging of the application for international protection, of his or her rights and the obligations with which he or she must comply relating to reception conditions, by providing an informative leaflet in a language that the applicant understands. This material must provide information on the existing reception conditions, including health care, as well as on the organisations that provide assistance to asylum seekers.<sup>876</sup> If the applicant does not understand any of the languages in which the information material is published or if the applicant is illiterate, the information must be provided orally, with the assistance of an interpreter.<sup>877</sup>

A number of actors are providing information to newly arrived persons on the islands and the mainland. However, as also mentioned in [Provision of Information on the Procedure](#), access to comprehensive

<sup>876</sup> Article 43(2) IPA.

<sup>877</sup> Article 43(3) IPA.

information remains a matter of concern, especially in the context of asylum, due to the expanded set of obligations and penalties that can be imposed on applicants based on the IPA.

In any event, information on reception should take into account the actual available reception capacity, the availability and accessibility of referral pathways to reception facilities and other services and the legal obligations imposed on the applicants, i.e. mainly restrictions on movement imposed in the context of the COVID-19 pandemic and the obligation to remain on a given island for those subject to EU-Turkey statement.

## 2. Access to reception centres by third parties

### Indicators: Access to Reception Centres

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

According to Article 56 (2)(b) IPA, asylum seekers in reception facilities have the right to be in contact with relatives, legal advisors, representatives of UNHCR and other certified organisations. These shall have unlimited access to reception centres and other housing facilities in order to assist applicants. The Director of the Centre may extend access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the premises and of the applicants.

Access of NGOs to temporary accommodation centres and Reception and Identification Centres is subject to prior official authorisation.

## E. Differential treatment of specific nationalities in reception

No generalised differential treatment on the basis of nationality has been reported in 2020, though as has been the case in previous years, the so-called “pilot project” implemented by the police on the islands of Lesbos (up-to the destruction of Moria RIC) and Kos has continued being in effect, resulting in the detention upon arrival of so-called ‘low-refugee profile’ applicants (i.e. nationals and/or previous residents from countries with less than 25% average recognition rates throughout the EU).<sup>878</sup>

<sup>878</sup> Inter alia see GCR & SCI, Borderlines of Despair: First-line reception of asylum seekers at the Greek borders, 25 May 2018, available at: <https://bit.ly/397zY5M>; HIAS, Locked up without rights: Nationality-based detention in the Moria refugee camp, December 2019, available at: <https://bit.ly/381UiFG>.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention<sup>879</sup>

1. Total number of asylum seekers detained in pre-removal centres in 2020:	10,130
2. Number of asylum seekers in administrative detention at the end of 2020:	1,851 <sup>880</sup>
3. Number of pre-removal detention centres:	8 <sup>881</sup>
4. Total capacity of pre-removal detention centres:	3,326

The IPA, in force since 1 January 2020, introduced extensive provisions on the detention of asylum seekers and lower significant guarantees for the imposition of detention measures against asylum applicants,<sup>882</sup> threatening to undermine the principle that detention of asylum seekers should only be applied exceptionally and as a measure of last resort.

The amendments introduced by IPA with regards the detention of asylum seekers include:

- **The possibility of detaining asylum seekers even when they apply for international protection when not detained, on the basis of an extensive list of grounds justifying detention.**<sup>883</sup>

Art. 46(2) IPA provides that an asylum seeker who has already applied for asylum at liberty may be detained:

- (a) in order to determine or verify his or her identity or nationality or origin;
- (b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
- (c) when there is a risk of national security or public order;
- (d) when there is a significant risk of absconding within the meaning of Art. 2(n) of Regulation (EU) 604/2013 and in order to ensure the implementation of the transfer procedure in accordance with the Dublin Regulation;
- (f) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;

- **The extension of the maximum time limits for the detention of asylum seekers.**

According to Article 46 (5) IPA, the detention of an asylum seeker can be imposed for an initial period up to 50 days and it may be successively prolonged up a maximum time period of 18 months. Furthermore, according to Art. 46(5), the detention period in view of removal (return/deportation etc) is not calculated in the total time, and thus the total detention period of a third country national within the migration context may reach 36 months (18 months while the asylum procedure + 18 months in view of removal).

The possibility to extend the period of detention of asylum seekers up to 18 months, raises serious concerns as of its compliance with the obligation as a rule to impose asylum detention “only for

<sup>879</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.

<sup>880</sup> Total number of asylum seekers under administrative detention in pre-removal detection centers and in other detention facilities such as police stations.

<sup>881</sup> The operation of two out of eight PRDCs (Lesvos and Orestiada) was suspended during 2020.

<sup>882</sup> UN High Commissioner for Refugees (UNHCR), “UNHCR urges Greece to Strengthen Safeguards in Draft Asylum Law,” 24 October 2019, available at: <https://bit.ly/2lzauTV>.

<sup>883</sup> Article 46(2) IPA.



as short a period as possible” and to effectuate asylum procedures with “due diligence” in virtue of Article 9 Directive 2013/33/EU.

- **The abolition of the safeguard to impose the detention of an asylum seeker only upon a prior recommendation of the Asylum Service.**

IPA provided that the detention of an asylum seeker could only be imposed following a prior relevant recommendation of the Asylum Service, with the exception of cases that detention was ordered on public order grounds, in which the detention could be ordered directly by the Police Director. Art. 46(4) IPA abolished the requirement of a recommendation issued by the Asylum Service and provides that the detention of an asylum seeker on any ground is imposed directly by the Police upon prior information of the Asylum Service. As the Asylum Service is the only authority that may assess the need of detention based on the specific elements of the application and substantiate the grounds for detention as required by law, said amendment raises concerns *inter alia* as of the respect of the obligation for an individual assessment and the principle of proportionality before the detention of an asylum applicant.

In late November 2019, the Greek authorities announced their intention to dramatically increase the detention capacity, in particular on the Aegean islands, by creating more than 18,000 detention places on the islands, and by imposing automatic detention upon arrival to all new arrivals.<sup>884</sup> Following reactions of local communities, the creation of such detention facilities in the Aegean islands has been suspended up until the time of writing.

In May 2020, further amendments have been introduced to the legal framework of detention.<sup>885</sup> As noted by UNHCR regarding the May 2020 amendment “the combination of reduced procedural safeguards with provisions related to the detention of asylum seekers and to the detention of those under forced return procedures, compromises the credibility of the system and is of high concern to UNHCR. L. 4686/2020 further extends the practice of detention, which is essentially turned into the rule while it should be the exception, both for asylum seekers and those under return. For the latter it should be noted that they may not have had an effective access to the asylum process or may have gone through an asylum process with reduced procedural safeguards”.<sup>886</sup>

More precisely, on May 2020, five months after the entry into force of L. 4636/2019, L. 4686/2020 has introduced new amendments to IPA, regarding the detention of asylum seekers and their rights while in detention. Moreover L. 4686/2020 introduced a new type of “closed” facilities and amended relevant provision of L. 3907/2011 with regards pre-removal detention.

As of the detention of asylum seekers and their rights while in detention L. 4686/2020:

- further accelerates the procedure for asylum seekers in detention by providing that in the case of a second instance Appeal, a decision should be issued in 10 days (instead of 20 days pursuant to the initial version), art. 46(9) IPA as amended by L. 4686/2020.
- provides the possibility first instance asylum decisions to be communicated to detainees by the police, which may significantly underestimate the right of asylum seekers in detention to appeal against the decision, art. 82(4) IPA as amended by L. 4686/2020. According to said provision there is no obligation the Decision to be communicated with the presence of an interpreter and only a written information is provided to the detainee with regards the content of the decision and

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<sup>884</sup> GCR, The announcements of the Greek Authorities are contrary to Greek and international law on refugees”, 21 November 2019, available at: <https://bit.ly/32PCmfQ> (in Greek).

<sup>885</sup> L. 4686/2020, Gov. Gazette A' 96/12.05.2020.

<sup>886</sup> UNHCR, UNHCR's Intervention at the hearing for actors to the Standing Committee of Public Administration, Public Order and Justice of the Hellenic Parliament regarding the Draft Law on the Improvement of Migration Legislation, available at: <https://bit.ly/3uv0Oj7> .

the possibility to submit an appeal. Thus detainees may not be in the position to understand the content and the legal importance of the document and *a fortiori* the procedure which they have to follow in order to submit an Appeal. By this way, detained asylum seekers risk to be improperly informed about their rights, the examination of their asylum application to be terminated and to remain in pre-removal detention in view of return, without their asylum application having been properly assessed.

- foresees that the right to remain in the country is terminated by the time that the second instance decision is issued and not by the time that second instance decision is communicated to the Applicant, Art. 104(1) IPA as amended by L. 4686/2020. On the basis of this amendment police authorities consider that a person against whom a second instance negative decision on his/her asylum application can be lawfully arrested and detained in view of removal, irrespectively of the communication of the decision. Consequently, failed asylum seekers are in risk of being detained in view of removal without knowing the existence of the second instance asylum decision and without having the possibility to effectively challenge it in accordance with the law.
- provides that “in case that the Appeal [against a second instance decision] is rejected, the applicant [...] is detained in a Pre-removal Facility, up until his/her removal is completed or his/her application to be finally accepted. The submission of a subsequent application and/or application for annulment and/or application for suspension does not imply ipso facto the lift of the detention”, art. 92(4) IPA as amended by L. 4686/2020. Including in national legislation a legally binding provision foreseeing that in case that the appeal is rejected, the applicant “is detained in a Pre-removal Detention Facility” is not in line with EU standards with regards the imposition of detention measures. A person whose application for asylum has been rejected is a third country national in irregular situation and thus his/her case is regulated by EU Return directive, which *inter alia* provides that detention is imposed only as last resort and in case that alternatives to detention cannot be applied. Moreover, the issue of whether detention measure will remain in force following the submission of legal remedies against a second instance asylum decision (application for annulment/application for suspension) is an issue closely linked with the reasonable prospect of effectuating the removal of the detainee and cannot be regulated *in abstracto* by law.<sup>887</sup>

L. 4686/2020 also introduced a new type of “closed” facility. Article 30(4) L. 4686/2020 amending article 8(4) L.4375/2016 foresees the establishment of the so called “Closed Temporary Reception Facilities” for asylum seekers against whom a detention decision has been issued and the “Islands’ Closed Controlled Facilities”, for asylum seekers, persons under a removal procedure and persons under geographical limitation. The provision does not specify further information, such as the general operation of such centers, the reasons for placing third country nationals in such facilities, the possibility of and procedures for entry and exit, general conditions, the maximum period of stay etc and up today such centers have not yet been established.<sup>888</sup>

Finally, L. 4686/2020 introduced a radical amendment of the relevant provision with regards pre-removal detention of third country nationals, Art. 30 L. 3907/2011, which reverse the rule that migration detention is only applied exceptionally, as a last resort and under the conditions that alternatives to detention cannot be applied, contrary *inter alia* to Art. 15 of the Return Directive. According to the new version of Art. 30(1) L. 3907/2011:

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<sup>887</sup> CJEU, Kadzoev, C-357/09 PPU, para. 64, “As is apparent from Article 15(1) and (5) of Directive 2008/115, the detention of a person for the purpose of removal may only be maintained as long as the removal arrangements are in progress and must be executed with due diligence, provided that it is necessary to ensure successful removal”.

<sup>888</sup> See *inter alia* UN High Commissioner for Refugees (UNHCR), UNHCR Comments on the Draft Law “Improvement of Migration Legislation, amendment of provisions of Laws 4636/2019 (A’ 169), 4375/2016 (A’ 51), 4251/2014 (A’ 80) and other Provisions”, 12 June 2020, available at: <https://bit.ly/39RD7tl> , p. 9.

“Third country nationals subject to return procedures [...] are placed in detention in order to prepare the return and carry out the removal process. In case that the competent police officer considers that:

- a) there is no risk of absconding **or**
- b) the third-country national concerned is cooperative and does not hamper the preparation of return or the removal process **or**
- c) there are no national security grounds,

other less coercive measures are applied as those provided in para. 3 of Art. 22, if considered effective”

No measures regarding the decongestion of detention facilities and the reduction of the number of detainees have been taken during the COVID-19 outbreak.<sup>889</sup> The proportionality/necessity of the detention measures have not been re-examined, despite the suspension of returns to certain countries of origin or destination, including Turkey, and despite the delays that occurred due to the suspension of the work of the Asylum Service, during the COVID-19 crisis.<sup>890</sup>

## 1. Statistics on detention

At the end of 2020, the total number of third-country nationals detained in pre-removal detention centers countrywide was 2,408<sup>891</sup>. Out of these, 1,702 persons (70.6%) were asylum seekers<sup>892</sup>. Accordingly, at the end of 2020, the total number of third-country nationals detained in police stations or other facilities countrywide was 863. Out of these, 149 persons (17.3 %) were asylum seekers.

Furthermore, at the end of 2020, the total number of unaccompanied children in administrative detention in pre-removal detention centers countrywide was 16 and the number of unaccompanied children in administrative detention in other detention facilities such as police stations was 18<sup>893</sup>. Additionally, at the end of 2020, the total number of unaccompanied children in “protective custody” was 33, according to the information provided by the Directorate of the Hellenic Police, or 30, according to the official statistics of EKKA (National Center for Social Solidarity)<sup>894</sup>.

### 1.1. Detention in pre-removal centres

The number of asylum seekers detained in pre-removal detention facilities in Greece decreased considerably in 2020, as well as the total number of third country nationals under administrative detention.

Administrative detention: 2016-2020					
	2016	2017	2018	2019	2020
Number of asylum seekers detained	4,072	9,534	18,204	23,348	10,130
Total number of persons detained	14,864	25,810	31,126	30,007	14,993

Source: Directorate of the Hellenic Police, 21 January 2017; 29 January 2018; 23 January 2019; 8 February 2020, 11 February 2021

<sup>889</sup> See to this regard: Letter sent by the Greek Ombudsman on 20 March 2020 by which the Ombudsman recommend to the authorities *inter alia* to take measures for the degongestation of detetnion facilities amid the Covid-19 outbreak, Greek Ombudsman, Μέτρα πρόληψης της διάδοσης του κορωνοϊού COVID-19 και ευάλωτες ομάδες πληθυσμού, 30 March 2020, available at: <https://bit.ly/2ydLDmS>; GCR et al., Έκτακτη η ανάγκη προστασίας των διοικητικά κρατούμενων πολιτών τρίτων χωρών εν μέσω πανδημίας, 24 April 2020, available at: <https://bit.ly/36igzyX>.

<sup>890</sup> See: Commissioner for Human Rights of the Council of Europe, Commissioner calls for release of immigration detainees while Covid-19 crisis continues, 26 March 2020.

<sup>891</sup> Unaccompanied minors are also included.

<sup>892</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.

<sup>893</sup> *Ibid.*

<sup>894</sup> Situation Update: Unaccompanied Children (UAC) in Greece 31 December 2020, available at: <https://bit.ly/2PZYAcH>

The number of persons who remained in pre-removal detention facilities was 2,408 at the end of 2020. Of those, 1,702 were asylum seekers.<sup>895</sup>

The breakdown of detained asylum seekers and the total population of detainees<sup>896</sup> per pre-removal centre is as follows:

Breakdown of asylum seekers detained by pre-removal centre in 2020				
	Detention throughout 2020		Detention at the end of 2020	
	Asylum seekers	Total population	Asylum seekers	Total population
Amygdaleza	1,779	4,356	302	577
Tavros (Petrou Ralli)	328	1,621	38	89
Corinth	3,287	3,362	693	848
Paranesti, Drama	2,556	2,668	249	357
Xanthi	872	926	139	161
Fylakio, Orestiada	1,819	2,238	0	0
Lesvos	499	499	0	0
Kos	673	949	281	376
<b>Total</b>	<b>10,130</b>	<b>14,993</b>	<b>1,702</b>	<b>2,408</b>

Source: Directorate of the Hellenic Police 11 February 2021.

The breakdown of unaccompanied children under administrative detention per pre-removal centre is as follows:

Breakdown of unaccompanied minors under administrative detention by pre-removal centre in 2020		
	Detentions throughout 2020	In detention at the end of 2020
Amygdaleza	558	16
Tavros (Petrou Ralli)	2	0
Corinth	16	0
Paranesti, Drama	24	0
Xanthi	2	0
Fylakio, Orestiada	0	0
Lesvos	0	0
Kos	10	0
<b>Total</b>	<b>612</b>	<b>16</b>

Although the number of persons detained the past years has significantly increased in proportion to the number of the arrivals<sup>897</sup>, this has not been mirrored by a corresponding increase in the number of forced returns. 27,515 detention orders were issued in 2020, compared to 58,597 in 2019. The number of forced

<sup>895</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.

<sup>896</sup> Unaccompanied minors included.

<sup>897</sup> According to UNHCR the total number of arrivals by land and sea was 74,613 in 2019 and 15,696 in 2020. Information available at : <https://bit.ly/3t8i3GD>

returns decreased to 3,660 in 2020 from 4,868 in 2019.<sup>898</sup> These findings corroborate that immigration detention is not only linked with human rights violations but also fails to effectively contribute to return.

There were 6 active pre-removal detention centres in Greece at the end of 2020. This includes five centres on the mainland (**Amygdaleza, Tavros, Corinth, Xanthi, Paranesti**.) and one on the islands (**Kos**). Lesvos and Fylakio pre-removal detention centers have temporarily suspended their operation. The total pre-removal detention capacity is 3,326 places.<sup>899</sup> A new pre-removal detention centre established in **Samos** in 2017 is not yet operational.

The number of persons lodging an asylum application from detention in 2020 was 4,062 (up from 7,738 in 2019):

Asylum seekers applying from detention: 2020	
Five main nationalities	Number
Pakistan	1,685
Bangladesh	740
Afghanistan	516
Egypt	160
Iran	139
Others	822
<b>Total</b>	<b>4,062</b>

Source: Asylum Service, 31 March 2021

The Asylum Service issued 4,265 first instance decisions on applications submitted from detention, of which 3,692 were negative (93.8%), 316 granted refugee status and 79 granted subsidiary protection.<sup>900</sup>

The Asylum Service also received 745 subsequent applications from detention in 2020. Out of those 112 were deemed admissible and 554 inadmissible.

## 1.2. Detention in police stations and holding facilities

In addition to the above figures, at the end of 2020, there were 863 persons, of whom 149 were asylum seekers, detained in several other detention facilities countrywide such as police stations, border guard stations etc.<sup>901</sup>

Furthermore, as stated above, at the end of 2020, the total number of unaccompanied children in administrative detention in several detention facilities countrywide was 18<sup>902</sup>.

As the ECtHR has found, these facilities are not in line with Art. 3 ECHR's guarantees given "the nature of police stations per se, which are places designed to accommodate people for a short time only".<sup>903</sup>

<sup>898</sup> Ombudsman, *Return of third-country nationals*, Special Report 2018, available at <https://bit.ly/3bv0GYm>; Information provided by the Directorate of the Hellenic Police, 8 February 2020 and 11 February 2021.

<sup>899</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021

<sup>900</sup> Information provided by the Asylum Service, 31 March 2021

<sup>901</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.

<sup>902</sup> *Ibid.*

<sup>903</sup> *H.A. and Others v. Greece*, application no. 19951/16, 28 February 2019; *S.Z. v. Greece*, application no. 66702/13, 21 June 2018, para. 40.

## 2. Detention policy following the EU-Turkey statement

The launch of the implementation of the EU-Turkey statement has had an important impact on detention on the Eastern Aegean islands but also on the mainland, resulting in a significant toughening of the practices applied in the field. In 2020, a total of 38,723 removal decisions were issued, 27,515 (71%) of which also contained a detention order. The number of third-country nationals detained in pre-removal centres under detention order throughout 2020 was 14,993 (a decrease from 30,007 in 2019). The numbers of asylum seekers in detention also decreased: 10,130 in 2020 compared to 23,348 in 2019, and 18,204 in 2018.<sup>904</sup>

The pre-removal detention centre of Moria in **Lesvos**, initially established in 2015,<sup>905</sup> was reopened in mid-2017 but suspended its operation in September 2020 in the aftermath of the fire which destroyed the camp. In addition, a pre-removal detention facility was opened in **Kos** in March 2017<sup>906</sup>. Another one was also established in **Samos** in June 2017 but has not yet become operational.<sup>907</sup>

On 20 November 2019, the Greek government presented its operational plan to address migration and ‘decongest’ the Aegean islands, following a post-election commitment. The major announcement was that the existing ‘hotspot’ camps on the Greek islands, will be gradually turned into “closed” facilities and additional detention capacity of more 18,000 places will be created on the islands.<sup>908</sup>

### 2.1. Pilot project (“low-profile scheme”)

During 2020, the “pilot project”, launched in 2017 was being implemented on **Lesvos** and on **Kos**. This consists in newly arrived persons belonging to particular nationalities with low recognition rates immediately being placed in detention upon arrival and remaining there for the entire asylum procedure.<sup>909</sup> While the project initially focused on nationals of Pakistan, Bangladesh, Egypt, Tunisia, Algeria and Morocco, the list of countries was expanded to 28 in March 2017 and the pilot project was rebranded as “low-profile scheme”.<sup>910</sup> As of May 2018, the “pilot project” was implemented to nationals of countries with a recognition rate lower than 25% on **Lesvos**, whereas the recognition rate threshold for the implementation of the “pilot project” was 33% on **Kos**.<sup>911</sup>

Several civil society organisations have reported that <sup>912</sup> “on **Kos**, since January 2020, all new arrivals except persons evidently falling under vulnerability categories are immediately detained in the pre-removal detention centre.”<sup>913</sup> In previous years, this practice was applied to groups subject to the “low recognition rate” detention scheme, i.e. persons from countries subject to a rate below 33% and single

<sup>904</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.

<sup>905</sup> Joint Ministerial Decision 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; Joint Ministerial Decision 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015.

<sup>906</sup> Joint Ministerial Decision 8038/23/22-ξε, Gov. Gazette B' 332/7.2.2017.

<sup>907</sup> Joint Ministerial Decision 3406/2017, Gov. Gazette B' 2190/27.6.2017.

<sup>908</sup> Oxfam and GCR, *No-Rights Zone. How people in need of protection are being denied crucial access to legal information and assistance in the Greek islands' EU 'hotspot' camps*, December 2019, available at: <https://go.aws/2Slyeea>, page 8; Greek Government, 20 November 2019, Policy Editors' Briefing –the Government's Action Plan to address the Migration Issue [in Greek], available at: <https://bit.ly/2P3kb0k>; See also the letter sent on 25 November 2019 by the Commissioner for Human Rights of the Council of Europe to the Ministers Mr Chrysochoidis and Koumoutsakos, regarding the Government's plans on the closed centres, available at: <https://bit.ly/2wn3MgH>.

<sup>909</sup> GCR, *Borderline of Despair: First-line reception of asylum seekers at the Greek borders*, May 2018, available at: <https://bit.ly/2OuXoeG>, 18-19.

<sup>910</sup> ECRE, 'Asylum procedure based on nationality rather than on merit – the situation of Pakistani asylum applicants under the EU Turkey Deal', 8 December 2017, available at: <http://bit.ly/2keJTk1>.

<sup>911</sup> GCR, *2018 Detention report*, available at: <https://bit.ly/2vrqDHm>.

<sup>912</sup> RSA, HIAS, GCR, Arsis, Danish Refugee Council, Legal Centre Lesvos, FENIX Humanitarian Legal Aid, Action Aid Hellas and Mobile Info Team, and legal practitioners, *Juxtaposing proposed EU rules with the Greek reception and identification procedure*, 26 January 2021, available at: <https://bit.ly/3s5g7x6>, p. 7-8

<sup>913</sup> TVXS, 'Οι πρώτοι μετανάστες σε κλειστό κέντρο στην Κω, την ώρα που ο Μητράκης επισκέπεται το νησί - Πανηγυρίζει ο Βορίδης', 26 January 2020, available in Greek at: <https://bit.ly/3oMEj6W>.



adults from Syria. The majority of applicants have undergone rudimentary registration in the RIC prior to being placed in detention. However, applicants arriving from islands other than **Kos** and **Rhodes** e.g. **Symi**, **Megisti**, **Kastellorizo** are immediately directed to the pre-removal detention centre, without undergoing reception and identification procedures in the RIC (See [Identification](#))."

According to GCR's knowledge, on **Lesvos**, persons subject to the "low recognition rate" scheme were channelled through rapid RIC procedures prior to detention in the pre-removal detention centre located within the RIC of Moria until January 2020.

Also, "During the suspension of the asylum procedure in March 2020, new arrivals were immediately detained in informal sites on the islands and subsequently in Navy vessel Rhodes and then in detention facilities on the mainland, without undergoing reception and identification procedures."<sup>914</sup>

The implementation of this practice raises concerns vis-à-vis the non-discrimination principle and the obligation to apply detention measures only as a last resort, following an individual assessment of the circumstances of each case and to abstain from detention of *bona fide* asylum seekers.

## 2.2. Detention following second-instance negative decision

According to the practice followed, in Eastern Aegean Islands and mostly on Kos and Lesvos, applicants whose asylum application was rejected at second instance under the [Fast-Track Border Procedure](#) were immediately detained upon notification of the second-instance negative decision. This practice directly violates national and European legislation, according to which less coercive alternative measures should be examined and applied before detention. While in detention, rejected asylum seekers face great difficulties in accessing legal assistance and challenging the negative asylum decision before a competent court.

However, it is observed that in 2020 the abovementioned practice was suspended on Lesvos due to several factors, such as the destruction of Moria in September 2020, the suspension of the Asylum Service and RIC after Covid-19 outbreak and thus the suspension of the notification of 2<sup>nd</sup> instance rejections etc.

## 2.3. Detention due to non-compliance with geographical restriction

As set out in a Police Circular of 18 June 2016, where a person is detected on the mainland in violation of his or her obligation to remain on the islands, "detention measures will be set again in force and the person will be transferred back to the islands for detention – further management (readmission to Turkey)."<sup>915</sup> Following this Circular, all newly arrived persons who have left an Eastern Aegean island in breach of the geographical restriction (see [Freedom of Movement](#)), if arrested, are immediately detained in order to be returned to that island. This detention is applied without any individual assessment and without the person's legal status and any potential vulnerabilities being taken into consideration. Detention in view of transfer from mainland Greece to the given Eastern Aegean island can last for a disproportionate period of time, in a number of cases exceeding five months, thereby raising issues with regard to the state's due diligence obligations. Despite the fact that a number of persons allege that they left the islands due to unacceptable reception conditions and/or security issues, no assessment of the reception capacity is made before returning these persons to the islands.

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<sup>914</sup> RSA, *Rights denied during Greek asylum procedure suspension*, April 2020, available at: <https://bit.ly/3ow9cfM>.

<sup>915</sup> Directorate of the Hellenic Police, "Εγκύκλιος ΕΛΑΣ 1604/16/1195968/18-6-2016 Διαχείριση παράτυπων αλλοδαπών στα Κέντρα Υποδοχής και Ταυτοποίησης, διαδικασίες Ασύλου, υλοποίηση Κοινής Δήλωσης ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 (πραγματοποίηση επανεισδοχών στην Τουρκία)", available in Greek at: <http://bit.ly/2nglEj6>. See also *inter alia* Kathimerini, 'Islands "suffocating" due to the refugee issue', 23 August 2016, available in Greek at: <http://bit.ly/2jBL7Fd>.

Working group on Arbitrary Detention<sup>916</sup> “notes with particular concern the policy of geographical restriction on the movement of asylum seekers from the islands and the lack of awareness among asylum seekers of the consequences of breaching this restriction, namely placement in detention.”

In September 2020, the Administrative Court of Athens, ordered the release from detention of a man of Syrian origin, detained in the airport police station, for the purpose of being transferred back to Leros, claiming that he could not receive proper healthcare in the case he was returned to the island.<sup>917</sup>

In practice, persons returned to the islands either remain detained – this is in particular the case of single men or women – or they are released without any offer of an accommodation place. Detention on the islands is of particular concern as a high number of third-country nationals, including asylum seekers, continue to be held in detention facilities operated by the police directorates and in police stations, which are completely inappropriate for immigration detention. As a rule this is the case in **Chios, Samos, Leros** and **Rhodes** where police stations were the only available facility for immigration detention in 2020. For those released upon return to the islands, destitution is a considerable risk, as reception facilities on the islands are often overcrowded and exceed their nominal capacity, whereas in Rhodes there is no RIC at all.

In 2020, a total of 282 persons were returned to the Eastern Aegean islands after being apprehended outside their assigned island, up from 551 in 2019:

Returns to the islands due to non-compliance with a geographical restriction: 2020						
Lesvos	Chios	Samos	Kos	Leros	Rhodes	Total
79	31	60	112	0	0	282

Source: Directorate of the Hellenic Police 11 February 2021.

<sup>916</sup> Human Rights Council, Visit to Greece. Report of the Working Group on Arbitrary Detention, A/HRC/45/16/Add.1, 29 July 2020, available at: <https://bit.ly/3dPiHSX> , para. 57

<sup>917</sup> Administrative Court of Athens, Decision AP 1185/2020.

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
  - ❖ on the territory: ☒ Yes ☐ No
  - ❖ at the border: ☐ Yes ☒ No
2. Are asylum seekers detained in practice during the Dublin procedure?<sup>918</sup>  
☐ Frequently ☒ Rarely ☐ Never
3. Are asylum seekers detained during a regular procedure in practice?  
☒ Frequently ☐ Rarely ☐ Never

#### 1.1. Asylum detention

According to Article 46 IPA, an asylum seeker shall not be detained on the sole reason of seeking international protection or having entered and/or stayed in the country irregularly.<sup>919</sup> However as mentioned above IPA foresees the possibility to detain asylum seekers who have already applied for asylum while at liberty.

Moreover, an asylum seeker may remain in detention if he or she is already detained for the purpose of removal when he or she makes an application for international protection, and subject to a new detention order following an individualised assessment. In this case the asylum seeker may be kept in detention for one of the following 5 grounds<sup>920</sup>:

- (a) in order to determine his or her identity or nationality;
- (b) in order to determine those elements on which the application for international protection is based which could not be obtained otherwise, in particular when there is a risk of absconding of the applicant;
- (c) when it is ascertained on the basis of objective criteria, including that he or she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of a return decision, if it is probable that the enforcement of such a measure can be affected;
- (d) when he or she constitutes a danger for national security or public order;
- (e) when there is a serious risk of absconding of the applicant, in order to ensure the enforcement of a transfer decision according to the Dublin III Regulation.

For the establishment of a risk of absconding for the purposes of detaining asylum seekers on grounds (b) and (e), the law refers to the definition of “risk of absconding” in pre-removal detention.<sup>921</sup> The relevant provision of national law includes a non-exhaustive list of objective criteria which may be used as a basis for determining the existence of such a risk, namely where a person:<sup>922</sup>

- ❖ Does not comply with an obligation of voluntary departure;

<sup>918</sup> This is the case where a person has asked for asylum while already in detention (and is then subject to Dublin III Regulation usually because a family member has been residing as an asylum seeker in another member-state). On the contrary, this does not mean that if a person submits an asylum application for which another Member State is responsible under Dublin III Regulation will then be detained in order for the transfer to successfully take place.

<sup>919</sup> Article 46(1) IPA

<sup>920</sup> Article 46(3) IPA

<sup>921</sup> Article 18(g) L 3907/2011, cited by Art. 46(2-b) and 46(3-b) IPA

<sup>922</sup> Article 18(g)(a)-(h) L 3907/2011.

- ❖ Has explicitly declared that he or she will not comply with the return decision;
- ❖ Is in possession of forged documents;
- ❖ Has provided false information to the authorities;
- ❖ Has been convicted of a criminal offence or is undergoing prosecution, or there are serious indications that he or she has or will commit a criminal offence;
- ❖ Does not possess travel documents or other identity documents;
- ❖ Has previously absconded; and
- ❖ Does not comply with an entry ban.

The fact that national legislation includes a non-exhaustive and indicative list of such criteria and thus other criteria not explicitly defined by law can also be used for determining the existence of the “risk of absconding”, is not in line with the relevant provision of the EU law providing that said objective criteria “*must be defined by law*”.<sup>923</sup>

Article 46(2)(3) IPA also provided that such a detention measure should be applied exceptionally, after an individual assessment and only as a measure of last resort where no alternative measures can be applied.

As noted above, a detention order under IPA is issued following prior information by the Head of the Asylum Service. However, the final decision on the detention lies with the Police. The Asylum Service made 1,091 information notes in 2020, of which 836 recommended the prolongation of detention and 235 advised against detention. Also, 20 recommendations for the continuation of detention were revoked<sup>924</sup>.

#### 1.1.1. Detention of asylum seekers applying at liberty

The IPA provides for the possibility of detaining asylum seekers even when they apply for international protection when not detained, on the basis of any of the grounds provided by article 8 of the Directive 2013/33/EU. According to such grounds an applicant may be detained only:

- (a) in order to determine or verify his or her identity or nationality;
- (b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
- (c) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;
- (d) when he or she is detained subject to a return procedure under Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (9), in order to prepare the return and/or carry out the removal process, and the Member State concerned can substantiate on the basis of objective criteria, including that he or she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;
- (e) when protection of national security or public order so requires;
- (f) in accordance with Article 28 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member

<sup>923</sup> Article 3(7) Directive 2008/115/EC; see also *mutandis mutandis* CJEU, C-528/15, *Al Chodor*, 15 March 2017, para. 47, “Article 2 (n), in conjunction with Article 28 (2) of the Dublin III Regulation, has the meaning that it requires the Member States to lay down, by means of a binding provision of general application, the objective criteria on the basis of which it is assumed that there is a risk of absconding of the applicant being subjected to a transfer procedure. The absence of such a provision renders Article 28 (2) of that regulation inapplicable”.

<sup>924</sup> Information provided by the Asylum Service, 31 March 2021.

States by a third-country national or a stateless person (10).

Up until the end of 2020, asylum seekers, who have applied for asylum at liberty in one of the Eastern Aegean islands and were subject to a geographical restriction, were detained as a rule if arrested outside the assigned area in order to be transferred back to that island. In these cases, a detention order was imposed contrary to the guarantees provided by law for administrative detention and without their asylum seeker legal status being taken into consideration: the detention order was unlawfully issued based on L 3907/2011 and/or L 3386/2005, which refers to the deportation of irregularly staying third-country nationals to their country of origin, as these legal frameworks are not applied to asylum seekers. As it was also the case in previous years, in a case supported by GCR, the Administrative Court of Piraeus ordered the release from detention of a man from Syria, who was detained for the purpose of his transfer back to Chios on the basis that, *inter alia*, he is an asylum applicant and could not be detained for return purposes.<sup>925</sup>

### 1.1.2. The interpretation of the legal grounds for detention in practice

There is a lack of a comprehensive individualised procedure for each detention case, despite the relevant legal obligation to do so. This is of particular concern with regard to the proper application of the lawful detention grounds provided by national legislation, as the particular circumstances of each case are not duly taken into consideration. Furthermore, the terms, the conditions and the legal grounds for the lawful imposition of a detention measure seem to be misinterpreted in some cases. These cases include the following:

#### Detention on public order or national security grounds

As repeatedly reported in previous years, public order grounds are used in an excessive and unjustified manner, both in the framework of pre-removal detention and detention of asylum seekers.<sup>926</sup> This continues to be the case. The Return Directive does not cover detention on public order grounds,<sup>927</sup> and thus the relevant Greek provision on pre-removal detention – Article 30(1)(c) L 3907/2011 – is an incorrect transposition of EU law. For both detainees subject to removal and asylum seekers, detention on public order grounds is usually not properly justified.

The authorities issue detention orders without prior examination of whether the “applicant’s individual conduct represents a genuine, present and sufficiently serious threat”, in line with the case of law of the Council of State and the CJEU.<sup>928</sup> This is particularly the case where these grounds are based solely on a prior prosecution for a minor offence, even if no conviction has ensued, or in cases where the person has been released by the competent Criminal Court after the suspension of custodial sentences. The Ombudsman has once again in 2019 criticised this practice.<sup>929</sup> In a case supported by GCR in 2020, the Administrative Court of Athens accepted objections against the detention of a citizen of Iran who was administratively detained in Agios Panteleiomias Police Station (Athens), on the grounds that, *inter alia*, he was accused with criminal charges related to verbal abuse after he had been arrested. The Court declared, *inter alia*, that there was no official conviction from the competent criminal court and ordered his release from detention.<sup>930</sup>

In addition, detention on national security or public order grounds has been also ordered for reasons of irregular entry into the territory, contrary to Article 31 of the Refugee Convention and the prohibition on

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<sup>925</sup> Administrative Court of Piraeus, Decision 454/2020.

<sup>926</sup> Ombudsman, *Return of third-country nationals*, Special Report 2018, available at: <https://bit.ly/37jgpGz>, 17.

<sup>927</sup> European Commission, *Return Handbook*, 27 September 2017, available at: <http://bit.ly/2nlTCQ>, 78-79.

<sup>928</sup> CJEU, Case C-601/15 PPU J.N., Judgment of 15 February 2016, paras 65-67. See e.g. Council of State, Decisions 427/2009, 1127/2009 and 2414/2008, which highlight that a mere reference to a criminal conviction does not suffice for the determination of a threat to national security or public order.

<sup>929</sup> Ombudsman, *Return of third-country nationals etc.*, *idem*.

<sup>930</sup> Administrative Court of Athens, Decision AP 418/2020

detaining asylum seekers on account of their irregular entry or presence under Article 46(1) IPA. For instance, in a case supported by GCR, a woman, asylum seeker, originating from Turkey remained administratively detained for reasons of public order related to the fact that she entered illegally in the country. The Administrative Court of Athens accepted objections against the detention of the applicant, claiming that the sole fact of the irregular entrance in the country cannot base detention on public order grounds<sup>931</sup>.

Moreover, a further consequence of the events unfolded after 28 February 2020, was the decision by certain prosecutors to criminally charge migrants with illegal entry into the country according to the provisions of Law 3386/2005. More precisely, between 28 February and 14 March 2020, the single-member Misdemeanours Court in Orestiada sentenced 103 persons to imprisonment under the above-mentioned regulation. The CPT expressed serious misgivings about the way in which these cases were conducted and asked the Greek authorities to ensure that all Public Prosecutors and Misdemeanour Courts are fully cognisant of Greece's international legal obligations.<sup>932</sup>

Furthermore, as the Ombudsman has highlighted on the practice of imposing detention on public order grounds solely based on a prior conviction by which custodial measures have been suspended, the mere suspensive effect of the sentence granted by the competent Criminal Court proves that the person is not considered a threat to public order, while his administrative detention on public order grounds raises questions of misuse of power on behalf of the police.<sup>933</sup>

### **Detention of applicants considered to apply merely in order to delay or frustrate return**

The June 2016 Police Circular on the implementation of the EU-Turkey Statement provides that, for applicants subject to the EU-Turkey statement who lodge their application while already in detention:

“[T]he Regional Asylum Offices will recommend the continuation of detention on the ground that: ‘there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision, in accordance with art. 46(2)(c) L. 4375/2016 in view of his or her likely immediate readmission to Turkey.’”<sup>934</sup>

In practice, this exact wording is invoked in a significant number of detention orders to applicants subject to the EU-Turkey statement, following a relevant recommendation of the Asylum Service, despite the fact that Art. 46(3-c) IPA requires the authorities to “substantiate on the basis of objective criteria... that there are reasonable grounds to believe” that the application is submitted “merely in order to delay or frustrate the enforcement of the return decision”. Neither the detention order nor the Asylum Service recommendation are properly justified, as they merely repeat part of the relevant legal provision, while no objective criteria or reasonable grounds are invoked or at least deduced from individual circumstances. It should be noted that, as stated before, since a number of persons are immediately detained upon arrival under the “pilot project” / “low-profile scheme”, it is clear that these asylum seekers have not “already had the opportunity to access the asylum procedure” while at liberty, as required by the law.

## **1.2. Detention without legal basis or *de facto* detention**

Apart from detention of asylum seekers under IPA and pre-removal detention under L 3386/2005 and L

<sup>931</sup> Administrative Court of Athens, Decision AP 1294/2020

<sup>932</sup> Council of Europe's anti-torture Committee calls on Greece to reform its immigration detention system and stop pushbacks, available at: <https://bit.ly/2SIIm255>

<sup>933</sup> GCR, 2018 *Detention Report*, available at: <https://bit.ly/2vrq> and Ombudsman, *Return of third-country nationals etc.*, *idem*.

<sup>934</sup> Directorate of the Hellenic Police no 1604/16/1195968/18-6-2016, “Διαχείριση παράτυπων αλλοδαπών στα Κέντρα Υποδοχής και Ταυτοποίησης, διαδικασίες Ασύλου, υλοποίηση Κοινής Δήλωσης ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 (πραγματοποίηση επανεισδοχών στην Τουρκία)”, available in Greek at: <http://bit.ly/2nglEj6>.



3907/2011, detention without legal basis in national law or *de facto* detention measures are being applied for immigration purposes. These cases include the following:

### 1.2.1. Detention pending transfer to RIC

According to 39(1) IPA, newly arrived persons “shall be directly led, under the responsibility of the police or port authorities ... to a Reception and Identification Centre.” However and due to the limited capacity of Fylakio RIC, and depending on the number of the flows through the Greek-Turkish land border in **Evros**, delays occur in the transfer of the newly arrived to the RIC of Fylakio, and they remain in detention while awaiting their transfer ranging from a few days to periods exceeding one month. This detention has no legal basis. As UNHCR describes, “new arrivals, including families and children, once detected and apprehended by the authorities may be firstly transferred to a border guard police station or the pre-removal centre in Fylakio, adjacent to the RIC, where they remain in detention (so called ‘pre-RIC detention’) pending their transfer to the RIC Fylakio. Prolonged ‘pre-RIC detention’ has occurred in instances where new arrivals surpassed the accommodation capacity of RIC Fylakio”.<sup>935</sup>

### 1.2.2. *De facto* detention in RIC

Newly arrived persons transferred to a RIC are subject to a 5-day “restriction of liberty within the premises of the Reception and Identification Centres” (*περιορισμός της ελευθερίας εντός του κέντρου*), which can be further extended by a maximum of 25 days if reception and identification procedures have not been completed.<sup>936</sup> This restriction of freedom entails “the prohibition to leave the Centre and the obligation to remain in it.”<sup>937</sup> Taking into consideration the fact that according to the law the persons should remain restricted within the premises of the RIC and are not allowed to leave, the measure provided by Article 39 (4) L 4636/2019, is a *de facto* detention measure, even if it is not classified as such under Greek law. No legal remedy is provided in national law to challenge this “restriction of freedom” measure during the initial 5-day period.<sup>938</sup> Furthermore, the initial measure is imposed automatically, as the law does not foresee an obligation to carry out an individual assessment. This measure is also applied to asylum seekers who may remain in the premises of RIC for a total period of 25 days even after lodging an application.

In practice, following criticism by national and international organisations and bodies, as well as due to the limited capacity to maintain and run closed facilities on the islands with high numbers of people,<sup>939</sup> the “restriction of freedom” within the RIC premises is not applied as a *de facto* detention measure in RIC facilities on the islands. There, newly arrived persons are allowed to exit the RIC facility. As noted by UNHCR “[t]he only RIC which continues to operate as a closed facility, is the one in the land Evros region (Fylakio). Persons undergoing reception and identification procedures at the RIC of Fylakio are under restriction of liberty which cannot last more than 25 days. Asylum-seekers are released either directly from the Police after having registered their will to seek asylum or from the RIC, upon the completion of reception and identification procedures and the registration of their asylum claim, unless special grounds apply for their continued detention, as prescribed by law”<sup>940</sup>. As of 31 December 2020, a number of 259 newly arrived persons remained in Fylakio RIC, with a nominal capacity of 282 persons under a *de facto*

<sup>935</sup> UNHCR, “Recommendations by the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the execution of judgments by the European Court of Human Rights (ECtHR) in the cases of *M.S.S. v. Belgium and Greece* (Application No. 30696/09, Grand Chamber judgment of 21 January 2011) and of *Rahimi v. Greece* (Application No. 8687/08, Chamber judgment of 05 April 2011)”, 15 May 2019, page 4.

<sup>936</sup> Article 39 (4)(a) IPA provides for a 5 day initial restriction of liberty, which can be extended for further 25 days.  
<sup>937</sup> *Ibid.*

<sup>938</sup> Article 39(4)(b) L 4636/2019

<sup>939</sup> UNHCR, *Explanatory Memorandum to UNHCR’s Submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, 10.

<sup>940</sup> UNHCR, “Recommendations by the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the execution of judgments by the European Court of Human Rights (ECtHR) in the cases of *M.S.S. v. Belgium and Greece* (Application No. 30696/09, Grand Chamber judgment of 21 January 2011) and of *Rahimi v. Greece* (Application No. 8687/08, Chamber judgment of 05 April 2011)”, 15 May 2019, page 4.

detention regime.<sup>941</sup>

### 1.2.3. *De facto* detention in transit zones

A regime of *de facto* detention also applies for persons entering the Greek territory from the **Athens International Airport** – usually through a transit flight – without a valid entry authorisation. These persons receive an entry ban to the Greek territory and are then arrested and held in order to be returned on the next available flight. Persons temporarily held while waiting for their departure are not systematically recorded in a register.<sup>942</sup> In case the person expresses the intention to apply for asylum, then the person is detained at the holding facility of the Police Directorate of the Athens Airport, next to the airport building, and after the full registration the application is examined under the **Border Procedure**. As provided by the law, where no decision is taken within 28 days, the person is allowed to enter the Greek territory for the application to be examined according to the **Regular Procedure**.<sup>943</sup>

However, despite the fact that national legislation provides that rights and guarantees provided by national legislation *inter alia* on the detention of asylum seekers should also be enjoyed by applicants who submit an application in a transit zone or at an airport,<sup>944</sup> no detention decision is issued for those applicants who submit an application after entering the country from the Athens International Airport without a valid entry authorisation. These persons remain *de facto* detained at the Athens Airport Police Directorate for a period up to 28 days from the full registration of the application.

### 1.2.4. Detention in the case of alleged push backs

As mentioned in **Access to the Territory**, throughout 2020, cases of alleged pushbacks at the Greek-Turkish land border have continued to be systematically reported. As it emerges from these allegations, there is a pattern of *de facto* detention of third-country nationals entering the Evros land border before allegedly being pushed back to Turkey. In particular, as reported, newly arrived persons are arbitrarily arrested without being formally registered and then *de facto* detained in police stations close to the borders. CPT's delegation during the 2020 visit in Greece received consistent and credible allegations obtained through individual interviews in different places of detention of foreign nationals being detained, having their belongings confiscated and subsequently being pushed back across the Evros River border to Turkey. A few of the persons met during the March 2020 visit alleged that they had initially been detained with other migrants, including families, who had subsequently been sent back across the river to Turkey. The evidence supporting the case that migrants are pushed back across the Evros River to Turkey after having been detained for a number of hours, without benefiting from any of the fundamental guarantees, by Greek officers operating in an official capacity is credible<sup>945</sup>.

Similar allegations were included in a report published in March 2020 claiming that the Greek government is detaining migrants incommunicado at a secret extrajudicial location before expelling them to Turkey without due process.<sup>946</sup> In June 2020, UNHCR urged Greece to investigate multiple reports of pushbacks by Greek authorities at the country's sea and land borders, possibly returning migrants and asylum seekers to Turkey after they had reached Greek territory or territorial waters.<sup>947</sup> Following numerous

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<sup>941</sup> Information provided by RIS, 26 February 2021.

<sup>942</sup> CPT, *Report to the Greek Government on the visits to Greece carried out by CPT*, CPT/Inf (2017) 25, 26 September 2017, available at: <http://bit.ly/2Fktu5U>, para 59.

<sup>943</sup> Article 90(2) L 4636/2019

<sup>944</sup> Article 90(1) L 4636/2019

<sup>945</sup> Council of Europe's anti-torture Committee calls on Greece to reform its immigration detention system and stop pushbacks, 19 November 2020, available at: <https://bit.ly/3vDEEMa>.

<sup>946</sup> NYT, 'We Are Like Animals': Inside Greece's Secret Site for Migrants, 10 March 2020, available at: <https://nyti.ms/3nU34yr>.

<sup>947</sup> UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey, 12 June 2020, available at: <https://bit.ly/3eSwfXC>.

relevant reports, Greek Civil society organizations submitted a detailed report on the practice of Pushbacks in Greece to the UN Special Rapporteur.<sup>948</sup>

### 1.2.5. Detention of recognized refugees

Despite the fact that detention of recognized refugees is nowhere prescribed within the relevant legislation, the authorities systematically detain beneficiaries of international protection on public order grounds. More precisely, the Police asks from the Asylum Service to revoke the status of international protection provided to persons facing criminal charges, regardless the nature and the stage of the attributed crime. Thus, recognized refugees and beneficiaries of subsidiary protection remain arbitrarily detained until the Asylum Service finally replies to the Police if there are grounds to examine the revocation of the status of international protection previously provided to them.

In a case supported by GCR, the Administrative Court of Piraeus accepted objections against the detention of a recognized refugee claiming that since there is no final judgment of the Asylum Service, which by law remains the responsible authority, the person is still enjoying the rights deriving from his refugee status.<sup>949</sup> In another case supported by GCR, the same Court ruled that until there is a final decision regarding the revocation of the person's protection status he cannot be removed from the country. Moreover, the Court noted that it should also be considered that the competent criminal court decided to suspend the criminal penalty.<sup>950</sup> Further on, in another decision the Administrative Court of Piraeus asserted that refugees are fully protected from removal, which can be permitted only under certain provision prescribed by the law.<sup>951</sup>

In a Press Release published in December 2020, GCR asked the authorities to end the illegal practice of administrative detention of beneficiaries of international protection and highlighted that an appeal was submitted in front of the ECtHR regarding a case of a recognized refugee who remained detained for a period of four months according to the aforementioned practice.<sup>952</sup>

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?  
☒ Reporting duties  
☒ Surrendering documents  
☒ Financial guarantee  
☒ Residence restrictions
2. Are alternatives to detention used in practice?  
☐ Yes ☒ No

Articles 46(2) and 46 (3) IPA require authorities to examine and apply alternatives to detention before resorting to detention of an asylum seeker. A non-exhaustive list of alternatives to detention provided by national legislation, both for third-country nationals under removal procedures and asylum seekers, is mentioned in Article 22(3) L 3907/2011. Regular reporting to the authorities and an obligation to reside at a specific area are included on this list. The possibility of a financial guarantee as an alternative to detention is also foreseen in the law, provided that a Joint Decision of the Minister of Finance and the Minister of Public Order will be issued with regard to the determination of the amount of such financial

<sup>948</sup> Arsis, Greek Council For Refugees, Hellenic League For Human Rights, Hias Greece, Human Rights 360, Refugee Support Aegean, Joint Statement on push backs practises in Greece, 1 February 2021, <https://bit.ly/3cZZ23v>.

<sup>949</sup> Administrative Court of Piraeus Decision AP488/2020

<sup>950</sup> Administrative Court of Piraeus Decision AP506/2020

<sup>951</sup> Administrative Court of Piraeus Decision AP628/2020

<sup>952</sup> GCR, Να τερματιστεί άμεσα η παράνομη πρακτική της κράτησης αναγνωρισμένων προσφύγων , available in Greek at: <https://bit.ly/3tOCVj0>

guarantee.<sup>953</sup> However, such a Joint Ministerial Decision is still pending since 2011. In any event, alternatives to detention are systematically neither examined nor applied in practice. As noted by UNHCR in May 2019 “there is no consideration of alternative measures to detention”.<sup>954</sup>

IPA repealed the condition of a prior recommendation on the continuation or termination of detention from the Asylum Service (article 46(4) IPA) requiring solely the notification (‘ενημέρωση’) from the Asylum Service. Under the previous legislation said condition was provided. However, when issuing recommendations on the continuation or termination of detention of an asylum seeker,<sup>955</sup> the Asylum Service tended to use standardised recommendations, stating that detention should be prolonged “if it is judged that alternative measures may not apply”. Thus, the Asylum Service did not proceed to any assessment and it was up to the Police to decide on the implementation of alternatives to detention.

### The geographical restriction on the islands

As regards the “geographical restriction” on the islands, i.e. the obligation to remain on the island of arrival, imposed systematically to newly arrived persons subject to the EU-Turkey statement (see [General](#)), after the initial issuance of a detention order, the legal nature of the measure has to be assessed by taking into account the “concrete situation” of the persons and “a whole range of criteria such as the type, duration, effects and manner of implementation of the measure.”<sup>956</sup> In any event, it should be mentioned that the measure is:

- (a) Not examined and applied before ordering detention;<sup>957</sup>
- (b) Not limited to cases where a detention ground exists;<sup>958</sup>
- (c) Applied indiscriminately, without a proportionality test, for an indefinite period (without a maximum time limit to be provided by law) and without an effective legal remedy to be in place.

As it has been observed, a national practice systematically imposing an alternative to detention “would suggest that the system is arbitrary and not tailored to the individual circumstances” of the persons concerned.<sup>959</sup>

Non-compliance with the geographical restriction leads to the re-detention of persons arrested outside their assigned island with a view to be transferred back. Persons returned either remain detained or, if released, often face harsh living conditions due to overcrowded reception facilities on the islands.

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<sup>953</sup> Article 22(3) L 3907/2011.

<sup>954</sup> UNHCR, “Recommendations by the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the execution of judgments by the European Court of Human Rights (ECtHR) in the cases of *M.S.S. v. Belgium and Greece* (Application No. 30696/09, Grand Chamber judgment of 21 January 2011) and of *Rahimi v. Greece* (Application No. 8687/08, Chamber judgment of 05 April 2011)”, 15 May 2019, page 5.

<sup>955</sup> Article 46(3) L 4375/2016.

<sup>956</sup> See *inter alia* ECtHR, *Guzzardi v. Italy*, Application No 7367/76, Judgment of 6 November 1980, para 92-93.

<sup>957</sup> UN Commission on Human Rights, *Report of the Working Group on Arbitrary Detention. Addendum: report on the visit of the Working Group to the United Kingdom on the issue of immigrants and asylum seekers*, 18 December 1998, E/CN.4/1999/63/Add.3, available at: <http://bit.ly/2kFs5LN>, para 33: “Alternative and non-custodial measures, such as reporting requirements, should always be considered before resorting to detention”.

<sup>958</sup> FRA, *Fundamental rights: challenges and achievements in 2012*, available at: <http://bit.ly/2EHr0k7>, 52.

<sup>959</sup> UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://bit.ly/2mJk3Uh>, 43.

### 3. Detention of vulnerable applicants

#### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?  
☒ Frequently ☐ Rarely ☐ Never  
  
❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
2. Are asylum seeking children in families detained in practice?  
☒ Frequently ☐ Rarely ☐ Never

National legislation provides a number of guarantees with regard to the detention of vulnerable persons, yet does not prohibit their detention. According to Article 48 IPA women should be detained separately from men<sup>960</sup>, the privacy of families in detention should be duly respected<sup>961</sup>, and the detention of minors should be a last resort measure and be carried out separately from adults<sup>962</sup>. Moreover, according to the law, “the vulnerability of applicants... shall be taken into account when deciding to detain or to prolong detention.”<sup>963</sup>

More generally, Greek authorities have the positive obligation to provide special care to applicants belonging to vulnerable groups (see [Special Reception Needs](#)).<sup>964</sup> However, persons belonging to vulnerable groups are detained in practice, without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order. In 2020, GCR has supported various cases of vulnerable persons in detention whose vulnerability had not been taken into account.

These include:

- ❖ A citizen from Iraq suffering from a serious autoimmune disease. He was hospitalized several times during detention. According to the medical documents he was at risk of dying if remained in detention. He was detained in the PRDC of Amygdaleza for nine months in order to be returned to the island of Chios. He was released after GCR submitted an application of revocation of the previous negative decision on objections against detention by the Administrative Court of Athens.
- ❖ A woman, asylum seeker originating from the Democratic Republic of Congo, victim of sexual violence both in Chios and in her country of origin, was detained in PRDC of Amygdaleza for three months with a view of return to the island of Chios “due to violation of the geographical restriction”. Following a suicide attempt made while in detention she was hospitalised and then released.
- ❖ A female detainee from the Democratic Republic of Congo, victim of trafficking and sexual abuse, was detained in Amygdaleza PRDC for a total period of three months and was released after being hospitalised following a suicide attempt.<sup>965</sup>
- ❖ A Yezidi asylum seeker of Iraqi nationality, victim of torture, who remained in detention for a total period of six months in a police station.

In a Press Release issued in November 2020 GCR asked the authorities to avoid administrative detention of vulnerable applicants following suicide attempts from detained women.<sup>966</sup>

<sup>960</sup> Article 48(4) IPA.

<sup>961</sup> Article 48(3) IPA.

<sup>962</sup> Article 48(2) IPA.

<sup>963</sup> Article 48(1) IPA.

<sup>964</sup> Article 60 L 4636/2019

<sup>965</sup> Τα Μωβ, Σε απόγνωση οι κρατούμενες στην Αμυγδαλέζα: η μία απόπειρα αυτοκτονίας μετά την άλλη, 29 October 2020, available in Greek at : <https://bit.ly/2Q7MGNO>

<sup>966</sup> GCR Press Release, Άμεση λήψη μέτρων για την αποφυγή της διοικητικής κράτησης ευάλωτων ομάδων μετά από απόπειρες αυτοκτονίας διοικητικά κρατουμένων γυναικών, 5 November 2020, available in Greek at: <https://bit.ly/2OAlfMh>



Further on, victims of torture have been placed in detention on the islands. In the case *M.A. v. Greece*, the person was kept in the RIC of Moria for one more month and was subsequently placed in detention, on the basis that his asylum claim had been rejected at second instance, despite an order of interim measures set by the ECtHR on 6 May 2020 to guarantee the applicant living conditions compliant with Article 3 ECHR, “having regard to his state of health and to provide the applicant with adequate healthcare compatible with his state of health.”<sup>967</sup>

### 3.1. Detention of unaccompanied children

In the field of detention of unaccompanied and separated children, there has been significant progress in the Greek legislation despite the fact that the former continued to be detained (either in administrative detention or in “protective custody”) during 2020.

In February 2019, the ECtHR found that the automatic placement of unaccompanied asylum-seeking children under protective custody in police facilities, without taking into consideration the best interests of the child, violated Article 5(1) ECHR.<sup>968</sup> Furthermore, during 2019, both the European Court of Human Rights and the European Committee of Social Rights has ordered the Greek authorities to immediately halt the detention of unaccompanied children and transfer them in reception facilities and in conditions in line with Art. 3 ECHR.<sup>969</sup>

Moreover, in 2020, the ECtHR addressed several questions to the Greek Government<sup>970</sup>, following several applications under Rule 39 (Interim Measures) and appeals lodged before the ECtHR. These concerned *inter alia* the case of 11 unaccompanied children in administrative detention or “protective custody” in Amygdaleza PRDC and police stations for periods between one and more than six months<sup>971</sup>, and the case of two unaccompanied children detained in Fylakio RIC.<sup>972</sup>

The Working Group on Arbitrary Detention in July 2020 <sup>973</sup> “confirmed the existing substantial burden on shelter facilities, which resulted in many unaccompanied children being held in protective custody, in unacceptable conditions, in facilities that were not appropriate for the detention of children, such as police stations and pre-removal facilities on the mainland. Although officials appeared to be providing the best support available in the circumstances, the Working Group noted that some children were held for prolonged periods, of more than two months, in conditions similar to those of criminal detention, especially in police stations. These children were held with adults, in dark cells, with no access to recreational or educational activities, and no information on what would happen to them, which appeared contrary to article 37 (c) of the Convention on the Rights of the Child. There is no maximum time limit on the period for which a child may be held in protective custody. Furthermore, the Working Group was informed that the Public Prosecutor, as the authority responsible for the care and security of the children under protective custody, did not visit the children in the detention facilities.”

In the aftermath of the aforementioned developments, L. 4760/2020<sup>974</sup> entered into force on 11 December 2020. It abolished the possibility of keeping unaccompanied children in protective police custody only on the basis that they have no residence, as part of an overall reform by the Greek authorities to improve

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<sup>967</sup> ECtHR, *M.A. v. Greece*, App No 18179/20, Order of 6 May 2020: Information provided by RSA, 4 January 2021.

<sup>968</sup> ECtHR, *H.A. and others v. Greece*, Application No 19951/16, Judgment of 28 February 2019, EDAL, available at: <https://bit.ly/2FCoVFP>.

<sup>969</sup> See also AIDA Country Report on Greece, 2019 Update, p. 195-196.

<sup>970</sup> Available at: <https://bit.ly/3uAFfh9>

<sup>971</sup> Application No 619803/20 *M.A. et autres c. Grèce*, pending case supported by GCR.

<sup>972</sup> Application No 6184/20, *H.M and R.M v. Greece*.

<sup>973</sup> Human Rights Council, Visit to Greece. Report of the Working Group on Arbitrary Detention, *Idem*, para. 68-69.

<sup>974</sup> Gov. Gazette A' 247/11-12-2020, L. 4760/2020.



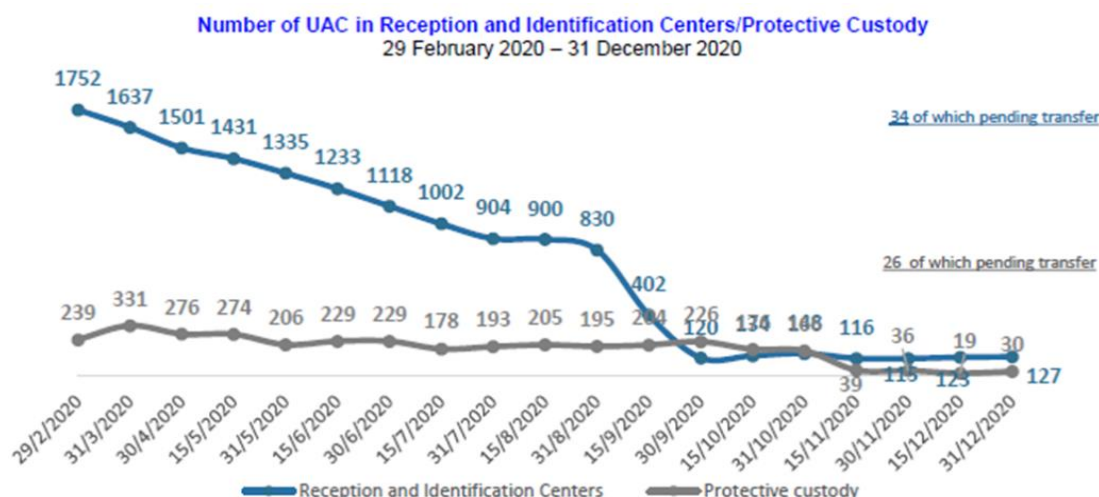
living conditions of unaccompanied children in Greece. Other legal provisions that allow the detention of unaccompanied children are still in force<sup>975</sup>.

Additionally, 553 unaccompanied children were relocated in 2020 to other EU countries<sup>976</sup>.

According to the statistics of the National Center for Social Solidarity<sup>977</sup>, on 31 December 2020, 127 UASCs were present at the RICs across the country, 382 at Safe Zones and 30 under “protective custody”. 924 UAC (28 of which pending transfer) were living in informal/insecure housing conditions such as living temporarily in apartments with others, living in squats, being homeless and moving frequently between different types of accommodation. Out of 3,103 unaccompanied children in Greece at the end of 2020, 157 were on a waiting list for long term or temporary accommodation, 127 were staying in RICs and 30 were in “protective custody”.

The number of unaccompanied children detained on the mainland (“protective custody”) and on the islands (Reception and Identification Centers) between February 2020 and December 2020 has evolved as follows:

#### Number of UAC in Reception and Identification Centers/Protective Custody<sup>978</sup>



According to the Directorate of the Hellenic Police<sup>979</sup> the number of the detained unaccompanied children (“protective custody”) decreased in 2020 due to new accommodation facilities and the actions of the Special Secretariat for the Protection of Unaccompanied Minors:

- ❖ End of April 2020: 264 children were in “protective custody”
- ❖ End of June 2020: 225
- ❖ End of September 2020: 212
- ❖ End of October: 132
- ❖ 31 December 2020: 33

As mentioned above, in 2020, 612 unaccompanied children remained in administrative detention in PRDCs countrywide. At the end of 2020, the total number of unaccompanied children in administrative

<sup>975</sup> Article 48(2) IPA, article 118 of the Presidential Decree 141/1991 regarding “protective custody” of unaccompanied minors, L.3907/2011.

<sup>976</sup> European Commission, Migration and Home Affairs statement on Thursday, 17 December, 2020, available at: <https://bit.ly/3dQd1YN>

<sup>977</sup> EKKA, Situation Update: Unaccompanied Children in Greece, 31 December 2020, available at: <https://bit.ly/2PZYAcH>

<sup>978</sup> *Ibid.*

<sup>979</sup> Information provided the Directorate of the Hellenic Police, 11 February 2021

detention in pre-removal detention centers countrywide was 16 (only in PRDC of Amygdaleza) and the number of unaccompanied children in administrative detention in police stations and other detention facilities around Greece was 18<sup>980</sup>.

As Council of Europe's anti-torture Committee (CPT) reports "At Feres Police and Border Guard Station, on the day of the visit, there were 18 detainees, including one woman with her brother and three unaccompanied minors, two born in 2003 and one in 2005. The detainees were all held on administrative charges and for periods of four to eleven days". Additionally, "at the time of the March 2020 visit, the RIC was holding 253 persons, of whom 161 were unaccompanied minors [...] Unaccompanied minors could be held for six months or more".<sup>981</sup>

The newly established Special Secretariat for the Protection of Unaccompanied Minors<sup>982</sup> acts towards the immediate referral of all UAMs from the RICs and police stations, to appropriate accommodation facilities for minors. According to the Special Secretariat for the Protection of Unaccompanied Minors, in December 2020 the average waiting time for the placement («τοποθέτηση») of an unaccompanied minor to an accommodation facility was 9.2 days, for UAMs in "protective custody" or in Evros/Fylakio RIC was 6.4 days and for UAMs residing at the RICs of the Eastern Aegean Islands was 11.2 days. More precisely, for UAMs in "protective custody" the average waiting time was 1.9 days, which constitutes a great development<sup>983</sup>. According to the Special Secretariat for the Protection of Unaccompanied Minors, "that is the soonest possible, given the identification and the medical examinations required before the transfer of the child to an accommodation facility."<sup>984</sup>

The abolishment of protective custody for unaccompanied children at police stations after 21 years of practice<sup>985</sup> is undeniably a positive development aiming to ensure UASCs' best interest. However, the development and establishment of a national tracing and protection mechanism<sup>986</sup>, as an alternative to protective custody aiming at establishing a safety net in the absence of care arrangements, is still pending.

### Detention following wrong age assessment

As mentioned above ([Guarantees for vulnerable groups](#)), until August 2020, two Ministerial Decisions were providing for the age assessment procedure of unaccompanied children:

- ❖ Ministerial Decision 92490/2013 laid down the age assessment procedure in the context of reception and identification procedures and
- ❖ Joint Ministerial Decision 1982/2016 provided for an age assessment procedure for persons seeking international protection before the Asylum Service,<sup>987</sup> as well as persons whose case was still pending before the authorities of the "old procedure".<sup>988</sup>

On 13 August 2020 the Joint Ministerial Decision 9889/2020 entered into force.<sup>989</sup> It sets out a common age assessment procedure both in the context of reception and identification procedures and the asylum

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<sup>980</sup> *Ibid.*

<sup>981</sup> Council of Europe's anti-torture Committee (CPT) report, 19/11/2020 (ad hoc visit to Greece from 13 to 17 March 2020), p.18-19, available at: <https://bit.ly/31ZanL0>

<sup>982</sup> "The Special Secretariat for the Protection of Unaccompanied Minors was established with paragraph 3 of the first article of the Presidential Degree 18/2020. It operates according to Articles 35 and 42 of the Law 4622/2019 and reports directly to the Minister of Migration and Asylum", available at: <https://bit.ly/3fMN5jn>

<sup>983</sup> Information provided by the Special Secretariat for the Protection of Unaccompanied Minors, 28 January 2021

<sup>984</sup> *Ibid.*

<sup>985</sup> UNHCR Fact Sheet, Greece, 1-31 December 2020, Greece officially abolished the practice of placing unaccompanied children in protective custody. UNHCR welcomes the milestone policy change and works with the State to establish a protection safety net, available at: <https://bit.ly/3wKxOG8>

<sup>986</sup> UNHCR factsheet, Page 3, Dec. 2020

<sup>987</sup> Joint Ministerial Decision 1982/2016, Gov. Gazette B'335/16-2-2016.

<sup>988</sup> Article 22(A)11 JMD 1982/2016, citing Article 34(1) PD 113/2013 and Article 12(4) PD 114/2010

<sup>989</sup> Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020

procedure. However, the scope of the JMD 9889/2020, as was the case with the previous ones, does not extend to age assessment of unaccompanied children under the responsibility of the Hellenic Police. In practice, children under the responsibility of police authorities are as a rule deprived of any age assessment guarantees set out in the relevant Ministerial Decision, and systematically undergo medical examinations consisting of left-hand X-ray, panoramic dental X-ray and dental examination in case their age is disputed. In addition to the limited reliability and highly invasive nature of the method used, it should be noted that no remedy is in place to challenge the outcome of that procedure.

As the noted by The Working Group on Arbitrary Detention<sup>990</sup> “these provisions are not being applied in practice. At present, the police reportedly rely primarily on X-ray and dental examinations under the third step of the age-assessment procedure. Persons claiming to be children are not generally represented or informed of their rights in a language that they understand during the assessment. [...] Minors are thus being detained unnecessarily owing to inaccurate assessment procedures, and are treated as and detained with adults. The Working Group recommends that the authorities consistently apply the guarantees outlined above, particularly the presumption that a person is a child unless the contrary can be proven. The Working Group reiterates the Greek Ombudsman’s call to the Government in 2018 to put a complete end to all administrative detention of migrants under the age of 18 years.”

A number of cases of unaccompanied children detained as adults have been identified by GCR during 2020. In a case supported by GCR<sup>991</sup>, a 16 year old unaccompanied boy from Afghanistan, who was initially referred to EKKA and whose placement in an accommodation facility was pending, was arrested and detained in Amygdaleza PRDC as an adult for more than 4 months.

### 3.2. Detention of families

Despite the constant case law of the ECtHR with regard to the detention of families in the context of migration control,<sup>992</sup> families with children are in practice detained. In 2020, that was in particular the case for families with children who, due to the lack of reception capacity, were living in occupied buildings and squats and have been arrested during police evacuation operations. Among others, throughout 2020, GCR has supported cases of single-parent families, families with minor children or families where one member remained detained. For instance, in a case of a family originating from Iran whom remained detained in the PRDC of Amygdaleza the Administrative Court of Athens accepted objections against the detention of the family considering respect for family life and the best interest of the children.<sup>993</sup>

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<sup>990</sup> Human Rights Council, Visit to Greece. Report of the Working Group on Arbitrary Detention, A/HRC/45/16/Add.1, 29 July 2020, available at: <https://bit.ly/3dPiHSX> , para. 74 &76

<sup>991</sup> GCR document 625/2020.

<sup>992</sup> See for example ECtHR, *Mahmundi and Others v. Greece*, Application No 14902/10, Judgment of 31 July 2012.

<sup>993</sup> Administrative Court of Athens, AP818/2020.

## 4. Duration of detention

### Indicators: Duration of Detention

- |  |            |
|--|------------|
| 1. What is the maximum detention period set in the law (incl. extensions): |            |
| ❖ Asylum detention   | 18 months  |
| ❖ Pre-removal detention  | 18 months  |
| ❖ "Protective custody"   | None       |
| 2. In practice, how long in average are asylum seekers detained?           | 3-6 months |

### 4.1. Duration of asylum detention

IPA has laid down an initial 50-day duration for asylum detention, which can be further prolonged with 50-days, with a maximum up to 18 months, notwithstanding previous periods spent in pre-removal detention.<sup>994</sup>

In practice, the time limit of detention is considered to start running from the moment an asylum application is formally lodged with the competent Regional Asylum Office or Asylum Unit rather than the moment the person is detained. As delays are reported systematically in relation to the registration of asylum applications from detention, i.e. from the time that the detainee expresses the will to apply for asylum up to the registration of the application (see [Registration](#)), the period that asylum seekers spent in detention was *de facto* longer.

Beyond setting out maximum time limits, the law has provided further guarantees with regard to the detention period. Thus detention "shall be imposed for the minimum necessary period of time" and "delays in administrative procedures that cannot be attributed to the applicant shall not justify the prolongation of detention."<sup>995</sup> Moreover, as the law provides "the detention of an applicant constitutes a reason for the acceleration of the asylum procedure, taking into account possible shortages in adequate premises and the difficulties in ensuring decent living conditions for detainees". However, GCR has documented cases where the procedure was not carried out with due diligence and detention was prolonged precisely because of the delays of the administration, especially after the outbreak of COVID-19.

Finally, it should be mentioned that time limits governing the detention of asylum seekers differ from those provided for the detention of third-country nationals in view of removal. In relation to pre-removal detention, national legislation transposing the Returns Directive provides a maximum detention period that cannot exceed 6 months,<sup>996</sup> with the possibility of an exceptional extension not exceeding twelve months, in cases of lack of cooperation by the third-country national concerned, or delays in obtaining the necessary documentation from third countries.<sup>997</sup>

### 4.2. Duration of the detention of unaccompanied children

Unaccompanied children in 2020 were detained either on the basis of the pre-removal or asylum detention provisions. In the latter case, unaccompanied asylum seeking children are detained "for the safe referral to appropriate accommodation facilities" for a period not exceeding 25 days<sup>998</sup>. Before the amendment of IPA by L.4686/2020, according to Article 48(2) in case of exceptional circumstances, such as the significant increase in arrivals of unaccompanied minors, and despite the reasonable efforts by competent authorities, it is not possible to provide for their safe referral to appropriate accommodation facilities, detention may be prolonged for a further 20 days. This provision was abolished by Article 61 L4686/2020. Finally, as reported above, until the entry into force of L.4760/2020, namely until 11 December 2020,

<sup>994</sup> Article 46(5)(b) IPA.

<sup>995</sup> Article 46(5)(a) IPA.

<sup>996</sup> Article 30(5) L 3907/2011.

<sup>997</sup> Article 30(6) L 3907/2011.

<sup>998</sup> Article 48(2) IPA.

unaccompanied children could still be detained on the basis of the provisions concerning “protective custody”.<sup>999</sup> The latter was subject to no maximum time limit. On average, unaccompanied children remained for prolonged periods, exceeding one month or months, in pre-removal facilities and police stations. GCR is aware of cases of UAMs remaining in detention for more than a month until mid 2020.

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

#### 1.1. Pre-removal detention centres

According to Article 47(1) L 4636/2019, asylum seekers are detained in detention areas as provided in Article 31 L 3907/2011, which refers to pre-removal detention centres established in accordance with the provisions of the Returns Directive. Therefore asylum seekers are also detained in pre-removal detention centres together with third-country nationals under removal procedures. Despite the fact that pre-removal detention centres have been operating since 2012, they were officially established through Joint Ministerial Decisions in January 2015.<sup>1000</sup>

Six pre-removal detention centres were active at the end of 2020. The PRDC of Lesvos, has temporarily suspended its operation due to extended damages following the widespread fire of September 2020. Also, the PRDC of Orestiada has also suspended its operation due to renovation works. The total pre-removal detention capacity is 4,599 places. A ninth pre-removal centre has been legally established on **Samos** but was not yet operational as of March 2021. According to information provided to GCR by the Hellenic Police, the capacity of the pre-removal detention facilities is as follows:

Capacity of pre-removal detention centres <sup>1001</sup>			
Centre	Region	Establishing act	Capacity
Amygdaleza	Attica	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	922
Tavros (Petrrou Ralli)	Attica	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	270
Corinth	Peloponnese	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	960
Paranesti, Drama	Thrace	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	500
Xanthi	Thrace	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	200
Fylakio, Orestiada	Thrace	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015 (suspension of operation)	0
Lesvos	Eastern	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015;	0

<sup>999</sup> Article 118 PD 141/1991.

<sup>1000</sup> Joint Ministerial Decision 8038/23/22-ιγ on the creation and functioning of Pre-removal Centres of Detention of Foreigners, and their regulations, Gov. Gazette 118/B/21-1-2015, available at: <http://bit.ly/2kTWzKX>.

<sup>1001</sup> According to the information provided by the Directorate of Hellenic Police, 11 February 2021.

	Aegean	JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015 (suspension of operation)	
<b>Kos</b>	Dodecanese	JMD 8038/23/22-ξε, Gov. Gazette B' 332/7.2.2017; JMD 8038/23/22-οε', Gov. Gazette B' 4617/28.12.2017	474
<b>Samos</b>	Eastern Aegean	JMD 3406/2017, Gov. Gazette B' 2190/27.6.2017 (not yet operational)	0
<b>Total</b>			<b>3,326</b>

The functioning of these pre-removal facilities has been prolonged until 31 December 2022 under a Joint Ministerial Decision issued at the end of 2018.<sup>1002</sup> According to this Decision, the estimated budget for the functioning of the pre-removal detention centres is €80,799,488.

## 1.2. Closed reception centres

According to IPA, the Manager of the RIC refers the third country nationals against whom a detention order has been issued to the Closed Reception Centers ("Κλειστά Κέντρα Υποδοχής")<sup>1003</sup>. Also, as mentioned above, L. 4686/2020 introduced a new type of "closed" facility. Article 30(4) L. 4686/2020 amending article 8(4) L.4375/2016 foresees the establishment of the so called "Closed Temporary Reception Facilities" for asylum seekers against whom a detention decision has been issued and the "Islands' Closed Controlled Facilities", for asylum seekers, persons under a removal procedure and persons under geographical limitation. The provision does not specify further information, such as the general operation of such centers, the reasons for placing third country nationals in such facilities, the possibility of and procedures for entry and exit, general conditions, the maximum period of stay etc and up to today such centers have not yet been established.<sup>1004</sup> Additionally, the law specifies that the "Closed Temporary Reception Facilities" are to be developed on the model of pre-removal detention centres, managed by the Police<sup>1005</sup>. It should also be noted that Article 47(1) L. 4636/2019 only refers to pre-removal centres as facilities in which asylum detention is implemented. No such facilities have been established as of the end of March 2021.

## 1.3. Police stations

Apart from the aforementioned pre-removal facilities, the law does not expressly rule out detention of asylum seekers in criminal detention facilities.<sup>1006</sup> Despite commitments from the Greek authorities to phase out detention in police stations and other holding facilities, third-country nationals including asylum seekers and unaccompanied children were also detained in police stations and special holding facilities during 2020. As confirmed by the Directorate of the Hellenic Police, there were 863 persons in administrative detention at the end of 2020 in facilities other than pre-removal centres, of whom 149 were asylum seekers.<sup>1007</sup>

As stated in [Grounds for Detention](#), detention is also *de facto* applied at the RIC of **Fylakio**.

<sup>1002</sup> Joint Ministerial Decision 8038/23/22-πζ/, Gov. Gazette B' 5906/31.12.2018.

<sup>1003</sup> Article 39(7)c IPA.

<sup>1004</sup> See *inter alia* UN High Commissioner for Refugees (UNHCR), UNHCR Comments on the Draft Law "Improvement of Migration Legislation, amendment of provisions of Laws 4636/2019 (A' 169), 4375/2016 (A' 51), 4251/2014 (A' 80) and other Provisions", 12 June 2020, available at: <https://bit.ly/39RD7tl>, p. 9.

<sup>1005</sup> Article 116(9) IPA

<sup>1006</sup> Article 46 IPA.

<sup>1007</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.



## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice? ☐ Yes ☒ Limited ☐ No  
❖ If yes, is it limited to emergency health care?<sup>1008</sup> ☒ Yes ☐ No

The law sets out certain special guarantees on detention conditions for asylum seekers. Notably, the authorities must make efforts to ensure that detainees have necessary medical care, and their right to legal representation should be guaranteed.<sup>1009</sup> In any event, according to the law, “difficulties in ensuring decent living conditions... shall be taken into account when deciding to detain or to prolong detention.”<sup>1010</sup>

However, as it has been consistently reported by a range of actors, that detention conditions for third-country nationals, including asylum seekers, do not meet the basic standards in Greece.

### 2.1. Conditions in pre-removal centres

#### 2.1.1. Physical conditions and activities

According to the law, detained asylum seekers shall have outdoor access.<sup>1011</sup> Women and men shall be detained separately,<sup>1012</sup> unaccompanied children shall be held separately from adults,<sup>1013</sup> and families shall be held together to ensure family unity.<sup>1014</sup> Moreover, the possibility to engage in leisure activities shall be granted to children.<sup>1015</sup>

GCR regularly visits the pre-removal facilities depending on needs and availability of resources. According to GCR findings, as corroborated by national and international bodies, conditions in pre-removal detention facilities vary to a great extent and in many cases fail to meet standards.

Overall detention conditions in pre-removal detention facilities (PRDFs) remain substandard, despite some good practices, which have been adopted in some pre-removal detention facilities (such as allowing detainees to use their mobile phones). Major concerns include a carceral, prison-like design, the lack of sufficient hygiene and non-food items, including clothes and shoes, clean mattresses and clean blankets, the lack of recreational activities, and overcrowding persisting in some facilities. The provision of medical services in PRDFs remains critical, as the available resources remain inadequate with respect to observed needs.<sup>1016</sup> The precise observations for each PRDF, included on the previous AIDA report, are still valid.<sup>1017</sup>

As noted by UNHCR in May 2019 “conditions and procedural safeguards continue to be problematic ... Some of the main deficiencies of concern to UNHCR include:[...] seriously substandard conditions of detention in the pre-removal centres, in particular in P. Ralli in Athens and Fylakio at Evros”.<sup>1018</sup>

<sup>1008</sup> Medical doctors, when available, are not daily present in all centres. However, in case of emergency, detainees are transferred to public hospitals.

<sup>1009</sup> Article 47 (7) IPA

<sup>1010</sup> Article 46(2) and 46(3) IPA

<sup>1011</sup> Article 44(3) IPA

<sup>1012</sup> Article 48(4) IPA

<sup>1013</sup> Article 48(2) IPA

<sup>1014</sup> Articles 48(3) IPA.

<sup>1015</sup> Article 48(2) IPA.

<sup>1016</sup> Global Detention Project/Greek Council for Refugees, Joint Submission to the Working Group on Arbitrary Detention in Preparation for its Mission to Greece in December 2019, October 2019, available at: <https://bit.ly/3cqZplk>.

<sup>1017</sup> AIDA, Report on Greece, Update on 2019, pp. 195-197.

<sup>1018</sup> UNHCR, “Recommendations by the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the execution of judgments by the European Court of Human Rights (ECtHR) in the cases of M.S.S. v. Belgium and Greece (Application No. 30696/09, Grand Chamber judgment of 21 January 2011) and of Rahimi v. Greece (Application No. 8687/08, Chamber judgment of 05 April 2011)”, 15 May 2019, page 6.

In June 2019, the Committee of Ministers of the Council of Europe, within the framework of the supervision of the execution of the M.S.S. and Rahimi group of judgments “invited the authorities to give effect to the recommendations made by the CPT and to improve the conditions in immigration detention facilities, including by providing adequate health-care services”.<sup>1019</sup>

In its 2019 Annual Report the Ombudsman identified, during the monitoring visits in pre-removal detention facilities the inadequate provision of health services (with an extreme example being Moria PRDF) and insufficient maintenance of the facilities (with an extreme example being PRDF in Xanthi)”, as an ongoing problem.<sup>1020</sup>

In March 2020, CPT acknowledged after its visit that regrettably, once again, far too many of the places being used to detain migrants offered conditions of detention which are an affront to human dignity.<sup>1021</sup>

According to GCR’s experience, through 2020 conditions remained the same, as noted by the above-mentioned sources.

### 2.1.2. Health care in detention

The law states that the authorities shall make efforts to guarantee access to health care for detained asylum seekers.<sup>1022</sup> Since 2017, the responsibility for the provision of medical services in pre-removal detention centres was transferred to the Ministry of Health, and in particular the Health Unit SA (*Ανώνυμη Εταιρεία Μονάδων Υγείας*, AEMY), a public limited company under the supervision of Ministry of Health.<sup>1023</sup>

However, substantial medical staff shortage has been observed in PRDFs already since the previous years. The CPT has long urged the Greek authorities to improve the provision of health-care services in all immigration detention facilities where persons are held for periods of more than a day or two. The general lack of medical screening upon arrival and of access to health care have been compounded by the severe shortage of resources, including staffing resources, and the complete lack of integrated management of health-care services; combined with the lack of hygiene and appalling detention conditions, the Committee considered that they even presented a public health risk.

In the light of the outbreak of COVID-19, the Greek Ombudsman asked from the competent authorities to provide further details regarding protection measures and relevant actions aiming to prevent the spread of corona virus in detention centers, following an intervention from GCR.

Official statistics demonstrate that the situation has not improved in 2020 and that pre-removal centres continue to face a substantial medical staff shortage. At the end of 2020, there were a mere nine doctors in total in the detention centres on the mainland (3 in **Amygdaleza**, 2 in **Tavros**, 1 in **Korinthos**, 2 in **Xanthi** and 1 in **Paranesti**). There was no doctor present in **Fylakio**, because the PRDC is out of order as it is mentioned under renovation. Moreover in Kos PRDC, i.e. where persons are detained *inter alia* in order to be subject to readmission within the framework of the EU-Turkey Statement, there was only one doctor.<sup>1024</sup>

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<sup>1019</sup> Committee of Ministers (1348 meeting (DH) June 2019 - H46-9), Decisions CM/Del/Dec(2019)1348, H46-9 6 June 2019, CM/Notes/1348/H46-9, available at: <https://bit.ly/2TD8qk5>.

<sup>1020</sup> Greek Ombudsman, *Annual Report 2019*, available at: <https://bit.ly/3fZEaZJ>, 144.

<sup>1021</sup> Council of Europe’s anti-torture Committee calls on Greece to reform its immigration detention system and stop pushbacks, available at: <https://bit.ly/39ZNL1h>. See also, CPT, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020, CPT/Inf (2020) 35, Strasbourg 19 November 2020, available at: <https://rm.coe.int/1680a06a86>.

<sup>1022</sup> Article 48 (1) IPA.

<sup>1023</sup> Article 47(1) IPA.

<sup>1024</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.

According to the official data, the coverage (in percentage) of the required staff in 2020 was as follows:

Provision of medical/health care	Provision of phycological care	Provision of social support services	Provision of interpretation services
Doctors: 55.56%	Physiatrists: 12.50%	Social workers: 78.57 %	Interpreters: 42.86%
Nurses: 65.68%	Phycologists: 84.62%		
Health visitors: 37.50%			
Administrators: 54.55%			

Source: Information provided by the Directorate of the Hellenic Police, 11 February 2021.

More precisely, at the end of 2020, the number of AEMY staff present on each pre-removal detention centre was as follows:

Category	Amygdal eza	Tavros	Corinth	Paranest i	Xanthi	Kos
Doctors	3	2	1	1	2	1
Psychiatrists	0	1	0	0	0	0
Nurses	4	6	5	5	5	2
Interpreters	4	4	2	0	1	1
Psychologists	3	2	3	2	0	1
Social workers	3	2	3	2	1	0
Health visitors	1	1	1	0	0	0
Administrators	1	1	1	0	1	1

Source: Information provided by the Directorate of the Hellenic Police, 11 February 2021.

## 2.2. Conditions in police stations and other facilities

In 2020, GCR visited more than 30 police stations and special holding facilities where third-country nationals were detained:

- **Attica:** police stations *inter alia* in Athens International Airport, Agios Panteleimonas, Vyronas, Piraeus, Syntagma, Drapetsona, Kalithea, Neo Iraklio, Pefki, Kypseli, Pagrati, Penteli, Chaidari, Glifada, Ampelokipoi, Cholargos, Omonoia, Egaleo, Exarheia, Kolonos, Galatsi
- **Northern Greece:** police stations *inter alia* in Transfer Directorate (*Μεταγωγών*), Thermi, Agiou Athanasiou, Raidestou;
- **Eastern Aegean islands:** police stations *inter alia* on Rhodes, Leros, Lesvos, Chios and Samos.

Police stations are by nature “totally unsuitable” for detaining persons for longer than 24 hours.<sup>1025</sup> However, they are constantly used for prolonged migration detention. As mentioned above and according to the official data there were 863 persons in administrative detention at the end of 2020 in facilities other than pre-removal centres, of whom 149 were asylum seekers.<sup>1026</sup> According to GCR findings, detainees

<sup>1025</sup> CPT, *Report on the visit to Greece from 13 to 18 April and 19 to 25 July 2016*, CPT/Inf (2017) 25, 26 September 2017, available at: <https://bit.ly/2g4Y9bU>, 6.

<sup>1026</sup> Information provided by the Directorate of the Hellenic Police, 11 February 2021.

in police stations live in substandard conditions as a rule, i.e. no outdoor access, poor sanitary conditions, lack of sufficient natural light, no provision of clothing or sanitary products, insufficient food, no interpretation services and no medical services; the provision of medical services by AEMY concerns only pre-removal detention centres and does not cover persons detained in police stations.

Similarly, CPT, following its visit in Greece in 2018 repeated that the detention facilities in most of the police stations are totally unsuitable for holding persons for periods exceeding 24 hours<sup>1027</sup>. Despite this, police stations throughout Greece are still being used for holding irregular migrants for prolonged periods. GCR has supported several cases in 2020 in which migrants remained in detention for several days, even months: A citizen of Iran in detention in Pefki and Rafina police stations for one year; a Yezidi man in detention in Kallithea police station for six months; a man of Syrian origin in detention in Agios Panteleimonas, Pagrati and Kipseli police stations for five months; a person from Afghanistan in detention in Neo Iraklio police station for a period of six months.

Special mention should be made of the detention facilities of the Aliens Directorate of **Thessaloniki** (*Μεταγωγών*). Although the facility is a former factory warehouse, completely inadequate for detention, it continues to be used systematically for detaining a significant number of persons for prolonged periods.<sup>1028</sup>

The ECtHR has consistently held that prolonged detention in police stations *per se* is not in line with guarantees provided under Article 3 ECHR.<sup>1029</sup> In June 2018, it found a violation of Article 3 ECHR in *S.Z. v. Greece* concerning a Syrian applicant detained for 52 days in a police station in **Athens**.<sup>1030</sup> In February 2019, it found a violation of Article 3 ECHR due to the conditions of “protective custody” of unaccompanied children in different police stations in Northern Greece such as **Axioupoli** and **Polykastro**.<sup>1031</sup> In June 2019, the Court found that the conditions of the detention of 3 unaccompanied minors under the pretext of protective custody for 24 days, 35 days and 8 days at **Polikastro** police station, **Igoumentisa** port police station and **Filiatra** police station and Agios Stefanos police station and the cell of the Police Directorate of Athens respectively, were not in line with Art. 3 ECHR.<sup>1032</sup>

### 3. Access to detention facilities

#### Indicators: Access to Detention Facilities

##### 1. Is access to detention centres allowed to

❖ Lawyers:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
❖ NGOs:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
❖ UNHCR:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
❖ Family members:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Limited	<input type="checkbox"/> No

According to the law, UNHCR and organisations working on its behalf have access to detainees.<sup>1033</sup> Family members, lawyers and NGOs also have the right to visit and communicate with detained asylum seekers. Their access may be restricted for objective reasons of safety or public order or the sound management of detention facilities, as long as it is not rendered impossible or unduly difficult.<sup>1034</sup>

<sup>1027</sup> CPT, Report on the visit to Greece, from 10 to 19 April 2018, CPT/Inf (2019) 4, 19 February 2019, available at: <https://bit.ly/2T0peQb>, para 84

<sup>1028</sup> Ombudsman, *Συνηγορος του Πολίτη, Εθνικός Μηχανισμός Πρόληψης των Βασανιστηρίων & της Κακομεταχείρισης - Ετήσια Ειδική Έκθεση OPCAΤ 2017*, 46.

<sup>1029</sup> ECtHR, *Ahmade v. Greece*, Application No 50520/09, Judgment of 25 September 2012, para 101.

<sup>1030</sup> ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, para 40.

<sup>1031</sup> ECtHR, *H.A. and others v. Greece*, Application No 19951/16, Judgment of 28 February 2019, EDAL, available at: <https://bit.ly/2FCoVFP>.

<sup>1032</sup> *Sh.D. and Others v. Greece*, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia (application no. 14165/16).

<sup>1033</sup> Article 47(4) L 4636/2019,

<sup>1034</sup> Article 47(5) L 4636/2019

In practice, NGOs' capacity to access detainees in practice is limited due to human and financial resource constraints. Moreover, after the outbreak of the pandemic, access to pre-removal detention centers was restricted from the police claiming protection measures. Family members' access is also restricted due to limited visiting hours and the remote location of some detention facilities.

Another major practical barrier to asylum seekers' communication with NGOs is that they do not have access to free phone calls. Therefore access *inter alia* with NGOs is limited in case they do not have the financial means to buy a telephone card. While some detention centres (**Amygdaleza, Corinth, Xanthi, Paranesti, Kos**) have adopted a good practice in allowing people to use their mobile phones, others such as **Tavros** and all police stations prohibit the use of mobile phones.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

1. Is there an automatic review of the lawfulness of detention? ☒ Yes ☐ No
2. If yes, at what interval is the detention order reviewed? Not specified

#### 1.1. Automatic judicial review

L 4375/2016 introduced a procedure for automatic judicial review of the decisions ordering or prolonging the detention of an asylum seeker. IPA also provides for an ex-officio judicial control of the detention decision of asylum seekers. The procedure is largely based on the procedure already in place for the automatic judicial review of the extension of detention of third-country nationals in view of return under L 3907/2011.<sup>1035</sup>

Article 46(5-b) IPA reads as follows:

"In case of prolongation of detention, the order for the prolongation of detention shall be transmitted to the President of the Administrative Court of First Instance, or the judge appointed thereby, who is territorially competent for the applicant's place of detention and who decides on the legality of the detention measure and issues immediately his decision, in a brief record."

In addition to concerns expressed in previous years as to the effectiveness of this procedure,<sup>1036</sup> statistics on the outcome of *ex officio* judicial scrutiny confirm that the procedure is highly problematic and illustrate the rudimentary and ineffective way in which this judicial review takes place. According to the available data regarding detention orders for asylum seekers examined by the Administrative Court of Athens, there have been no cases where the *ex officio* review did not approve the detention measure imposed:

Ex officio review of detention by the Administrative Court of Athens: 2020		
	under asylum provisions (Article 46 IPA)	under pre-removal provisions (Article 30 L 3907/2011)
Detention orders transmitted	839	7
Approval of detention order	839	7

<sup>1035</sup> Article 30(3) L 3907/2011.

<sup>1036</sup> UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Addendum: Mission to Greece*, 18 April 2013, A/HRC/23/46/Add.4, available at: <http://bit.ly/2kZ7D8R>, para 57.

No approval of detention order	0	0
Abstention from decision*	0	0

Source: Administrative Court of Athens, Information provided on 1 March 2021. \* “Abstention from decision” in IPA (art. 46 par. 5b) cases concerns detention orders transmitted after the expiry of the time limit. For L 3907/2011 cases, according to its interpretation of the law, the Court examines the lawfulness of detention only if detention is prolonged beyond 6 months. Therefore, if detention is prolonged after an initial 3 months up to 6 months, the Court abstains from issuing a decision.

## 1.2. Objections against detention

Apart from the automatic judicial review procedure, asylum seekers may challenge detention through “objections against detention” before the Administrative Court,<sup>1037</sup> which is the only legal remedy provided by national legislation to this end. Objections against detention are not examined by a court composition but solely by the President of the Administrative Court, whose decision is non-appealable.

However, in practice the ability for detained persons to challenge their detention is severely restricted due to “gaps in the provision of interpretation and legal aid, resulting in the lack of access to judicial remedies against the detention decisions”.<sup>1038</sup>

Over the years the ECtHR has found that the objections remedy is not accessible in practice.<sup>1039</sup> In February 2019, the Court found a violation of Article 5(4) ECHR, emphasising that the detention orders were only written in Greek and included general and vague references regarding the legal avenues available to the applicants to challenge their detention. Furthermore, the applicants were not in a position to understand the legal aspects of their case and they did not appear to have access to lawyers on the island. In this connection, the Court noted that the Greek government had also not specified which refugee-assisting NGOs were available.<sup>1040</sup>

In another judgment issued in October 2019, the Court also found a violation of Art. 5(4) as the decision, which indicated the possibility of lodging an appeal, was written in Greek; It was not certain that the applicants, who had no legal assistance in either camp, had sufficient legal knowledge to understand the content of the information brochure distributed by the authorities, and especially the material relating to the various remedies available under domestic law; The Court also noted that the information brochure in question referred in a general way to an “administrative court”, without specifying which one; However, there was no administrative court on the island of Chios, where the applicants were detained, and the nearest one was on the island of Mytilene. Even assuming that the remedies were effective, the Court did not see how the applicants could have exercised them. Having regard also to the findings of other international bodies, the Court considered that, in the circumstances of the case, the remedies in question had not been accessible to the applicants.<sup>1041</sup>

Moreover, the ECtHR has found on various occasions the objections procedure to be an ineffective remedy, contrary to Article 5(4) ECHR,<sup>1042</sup> as the lawfulness per se of the detention, including detention conditions, was not examined in that framework. In order to bring national law in line with ECHR standards, legislation was amended in 2010. However, the ECtHR has found in a number of cases that, despite the amendment of the Greek law, the lawfulness of applicants’ detention had not been examined

<sup>1037</sup> Article 46(6) IPA, citing Article 76(3)-(4) L 3386/2005.

<sup>1038</sup> UNWGA, *idem*.

<sup>1039</sup> ECtHR, *J.R. and Others v. Greece*, Application No 22696/16, Judgment of 25 January 2018, para 99;

<sup>1040</sup> ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019.

<sup>1041</sup> ECHR, *Kaak v. Greece*, Application No 34215/16, Judgment of 3 October 2019.

<sup>1042</sup> See e.g. ECtHR, *Rahimi v. Greece* Application No 8687/08, Judgment of 5 April 2011; *R.U. v. Greece* Application No 2237/08, Judgment of 7 June 2011; *C.D. v. Greece*, Application No 33468/10, Judgment of 19 March 2014.



in a manner equivalent to the standards required by Article 5(4) ECHR,<sup>1043</sup> and “the applicant did not have the benefit of an examination of the lawfulness of his detention to an extent sufficient to reflect the possibilities offered by the amended version” of the law.<sup>1044</sup> This case law of the ECtHR illustrates that the amendment of national legislation cannot itself guarantee an effective legal remedy in order to challenge immigration detention, including the detention of asylum seekers.

As far as the judicial review of detention conditions is concerned, based on the cases supported by GCR, it seems that courts tend either not to take complaints into consideration or to reject them as unfounded, even against the backdrop of numerous reports on substandard conditions of detention in Greece, brought to their attention. This is even the case of persons who are detained for prolonged periods in police station or totally inadequate police facilities.

Moreover, based on the cases supported by GCR, it also seems that the objections procedure may also be marred by a lack of legal security and predictability, which is aggravated by the fact that no appeal stage is provided in order to harmonise and/or correct the decisions of the Administrative Courts. GCR has supported a number of cases where the relevant Administrative Courts’ decisions were contradictory, even though the facts were substantially the same.

During the period of effect of the March 2020 suspension of access to the asylum procedure, domestic case law made a highly objectionable interpretation of the legal status of the decree and its effect on Greece’s obligations to guarantee access to asylum under EU and international law.<sup>1045</sup> The Administrative Court of Athens did not examine whether the deprivation of liberty of the applicants satisfied the criteria and conditions set by the IPA. It erroneously failed to engage with the applicants’ status as “asylum seekers” and thereby examined the lawfulness of the detention orders solely through the prism of return legislation, despite acknowledging that they had expressed the intention to seek international protection; an act triggering the applicability of their right to remain and related entitlements.<sup>1046</sup>

Despite constraints to carrying out readmissions to Turkey since March 2020, the rulings of the Administrative Court of Athens concerning pre-removal detention during the period of effect of the suspension of the asylum procedure made no assessment of clear obstacles to a reasonable prospect of the individuals’ removal to Turkey.<sup>1047</sup> Failure of Administrative Courts to engage with the reasonable prospect test is reflected in subsequent case law dismissing objections against detention,<sup>1048</sup> even in decisions accepting objections.<sup>1049</sup> In an example of cases where courts have engaged with the reasonable prospect of removal, on the basis of explicit evidence of the suspension of readmissions to Turkey, the Administrative Court of Mytilene nevertheless upheld detention on 5 June 2020 on the ground that “despite the suspension of readmissions by the Turkish authorities, such a temporary suspension may be lifted at any time in the near future”.<sup>1050</sup>

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<sup>1043</sup> ECtHR, *R.T. v. Greece*, Application no 5124/11, Judgment of 11 February 2016; *Mahammad and others v. Greece*, Application No 48352/12, January 15 January 2015; *MD v. Greece*, Application No 60622/11, Judgment of 13 November 2014; *Housein v. Greece*, Application No 71825/11, Judgment of 24 October 2013. In the case *F.H. v. Greece*, Application No 78456/11, Judgment of 31 July 2014, the Court found a violation of Article 3 combined with Article 13, due to lack of an effective remedy in the Greek context in order to control detention conditions.

<sup>1044</sup> ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, para 72.

<sup>1045</sup> RSA, *Rights denied during Greek asylum procedure suspension*, April 2020, 6, available at: <https://bit.ly/2IUsw7>. See Administrative Court of Athens, Decisions 358/2020, 359/2020 and 360/2020, 7 April 2020.

<sup>1046</sup> Administrative Court of Athens, Decisions 356/2020 and 357/2020, 3 April 2020.

<sup>1047</sup> Administrative Court of Athens, Decisions 356/2020 and 357/2020, 3 April 2020; Decisions 358/2020, 359/2020 and 360/2020, 7 April 2020.

<sup>1048</sup> Administrative Court of Athens, Decision 867/2020, 16 July 2020.

<sup>1049</sup> Administrative Court of Mytilene, Decision AP73/2020, 20 March 2020.

<sup>1050</sup> Administrative Court of Mytilene, Decision AP117/2020, 5 June 2020, para 4.

In addition, the case law of Administrative Courts in 2020 has failed to take into account potent risks to the well-being of individuals on account of the COVID-19 pandemic. Courts have dismissed alleged risks of exposure to inappropriate detention conditions and of contracting COVID-19 in detention as unsubstantiated,<sup>1051</sup> without any assessment whatsoever of the conditions prevailing in pre-removal centres and their preparedness to prevent the spread of the COVID-19 pandemic. In other cases, courts have entirely disregarded the appellant's submissions relating to COVID-19 risks in detention.<sup>1052</sup>

Finally, as regards "protective custody" of unaccompanied children the ECtHR found in February 2019 that the objections procedure was inaccessible since the applicants were not officially classified as detainees, and since they would not be able to seize the Administrative Court without a legal representative, which is a legal situation that unaccompanied minors continue to experience due to the lack of any legal representative.<sup>1053</sup>

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?  
☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?  
☐ Yes ☒ No

Article 46(7) IPA provides that "detainees who are applicants for international protection shall be entitled to free legal assistance and representation to challenge the detention order..."

In practice, no free legal aid system has been set up to challenge his or her detention. Free legal assistance for detained asylum seekers provided by NGOs cannot sufficiently address the needs and in any event cannot exempt the Greek authorities from their obligation to provide free legal assistance and representation to asylum seekers in detention, as foreseen by the recast Reception Conditions Directive.<sup>1054</sup> This continued to be the case in 2020, where only two to three NGOs were providing free legal assistance to detainees with limited resources and less than 10 lawyers in total focusing on detention countrywide.

CPT findings from 2018 confirm that "the information provided was insufficient – particularly concerning their (legal) situation[...] there was an almost total lack of available interpretation services in all the establishments visited [...] access to a lawyer often remained theoretical and illusory for those who did not have the financial means to pay for the services of a lawyer [...] As a result, detainees' ability to raise objections against their detention or deportation decisions or to lodge an appeal against their deportation was conditional on them being able to access a lawyer"<sup>1055</sup>. This situation remained unchanged during 2020.

As mentioned above in two 2019 ECtHR judgments, the Court by taking into consideration *inter alia* the lack of legal aid to challenge the detention order found a violation of Art 5(4).<sup>1056</sup>

<sup>1051</sup> Administrative Court of Athens, Decisions 358/2020, 359/2020 and 360/2020, 7 April 2020, para 4; Decision 867/2020, 16 July 2020, para 5; Administrative Court of Rhodes, Decision AP464/2020, 17 July 2020, para 4(c).

<sup>1052</sup> Administrative Court of Mytilene, Decision AP117/2020, 5 June 2020, para 4.

<sup>1053</sup> ECtHR, *H.A. v. Greece*, Application No 19951/16, Judgment of 28 February 2019, para 212.

<sup>1054</sup> Article 9(6) recast Reception Conditions Directive.

<sup>1055</sup> CPT, *Report on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, paras 78-80.

<sup>1056</sup> ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019; ECtHR, *Kaak v. Greece*, Application No 34215/16, Judgment of 3 October 2019.

## **E. Differential treatment of specific nationalities in detention**

As mentioned in the General section, a so-called “pilot project” / “low rate scheme” is implemented on Lesbos and Kos, under which newly arrived persons belonging to particular nationalities with low recognition rates, are immediately placed in detention upon arrival and remain there for the entire asylum procedure.

## A. Status and residence

### 1. Residence permit

#### Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
  - ❖ Refugee status 3 years
  - ❖ Subsidiary protection 1 year renewable for a period of 2 years
  - ❖ Humanitarian Protection 1 year renewable for a period of 2 years <sup>1057</sup>

Individuals recognised as refugees are granted a 3-year residence permit (“ADET”), which can be renewed after a decision of the Head of the Regional Asylum Office.<sup>1058</sup> However, following the entry into force of the IPA (January 2020), beneficiaries of subsidiary protection no longer have the right to receive a 3-year permit. They obtain a 1-year residence permit, renewable for a period of 2 years.<sup>1059</sup>

It is noted that the special ID decision (“Απόφαση ΑΔΕΤ”) is not always notified upon the granting of status, in which case beneficiaries have to book an appointment with the RAO to obtain the said decision. Residence permits are usually delivered at least 4-5 months after the communication of the positive decision granting international protection and the submission of the special ID decision and photos to the Aliens Police Directorate (“Διεύθυνση Αλλοδαπών”) or the competent passport office by the beneficiaries. Until the issuance of the residence permits, applicants hold the asylum seeker card, stamped with the mention “Pending Residence Permit”.

In 2020, according to the practice followed by certain RAOs, such as the RAO of Lesbos, the issuance of the special ID Decision (Απόφαση ΑΔΕΤ) was subject to requirements, which were not laid down by the IPA, such as an employment contract with duration of at least 6 months and a tax declaration of the previous financial year.

Moreover, many persons, who travelled to the Attica region, after being granted international protection on the Eastern Aegean Islands, did not have access to the RAOs, unless they submitted a proof of their new address in Attica. That was in many cases impossible given that many persons were homeless or did not have a permanent accommodation. Thus, they could not proceed with the issuance of the “ADET decision” on the ground that “the RAO was not competent”.<sup>1060</sup>

As reported by RSA and Pro Asyl Stiftung “In practice, the ADET issuance and/or renewal procedure is marred by serious delays reaching several months and even a year in some cases. The Hellenic Police has explained that the abolition of the Ministry of Migration Policy and transfer of competences to the Ministry of Citizen Protection in July 2019, followed by the subsequent re-establishment of the Ministry of Migration and Asylum in January 2020, created an institutional gap *vis-à-vis* responsibility for handling applications for issuance and renewal of ADET. The Hellenic Police only regained competence to examine such applications following a July 2020 legislative amendment. In cases known to RSA, beneficiaries were informed by the authorities that they had to re-submit their applications for “ADET” after said amendment.”<sup>1061</sup>

<sup>1057</sup> The humanitarian protection (Article 67 L.4375/2016) was abolished according to Article 61 (e) L.4686/2020; this provision is applied to all decisions granting humanitarian protection published from 1.1.2020 onwards.

<sup>1058</sup> Article 24 IPA.

<sup>1059</sup> *Ibid.*

<sup>1060</sup> See also RSA and Stiftung Pro Asyl, Beneficiaries of international protection in Greece Access to documents and socio-economic rights, March 2021, available at: <https://bit.ly/3v8ASKp>, para.7-8.

<sup>1061</sup> RSA and Stiftung Pro Asyl, *Idem*, para. 10. See also, Greek Ombudsperson, Mediation briefing: Renewal of residence permits for beneficiaries of international protection (BIP) by the Greek Police, 7/8/2020, available at: <https://bit.ly/3dBoAUY>

The same report noted that “In the cases of beneficiaries returned from other European countries in recent months, persons await the renewal or reissuance of their ADET and have not been issued any other documentation pending the delivery of the ADET. Importantly, the start date of validity of the ADET corresponds to the date of issuance of the ADET Decision by the Asylum Service, not the issuance of the ADET itself. This creates serious risks for holders of subsidiary protection whose ADET has a one-year validity period given that the ADET issued to them are often close to expiry and need to be immediately renewed due to the delays described above. On account of the substantial backlog of cases before the Aliens Police Directorate of Attica, beneficiaries of international protection who do not hold a valid ADET upon return to Greece are liable to face particularly lengthy waiting times for the issuance and/or renewal of their ADET, without which they cannot access social benefits, health care and the labour market.”<sup>1062</sup>

An application for renewal should be submitted no later than 30 calendar days before the expiry of the residence permit. The mere delay in the application for renewal, without any justification, could not lead to the rejection of the application, according to the previous legislation.<sup>1063</sup> However, following the entry into force of the IPA, this is valid only for recognized refugees, as the new law abolished the said guarantee for beneficiaries of subsidiary protection.<sup>1064</sup>

Since 2017, the application for renewal is submitted via email to the Asylum Service and then the renewal decision is notified to the applicant also via email. Accordingly, bearing in mind that legal aid is not provided at this stage, technologically illiterate beneficiaries of international protection can face obstacles while applying for the renewal of their permit.

As far as GCR is aware, long waiting periods are observed in a number of cases of renewal, which can reach 6 months in practice due to high number of applicants. During this procedure the Legal Unit of the Asylum Service processes criminal record checks on the beneficiaries of international protection, which may lead to the [Withdrawal](#) of their protection status. Pending the issuance of a new residence permit, beneficiaries of international protection are granted a certificate of application (*βεβαίωση κατάστασης αιτήματος*) which is valid for four months. In practice, beneficiaries whose residence permit has expired and who hold this document while awaiting the renewal of their residence permit have faced obstacles in accessing services such as social welfare. As far as GCR is aware, public services such as the Manpower Employment Organization (OAED), are reluctant to accept this certificate of application (*βεβαίωση κατάστασης αιτήματος*), because the document lacks a photo or a watermark and any relevant legal provisions allowing the document to be accepted.

GCR has filed various complaints before the Greek Ombudsperson concerning the aforementioned shortcomings, however only a few decisions were issued.

The Asylum Service shared no data for the year 2020 concerning the total number of applications for renewal and the respective positive decisions.

For those granted international protection under the “old procedure” prescribed by Presidential Decree 114/2010, the renewal procedure is conducted by the Aliens Police Directorate (*Διεύθυνση Αλλοδαπών*). Within the framework of this procedure, the drafting of a legal document for the renewal application is required. The decision used to be issued after a period of approximately 3-6 months.<sup>1065</sup> In practice, since January 2019 very few decisions have been issued. At first the delay was due to the resignation of the Secretary General of the Ministry of Citizen Protection. Then the delay was caused by the multiple election procedures and the final reason was the size of the administrative files of beneficiaries. Due to these

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<sup>1062</sup> RSA and Stiftung Pro Asyl, *Idem*, para. 12-14

<sup>1063</sup> Article 24 PD 141/2013.

<sup>1064</sup> Article 24(1) IPA.

<sup>1065</sup> Generation 2.0, ‘Καθυστερήσεις στις Άδειες Διαμονής | Δελτίο Τύπου’, 3 January 2018, available in Greek at: <http://bit.ly/2I96pEc>.

delays, a large number of beneficiaries of international protection, for over a year, have no access to the labour market, social security, social welfare and sometimes healthcare, thus facing destitution and homelessness.

In January 2020, GCR and other organizations sent a letter of complaint to the Secretary General of the Ministry of Citizen Protection, but the issue has yet to be resolved.

Information with regards the number of applications for renewal submitted before the Aliens Police Directorate and their outcome is not available for 2020 despite the request of GCR.

## 2. Civil registration

According to Article 20(1) L 344/1976, the birth of a child must be declared within 10 days to the Registry Office of the municipality where the child was born.<sup>1066</sup> The required documents for this declaration are: a doctor's or midwife's verification of the birth; and the residence permit of at least one of the parents. A deferred statement is accepted by the registrar but the parent must pay a fee of up to €100 in such a case.<sup>1067</sup>

As for the birth registration, beneficiaries of international protection have reported to GCR that if they do not have and cannot obtain a certified marriage certificate from their country of origin, the child is declared without a father's name. Lately, the Asylum Service started -in very few cases- issuing family status certificates. Another difficulty is the fact that according to Greek Legislation the father's first name cannot be used as the child's surname. This is a very common mistake that a lot of mothers do and interferes with the procedure of name-giving (*ονοματοδοσία*) of the child, especially when the child's father is not residing in Greece. In these cases, it is hard to prove that the person that signed the authorization to the mother for the name-giving is the declared father of the child in the birth certificate and, since the name-giving is one of the essential rights of a legal guardian, a court must decide for the removal of the parental responsibility of the parent not residing in Greece, in order for the other parent to be able to proceed alone to the name-giving.

A marriage must be declared within 40 days at the Registry Office of the municipality where it took place; otherwise the spouses must pay a fee of up to €100.<sup>1068</sup> In order to get legally married in Greece, the parties must provide a birth certificate and a certificate of celibacy from their countries of origin.<sup>1069</sup> For recognised **refugees**, due to the disruption of ties with their country of origin, the Ministry of Interiors has issued general orders to the municipalities to substitute the abovementioned documents with an affidavit of the interested party.<sup>1070</sup> However, asylum seekers and beneficiaries of **subsidiary protection** are still required to present such documentation which is extremely difficult to obtain, and face obstacles which undermine the effective enjoyment of the right to marriage and the right to family life.

Civil registration affects the enjoyment of certain rights of beneficiaries of international protection. For instance, a birth certificate or a marriage certificate are required to prove family ties in order to be recognised as a family member of a beneficiary of international protection and to be granted a similar residence permit according to Article 24 IPA (see [Status and Rights of Family Members](#)).

In practice, the main difficulties faced by beneficiaries with regard to civil registration are the language barrier and the absence of interpreters at the Registration Offices of the municipalities. This lack leads to errors in birth or marriage certificates, which are difficult to correct and require a court order.

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<sup>1066</sup> L 344/1976 on Civil Registration Acts, Official Gazette 143/A/11.6.1976.

<sup>1067</sup> Article 49 L 344/1976.

<sup>1068</sup> Article 29 L 344/1976.

<sup>1069</sup> Article 1(3) PD 391/1982.

<sup>1070</sup> See e.g. Ministry of Interior, General Orders to municipalities 4127/13.7.81, 4953/6.10.81 and 137/15.11.82.



### 3. Long-term residence

#### Indicators: Long-Term Residence

Number of long-term residence permits issued to beneficiaries in 2020: Not available

According to Article 89 of the Immigration Code, third-country nationals are eligible for long-term residence if they have resided in Greece lawfully for 5 consecutive years before the application is filed. For beneficiaries of international protection, the calculation of the 5-year residence period includes half of the period between the lodging of the asylum application and the grant of protection, or the full period if the asylum procedure exceeded 18 months.<sup>1071</sup> Absence periods are not taken into account for the determination of the 5-year period, provided that they do not exceed 6 consecutive months and 10 months in total, within the 5-year period.<sup>1072</sup> A fee of €150 is also required.<sup>1073</sup>

To be granted long-term resident status, beneficiaries of international protection must also fulfil the following conditions:<sup>1074</sup>

- (a) Sufficient income to cover their needs and the needs of their family and is earned without recourse to the country's social assistance system. This income cannot be lower than the annual income of an employee on minimum wage, pursuant to national laws, increased by 10% for all the sponsored family members, also taking into account any amounts from regular unemployment benefits. The contributions of family members are also taken into account for the calculation of the income;
- (b) Full health insurance, providing all the benefits provided for the equivalent category of insured nationals, which also covers their family members;
- (c) Fulfilment of the conditions indicating integration into Greek society, *inter alia* "good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation".<sup>1075</sup>

Despite the Ombudsman's successful intervention in 2018<sup>1076</sup>, the Greek Police is still reluctant to renew travel documents of beneficiaries of international protection (of the 'old' procedure) that had been granted "long-term residence permits", on the grounds that "they are not holders of "ADET" and, therefore, "they have a different status".

The Council of Europe's Commissioner of Human Rights noted that, as far as it provides foreign citizens with five years or more of legal residence with the possibility to secure a long-term residence permit, Greek law complies with relevant recommendations. However, the Commissioner recommended that the entire asylum procedure period be taken into account, as opposed to half of the period between the lodging of the asylum application and the granting of protection as provided in legislation. In addition, the Commissioner highlighted "that access to long-term residence is complicated by additional requirements, including sufficient income to cover the applicants' needs and those of their family, full health insurance covering all family members, and good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation". Moreover, contrary to the Commissioner's recommendations, Greek law does not provide clear legal exemptions to enable a variety of vulnerable groups to meet the requirements".<sup>1077</sup> These findings are also valid in 2020.

<sup>1071</sup> Article 89(2) L 4251/2014 (Immigration Code).

<sup>1072</sup> Article 89(3) Immigration Code.

<sup>1073</sup> Article 132(2) Immigration Code, as amended by Article 38 L 4546/2018.

<sup>1074</sup> Article 89(1) Immigration Code.

<sup>1075</sup> Article 90(2)(a) Immigration Code.

<sup>1076</sup> Greek Ombudsperson, Ορθή εφαρμογή της νομοθεσίας για τα διαβατήρια αναγνωρισμένων προσφύγων, κατόχων αδειών διαμονής «επί μακρόν διαμένοντος», available in Greek at: <https://bit.ly/2Qhwj1m>

<sup>1077</sup> Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 72-73.

## 4. Naturalisation

### Indicators: Naturalisation

1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	7 years
❖ Subsidiary protection	7 years
2. Number of citizenship grants in 2020:	Not available

### 4.1. Conditions for citizenship

The Citizenship Code<sup>1078</sup> has been subject to numerous amendments during the last years<sup>1079</sup>. Prior to the amendment of March 2020<sup>1080</sup>, refugees could apply for citizenship under the conditions that *inter alia* they reside lawfully in Greece for a period of 3 years. The amended legislation has increased this period to 7 years<sup>1081</sup>, similarly to the time period required for foreigners residing in Greece on other grounds (migration law) despite the legal obligation under article 34 of the Geneva Convention 1951 to “facilitate the assimilation and naturalization of refugees” and “in particular make every effort to expedite naturalization proceedings”. The aforementioned amendment does not apply to refugees who had already submitted an application for naturalisation that was still pending by the time that L. 4674/2020 entered into force<sup>1082</sup>.

More precisely, according to the Citizenship Code<sup>1083</sup>, citizenship may be granted to a foreigner who:

- (a) Has reached the age of majority by the time of the submission of the declaration of naturalisation;
- (b) Has not been irrevocably convicted of a number of crimes committed intentionally in the last 10 years, with a sentence of at least one year or at least 6 months regardless of the time of the issuance of the conviction decision. Conviction for illegal entry in the country does not obstruct the naturalisation procedure.
- (c) Has no pending deportation procedure or any other issues with regards to his or her status of residence;
- (d) Has lawfully resided in Greece for 7 continuous years before the submission of the application. (As mentioned above, in March 2020, the possibility of recognised refugees to apply for citizenship under the conditions of a 3 years lawful residence in the country has been abolished);
- (e) Hold one of the categories of residence permits foreseen in the Citizenship Code, *inter alia* long-term residence permit, residence permit granted to recognised refugees or subsidiary protection beneficiaries, or second-generation residence permit. More categories of permits were added in 2018.<sup>1084</sup>

Applicants should also have:

- (1) sufficient knowledge of the Greek language;
- (2) be normally integrated in the economic and social life of the country; and
- (3) be able to actively participate in political life (i.e. be familiar with the political institutions of the Hellenic Republic, knowledge of Greek political history).<sup>1085</sup>

<sup>1078</sup> L. 3284/2004, Gov. Gazette A' 217/10-11-2004

<sup>1079</sup> See *inter alia* Law 4604/2019 (Gov. Gazette 50/A/26-03-2019), Law 4674/2020 (Gov. Gazette 53/A/11-03-2020), Law 4735/2020 (Gov. Gazette A' 197/12-10-2020)

<sup>1080</sup> L. 4674/2020,

<sup>1081</sup> Article 5(1)(d) Code of Citizenship as amended by L. 4674/2020

<sup>1082</sup> Ministry of Interior, Circular No 151/2020, 25 May 2020, available in Greek at: <https://bit.ly/3sDV5pG>, p. 8

<sup>1083</sup> Article 5(1) Citizenship Code.

<sup>1084</sup> Article 5(1)(e) Citizenship Code, as amended by Ministerial Decision 130181/6353/2018, Gov. Gazette B/3142/02.04.2018.

<sup>1085</sup> Article 5A (1) Citizenship Code.

A book with information on Greek history, civilisation, geography etc. is issued by the Ministry of Interior and dedicated to foreigners willing to apply for naturalisation.<sup>1086</sup> Simplified instructions on the acquisition of Greek citizenship was also released by the Ministry of Interior.<sup>1087</sup>

However, the acquisition of citizenship requires a demanding examination procedure in practice. Wide disparities have been observed between Naturalisation Committees as to the depth and level of difficulty of examinations. Against that backdrop, the Ministry of Interior issued a Circular on 12 December 2017 to harmonise naturalisation examinations.<sup>1088</sup>

Law 4604/2019 brought several changes to the Citizenship Code. The examination procedure is no longer oral. Candidates have to prove their familiarity with Greek history and culture through a written test.<sup>1089</sup> They must answer correctly 20 out of 30 written questions from a pool of 300 questions<sup>1090</sup>. The sufficient knowledge of the Greek language is also tested through a language test.<sup>1091</sup>

However, the aforementioned provisions regarding the examination procedure of Article 5A<sup>1092</sup> of Citizenship Code as amended by L.4604/2019 were suspended for six months, namely from the entry into force of L. 4674/2020 on 11 March 2020 until 11 September 2020.<sup>1093</sup> The suspension of the said provisions, that were actually never applied, is due to the fact that a Ministerial Decision regulating the requirements of the language exams and other issues relating to the organisation and the content of the said exams was not issued<sup>1094</sup>.

Furthermore, the Article 5A of Citizenship Code, as amended by L.4604/2019, was lately replaced by Article 3 L. 4735/2020. According to the Article 18 L. 4735/2020, Articles 3, 5 and 6 L.4735/2020 that replace respectively Articles 5A, 6 and 7 of the Citizenship Code came into force on 1 April 2021<sup>1095</sup>. A pool of questions for the acquisition of the newly introduced Certificate of Adequacy of Knowledge for Naturalization (Πιστοποιητικό Επάρκειας Γνώσεων για Πολιτογράφηση (ΠΕΓΠ))<sup>1096</sup> and information on the respective exams were posted on the webpage of the Ministry of Interior<sup>1097</sup>. Moreover, a decision regulating and providing more details on the procedure of the exams was published on the 15 April 2021.<sup>1098</sup>

## 4.2. Naturalisation procedure

A fee of €100 is required for the submission of the application for **refugees**. In the case of beneficiaries of **subsidiary protection**, the fee has been reduced in 2019 from €700 to €550.<sup>1099</sup> A €200 fee is required for the re-examination of the case<sup>1100</sup>.

<sup>1086</sup> Ministry of Interior, Directorate of Citizenship, *Greece as a Second Homeland: Book of information on Greek history, geography and civilisation*, available in Greek at: <https://bit.ly/3tFepUP>

<sup>1087</sup> Ministry of Interior, *Simplified instructions on the acquisition of Greek citizenship*, available at: <https://bit.ly/2TCz35h>.

<sup>1088</sup> Ministry of Interior, Circular No 3 of 12 December 2017 on “instructions relating to the conduct of interviews”, 27/2017, available in Greek at: <http://bit.ly/2FhKHjl>.

<sup>1089</sup> Article 5A (3) Citizenship Code as amended by Article 32 L.4604/2019.

<sup>1090</sup> Ministry of Interior, Circular No 38788/2018, 26 July 2018, available in Greek at: <https://bit.ly/2utnJye>.

<sup>1091</sup> Article 5A Citizenship Code as amended by Article 32 L.4604/2019

<sup>1092</sup> Article 5A (3), (4), (5), (6) Citizenship Code as amended by Article 32 L.4604/2019

<sup>1093</sup> See article 39 L. 4674/2020 and Circular of the Ministry of Interior, No 151/25-05-2020, available in Greek at: <https://bit.ly/3sDV5pG>

<sup>1094</sup> Circular of the Ministry of Interior, No 151/25-05-2020

<sup>1095</sup> For more information on the new Law, see also Generation 2.0, Naturalization becomes a “privilege” for a few, 10/09/2020, available at <https://bit.ly/3avpiBj> and Generation 2.0, Generation 2.0 RED on the new naturalization law, 20/10/2020, available at: <https://bit.ly/3xc2mR3>

<sup>1096</sup> General Secretariat of Citizenship available at: <https://bit.ly/3s9ln31>

<sup>1097</sup> General Secretariat of Citizenship available at: <https://bit.ly/3sCYd5k>

<sup>1098</sup> Decision 28881/2021, Gov. Gazette 1535/B/15-4-2021, Defining specific elements of Article 7(1) Code of Citizenship, available in Greek at: <https://bit.ly/3ausH37>

<sup>1099</sup> Article 6 (3) (g) Citizenship Code as amended by Article 33 L. 4604/2019.

<sup>1100</sup> *Ibid.*

The naturalisation procedure requires a statement to be submitted before the Municipal Authority of the place of permanent residence, and an application for naturalisation to the authorities of the Prefecture.<sup>1101</sup> The statement for naturalisation is submitted to the Mayor of the city of permanent residence, in the presence of two Greek citizens acting as witnesses. After having collected all the required documents, the applicant must submit an application before the Decentralised Administration competent Prefecture.

Where the requisite formal conditions of Article 5 of the Citizenship Code, such as age or minimum prior residence, are not met, the Secretary-General of the Decentralised Administration issues a negative decision. An appeal can be lodged before the Minister of Interior, within 30 days of the notification of the rejection decision.

When the required conditions are met, the Regional Citizenship Directorate seeks, on its own motion, a certificate of criminal record for judicial use and a certificate of non-deportation, and addresses, through the police authority of the applicant's place of residence, a question to the competent security services of the Ministry of Citizen Protection if there are public or national security reasons to reject the application. The security services are required to respond within 4 months. Failure to send an opinion in a timely manner does not prevent the issuance of the Minister's decision. If this deadline is missed, the naturalisation application will be forwarded to the Naturalisation Committee and will be processed without this opinion.

The applicant is invited for an examination before the Naturalisation Committee. He/she must undergo a written test under the procedure introduced by L.4604/2019<sup>1102</sup>. However, as it was mentioned above, the Ministerial Decision which was necessary for the establishment of the new procedure was not issued by the end of 2020<sup>1103</sup>.

In case of a positive recommendation, the Minister of Interior will issue a decision granting the applicant Greek citizenship, which will be also published in the Government Gazette. With the aim of simplifying and accelerating the procedure, a Ministerial Decision<sup>1104</sup> was issued in May 2019. It provides that the naturalisation decision will be issued by the Regional Citizenship Directorates and the files will no longer be sent to the Central Citizenship Directorate of the Ministry of Interior. This should reduce the waiting period for the issuance of a positive naturalisation decision by 9-12 months.<sup>1105</sup>

Greek citizenship is acquired following the oath of the person, within a year from the publication of the decision. Persons with disabilities can take the oath in their house or via teleconference.<sup>1106</sup> If the oath is not given during this period, the decision is revoked.

In case of a negative recommendation of the Naturalisation Committee, an appeal can be lodged within 15 days. A decision of the Minister of Interior will be issued, in case that the appeal is accepted. In case of rejection of the appeal, an application for annulment (*αίτηση ακύρωσης*) can be lodged before the Administrative Court of Appeals within 60 days of the notification of that decision.

The procedure remains extremely slow. As noted by the Council of Europe's Commissioner for Human Rights: "The naturalisation procedure is reportedly very lengthy, lasting in average 1,494 days due to a

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<sup>1101</sup> Article 6 (1) Citizenship Code

<sup>1102</sup> Article 7 Citizenship Code, as amended by L. 4604/2019.

<sup>1103</sup> See also Generation 2.0, Freezing of citizenship procedures in Athens and Thessaloniki, 22/01/2020, available at: <https://bit.ly/3tQ2ILr>

<sup>1104</sup> Ministerial Decision 34226/06.05.2019, published in the Government Gazette B'1603/10.05.2019.

<sup>1105</sup> Ministry of Interiors, First Conclusions with regards the transfer of the competence to sign a naturalization decision from the Minister of Interiors to the Prefectural Directorates of Naturalization, 27 June 2019, available in Greek at: <https://bit.ly/2vSb2RN>.

<sup>1106</sup> Article 9(5) Citizenship Code.

considerable backlog pending since 2010”.<sup>1107</sup> In January 2020, delays in the naturalization procedure have been raised in Parliament, by a parliamentary question.<sup>1108</sup>

According to the official statistics of the Ministry of Interior, in 2019 a total of 1,882 foreigners were granted citizenship by way of naturalisation<sup>1109</sup>, compared to 2,528 foreigners in 2018 and 3,483 in 2017. This number is not limited to beneficiaries of international protection. Apart from naturalisation of foreign nationals (*αλλογενείς*), in 2019, Greece also granted citizenship to 1,117 non-nationals of Greek origin (*ομογενείς*), 12,868 second-generation children i.e. foreign children born in Greece or successfully completing school in Greece, 382 persons through “citizenship determination procedure (birth/ recognition etc) and 585 “unmarried/minor children of parents recently acquiring Greek citizenship”.<sup>1110</sup>

However, the aforementioned data is not available for 2020. As reported by Generation 2.0 on 30 November 2020 “For more than a year now, we have repeatedly sent letters to the Central Citizenship Directorate requesting data on pending requests, the average waiting times for the processing of applications, the number of decisions and staff per citizenship directorate. However, we did not receive any response to our consecutive requests, which were sent on 03.06.2019, 11.07.2019 and 06.01.2020. An exception is the reply to our last letter dated 27.08.2020. The answer to this, however, is incomplete, because the most important data are not disclosed, such as the number of pending requests and the time of application’s processing.”<sup>1111</sup>

As mentioned above, Articles 5A, 6 and 7 of Citizenship Code, as amended by L.4604/2019, were lately replaced by Articles 3, 5 and 6 L. 4735/2020. The new articles 5A, 6 and 7 of Citizenship Code came into force in 1 April 2021.

## 5. Cessation and review of protection status

### Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

Cessation of international protection is governed by Articles 11 and 16 of IPA.

**Refugee status** ceases where the person:<sup>1112</sup>

- (a) Voluntarily re-avails him or herself of the protection of the country of origin;
- (b) Voluntarily re-acquires the nationality he or she has previously lost;
- (c) Has obtained a new nationality and benefits from that country’s protection;

<sup>1107</sup> Council of Europe Commissioner for Human Rights, Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018, CommDH(2018)24, 6 November 2018, available at: <https://bit.ly/2Opvm05>, para 74

<sup>1108</sup> Parliamentary Question, Delays in the naturalization procedure for adults and second generation kids, 7 January 2020, available in Greek at: <https://bit.ly/2wGB6Q9> (in Greek).

<sup>1109</sup> General Secretariat for Citizenship, Central Citizenship Directorate, Statistics and IIS management Department, Acquisitions of Greek Citizenship by category and Regional Citizenship Directorates in 2019, posted in 19/11/200, available at <https://bit.ly/3tEXNnd>

<sup>1110</sup> *Ibid.*

<sup>1111</sup> Generation 2.0, What’s up with citizenship statistics?, 30/11/2020, available at: <https://g2red.org/what-s-up-with-citizenship-statistics/>

<sup>1112</sup> Article 11(1) IPA.

- (d) Has voluntarily re-established him or herself in the country he or she fled or outside which he or she has resided for fear of persecution;
- (e) May no longer deny the protection of the country of origin or habitual residence where the conditions leading to his or her recognition as a refugee have ceased to exist. The change of circumstances must be substantial and durable,<sup>1113</sup> and cessation is without prejudice to compelling reasons arising from past persecution for denying the protection of that country.<sup>1114</sup>

Cessation on the basis of changed circumstances also applies to **subsidiary protection** beneficiaries under the same conditions.<sup>1115</sup>

Where cessation proceedings are initiated, the beneficiary is informed at least 15 days before the review of the criteria for international protection and may submit his or her views on why protection should not be withdrawn.<sup>1116</sup>

Where the person appeals the decision, contrary to the [Asylum Procedure](#), the Appeals Committee is required to hold an oral hearing of the beneficiary in cessation cases<sup>1117</sup>.

## 6. Withdrawal of protection status

### Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice?  
☐ Yes ☐ With difficulty ☒ No

Withdrawal of **refugee status** is provided under Article 14 of the IPA, where the person:

- (a) Ceases to be a refugee according to Article 11 of the IPA
- (b) Should have been excluded from refugee status according to Article 12 of the IPA;
- (c) The use of false or withheld information, including the use of false documents, was decisive in the grant of refugee status;
- (d) Is reasonably considered to represent a threat to national security; or
- (e) Constitutes a threat to society following a final conviction for a particularly serious crime.

The Asylum Service issued a Circular on 26 January 2018, detailing the application of the ground relating to threat to society following a final conviction for a particularly serious crime.<sup>1118</sup>

According to the practice followed since the mid-2020, the Police places arbitrarily beneficiaries of international protection under administrative detention on public order grounds and then asks from the Asylum Service to revoke their status on the ground that they face criminal charges, regardless of the nature and the stage of the attributed illegal act. Thus, recognized refugees and beneficiaries of subsidiary protection remain arbitrarily detained until the Asylum Service finally replies to the Police if there are

<sup>1113</sup> Article 11(2) IPA.

<sup>1114</sup> Article 11(3) IPA.

<sup>1115</sup> Article 16 IPA.

<sup>1116</sup> Article 91 IPA

<sup>1117</sup> Article 97(3) IPA

<sup>1118</sup> Asylum Service, Circular 1/2018 of 26 January 2018, available in Greek at: <http://bit.ly/2rPEkhhb>.



grounds to examine the revocation of the status of international protection. However, the detention of beneficiaries of international protection is illegal as it is not prescribed within the national legislation (See: [General](#)).

It is noted that in case of revocation, individuals have the right to submit an administrative appeal within 30 days and in case of rejection, they may lodge an Application for Annulment before the competent Administrative Court within 30 days. Moreover, according to article 94 (4) IPA, if an appeal is submitted against a decision of revocation of Article 14 IPA the residence permit is returned to the appellant.

In a case handled by GCR during 2020, the Asylum Service informed a beneficiary of international protection, a stateless person of Palestinian origin, that the procedure of revocation of his refugee status was initiated on the ground that he issued a Palestinian Authority travel document after his recognition as a refugee and thus the article 11(1) (a) of the IPA should be applied.<sup>1119</sup> After the submission of a statement to the Asylum Service by GCR, the Asylum Service decided not to revoke the status on the grounds that, as it was mentioned in the statement, a) the Palestinian Authority passport cannot be considered as a “national passport” and thus its holder cannot be considered as a “Palestinian citizen” and b) article 11(1)(a) IPA cannot be applied in cases of stateless persons.

Moreover, in December 2020 the Appeals Committee started scheduling the examination of appeals submitted in the years 2016-2018 against decisions of revocation issued by the Hellenic Police in the framework of the so called “old procedure”. It is noted that those individuals have no access to the labor market or national health care system since their residence permits were revoked. GCR has filed a complaint to the Greek Ombudsman for two similar cases of status revocation within the old procedure.

Under Article 19 of the IPA, **subsidiary protection** may be withdrawn where it is established that the person should have been excluded or has provided false information, or omitted information, decisive to the grant of protection.

The procedure described in [Cessation](#) is applicable to withdrawal cases.

On 12 April 2021 the Asylum Service issued a new circular providing clarifications on the procedure regarding the provision of an opinion on the grounds of exclusion and revocation of the status of international protection prescribed by article 91 IPA, as well as the renewal of residence permits (art. 24 IPA).<sup>1120</sup>

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<sup>1119</sup> Decision of file with the author.

<sup>1120</sup> Ministry of Migration and Asylum, 3716/12-4-21, “Διευκρινίσεις – ορισμός διαδικασίας σχετικά με την παροχή γνώμης περί συνδρομής ή μη συνδρομής λόγων αποκλεισμού, την ανάκληση καθεστώτος διεθνούς προστασίας του αρ. 91 ν.4636/2019, καθώς και την ανανέωση των αδειών διαμονής του αρ. 24 ν.4636/2019, μετά τη θέση σε ισχύ του ΠΔ 106/2020”, available in Greek at:<https://bit.ly/3niHX8J>

## B. Family reunification

### 1. Criteria and conditions

#### Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?  
☐ Yes ☒ No  
❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application?  
For preferential treatment regarding material conditions ☒ Yes ☐ No  
❖ If yes, what is the time limit? No time limit - After the period of 3 months the Law further requires the possession of social security and a sufficient income to be proven
3. Does the law set a minimum income requirement?  
☒ Yes ☐ No  
After the period of 3 months

According to PD 131/2006 transposing the Family Reunification Directive, as supplemented by PD 167/2008 and amended by PD 113/2013, only recognised **refugees** have the right to apply for reunification with family members who are third-country nationals, if they are in their home country or in another country outside the EU.

As per Article 13 PD 131/2006, “family members” include:

- (a) Spouses;
- (b) Unmarried minor children;
- (c) Unmarried adult children with serious health problems which render them incapable to support themselves;
- (d) Parents, where the beneficiary solemnly declares that he or she has been living with them and taking care of them before leaving his or her country of origin, and that they no longer have other family members to care for and support them;
- (e) Unmarried partners with whom the applicant has a stable relationship, which is proven mainly by the existence of a child or previous cohabitation, or any other appropriate means of proof.

If the refugee is an unaccompanied minor, he or she has the right to be reunited with his or her parents if he or she does not have any other adult relatives in Greece.

If a recognised refugee requests reunification with his or her spouse and/or dependent children, within 3 months from the deliverance of the decision granting him or her refugee status, the documents required with the application are:<sup>1121</sup>

- (a) A recent family status certificate, birth certificate or other document officially translated into Greek and certified by a competent Greek authority, proving the family bond and/or the age of family members; and
- (b) A certified copy of the travel documents of the family members.

However, if the applicant cannot provide these certificates, the authorities take into consideration other appropriate evidence.

<sup>1121</sup> Article 14(1) PD 131/2006.

On the other hand, if the refugee is an adult and the application refers to his or her parents and/or the application is not filed within 3 months from recognition, apart from the documents mentioned above, further documentation is needed:<sup>1122</sup>

- (c) Full Social Security Certificate, i.e. certificate from a public social security institution, proving the applicant's full social security coverage; or
- (d) Tax declaration proving the applicant's fixed, regular and adequate annual personal income, which is not provided by the Greek social welfare system, and which amounts to no less than the annual income of an unskilled worker – in practice about €8,500 – plus 20% for the spouse and 15% for each parent and child with which he or she wishes to be reunited;
- (e) A certified contract for the purchase of a residence, or a residence lease contract attested by the tax office, or other certified document proving that the applicant has sufficient accommodation to meet the accommodation needs of his or her family.

The Asylum Service has interpreted this article of P.D. 131/2006 in a pro-refugee way. Either a full social security certificate or tax declaration proving sufficient income is required (or not both of them). On the contrary, the Aliens Police Directorate, i.e. in cases of recognized applicants under the “old procedure” (PD 114/2010) requires both certificates after the three months of the recognition. Another difference is that Asylum Service starts counting the 3-month period from the deliverance of the recognition decision. On the contrary, for the Aliens Police Directorate this deadline starts from the issuance of this decision that in most of these cases took place more than 3 months before the deliverance of the decision. In practice, the Aliens Police Directorate is demanding from refugees to apply for family reunification before they even know that they are recognized as refugees.

The abovementioned additional documents are not required in case of an unaccompanied child recognised as refugee, applying for family reunification after the 3-month period after recognition.<sup>1123</sup>

If the application for family reunification is rejected, the applicants have 10 days to submit an appeal before the competent administrative authorities.<sup>1124</sup> It's worth mentioning that there is no provision for free legal aid for this appeal. In case the appeal is rejected, applicants have the right to lodge an Application for Annulment before the competent Administrative Court of First Instance.<sup>1125</sup> If the family members enter Greece, they must within a month upon their arrival to submit in person an application for the issuance of a residence permit.<sup>1126</sup>

In practice, the family reunification is an extremely difficult and long procedure. It lasts at least three years, and requires constant legal assistance and support. Specifically, the procedure of family reunification includes, *inter alia*, communication and cooperation with the competent Greek Embassies, interviews with both the refugee and his/her family members, DNA testing where requested, as well as legal representation before the competent Administrative Court in case of rejection. It is worth mentioning that only urgent DNA tests are conducted, in violation of the Joint Ministerial Decision 47094/2018, due to the fact that there is no way for the required administrative fee to be paid since such electronic fee does not exist (“e-paravolo”).

In November 2019, GCR represented a recognised refugee before the First Instance Administrative Court of Athens. On 9 September 2020, the Court annulled the decision of the Hellenic Police rejecting the application for family reunification<sup>1127</sup>. More precisely, in 2012, the applicant had applied for asylum and in 2016 he had been granted refugee status in Greece due to his persecution for political reasons. In 2016

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<sup>1122</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

<sup>1123</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

<sup>1124</sup> Article 12 (1) P.D.131/2006.

<sup>1125</sup> Article 46 (1) P.D. 18/1989.

<sup>1126</sup> Article 15 (2) P.D. 131/2006.

<sup>1127</sup> Administrative Court of 1<sup>st</sup> Instance of Athens, Decision 493/2020

he submitted an application for family reunification with his three children and his wife at the Alien's Department of Attica. Upon notification of 1<sup>st</sup> instance rejection in 2018, he submitted an appeal, which was also rejected due to (a) the alleged lack of competence of the officer of the Greek Embassy who had ratified the documents proving his family link and (b) the alleged late submission of his application for family reunification. In the application for annulment it was argued that the rejection was not based neither on an individualized assessment, nor on a reasoned judgment. Moreover, it was argued that the three-month deadline had been calculated not from the notification of the recognition decision, but from the date of issuance of the decision. Thus, the deadline could not start before the applicant was even aware that he had been granted the refugee status. It was also argued that the aforementioned rejection was violating the relevant national and European laws on refugee family reunification, and international law on human rights. In light of the above, the Court annulled the decision of the Police and ordered the competent administrative authority to re-examine the application for family reunification. In December 2020, the latter accepted the application for family reunification. However, the family was still not reunited at the end of March 2021; the competent Greek Embassy seems unwilling to issue the reunification visas, and states that the visas will be issued when the "time is ripe".

Refugees who apply for family reunification face serious obstacles which render the effective exercise of the right to family reunification impossible in practice. Lengthy procedures, administrative obstacles as regards the issuance of visas even in cases where the application for family reunification has been accepted, the requirement of documents which are difficult to obtain by refugees, and lack of information on the possibility of family reunification, the three-month deadline and the available remedies are reported among others.<sup>1128</sup>

The Council of Europe Commissioner for Human Rights notes that these administrative obstacles result in a short number of beneficiaries of international protection being able to initiate a family reunification procedure. Moreover, the deficiencies in the family reunification procedure sometimes result in families trying to reunite through dangerous irregular routes.<sup>1129</sup>

In 2019, 266 applications for family reunification were submitted before the Asylum Service. The Asylum Service took 22 positive decisions, 2 partially positive decisions and 29 negative decisions.<sup>1130</sup> The Asylum Service due to the nature of this procedure cannot specify the time needed for a decision to be issued.<sup>1131</sup> Such information was not provided by the Asylum Service for the year 2020.

In February 2018, in a case supported by GCR, the Administrative Court of Athens annulled a decision rejecting the application for family reunification submitted by a refugee before the Aliens Police Directorate of Attica. The Court found that the rejection of the application had been issued in breach of the relevant legal framework.<sup>1132</sup> In November 2019, the Aliens Police Directorate issued again a negative decision on the same case. Following this decision, in January 2019 GCR's Legal Unit applied again for the annulment of this second negative Decision of the Aliens Police Directorate, before the Administrative Court of Athens. The Decision of the Court is still pending by March 2020.

A long awaited Joint Ministerial Decision was issued in August 2018 on the requirements regarding the issuance of visas for family members in the context of family reunification with refugees.<sup>1133</sup> Among other provisions, this Decision sets out a DNA test procedure in order to prove family links and foresees

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<sup>1128</sup> See e.g. Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, available at: <http://bit.ly/2FkN0i9>, 26-27.

<sup>1129</sup> Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 68-69.

<sup>1130</sup> Information provided by the Asylum Service, 17 February 2020.

<sup>1131</sup> Information provided by the Asylum Service, 17 February 2020.

<sup>1132</sup> Administrative Court of Athens, Decision 59/2018; GCR, 'Πρώτη απόφαση διοικητικών δικαστηρίων για οικογενειακή επανένωση πρόσφυγα', 8 February 2018, available in Greek at: <http://bit.ly/2FhY5EE>.

<sup>1133</sup> JMD 47094/2018, Gov. Gazette B/3678/28.08.2018.

interviews of the family members by the competent Greek Consulate. The entire procedure is described in detail in the relevant handbook of the Ministry of Foreign Affairs.<sup>1134</sup> According to the Ministerial Decision, the refugee must pay €120 per DNA sample but until today the electronic fee (e-paravolo) is not available and thus the payment of the fee is not possible. In addition, the DNA kit must be sent from the Forensic Science Department (Διεύθυνση Εγκληματολογικών Ερευνών) that will conduct the test, to the Greek Consulate in the diplomatic pouch of the Ministry of Foreign Affairs. This is a procedure which can be proven lengthy.

In November 2019, GCR supported the first case on a DNA test Procedure in Greece. Although an initial positive decision for family reunification was issued, a DNA test has been ordered due to the doubts on the family link expressed by the competent Greek Consulate. In this case, there was no Greek Embassy in the country of origin and the family members had to present themselves at the Greek Embassy appointed as competent for the issuance of the visas, located in another country. However, during the DNA test procedure the visas of the refugee his family members for that country expired. Hence, they had to stay in that country for more than three months, waiting for the procedure to be finalized. In February 2020 the visas were finally issued. However the family members that arrived in Greece were not able to apply in person within one month upon their arrival, due to COVID-19 measures. The competent RAO made an exception due to *force majeure* and granted them residence permit as family members of a recognized refugee.

Refugee family members who enter Greece after a successful family reunification cannot apply for the renewal of their residence permit if they reach the age of majority (18)<sup>1135</sup>. P.D. 131/2006 provides for a special one-year residence permit until they reach the age of 21<sup>1136</sup>. However, they still need a valid residence permit in order to apply for the said one-year residence permit before the competent Decentralized Administration of their place of residence.

In December 2020, GCR represented two cases regarding that issue. The Headquarters of the Hellenic Police rejected the applications for renewal of the residence permit of four refugee family members who had entered Greece after positive family reunification decisions, on the grounds that “they reached the age of majority”. In the first case, the refugee family member was placed in administrative detention when he was invited to the Aliens Directorate of Attica and was released the same day, after he asked for international protection. In the second case, GCR has filed a complaint to the Greek Ombudsman that is still pending.

There is no available data concerning the total number of applications for visa submitted before the Greek Consulates following a positive family reunification decision during 2020.

## 2. Status and rights of family members

According to Article 23 and Article 24 of IPA, family members of the beneficiary of international protection who do not individually qualify for such protection are entitled to a renewable residence permit, which must have the same duration as that of the beneficiary.

However, if the family has been formed after entry into Greece, the law requires the spouse to hold a valid residence permit at the time of entry into marriage in order to obtain a family member residence permit.<sup>1137</sup> This requirement is difficult to meet in practice and may undermine the right to family life, since one must already have a residence permit in order to qualify for a residence permit as a family member of a refugee.

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<sup>1134</sup> Ministry of Foreign Affairs, *Immigration Code Handbook*, 2019, available in Greek at: <https://bit.ly/2BYHS3p>, 123-127.

<sup>1135</sup> Article 2 IPA

<sup>1136</sup> Article 11 (1) P.D. 131/2006

<sup>1137</sup> Article 24(4) IPA.

Moreover, after the implementation of the IPA, underage beneficiaries of international protection can no longer apply for the issuance of residence permit for their non-refugee parent.

## C. Movement and mobility

### 1. Freedom of movement

According to Article 34 IPA, beneficiaries of international protection enjoy the right to free movement under the same conditions as other legally residing third-country nationals. No difference in treatment is reported between different international protection beneficiaries.

### 2. Travel documents

Ministerial Decision 1139/2019<sup>1138</sup> that was regulating the procedures of issuance of travel documents for beneficiaries of international protection was abolished and replaced by Joint Ministerial Decision 10302/2020<sup>1139</sup> which came into force on 30 May 2020.

Recognised **refugees**, upon request submitted to the competent authority, are entitled to a travel document (*titre de voyage*), regardless of the country in which they have been recognised as refugees in accordance with the model set out in Annex to the 1951 Refugee Convention.<sup>1140</sup> This travel document allows beneficiaries of refugee status to travel abroad, except their origin country, unless compelling reasons of national security or public order exist. The abovementioned travel document is issued from the Passport Directorate of the Hellenic Police Headquarters,<sup>1141</sup> subject to a fee of approximately 84 € for the adults and 73 € for the minors. These travel documents are valid for 5 years for adults and 3 years for minors and can be renewed.<sup>1142</sup>

The same applies to beneficiaries of **subsidiary protection or family members of beneficiaries of international protection**, if they are unable to obtain a national passport, unless compelling reasons of national security or public order exist.<sup>1143</sup> In practice, beneficiaries of subsidiary protection must present to the Greek authorities verification from the diplomatic authorities of their country of origin, certifying their inability to obtain a national passport. This prerequisite is extremely onerous, as beneficiaries of subsidiary protection may also fear persecution or ill-treatment from their country of origin. Furthermore, the issuance of this verification lies upon the discretion of the diplomatic authorities of their country of origin and depends on the policy of each country. The travel documents issued for beneficiaries of subsidiary protection are valid for 3 years and can be renewed.<sup>1144</sup>

JMD 10302/2020 provides that the Alien's Directorates is the only competent authority for the issuance of travel documents<sup>1145</sup>. In practice, after their recognition beneficiaries of international protection must scan all the required documents (including the electronic administrative fee) and send them by email to the competent Alien's Directorate in order to book an appointment for the submission of their applications in person. After the travel document is issued, they must regularly check the website of the Asylum Service for their scheduled deliverance appointment<sup>1146</sup>. If they miss that appointment they must book another

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<sup>1138</sup> Ministerial Decision 1139/2019, Gov. Gazette 4736/B/20.12.2019, available in Greek at: <https://bit.ly/3dDfiYI>

<sup>1139</sup> Joint Ministerial Decision 10302/2020, Gov. Gazette 2036/B/30-5-2020, available in Greek at: <https://bit.ly/2P71hc8>

<sup>1140</sup> Article 25(1) IPA

<sup>1141</sup> Article 25(2) IPA

<sup>1142</sup> Article 7(1) MD 1139/2019 (in force until 29/05/2020) and Article 6(1) JMD 10302/2020 (in force since 30/05/2020)

<sup>1143</sup> Article 25(4) IPA.

<sup>1144</sup> Article 7(2) MD 1139/2019 and Article 6(2) JMD 10302/2020.

<sup>1145</sup> Article 3 JMD 10302

<sup>1146</sup> Ministry of Migration and Asylum, Information on travel documents at: <https://bit.ly/2Pd4kQe>



one through the electronic platform of the Ministry of Migration; that appointment may be scheduled months after the missed one.

According to both Ministerial Decisions, travel documents should not be issued to refugees convicted for falsification and use of false travel documents. Travel documents cannot be issued for five years following the conviction, or for ten years in case of a felony.<sup>1147</sup>

The same Ministerial Decision regulates the issuance of travel documents for minors accompanied by one of their parents who exercises on his/her own the parental care of the child, but does not possess documents establishing the parental care of the child. More precisely travel documents for the minor can be issued upon submission of a declaration on oath before the District Court or a Notary when the following conditions are met:

- ❖ the minor is granted refugee status and is present in Greece with one of his/her parent;
- ❖ this parent is also exercising the parental care due to facts or legal acts previously registered in the country of origin, and
- ❖ this parent does not possess documents proving that he/she is exclusively exercising the parental care.

This long-awaited Ministerial Decision 1139/2019 simplified the procedure for the issuance of travel documents for minors of single-headed families. The Joint Ministerial Decision 10302/2020 has exactly the same provision on this matter. However, this provision does not apply to cases where the parent is exercising the sole parental custody due to facts or legal acts registered in a country other than the country of their origin. In this case, if no supporting documents can be provided, travel documents for the minor can be requested by the single parent under the condition that the parental care/responsibility has been assigned to him/her on the basis of a decision of a Greek court.<sup>1148</sup>

The waiting period for the issuance of travel documents can prove lengthy and may exceed 1 year in some cases, as far as GCR is aware. Measures against COVID-19 seem to have slowed down the issuance and particularly the deliverance of travel documents.

In May 2019, the Asylum Service started the process of electronic renewal of travel documents. The application for renewal of travel documents is submitted via e-mail and further supporting documents must be sent to the Asylum Service via post. The application is completed with the receipt of the required supporting documents from the applicants. Therefore, the time for processing the application by the Asylum Service depends on the time of sending and receiving all required supporting documents<sup>1149</sup>. From the time of receipt of these documents, the average time for the issuance of a travel document renewal decision is one and a half (1.5) months.

There is no available data concerning the applications submitted for the renewal of Travel Documents and the positive decisions taken by the Asylum Service during 2020.

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<sup>1147</sup> Article 1(2) MD 1139/2019 and Article 1(2) JMD 10302/2020.

<sup>1148</sup> Articles 1(6) and 1(7) JMD 1032/2020.

<sup>1149</sup> Ministry of Migration and Asylum, Information on travel documents at: <https://bit.ly/2Pd4kQe>

## D. Housing

### Indicators: Housing

- |  |                       |
|--|-----------------------|
| 1. For how long are beneficiaries entitled to stay in ESTIA accommodation? | 1 month               |
| 2. Number of beneficiaries staying in ESTIA as of 31 December 2020         | 6,199 <sup>1150</sup> |

According to Article 30 IPA, beneficiaries of international protection should enjoy the same rights as Greek citizens and receive the necessary social assistance, according to the terms applicable to Greek citizens. However, administrative and bureaucratic barriers, lack of state-organised actions in order to address their particular situation, non-effective implementation of the law, and the impact of economic crisis prevent international protection holders from the enjoyment of their rights, which in some cases may also constitute a violation of the principle of equal treatment enshrined in L.3304/2005, transposing Directives 2000/43/EU and 2000/78/EU.

In 2020, 34,321 people were granted international protection at 1<sup>st</sup> instance, up from 17,355 in 2019, 15,192 in 2018 and 10,351 in 2017.<sup>1151</sup> As noted by UNHCR, “[t]here is a pressing need to support refugees to lead a normal life, go to school, get healthcare and earn a living. This requires key documents that allow access to services and national schemes, enable refugees to work and help their eventual integration in the host communities [...] UNHCR advocates for refugees to be included in practice in the national social solidarity schemes, as for example the Social Solidarity Income and the Rental Allowance Scheme. While eligible, many are excluded because they cannot fulfil the technical requirements, as for example owning a house, or having a lease in their name”.<sup>1152</sup> In any event, the impact of the financial crisis on the welfare system in Greece, the overall integration strategy and the Covid-19 pandemic should be also taken into consideration when assessing the ability of beneficiaries to live a dignified life in Greece.

Moreover, a number of measures restricting the access of recognized beneficiaries of international protection to social benefits and accommodation were announced in March 2020. As stated by the Minister for Migration and Asylum, “our aim is to grant asylum to those entitled within 2-3 months and from then on we cut any benefits and accommodation, as all this works as a pull factor [...] Greece is cutting these benefits. Anyone after the recognition of the asylum status is responsible for himself”.<sup>1153</sup>

Indeed, an amendment to the asylum legislation in early March 2020 states that “after the issuance of the decision granting the status of international protection, material reception conditions in form of cash or in kind are interrupted. Said beneficiaries residing in accommodation facilities, including hotels and apartments have the obligation to leave them, in a 30-days period since the communication of the decision granting international protection”. Unaccompanied children have the legal obligation to leave the facilities within 30 days of reaching the age of majority. Special categories of beneficiaries for whom the provision of benefits or deadline to leave the facility is extended, and “in particular persons with a serious health condition”, may be foreseen by a ministerial Decision.<sup>1154</sup>

A Ministerial Decision, issued on 7 April 2020, granted recognized refugees a deadline up until 31 May 2020, to leave the accommodation facilities due to the COVID-19 outbreak.<sup>1155</sup>

<sup>1150</sup> UNHCR, Greece Factsheet, December 2020, available at: <https://bit.ly/3pgdgjN>

<sup>1151</sup> Information provided by the Asylum Service, 31 March 2021 and 17 February 2020; Asylum Service, *Statistical data*, December 2018.

<sup>1152</sup> UNHCR, *Greece Fact Sheet*, 1-31 January 2019.

<sup>1153</sup> Protothema.gr, End of the benefits to refugees according to Mitarakis, 7 March 2020, available in Greek at: <https://bit.ly/2lwvE51>.

<sup>1154</sup> Article 114 L. 4636/2019, as amended by Article 111 L. 4674/2020. Said ministerial Decision, has been issued on 7 April 2020 (JMD No 13348, Gov. Gazzetta B' 1190/7-4-2020).

<sup>1155</sup> JMD No 13348, Gov. Gazzetta B' 1190/7-4-2020.

As noted by UNHCR in June 2020<sup>1156</sup> “Forcing people to leave their accommodation without a safety net and measures to ensure their self-reliance may push many into poverty and homelessness. Most of the affected refugees do not have regular income, many are families with school-aged children, single parents, survivors of violence, and others with specific needs. The ongoing COVID-19 pandemic and measures to reduce its spread create additional challenges by limiting people’s ability to move and find work or accommodation. Shifting a problem from the islands to the mainland is not a solution. UNHCR has been urging authorities to apply a phased approach, a higher threshold to extend assistance to vulnerable people who cannot leave at this stage.”

In a Joint Letter of 1 June 2020<sup>1157</sup> to the Minister of Migration and Asylum, the European Commissioner for Migration and Home Affairs, and the European Vice-President for Promoting our European Way of Life, several civil society organisations expressed “their grave concern about the upcoming exits of at least 8,300 recognised refugees from accommodation and cash assistance schemes in Greece by the end of May 2020. A considerable number of these people, of which a large proportion are families with children, are facing an increased risk of homelessness amidst a global pandemic. Refugees who have received international protection are being forced to leave apartments for vulnerable people in the Emergency Support to Integration & Accommodation programme (ESTIA), hotels under the Temporary Shelter and Protection programme (FILOXENIA), Reception and Identification Centres (RICs) and refugee camps. Almost simultaneously, financial assistance in the form of EU implemented and supported cash cards will stop. These upcoming measures will affect the livelihood of at least 4,800 people who need to leave ESTIA accommodation, 3,500 people who need to leave RICs and hosting facilities, as well as 1,200 refugees who are self-accommodated and receive cash assistance.”

In general terms and according to the law beneficiaries of international protection have access to accommodation under the conditions and limitations applicable to third-country nationals residing legally in the country.<sup>1158</sup>

Apart for the transitional period, in July 2019, as part of the National Integration Strategy, a programme for refugees and beneficiaries of subsidiary protection was launched (“HELIOS 2”). This aimed at promoting the integration of beneficiaries of international protection currently residing in temporary accommodation schemes into the Greek society through different actions, such as integration courses, accommodation and employability support. The project is implemented by IOM and its partners, with the support of the Greek government and will last up until June 2021 under current funding. In order to enrol in the project, beneficiaries must meet all the following criteria:

- a) be a beneficiary of international protection
- b) have been recognised as beneficiary of international protection after 01 January 2018 and
- c) be officially registered and reside in an Open Accommodation Centre, Reception and Identification Centre, a hotel of the IOM FILOXENIA project or in the ESTIA program.

However, as mentioned in March 2021 by RSA and Pro-Asyl Stiftung<sup>1159</sup> “[...] beneficiaries of international protection who were not in Greece upon the approval of their asylum application are not eligible for enrolment on the HELIOS programme. According to IOM statistics, 26,665 beneficiaries of international protection had been registered on the HELIOS programme by 5 February 2021. 34% were previously residents in an ESTIA place, 33% in mainland camps, 18% in hotels and 16% in RIC. HELIOS does not offer accommodation *per se*. It offers rental subsidies to assist beneficiaries in finding an accommodation place, upon condition they hold a rental agreement of a duration exceeding 6 months and a bank account. [...] From the start of the reference period covered by the programme, 1 January 2018, until the end of 2020, 71,812 persons received international protection at first and second instance. Therefore,

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<sup>1156</sup> UNHCR, Greece must ensure safety net and integration opportunities for refugees, 2 June 2020, available at: <https://bit.ly/2RWkhLL>

<sup>1157</sup> Joint Letter about the exits of recognized refugees from accommodation and cash assistance, 1 June 2020, available at: <https://bit.ly/3asvbiB>

<sup>1158</sup> Article 33 IPA.

<sup>1159</sup> RSA and Pro-Asyl Stiftung, *Idem*, para. 30-36.

only one out of seven people granted status in Greece has been able to access rental subsidies under the HELIOS programme. The number of households currently benefitting from HELIOS subsidies is 2,926, corresponding to 7,667 persons. Accordingly, as many as 3,342 beneficiaries have ceased receiving rental subsidies under the HELIOS programme."

On 12 August 2020 the Greek Ombudsperson addressed a letter to the General Secretaries of the competent Ministries raising the need for integration measures for recognised refugees belonging to vulnerable groups before they leave the accommodation facilities. The Ombudsperson requested the provision of support services and an effective access of recognised refugees to the welfare system. The General Secretary for Immigration Policy provided information on housing and integration measures already taken or planned.<sup>1160</sup>

According to information provided by the General Secretary for the reception of asylum seekers of the Ministry of Migration and Asylum<sup>1161</sup>, from the beginning of June 2020 until the end of 2020, 2,924 people were obliged to leave an open accommodation center and 2,033 people were obliged to leave an accommodation provided in the context of the ESTIA program either because of notification of 2<sup>nd</sup> instance rejection of their asylum application or because they were granted international protection. According to the same source, during the same period, 14,287 people, previously under the ESTIA program, were integrated in the HELIOS program.

It is mentioned that there is limited accommodation for homeless people in Greece and no shelters are dedicated to recognised refugees or beneficiaries of subsidiary protection. There is no provision for financial support for living costs. In Athens, for example, there are only four shelters for homeless people, including Greek citizens and third-country nationals lawfully on the territory. At these shelters, beneficiaries of international protection can apply for accommodation, but it is extremely difficult to be admitted given that these shelters are always overcrowded and constantly receiving new applications for housing.

According to GCR's experience, those in need of shelter who lack the financial resources to rent a house remain homeless or reside in abandoned houses or overcrowded apartments, which are on many occasions subletted. In a press release of December 2020, GCR and 71 more civil society organisations<sup>1162</sup> expressed their concern "about the many vulnerable refugees who have been forced to exit or are facing forced exits, including survivors of gender-based violence or torture, people with health issues, including mental health, or disabilities, single women and single-parent families, young adults, and people from the LGBTQ+ community." According to them "Many refugees have difficulties or are unable to become self-sufficient because of vulnerabilities or problems accessing essential services and the labour market. In the past, refugees who were asked to exit state-provided accommodation ended up sleeping rough in urban areas or did not leave accommodation out of fear of becoming homeless. Problems with access to support and services are exacerbated for refugees in camps because of ongoing Covid-19 restrictions and the often remote locations of these sites, making it nearly impossible to search for housing, access services or find work. For many refugees in camps, food insecurity is a constant risk as cash assistance is halted within one month while those not enrolled in the HELIOS programme stop receiving food assistance. The announced transit sites for those forced to exit their accommodation only provide a band-aid solution for some refugees and only ever for a maximum of two months. This period is simply not enough for people to become independent and without proper support, the number of homeless people in cities will increase. Ultimately, there is a critical absence of a long-term sustainable strategy for integration and inclusion in Greece that results in increased homelessness and destitution for many people—of whom many are refugees".

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<sup>1160</sup> Greek Ombudsperson on integration measures for recognized refugees, available in Greek at: <https://bit.ly/3aqCvLK>

<sup>1161</sup> Information provided on 18 March 2021

<sup>1162</sup> Press Release of 72 civil society organisations, Refugees in Greece: risk of homelessness and destitution for thousands during winter, 22 December 2020, available at: <https://bit.ly/32GaR8V>

According to Pro Asyl and Refugee Support Aegean “Since the summer of 2020, thousands of beneficiaries of international protection have ended up homeless after being informed that they had to leave their places in the reception system within 30 days of the grant of international protection. People have been exposed to destitution and have slept rough in Victoria Square and other parts of Athens. Following several forcible removal operations, the Police has transported them to refugee camps (e.g. Malakasa, Elaionas, Skaramangas, Thiva) and even to detention facilities (Amygdaleza), where they have remained as unregistered residents. [...] As of early February 2021, as many as 10,405 recognised refugees resided in the country’s refugee camps alone, while 6,199 beneficiaries of international protection resided in ESTIA at the end of 2020. Persons residing in ESTIA accommodation are being served complaints (εξώδικα) by the organisations operating apartments, threatening them with legal action if they fail to vacate the premises. Media reports confirm that hundreds are being left on the street in February 2021 amid the COVID-19 pandemic and harsh winter conditions. At the end of the month, status holders became homeless yet again across the territory, after being requested to leave their places in hotels running under the FILOXENIA programme [...] In Athens, approximately 70 people ended up in Victoria Square and were transferred by the authorities to the pre-removal detention centre of Amygdaleza.”

On 21 January 2021, the Higher Administrative Court (OVG) of the state of North Rhine-Westphalia has ruled that two beneficiaries of international protection in Greece, an Eritrean national and a Syrian national of Palestinian origin, cannot be sent back from Germany because of a "serious risk of inhumane and degrading treatment." The Court held that if the two refugees were returned to Greece they would face "extreme material hardship", they would be unable to find accommodation in reception facilities or homeless shelters, and would have difficulty accessing the labour market.<sup>1163</sup>

Moreover, on 19 April 2021, the Higher Administrative Court of the state of Lower Saxony ruled that two Syrian sisters who were recognized as refugees in Greece cannot be returned there because there is a serious risk that their most basic needs (“bed, bread, soap”) cannot be met.<sup>1164</sup>

## E. Employment and education

### 1. Access to the labour market

Article 27 IPA provides for full and automatic access to the labour market for recognised refugees and subsidiary protection beneficiaries under the same conditions as nationals, without any obligation to obtain a work permit.

However, as mentioned in [Reception Conditions: Access to the Labour Market](#), high unemployment rates and further obstacles that might be posed by competition with Greek-speaking employees, prevent the integration of beneficiaries into the labour market. Third-country nationals remain over-represented in the relevant unemployment statistical data. As found in a 2018 research “[t]hose few who manage to find a job are usually employed in the informal economy, which deprives them of access to social security, and subjects them to further precariousness and vulnerability. Henceforth, the vast majority of international protection beneficiaries and applicants rely on food, non-food item and financial assistance distributions to meet their basic needs. This often forces them into dangerous income generating activities, and

<sup>1163</sup> See also Infomigrants, German court rules that refugees cannot be deported to Greece, 27 January 2021, available at: <https://bit.ly/3n74jK4>, ECRE, Greece: Unknown NGO to Receive Substantial EU Funds, Government Admits Lead Contamination in Moria 2.0, German Court Suspends Returns, 29 January 2021, available at: <https://bit.ly/3dCL8Vt> and OVG, In Griechenland anerkannte Schutzberechtigte dürfen derzeit nicht rücküberstellt werden, 26 January 2021, available in German at: <https://bit.ly/3auaVgy>

<sup>1164</sup> Niedersachsen oberverwaltungsgericht, 19 April 2021, In Griechenland anerkannte Flüchtlinge dürfen derzeit nicht dorthin rücküberstellt werden, available in German at: <https://bit.ly/3eopXWj>



extends the need for emergency services, increases the risk of exploitation, and hinders their integration prospects.”<sup>1165</sup>

Due to the abovementioned shortcomings, a lot of beneficiaries of international protection work as irregular peddlers, since it is very difficult to obtain the special work permit required for this profession. Hence, they risk to be fined and jailed. In a case handled by GCR in October 2020 the First Instance Administrative court of Piraeus ruled that the fine of € 5,000 imposed on a recognised refugee who was working as a street vendor was exorbitant and it had to be adjusted to € 200 due to the amendment of the relative legislation.<sup>1166</sup>

The National Integration Strategy<sup>1167</sup> provides for several actions to improve access to employment for beneficiaries of international protection. These include a pilot vocational training program for 8,000 recognized refugees in Attica and Central Macedonia in collaboration with the Ministry of Labor and an employment program in the agricultural sector for 8,000 refugees in collaboration with the Ministry of Agricultural Development. However, these actions have yet to be implemented.<sup>1168</sup>

Similar to asylum seekers, beneficiaries of international protection face obstacles in the issuance of Tax Registration Number (AFM), which hinder their access to the labour market and registration with the Unemployment Office of OAED. According to GCR’s experience, issuance of an AFM is riddled by severe delays. The procedure for competent Tax Offices to verify refugees’ personal data through the Asylum Service takes approximately 2 months. In case of a professional (επαγγελματικό) AFM, the procedure takes more than 3.5 months and requires the assistance of an accountant. Moreover, individuals wishing to register with a Tax Office (Διεύθυνση Οικονομικών Υποθέσεων, (DOY) with a view to obtaining AFM are required to certify their residence address through a certificate from a reception centre, an electricity bill or a copy of a rental contract in their name. Accordingly, beneficiaries of international protection who do not hold a residence certificate and/or are homeless are unable to obtain AFM. As a result, they cannot submit a tax declaration or obtain a tax clearance certificate.<sup>1169</sup>

## 2. Access to education

Children beneficiaries of international protection have an obligation to study at primary and secondary education institutions of the public education system, under the same conditions as nationals.<sup>1170</sup> Similar to [Reception Conditions: Access to Education](#), the new L. 4636/2019 refers not to a right to education but to a duty on beneficiaries of international protection.

Adult beneficiaries are entitled to access the education system and training programmes under the same conditions as legally residing third-country nationals.<sup>1171</sup> The number of children beneficiaries of international protection enrolled in formal education is not known. However, the total number of asylum-seeking and refugee children enrolled is 11,700 (see [Reception Conditions: Access to Education](#)).<sup>1172</sup>

A number of Greek language classes are provided by universities, civil society organisations and centres for vocational training. However, as noted by UNHCR, “Most refugees do not benefit from language

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<sup>1165</sup> ELIAMEP, *Refugee Integration in Mainland Greece: Prospects and Challenges*, March 2018, available at: <https://bit.ly/2T5untb>, 3

<sup>1166</sup> Decision on file with the author.

<sup>1167</sup> Statement of the Secretary General for Migration Policy at the presentation of the National Integration Strategy, see Ministry for Migration Policy, Press release: Presentation of the “National Integration Strategy”, 17 January 2019.

<sup>1168</sup> CNN, ‘Στα «χαρτιά» η εθνική στρατηγική για την ένταξη των μεταναστών’, 30 September 2019, available in Greek at: <https://bit.ly/2W03do0>.

<sup>1169</sup> RSA and Pro Asyl, *Idem*, para. 15-16

<sup>1170</sup> Article 28(1) IPA.

<sup>1171</sup> Article 28(2) IPA.

<sup>1172</sup> UNICEF, *Refugee and migrant children in Greece as of 31 January 2019*, available at: <https://uni.cf/2SH2pz4>.



courses or integration programmes in Greece".<sup>1173</sup> A pilot programme of Greek language courses funded by the Asylum, Migration and Integration Fund (AMIF) announced in January 2018 was included in the HELIOS project and has been implemented since June 2019 by IOM and its partners.<sup>1174</sup> Moreover, the Municipality of Athens regularly organizes Greek language courses for adult immigrants, as well as IT seminars, for, among others, adult refugees.<sup>1175</sup>

## F. Social welfare

The law provides access to social welfare for beneficiaries of international protection without drawing any distinction between refugees and beneficiaries of subsidiary protection. Beneficiaries of international protection should enjoy the same rights and receive the necessary social assistance according to the terms that apply to nationals, without discrimination.<sup>1176</sup>

### Types of social benefits

Not all beneficiaries have access to social rights and welfare benefits. In practice, difficulties in access to rights stem from bureaucratic barriers, which make no provision to accommodate the inability of beneficiaries to submit certain documents such as family status documents, birth certificates or diplomas, or even the refusal of civil servants to grant them the benefits provided, contrary to the principle of equal treatment as provided by Greek and EU law.<sup>1177</sup>

**Family allowance:** The family allowance is provided to families that can demonstrate 5 years of permanent, uninterrupted and legal stay in Greece<sup>1178</sup>. As a result, the majority of beneficiaries of international protection are excluded from this benefit.

**Single mother allowance:** Allowance to single mothers is provided to those who can provide proof of their family situation e.g. divorce, death certificate, birth certificate. With no access to the authorities of their country, many mothers are excluded because they cannot provide the necessary documents.

**Single child allowance:** The single child support allowance replaced the pre-existing family allowances and is provided explicitly to refugees or beneficiaries of subsidiary protection.<sup>1179</sup>

**Birth allowance:** The newly established birth allowance is granted to the mother who is legally and permanently residing in Greece and amounts to €2,000 for every child born in Greece. Third country nationals are entitled to receive this allowance if they can demonstrate 12 years of permanent stay in Greece. Exceptionally for the births that will take place in the years 2020-2023 the allowance will be granted to the mother – third country national, if she has been permanently residing in Greece since 2012. The permanent stay is proved with the submission of tax declarations. Hence, the vast majority of beneficiaries of international protection are practically excluded from this benefit.<sup>1180</sup>

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<sup>1173</sup> in.gr, "Υπατη Αρμοστεία ΟΗΕ για πρόσφυγες: Δίκαιη απονομή ασύλου, όχι μόνο γρήγορη", 6 May 2020, <https://bit.ly/2LazMJf>

<sup>1174</sup> IOM, *Hellenic Integration Support for Beneficiaries of International Protection (HELIOS)*, available at: <https://bit.ly/3d9OJbp>.

<sup>1175</sup> City of Athens, 'Εκπαιδευτικά Προγράμματα', available in Greek at: <https://www.cityofathens.gr/node/2545>.

<sup>1176</sup> Articles 29 and 30 IPA.

<sup>1177</sup> Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, 22-24; ELIAMEP, *Refugee Integration in Mainland Greece: Prospects and Challenges*, March 2018, 4-5.

<sup>1178</sup> Article 3(6) Law 4472/2017, inserted by Article 17 Law 4659/2020. Residence is established based on the submission of tax declarations within the requisite deadlines

<sup>1179</sup> Article 214 L. 4512/2018, as amended by Article 15 L. 4659/2020.

<sup>1180</sup> Articles 1 and 7 L. 4659/2020.

**Student allowance:** Furthermore, beneficiaries of international protection are excluded by law from the social allowance granted to students, which amounts to €1,000 annually. According to the law, this allowance is provided only to Greek nationals and EU citizens.<sup>1181</sup>

**Disability benefits:** Beneficiaries of international protection with disabilities also face great difficulties in their efforts to access welfare benefits. First they have to be examined by the Disability Accreditation Centre to assess whether their disability is at a level above 67%, in order to be eligible for the Severe Disability Allowance.<sup>1182</sup> Even if this is successfully done, there are often significant delays in the procedure.

The **guaranteed minimum income** (ελάχιστο εγγυημένο εισόδημα)<sup>1183</sup> formerly known as Social Solidarity Income (Κοινωνικό Επίδομα Αλληλεγγύης “ΚΕΑ”, established in February 2017 as a new welfare programme regulated by Law 4389/2016.<sup>1184</sup>) The guaranteed minimum income is €200 per month for each household, plus €100 per month for each additional adult of the household and €50 per month for each additional child of the household, was intended to temporarily support people who live below the poverty line in the current humanitarian crisis, including beneficiaries of international protection<sup>1185</sup>.

Unfortunately, except for the “guaranteed minimum income”, there are no other effective allowances in practice. There is no provision of state social support for vulnerable cases of beneficiaries such as victims of torture. The only psychosocial and legal support addressed to the identification and rehabilitation of torture victims in Greece is offered by three NGOs, GCR, Day Centre Babel and MSF, which means that the continuity of the programme depends on funding.

**Uninsured retiree benefit:** Finally, retired beneficiaries of international protection, in principle have the right to the Social Solidarity Benefit of Uninsured Retirees.<sup>1186</sup> However, the requirement of 15 years of permanent residence in Greece in practice excludes from this benefit seniors who are newly recognised beneficiaries. The period spent in Greece as an asylum seeker is not calculated towards the 15-year period, since legally the application for international protection is not considered as a residence permit.

The granting of social assistance is not conditioned on residence in a specific place.

## G. Health care

Free access to health care for beneficiaries of international protection is provided under the same conditions as for nationals,<sup>1187</sup> pursuant to L 4368/2016. The new International Protection Act has not changed the relevant provisions. Despite the favourable legal framework, actual access to health care services is hindered in practice by significant shortages of resources and capacity for both foreigners and the local population, as a result of the austerity policies followed in Greece, as well as the lack of adequate cultural mediators. “The public health sector, which has been severely affected by successive austerity measures, is under extreme pressure and lacks the capacity to cover all the needs for health care services, be it of the local population or of migrants”.<sup>1188</sup> Moreover, administrative obstacles with regard to the issuance of a Social Security Number (AMKA) also impede access to health care. In addition, according to GCR’s experience, beneficiaries of international protection under the “old” system who

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<sup>1181</sup> Article 10 L 3220/2004.

<sup>1182</sup> JMD Γ4α/Φ. 225/161, Official Gazette 108/B/15.2.1989.

<sup>1183</sup> Article 29(2) L. 4659/2020, Official Gazette A’ 21/3.2.2020

<sup>1184</sup> Article 235 L 4389/2016. See also KEA, ‘Πληροφορίες για το ΚΕΑ’, available in Greek at: <http://bit.ly/2HcB6XT>.

<sup>1185</sup> ΟΠΕΚΑ, Ελάχιστο Εγγυημένο Εισόδημα (ΚΕΑ), available at: <https://bit.ly/3chQsdD>.

<sup>1186</sup> Article 93 L 4387/2016.

<sup>1187</sup> Article 31(2) IPA.

<sup>1188</sup> Council of Europe, *Report by Commissioner for Human Rights Dunja Mijatovic following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, para 40.

possess the “old” residence permit in the form of a “booklet”, have encountered problems in the issuance of AMKA, as this old residence permit contains a number written in a different format than the new residence permits. Hence, the employees at the Citizen Service Center (ΚΕΠ) did not know how to process the issuance of AMKA. Finally, it has been clarified that this will happen at the offices of the Single Social Security Entity (ΕΦΚΑ).

As regards COVID-19 vaccination, beneficiaries of international protection are entitled to vaccines similarly to Greek citizen, provided that they have a social security number (AMKA) and that they are registered into the Greek tax statement system (TAXISNET). There are no statistics available on the number of beneficiaries of international protection that have been vaccinated so far.

## ANNEX I – Transposition of the CEAS in national legislation

The following section contains an overview of incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
<b>Directive 2011/95/EU</b> Recast Qualification Directive	-	-	-
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	28(1)	Article 81(1) IPA	<p>The Directive requires Member States to ensure that the determining authority can either discontinue the procedure or, in case it is satisfied on the basis of available evidence that the claim is unfounded, to issue a rejection decision. Article 81(1) IPA only provides that, in the case of implicit withdrawal, the determining authority shall reject an application as unfounded after adequate examination. Accordingly, (i) it does not permit the Asylum Service to discontinue the procedure, and (ii) does not clearly condition the issuance of a negative decision on the authority being satisfied on the basis of available evidence that the claim is unfounded. The provision has therefore incorrectly transposed the Directive.</p> <p>NOTE: Article 81 (1) of the IPA has been amended by Article 13(1) of L. 4686/2020, Gov. Gazette A 96/12 May 2020. The May 2020 amendment provides for the possibility of discontinuing the procedure in case of an implicit withdrawal and if an adequate examination of the substance of the Application is not possible.</p>
	31(8)	Article 83(9) IPA	<p>The IPA exceeds the permissible grounds for applying the accelerated procedure, given that it foresees as grounds for using the procedure cases where the applicant (i) refuses to comply with the obligation to be fingerprinted under domestic legislation, or (ii) is a vulnerable person or a person in need of special procedural guarantees who receives adequate support.</p> <p>Article 31(8) of the Directive does not allow for vulnerability or need of special procedural guarantees to be deemed <i>per se</i> a reason for subjecting an applicant to the accelerated procedure. It should be recalled that the accelerated procedure under the IPA entails shorter deadlines and a derogation from automatic suspensive effect of appeals.</p> <p>NOTE: Article 61 L. 4686/2020, Gov. Gazette A 96/12 May 2020 abolished the vulnerability/special procedural guarantees as a ground for applying the accelerated procedure.</p>
	32(2)	Article 88(2) IPA Article 78(9) IPA Article 97 IPA	<p>Under the Directive, Member States may only consider an application as manifestly unfounded where one of the grounds laid down in Article 31(8) apply. The IPA has transposed this provision in Article 88(2) IPA, which includes all ten of those grounds.</p>

			<p>However, Article 78 (9) IPA adds that “failure to comply with the obligation to cooperate with the competent authorities... in particular non-communication with the authorities and non-cooperation in the establishment of the necessary elements of the claim” constitutes a ground for deeming the application manifestly unfounded pursuant to Article 88(2). Moreover, Article 97 IPA provides that in case that the Applicant does not comply with the obligation to present himself/herself before the Appeals Committee on the day of the examination of the Appeal, the Appeal is rejected as manifestly unfounded.</p> <p>Articles 78(9) and 97 IPA introduce additional grounds on which an application can be considered as manifestly unfounded grounds beyond the boundaries set by Article 32(2) of the Directive.</p> <p>NOTE: Article 78(9) IPA has been amended by Article 11(3) L. 4686/2020, Gov. Gazette A 96/12 May 2020. According to the amendment introduced the “failure of the applicant to comply with the obligation to cooperate with the authorities” is considered as a ground for considering that the application has been implicitly withdrawn. However, according to Article 17(1) L. 4686/2020, added an additional ground for considering an application as manifestly unfounded in Article 88(2) IPA. In accordance with said amendment, an application can be considered as manifestly unfounded in case that “the applicant has grossly not complied with his/her obligation to cooperate with the authorities”. This is also a ground beyond Article 32(2) of the Directive.</p>
	38 (2)	Article 86(1) IPA	<p>Article 86(1)(f) IPA, with regards the safe third country concept, provides that transit through a third country may be considered as such a “connection” in conjunction with specific circumstances, on the basis of which it would be reasonable for that person to go to that country. In <i>LH</i> the CJEU ruled that The compatibility of said provision with Article 38(2) of the Directive, in particular under the light of <i>LH</i> ruled that “the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country”, C-564/18 (19 March 2020). Moreover, contrary to Article 38(2) of the Directive, national law does not foresees the methodology to be followed by the authorities in order to assess whether a country qualifies as a “safe third country” for an individual applicant.</p>
	46(6)(a)	104(2)(c)	<p>The IPA, provides that appeals against decisions declaring an application manifestly unfounded are never automatically suspensive, even where they are based on the applicant not applying as soon as possible. This is contrary to the Directive, which states that appeals against manifestly unfounded applications based on Article 32(2) in conjunction with Article 31(8)(h) have automatic suspensive effect.</p> <p>NOTE: Article 104(2) IPA has been amended by Article 26(2) L. 4686/2020. Subparagraph (c) of Article 104(2) IPA is not included in the amended provision.</p>
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20(4)	Article 57(4) IPA	<p>The IPA allows for the withdrawal of material reception conditions where the applicant seriously breaches the house rules of reception centres or demonstrates violent conduct. Such a measure is not permitted by the Directive, as clarified by the CJEU in <i>Haqbin</i>.</p>