

# Country Report: Greece



## Acknowledgements & Methodology

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The information in this report is up-to-date as of 31 December 2022, 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 which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). 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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## Glossary

Asylum Code		L. 4939/2022 'Ratification of the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons'
EU-Türkiye statement		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 Türkiye.
Fast-track procedure	border	Expedient version of the border procedure, governed by Article 90(3) IPA and applicable in exceptional circumstances on the basis of a Ministerial Decision.
Objections against detention		Procedure for challenging detention before the President of the Administrative Court, whose decision is non-appealable
Reception and Identification Centre		Centre in border areas where entrants are identified and referred to asylum or return proceedings.

## List of Abbreviations

<b>ADET</b>	Single Type Residence Permit
<b>AMEY</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>CCAC</b>	Closed Controlled Access Centres (of Islands)
<b>CERD</b>	United Nations Committee on the Elimination of Racial Discrimination
<b>CJEU</b>	Court of Justice of the European Union
<b>DYEP</b>	Refugee Reception and Education Facilities   Δομές Υποδοχής και Εκπαίδευσης Προσφύγων
<b>DOATAP</b>	Διεπιστημονικός Οργανισμός Αναγνώρισης Τίτλων Ακαδημαϊκών και πληροφόρησης  Hellenic National Academic Recognition and Information Centre
<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>GAS</b>	Greek Asylum Service
<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>MoMA</b>	Ministry of Migration and Asylum
<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 Centres   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>RVRN</b>	Racist Violence Recording Network
<b>SSPUM</b>	Special Secretary for the Protection of Unaccompanied Minors
<b>STC</b>	Safe Third Country

<b>TP</b>	Temporary protection
<b>TPD</b>	Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof
<b>UAM</b>	Unaccompanied minors
<b>UNHCR</b>	United Nations High Commissioner for Refugees



## Statistics

### Overview of statistical practice

Monthly statistics are published by the Ministry of Migration and Asylum,<sup>1</sup> however detailed data on breakdown per nationalities are not included. Moreover, percentage of recognition/rejection rate is calculated on the basis of the total number of Decision (including inadmissible decision, implicit withdrawals, archived cases etc.) having as a result a certain underestimation of the international protection recognition rate compared to the actual recognition rate based on the in-merits decision issued.

### Applications and granting of protection status at first instance in 2022:

	Applicants in 2022	Pending applications at the end of 2022	Refugee status	Subsidiary protection	Rejection (in merit) <sup>2</sup>	Refugee rate	Sub. Prot. rate	Rejection rate
<b>Total</b>	37,362	17,249 <sup>3</sup>	18,730	513	11,643	55.8%	1.6%	37.6%

Breakdown by countries of origin of the total numbers

Afghanistan	5,624		6,677	3	27	99.5%	0.04%	0.4%
Syria	5,050		3,377	0	25	99.2%	0%	0.73%
Pakistan	4,572		101	16	2,726	3.5%	0.56%	95.8%
Palestine	2,907		1,984	20	8	98.6%	0.99%	0.39%
Iraq	2,671		2,098	54	488	79.4%	2.04%	18.48%

Source: MoMA, Factsheet December 2022, <https://bit.ly/3ka1evV> and <https://bit.ly/3kgmy2K>.

<sup>1</sup> See: <https://bit.ly/3OFIP83>.

<sup>2</sup> These include applications rejected as unfounded, manifestly unfounded and exclusion. In addition, in 2022 there were 12,559 applications for which an act of interruption was issued due to due to implicit withdrawal. Furthermore, there were 8,962 inadmissibility decisions, including 3,601 based on the safe third country concept.

<sup>3</sup> The number refers to pending applications at first instance at the end of 2022. The total number of pending applications (first and second instance) at the end of 2022 was 22,316.

### Gender/age breakdown of the total number of applicants: 2022

	Number	Percentage
Total number of applicants	37,362	100%
Adult men	22,337	59.78%
Adult women	5,362	14.35%
Total children	9,663	25.86%
• <i>Unaccompanied children</i>	2,865	7.67%

Source: MoMA, Factsheet December 2022, <https://bit.ly/3ka1evV> and <https://bit.ly/3kgmy2K>.

### Comparison between first instance and appeal decision rates: 2022

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions	30,886	100%	8,939	100%
Positive decisions	16,588	57.4%	1,050	11.74%
• <i>Refugee status</i>	18,730	55.8%	656	7.33%
• <i>Subsidiary protection</i>	513	1.6%	394	4.04%
Negative decisions	11,643	37.6%	7,883	88.18%

Source: MoMA, Factsheet December 2022, <https://bit.ly/3ka1evV> and <https://bit.ly/3kgmy2K>.

## Overview of the legal framework

### Main legislative acts on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (GR)	Abbreviation	Web Link
<p>L. 4939/2022 “Ratification of the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons”</p> <p><i>Amended by:</i> L. 4960/2022 “National Guardianship System and accommodation framework of unaccompanied minors and other provision regarding the Ministry of Migration and Asylum”.</p>	<p>Νόμος 4939/2022 «Κύρωση Κώδικα Νομοθεσίας για την υποδοχή, τη διεθνή προστασία πολιτών τρίτων χωρών και ανιθαγενών και την προσωρινή προστασία σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών»</p> <p><i>Τροποποίηση από:</i> Νόμος 4960/2022 “Εθνικό Σύστημα Επιτροπείας και Πλαίσιο Φιλοξενίας Ασυνόδευτων Ανηλίκων και άλλες διατάξεις αρμοδιότητας του Υπουργείου Μετανάστευσης και Ασύλου”.</p>	<p>Asylum Code</p>	<p><a href="https://bit.ly/3Ek1hfp">https://bit.ly/3Ek1hfp</a> (GR)</p> <p><a href="https://bit.ly/45oXn0s">https://bit.ly/45oXn0s</a> (GR)</p>
<p>Law 4825/2021 “Reform of deportation and return procedures of third country nationals, attracting investors and digital nomads, issues of residence permits and procedures for granting international protection, provisions within the competence of the Ministry of Migration and Asylum and the Ministry of Citizen Protection and other emergency provisions”, Gov. Gazette A' 157/4-9-2021</p>	<p>Νόμος 4825/2021 «Αναμόρφωση διαδικασιών απελάσεων και επιστροφών πολιτών τρίτων χωρών, προσέλκυση επενδυτών και ψηφιακών νομάδων, ζητήματα αδειών διαμονής και διαδικασιών χορήγησης διεθνούς προστασίας, διατάξεις αρμοδιότητας Υπουργείου Μετανάστευσης και Ασύλου και Υπουργείου Προστασίας του Πολίτη και άλλες επείγουσες διατάξεις», ΦΕΚ Α' 157/4-9-2021</p>	<p>L 4825/2021</p>	<p><a href="https://bit.ly/3Lc8bEz">https://bit.ly/3Lc8bEz</a> (GR)</p>
<p>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</p>	<p>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</p>	<p>L 4686/2020</p>	<p><a href="https://bit.ly/2LGoOvI">https://bit.ly/2LGoOvI</a> (GR)</p>
<p>Law 4636/2019 “on international protection and other provisions” Gazette 169/A/1-11-2019</p>	<p>Νόμος 4636/2019 «Περί Διεθνούς Προστασίας και άλλες διατάξεις» ΦΕΚ 169/A/1-11-2019</p>	<p>IPA</p>	<p><a href="https://bit.ly/2Q9VnFk">https://bit.ly/2Q9VnFk</a> (GR)</p>
<p>Law 4375/2016 “Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive</p>	<p>Νόμος 4375/2016 «Οργάνωση και λειτουργία Υπηρεσίας Ασύλου, Αρχής Προσφυγών, Υπηρεσίας Υποδοχής και Ταυτοποίησης σύσταση Γενικής Γραμματείας Υποδοχής, προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις</p>	<p>L 4375/2016 (Asylum Act)</p>	<p><a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN)</p> <p><a href="https://bit.ly/2NU5U4A">https://bit.ly/2NU5U4A</a> (GR)</p>

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	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		
Law 3907/2011 "on the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third country nationals" and other provisions. Gazette 7/A/26-01-2011  <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	Νόμος 3907/2011 «Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/ΕΚ «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη-μέλη για την επιστροφή των παρανόμως διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις» ΦΕΚ 7/A/26-01-2011  <i>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	L 3907/2011   PD 133/2013  L 4058/2012  L 4375/2016	<a href="http://bit.ly/1KHa9dV">http://bit.ly/1KHa9dV</a> (EN)   <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)
Law 4251/2014 "Immigration and Social Integration Code and other provisions" Gazette 80/A/01-04-2014  <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	Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις» ΦΕΚ 80/A/01-04-2014  <i>Τροπ.:</i> Νόμος 4332/2015, ΦΕΚ 76/A/09-07-2015  <i>Τροπ.:</i> Νόμος 4540/2018, ΦΕΚ 91/A/22-5-2018	Immigration Code  L 4332/2015	<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)
Law 3386/2005 "Entry, Residence and Social Integration of Third Country Nationals on the Greek Territory"	Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια»	L 3386/2005	<a href="http://bit.ly/1Pps1eO">http://bit.ly/1Pps1eO</a> (EN) <a href="http://bit.ly/1Qkzh9R">http://bit.ly/1Qkzh9R</a> (GR)

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		
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)
Presidential Decree 80/2006 "Provision of temporary protection in cases of mass influx of displaced persons" Gazette 82/A/14-4-2006	Προεδρικό Διάταγμα 80/2006 «Παροχή προσωρινής προστασίας σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών», ΦΕΚ 82/A/14-4-2006		<a href="https://bit.ly/3lgnNqM">https://bit.ly/3lgnNqM</a> (GR)

#### Main implementing decrees, guidelines and regulations on asylum procedures, reception conditions, detention and content of international protection

Title (EN)	Original Title (GR)	Abbreviation	Web Link
Joint Ministerial Decision no 734214. Designation of third countries as safe and establishment of national list pursuant to Article 91 L. 4939/2022 (A' 111) Gazette B' 6250/12-02-2022	Κοινή Υπουργική Απόφαση αριθμ. οικ. 734214 (ΦΕΚ Β' – 6250/12-02-2022) Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου κατά τα οριζόμενα στο άρθρο 91 του ν. 4939/2022 (Α' 111)		<a href="https://bit.ly/3xC0i6s">https://bit.ly/3xC0i6s</a> (GR)
Circular 504912/2022, Registration of International Protection Applications by RAO/AAU of the Asylum Service, 31 August 2022.	Εγκύκλιος 504912/2022, Καταγραφή αιτημάτων διεθνούς προστασίας από τα ΠΓΑ/ΑΚΑ της Υπηρεσίας Ασύλου, 31 Αυγούστου 2022		<a href="https://bit.ly/3lQuTdR">https://bit.ly/3lQuTdR</a> (GR)
Decision of the Minister of Asylum and Migration no 131035/4.3.2022 "Application of temporary protection of PD 80/2006 due to mass influx of displaced persons from Ukraine"	Απόφαση Υπουργού Μετανάστευσης και Ασύλου υπ' αρ. 131035/4.3.2022 «Εφαρμογή προσωρινής προστασίας του π.δ. 80/2006 λόγω μαζικής εισροής εκτοπισθέντων από Ουκρανία» (ΑΔΑ: ΡΠ1146ΜΔΨΟ-ΩΙ4).		<a href="https://bit.ly/3KnXstg">https://bit.ly/3KnXstg</a> (GR)

Joint Ministerial Decision no 78391. Establishment of a national List of countries of origin considered as safe pursuant to para. 5 Article 87 L. 4636/2019 (A' 169) Gazette B' 667/15-02-2022	Κοινή Υπουργική Απόφαση αριθμ. οικ. 78391 (ΦΕΚ Β' – 667/ 15-02-2022) Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς, σύμφωνα με την παρ. 5 του άρθρου 87 του ν. 4636/2019 (Α' 169).		<a href="https://bit.ly/41aalG">https://bit.ly/41aalG</a> (GR)
Joint Ministerial Decision no 788502 Provision of legal aid to applicants for international protection Gazette B' 42/11-01-2022	Κοινή Υπουργική Απόφαση αριθμ. οικ. 788502 (ΦΕΚ Β' – 42/ 11-01-2022) Παροχή Νομικής Συνδρομής σε Αιτούντες Διεθνή Προστασία		<a href="https://bit.ly/3lV3De8">https://bit.ly/3lV3De8</a> (GR)
Joint Ministerial Decision No 472687. Determination of the procedure for entering of payments in the budget of the Ministry of Migration and Asylum in line with the revenues ΑΛΕ 1450114001 “Fees of any, after the first, subsequent application for international protection” and relevant issues Gazette B/6246 / 27-12-2021	Κοινή Υπουργική Απόφαση αριθμ. οικ. 472687 (ΦΕΚ Β' – 6246 / 27-12-2021) Καθορισμός διαδικασίας εγγραφής πιστώσεων στον τακτικό π/υ του Υπουργείου Μετανάστευσης και Ασύλου κατ' αντιστοιχία εισπραττόμενων εσόδων στον ΑΛΕ 1450114001 “Παράβολα κάθε μεταγενέστερης της πρώτης αίτησης από αιτούντα διεθνούς προστασίας” και λοιπά συναφή θέματα.		<a href="https://bit.ly/3u6MCj7">https://bit.ly/3u6MCj7</a> (GR)
Decision of the Secretary General for the Reception of Asylum Seekers 25.0/118832. General Regulation for the Operation of Closed Controlled Facilities on the islands Gazette B/3191/20-7-2021	Απόφαση 25.0/118832 Γενικός Κανονισμός Λειτουργίας Κλειστών Ελεγχόμενων Δομών Νήσων.		<a href="https://bit.ly/389fkHi">https://bit.ly/389fkHi</a> (GR)
Joint Ministerial Decision no 42799 Designation of third countries as safe and establishment of national list pursuant to Article 86 L. 4636/2019 (A' 169) Gazette B' 2425/07-06-2021	Κοινή Υπουργική Απόφαση Αριθμ. 42799 (ΦΕΚ Β' 2425/07-06-2021) Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου, κατά τα οριζόμενα στο άρθρο 86 του ν. 4636/2019 (Α' 169).		<a href="https://bit.ly/3uLhfhf">https://bit.ly/3uLhfhf</a> (GR)
<i>Amended by Decision no 458568 “Amendment of no 42799/03.06.2021 Joint Ministerial Decision of the Minister of Foreign Affairs and the Minister of Migration and Asylum “Designation of third countries as safe and establishment of national list pursuant to Article 86 L. 4636/2019 (α' 169)”</i> Gazette B/5949/16-12-2021)	<i>Τροπ.: Απόφαση υπ' αριθμ 458568 «Τροποποίηση της υπ' αρ. 42799/03.06.2021 κοινής απόφασης των Υπουργών Εξωτερικών και Μετανάστευσης και Ασύλου «Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου κατά τα οριζόμενα στο άρθρο 86 του ν. 4636/2019 (Α' 169)»</i>		<a href="https://bit.ly/3uLSduV">https://bit.ly/3uLSduV</a> (GR)

Joint Ministerial Decision no 788. Establishment of a national List of countries of origin considered as safe pursuant to para. 5 Article 87 L. 4636/2019 (A' 169) Gazette B' 317/29-01-2021	Κοινή Υπουργική Απόφαση Αριθμ. 778 (ΦΕΚ Β' 317/29-01-2021). Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς, σύμφωνα με την παρ. 5 του άρθρου 87 του ν. 4636/2019 (Α' 169).		<a href="https://bit.ly/3iRHuc0">https://bit.ly/3iRHuc0</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) Καθορισμός του τύπου του Δελτίου Αιτούντος Διεθνή Προστασία.	Establishment of the international protection applicant cards JMD	<a href="https://bit.ly/3o4A8DX">https://bit.ly/3o4A8DX</a> (GR)
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	Υπουργική Απόφαση Αριθμ. οικ. 13221 (ΦΕΚ 1223/B'/09.04.2020) Καθορισμός πλαισίου προδιαγραφών του προγράμματος «ESTIA II» για τη στέγαση αιτούντων διεθνή προστασία	Conditions for housing of international protection applicants JMD	<a href="https://bit.ly/2R0LjkZ">https://bit.ly/2R0LjkZ</a> (GR)
<i>Amended by</i> Decision No 21260, Gazette 3093/B/24.07.2020	<i>Τροπ. :</i> Υπουργική Απόφαση Αριθμ. 21260 (ΦΕΚ 3093/B/24.07.2020)		<a href="https://bit.ly/3y0oGOB">https://bit.ly/3y0oGOB</a> (GR)
<i>Amended by</i> Decision No 14320, Gazette B/5269/30.11.2020	<i>Τροπ.:</i> Υπουργική Απόφαση Αριθμ. οικ: 14320 (ΦΕΚ Β 5269/30.11.2020).		<a href="https://bit.ly/3ezL49e">https://bit.ly/3ezL49e</a> (GR)



Amended by Decision No 270, Gazette B/451/15.2.2021	Τροπ: Κοινή Υπουργική Απόφαση Αριθμ. 270 (ΦΕΚ Β 451/5.2.2021)		
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 JDM	<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. Δ1α/Γ.Π.οικ. 80417/2021 (Gazette Β' 6214) Urgent measures for the protection of public health against the spread of SARS-COV-2 across the country valid from 24 December 2021 to 3 January 2022 Gazette Β' 6214/23.12.2021	Απόφαση Αριθμ. Υ.Α. Δ1α/Γ.Π.οικ. 80417/2021 Έκτακτα μέτρα προστασίας της δημόσιας υγείας από τον κίνδυνο περαιτέρω διασποράς του κορονοϊού SARS-COV-2 στο σύνολο της Επικράτειας για το διάστημα από την Παρασκευή, 24 Δεκεμβρίου 2021 και ώρα 06:00 έως και τη Δευτέρα, 3 Ιανουαρίου 2022 και ώρα 06:00. (Β' 6214/23.12.2021).	Measures against COVID 19 across the country	<a href="https://bit.ly/3iVBFdy">https://bit.ly/3iVBFdy</a> (GR)
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/2yjj8Oz">https://bit.ly/2yjj8Oz</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/Β/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 Gazette B/2558/27-6-2019	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 σύμβασης, αμοιβή τους και κάθε αναγκαία λεπτομέρεια, ΦΕΚ Β/2558/27.6.2019	Guardianship JMD	<a href="https://bit.ly/2qL7FJr">https://bit.ly/2qL7FJr</a> (GR)
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 Β/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 Β/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 Β/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 Β/2864/9-9-2016	Legal Aid JMD	<a href="http://bit.ly/2kPSjzE">http://bit.ly/2kPSjzE</a> (GR)
Joint Ministerial Decision 1982/2016 on age assessment of applicants for international protection Gazette B/335/16-2-2016  <i>Amended and replaced by Ministerial Decision 9889/2020 Gazette B/3390/13-08-2020</i>	Κοινή Υπουργική Απόφαση 1982/2016 διαπίστωση ανηλικότητας των αιτούντων διεθνή προστασία, ΦΕΚ Β/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 Β/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 voluntary repatriation programmes of the International Organisation for Migration (IOM)	Εγκύκλιος Ελληνικής Αστυνομίας 1604/17/681730/3-4-2017 Συμμετοχή αλλοδαπών υπηκόων αιτούντων τη χορήγηση καθεστώτος διεθνούς προστασίας στα προγράμματα οικειοθελούς επαναπατρισμού του Διεθνούς Οργανισμού Μετανάστευσης (Δ.Ο.Μ.)		<a href="http://bit.ly/2E8Mlmr">http://bit.ly/2E8Mlmr</a> (GR)

## Overview of main changes since the previous report update

The report was previously updated in **May 2022**.

### International Protection

- ❖ **Key asylum statistics:** The Asylum Service received 37,362 asylum applications in 2022 (compared to 28,320 in 2021), mainly from applicants from Afghanistan (5,624 applications), followed by applicants from Syria (5,050 applications), Pakistan (4,572 applications), Palestine (2,907 applications) and Iraq (2,671 applications). The recognition rate on the merits at first instance was 57.4% (compared to 60% in 2021). However, a significant number of applicants were not provided with access to an in merits examination and their applications were examined under the safe third country concept, following the issuance of the Joint Ministerial Decision designating Türkiye as a safe third country for applicants from Syria, Afghanistan, Somalia, Pakistan, Bangladesh. The backlog of pending applications was of 22,316 at the end of 2022 (compared to 31,787 at the end of 2021).

### Asylum procedure

- ❖ **Number of arrivals:** In 2022, a total of 18,780 refugees and migrants arrived in Greece. This marks an increase of 105.09% compared to 9,157 in 2021. 12,758 persons arrived in Greece by sea in 2022 compared to 4,331 in 2021 and 6,022 persons arrived through the Greek-Turkish land border of Evros in 2022, compared to a total of 4,826 in 2021. The majority originated from Palestine (21.7%), Afghanistan (17.2%) and Somalia (14.1%). Nearly half of this population were women (17.8%) and children (28.3%), while 54% were adult men. The registered number of entries in 2022 may however under-represent the number of people actually attempting to access Greek territory, given the number of alleged pushbacks, which continued to be systematically reported during the year.
- ❖ **Push-back practices:** An increasing number of allegations of pushbacks continued to be reported in 2022 and have been largely criticised *inter alia* by UN, Council of Europe and European Union monitoring bodies. In a report issued in April 2022, the United Nations Special Rapporteur on the human rights of migrants stated that '[i]n Greece, pushbacks at land and sea borders have become de facto general policy'. The ECtHR granted Interim Measures in all 24 cases supported by GCR, since March 2022 and ordered the Greek authorities not to remove the applicants from the territory and to provide them with food, water and proper medical care. In July 2022, the ECtHR delivered its judgment in the case of *Safi and others v. Greece* (Farmakonisi case), supported *inter alia* by GCR. The case referred to a shipwreck, resulting in the death of 11 people, which occurred during an alleged pushback at sea incident. The Court found violations of articles 2 and 3 ECHR. The newly established mechanism for compliance with fundamental rights in reception and asylum procedures (Fundamental Rights Officer and Special Commission on Fundamental Rights Monitoring at the Ministry of Migration and Asylum) has been widely criticised, including by the Greek Ombudsman and the NCHR, as not in line with the independence and effectiveness requirements. Human rights organisations and lawyers supporting pushback victims face defamation, intimidation and risk of criminalisation. As highlighted by the UN Special Rapporteur 'human rights defenders promoting and protecting the rights of migrants, asylum-seekers and refugees, including human rights lawyers, humanitarian workers, volunteers and journalists, have been subjected to smear campaigns, a changing regulatory environment, threats and attacks and the misuse of criminal law against them to a shocking degree'.
- ❖ **Access to the asylum procedure:** Access to asylum on the mainland remains highly problematic. Since September 2022, persons who want to submit an asylum application on the mainland should initially book an appointment through an online platform and then present

themselves in one of the two registration facilities in **Diavata** (Thessaloniki) or **Malakasa** (Attica) to complete registration of their application. However, access to the online platform is not always possible, in some cases appointments for registration are assigned many months later, and applicants while waiting for the day of their appointment are not protected from detention and do not have access to reception conditions. Lastly, once they present themselves at the registration facilities, they may be subject to de facto detention for a period up to 25 days, contrary to the requirements of Art. 8 of the Reception Directive. Access to the asylum procedure for persons detained in pre-removal centres remains also a matter of concern.

- ❖ **Subsequent applications:** Subsequent applications after the first one are subject to a fee of EUR 100 per applicant and, in case of families, EUR 100 per family member. Greece is the only EU Member State which requires payment of a fee to lodge a subsequent application, thereby raising concerns as to access to the asylum procedure. An Application for Annulment of the relevant JMD has been filed by GCR and RSA before the Council of State and was still pending at time of publication of this report.
- ❖ **Processing times:** The number of the pending asylum applications decreased in 2022. Despite this, at the end of 2022, almost 1 out of 4 pending applications had been pending for over 12 months. Out of the total number of 17,249 applications pending at the end of 2022, 10,781 (62.50%) had been pending for under 6 months, 2,334 (13.53%) had been pending for over 6 months and 4,134 (23.74%) had been pending for over 12 months.
- ❖ **Legal assistance:** No state-funded free legal aid is provided at first instance, nor does the law establish an obligation to provide it. A state-funded legal aid scheme operates for the appeal procedure, on the basis of a registry of lawyers managed by the Asylum Service. However, obstacles in accessing free legal aid continued to be reported, *inter alia* because of the digitalisation of the procedure and the fictitious service of negative first instance decisions. Less than 1 out of 2 appellants received legal assistance under the free legal aid scheme in 2022. Out of the 16,830 appeals lodged against Asylum Service decisions in 2022, legal assistance in the appeals procedure was provided in 7,925 (47.08%) cases.
- ❖ **Second instance procedure:** Most appeals are rejected at second instance. Out of the total in-merit second instance decisions issued in 2022 (8,939), 7.4% resulted in the granting of refugee protection, 4.4% resulted in the granting of subsidiary protection and 88.19% resulted in a negative decision. During 2022, 1,790 appeals were rejected as “manifestly unfounded” without an in-merit examination, due to the fact that the appellants did not comply with the obligation of an in-person appearance of the appellant or their appointed lawyer before the Committee, or to present a certification of residence to the Committee, which constitutes a disproportionate administrative burden imposed to the appellants. Appeals against decisions rejecting the application in the accelerated procedure or as inadmissible under certain grounds do not have automatic suspensive effect, despite the fact that these decisions also incorporate a return decision with immediate effect.
- ❖ **Dublin:** Additional obstacles to family reunification under Dublin continued to occur in 2022 due to restrictive practices (requirements for official translations of documents proving family links, sometimes unnecessary DNA tests, age assessments of unaccompanied children to be conducted according to the requested state’s methods) adopted by a number of receiving Member States, which may undermine the right to family life. A total of 1,077 Dublin transfers were implemented in 2022, compared to 2,133 in 2021. By the end of 2022, 5,164 individuals in total, including 1,333 unaccompanied children had been relocated to another EU Member States under the voluntary relocation scheme, launched by the EU Commission in March 2020.
- ❖ **Safe third country inadmissibility:** In 2021, by a JMD Greece designated Türkiye as a “safe third country” for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia, despite the fact that no readmissions to Türkiye have taken place since March 2020. As a result, applications for international protection lodged by persons of said nationalities throughout

the Greek territory (borders and mainland) are examined under the safe third country concept and not on their individual circumstances and the risks they face in their country of origin (in merits examination). Moreover, and as no readmission takes places, refugees whose applications have been/are rejected as inadmissible based on the “safe third country” concept end up in a state of limbo in Greece, are exposed to a direct risk of destitution and detention, without access to an in-merits examination of their application. Following an Application for Annulment lodged by GCR and RSA before the Council of State, in February 2023, the Council of State decided to refer a question to the European Court of Justice for a preliminary ruling on the interpretation of article 38 of 2013/32/EU Directive.

In 2022, 6,105 inadmissibility decisions were issued based on the JMD declaring Türkiye as a safe third country, out of which 3,409 first instance inadmissibility decisions and 2,696 second instance inadmissibility decisions, despite the suspension of readmissions to Türkiye. Contrary to Art. 38 (4) of the Asylum Procedure Directive, applicants are not provided with an in merits examination. As stated repeatedly by the EU Commission, ‘to the extent the applicant is not permitted to enter the territory of the safe third country, in particular if the underlying situation preventing entry persists since 2018 or 2020, the Member State shall ensure, in accordance with the Asylum Procedures Directive, that access to a procedure is given to the applicant’.

- ❖ **Identification of vulnerability:** the low quality of the medical and psychosocial screening process (if any) has remained a source of serious concern with regards to the identification of vulnerabilities on the islands. Vulnerabilities are often missed, with individuals going through the asylum procedure without having their vulnerability assessment completed first. No public health structures specialised in identifying or assisting torture survivors in their rehabilitation process exist across the country.

#### *Reception conditions*

- ❖ **Freedom of movement:** Asylum seekers subject to the EU-Türkiye statement, i.e. arriving on Greek islands, are subject to a geographical restriction (geographical limitation) order, which obliges them not to leave the respective island until the end of the asylum procedure. The geographical limitation is applied *en masse* and without any prior individual assessment to all new arrivals to the Greek islands, while the regulatory framework that entered into force in January 2020 significantly limited the categories of applicants for whom the restriction can be lifted and does not necessarily amount to an immediate change in living conditions or the actual departure from the islands. In August 2022 the ECtHR granted *interim measures* in the case of vulnerable applicants in need of emergency medical treatment due to their condition who remained for prolonged period in Samos despite the fact that they could not receive appropriate medical treatment on the island.
- ❖ **Reception capacity:** According to the available statistics 12,239 asylum seekers were accommodated in mainland camps (March 2022) and 4,371 asylum seekers remained in Reception and Identification Centers/Closed Controlled Access Centers on the islands. 1,843 applicants were accommodated in ESTIA accommodation scheme (urban apartments) in November 2022, but the scheme was terminated at the end of 2022.
- ❖ **Living conditions:** On the mainland, the termination of the ESTIA accommodation scheme at the end of 2022 consolidates a camp-based approach to reception where applicants’ access to some of their rights (material reception conditions) entails isolation from society and where other rights, such as access to healthcare or education, cannot be effectively fulfilled. In 2022 and the beginning of 2023, complaints with regard to poor and unsanitary conditions in housing units and the overall living conditions in mainland camps were increasingly reported. The construction of high fences and the installation of surveillance systems in a number of mainland camps have increased the sentiment of isolation and exclusion. Significant concerns are reported with regard to reception conditions in the newly established Closed Control Access Centers (CCACs) on the islands. For example, as mentioned for Samos CCAC despite improvements (e.g. decongestion and the placement of containers instead of tents), Samos CCAC remains ‘a hostile environment,

and fails to receive people in humane and dignified conditions'. The infrastructure problems, including interruptions in the water supply and lack of access to heating and air conditioning, aggravate the living conditions in the winter and summer respectively. Samos CCAC is surrounded by a double layer of barbed wire, camera surveillance is in operation, and entry and exit is allowed between 8 am – 8 pm.

#### *Detention of asylum seekers*

- ❖ **Statistics on detention:** The total number of third-country nationals detained in Pre-removal Detention Facilities (PRDFs) during 2022 was 18,966, compared to 12,020 in 2021. At the end of 2022, there were 2,715 persons in administrative detention, including 1,344 asylum seekers. Out of the total number of detainees at the end of 2022, 2,500 were detained in pre-removal facilities and 316 in several other detention facilities countrywide such as police stations, border guard stations etc. About 28% of the detainees in pre-removal detention facilities at the end of 2022 (724 detainees out of 2,500) had been detained for over 6 months.
- ❖ **Detention in case of non-feasible return:** During 2022, applicants for international protection as well as rejected asylum seekers continued to remain systematically detained without any proper consideration of the prospect of return to Türkiye, despite returns being suspended since March 2020. A number of Court decisions acknowledged that in the absence of an actual prospect of removal, detention lacks a legal basis.
- ❖ **Detention of applicants who have already asked for asylum through the online platform while at liberty:** Applicants who have booked a registration appointment through the Ministry's platform are in practice arrested and detained in view of removal, despite holding a document proving the existing appointment. In a number of Court decisions on cases brought before the Courts by GCR, the practice has been considered unlawful, as according to those decisions following accessing the online platform and scheduling an appointment for full registration the person acquires the status of an asylum seeker.
- ❖ **Detention conditions:** In many cases, detention conditions 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 by nature not suitable for detention exceeding 24 hours, continue to fall short of basic standards. No doctor was present in Tavros, Xanthi, and Kos PRDFs. Only one doctor was present in Amigdaleza, one in Corinth and one in Paranesti PRDFs, with a detention population of 866, 897 and 349 persons respectively at the end of 2022.
- ❖ **Legal remedies against detention:** No free legal aid is provided for a detainee to challenge their detention decision before Courts, contrary to national and EU law. In 2022, out of the total 18,966 detention orders issued, only 5,011 (26.4%) were challenged before a Court. *Ex-officio* judicial scrutiny of detention orders remains largely ineffective and illusory. Out of the total 6,847 detention decisions transmitted to Administrative Courts for ex officio examination the extension of detention was not approved in only 21 cases.

#### *Content of international protection*

- ❖ **Renewal of residents permits:** Long waiting periods are observed in a number of cases of renewal, which can reach as far as GCR is aware up to nine months. Pending the issuance of a new residence permit, beneficiaries of international protection are granted a certificate of application (*βεβαίωση κατάστασης αιτήματος*) valid for six months. In practice, beneficiaries of international protection holding these certificates are only protected from detention and do not have access to any rights pending their residence permit's renewal.
- ❖ **Family reunification:** 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 certification of documents, 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 for refugees, and lack of information on the possibility of family reunification, the three-month deadline and the available remedies are reported among other issues.

- ❖ **Housing of recognised refugees:** Beneficiaries of international protection residing in accommodation facilities must leave the centres within 30 days of being granted international protection. Given the limited integration of recognised beneficiaries of international protection in Greece, this results in a high risk of homelessness and destitution. In spring 2022, Germany decided to refrain from returning recognised refugees to Greece and to process their claims on the merits, apart from exceptional cases. The Netherlands recently followed suit with a similar policy in September 2022 refraining from returning recognised refugees to Greece. Moreover, on 29 September 2022, the European Commission opened infringement procedures against Belgium, Germany, Greece and Spain for failing to comply with the Return Directive 2008/115/EC.

## Temporary protection

The information given hereafter constitute a short summary of the 2022 Report on Temporary Protection, for further information, see [Annex on Temporary Protection](#).

- ❖ **Key temporary protection statistics:** 21,532 persons were granted temporary protection in Greece in 2022, almost exclusively Ukrainian nationals; this is out of the reported 80,000 persons who were potentially entitled to temporary protection present in Greece at some point throughout 2022.

### *Temporary protection procedure:*

- ❖ **Scope of protection:** the temporal scope of protection was broadened in Greece in that persons who had arrived in Greece from 26 November 2021 onwards were eligible for temporary protection, instead of having to have fled on or after 24 February 2022. However, as regards third country nationals, only stateless persons and beneficiaries of international protection or equivalent national protection are eligible, and not those with permanent residence in Ukraine and unable to return to their country of origin.
- ❖ **Vulnerability identification:** there was no specific procedure introduced for the identification of vulnerable applicants or beneficiaries, nor was the procedure adapted to the needs of unaccompanied minors entitled to temporary protection.

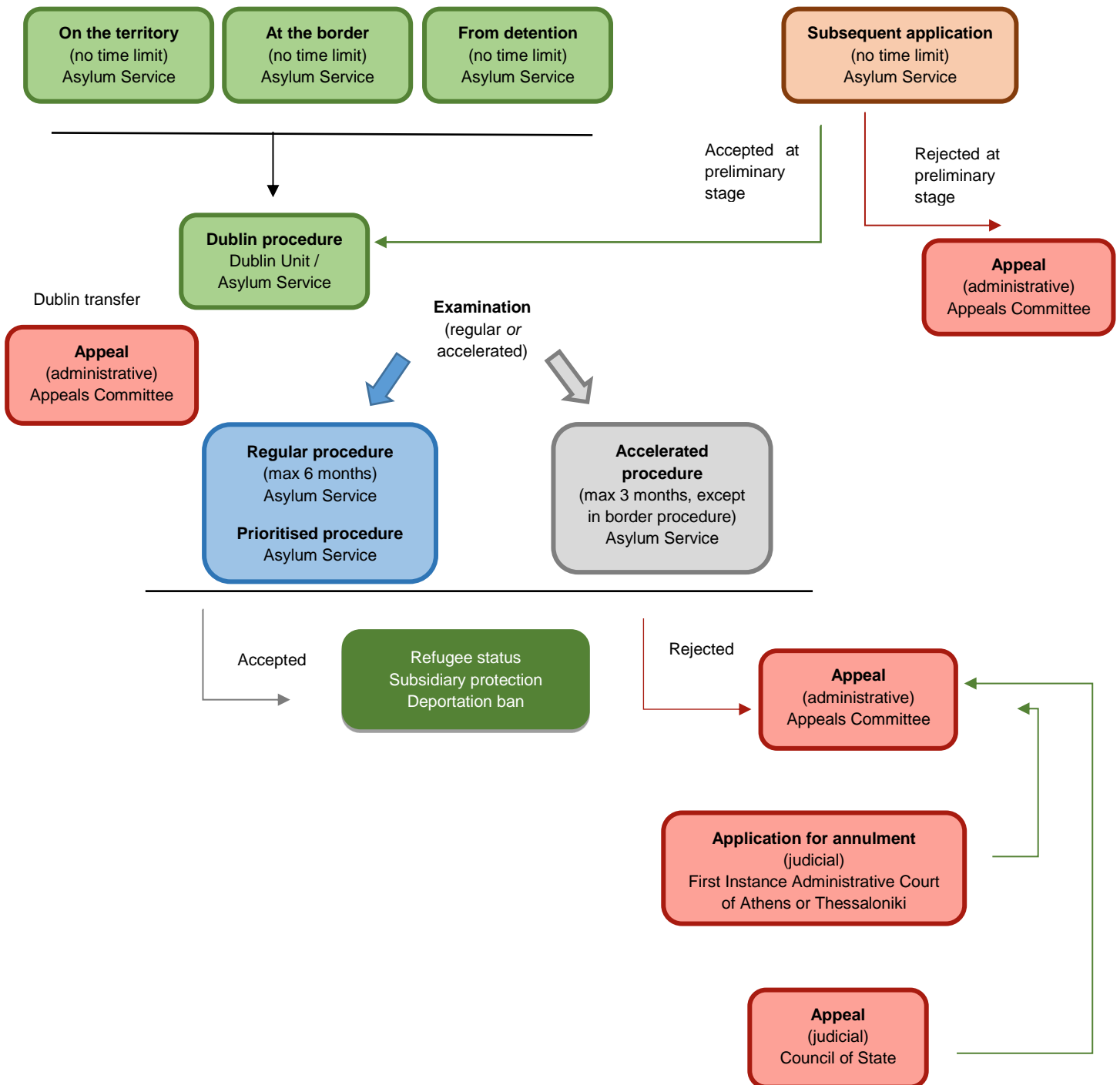
### *Content of temporary protection*

- ❖ **Rights attached:** persons benefit from specific family reunification rules foreseen for temporary protection, freedom of movement, access to the labour market and to education and vocational training, social welfare, healthcare although not to the level of Greek nationals or other legally residing third country nationals.
- ❖ **Housing:** the main form of accommodation provided was reception centres; in July 2022, accommodation was also provided through the HELIOS project to support successful integration, as accommodation support is offered along with language courses and employment support.

# Asylum Procedure

## A. General

### 1. Flow chart





## 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>4</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: <sup>5</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>6</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other:                                | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Are any of the procedures that are foreseen in the law, not being applied in practice? ☐ Yes ☒ No

## 3. List of authorities that intervene 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	Υπηρεσία Ασύλου
Dublin	Asylum Service	Υπηρεσία Ασύλου
Refugee status determination	Asylum Service	Υπηρεσία Ασύλου
First appeal	Independent Appeals Committees (Appeals Authority)	Ανεξάρτητες Επιτροπές Προσφυγών (Αρχή Προσφυγών)
Onward appeal	First Instance Administrative Court of Athens or Thessaloniki	Διοικητικό Πρωτοδικείο Αθηνών ή Θεσσαλονίκης
Subsequent application	Asylum Service	Υπηρεσία Ασύλου

The European Union Agency for Asylum (EUAA) is also involved at different stages of the procedure, as will be explained further below.

## 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 first instance authority?
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.

### 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,

<sup>4</sup> For applications likely to be well-founded or made by vulnerable applicants.

<sup>5</sup> Accelerating the processing of specific caseloads as part of the regular procedure, without reducing procedural guarantees.

<sup>6</sup> Entailing lower procedural safeguards, whether labelled as 'accelerated procedure' in national law or not.

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>7</sup>

At the end of 2022, the Asylum Service operated in 23 locations throughout the country.<sup>8</sup>

Regional Asylum Office/Units	Registrations 2022
RAO Attica	4,876
RAO Piraeus	2,370
RAO Alimos	2,267
AAU Amigdaleza	2,129
RIC Malakasa	1,377
AAU under custody	310
AAU Corinth	1,153
RAO Thessaloniki	1,913
AAU Albania/Georgia	609
AAU Safe Countries of Origin	104
RIC Diavata	1521
RAO Patra	449
AAU Ioannina	483
RIC Filakio	5,052
RAO Thrace	616
AAU Xanthi	212
AAU Paranesti	69
CCAC Lesvos	3,733
CCAC Chios	1,474
CCAC Leros	1,345
CCAC Kos	2,572
RAO Rhodes	88
RAO Crete	380

Source: MoMA, Factsheet December 2022 & RSA, The Greek asylum procedure in figures in 2022.

**EUAA:** 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 cases where third-country nationals or stateless persons arrive in large numbers”, within the framework of the [Fast-Track Border Procedure](#).<sup>9</sup> 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>10</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>11</sup> Since May 2018, Greek-speaking EASO personnel could also assist the Asylum Service in the [Regular Procedure](#).

Greece has received operational support by EASO/the EUAA since 2011. The 2022-2024 plan was amended in April 2022 to take into account the changes in the operational context in light of the invasion of Ukraine.<sup>12</sup>

<sup>7</sup> Article 1(3) L 4375/2016.

<sup>8</sup> MoMA, Factsheet December 2022, <https://bit.ly/3ka1evV> and <https://bit.ly/3kgmy2K>.

<sup>9</sup> Article 60(4)(b) L 4375/2016.

<sup>10</sup> Article 60(4)(b) L 4375/2016, as amended by Article 80(13) L 4399/2016.

<sup>11</sup> Articles 77(1) and 90(3)(b) IPA.

<sup>12</sup> EUAA, *Operational Plan 2022-2024 agreed by the European Union Agency for Asylum and Greece*, 1 April 2022, available at: <https://bit.ly/420NLHL>.

In 2022, the EUAA deployed 674 experts in Greece,<sup>13</sup> most of whom were temporary agency workers (648). The majority of these experts were caseworkers (103), followed by registration, administrative and information provision assistants (91), site management reception assistants (78), reception assistants (50), case management reception assistants (42), Information Management (IM) assistants (32), vulnerability reception assistants (28) and a series of other programme and support staff (e.g. operations assistant, field support staff, training support staff, legal officers, Dublin staff, etc).<sup>14</sup>

As of 20 December 2022, there were still a total of 558 EUAA experts present in Greece, of whom 77 were caseworkers, 52 site management reception assistants, 47 registration, administrative and information provision assistants, 41 case management reception assistants, 29 Information Management (IM) assistants.<sup>15</sup>

## 5. Short overview of the asylum procedure

The asylum procedure in Greece underwent substantial reforms throughout 2016, many of which driven by the adoption of the EU-Türkiye statement of 18 March 2016. The adoption of Law (L) 4375/2016 in April 2016 and its subsequent amendments in June 2016 overhauled the procedure. Provisions related *inter alia* to the implementation of the EU-Türkiye 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.<sup>16</sup> As a result, national asylum legislation was radically re-amended. L. 4636/2019 (hereinafter International Protection Act/IPA), was adopted on 1 November 2019 and entered into force on 1 January 2020, replacing 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>17</sup> the Greek National Commission for Human Rights (GNCHR),<sup>18</sup> UNHCR<sup>19</sup> and several civil society organisations.<sup>20</sup> It has been categorised, *inter alia*, as 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. “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>21</sup>

On 10 April 2020, four months after the entry into force of the new law, the Ministry of Migration and Asylum submitted a bill entitled “Improvement of migration legislation”, aiming at speeding up asylum

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<sup>13</sup> EUAA personnel numbers do not include deployed interpreters by the EUAA in support of asylum and reception activities.

<sup>14</sup> Information provided by the EUAA, 28 February 2023. In the figures above, the same persons may have been included under different profiles, if a change in profile took place in the course of 2022.

<sup>15</sup> Information provided by the EUAA, 28 February 2023.

<sup>16</sup> Amnesty International, *Annual Report 2019*, Greece, available at: <https://bit.ly/2LDT5L6>.

<sup>17</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/2LAXCCH>.

<sup>18</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/3clUBYa>.

<sup>19</sup> UNHCR, ‘UNHCR urges Greece to strengthen safeguards in draft asylum law’, 24 October 2019, available at: <https://bit.ly/3fXkm9j>.

<sup>20</sup> See *inter alia* GCR, *Observation on the draft law on international protection*, 23 October 2019; 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>; RSA, *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 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>21</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>.

procedures and at “responding to practical challenges in the implementation of the law”. 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>22</sup> The draft law was adopted by the Parliament on 9 May 2020,<sup>23</sup> despite concerns from human rights bodies, including the Council of Europe Commissioner for Human Rights and civil society organizations.<sup>24</sup> Further amendments were introduced by L. 4825/2021 voted in in September 2021.

On June 2022, L. 4939/2022 “Ratification of the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons” (hereinafter Asylum Code) was adopted by the parliament, mainly codifying amendments introduced after 2019 (i.e. IPA etc), in one piece of legislation.

### First instance procedure

Since September 2022, Asylum applications need to be lodged in Malakasa and Diavata Reception and Identification Centres (RICs), in the south and north of Greece respectively. Subsequent applications are lodged before the Regional Asylum Offices (RAO) across the country. 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 EUAA staff in registration and interviews. Effective Access to the asylum procedure still remains an issue of concern. First instance decisions rejecting an asylum application also include a removal order or incorporate a previous removal decision if this has been already issued.

Following the issuance of the Joint Ministerial Decision (JMD) on 7 June 2021, which designated Türkiye as a safe third country for applicants from Syria, Afghanistan, Somalia, Pakistan and Bangladesh, applications submitted by applicants of these nationalities on the islands and in the mainland, are examined under the safe third country concept. This was renewed by another Joint Ministerial Decision in February 2022.<sup>25</sup>

A **fast-track border procedure** is applied to applicants subject to the EU-Türkiye statement, i.e. applicants arriving on the islands of Eastern Aegean islands after 20 March 2016. This takes place in the Reception and Identification Centres (RIC) where hotspots are established (Lesvos, Chios, Samos, Leros, Kos) and before the Rhodes RAO.

### Appeal

First instance decisions of the Asylum Service are appealed before the Independent Appeals Committees under the Appeals Authority. An appeal must be lodged within 30 days in the regular procedure, 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 an inadmissibility decision on a subsequent application.

Appeals submitted against decisions rejecting applications in the accelerated procedure or dismissed as inadmissible on certain grounds do not have an automatic suspensive effect. The procedure before the Appeals Committees is as a rule written.

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<sup>22</sup> Ibid; See also GCR, ‘GCR’s comments on the draft law amending asylum legislation’, 27 April 2020, available at: <https://bit.ly/2ywIMWVa>; RSA, ‘Comments on the Reform of the International Protection Act’, 23 April 2020, available at: <https://bit.ly/2WrMwQR>.

<sup>23</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>24</sup> Council of Europe, Commissioner for Human rights, 7 May 2020.

<sup>25</sup> JMD 734214 (Gazette B’ 6250/12-02-2022).

An Application for Annulment against a negative second instance decision can be filed before the First Instance Administrative Court of Athens or Thessaloniki within 30 days from the notification. No automatic suspensive effect is provided and there is no tailored free legal aid.

## 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
3. Who is responsible for border monitoring? ☒ National authorities ☐ NGOs ☐ Other
4. How often is border monitoring carried out? ☐ Frequently ☐ Rarely ☒ Never

In 2022, a total of 18,780 refugees and migrants arrived in Greece. This marked an increase of 105.09% compared to 9,157 refugees and migrants in 2021.<sup>26</sup> Of this total, 12,758 persons arrived in Greece by sea in 2022 compared to 4,331 persons in 2021. The majority originated from Palestine (21.7%), Afghanistan (17.2%) and Somalia (14.1%). Nearly half of this population were women (17.8%) and children (28.3 %), while 54% were adult men.<sup>27</sup>

Moreover, according to UNHCR 6,022 persons arrived in Greece through the Greek-Turkish land border of Evros in 2022, compared to a total of 4,826 persons in 2021.<sup>28</sup> In 2022, a total of 12,758 refugees and migrants arrived in Greece by sea, according to UNHCR.<sup>29</sup> According to police statistics, 6,672 arrests were carried out in the first ten months of 2022 for irregular entry at the Evros land border with Türkiye,<sup>30</sup> compared to 5,256 arrests in 2021.<sup>31</sup>

In statistical data submitted to the Greek Parliament by the Minister of Public Order,<sup>32</sup> a total of 230,993 third country nationals in 6,736 incidents were “prevented from entrance” in Greece in just the first 10 months of 2022, compared to 175,301 in 6,319 incidents in 2021. According to an announcement by the Ministry of Public Order<sup>33</sup> in January 2023 referring to police statistics, a total number of 256,000 persons were prevented from “illegal invasion” in 2022.

Meanwhile, in October 2022, after two separate deadly shipwrecks<sup>34</sup> in Kithira and Lesvos that both occurred on the same day, UNHCR and IOM<sup>35</sup> underlined deaths at sea. Maria Clara Martin, UNHCR Representative in Greece, stated:<sup>36</sup>

‘237 people have been recorded dead or missing in their attempt to cross the Eastern Mediterranean route, according to IOM’s missing migrants project, while the total number of dead or missing in the Mediterranean sea for the same period of time is 1,522.’

<sup>26</sup> UNCHR, Operational Portal, ‘Mediterranean Situation: Greece’, available at: <https://bit.ly/3WubNsb>.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> Greece Sea arrivals Dashboard - December 2022, available at: <https://bit.ly/43cFS1u>.

<sup>30</sup> Statistics available at: <https://bit.ly/3MPy8Ny>.

<sup>31</sup> UNCHR, Operational Portal, ‘Mediterranean Situation: Greece’, available at: <https://bit.ly/3WubNsb>.

<sup>32</sup> Available at: <https://bit.ly/3MPy8Ny>.

<sup>33</sup> Ministry of Public Order, Press release on 7 January 2023, available at: <https://bit.ly/3Ot1uCT>.

<sup>34</sup> The Guardian ‘Many dead in two separate boat disasters off Greek coast, At least 22 people dead, with many more missing, in two separate incidents hundreds of miles apart’, 6 October 2022, available at: <https://bit.ly/43koYht>.

<sup>35</sup> UNHCR, IOM, *Latest shipwreck tragedies in Greek seas underscore the need for enhanced safe pathways*, Joint Press Release, 6 Oct 2022, available at: <https://bit.ly/3MNMrcCo>.

<sup>36</sup> *Ibid.*



'These latest tragedies are painful reminders that more needs to be done to prevent people fleeing persecution and war from entrusting their lives to unscrupulous smugglers. International and regional cooperation is needed to ensure people have access to asylum and safe pathways.'

Based on the information above, figures on the number of entries in 2022 may under-represent the number of people attempting to enter Greece or that found themselves on the Greek territory, given that cases of alleged pushbacks have been systematically reported in 2022, as was the case in 2021. The persisting practice of alleged pushbacks has been reported inter alia by UNHCR, IOM, the UN Special Rapporteur on the human rights of migrants, the Council of Europe Commissioner and civil society organisations (see sources below).

The Greek Government has remained opposed to the development of an independent border monitoring mechanism and has referred<sup>37</sup> to the National Transparency Authority (NTA) as the body responsible amongst others for the investigation of pushback allegations.<sup>38</sup> As at the date of this report, no effective investigation has been conducted on the repeated pushback allegations. The National Transparency Authority (NTA) has been criticised<sup>39</sup> for lacking expertise to investigate pushbacks and for failing to act as an independent body, due to its failure to comply with the constitutional prerequisites for safeguarding the independence of such authorities. In May 2022, NTA released an investigation report<sup>40</sup> following the referral of a case by the Minister of Migration and Asylum in response to the Lighthouse Report's<sup>41</sup> material on push backs against refugees and migrants by Greece. The investigation was carried out from November 2021 to March 2022. This investigation did not involve any victim of pushbacks, representatives of UN agencies, or the Ombudsman or the Greek National Commission for Human Rights. In fact only 1 lawyer and 1 NGO offering medical services were interviewed, out of a total of 65 persons interviewed, which included 29 Greek officials.<sup>42</sup> Both the contents and process of publication of the report were marred by serious deficiencies, such as the investigation's stated aims inter alia to 'to reflect the view of local communities on how irregular migration is managed by the relevant national bodies'<sup>43</sup> and to record 'the view of the local community on allegations of pushbacks' and the failure to correctly anonymise the data of the report.<sup>44</sup>

<sup>37</sup> European Commission against Racism and Intolerance, *ECRI report on Greece (sixth monitoring cycle)*, 28 June 2022, available at: <https://bit.ly/3Muu4Bd>, 36: comment by the Greek authorities 'In particular, the National Transparency Authority -that enjoys institutional autonomy- has been designated as the competent authority to investigate allegations of incidents involving the breach of fundamental rights at the borders and so far, its investigation has not resulted in the substantiation of any alleged violations. The National Transparency Authority operates in parallel to the Ombudsman and the Judiciary system that have also, within their respective mandates, reviewed cases related to border protection and fundamental rights. Moreover, an internal disciplinary mechanism is well in place within the Security Forces to ensure that complaints for violations of fundamental rights allegedly committed by its personnel are adequately investigated'.

<sup>38</sup> *Greek Council for Refugees input for the forthcoming report of the Special Rapporteur on the human rights of migrants with respect to human rights violations at international borders: trends, prevention and accountability*, 28 February 2022, available at: <https://bit.ly/3oleekc>.

<sup>39</sup> UN Special Rapporteur on human rights defenders, 'Statement on preliminary observations and recommendations following official visit to Greece', 22 June 2022, <https://bit.ly/3q1bwAZ>. See also UNHCR, OHCHR, ENNHRI, *Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece*, 9 September 2021, available at: <https://bit.ly/3MjauaM>: 'Ensure that those entrusted with monitoring fundamental rights at borders have thorough institutional experience in international human rights law, EU fundamental rights law and in fundamental rights as guaranteed by the Greek Constitution and national legislation as well as on evolving international, European and national case law interpreting such law. Institutional experience in asylum, border management and return as well as practical experience in human rights monitoring and in working with law enforcement actors are additional assets which facilitate a successful functioning of the monitoring mechanism.'

<sup>40</sup> See full report in Greek at: <https://bit.ly/3lzbqqu>.

<sup>41</sup> Lighthouse reports, 'Frontex, the EU Pushback Agency: Frontex's internal database suggests the EU border agency is involved in illegal pushbacks on a massive scale', 6 May 2022, available at: <https://bit.ly/3WpRXyg>.

<sup>42</sup> NTA, *Investigation Report OM3/4*, available at: <https://bit.ly/3OvFiI8>, 39-44.

<sup>43</sup> RSA et al., *Systemic breaches of the rule of law and of the EU asylum acquis at Greece's land and sea borders*, June 2022, available at: <https://bit.ly/3BPpWJQ>.

<sup>44</sup> *Rule of Law Backsliding Continues in Greece, Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report*, January 2023, available at: <https://bit.ly/45qfPpQ>, 27: 'Due to NTA's own failure to correctly anonymise data in the report, the personal details of persons interviewed as part of the investigation were made public. Out of 65 persons interviewed for the purposes of the investigation, the Authority spoke to 21 locals working mostly in shipping and fisheries or members of local business associations, ten religious leaders, only one lawyer and one NGO offering medical services, zero victims and

Additionally, in July 2022 and following discussion<sup>45</sup> between the EU Commission and the Greek Authorities on a 'new proposal to mainstream fundamental rights' within the Greek asylum system, a Fundamental Rights Officer (FRO)<sup>46</sup> and a Special Commission on Fundamental Rights Compliance (Task Force for Fundamental Rights Compliance) were appointed<sup>47</sup> within the Ministry of Migration and Asylum. The Ministry of Migration and Asylum publicly announced the first meeting of the Commission in August 2022, even though no JMD had been adopted to define its exact responsibilities.<sup>48</sup> No further information has been made available by the Ministry on the work of the Commission to date. Both the Ombudsman<sup>49</sup> and the National Commission for Human Rights (GNCHR)<sup>50</sup> have explicitly called upon the government to reconsider the above reform of a Commission underpinned by 'majority participation of representatives of the Administration',<sup>51</sup> as incompatible with their mandates and independence.

Furthermore, the Recording Mechanism of Informal Forced Returns that commenced operations in early 2022 under the supervision of the National Commission for Human Rights, presented its first Interim Report<sup>52</sup> in January 2023. In the framework of this Mechanism, ten civil society organisations,<sup>53</sup> including GCR, recorded at least 50 incidents and 58 testimonies of informal forced returns which, according to testimonies of the alleged victims, occurred between April 2020 and October 2022. The total number of alleged victims in the report was approximately 2,157 third country nationals, including asylum seekers and recognised refugees in Greece.

In 2022, the practice of refoulements continued to be used as a "front-line" tool of the country's migration policy to halt the flow of refugees and to deter others from attempting to irregularly cross the borders. The practice is a permanent eventuality for people attempting to cross the borders according to testimonies, media coverage and reports. Serious incidents of alleged refoulements have been monitored regarding the arbitrary removal of people residing on the mainland (mainly Thessaloniki) or on the islands. In a statement from February 2022, the UN Special Rapporteur on the human rights of migrants mentioned that:<sup>54</sup>

'Violence, ill-treatment and pushbacks continue to be regularly reported at multiple entry points at land and sea borders, within and beyond the European Union (EU), despite repeated calls by UN agencies, including UNHCR, intergovernmental organisations and NGOs to end such practices. We are alarmed by recurrent and consistent reports coming from Greece's land and sea borders with Türkiye, where UNHCR has recorded almost 540 reported incidents of informal

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zero representatives of UN agencies, the Ombudsman or the National Commission for Human Rights. 29 interviewees were Greek officials'.

<sup>45</sup> DRC, *Protecting Rights at Borders: Beaten, punished and pushed back*, 27 January 2023, available at: <https://bit.ly/3opecXU>.

<sup>46</sup> *The Fundamental Rights Officer at the MoMA was appointed*, 6 December 2022, MoMA, available at: <https://bit.ly/3lwIEYK>.

<sup>47</sup> Articles 49 and 50 of law 4960/2022 (GG A'145); DRC, *Protecting Rights at Borders: Beaten, punished and pushed back*, 27 January 2023, available at: <https://bit.ly/3opecXU>.

<sup>48</sup> As it was described in art. 50 par 3 in L. 4960/2022.

<sup>49</sup> 'The Ombudsman's work in this field is accompanied by the maximum guarantees of personal and functional independence according to the Constitution, thus constituting the 'strong and timeless institution with increased guarantees of reliability and transparency in the examination of complaints,' elements that I understand are sought after by the Ministry. Therefore, his parallel participation in a collective body of the administration with the same object raises concerns regarding the possibility of limiting his autonomous, independent role, his competences, or at least a blurring/overlap of competences'. Available at: <https://www.synigoros.gr/en/category/nea/post/the-ombudsman's-reservations-regarding-his-participation-in-committees-of-the-ministry-of-migration-and-asylum>

<sup>50</sup> GNCHR, letter on 21 October 2022, available in Greek at: <https://bit.ly/43kpmMW>.

<sup>51</sup> *Rule of Law Backsliding Continues in Greece, Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report*, January 2023, available at: <https://bit.ly/45qfPpQ>, 37.

<sup>52</sup> GNCHR, Recording Mechanism of Informal Forced Returns, *Interim Report*, January 2023, available at: <https://bit.ly/3lUTyH5>.

<sup>53</sup> Greek Council for Refugees (GCR), Hellenic League for Human Rights (HLHR), Network for Children's Rights, Medical Intervention, METAdrasi – ACTION FOR MIGRATION AND DEVELOPMENT, Transgender Support Association, RSA, HIAS Greece, Legal Centre Lesbos, Danish Refugee Council Greece (DRC): see <https://bit.ly/3lx1jTI>.

<sup>54</sup> UNHCR, *News Comment: UNHCR warns of increasing violence and human rights violations at European borders*, 21 February 2022, available at: <https://bit.ly/42Vd0Ly>.

returns by Greece since the beginning of 2020. Disturbing incidents are also reported in Central and South-eastern Europe at the borders with EU Member States’.

In addition, the European Parliament delayed the approval of Frontex’s accounts in 2021 and rebuked the agency for failing to respond to its previous recommendations. In a report motivated by its the latest delay, the European Parliament’s Budgetary Control Committee found that Frontex ‘did not evaluate its activities in Greece, even though reports by institutions of Member States, the Council of Europe, and the United Nations show that the Agency was carrying out operations in sections where simultaneously, fundamental rights violations were taking place’.<sup>55</sup>

In May 2022, the European parliament refused to sign off the EU border agency’s accounts, saying it failed to investigate alleged human rights violations of asylum seekers in Greece.<sup>56</sup> In line with the European Parliament’s Budget Control Committee’s recommendations from 6 October, the European Parliament on 18 October refused<sup>57</sup> to approve the 2020 budget of the European Border and Coast Guard Agency, Frontex. Home Affairs Commissioner, Johansson expressed her “shock” over findings in the leaked report by the EU watch-dog OLAF<sup>58</sup> but stated that he had confidence in the Management Board. Frontex stated that the misconduct revealed in the report were “Practices of the Past” but NGOs have found no difference in practice and have urged EU action against Greece and suspension of the agency’s operations.

### Pushbacks at land borders

In relation to pushbacks at land borders, the Special Rapporteur on the human rights of migrants has noted that, in addition to ‘increased militarisation of the Evros land border...which has effectively resulted in preventing entry and in the summary and collective expulsion of tens of thousands of migrants and asylum seekers’, there have been allegations that ‘pushbacks are also reportedly carried out from urban areas, including reception and detention centres’.<sup>59</sup> In a report issued in April 2022, the United Nations Special Rapporteur on the human rights of migrants stated that ‘[i]n Greece, pushbacks at land and sea borders have become de facto general policy’.<sup>60</sup>

On 21 February 2022, UNHCR expressed its concerns regarding recurrent and consistent reports from Greece’s land and sea borders with Türkiye. At least three people are reported to have died since September 2021 in the Aegean Sea, including one in January 2022, while almost 540 reported incidents of informal returns by Greece have been recorded since the beginning of 2020.<sup>61</sup> The International Organisation for Migration (IOM) has also been alarmed by increasing migrant deaths and continuous reports of pushbacks at the border between Greece and Türkiye.<sup>62</sup> Regarding pushbacks on land, in June 2022 a journalistic investigation<sup>63</sup> reported that the Greek police were using foreigners as “slaves” to

<sup>55</sup> Committee on Budgetary Control, Report on discharge in respect of the implementation of the budget of the European Border and Coast Guard Agency for the financial year 2020 (2021/2146(DEC)), A9-0110/2022, 6 April 2022, available at: <https://bit.ly/43AQ5Fx>, 11.

<sup>56</sup> The Guardian, ‘EU censures border agency after reports of human rights abuses in Greece’, 4 May 2022, available at: <https://bit.ly/3WoGOhk>.

<sup>57</sup> ECRE, ‘Frontex: MEPs Vote to Refuse Approval of Budget, Commission ‘Shocked’ by OLAF Report but Confident in Management Board as Agency Calls Misconduct ‘Practices of the Past’ NGOs Finds No Difference’, 21 October 2022, available at: <https://bit.ly/3grKgH2>.

<sup>58</sup> The Guardian, ‘Head of EU border agency Frontex resigns amid criticisms’, 29 April 2022, available at: <https://bit.ly/3ohAnQD>. Full OLAF’s report published by Der Spiegel available at: <https://bit.ly/45pnGDK>.

<sup>59</sup> Special Rapporteur on the human rights of migrants, *Report on means to address the human rights impact of pushbacks of migrants on land and sea*, 12 May 2021, available at: <https://bit.ly/3WvA94I>, para. 55.

<sup>60</sup> Report of the Special Rapporteur on the human rights of migrants, available at: <https://bit.ly/3QxvbBn>, para 32.

<sup>61</sup> UNHCR, *News Comment: UNHCR warns of increasing violence and human rights violations at European borders*, 21 February 2022, available at: <https://bit.ly/43jYnKL>.

<sup>62</sup> IOM, *IOM Concerned about Increasing Deaths on Greece-Türkiye Border*, 18 February 2022, available at: <https://bit.ly/3MIQtJS>.

<sup>63</sup> ‘...The Greek police are using foreigners as ‘slaves’ to forcibly return asylum seekers to Türkiye, In recent years there have been numerous accounts from the victims, as well as reports by human rights organisations and the media, stating that the men driving these boats speak Arabic or Farsi, indicating they are not from Greece. A months-long joint investigation with The Guardian, Le Monde, Der Spiegel and ARD Report München has for the first time identified six of these men – who call themselves slaves– interviewed them and located the police stations where they were held. Some of the slaves, who are kept locked up between operations, were forcibly recruited themselves after crossing the border but others were lured there by



forcibly return asylum seekers to Türkiye, and who were alleged to have been operating mostly, in the region of Evros.

In Greece, many legal practitioners have resorted to litigating cases directly to the ECtHR or to UN Committees, due to the ineffective procedure in domestic courts, as the policy of pushbacks seems 'to have contaminated the judiciary'<sup>64</sup> and the majority of investigations connected to pushbacks have been closed by public prosecutors by invoking lack of evidence. Many of these cases have been referred to the European Court of Human Rights (ECtHR) as domestic remedies were ineffective.<sup>65</sup>

Since March 2022 the Greek Council for Refugees (GCR) has represented<sup>66</sup> 468 Syrian and 39 Turkish refugees, including many children, before the European Court of Human Rights, especially in cases of persons who entered Greece through the land border and were in need of international protection. GCR filed 24 applications for interim measures (Rule 39), requesting humanitarian assistance and access to the asylum procedure. The ECtHR granted the requested interim measures for all cases and ordered the Greek government not to remove the refugees from the country's territory and to provide them with food, water and proper medical care. The ECtHR also requested to be informed by the Greek government, amongst other things, on whether they have submitted an asylum application and whether they have had access to the asylum procedure and legal assistance. Some of the members of these 24 groups have been formally arrested by the Greek authorities but most of them complained that they were pushed back to Türkiye. It should be noted that persons even from the groups that were formally arrested, complained that, in the past they had been subjected to violent and informal return (pushbacks) to Türkiye from Greece.

Furthermore, both with respect to those stranded on the islets and those in the Greek mainland, the refugees who complain that they have been pushed back to Türkiye, also complain that they were informally arrested by the Greek authorities, informally detained in an unspecified detention facility in the Evros region, they were ill-treated and were transferred to the Evros river bank where they were forcibly boarded on boats and pushed back to Türkiye.

Moreover, since 2022 GCR sent at least 185 interventions to the Greek authorities for the cases of more than 1,000 refugees including many children, from Syria, Türkiye, Afghanistan and Iraq, who entered Greece from the Evros region seeking international protection. In approximately half of these interventions, the Greek authorities responded positively by locating them and providing them with access to the relevant legal procedures. However, with the remaining interventions, the Greek authorities either did not respond or replied that they had not been able to locate the refugees. In some of these interventions, which concerned refugees from Türkiye and Syria, GCR was informed later that the refugees had been informally and forcibly returned to Türkiye, without being given the opportunity to submit an asylum application. For the rest of these interventions, GCR has had no information on the whereabouts of the refugees. In parallel, GCR filed 11 appeals before the ECtHR which are pending before the Court. Out of these cases, 38 cases were recorded in the Mechanism for Recording Incidents of Informal Forced Returns of the National Human Rights Commission, of which GCR is a member. These cases are included, inter alia, in GCR's report 'At Europe's borders: between impunity and criminalization', recently published and presented before the European Parliament.<sup>67</sup>

Among the above pending cases before the ECtHR, in Application no. 35090/22 K.A. and Others v. Greece (interim measures granted on 20 July 2022), 50 Syrian refugees who were allegedly stranded on

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smugglers working with a gangmaster who is hosted in a container located in the carpark of a Greek police station. In return for their 'work' they received papers allowing them to stay in Greece for 25 days': see Giorgos Christides et al, 'Greek Police Coerce Refugees to Commit Illegal Pushbacks', 30 June 2022, *Der Spiegel*, available at: <https://bit.ly/3lvTGfB> and Lighthouse reports, *WE WERE SLAVES*, 28 June 2022, available at: <https://bit.ly/3MTIa1G>.

<sup>64</sup> Black Book of Pushbacks, December 2022, available at: <https://bit.ly/3ou1EPJ>, 14.

<sup>65</sup> Ibid.

<sup>66</sup> GCR's Information Note on interventions and on interim measures granted by the ECtHR in cases regarding pushbacks, Updated on 19 April 2023, available at: <https://bit.ly/3MxIErw>.

<sup>67</sup> GCR, *At Europe's Borders: Between Impunity And Criminalization*, 2 March 2023, available at: <https://bit.ly/42pxqLJ>.

an islet in the Evros river, complained that they were pushed-back from Greece to Türkiye after the Court's decision. Most of them entered Greece again and found themselves stranded on the same islet once again.<sup>68</sup> These refugees also complained that a young girl had died on the islet from insect bites. After succeeding to reach the mainland on their own, these refugees were formally arrested and registered on 15 August 2022. On 13 August, UNHCR stated that: *'We continue to be gravely concerned for the safety and wellbeing of some 40 people allegedly stranded on an islet at the Greece-Türkiye border. According to reports received a child has tragically already died. Unless urgent action is taken, we fear further lives remain at stake'*.<sup>69</sup> The full application before the Court has been submitted by GCR. This specific case attracted the media's attention, public interest and activated a "public debate" around the facts of the case with many press releases, interviews and statements before the Greek Parliament. However, the case of 38 remains a pushback case<sup>70</sup> that the Greek State tries 'to conceal in the public debate, by shifting the focus from the main issue which is the Greek State's responsibility for the violent pushback operations. The Government continues to question the role of the Organisations that filed the interim measures before the ECtHR'.<sup>71</sup>

In its annual review of Greece for 2022, Human Rights Watch stated that Greece regularly ignores an increased number of emergency orders issued by the ECtHR to prevent the summary return of asylum seekers stranded along the borders with Türkiye, being at imminent risk of pushback.<sup>72</sup> According to the same source, the Greek authorities accused<sup>73</sup> NGOs of coordinating with smugglers to circumvent border controls by making appeals to the ECtHR to prevent pushbacks in the Evros region, with the authorities reportedly initiating an "investigation" into organisations active in the region. It has been observed<sup>74</sup> that the Greek authorities systematically and flagrantly ignore the European Court of Human Rights (ECtHR), the multiple applications for interim measures it has granted during 2022 and the 32 communicated applications,<sup>75</sup> while refusing to respond to the complaints that organised practices, including serious crimes (torture, robbery, endangerment of life), are being carried out at the Greek borders with the aim of deterrence, apparently in the name of "border protection".

On 26 January 2023, the ECtHR delivered its judgment in the case of B.Y. v. Greece, application no. 60990/14<sup>76</sup>, which was represented before the Court by GCR, the Network of Social Support of Refugees and Immigrants, the Lawyers' Group for the rights of Refugees and Immigrants. The Court ruled that there was a violation of Article 3 (the procedural limb of Article 3 in conjunction with Article 13) of the Convention. The case concerned<sup>77</sup> a Turkish national who alleged that he was forcibly removed from Greece (Athens) to Türkiye, despite his attempts to claim asylum on the grounds of political opinion. The ECtHR, by a majority of 4 votes, against 3, did not uphold the plea of violation of Article 3 in its substantive part, because, despite the abundance of evidence submitted, the majority of the Court maintained reservations and ultimately concluded that it was impossible to admit the applicant's presence in Greece during the period in question. The Court notes, however, that that failure stems to a large extent from the failure of

<sup>68</sup> About the islet's territorial status, Ministry of Defence stated in written that the islet is divided by a Greek-Turkish border line, thus creating a Greek and a Turkish part, Official Letter-Response of the Greek Minister of Defense to the Hellenic Parliament, Answer on the issue of 'sovereignty on an islet in Evros', 7 October 2022, <https://bit.ly/3BM8F1v> and GCR Press Release, *Δελτίο τύπου σε συνέχεια και της διευκρίνισης του συννοριακού καθεστώτος της νησίδας στον Έβρο*, 12 October 2022, available in Greek: <https://bit.ly/3lAnwjs>.

<sup>69</sup> UNHCR News on Twitter, 13 August 2022, available at: <https://bit.ly/3ooj5kD>.

<sup>70</sup> Article of the Director of GCR publishes in 'Εποχή' on 08 January 2023, available at: <https://bit.ly/3BSbiP6> and <https://bit.ly/3WqB1YD>.

<sup>71</sup> See GCR report at Europe's Borders: Between Impunity and Criminalization, March 2023, available at: <https://bit.ly/3opKToW>.

<sup>72</sup> Human Rights Watch World Report 2023, events of 2022, full report available at: <https://bit.ly/42YLB4Z>, 261.

<sup>73</sup> Ibid.

<sup>74</sup> 'Greece: Authorities Ignore ECtHR Interim Measures and Distress Calls as Türkiye Increase Return Efforts of Refugees, Systematic Detention of Asylum Seekers Persists 17th June 2022 | News', available at: <https://bit.ly/3QvdaUg>; Joint Press Release of 16 civil society organisations Asylum Campaign (Καμπάνια για το Άσυλο), 5 October 2022, available at: <https://bit.ly/3MTm7qM>.

<sup>75</sup> RACIST CRIMES WATCH – ΠΑΡΑΤΗΡΗΤΗΡΙΟ ΠΑΤΗΣΙΣΤΙΚΩΝ ΕΓΚΛΗΜΑΤΩΝ, 'Ξεκίνησαν 32 Ευρωδίκες Ελλάδας για επαναπροωθήσεις – Εκκωφαντική αποσιώπηση από ΜΜΕ' 23 December 2021, available (in Greek) at: <https://bit.ly/3oir2YR>.

<sup>76</sup> Decision available (in French) at: <https://bit.ly/45nE0oF> and <https://bit.ly/45rVS1O> and GCR Press release available (in Greek) at: <https://bit.ly/43pnzqh>.

<sup>77</sup> ELENA; 'ECtHR: Greece's ineffective investigation into an asylum seeker's removal to Türkiye violated Article 3', 26 January 2023, available at: <https://bit.ly/45rVS1O>.

the national authorities to carry out the thorough and effective investigation which they were required to carry out and to provide the necessary evidence.

On the contrary, the three Members of the Court, in a strong joint minority opinion, held that Greece should be condemned also on the substantive part of the violation of Article 3 ECHR.

### Pushbacks at sea

In April 2022, a research was published<sup>78</sup> on the involvement<sup>79</sup> of Frontex in the pushbacks of at least 957 refugees between March 2020 and September 2021. It was noted<sup>80</sup> that ‘the term “prevention of departure” is commonly used to report practices better known as pushbacks, illegal under Greek, EU and international law. This was confirmed in interviews with several sources within Frontex as well as the Greek authorities.’

In July 2022, the ECtHR issued<sup>81</sup> a long awaited, landmark judgment on the case *Safi and others v. Greece*<sup>82</sup> (the Farmakonisi case) which was supported by GCR, the Refugee Support Aegean with the support of Pro Asyl, the Network of Social Support of Refugees and Immigrants, the Lawyers’ Group for the rights of Refugees and Immigrants and the Hellenic League for Human Rights. The case concerned the sinking of a fishing boat transporting 27 foreign nationals in the Aegean Sea in January 2014, off the island of Farmakonisi, resulting in the death of 11 people. According to the allegations of the applicants, the coastguard vessel was travelling at very high speed in order to push the refugees back towards Turkish waters and this caused the fishing boat to capsize, which the Greek Authorities refuted. The Strasbourg Court found a violation of the right to life, both due to the authorities’ failure to investigate such a significant case responsibly and effectively, and to those actions that they should and could have taken to protect human lives and prevent the tragic incident. The Court also held that Coast Guard officers had inflicted degrading and inhuman treatment against shipwreck survivors that night. The judgment of ECtHR ‘vindicates the victims by awarding compensation from the Greek State and brings to light an issue systematically concealed in public discourse: push backs and systematic deterrence practices which put lives at risk on a daily basis in Evros and the Aegean’.<sup>83</sup>

Forensic Architecture have reported around 1,000 pushback incidents within the last two years on their platform,<sup>84</sup> which allegedly occurred from 2020 to 2022 on the Greek islands,<sup>85</sup> with 103 incidents being recorded in 2022 alone.

By way of illustration, the following pushback incidents at sea were reported in 2022 and documented by Forensic Architecture:

- ❖ An incident that allegedly happened on 26 February 2022 on Lesbos, when 35 asylum seekers on an inflatable boat with no engine were intercepted by the Hellenic Coast Guard vessel ΛΣ 050 and the boat was later found drifting by the Turkish Coast Guard off the coast of Ayvalık.

<sup>78</sup> DER SPIEGEL, together with Lighthouse Reports, the Swiss media outlets SRF and Republik and the French newspaper Le Monde spent months researching Frontex’s involvement in the Greek pushbacks. Following a request under the European Freedom of Information Act, the researchers succeeded in gaining access to the internal Frontex database and matching entries with photos and videos of pushback operations. The research reveals the full extent of Frontex support for Greek pushbacks in the Aegean Sea for the first time, available at: <https://bit.ly/433JkvS>.

<sup>79</sup> Lighthouse reports, FRONTEX, THE EU PUSHBACK AGENCY, Frontex’s internal database suggests the EU border agency is involved in illegal pushbacks on a massive scale, MAY 6, 2022, available at: <https://bit.ly/3WpRXyg>.

<sup>80</sup> Ibid.

<sup>81</sup> Eva Cossé, ‘European Court Slams Greece Over Deadly Migrant Pushback Inquiry on Pushbacks Is Urgently Needed’, 8 July 2022, available at: <https://bit.ly/3otdzNS>.

<sup>82</sup> ECtHR, *Safi and others v. Greece*, application no 5418/15, 7 July 2022, available at: <https://bit.ly/45oTicG>

<sup>83</sup> Press Conference: Judgement from the European Court of Human Rights in *Safi and Others v Greece* (Farmakonisi), Written on 07/07/2022 with a short summary of the case ,available at: <https://bit.ly/3OzXBfA> and Vindication by the ECHR for Farmakonisi: Press conference on Monday, 11 July 2022, available at: <https://bit.ly/3q61nmD>.

<sup>84</sup> FA, platform available at: <https://bit.ly/41W0slW>.

<sup>85</sup> Article (in Greek) published on 15.7.2022 in ‘Ethnos’, Πασχάλης Γαγάνης, Έρευνα Forensic Architecture: Πάνω από 1.000 επαναπροωθήσεις στο Αιγαίο σε 2 χρόνια - «Ξυλοδαρμοί, κλοπές ακόμα και ρίψη στη θάλασσα με χειροπέδες», available (in Greek) at: <https://bit.ly/3MRg9Xm>.

- ❖ An incident that allegedly happened on 27 February 2022 on Samos, when 12 asylum seekers arrived on the shores of Samos island, at Livadaki village. Later on the same day, they were rescued by the Turkish Coast Guard from an inaccessible shore off Kuşadası, having drifted ashore after being left at sea by the Hellenic Coast Guard.
- ❖ An incident that allegedly happened on 27 February 2022 on Rhodes, when 15 asylum seekers, including children, were found drifting on a rigid-hulled inflatable boat off the coast of Marmaris, Muğla.
- ❖ An incident that allegedly happened on 27 February 2022 on Kos, when 22 asylum seekers, including children, on an inflatable boat with no engine were found drifting by the Turkish Coast Guard off the coast of Datça Muğla.
- ❖ An incident that allegedly happened on 27 February 2022 on Kos, when 18 asylum seekers on an inflatable boat with no engine were found drifting by the Turkish Coast Guard off the coast of Bodrum district.

In relation to pushbacks at sea, Aegean Boat Report's Annual Report for 2022 outlined that 1,675 boats carrying 52,163 people were apprehended by the Turkish Coast Guard and Police in 2022.<sup>86</sup> According to the report:<sup>87</sup>

'...In 2022, people arriving has increased 164.8%, compared to 2021. 476 boats made it to the Greek islands, carrying 11,496 people. Boats arriving has increased 158.7% compared to 2021, when 184 boats arrived, carrying 4,342 people. 26,133 people have been pushed back by Greek authorities. In 2022 Aegean Boat Report have registered 988 pushback cases in the Aegean Sea, involving 26,133 children, women and men who tried to reach safety in Europe. Over a third of them, 9,656 people, had already arrived on the Greek Aegean islands, arrested by police, forced back to sea and left drifting in life rafts, illegally deported by the Hellenic Coast Guard (HCG), on orders from the Greek government, so far there has been no reaction from the EU on these illegal actions. Almost 60% of all boats picked up by Turkish coast guard in 2022 had been pushed back by Greek authorities. 60% of all pushback cases registered happened around Lesbos and Samos. 15,225 people have been pushed back at sea in 583 rubber boats, engines or petrol removed and left drifting, and in some cases even towed back to Turkish waters by HCG. In 384 registered cases, 9,656 people have been forced into a total of 575 life rafts, and left drifting in the Aegean Sea by the Hellenic Coast Guard, a systematic use of rescue equipment as a deportation tool".

In January 2023, Aegean Boat Report registered<sup>88</sup> '66 pushbacks in the Aegean Sea, performed by the Hellenic coast guard, 1,881 people, children, women and men, have been denied their right to seek asylum, their human rights have been violated by the Greek government'.

In May 2023 the NY Times published a video<sup>89</sup> showing asylum seekers on the Lesbos island, among them young children, being rounded up, taken to sea and abandoned on a raft by the Greek Coast Guard. European Commissioner for Home Affairs Ylva Johansson have sent a formal request to Greek authorities that this incident be fully and independently investigated.<sup>90</sup>

GCR also represents survivors in two pushback cases, after their arrival on the islands Lesbos and Kos, which are pending before the competent public prosecutors. The first one concerns the case of a group of asylum seekers, who were pushed back to Türkiye upon their landing on Lesbos island and after entering a government-run quarantine facility for refugees in Megala Therma in February 2021; and the second one concerns the kidnapping and illegal forced return of two recognized refugees who were legally residing in the Eastern Aegean Island of Kos. In both cases, the victims of the violent pushback operations

<sup>86</sup> Aegean Boat Report, *Annual Report 2022*, available at: <https://bit.ly/437xzEU>.

<sup>87</sup> Ibid.

<sup>88</sup> 36 Life Rafts In January. Aegean Boat Report, 'Pushbacks continues unhindered in Greece despite warning from Brussels' 4 February 2023, available at: <https://bit.ly/45ni5Oq>.

<sup>89</sup> The New York Times, 'Greece Says It Doesn't Ditch Migrants at Sea. It Was Caught in the Act', Video Showing Migrants Abandoned at Sea, 19 May 2023, available at: <https://bit.ly/43qWeEi>.

<sup>90</sup> Ylva Johansson on Twitter, see: <https://bit.ly/43gnx4d>.



– some of them in the first case – managed to re-enter Greece in 2022 and subsequently, filed an official complaint before the Public Prosecutor.<sup>91</sup>

### **Criminalisation of Human Rights Defenders (HRD) and organisations connected with pushbacks**

In May 2022, four organisations were reportedly<sup>92</sup> under criminal investigation for potential involvement with smuggling networks, because they notified authorities about the location of newly arrived migrants and requested that the authorities provide assistance and access to asylum procedures in Greece. In the following months, no investigations took place but it created an increasingly hostile environment in the field of HRDs' work in Greece and a widespread fear<sup>93</sup> of criminalisation.

Soon after, in June 2022, the UN special rapporteur on human rights defenders, Mary Lawlor, carried out an official country visit to Greece from 13 to 22 June 2022 following an invitation from the Greek government. In the statement on preliminary observations, it was noted that:

'the nature of cooperation between the Government and civil society, and the overall perception about the role of civil society and human rights defenders in Greece, has undergone a significant shift since 2019. Since then, human rights defenders have found it increasingly difficult to carry out their work, especially in fields that might be considered controversial or geopolitically complicated or sensitive. This is particularly tangible in relation to those who defend the rights of asylum seekers, migrants and refugees, including those providing humanitarian assistance, legal aid, participating in search and rescue operations and documenting pushbacks. While previously human rights defenders in these areas had enjoyed an overall conducive environment for carrying out their activities, the current policy framework, that emphasises 'security' over humanitarian assistance, has led to a number of constraints';

'[A] sense of pervasive fear [...] is felt by a significant segment of human rights defenders, which seems to be a direct result of the criminalisation of migration and their legitimate, peaceful work for the rights of refugees, asylum seekers and migrants'<sup>94</sup>

As highlighted by the UN Special Rapporteur on human rights defenders 'human rights defenders promoting and protecting the rights of migrants, asylum-seekers and refugees, including human rights lawyers, humanitarian workers, volunteers and journalists, have been subjected to smear campaigns, a changing regulatory environment, threats and attacks and the misuse of criminal law against them to a shocking degree'.<sup>95</sup>

The Campaign for Access to Asylum,<sup>96</sup> in an announcement on 5 October 2022, underlined that:

'The authorities' systematic use of misinformation regarding "false reports on pushbacks" aims to cover up illegal practices and to target and put pressure on people and organisations that report these incidents' and added that '...The incident in Evros highlighted the problem of pushbacks in a multitude of ways. Systematic propaganda and misinformation about these practices, which often result in the loss of human lives, is aimed at concealing the truth, obscuring the consequences (deaths, drownings, violence, etc.) and, of course, at targeting lawyers, organisations, as well as media and journalists who report these incidents'.

<sup>91</sup> For more details on the cases, See GCR, at *Europe's Borders: Between Impunity and Criminalization*, March 2023, available at: <https://bit.ly/3opKToW>.

<sup>92</sup> Among others, News.IT, 'Evros: Investigation into the activities of NGOs and their connection with illegal immigrant networks', 29 May 2022, Available at (Greek), <https://bit.ly/4208ryu>.

<sup>93</sup> 'I also note the sense of pervasive fear that is felt by a significant segment of human rights defenders, which seems to be a direct result of the criminalization of migration and their legitimate, peaceful work for the rights of refugees, asylum seekers and migrants': UN Special Rapporteur on human rights defenders, 'Statement on preliminary observations and recommendations following official visit to Greece', 22 June 2022, available at: <https://bit.ly/3q1bwAZ>.

<sup>94</sup> Ibid.

<sup>95</sup> *Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor - Visit to Greece (A/HRC/52/29/Add.1)*, available at: <https://bit.ly/43n0hS1>, para. 114.

<sup>96</sup> 'It is the Greek Government's responsibility to immediately put a stop to informal forced returns (pushbacks): They endanger human lives and breach the state's international obligations' in Joint Press Release of 16 civil society organisations Asylum Campaign (Καμπάνια για το Άσυλο), 5 October 2022, available at: <https://bit.ly/3MTm7qM>.

Later, in January 2023, regarding charges against 24 human rights defenders who were helping to rescue migrants in distress at sea in Lesbos in Greece, the UN Special Rapporteur on the human rights of migrants stated that:<sup>97</sup> ‘Trials like this are deeply concerning because they criminalise life-saving work and set a dangerous precedent. Indeed, there has already been a chilling effect, with human rights defenders and humanitarian organisations forced to halt their human rights work in Greece and other EU countries’. On 13 January, the espionage charges were dropped by the Court.<sup>98</sup>

Prosecutions of activists working with migrants continued in 2022 and early 2023, against the founders of the Greek Helsinki Monitor (GHM)<sup>99</sup> and of the Aegean Boat Report (ABR), who were both subject to investigation and charged by Greek judicial authorities on the island of Kos for ‘forming or joining for profit and by profession a criminal organisation with the purpose of facilitating the entry and stay of third country nationals into Greek territory.’<sup>100</sup>

## Legal access to the territory (beyond family reunification)

Legal gateways to enter Greece are not provided to persons in need of international protection, and nor does Greece issue visas on humanitarian grounds. The only exception was in 2021, when Greece accepted 819 Afghan nationals<sup>101</sup> due to ‘the country’s commitment to provide humanitarian assistance to Afghan nationals in danger’.

## 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>102</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 fulfil its 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>103</sup>

In order to achieve this goal, EU Agencies, namely the EUAA (previously EASO), Frontex, Europol and Eurojust, worked alongside the Greek authorities within the context of the hotspots.<sup>104</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>105</sup> Therefore, hotspots were envisaged initially as reception and registration centres, where all stages of administrative procedures concerning

<sup>97</sup> ‘My concerns were compounded by accounts I received during my country visit to Greece in June 2022 detailing how fear of criminalisation has spread among human rights defenders working in the field of migration in the country. As I underlined in my preliminary observations following the visit, solidarity should never be punished and compassion should never be put on trial’: UN Special Rapporteur on Human Rights Defenders, ‘Human rights defenders on trial in Greece’, published on 09 January 2023, available at: <https://bit.ly/3MVFVtp>

<sup>98</sup> France24, Greek court drops spying charges against migrant rescuers, January 2023, available at: <https://bit.ly/3BQKu1R>.

<sup>99</sup> Asylum Campaign (Καμπάνια για το Άσυλο) Press Release, 21 December 2022 (Update on the ongoing persecution of Human Rights Defender Panagiotis Dimitras). The attempt to silence human rights defenders continues. What remains to be decided are its accompanying measures, available at: <https://bit.ly/45BXpT4>.

<sup>100</sup> Human Rights Watch, ‘Greece: Migrant Rights Defenders Face Charges, End Judicial Harassment of Migrant Rights Activists; Respect Asylum Obligations’, January 26, 2023, available at: <https://bit.ly/43ifSlx>.

<sup>101</sup> MoMA, Press release, 23 November 2021, available at: <https://bit.ly/3yzVCzV>.

<sup>102</sup> European Commission, *European Agenda on Migration*, COM(2015) 240, 13 May 2015.

<sup>103</sup> European Commission, *The hotspot approach to managing migration flows*, 11 September 2015, available at: <http://bit.ly/2kESJFK>.

<sup>104</sup> *Ibid.*

<sup>105</sup> European Commission, 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, available at: <https://bit.ly/2wWHXVE>.

newcomers – i.e., identification, reception, asylum procedure or return – would take place swiftly within their scope.

Five hotspots, under the legal form of First Reception Centres – now known as Reception and Identification Centres (RIC) – were established in Greece on Lesbos, Chios, Samos, Leros and Kos. In 2021, on Samos, Leros and Kos, the RICs were converted into ‘Closed Controlled Access Centres of Islands (CCAC)’.<sup>106</sup> The new facility in Samos was inaugurated on 18 September 2021 and the ones in Leros and Kos on 27 November 2021.<sup>107</sup> On Kos, despite the inauguration of the new centre, new infrastructures remained non-operational until August 2022.

In 2022, the existing facilities in Lesbos and Chios were converted to Controlled Access Centres of Islands (CCAC).<sup>108</sup> However, on Lesbos and Chios, two new Closed Controlled Access Centres of Islands (CCAC) are under construction and are expected to be completed in 2023.

Reception and Identification Centres (RIC) and Closed Controlled Access Centres of Islands (CCAC)			
Hotspot	Start of operation	Capacity	Occupancy
Lesbos			
RIC (Moria)	October 2015	Non-operational	Non-operational
CCACI. (Mavrovouni)	September 2020 <sup>109</sup>	8,000	1,709
CCACI. (Vastria)	Under construction	Estimated 5,000	Non-operational
Chios			
CCACI. (Chalkios)	February 2016	1,014	374
CCACI. (Akra Pachi – Tholos)	Under construction	Estimated 1,800	Non-operational
Samos			
RIC	March 2016	Non-operational	Non-operational
CCACI.	18 September 2021	2,040	1,013
Kos			
RIC	June 2016	Non-operational	Non-operational
CCACI.	27 November 2021	2,356	917
Leros			
RIC	June 2016	Non-operational	Non-operational
CCACI.	27 November 2021	1,780	358
TOTAL		15,934	3,307

Source: Ministry of Migration and Asylum, National Situation: Migrant and Refugee Issue, Situation as of 31 December 2022, available at: <https://bit.ly/3NbNkoS>.

It was initially planned that the five hotspot facilities would have a total capacity of 7,450 places.<sup>110</sup> According to official data however, their capacity had increased to 13,338 places by the end of 2020. The construction of the ‘Closed Controlled Access Centres of Islands (CCACI.)’ in 2021 further increased capacity to 15,934 places. Yet, according to commentators, the construction of new mass facilities cannot be justified by the number of TCN residing in the RICs nor by the flows, since both were significantly lower in 2020 and 2021 compared to previous years. Hence, based on the ministry’s official data, during 2022

<sup>106</sup> Ministerial Decision 25.0 / 466733/15-12-2021, according which the RIC of Samos, Leros and Kos are renamed as ‘Closed Controlled Access Centres of Islands (C.C.A.C.I.)’, See also Art. 8 par. 4 L.4375/2016.

<sup>107</sup> MoMA, The Minister for Migration and Asylum, Mr. Notis Mitarachi, inaugurated the new closed controlled access centres in Samos, 18 September 2021, available at: <https://bit.ly/3DHQzOe>; MoMA, N. Mitarachi: Today in Leros and Kos, as a few days ago in Samos and in a few months in Chios and Lesbos, we inaugurate the new Closed Controlled Access Centres, with a view to the future. Images we can all recall from the period 2015-2019 belong definitely to the past, 27 November 2021, available at: <https://bit.ly/3j61isb>.

<sup>108</sup> Article 12, Presidential Decree 77/2022- Gov. Gazette 212/A/17-11-2022

<sup>109</sup> A new facility in Kara Tepe (Mavrovouni) was established in September 2020 after Moria RIC burnt down.

<sup>110</sup> European Commission, *Third Report on the Progress made in the implementation of the EU-Türkiye Statement*, COM(2016) 634, 28 September 2016.

new arrivals increased by 96% compared to 2021 giving a significant rise in the number of the transfers to the mainland.<sup>111</sup>

Local communities also expressed their opposition against the creation of the new 'Closed Controlled Access Centres of Islands (CCACI.)' because they do not consider them necessary and because they have strong concerns both related to the degradation of the islands and the rights of newcomers. In Lesvos and Chios, several protests took place and citizens attempted to disrupt the construction of the centres on the islands.<sup>112</sup> On 19 August 2022, a Greek Council of State's decision paved the way for the continued construction of a new EU-funded closed controlled access centre in a 71,250 km<sup>2</sup> forest in Vastria, on Lesvos island. However, an application for suspension by the North Aegean Region and by local communities (Komi and N. Kydonia), regarding the access road to the structure of Vastria was accepted by the Commission of Suspensions of the Greek Council of State in temporary decision 199/2022-19/12/2022. This prohibited any construction until the final judgment of the court on the application for its annulment, as it was considered that the construction of the road would lead to irreversible destruction of the forest and impact the rare birdlife of the protected area.<sup>113</sup> In Leros and Kos, criticism against the construction of the new facilities was expressed not only by local communities but also by the local authorities. The Mayors of both islands refused to attend the inauguration of the new centres. In 2021 the local authorities of both Leros and Samos challenged the construction of new centres.<sup>114</sup>

On Samos and Leros, the new closed facilities have been moved to different areas compared to where the previous RICs were located, namely in Zervou (Samos) and Lepida (Leros). Similarly, the new facilities under construction on Lesvos and Chios are located in different areas, namely in Plati – Vastria (Lesvos) and in Akra Pachi – Tholos (Chios). In Kos, the new facility has been expanded in an area attached to the existing RIC located in Pyli.

The new structures have been placed in remote locations, isolated from urban areas with very poor connection to the main cities of each island. More specifically, the new centre in Samos is located 7km away from the city of Vathy, the new centre in Leros is 6km from the city of Agia Marina and the new centre in Kos is 15km far away from the city of Kos. Similarly, the new centre in Lesvos is being constructed in an area which is 30km from the city of Mytilene and the facility in Chios is located 11km from the city of Chios.

Conditions prevailing in the remaining RICs have not improved and people continue to be hosted in degrading conditions. In Vial (Chios), the conditions remain worryingly substandard despite the decrease of the accommodated population. The shocking news of the death of a Somali resident whose body was found 12 hours after his death surrounded by rodents is indicative of the situation.<sup>115</sup> Similarly, the Mavrovouni RIC is still completely inadequate due to extreme weather conditions, inaccessible and poor sanitation facilities and the increase in security incidents despite significant police surveillance.<sup>116</sup> This situation coupled with the closure of the site of Kara Tepe, which was run by the Municipality of Mytilene and which offered decent living conditions to its residents, has spurred sharp criticism. Commentators have accused the government of adopting policies of deterrence.<sup>117</sup>

The new 'Closed Controlled Access Centres of Islands (CCACI.)' are thus a cause for serious concern, despite the large amount of funding that was used for their construction. In Samos and Kos the conditions

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<sup>111</sup> MoMA, 'information note reception and identification procedures', December 2022, <https://bit.ly/442kpty>.

<sup>112</sup> Τνxs, Χίος - Λέσβος: Μαχητικό «όχι» των κατοίκων στις προσφυγικές δομές – φυλακές, available in Greek at: <https://bit.ly/3x6IHwB>.

<sup>113</sup> Commission of suspensions, Council of State, 19-12-2022, decision 199/2022, available at: <https://bit.ly/3Vdnva1>

<sup>114</sup> CNN Greece, Προσφυγικό: Στο ΣΤΕ ο δήμος Λέρου κατά της κατασκευής ΚΥΤ στο Λακκί, 4 January 2021, available in Greek at: <https://bit.ly/3DFVT4y> and ECRE, Greece: Significant Decrease of Arrivals – Chaos Continues, 15 January 2021, available at: <https://bit.ly/37tbYPr>.

<sup>115</sup> The Guardian, 'A scene out of the middle ages': Dead refugee found surrounded by rats at Greek camp, 7 May 2021, available at: <https://bit.ly/3J5PxpP>.

<sup>116</sup> Legal Centre Lesvos, there is nothing more permanent than the temporary – ουδέν μόνιμοτερον του προσωρινου, 14 September 2021, available at: <https://bit.ly/3uTvY5z>.

<sup>117</sup> GCR, Closure of model camp on Greek islands amidst horrific living conditions is cause for concern, available at: <https://bit.ly/3ja3qPE>.



prevailing in the new centres are considerably better than the ones in the RICs in terms of infrastructure. Yet, testimonies collected by the Greek Council for Refugees from people living in the new centres and civil society organisations reveal prison-like conditions. In 2021, approximately 100 people were prevented from leaving a reception centre for two months due to an exit ban which the Greek administrative court subsequently found to have amounted to an illegal de facto detention.<sup>118</sup> The Ministry of Asylum and Migration takes great pride in the 24/7 surveillance and security control mechanisms of the new centres, while at the same time, the residents face practices of illegal de facto detention and arbitrary restrictions of personal liberty and freedom of movement and have limited access to healthcare. In fact, the Medical Unit of the facilities in Samos<sup>119</sup> and Kos does not include any doctors, despite the extremely poor public primary health services on the islands.<sup>120</sup> In Lesbos, before the registration of their application, asylum seekers are detained in a sector called the "Waiting area" (the previous quarantine area), and for approximately 5 days, where NGOs are not allowed to enter nor applicants to exit.

### Hotspot transformation following the EU-Türkiye statement

In March 2016, the adoption of the highly controversial EU-Türkiye Statement committing 'to end the irregular migration from Türkiye to the EU'<sup>121</sup> brought a transformation of the so-called hotspots on the Aegean islands.<sup>122</sup>

With the launch of the EU-Türkiye Statement, hotspot facilities turned into closed detention centres. People arriving after 20 March 2016 through the Aegean islands, and thus subject to the EU-Türkiye Statement, were automatically de facto detained within the premises of the hotspots in order to be readmitted to Türkiye 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.<sup>123</sup> Following criticism by national and international organisations and actors, and due to the limited capacity to maintain and run closed facilities on the islands with a high number of people, the practice of blanket detention was largely 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](#)).

<sup>118</sup> Administrative Court of Syros, Decision No AP 36 /17-12-2021, available at: <https://bit.ly/3KroeOI>.

<sup>119</sup> GCR & Oxfam Bulletin, March 2022, available at: <https://bit.ly/3NPHNCh>; OXFAM and GCR, Lesbos Bulletin Update on Lesbos and the Aegean Islands, by the Greek Council for Refugees & Oxfam, 6 March 2022, available at: <https://bit.ly/3ujUNIZ>.

<sup>120</sup> 'In both Samos and Kos, only one ambulance is available for the islands' entire population of more than 32,000 and 37,000 people respectively' Greek Council for Refugees & Oxfam International Submission Inquiry on Fundamental Rights in the EU-funded Migration Facilities on the Greek Islands Case OI/3/2022/MHZ , p.13. Kos' General Hospital 'HIPPOCRATES' systematically lacks a GP (pathologist) and a pediatrician

<sup>121</sup> European Council, *EU-Türkiye statement*, 18 March 2016, available at: <http://bit.ly/1VjZvOD>.

<sup>122</sup> The Greens / European Free Alliance in the European Parliament, *The EU-Türkiye Statement and the Greek Hotspots, a failed European pilot project in refugee policy*, June 2018, available at: <https://bit.ly/38TAhkb>.

<sup>123</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-Türkiye 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>123</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.

L.4825/2021<sup>124</sup> replaced Article 8 (4) L.4375/2016<sup>125</sup> as follows:

‘The Regional Services of the Reception and Identification Services are:

- a. the Reception and Identification Centres (RIC),
- b. the Controlled Structures for Temporary Accommodation of asylum seekers and
- c. the Closed Controlled Access Centres, which are structured and have the responsibilities of RIC and within which, in separate spaces, facilities of temporary accommodation and the special detention facilities provided in Art. 31 of L. 3907/2011 operate.

Within the premises of the above-mentioned facilities, special areas dedicated to people belonging to vulnerable groups as per article 14(8) are provided’<sup>126</sup>

Although the Rule of Procedure of Closed Controlled Access Centres on the islands does not provide for a blanket prohibition of exit, the regime of de facto detention has been reintroduced in practice for certain categories of residents in the ‘Closed Controlled Access Centres of Islands (CCACI.)’ of Samos, namely for those who do not hold an asylum seeker card.<sup>127</sup> Persons who do not have a card include:

- ❖ new arrivals after the registration of their asylum application and pending the issuance of a card;
- ❖ persons whose applications have been rejected at second instance who did not lodge or are unable to lodge a subsequent asylum application;
- ❖ those who have filed a subsequent application until a decision on admissibility is issued; and
- ❖ those whose applications have been rejected at first instance, until they can lodge an appeal.

By way of illustration, in the ‘Closed Controlled Access Centres of Islands (CCACI.)’ of Samos the number of people banned from exiting the camp was approximately 100 out of the 450 residents by December 2021.<sup>128</sup> This prohibition took effect without any written decision ordering the restriction in the CCAC, and without information on or notification to the persons concerned on the grounds of the restriction.

In support of an applicant who had filed a subsequent application which was pending and thus whose exit was prohibited, GCR lodged “objections” against this de facto detention before the Administrative Court of First Instance of Syros. Taking into account its character as a de facto detention measure and thus acknowledging its jurisdiction to assess this “exit ban”, the Court held that:

‘a. the detention of asylum seekers is [...] only allowed on the basis of a decision issued by the competent Police Director, as an exceptional measure and only for one of the grounds exhaustively prescribed by Article 46 of said Law, [yet] no decision with such content has been issued [...]’ and said preconditions had not been met, b. “the Head of the [...] CCAC illegally took the measure in question (exit ban) against the applicant’.<sup>129</sup>

<sup>124</sup> Article 28 L.4825/2021 on ‘Reform of deportation and return procedures of third country nationals, attraction of investors and digital nomads, issues of residence permits and procedures for granting international protection, provisions of competence of the Ministry of Immigration and Asylum’.

<sup>125</sup> According to Article 8(4) L. 4375/2016 ‘The Regional Services of the Reception and identification Service shall be: a. The Reception and Identification Centres (RIC) b. Mobile Reception and Identification Units (MRIU) c. The Open Temporary Reception Structures for third-country nationals or stateless persons who have applied for international protection, d. The Open Temporary Accommodation Structures for third-country nationals or stateless persons: who are under a return procedure in accordance with article 22 of law 3907/2011, or with paragraph 3 of this article in conjunction with article 30 of law 3907/2011 or whose removal has been postponed in accordance with Article 24 of law 3907/2011 or who fall under the provisions of article 76 para. 5 or article 78 or article 78a of law 3386/2005’. Article 30(4) L. 4686/2020 amended article 8(4) L.4375/2016 and foresaw 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 centres, 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 centres have not yet been established. Article 8(4) L. 4375/2016 as amended by article 30(4) L. 4686/2020 was applied until the entry into force of L. 4852/2021 in 4<sup>th</sup> September 2021.

<sup>126</sup> as amended by Article 62 L.4939/2022.

<sup>127</sup> Joint Ministerial Decision 25.0/118832 - Gov. Gazette 1454/B/25-3-2022 ΦΕΚ Β 3191/20.7.2021.

<sup>128</sup> Amnesty International, Greece: Asylum seekers being illegally detained in new EU-funded camp, 2 December 2021, available at: <https://bit.ly/3v4NLH6>.

<sup>129</sup> Administrative Court of Syros, Decision No AP 36 /17-12-2021, available at: <https://bit.ly/3KroeOI>; GCR, The Administrative Court of Syros ruled unlawful the measure of prohibiting the exit of an Afghan asylum seeker

Despite the court's decision, the CCAC's Head continued to impose this illegal detention measure in 2022, although officially prohibited from doing so. Moreover, the CCAC's administration has allegedly adopted "revenge tactics" against some residents that have taken legal measures against the illegal prohibition, such as sudden police incursion in the residents' containers in the early hours of the morning, transfers to the local police station and oral eviction notes to residents with a second instance rejection, pending the registration of their subsequent asylum application.<sup>130</sup> Furthermore, as described below, since July 2022, a 25-day movement restriction has also been applied to new arrivals in Samos CCAC.<sup>131</sup>

From April 2016 to 31 March 2020, 2,140 individuals had been returned to Türkiye on the basis of the EU-Türkiye Statement, of whom, 801 were returned in 2016, 683 in 2017, 322 in 2018, 195 in 2019 and 139 in 2020. No readmission operations took place during 2021 and 2022. In total, between 21 March 2016 and 31 March 2020, Syrian nationals accounted for 404 persons (19%) of those returned. 43 of them were returned on the basis that their asylum claims were found inadmissible at second instance based on the "safe third country" concept. Moreover, of all those returned, 23% did not express a wish to apply for asylum or withdrew their asylum applications in Greece.<sup>132</sup>

According to the official statistics of the Ministry of Migration and Asylum published in December 2022<sup>133</sup> 'returns under the EU-Türkiye Joint Declaration have not been made since March [2020] due to Covid-19'. It should be noted that the Greek authorities have requested Türkiye to resume returns based on the EU-Türkiye Joint Declaration. This has also been confirmed by more recent notes of the Readmission Unit of the of the Hellenic Police Headquarters.<sup>134</sup> In July 2021, Greece made a new request to the EU Commission and FRONTEX for the immediate return to Türkiye of 1,908 rejected asylum seekers living on the Aegean island. The Greek Government accused Türkiye of refusing to implement its commitments under the EU-Türkiye Statement, and for continuing to refuse to engage in any way on the issue.<sup>135</sup> However, despite the suspension of returns to Türkiye since March 2020, the applications lodged by applicants falling under the scope of the JMD 42799/2021 (FEK B' 2425/07.06.2021) in 2022 were still examined in the context of the [Safe third country concept](#) and the [Fast-Track Border Procedure](#). On 2 February 2023, the Council of State in decision 177/2023 issued after a request of annulment by the Greek Council for Refugees and the organisation RSA-Refugee Support Aegean against the aforementioned JMD, formulated preliminary questions to the CJEU regarding the national list which includes Türkiye as a safe third country for asylum seekers originating from Syria, Afghanistan, Somalia, Pakistan and Bangladesh, whose applications have been rejected as inadmissible. The Council of State submitted preliminary questions regarding the 'legality of the national list of the fact that, for a long period (over 20 months), Türkiye has refused the readmission of applicants for international protection, while at the same time it is not clear whether the possibility of a change in Türkiye's attitude in the near future has been taken into account'.

## 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.

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from the new Closed Controlled Access Facility of Samos (CCF Samos), 22 December 2021, available at: <https://bit.ly/3un8NBI>.

<sup>130</sup> GCR and Oxfam briefing, Lesbos Bulletin, available at: <https://bit.ly/43iRKPQ>

<sup>131</sup> 'Greek Council for Refugees & Oxfam International Submission Inquiry on Fundamental Rights in the EU-funded Migration Facilities on the Greek Islands- Case OI/3/2022/MHZ', available at: <https://bit.ly/3NdkNPT>  
<sup>132</sup> UNHCR, *Returns from Greece to Türkiye, Returns from Greece to Türkiye, in the framework of the EU - TUR Statement*. Source: Greek Ministry of Citizen Protection, 31 March 2020, available at: <https://bit.ly/3a4rcIV>.

<sup>133</sup> MoMA, MoMa Yearly Report 2020, December 2020, available at: <https://bit.ly/3uBkAJC>, 5.

<sup>134</sup> Fenix, Fenix calls the Greek authorities to examine the merits of asylum applications rejected on admissibility, 1 February 2022, available at: <https://bit.ly/3v5wCNk>.

<sup>135</sup> MoMA, New request from Greece for the return of 1.908 illegal economic migrants to Türkiye, 28 July 2021, available at: <https://bit.ly/3Jmid4r>.

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>136</sup>

This approach was first implemented by the First Reception Centre (FRC) set up in Evros in 2013,<sup>137</sup> which has remained operational to date and has not been affected by the hotspot approach. Joint Ministerial Decision 2969/2015 issued in December 2015 provided for the establishment of five FRCs in the Eastern Aegean islands of Lesbos, Kos, Chios, Samos and Leros,<sup>138</sup> regulated by existing legislation regarding the First Reception Service.<sup>139</sup> However, this legislative act failed to respond to and regulate all the challenges arising within the scope of the 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.

On 3 April 2016, in the light of the EU-Türkiye statement of 18 March 2016, the Greek Parliament adopted 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>140</sup>

L 4375/2016 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 for Reception of Asylum Seekers of the Ministry of Migration and Asylum.<sup>141</sup> The IPA, in force since 1 January 2020, regulated the functioning of the RICs and the conduct of the reception and identification procedure in a similar way. Under the Asylum Code<sup>142</sup>, the relevant regulations were codified to include Closed Controlled Access Centre of Islands (CCACI.)'. Article 38 of the Asylum Code, provides that: '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>143</sup> Reception and identification procedures include five stages:<sup>144</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 the Closed Controlled Access Centre (CCAC) or in case of mass arrivals, by the Police, Coast Guard or Armed Forces i;<sup>145</sup>

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<sup>136</sup> Article 7 L 3907/2011.

<sup>137</sup> Joint Ministerial Decision 11.1/1076/2012, Gov. Gazette 3543/B/31.12.2012; Reception and Identification Service, *RIC at Fylakio, Evros*.

<sup>138</sup> Joint Ministerial Decision No 2969/2015, Gov. Gazette 2602/B/2-12-2015.

<sup>139</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>140</sup> L 4375/2016, Gov. Gazette 51/A/3-4-2016, available at: <http://bit.ly/2kKm2cu>.

<sup>141</sup> Article 1 PD, 18/2020 (ΦΕΚ 34/A/19-2-2020), available in Greek at: <https://bit.ly/3wfJUHZ>.

<sup>142</sup> Asylum Code, see <https://bit.ly/3Ek1hfp>.

<sup>143</sup> Article 38(1) Asylum Code.

<sup>144</sup> Article 38(2) Asylum Code.

<sup>145</sup> Article 39 Asylum Code.

2. Channelling to reception and identification procedure: According to the law, newly arrived persons should be directly transferred to a RIC or CCAC, 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>146</sup> This restriction of freedom entails “the prohibition to leave the Centre and the obligation to remain in it”.<sup>147</sup> Such a restriction is ordered on the basis of a written, duly motivated decision;<sup>148</sup>
3. Registration and medical checks, including *identification* of vulnerable groups;<sup>149</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>150</sup>
5. Further referral and transfer to other reception or detention facilities depending on the circumstances of the case.<sup>151</sup>

### 2.2.1 Reception and identification procedures on the islands

At the early stages of the implementation of the EU-Türkiye Statement, persons arriving on the Eastern Aegean islands and thus subject to the Statement, were systematically and indiscriminately detained. 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 population numbers, the “restriction of freedom” as a de facto detention measure was no longer applied in the RICs, as of the end of 2016, with the exception of Kos. The measure of ‘restriction of freedom’ was still imposed on all newcomers in Kos throughout 2022. It applied for a period of 25 days, within which the applicants were banned from exiting the facility. Since July 2022, a 25-day movement restriction has also been applied to new arrivals in Samos CCAC.<sup>152</sup> In both Kos and Samos, the restriction is imposed for a period of 25 days regardless of whether the Reception and Identification procedures have been in fact completed or not. According to the Samos centre’s administration, all newly arrived asylum applicants are only permitted to exit the centre after 25 days, despite being fully identified and registered within the first five days of their arrival,<sup>153</sup> rendering the measure unjustified. This also applies in Kos, where until April 2022, Reception and Identification procedures, as well as the initial registration of asylum application by RIS and the call for interview by RAO were often completed within a day. In any case, those who arrived since March 2020 on the Eastern Aegean Islands have been subject to a seven-day, ten-day or 14-day quarantine period,<sup>154</sup> so as to prevent the potential spread of the COVID-19 virus, prior to their transfer to RICs in order to undergo reception and identification procedures, which were only carried out once the asylum seekers were moved out of quarantine. A geographical restriction is also systematically imposed on every newly arrived person on the Greek islands, initially by the police and the Head of the Asylum Service, imposing the obligation to remain on the islands and within the RIC facilities. For more details on the geographical

<sup>146</sup> Article 40 Asylum Code.

<sup>147</sup> *Ibid.*

<sup>148</sup> Article 40(a) Asylum Code.

<sup>149</sup> Article 41 Asylum Code.

<sup>150</sup> Article 42(c) Asylum Code.

<sup>151</sup> Article 43(a) Asylum Code.

<sup>152</sup> ‘Greek Council for Refugees & Oxfam International Submission Inquiry on Fundamental Rights in the EU-funded Migration Facilities on the Greek Islands- Case OI/3/2022/MHZ’, available at: <https://bit.ly/3NdkNPT>.

<sup>153</sup> ‘Greek Council for Refugees & Oxfam International Submission Inquiry on Fundamental Rights in the EU-funded Migration Facilities on the Greek Islands- Case OI/3/2022/MHZ’, available at: <https://bit.ly/3NdkNPT>.

<sup>154</sup> Information provided by the Reception and Identification Service, 26 February 2021.



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-Türkiye Statement are subject to a “restriction of freedom of movement” decision issued by the Head of the RIC. The decision is revoked once the registration by the RIC is completed, usually within a couple of days. A ‘restriction of freedom of movement’ is imposed to newcomers for a period of 25 days, within which applicants are not allowed to exit the RIC whether their registration and identification by the RIS has been concluded or not. 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 suspended by a “postponement of deportation” decision of the General Regional Police Director. 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 masse 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.

The CCACs’ dominant trait is the prison-like environment, as the sites are highly securitised and fortified with multiple layers of fencing around the site’s periphery and around each accommodation section within the centre and private security and police personnel guard each fenced section around the clock. To access the administrative services’ office inside the camp, residents must hold an asylum card and pass through a gate manned by a security officer and be subject to a security check and body check with a metal detector. Samos CCACs are in use but are still not fully operational. In Kos CCAC, the majority of the facilities were hailed as significant improvements to residents’ quality of life by the European Commission and the Greek authorities, such as medical sections, restaurant and communal areas, IT ‘labs’, distribution points for non-food items as well as playgrounds, have never been used. In Kos CCAC, as well as incarceration, there is a lack of interpretation and an inability to communicate needs. The institutional management of applicants as persons ‘in custody’ often becomes a springboard for rude and racist behaviour towards residents. In Lesvos, during the last months of 2022, due to increased arrivals, there was limited housing capacity in the CCAC, and consequently, several residents, even families with children, ended up living in tents without electricity, despite the weather conditions. (See [Reception Conditions](#)).

Moreover, unaccompanied children, are prohibited from exiting the fenced “SAFE AREA” container section of CCACs guarded by security personnel, and subject to “restriction of liberty” until their placement in shelters for minors. Since November 2022, the waiting period for the placement of UAMs residing in island CCACs in shelters for minors was reported to have increased up to an average of two months (Samos, Leros, Kos). Concerns have also been expressed about the absence of creative activities during the day and confinement in a non-child friendly, prison-like environment, especially when the waiting time for placement has increased.<sup>155</sup>

Since the implementation of the EU-Türkiye Statement, all newcomers are registered by the RIS.<sup>156</sup> In 2022, the registration of the newcomers carried out by the RIS on the island RICs was conducted within a few days, however significant shortcomings or lack of provision of medical and psychosocial assessment/services as required by law, due to the insufficient number or absence of medical staff working in the RIC on the islands (see also [Identification](#)).

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<sup>155</sup> Data available to GCR by the Special Secretariat for the Protection of Unaccompanied Minors of the MoMA.  
<sup>156</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*.

The registration of initial asylum claims on the islands is no longer conducted by the RAO, but by the RIS. Concerns are raised regarding wrongful registration of newcomers' data, especially the incorrect recording of the date of arrival<sup>157</sup> as the time spent in quarantine area/waiting area for registration and identification procedures to start is not included in the "restriction of movement" decision. Incorrect records were often found in the dates of birth, names spelling and country of origin.

As of 26 January 2020, in the context of implementing the IPA and following the visit of the Minister for Migration and Asylum,<sup>158</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. By the second half of 2021, this practice was not as generalised as certain groups of newcomers were not held in detention upon arrival. From September 2021 until December 2021, the maximum detention period was reduced from 18 months to 12 months. In January 2022, it was further reduced to 6 months. On September 2021, the practice of automatic detention upon arrival stopped, and new arrivals were placed in the RIC undergoing reception and identification procedures, after the end of the mandatory quarantine upon arrival.<sup>159</sup> RIS however continued to consider individuals transferred from Rhodes to Kos PRDC until the first months of 2022, as illegally staying third country nationals and refused to register and offer Reception and Identification procedures to inter-island arrivals. As they were not accepted to the CCAC in case they were released, they were exposed to high risks of homelessness and destitution. By the end of 2022, the so called 'inter-islands arrivals', were also subject to detention without access to the services that should be provided within the scope of Reception and Identification Procedures.

### **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 after April 2020 on the Greek Islands were subject to a seven or 14-day quarantine to prevent the potential spread of the virus, prior to their transfer to RICs in order to undergo reception and identification procedures. 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. at isolated beaches or in other inadequate locations, inter alia ports, buses etc.<sup>160</sup> The degrading treatment of the new arrivals was publicly criticised by the Association of Doctors of the Public Health System of Lesvos<sup>161</sup>. Since 8 May 2020, a dedicated site for these purposes has been in operation on the island Lesvos.<sup>162</sup>

In 2021, designated containers inside the RIC of Mavrovouni in Lesvos were in use for the preventative quarantine of newcomers, apart from the site in Megala, Therma. In Samos, designated containers inside the RIC in Vathy were also used for the isolation of new arrivals. In Kos, new arrivals remained in a separate area of the PRDF for the quarantine period.

Significant criticism has been raised regarding the conditions in the quarantine sites. Another cause of concern relates to the fact that newcomers received no information/ decision regarding their confinement

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<sup>157</sup> Equal Rights Beyond Borders, HIAS Greece & RSA, 'THE STATE OF THE BORDER PROCEDURE ON THE GREEK ISLANDS SEPTEMBER 2022', 2022, available at: <https://bit.ly/3AtPXLu>, 13.

<sup>158</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 Μητράκης επισκέπτεται το νησί - Πανηγυρίζει ο Βορίδης', 26 January 2020, available in Greek at: <https://bit.ly/3oMEj6W>.

<sup>159</sup> Equal Rights Beyond Borders, HIAS Greece & RSA, *The state of the border procedure on the Greek islands*, September 2022, available at: <https://bit.ly/3AtPXLu>, 31.

<sup>160</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>161</sup> Association of Doctors of the Public Health System of Lesvos, 'ΝΕΕΣ ΑΦΙΞΕΙΣ ΚΑΙ ΜΕΤΡΑ ΑΠΟΜΟΝΩΣΗΣ', 29 April 2020, available at: <https://bit.ly/3tZbtTr>.

<sup>162</sup> Capital.gr, Μυτιλήνη: Λειτουργεί από το πρωί η 'καραντίνα' των νεοεισερχόμενων προσφύγων και μεταναστών, 9 May 2020, available at: <https://bit.ly/2WsrtPm>.



and especially regarding the legal grounds and the duration of quarantine. Additionally, UNHCR and other actors providing legal counselling have had no access to the sites and as result, newcomers receive limited to no information regarding the Reception and Asylum procedures about to be initiated following their quarantine. It is worth noting that before the end of quarantine, newcomers are not -even temporarily- registered by the RIS. Worryingly enough, in certain cases the mobile phones of newcomers are confiscated by the Authorities upon arrival, rendering any communication with their relatives and/or legal actors impossible.<sup>163</sup> Also, in certain cases, asylum seekers arriving by sea without negative COVID tests have been fined with a 5,000 euro fine by the Greek police. At the beginning of August 2021, the Chios Police Department fined 25 asylum seekers a total of 125,000 euros.<sup>164</sup>

Moreover, since 21 March 2020, Greece imposed lockdown schemes to tackle the COVID-19 pandemic, including severe limitations on the movement of people hosted in RICs and Temporary Accommodation Facilities. Though restrictions applied to refugee camps were successively prolonged and remained in force until November 2022, despite the nationwide lifting of restriction of movement for the general population,<sup>165</sup> there was a deterioration of [the asylum seekers'] medical and mental health (See [Reception Conditions](#)).<sup>166</sup>

During the first months of 2022, residents of the RIC were able to exit the camp from 07:00 to 21:00. In January 2022, the General Secretary of the Ministry of Asylum and Migration orally announced that the residents would exit the RIC depending on the numbers of confirmed COVID cases on the islands. Due to the low number of confirmed COVID cases, this measure was not practically enforced. New arrivals were obligated to stay in a 14-day quarantine before their registration. Up until November 2022, quarantine was imposed on all newcomers in Lesbos and Kos. Limited information regarding the procedures (before RIS and GAS) to be followed was provided to newcomers isolated in the quarantine areas. During the confinement period, access to human rights actors has also been very limited. A Joint Ministerial Decision published on 19 November 2022 (GG B' 5874) terminated the five-day quarantine period, stipulating that new arrivals who test negative to COVID-19 should be held in the CCAC's First Reception Area for registration by RIS, undergoing Reception and Identification procedures. Newly arrived asylum seekers who test positive are placed in mandatory quarantine for five or more days with restricted access to their rights in the above-mentioned conditions. However, registration by the RIS might not take place immediately upon arrival, due to the limited capacity of the latter.

Consequently, in Lesbos applicants are restricted for approximately 5 days in the renamed "waiting area" inside the CCAC before their registration.

The newcomers arriving within the municipality of West Lesbos are transferred to the Controlled Facility for Temporary Accommodation of West Lesbos (Megala Therma or Kastelia) which is complementary to the CCAC of Lesbos and is located to a remote area. The newcomers are in fact arbitrarily detained without any formal reason and without initiating reception and identification procedures. There is not any administrative staff from the RIC apart from the deputy commander nor any translators. The living conditions are unacceptable. Medical screening is provided only by the Médecins Sans Frontières mobile unit visiting the residents twice a week.<sup>167</sup>

In Kos, the containers of the old RIC which were unsustainable and unfit for habitation were used as a quarantine area, along with areas of the Pre-removal Detention Centre (PRDC). After the termination of quarantine, the old RIC has been used as a "First Reception Area". In practice, the 'first reception area' or so called 'waiting area' in Samos and Lesbos is the same area that was used for quarantine detention. The occasional increase of arrivals in Kos, during December 2022 and January 2023, combined with the absence of a doctor needed to sign the registration form, has led to some individuals remaining at the site

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<sup>163</sup> Equal Rights Beyond Borders, Rights of Migrants regarding the human rights impact of COVID-19 protocols on asylum seekers arriving to Kos and Chios, March 2022, available at: <https://bit.ly/3NV77qE>.

<sup>164</sup> European Council of Refugees and Exiles, Greece: Tabled Bill Continues Erosion of Protection – Greek Authorities Imposing Fees and Fines on Asylum Seekers and NGOs, 27 August 2021, available at: <https://bit.ly/3DTNpan>.

<sup>165</sup> Joint Ministerial Decision Δ1α/ΓΠ.οικ. 17567/2022 - Gov. Gazette 1454/B/25-3-2022,

<sup>166</sup> Médecins Sans Frontières, *Constructing crisis at Europe's borders: The EU plan to intensify its dangerous hotspot approach on Greek islands*, June 2021, available at: <https://bit.ly/3KqXvlw>.

<sup>167</sup> RSA, 'What is happening today in the refugee structures on the Aegean islands, Lesbos', 3 May 2023, available at: <https://bit.ly/45HXy7vGCR>, and newsletter April-May 2023, available at: <https://bit.ly/461FhCn>.

of the “First Reception Area” for more than 16 days. Individuals are held in this area without access to legal or other information, healthcare and without undergoing vulnerability assessments. The period that the asylum seekers are held in the ‘waiting area’ is not included in the 25-day movement restriction imposed after the RIS registration in Kos, Samos and Leros CCAC.

### Actors present in the RIC

As well as civil society organisations, a number of official actors are present in the RIC facilities on the islands, including RIS, Frontex, the Asylum Service, EUAA 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>168</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>169</sup> However, decisions on applications for international protection are always taken by the Asylum Service.

**Frontex:** Frontex staff is also engaged in the identification and verification of nationalities. Although Frontex should have an assisting role, in practice, it conducts nationality screening almost exclusively, as the Greek authorities lack relevant resources 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.

**Asylum Service:** According to IPA, the Asylum Service has a 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>170</sup>

**EUAA** (previously EASO): EUAA is also engaged in the asylum procedure. EUAA 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. Following a legislative reform in 2018, Greek-speaking EASO (now EUAA) personnel can also conduct any administrative action for processing asylum applications, including in the [Regular Procedure](#).<sup>171</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>172</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>173</sup> was the competent body for the provision of medical and

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<sup>168</sup> Article 90(2) IPA.

<sup>169</sup> Article 90(3), b IPA.

<sup>170</sup> Article 39(6) IPA

<sup>171</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>172</sup> ECRE, *The Role of EASO Operations in national asylum systems*, November 2019, available at: <https://bit.ly/3cSt5rs>.

<sup>173</sup> Established by L 4633/2019.

psychosocial services. Serious shortcomings were however noted in 2021 due to the insufficient number of medical staff in the RIC (see also [Identification](#)).

**Security personnel in CCACs:** Surplus private security personnel guard each accommodation and other section of the CCACs, without presence of interpreters, with endogenous inability to communicate the needs of the residents considering the inability of habitants to access services and exit the residence containers sections without an asylum card.

### 2.2.2 Reception and identification procedures in Evros

People arriving through the Evros border are not subject to the EU-Türkiye statement. Therefore, they are not subjected to the fast-track border procedure and there is no geographical restriction imposed on them upon release.

Persons entering Greece through the Greek-Turkish land border in Evros are however subject to reception and identification procedures at the Reception and Identification Centre (RIC) in Fylakio, Orestiada, which was inaugurated in 2013. 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, detention in the RIC exceeded one month, as an initial quarantine period was applied. More specifically, the National Public Health Organisation (EOΔΥ) conducted COVID-19 Rapid Tests on every newcomer, prior to their entry into the RIC. Following that and regardless of the result, a quarantine scheme was imposed on all of them as a precaution. No registration by the Reception and Identification Service (RIS) took place before the end of the quarantine period. However, newcomers were formally recorded with their temporary data from the Border Guard Units before being put into quarantine.<sup>174</sup> The application of blanket COVID-19 restrictions was halted during the course of the reporting period and isolation was imposed only on individuals who tested positive for coronavirus.

Depending on the number of arrivals, new arrivals, including families and minors, once detected and apprehended by the authorities, may first be 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. ‘Pre-RIC detention’ of several days or even weeks has occurred in instances where new arrivals surpassed the accommodation capacity of the RIC Fylakio.<sup>175</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 Detention](#)). By the end of 2022, the period of pre-RIC detention was limited to a few days as far as GCR is aware.

By the end of September 2022, 3,392 individuals were registered by the RIS in Evros, out of which 2,857 were men and 535 were women.<sup>176</sup> Information on capacity of the RIC and the number of individuals residing in the RIC during the reporting period were not made available.

Within 2022, the lodging of asylum applications was no longer conducted by the GAS. In the scope of Reception and Identification procedures, RIS conducted the registration of the asylum applications of the newcomers, where all personal details of the applicants and the reasons for seeking international protection were recorded. Registration took place immediately upon arrival for all newcomers (single adults, families and UAMs). In a considerable number of cases concerning UAMs, the registration of the asylum application took place before they were referred/ appointed to a child protection actor.

After 25 days, the majority of applicants who were not considered vulnerable (especially single men) were referred to pre-removal facilities on the mainland (mostly in PRDF of Xanthi and Paranești), where they remained under detention. By the end of 2022, after the maximum period of 25 days, or in some cases

<sup>174</sup> Human Rights 360, ‘The European and national asylum policy at the land borders of Evros’, 18 February 2021, available at: <https://bit.ly/3Jic757>.

<sup>175</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>.

<sup>176</sup> <https://bit.ly/40KHON5>

less than 25 days, newly arrived persons were released and the majority were referred by the RIS to open reception facilities in the mainland, with the exception of UAMs who continued to remain in the RIC, pending their placement and transfer to a shelter for minors. However, individuals who had been convicted upon arrival by Greek Penal Courts (i.e. for illegal entry) or who had had penal charges brought against them were not released, but referred to pre-removal facilities in the mainland (mostly in PRDF of Xanthi and Paranesti), where they remain detained on alleged public order grounds. .

By the end of September 2022, 305 UAMs (279 boys and 26 girls) were registered by the RIS in Evros.<sup>177</sup> During 2022 the waiting period for the placement of UAMs in a ‘restriction of liberty status’ (namely in protective custody or in the RIC) to shelters for minors remained short. According to official data available, the average waiting time for the placement was 7.64 days. However, the average waiting time for the placement of UAMs in protective custody was 2.25 days in 2022.<sup>178</sup> Transfers to shelters for minors may be conducted with delays of up to 2-3 months.

### 3. Registration of the asylum application

#### Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No  
❖ If so, what is the time limit for making an application?
2. Are specific time limits laid down in law for lodging an application? ☐ Yes ☒ No  
❖ If so, what is the time limit for lodging an application?
3. Are making and lodging an application 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 for international protection for international protection be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

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

Article 69 of Asylum Code 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 69(1) of the Asylum Code 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 the Mobile Asylum Units of the Asylum Service or the Regional Reception and Identification Services,<sup>179</sup> depending on their local jurisdiction, which shall immediately proceed with the “full registration” (*πλήρης καταγραφή*) of the application.

Following the “full registration” of the asylum claim,<sup>180</sup> the application for international protection is considered to be lodged (*κατατεθειμένη*).<sup>181</sup>

<sup>177</sup> <https://bit.ly/40KHON5>

<sup>178</sup> Data available to GCR by the Special Secretariat for the Protection of Unaccompanied Minors of the MoMA, as of 16-02-2023

<sup>179</sup> Article of Asylum Code.

<sup>180</sup> Article 69(1) of Asylum Code.

<sup>181</sup> Article 69(3) of Asylum Code.

The Asylum Code provides that the time limit for such full registration to take place, is no more than 15 days. More precisely, according to the Asylum Code, 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 of not exceeding 15 working days from “basic registration”.<sup>182</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 full application.<sup>183</sup>

According to the Asylum Code, 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>184</sup> However, in practice, 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 3 working days under the Asylum Code.<sup>185</sup>

Moreover, according to the Asylum Code, 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>186</sup> In order for the application to be fully registered, the detainee is transferred to the competent RAO or AAU.<sup>187</sup>

### **Lodging of applications (“Κατάθεση”)**

No time limit is set by law for lodging an asylum application. Article 83 of Asylum Code 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>188</sup> except under force majeure conditions.<sup>189</sup> According to the Asylum Code, the lodging of the application must contain inter alia the personal details of the applicant and the full reasons for seeking international protection.<sup>190</sup>

As a general rule, the Asylum Code provides that the asylum seeker’s card, which is provided to all persons who have been fully registered i.e., lodged their application, is valid for 1 year, which can be renewed as long as the examination is pending.<sup>191</sup> However, the Asylum Code provides for a number of cases where the asylum seeker’s card can be valid for shorter periods. Thus, the validity of an asylum seeker’s card can be set for a period:

- ❖ No longer than 3 months, where 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>192</sup>
- ❖ No longer than 30 days, where the communication of a decision or a transfer on the basis of the Dublin Regulation is imminent;<sup>193</sup>

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<sup>182</sup> Article 69(2) of Asylum Code.

<sup>183</sup> *Ibid.*

<sup>184</sup> Article 69(9) of Asylum Code.

<sup>185</sup> Article 69(7) (b) of Asylum Code.

<sup>186</sup> *Ibid.*

<sup>187</sup> *Ibid.*

<sup>188</sup> Article 83(3) of Asylum Code.

<sup>189</sup> Article 83(4) of Asylum Code.

<sup>190</sup> Article 69(1) of Asylum Code.

<sup>191</sup> Article 75 (1) of Asylum Code.

<sup>192</sup> Article 75 (2) of Asylum Code.

<sup>193</sup> Article 75 (3) of Asylum Code.



- ❖ No longer than 30 days, where the application is examined “under absolute priority” or “under priority”, under the accelerated procedure, under Art. 84 (inadmissible) or under the border procedure.<sup>194</sup>

In 2022, the Asylum Service registered 37,362 applications for international protection, mainly lodged by Afghans (5.624) and Syrians (5.050).<sup>195</sup>

### **Role of EUAA (previously EASO) in registration<sup>196</sup>**

EUAA (previously 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.

In 2022, the number of registrations carried out by the EUAA in Greece increased to 18,162 registrations for international protection. Of these, 83% related to the top 10 citizenships of applicants and in particular Afghans (3,547), Palestinians (2,290), Somalis (1,914), Iraqis (1,507), Bangladeshis (1,458), and Syrians (1,439).<sup>197</sup> In 2022, the EUAA carried out 14,986 registrations for temporary protection in Greece.<sup>198</sup>

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

Access to the asylum procedure remained a structural and endemic problem in Greece for many years. Difficulties with regard to access to the asylum procedure have been observed since the very 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 previous system for granting appointments for registration of asylum applications existed since 2014 through Skype, but proved to be ineffective in allowing access of persons applying for asylum to the procedure. Deficiencies in the Skype appointment system stemmed from limited capacity and availability of interpretation, and barriers to applicants' access to the internet. Consequently, prospective asylum seekers frequently had to try multiple times (often over a period of several months) before they managed to get through to the Skype line to obtain an appointment for the full registration of their application, while facing the danger of a potential arrest and detention by the police. They were deprived of the assistance provided to asylum seekers, including reception conditions and in particular, access to housing.

On 13 July 2022, the Ministry of Migration and Asylum published a new online platform for the electronic pre-registration of asylum seekers in Greece. The procedure applies for all third country nationals arriving in Greece and wishing to claim asylum, as well as for those already residing in Greece and who have not been through reception and identification procedures. The platform is available in nine languages (Albanian, Arabic, Bengal, Dari, English, Farsi, Pashto, Turkish and Urdu), and after applicants have provided their personal information, they are asked to choose one of two registration facilities: in Diavata (Thessaloniki) or Malakasa (Attica). Once the electronic form is completed, a registration appointment will be assigned to the applicant and communicated via email. The first appointments took place on 1 September 2022, and it is understood that the facilities reached full capacity on the same day.<sup>199</sup> Until the end of December 2022, 14,942 registration appointments were delivered through the platform (7,516 in Malakasa and 7,426 in Diavata).<sup>200</sup>

<sup>194</sup> Article 75 (4) of Asylum Code.

<sup>195</sup> Information published by the Asylum Service 31 December 2021, available at: <https://bit.ly/41W5ZsN>.

<sup>196</sup> It should be noted that Regulation 2021/2023 entered into force on 19 January 2022, transforming EASO into the EU Agency for Asylum (EUAA).

<sup>197</sup> Information provided by the EUAA, 28 February 2023.

<sup>198</sup> Information provided by the EUAA, 28 February 2023.

<sup>199</sup> Statement published by Mobile Info Team, *New asylum seeker registration procedure begins today and is already at capacity: People will be forced to remain undocumented for 14 months as they wait for an appointment in Diavata or Malakasa*, 1 September 2022, available at Statement on New Registration Procedure — Mobile Info Team.

<sup>200</sup> Reply of the Ministry of Migration and Asylum of 16 March 2023 following a relevant question (hereinafter Reply of the Ministry to the Greek Parliament).

The appointment process mandates a maximum 25-day detention period in order for the procedure to be completed, restricting the freedom of movement of those who have registered for asylum. Pursuant to Article 8 of the EU Reception Conditions Directive (RCD), Member States ‘shall not hold a person in detention for the sole reason that he or she is an applicant for international protection’.<sup>201</sup> Despite this, the new platform utilises detention as the status quo for the registration of an asylum application, violating the RCD’s conditions of exceptional implementation. During this detention period, asylum seekers complete their asylum interview and wait for the first instance decision on their case. If the individual’s decision is negative, they are permitted to leave the camp, yet no specific instructions are provided regarding the competent Regional Asylum Office for submission of their appeal or their right for free legal aid in the second instance of their asylum procedure, further obstructing individuals’ effective access to asylum and due process.

The new camps in Diavata and Malakasa are far from the urban centres where most asylum seekers live and are extremely difficult to reach as no financial or logistical provisions have been made for asylum seekers’ transport, resulting in an increased risk for individuals to miss their registration appointments and consequently their access to international protection. Furthermore, the camps began operating with understaffed and under resourced Mobile Units of the RIS, lacking the medical and psychosocial personnel required for first reception procedures. The failure to provide first reception services and adequate registration procedures for refugees and migrants has left hundreds of people unregistered and vulnerable to detention.

In addition, there have been reports of an irregular distribution of appointments and extensive delays of appointment dates, with several appointments being assigned over twelve months after the initial pre-registration application was submitted.<sup>202</sup> In many cases, appointments were not available at all, further highlighting the lack of capacity of the facilities and resources available, forcing people to remain undocumented for extensive periods of time, without basic medical care, accommodation or essential services.

Consequently, the issues that existed during the previous Skype pre-registration system persisted, where people were forced into a legal limbo without any official documentation or legal status and remain unsupported by appropriate structures to provide for their essential needs.

### 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 wish 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>203</sup> despite the fact that according to Greek law, any 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>204</sup>

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<sup>201</sup> Article 8 (1) RCD

<sup>202</sup> Greece // Bimonthly Bulletin on Refugees and Migrants, October 2022, available [https://www.gcr.gr/media/k2/attachments/GCR\\_OXFAM\\_STC\\_Advocacy\\_Update\\_October\\_2022.pdf](https://www.gcr.gr/media/k2/attachments/GCR_OXFAM_STC_Advocacy_Update_October_2022.pdf)

<sup>203</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>204</sup> Communication from the UNHCR (15.5.2019) in the M.S.S. and Rahimi groups v. Greece (Applications No.30696/09, 8687/08).



The findings of the UN Working Group on Arbitrary Detention in 2019 are still valid:<sup>205</sup>

‘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 wishing to apply for asylum from detention.

## C. Procedures

### 1. Regular procedure

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

##### Indicators: Regular Procedure: General

- |  |   |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:     | 6 months  |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 30 June 2020:  | 18,177  |
| 4. Average length of the first instance procedure in (year of reference):  | Not available   |

According to data provided by the Ministry of Migration and Asylum, the total number of pre-registrations of asylum claims (“registered intentions”) pending in 2022 was 26,631,<sup>206</sup> a 40.58% increase compared to 2021.<sup>207</sup> Of those 1,825 were submitted to the Asylum Service through the Skype procedure, 13,230 to the RIS and 11,576 to the Greek Police.<sup>208</sup> Additionally, 14,942<sup>209</sup> appointments for registration were granted in 2022 through the Asylum Service electronic platform.

According to Greek law,<sup>210</sup> an asylum application should be examined “the soonest possible” and, in any case, within 6 months, in the context of the regular procedure.<sup>211</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>212</sup> In any event, according to the Asylum Code, the examination of the application should not exceed 21 months.<sup>213</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

<sup>205</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>206</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>207</sup> MoMA, Reply of the Ministry to the Greek Parliament 2608/2022, 24 January 2022

<sup>208</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>209</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>210</sup> The IPA in force during the first semester of 2022 and the Asylum Code that came into force on 10 June 2022.

<sup>211</sup> Article 83(3) IPA and article 88(3) ASYLUM CODE.

<sup>212</sup> *Ibid.*

<sup>213</sup> *Ibid.*

to be issued. As expressly foreseen in the Asylum Code, ‘this does not constitute an obligation on the part of the Asylum Service to take a decision within a specific time limit.’<sup>214</sup>

Decisions granting status are given to the person of concern in extract, which does not include the decision’s reasoning. According to the Asylum Code, 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 established by the person in question.<sup>215</sup>

### Duration of procedures

However, despite the number of first instance decisions issued throughout 2022, significant delays occurred in processing applications at first instance if the total number of pending applications is taken into consideration, i.e. applications registered in previous years and are still pending by the end of 2022. According to the Ministry of Migration and Asylum, a total of 17,249 applications were pending by December 31st, 2022.<sup>216</sup> Of this total, 4,134 (23.74%) had been pending for a period of over 12 months since the day they were registered, 2,334 (13.53%) were pending for a period of over 6 months and 10,781 (62.50%) were pending for a period of under 6 months.<sup>217</sup>

## 1.2. Prioritised examination and fast-track processing

Both the IPA and the Asylum Code, which entered into force on 10 June 2022, set out two forms of prioritised examination of asylum applications.

Firstly, 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>218</sup>
- (b) Applicants who are detained.<sup>219</sup>

Processing by way of “absolute priority” means the issuance of a decision within 20 days.<sup>220</sup>

Secondly, the law provides that an application may be registered and examined by way of priority for persons who:<sup>221</sup>

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

From 2014 up until the first half of 2021, Syrians and stateless persons were eligible to a fast-track procedure examining their cases and often resulting in the granting of refugee status. This also applied to those who formerly resided in Syria who could provide original documents such as passports, or who had been identified as Syrians/persons with a former residence in Syria within the scope of the Reception and Identification Procedure; provided that the EU-Türkiye Statement and the fast-track border procedure did not apply to their cases.<sup>222</sup> However, the Joint Ministerial Decision 458568/2021 issued in December

<sup>214</sup> Article 83(6) IPA and Article 88(6) ASYLUM CODE

<sup>215</sup> Article 69(5) IPA and Article 74(6) ASYLUM CODE

<sup>216</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>217</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>218</sup> Articles 39(1) and 83(7) IPA, citing Article 39(10)(c) IPA and Articles 38(1) and 88(7) citing Article 46(c) ASYLUM CODE

<sup>219</sup> *Ibid*, citing Article 46(8) IPA and Articles 38(1) and 88(7) citing Article 50(8) ASYLUM CODE.

<sup>220</sup> *Ibid*.

<sup>221</sup> Articles 39(2) and 83(7) IPA and Articles 38(2) and 88(7) ASYLUM CODE.

<sup>222</sup> Information provided by the Asylum Service, 31 March 2021.

2021, pursuant to Article 86 of L. 4636/2019, provides Türkiye as a safe country for applicants from Syria, Afghanistan, Pakistan, Bangladesh and Somalia.<sup>223</sup> As a result, applications lodged by these categories of persons are now firstly channelled into the admissibility procedure to assess whether Türkiye is a safe third country and whether their cases are admissible and should be examined on the merits (for more details, see also [Safe Third Country](#)).

### 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 both to the IPA and the Asylum Code, the personal interview with the applicant may be omitted where:<sup>224</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 law 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>225</sup> According to the IPA, the omission of a personal interview does not adversely affect the in merits decision on the application in which the reasons for omitting the interview should be stated.<sup>226</sup>

Both the IPA and the Asylum Code further provide 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>227</sup>

Under the regular procedure, the interview takes place at the premises of the RAO on the designated day and is conducted by one caseworker. The personal interview takes place without the presence of the applicant's family members, unless the competent Asylum Service Officer considers their presence necessary.<sup>228</sup> Moreover, the personal interview must take place under conditions that ensure appropriate confidentiality.<sup>229</sup> However, GCR and other civil society organisations have expressed concerns relating to confidentiality in certain RAO or AAU due to the lack of appropriate spaces, lack of isolation and technical difficulties. For example, and as reported, this was the case in the RAO of Lesbos, in particular for the remote interviews that took place within the COVID-19 prevention measures,<sup>230</sup> and the RAO of

<sup>223</sup> JMD 458568/2021, Gov. Gazette B' 5949/16-12-2021.

<sup>224</sup> Article 77(7) IPA and 82(7) ASYLUM CODE.

<sup>225</sup> Article 77(7) IPA and 82(7) ASYLUM CODE.

<sup>226</sup> Article 77(9) IPA and 82(9) ASYLUM CODE.

<sup>227</sup> Article 77(4) IPA and 82(4) ASYLUM CODE.

<sup>228</sup> Article 77(10) IPA and 82(10) ASYLUM CODE.

<sup>229</sup> Article 77(11) IPA and 82(11) ASYLUM CODE.

<sup>230</sup> Diotima et al., The conduct of (remote) asylum interviews on Lesbos, 8 December 2020, available at: <https://bit.ly/3fxZ9oz>.

Samos where interviews were conducted simultaneously in different areas of the same container, which does not grant proper sound insulation and is not line with the principle of confidentiality.

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>231</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>232</sup>

### **The EUAA's (previously EASO's) role in the regular procedure<sup>233</sup>**

Following the amendments introduced by L 4540/2018, which have been maintained in the IPA, and the Asylum Code,<sup>234</sup> the EUAA (formerly EASO) can be involved in the regular procedure,<sup>235</sup> while EUAA personnel providing services at the Asylum Service premises are bound by the Asylum Service Rules of Procedure.<sup>236</sup> The main form of support provided by EUAA caseworkers includes the conduct of interviews with applicants and the drafting of opinions to the Asylum Service, which retains responsibility for issuing a decision on the asylum application. According to the relevant provision, personnel involved in the regular procedure should consist of Greek-speaking case workers.<sup>237</sup>

In 2022, the number of interviews carried out by EUAA caseworkers in Greece further decreased to interviews in the asylum cases of 16,639 applicants. Of these, 85% related to the top 10 citizenships of applicants interviewed by the EUAA, in particular Afghanistan (3,799), Bangladesh (1,957), Somalia (1,804), Palestine (1,403), Syria (1,396) and Democratic Republic of Congo (1,158).<sup>238</sup> The number of concluding remarks issued by EUAA decreased to 5,071 in 2022, almost half of those issued in 2021 (9,230). This is due to the fact that, following the new Joint Ministerial Decision designating Türkiye as a safe third country for applicants from five of the most common countries of origin in Greece, the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases, that is those examined on admissibility.<sup>239</sup>

### **Interviews conducted through video conferencing**

According to GCR, interviews continued to be regularly conducted through video conferencing in 2022, either with the interviewer or the interpreter (or often with both) participating through digital tools. This was particularly the case for applicants residing in camps on the mainland, who were interviewed without having to leave the camp, as well as in certain RAOs with certain interviewers being based in other RAOs. There have also been some cases where the interview was conducted remotely though telephone rather than through video conferencing.

At the beginning of the interview, the caseworker requests for the applicant's consent for the use of video-conferencing to carry out the interview. The applicant gives his/her/their consent orally and it is recorded both in the audio recording of the interview as well as in the written transcript. However, applicants were not informed about possible consequences in case of refusal to use digital tools, such as rescheduling the interview at a later date. Other issues arising from the use of digital tools include technical issues such as poor internet connection and inadequate sound quality. Even under the best of conditions, video conferencing may negatively affect the quality of the interpretation and possibly the interview due to the loss of non-verbal communication cues.

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<sup>231</sup> Article 77(12)(a) IPA and 82(12)(a) ASYLUM CODE

<sup>232</sup> Article 77(5) IPA and 82(5) ASYLUM CODE.

<sup>233</sup> It should be noted that Regulation 2021/2023 entered into force on 19 January 2022, transforming EASO into the EU Agency for Asylum (EUAA).

<sup>234</sup> Article. 65(16) IPA and 69(16) ASYLUM CODE.

<sup>235</sup> Article 65(16) IPA and 69(16) ASYLUM CODE.

<sup>236</sup> Article 1(2) Asylum Service Director Decision No 3385 of 14 February 2018.

<sup>237</sup> Article 65(16) IPA and 69(16) ASYLUM CODE.

<sup>238</sup> Information provided by the EUAA, 28 February 2023.

<sup>239</sup> Information provided by the EUAA, 28 February 2023.

### 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 in relation to a “deterioration in quality at first instance”.<sup>240</sup>

Among other, examples of such cases in 2022 include:

- ❖ The case of a young man from Guinea, living with HIV and a physical disability, whose application was rejected without taking into account the apparent and very grave vulnerabilities when examining whether the applicant would be eligible for subsidiary protection under Article 14(B) of the Asylum Code. Instead, he was examined solely on whether serious and individual threat to his life or person could occur by reason of indiscriminate violence in situations of international or internal armed conflict.<sup>241</sup>
- ❖ The case of a woman from Somalia, an FGM survivor, whose claims of persecution from Al Shabab were dismissed on credibility grounds. In examining whether the applicant was eligible for subsidiary protection, the Asylum Service concluded that while indiscriminate violence was taking place in the Banaadir province and in the capital, Mogadishu, the intensity of the indiscriminate violence was not high enough and there was no significant additional evidence concerning the individual characteristics of the applicant in order for her to be considered at risk of indiscriminate violence in accordance with Article 15(c) of the Qualification Directive.<sup>242</sup>
- ❖ The case of a single-parent family from Guinea, whose first instance interview was conducted before the competent authority completed the evaluation of vulnerability indicators. In particular, the main applicant is a survivor of serious forms of gender-based and sexual violence (FGM, genital mutilation & sexual violence) as well as international trafficking, facts that were not taken into account in examining whether the applicant is eligible for international protection.<sup>243</sup>
- ❖ Cases of asylum seekers - from a group of 92 asylum seekers in Evros - whose applications were rejected at first instance as inadmissible under the safe third country concept vis-a vis Türkiye, while the rejection decisions<sup>244</sup> themselves acknowledge that they had been subjected to degrading treatment by the Turkish authorities. In fact, regarding the rescue of this group by the Greek authorities, the Ministry of Immigration and Asylum had issued a statement and relevant statements were made also by the Minister, according to which the group had been abandoned by the Turkish authorities in Evros, the people had been subjected to degrading treatment in Türkiye and that this incident would be reported to the UN.<sup>245</sup>

### 1.3.2. Interpretation

The law envisages that interpretation is provided to the applicants for making their application, submitting their case to the competent authorities, and for conducting their interview at the first and second instance.<sup>246</sup> In accordance with an amendment of the IPA in May 2020 as well as the codification of the relevant legislation in the Asylum Code, in case that interpretation in the language of the choice of the applicant is proven to be unavailable, 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>247</sup>

<sup>240</sup> AIDA, Report on Greece, 2019 Update, 58-59.

<sup>241</sup> Decision in file with the author.

<sup>242</sup> Decision in file with the author.

<sup>243</sup> Decision in file with the author.

<sup>244</sup> Decision in file with the author.

<sup>245</sup> Η Ναυτεμπορική, «Ν. Μηταράκης: Στέλνουμε στον ΟΗΕ το περιστατικό με τους 92 γυμνούς πρόσφυγες στον Έβρο», 17-10-2022, available at: <https://bit.ly/3P0vWEy>.

<sup>246</sup> Article 77(3) IPA and 82(3) ASYLUM CODE.

<sup>247</sup> Article 69(3) IPA, as amended by L. 4686/2020 and 74(3) ASYLUM CODE.

Until 30 September 2022, interpretation was provided both by interpreters of the NGO METAdrasi and EUAA interpreters.<sup>248</sup> Following the non-renewal of the agreement with the NGO METAdrasi, the capacity of the interpretation services has been challenging, as currently, EUAA is the sole provider of such services. The use of remote interpretation has been observed more frequently and is not limited to distant RAOs and AAUs. 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 EUAA case workers), more interpreters might be involved in the procedure to translate through different languages.

### 1.3.3. Recording and transcript

Both the IPA and the Asylum Code envisage 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 available, 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>249</sup> The applicant may at any time request a copy of the transcript, a copy of the audio file or both.<sup>250</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. Both practices were maintained in the Asylum Code throughout 2022 and 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 regard to the provisions of fictitious service, said provisions effectively limit the access of asylum seekers to legal remedies.<sup>251</sup>

More precisely, according to the IPA and the Asylum Code, 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 authorised lawyers, consultants, and representatives.<sup>252</sup> In this regard, 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 to be 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 is revoked by a written declaration of the applicant with an authenticated signature.<sup>253</sup>

<sup>248</sup> METAdrasi, 'METAdrasi was officially informed about the non-renewal of the agreement for the provision of interpretation services at the Asylum Service', October 2022, available at: <https://bit.ly/42Y1qPO>.

<sup>249</sup> Article 77(13) IPA and 82(13) ASYLUM CODE.

<sup>250</sup> Article 77(15) IPA and 82(15) ASYLUM CODE

<sup>251</sup> Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ (αναδιτύπωση 29.6.13) σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία κ.ά. διατάξεις*, April 2018.

<sup>252</sup> Article 82(3) IPA, as amended by L. 4686/2020 and 87(3) ASYLUM CODE

<sup>253</sup> Article 71 (7) IPA and 76(7) ASYLUM CODE



Where the deadline for lodging the Appeal begins on the next day of the fictitious service, with the exception of the cases where the service of the decision is taking place with electronic means, the deadline begins 48 hours after the dispatch of the electronic message.<sup>254</sup> According to Art. 83(2) IPA, together with the decision, a document in the language that the applicant understands or in a language that they may reasonably be supposed to understand is also communicated to the Applicant, where the content of the document is explained in simple language, together with 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 provided in the said document.

In cases where the Applicant remains in a Reception and Identification Centre or remains detained in a detention facility, the Decision is sent to the Head of the RIC or the Detention facility, who announces the receipt of the Decision and the time schedule so that the Applicant is able to present 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>255</sup>

No force majeure reasons should be invoked in order for a decision to be serviced with one of the ways described above. In the event 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 had knowledge of the Decision.<sup>256</sup>

In practice, for applicants on the mainland, it is mainly the communication of first instance decisions by a registered letter or via e-mail which has been used by the end of the year. In cases of electronic communication of first instance decisions, provision for legal aid for the appeals procedure can be requested either in person at the competent RAO or by the electronic application of the Ministry for Migration and Asylum.<sup>257</sup> In cases where the latter is the only option as the applicant lives far from the competent RAO, it 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 carried out 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, the inability of the applicants to understand the content of the communicated documents and the procedure they have to follow has been observed.

It has also been observed that in state accommodation facilities in Northern and Central Greece (where the asylum seekers address is evidently known to the State), as well as facilities on Northern Aegean islands, the Asylum Service has resorted to the 'fictitious service' of decisions, without trying to locate the applicants at their registered address, nor, in cases where the applicant is represented by a lawyer, reaching out to their lawyer. The current practice of 'fictitious service' of decisions has resulted in the expiration of deadlines for submitting an appeal, thereby effectively depriving asylum seekers of their right to an effective remedy.

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<sup>254</sup> Article 82(3) IPA, as amended by L. 4686/2020 and 87(3) ASYLUM CODE

<sup>255</sup> Article 82(4) IPA, as amended by L. 4686/2020. and 87(4) ASYLUM CODE

<sup>256</sup> Article 82(5) IPA, as amended by L. 4686/2020 and 87(5) ASYLUM CODE

<sup>257</sup> See: <https://bit.ly/3BPGrCV>.



## 1.4. Appeal

### Indicators: Regular Procedure: Appeal

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

- ❖ If yes, is it
  - ❖ If yes, is it automatically suspensive

☒ Yes ☐ No

☐ Judicial ☒ Administrative

☐ Yes ☒ Some grounds ☐ No
2. Average processing time for the appeal body to make a decision: Varies

### 1.4.1. Administrative review

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>258</sup> More precisely and following an amendment in 2016, the composition of the Appeals Authorities consisted 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>259</sup> According to the amendment introduced by the IPA, the three-member Appeals Committees are 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>260</sup>

These amendments have been highly criticised 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>261</sup> and the Union of Bar Associations.<sup>262</sup> An Application for Annulment with regards inter alia the compliance with the Greek Constitution of the single member/Judge Appeals Committee was filed by GCR before the Council of State in 2020. The hearing has been set for 28 March 2023. GCR is aware of at least two occasions of postponement of a hearing of an annulment case before the First Instance Administrative Court, pending a decision by the Council of State.

Moreover, and as mentioned above, Appeals Committees are composed of 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 the 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

<sup>258</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>259</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.

<sup>260</sup> Article 116(2) and (7) IPA.

<sup>261</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>262</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>.

be – and often are – taken by Committees composed by higher-court judges (Administrative Judges of the Administrative Courts of Appeal).<sup>263</sup>

In October 2021, the Council of State held by majority that the competence of First Instance Administrative Courts to judicially review decisions of the Appeals Committees, even in cases where the second instance decisions on asylum applications are taken by Committees composed by higher-court judges, is constitutional.<sup>264</sup> Specifically, it considered that Appeals Committees are a “collective administrative body” which exercises “competences of a judicial function”, and that judges participate therein not as judicial officials but as “state officials – members of independent authorities of the executive”. First-instance administrative courts therefore judicially review decisions by executive bodies, not rulings by judicial officials. Accordingly, the judicial review carried out by lower judges of decisions taken by higher judges was not deemed contrary to the principle of judicial independence and impartiality.<sup>265</sup>

### EASO's (now EUAA) 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 (now EUAA).<sup>266</sup> These rapporteurs have access to the files and are entrusted with drafting a detailed and in-depth report, that will contain a record and statement 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>267</sup> Both the IPA and the Asylum Code maintain the same tasks for “rapporteurs” provided by EASO.<sup>268</sup> However, according to the IPA, this is not only foreseen “in case of a large number of appeals”. Articles 95(4) IPA and 100 (4) Asylum Code stipulate that each member of the Appeals Committee may be assisted by “rapporteurs” provided by EASO. As of 31 December 2021, 20 Rapporteurs were assisting the Appeals Committees members pursuant to Art. 95(4) IPA.<sup>269</sup> Since they are seconded to the individual Committees, these Rapporteurs are not supervised or line-managed by EASO/EUAA.<sup>270</sup>

### Number of appeals and recognition rates at second instance

16,830 appeals were lodged against Asylum Service decisions in 2022.<sup>271</sup> The Independent Appeals Committees handed down 16,878 decisions in 2022:<sup>272</sup>

Decisions on the merits by the Independent Appeals Committees: 2022		
Refugee status	Subsidiary protection	Rejected & Inadmissible
661	394	7,884

Source: Ministry of Migration and Asylum

As in previous years,<sup>273</sup> the recognition rate at second instance remained significantly low at 11.6%,

<sup>263</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>264</sup> Council of State, Decision Nr. 1580-1/2021, October 2021.

<sup>265</sup> Council of State (Plenary), Decisions 1580/2021 and 1581/2021, 8 October 2021, para 14.

<sup>266</sup> Article 62(6) L 4375/2016, as inserted by Article 101(2) L 4461/2017.

<sup>267</sup> Article 62(6) L 4375/2016, Article 95(5) IPA.

<sup>268</sup> Article 62(6) L 4375/2016, Article 95(5) IPA.

<sup>269</sup> Information provided by the Appeals Authority, 11 March 2022.

<sup>270</sup> ECRE, *The role of EASO operations in national asylum systems*, November 2019, available at: <https://bit.ly/2VNULrd>, 18

<sup>271</sup> RSA, The Greek asylum procedure in figures in 2022: Analysis of main trends in refugee protection, 28 March 2023, <https://rsaagean.org/en/greek-asylum-statistics-2022/>

<sup>272</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>273</sup> See: AIDA Report on Greece, 2020 Update.

slightly higher than the 10.6% rate in 2021. Out of the total in-merits decisions, the rejection rate reached 88.19%, while the refugee recognition rate stood at 7.40% and the subsidiary recognition rate at 4.40%.<sup>274</sup>

### 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>275</sup>

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 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>276</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>277</sup>

### Scope of the Appeal

According to Articles 97(10) IPA and 102(10) Asylum Code, the Appeals Committees conduct a full and *ex nunc* examination of the asylum application.<sup>278</sup> Based on legal precedents, Committees have the power to carry out their own assessment of the evidence and elements of the file.<sup>279</sup> Contrary to this position, however, some Committees have declared themselves as lacking jurisdiction to examine issues such as the need of the applicant for special procedural guarantees, where the first instance authority concluded that he or she is not vulnerable.<sup>280</sup>

### Form of the Appeal

According to both Article 93 IPA and Article 98 Asylum Code, 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 will be rejected as inadmissible without an examination on the merits. This provision has been largely criticised as severely restricting access to the appeal procedure in practice, and appears to contradict EU law, namely Article 46 of the recast Asylum Procedures Directive and Article 47 of the EU Charter of Fundamental rights. The requirements set by Article 93 IPA and maintained by the Asylum Code, 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 especially in remote Regional Asylum Offices. Accordingly, 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>281</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>282</sup> In 2021, the number of the Appeals rejected pursuant to Article 93 IPA doubled in comparison to the 2020 (53 Decisions) yet still remained relatively low (110 Decisions) as the Appeals Committees interpreted the said provision broadly and considered that even Appeals written by the Applicants in his/her native

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<sup>274</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>275</sup> Article 92(1) IPA and 97(1) Asylum Code

<sup>276</sup> Article 92(1)(a) IPA and 97(1) Asylum Code

<sup>277</sup> Article 92(1)(b) IPA and 97(1) Asylum Code

<sup>278</sup> Council of State (Plenary), Decision 1694/2018, 21 August 2018, para 19.

<sup>279</sup> 19<sup>th</sup> Appeals Committee, Decision 6219/2021, 25 May 2021, para 4; 12<sup>th</sup> Appeals Committee, Decision 56970/2021, 10 June 2021, para A.7; 11<sup>th</sup> Appeals Committee, Decision 59841/2021, 11 June 2021, para 7; 11<sup>th</sup> Appeals Committee, Decision 62800/2021, 14 June 2021, para 9; 3<sup>rd</sup> Appeals Committee, Decision 75059/2021, 18 June 2021, para II.2; 6<sup>th</sup> Appeals Committee, Decision 140330/2021, 21 July 2021, 12; 8<sup>th</sup> Appeals Committee, Decision 1592/2021, 21 July 2021, para 3; 12<sup>th</sup> Appeals Committee, Decision 233902/2021, 9 September 2021, 3.

<sup>280</sup> 6<sup>th</sup> Appeals Committee, Decision 2411/2019, 28 February 2020, para 10; 6<sup>th</sup> Appeals Committee, Decision 30955/2020, 18 May 2021, para II.4.

<sup>281</sup> UNHCR, UNHCR urges Greece to strengthen safeguards in draft asylum law, 24 October 2019.

<sup>282</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>.

language and without mentioning “specific grounds” were admissibly lodged. Data concerning the number of appeals rejected pursuant to Article 93 IPA or 98 Asylum Code was not provided.

### Suspensive effect

Appeals before the Appeals Authority had automatic suspensive effect in all procedures under the previous law. The IPA abolished the automatic suspensive effect for certain appeals,<sup>283</sup> in particular those concerning applications rejected in the accelerated procedure or dismissed as inadmissible under certain grounds. The Asylum Code that came into force in the second half of 2022 has maintained these provisions. 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 in fact 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>284</sup>

More precisely, according both to Article 104 IPA and Article 110 of the Asylum Code,<sup>285</sup> 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 case that another State, bound by Regulation (EU) No 604/2013 of the European Parliament and of the Council, has taken responsibility for the examination of the application for international protection, pursuant to the Regulation
- iii) in virtue of the first country of asylum concept;
- iv) 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.

In its report “Comments on the Draft Law of the Ministry of Immigration and Asylum”, the National Commission for Human Rights remarked that while the abolition of the automatic suspensive effect of an appeal against a decision rejecting an application for international protection is on principle in conformity with Union law, an appeal against a return or removal decision pursuant to Article 6 par. 6 or 8 par. 3 respectively of the Directive should automatically have a suspensive effect as this decision may expose the third country national to a real risk of treatment contrary to the Charter of Fundamental Rights of the European Union in conjunction with Article 33 of the Geneva Convention.<sup>286</sup> However, as put forward in the relevant FRA Opinion on “The recast Return Directive and its fundamental rights”:<sup>287</sup>

‘If a return decision were to be implemented before a final decision on international protection, this would also undermine the right to asylum (Article 18 of the Charter) and the principle of non-refoulement (Article 19 of the Charter and Article 3 of the ECHR) as interpreted by the CJEU and the ECtHR in their respective case law. Closely connecting or merging the two procedural steps must not lead to the reduction of safeguards which are necessary to ensure that Articles 18 and 19 of the Charter are not circumvented.’

The practice of Appeals Committees in 2022 showed that the requirement of a separate request for suspensive effect under Article 104(2) IPA and Article 110(2) Asylum Code has introduced a superfluous procedural step, as the Committees systematically dismiss requests for suspensive effect as having no object (*άνευ αντικειμένου*), after having issued a positive or negative decision on the merits of the appeal.

In 2021, 4,653 requests were submitted to the Appeals Authority to stay in the country until the second-instance decision has been issued. During the reference period, the Appeals Authority issued 4,476

<sup>283</sup> Article 104(2) IPA and Article 110(2) ASYLUM CODE

<sup>284</sup> Article 104(1) IPA and Article 110(1) ASYLUM CODE

<sup>285</sup> Article 104 L. 4636/2019 as amended by Article 20 L. 4825/2021 and Article 110 ASYLUM CODE

<sup>286</sup> National Commission for Human Rights, ‘Comments on the Draft Law of the Ministry of Immigration and Asylum’, July 2021, available in Greek at: <https://bit.ly/3v6QkZ2>.

<sup>287</sup> European Union Agency for Fundamental Rights (FRA), *The recast Return Directive and its fundamental rights implications*, FRA Opinion – 1/2019 [Return], available at: <https://bit.ly/3jk4aC0>.

second instance decisions rejecting requests for suspensive effect and ordering the removal of the appellant.<sup>288</sup> Relevant data for 2022 was not provided.

### Procedure before the Appeals Authority

**Written procedure:** As a rule, the procedure before the Appeals Committee is a written one and the examination of the Appeal is based on the elements in the case file.<sup>289</sup> The Appeals Committees shall invite the appellant to an oral hearing when:<sup>290</sup>

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

Under L 4375/2016, the appellant could also be invited to an oral hearing if the case presented particular complexities,<sup>291</sup> which is no longer the case.

The prohibition first foreseen in Article 105 IPA on reverting cases back to the first instance posed difficulties in cases rejected by the Asylum Service as being inadmissible on the basis of the Safe Third Country concept, as asylum seekers had only been interviewed on points relating to the "safe third country" concept and not on the merits of their claim. Appeals Committees did not adopt a consistent approach: while some ordered an oral hearing for the applicant to substantiate the application on the merits,<sup>292</sup> others proceeded directly to an assessment of the case sur dossier. This resulted in grants of subsidiary protection to applicants on the basis that they did not meet the criteria for refugee status, even though they were never requested to provide information on their reasons for fleeing their country of origin e.g. Syria.<sup>293</sup> In 2021, 250 appellants were invited for an oral hearing before the Appeals Committees.<sup>294</sup> Article 111 of the Asylum Code, whilst maintaining the prohibition on reverting cases back to the first instance, provides that in cases when the Appeals Committee considers it necessary to hold an interview, the interview shall be conducted by the Committee itself, in accordance with the provisions of Article 82.<sup>295</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 without hearings as a rule, Articles 97(2) and 78(2) and (3) IPA as well as Articles 102(2) and 83(2)(3) of the Asylum Code impose an obligation on 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>296</sup> This is an obligation imposed on the appellant even if he/she has not been called for an oral hearing.

Where an 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. This certification should have been issued no more than 3 days prior of the examination of the appeal, or alternatively, an appointed lawyer can appear before the Committee on behalf of the appellant.

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<sup>288</sup> Information provided by the Appeals Authority, March 2022

<sup>289</sup> Article 97(1) IPA and Article 102(1) ASYLUM CODE

<sup>290</sup> Article 97(3) IPA and Article 102(3) ASYLUM CODE

<sup>291</sup> Article 62(1)(d) L 4375/2016.

<sup>292</sup> 21<sup>st</sup> Appeals Committee, Decision 29458/2020, 19 November 2020; 10<sup>th</sup> Appeals Committee, Decision 22083/2020, 28 April 2021; 5<sup>th</sup> Appeals Committee, Decision 202299/2021, 25 August 2021; 21<sup>st</sup> Appeals Committee, Decision 364000/2021, 4 November 2021; 21<sup>st</sup> Appeals Committee, Decision 398486/2021, 19 November 2021.

<sup>293</sup> 5<sup>th</sup> Appeals Committee, Decision 12366/2020, 14 September 2020; 5<sup>th</sup> Appeals Committee, Decision 12365/2020, 2 October 2020; 21<sup>st</sup> Appeals Committee, Decision 28217/2020, 7 December 2020; 10<sup>th</sup> Appeals Committee, Decision 25173/2020, 19 November 2021; 20<sup>th</sup> Appeals Committee, Decision 29118/2020, 19 November 2021.

<sup>294</sup> Information provided by the Appeals Authority, 2022.

<sup>295</sup> Article 111 ASYLUM CODE

<sup>296</sup> Article 97(2) IPA and as Articles 102(2) ASYLUM CODE



Where 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 sent to Committee, prior of the date of the examination. This certification should have been issued no more than 3 days prior of the examination of the appeal or alternatively, an appointed lawyer can appear before the Committee on behalf of the appellant.

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 as to the effectiveness of the remedy and the principle of non-refoulement. This obligation first imposed by the IPA and maintained by the Asylum Code confirmed the criticism that the 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>297</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>298</sup>

In 2022, 1,790 Appeals were rejected as “manifestly unfounded” compared to 532 such decisions in 2021. Currently, there is no available information as to whether these rejections were issued on the basis of provisions imposing the in-person appearance of the appellant or his/her lawyer before the Committee or the communication of certification of residence (Article 83(3) of the Asylum Code to the Committee.<sup>299</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>300</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>301</sup> Following an amendment of the Regulation for the functioning of the Appeals Committees which was 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>302</sup>

**Issuance of a Decision:** According to IPA, the Appeals Committee must reach a decision on the appeal within 3 months when the regular procedure is applied.<sup>303</sup> The Asylum Code, which entered into force in the second half of 2022, provides that decisions have to be issued as soon as possible and in any case:

- (a) Within thirty (30) days of the hearing of the case in regular procedure cases,
- (b) Within twenty (20) days of the hearing in accelerated procedure case,
- (c) Within ten (10) days of the hearing in cases where the appellant is under administrative detention,
- (d) Within twenty (20) days of the hearing in cases when the application is rejected as inadmissible in accordance with Article 89,

An exception is introduced for priority cases, as the decision must be issued within fifteen (15) days of the hearing.<sup>304</sup>

**Notification of second instance decision:** Similar to the fictitious service at first instance, both the IPA and the Asylum Code also provide the possibility of a fictitious service (*πλασματική επίδοση*) of second instance decisions as described above.<sup>305</sup> Once again, as a result of this provision on the possibility of a

<sup>297</sup> UNHCR, UNHCR urges Greece to strengthen safeguards in draft asylum law, 24 October 2019.

<sup>298</sup> UNHCR, UNHCR Comments on the Law on ‘International Protection and other Provisions’ (Greece), *Ibid.*

<sup>299</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

<sup>300</sup> Article 116(2) IPA.

<sup>301</sup> Article 116(2) IPA.

<sup>302</sup> Art. 114, Ministerial Decision 26750, Gov. Gazette B’ 4852/4 November 2020.

<sup>303</sup> Article 101(1)(a) IPA.

<sup>304</sup> Article 106 ASYLUM CODE

<sup>305</sup> Article 82 and 103 IPA, as amended by L. 4686/2020 and Article 87 and 108 ASYLUM CODE



“fictitious” service of the second instance decision - which triggers the deadline for lodging an appeal – these deadlines for legal remedies against a negative second instance decision may expire without the applicant being actually informed about the decision. Accordingly, it should be noted that the IPA reduced the deadline for lodging a legal remedy before Court against a second instance negative decision from a period of 60 days to a period of 30 days from the notification of the decision (see Judicial review).<sup>306</sup> As noted by the Greek Ombudsman since the initial introduction of the possibility of a fictitious service in 2018, these 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>307</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, irrespective of when the decision is communicated.<sup>308</sup> As noted by the UNHCR:<sup>309</sup>

‘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)’.

Persons whose asylum applications are rejected at second instance no longer have the status of “asylum seeker”,<sup>310</sup> and thus do not benefit from reception conditions.

#### 1.4.2. Judicial review

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>311</sup> within 30 days from the notification of the decision.<sup>312</sup>

According to the IPA,<sup>313</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 applications is very limited due to high legal fees. Legal aid may only be requested under the general provisions of Greek law,<sup>314</sup> which are in any

<sup>306</sup> Article 109 IPA.

<sup>307</sup> Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ (αναδιτύπωση 29.6.13) σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία κ.ά. διατάξεις*, April 2018.

<sup>308</sup> Article 104(1) IPA, as amended by L. 4686/2020.

<sup>309</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>, 9.

<sup>310</sup> Article 2(c) IPA and Article 1(c) ASYLUM CODE

<sup>311</sup> Article 108 with reference to Article 15(4) L. 3068/2002 and 115 IPA and Article 114 ASYLUM CODE

<sup>312</sup> Article 109 IPA and Article 115 ASYLUM CODE

<sup>313</sup> Article 15(6) L 3068/2002, as amended by Article 115 IPA.

<sup>314</sup> Articles 276 and 276A Code of Administrative Procedure.

event not tailored to asylum seekers and cannot be accessed by them in practice due to several 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>315</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>316</sup>

- ❖ The application for annulment and application for suspension/interim order do not have automatic suspensive effect.<sup>317</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.
- ❖ 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 and Article 114(2) of the Asylum Code, 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 lodged one Application for Annulment against a second instance decision of the Appeals Committees. The Appeals Committee ruled that an 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. In 27-6-2022, the Council of State issued decision Nr. 1398/2022, which accepted the Minister's application for annulment.<sup>318</sup>

A total of 433 applications for annulment before the Administrative Court of Athens and Thessaloniki were lodged against second instance negative decisions in 2021. Relevant data for 2022 was not provided.

As mentioned above, the Council of State confirmed the competence of First Instance Administrative Courts to judicially review decisions of the Appeals Committees, in cases when the second instance decisions on asylum applications are taken by Committees composed by higher-court judges.<sup>319</sup> Consequently, the examination of the Applications for Annulment before the First Instance Administrative Courts of Athens and Thessaloniki, has resumed.

In 2022, out of a total of 287 decisions issued on Applications for Annulments, 230 were rejected and 50 were granted, raising the approval rate to 20%.<sup>320</sup>

<sup>315</sup> *Ibid.*

<sup>316</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>317</sup> See e.g. ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.

<sup>318</sup> Available in Greek at: <https://bit.ly/45s5Q3e>.

<sup>319</sup> Council of State, Decisions Nr. 1580-1/2021, October 2021; 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>320</sup> RSA, The Greek asylum procedure in figures in 2022: Analysis of main trends in refugee protection, 28 March 2023, <https://bit.ly/433SvfO>.

## 1.5. Legal assistance

### Indicators: Regular Procedure: Legal Assistance

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

Asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their application.<sup>321</sup>

### Legal assistance at first instance

No state-funded free legal aid is provided at first instance, nor is there a legal obligation to provide it. 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>322</sup>

### Legal assistance at second instance

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 3449/2021.<sup>323</sup>

The first Ministerial Decision concerning free legal aid to applicants was issued in September 2016.<sup>324</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 Joint Ministerial Decision 3449/2021 regulating the state-funded legal aid scheme, asylum seekers must request legal aid at least:<sup>325</sup>

- ❖ 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 or 95(3) of the Asylum Code ("fast track border procedure") applies, the application for legal assistance is submitted at the time of lodging the appeal.<sup>326</sup> The decision also explicitly provides

<sup>321</sup> Article 71(1) IPA and Article 76(1) ASYLUM CODE.

<sup>322</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>323</sup> Ministerial Decision 3449/2021, Gov. Gazette 1482/13.04.2021. MD 3686/2020 was repealed by MD 3449/2021 according to Article 6 of MD 3449/2021, MD 12205/2016 was repealed by MD 3686/2020 according to Article 6(2) MD 3686/2020

<sup>324</sup> Ministerial Decision 12205/2016, Gov. Gazette 2864/B/9-9-2016.

<sup>325</sup> Joint Ministerial Decision 3449/2021, Gov. Gazette 1482/B/13-4-2021. MD 3686/2020, Gov. Gazette 1009/B/24-3-2020 was repealed by MD 3449/2021 according to Article 6(2) MD 3449/2021.

<sup>326</sup> Article 1(3) MD 3449/2021.

for the possibility of legal assistance through video conferencing in every Regional Asylum Office.<sup>327</sup> The fixed fee of the Registry's lawyers is €160 per appeal and €90 per overdue appeal.<sup>328</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 continues to be restricted due to COVID-19 preventive measures, requests for legal aid at second instance can be mainly submitted online, by filling a relevant electronic form on the electronic application of the Ministry of Migration and Asylum.<sup>329</sup> This may pose additional obstacles to applicants who are unfamiliar with the use of electronic applications or who do not have access to the required equipment/internet.

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 through 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>330</sup>

At the beginning of 2021, NGOs present in the field raised concerns regarding the insufficient provision of information to applicants for international protection 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 the Moria camp at the beginning of September 2020, and was subsequently resumed at the beginning of January 2021 "without any explanation or information being provided to the applicants".<sup>331</sup> Following concerns expressed by legal actors, the notification of first instance rejections was postponed until April 2021 due to a lack of legal assistance.<sup>332</sup> Post-April 2021, access to legal assistance was restored and first instance decision notifications resumed.

As indicated above, a total of 16,830 appeals were lodged against Asylum Service decisions in 2022. According to Ministry of Migration and Asylum data, appellants only received free legal assistance in 7,925 cases through the Registry of Lawyers managed by the Asylum Service under the terms and conditions set in the Ministerial Decision 3449/2021.<sup>333</sup> Since it is unlikely that the remaining 47.08% of appellants either had sufficient funds and/ or access to free legal provided by NGOs, this discrepancy highlights the difficulties faced by applicants in accessing and securing state funded free legal aid in appeals procedure, as provided by law.

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<sup>327</sup> Article 1(7) MD 3449/2021.

<sup>328</sup> Article 3 MD 3449/2021.

<sup>329</sup> See: <https://bit.ly/3BPGrCV>.

<sup>330</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), 61-62.

<sup>331</sup> Legal Aid Organisations are seriously objecting regarding the lack of free legal aid to asylum seekers in Lesbos, available at: <https://bit.ly/3daoV0C>.

<sup>332</sup> Ενημέρωση εξελίξεων σχετικά με το Δελτίο Τύπου 11.01.21 από την ομάδα εργασίας Legal Aid Working Group Lesbos, available in Greek : <https://bit.ly/3oVmVxx>.

<sup>333</sup> MoMA, Reply of the Ministry to the Greek Parliament, 16 March 2023, <https://bit.ly/3Jly0y6>.

## 2. Dublin

### 2.1. General

#### Dublin statistics: 1 January – 31 December 2022

National data regarding requests in the Dublin procedure since 2021 are not available at the time of publication of the report.

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
<b>Total</b>	<b>2,030</b>	<b>1,037</b>	<b>Total</b>	<b>8,737</b>	<b>0</b>
Germany	458	218	Germany	6,079	0
Italy	390	148	Croatia	1,268	0
Switzerland	251	324	Belgium	445	0
France	215	70	Italy	374	0
Portugal	188	21	Sweden	144	0

Source: Eurostat

Outgoing Dublin requests: 2016 - 2021						
Year	2016	2017	2018	2019	2020	2021
Number	4,886	9,784	5,211	5,459	7,014	n/a

During 2022, there were 1,077 outgoing transfers implemented under the Dublin procedure. There has been no other data available in relation to the numbers and types of requests, for 2022 or 2021 as of the publication of this report.

During 2022, as in previous years, there were specificities in the handling of cases, based on the Member State the outgoing request is addressed to. Specifically, the Greek Dublin Unit provides all take charge requests within the three-month time limit as detailed in the Regulation. The time period starts from the moment an application for international protection is officially registered before the Asylum Service. However, the German authorities, following the ruling of the CJEU in *Mengesteab* on 26 July 2017<sup>334</sup> consider that the three-month time limit for sending a request to another country starts when the intention to apply for asylum is expressed; formal registration of the application with the Asylum Service is not required. To avoid rejection letters based on this argument, the Greek Dublin Unit tries to send the take charge requests within three-months from the expression of the intention to apply for asylum.

Regarding family reunification cases, if the Greek Dublin Unit is not informed within three months following the expression of the intention to apply for asylum, but is informed within three months from the registration of the asylum application, it sends the take charge request to the German authorities under the non-discretionary Articles (8, 9, 10), this request will meet the time limit set out in the Regulation.

Furthermore, the interpretation of the CJEU judgment in the Joined Cases C-47/17 and C-48/17<sup>335</sup> by some of the Member States has resulted in rejections of requests. Following this judgment, the German Dublin Unit accepts only one re-examination request for each case and refuses to keep cases open even when further medical tests for the establishment of the family link are pending. The German Dublin Unit claims that there is no possibility to deviate from the deadlines of the Dublin III Regulation. The

<sup>334</sup> CJEU, C-670/16, *Tsegezbab Mengesteab v Bundesrepublik Deutschland*, Judgment of 26 July 2017, available at: <https://bit.ly/3MXWEuK>.

<sup>335</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>.



Netherlands, France, Sweden and the United Kingdom are among the Member States which have also followed the same practice rejecting cases on this ground.

According to GCR's knowledge, the German authorities continue to implement this judgment. NGOs noted that during 2022, Swedish authorities also rejected cases on this ground.

In general, an extension is requested if a DNA procedure is pending and not expected to be completed within the two-week timeframe. This request is accepted by almost all the 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.

Regarding unanswered re-examination requests, the Greek Dublin Unit tries to address reminders to seek an official reply. Unanswered cases are eventually referred to the regular procedure.

Re-examination requests for several cases addressed to the German Dublin Unit remained unanswered for a long period of time which exceeded the two-week time frame mentioned in the CJEU judgment and they were eventually replied to following reminders by the Greek authorities.

Re-examination requests addressed to the French authorities remained unanswered for months, or even for years. Based on GCR's knowledge, there was no response to re-examination requests made in 2017, despite the efforts made by both the Greek authorities and NGO's. These cases are eventually examined on an *ad hoc* basis.

According to NGOs, during 2022 France and Sweden failed to reply to several re-examination requests within the time limit.<sup>336</sup>

### 2.1.1. Application of the Dublin criteria

To the knowledge of the GCR, most outgoing requests of previous years took place in the context of family reunification i.e. application of the family unity criteria. For a "take charge" request to be addressed to the Member State where a family member or a relative resides, the written consent of the family member is required, as well as documents proving the 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 relating to evidence of the family link (e.g. certificate of marriage, civil status, passport, ID).

For cases of unaccompanied minors, the written consent of the 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 has been submitted to the Greek Dublin Unit.

On the contrary, non-existence of documents proving the family relationship between the applicant and the family member or relative to the requested Member State is not a sufficient reason for the request not to be sent and/or received. 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 according to the Greek Dublin Unit.

Family unity is the main way for applicants to enter another Member State safely and legally. However, restrictive practices of requested states such as requirements for official translations of documents proving family links, sometimes unnecessary DNA tests to prove the applicant's family ties, age assessments of unaccompanied children to be conducted according to the requested state's methods, often result to the rejection of the 'take charge' requests.

Apart from the general criteria applied to every case falling under the Dublin III Regulation, nuances have been observed on the way the family unity criteria are applied by different Member States. Germany, for

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<sup>336</sup> Information by: The HOME Project (available at: <https://bit.ly/420UtwA>) and European Expression (available at: <https://bit.ly/42ZtKkX>)



example, refused to responsibility for applicants who couldn't prove their relationship with the person they wished to be reunited with, while other countries were taking into consideration circumstantial evidence and may have conducted interviews with the family members/ relatives.

However, in 2022, according to NGOs, Germany accepted circumstantial evidence while France did not. Italy is reportedly more flexible than other Member States on that issue. Furthermore, only documents in English or the official language of the requested Member State are considered by the Dublin Units of some of the Member States.

According to the information 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 viable evidence to prove the family link, given that they could easily be forged. According to NGOs, in 2022 Germany and Sweden doubted the authenticity of Somali identification documents and asked for a DNA test.

Most of the Member States, consider the requirement of the DNA test to be the last resort, while other, such as Spain and Ireland request a DNA test regardless of the submission of identification documents. German Authorities have also rejected cases due to lack of DNA test results regardless of submission of identification documents and circumstantial evidence. Sweden and the Netherlands, requested for DNA results proving the kinship, especially regarding applications of other than art 9 and 10.

Since 2017, Dublin Units have increasingly refused requests in cases of subsequent separation of family members who entered Greece and applied for asylum prior to departure to another Member State on the basis that the family separation was 'self-inflicted' and was contrary to the best interests of the child. The Greek Authorities have partially adopted this reasoning.

According to a circular of the Asylum Service of 1/2020 such requests should not be sent, and the cases should be referred to the regular procedure. The same would apply in cases where minors were subsequently separated from their family and travelled to another Member State. The only exception is when another Member State specifically asks for a take charge request.

In any case, an assessment of each case always precedes the referral to the regular procedure. Based on GCR's experience, such requests have been accepted by the authorities of Sweden, Switzerland and Luxembourg while German Authorities rejected them 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) and that the humanitarian grounds of Article 17 (2) do not apply. They also sometimes argue that further consideration of such cases would undermine the meaning of the Dublin III Regulation, which is to 'prevent secondary movement'.

However, in two cases dealt with in 2022, Germany accepted a "humanitarian clause" request for the reunification of parents with their two daughters in Germany, one of whom had arrived there after submission of the asylum application in Greece<sup>337</sup> as well the reunification of two brothers in a case of a subsequent separation<sup>338</sup>. In contrast, Belgium rejected a request based on Article 17(2) of the Regulation regarding a family with a minor son, on the basis that the mother's departure from Greece after the family's application had been submitted was not in the best interests of her child.<sup>339</sup>

It is also difficult to establish a family relationship in cases of marriages by proxy, as they may not be recognised by the receiving state's domestic law. GCR is aware of at least one case of family reunification that was rejected by the German Authorities, because the applicant's spouse was already present in the requested Member State's territory when the marriage ceremony took place.

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<sup>337</sup> Information provided by the RSA.

<sup>338</sup> Information provided by European Expression.

<sup>339</sup> Information provided by the RSA.

## 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 in 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>340</sup>

The Special Secretariat for the Protection of the Unaccompanied Minors (SSPUAM) of the Ministry of Migration & Asylum, in collaboration with the National Centre for Social Solidarity (NCSS -EKKA), bears the responsibility to proceed to any necessary action aiming to the appointment of guardian to unaccompanied children according to art. 4 IPA as amended by the Law 4686/2020.

Although 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. Temporary guardians had been appointed at the end of 2020 only for cases of unaccompanied minors who were eligible for the relocation scheme. Those guardians were authorised only to proceed with the necessary arrangements of the BIA and the security interviews. Their role was expanded in 2021, allowing them to follow up with the minors' applications of international protection and have a better overview of their wellbeing. However, the above network of guardians run by the NGO METAdrasi stopped operating on 23 August 2021.

In January 2022, the National Strategy for the Protection of unaccompanied minors was published. As provided in the Strategy, a reform of the guardianship system for unaccompanied minors was deemed necessary. On 22/7/2022 the new Law 4960/2022 on Guardianship and accommodation framework for unaccompanied children was adopted. The new law includes the necessary provisions for the implementation of the new guardianship scheme, which will provide the flexibility to various actors that fulfil specific criteria to provide guardianship services. However, the law has not yet been implemented. The Best Interest Assessment tool, which was drafted and launched by the Greek Dublin Unit based on previous correspondence with other EU countries, UNHCR, UNICEF and EASO was enhanced after the provision of inputs by international and local organisations and NGOs. This tool is an indispensable element of take-charge requests of unaccompanied minors. This tool is aiming to facilitate the family reunification requests under the Dublin Regulation (EU) 604/2013 by gathering all necessary information required by Member-States when assessing family reunification cases of UAM's. In cases where the assessment cannot be included in the outgoing request, it is forwarded afterwards as a supplementary document.

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, although no such requirement is provided in Article 8 of the Regulation EU 604/2013. These elements are considered evidence of the relative's ability to support the minor applicant. GCR is aware of cases in which house contracts, photos of the place where the minor will be accommodated in the relative's house and proof of income have been requested to prove the family member's or/ and relative's ability to take care of the applicant. According to NGOs Italy requests house contract and tax declaration.

Other countries appoint social workers to contact the sponsor and the child with the aim to assess whether it would be in the child's best interest to be reunited with the family member/ relative. According to NGOs, France always conducts interviews with the relatives residing in the country while in another case, Italian authority exceptionally called for an interview with family members of the minor due to insufficient information available in the file.

Another factor that is being considered 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 a relative does not change the legal status of the minors as unaccompanied, some Member States misinterpret the 'best

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<sup>340</sup> Law 4554/2018, Chapter C

interest of the minors by considering them accompanied. Based on that argument, they reject family reunification requests of unaccompanied minors and therefore, prevent them from being reunited with a closer family member.

Although the best interest of the minor should be of primary consideration when examining a family reunification request, the requested Member States proceed with the assessment of the case under the Dublin III Regulation in all take charge requests addressed to them. Spain, for instance, does not proceed at all with the examination of requests of unaccompanied minors based on Articles other than Article 8 of the Regulation. In one of the cases handled by GCR, the Spanish Unit stated that all requests concerning minors are to be examined under the criteria of article 8, while Article 17(2) was not applicable in this case as this is not considered to be a discretionary case by the Spanish Authorities. Thus, the case was finally rejected in 2021, without due consideration of the Best Interest Assessment Form and no explanation for the rejection was provided as required under Article 17 (2) of the Regulation EU 604/2013. The practice continued in 2022 and according to NGOs also France does not proceed with requests based on other submissions than Art 8.

GCR is also aware of a case of an unaccompanied minor rejected in 2021 by the German Authorities because his uncle was a German citizen. As it is stated in the rejection letter, the Dublin III Regulation is not applicable in such cases. Yet, this reasoning is contradictory to Article 8 of the Regulation, which requires for the family member or/ and relative to be legally present. In the above-mentioned case, the best interest of the minor and the documents submitted to support the case were not taken into consideration. France however in 2022 accepted the family reunification request of a minor with his aunt who holds the French citizenship (information provided by the NGO “European Expression”).

When applicants are not able to provide identification documents, DNA tests is the only way to prove the family link. Some countries however require a DNA test as a rule to be able to assess family links. Age assessments is another matter that might affect the outcome and the processing time of a reunification request. Member States question the results of the age assessments of unaccompanied children in case it is not conducted according to their methods.

### **2.1.2. The dependent persons and discretionary clauses**

Outgoing requests under the humanitarian clause concern mainly dependent and vulnerable persons and sent either when Articles 8-11 and 16 are not applicable or in cases where the three-month timeframe has expired regardless of the reason. Article 17(2) has been widely used for cases of subsequent separation as well as in the beginning of 2021 for cases in which the deadline for transfer was not met.

### **2.1.3. The relocation scheme**

In March 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 were accompanied by their families, were the two categories of persons of concern who could be included in the programme,<sup>341</sup> if they have arrived in Greece before 1 March 2020 and no possibility to be reunited with a family member in another Member State was available. Sixteen EU countries participated in this scheme, which included France, Germany, Luxembourg, Portugal and Bulgaria. The Commission implemented this programme with the assistance of UNHCR, the International Organisation 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.

The process concerning the relocation of UAM consisted of three phases<sup>342</sup>:

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<sup>341</sup> European Commission: Relocation of unaccompanied children from Greece to Portugal and to Finland – Questions and answers, available at: <https://bit.ly/2OGowty>

<sup>342</sup> UNHCR \_ Explainer: Relocation of unaccompanied children from Greece to other EU countries, available at: <https://bit.ly/2Rrhwlw>

- ❖ Phase 1: the preparatory phase, in which a list of identified unaccompanied minors was 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 takes place, during which the eligibility of each minor was assessed. The procedure was 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 were submitted to the Greek Authorities and the receiving countries.
- ❖ Phase 3 and last phase: the transfer of the person to the Member State which accepted the responsibility for them. Prior to this final step, some countries, such as France, used to hold another interview before the Consulate or Embassy of their country in Greece. This interview is called '*security interview*'. Prior to the transfer, the selected minor was accommodated to transitional facilities run by IOM, for the necessary administrative procedures and medical examinations take place.

A minor's case is not definitively excluded from the relocation programme should the case not be accepted by a Member State. On the contrary, the applicant is internally proposed to another state for relocating. A person is excluded only if they refuse in written to be transferred to the Member State which has accepted responsibility for the case. This refusal is considered as evidence that the person does not wish to be included in the programme.

Although the eligibility criteria might differ based on the Member State, some criteria seemed to be unnegotiable. An applicant could not be included to the programme in cases where a family reunification request under the Dublin III Regulation is pending, or a decision on first instance regarding the application for international protection has already been issued by the Greek authorities. Furthermore, in case an applicant has been accused or convicted of committing a crime, regardless its severity, would be considered ineligible for relocation. Criteria based on ethnicity, nationality, sex and age were not set.

During 2022, 394 individuals, including 134 unaccompanied children, were relocated to other EU Member States under the voluntary relocation scheme. By the end of 2022, 5,164 individuals in total, including 1,333 unaccompanied children were relocated to other EU Member States under the voluntary relocation scheme.<sup>343</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?  
Not available

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 by 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 the sections on [Determining authority](#) and [Regular Procedure](#), EUAA also assists the authorities in the Dublin procedure. According to the 2021 Operational and Technical Assistance Plan agreed by EASO and Greece,<sup>344</sup> EASO provides support to the Asylum Service for processing applications for international protection at first instance in mainland and in the islands, to improve, among others, the timely identification of Dublin cases and the quality of the files submitted to the Dublin Unit. Specifically, EASO provides support to the Dublin Unit to process outgoing information requests according

<sup>343</sup> Ministry of Migration and Asylum, 'Statistics', April 2023, available at: <https://bit.ly/3OuNZm9>.

<sup>344</sup> EASO and Greece, *2021 Operating Plan*, December 17 December 2020, available at: <https://bit.ly/3qDLOzQ>.

to the Dublin Regulation criteria, enhance the transfer processing capacity and assist the Dublin Department with interpreters for information provision and other activities Unit (face to face and remote).

As mentioned in [Dublin: General](#), most administrative procedures, such as the submission of documentation, booking of appointments, receiving copies of an applicant's file, are conducted only through online applications. As a result, physical presence in the context of Dublin procedures is only required at registration stage, during which the asylum seeker is being fingerprinted, and must sign the relevant written consent.

Applications for international protection cannot be lodged if the person refuses to be fingerprinted. In case of refusal, the person will remain undocumented. The fingerprints are crosschecked in the police's database for possible Eurodac hits. GCR is not aware of any person who refused to be fingerprinted. 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, in accordance with Article 21 of the Dublin III Regulation. 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 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.

The applicant is not officially informed by the Greek Dublin Unit of the fact that the request has been made, nor on the basis of what evidence. It is the asylum seekers solicitor who is following up the procedure and provides feedback on the steps that have been made. Dublin Unit officers contact the applicant directly only if the case has been rejected, in order to request for supplementary documentation, which will be included in the re-examination request. In case of a final rejection, no written information is provided to the applicant. In practice, the case is internally referred to the regular procedure. On the contrary, if the reunification request is accepted, an admissibility decision mentioning that the requested Member State is responsible to examine the asylum application, based on the provisions of the Regulation (EU) 604/2013 is delivered to the applicant.

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>345</sup>

A change in statistical practices of the Dublin Unit was noted since 2020, as the publication of monthly statistics of the Unit stopped in March 2020 to be substituted by Monthly Reports issued by the Ministry of Migration and Asylum.<sup>346</sup> These Reports include some but not all the data previously provided by the monthly statistics of the Greek Dublin Unit.

### 2.2.1. Individualised guarantees

The Greek Dublin Unit reportedly requested individual guarantees concerning the reception conditions and the access to the asylum procedure. There is no data as for the practice in 2022

Most of the transfers concern family reunification cases, therefore there is an expressed will of the applicant to move to the third country. Furthermore, the applicant may appeal or relinquish the right to appeal the decision rejecting the asylum application as inadmissible

For children's Best Interest Assessment, see above, section on [application of the Dublin criteria](#).

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<sup>345</sup> ECRE, '*The Role of EASO Operations in National Asylum Systems*', 29 November 2019, available at: <https://bit.ly/2x2uzzN>.

<sup>346</sup> One can go through the information provided in the Note of every month here <https://bit.ly/3NBvgBN>.

### 2.2.2. Transfers

Transfers under the Dublin III Regulation are carried out by the Asylum Service, with the assistance of EUAA personnel. The Transfer Department of the Dublin Unit follows the transfer procedure. Under this scope, the department coordinates with the responsible travel agency for the tickets to be booked and sent to the applicants or/ and their solicitors in due time. Before the transfer takes place, the Dublin Unit submits medical documents to the airline company, as well as the requested Member State. On the day of transfer, an employee from the Department of Foreign Affairs meets the applicants at the airport in order to provide them with a *laissez-passer*, help them with the check-in and boarding. The above-mentioned information regarding the transfer is forwarded to the asylum seekers by the Greek Dublin Unit, along with the tickets. Travel costs are covered by the Asylum Service.

A total of 1,077 Dublin transfers were implemented in 2022, compared to 2133 in 2021.

Outgoing Dublin transfers by month: 2022												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
105	60	157	76	95	115	156	35	113	44	50	71	1,077

Source: Hellenic Republic, Ministry of Migration and Asylum, Statistics available at: <https://bit.ly/3uyzcLG>.

### 2.3. Personal interview

#### Indicators: Dublin: Personal Interview

☒ Same as regular procedure

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

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. Questions relating to the Dublin procedure are addressed to the applicant in an interview framework. Applicants identify the family member they desire to reunite with and provide 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 the 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, have 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.



## 2.4. Appeal

### Indicators: Dublin: Appeal

☐ Same as regular procedure

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

- ❖ If yes, is it
- ❖ If yes, is it suspensive

☒ Yes ☐ No  
☐ Judicial ☒ Administrative  
☒ Yes ☐ No

According to the Asylum code, applications for international protection are declared inadmissible where the Dublin Regulation applies.<sup>347</sup> An applicant can lodge an appeal before the Independent Appeals Committees under the Appeals Authority against a first instance decision rejecting an application as inadmissible due to the application of the Dublin Regulation within 15 days.<sup>348</sup> Such an appeal can also be directed against the transfer decision, which is incorporated in the inadmissibility decision.<sup>349</sup>

## 2.5. Legal assistance

### Indicators: Dublin: 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 Dublin decision in practice?

- ☐ Yes ☒ With difficulty ☐ No
- ❖ Does free legal assistance cover:
  - ☐ Representation in courts
  - ☒ Legal advice

Access to free legal assistance and representation in the context of a Dublin procedure is available under the same conditions and limitations described in [Regular Procedure: Legal Assistance](#). No state funded free legal aid is provided in first instance, including Dublin cases. The same problems and obstacles described in the regular procedure exist in the context of the Dublin procedure, with NGOs trying in practice to cover this field as well.

As concerns family reunification cases, limited access to legal assistance affects the right preparation of the case file as it's the applicant who bears the responsibility for submitting the required documents for the Dublin Unit to establish a take charge request, such as proof of family links. Nevertheless, in GCR's experience the Dublin Unit officers make every effort to notify applicants on time for the submission of any missing document before the expiry of the deadline.

## 2.6. Suspension of transfers

### Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?

- ❖ If yes, to which country or countries?

☐ Yes ☒ No

To the knowledge of the GRC, there is no suspension of transfers to any Member State in either policy or jurisprudence.

<sup>347</sup> Article 89(1) (b) asylum code

<sup>348</sup> Article 97 () (d)(i) asylum code

<sup>349</sup> *Ibid.*

## 2.7. 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>350</sup>

Following three recommendations issued to Greece in the course of 2016,<sup>351</sup> and despite the fact that the Greek asylum and reception system remained under significant pressure, due to the closure of the so-called Balkan corridor and the launch of the EU-Türkiye 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 retrospective 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>352</sup> Persons belonging to vulnerable groups such as unaccompanied children are to be excluded from Dublin transfers, according to the Recommendation.<sup>353</sup>

The National Commission for Human Rights in a Statement dated 19 December 2016, expressed its “grave concern” with regard to the Commission Recommendation and noted that:<sup>354</sup>

‘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 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.’

An interesting court case was issued in Germany in January 2021 and sets the protection threshold to a level that corresponds to the actual situation in Greece.<sup>355</sup> 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>356</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>357</sup>

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<sup>350</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.

<sup>351</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>352</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, ‘Επανάληψη 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-Türkiye 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>353</sup> Commission Recommendation C(2016) 8525, para 9.

<sup>354</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>355</sup> High Administrative Courts (Oberverwaltungsgerichte / Verwaltungsgerichtshöfe), Applicant (Eritrea) v Federal Office for Migration and Refugees, 21 January 2021.

<sup>356</sup> Full case summary can be found at EASO Case Law Database, available at: <https://bit.ly/2PMoOzG>.

<sup>357</sup> European Parliamentary Research Service, *Dublin Regulation on international protection applications*, February 2020, available at: <https://bit.ly/2PLN19g>, 57.

Dublin returnees face serious difficulties both in re-accessing the asylum procedure and reception conditions (which is quasi inexistent) upon return.<sup>358</sup> In fact, returnees face the risk of being subjected to onward refoulement to Türkiye, following the designation of Türkiye as a safe third country in 2021 (see [Safe third country concept](#)).

In another case, a beneficiary of international protection was returned from Germany to Greece at the beginning of July 2021. The asylum application which the beneficiary submitted before the German Authorities was rejected as inadmissible, since his case had already been examined by the Greek Asylum Service, which recognised he is a refugee, even though the person was never informed about that. Although, the Court accepted that living conditions for beneficiaries of international protection in Greece are “undoubtedly harsh” also taking into account that beneficiaries are not entitled to accommodation as provided in the case of asylum seekers, it assumed that healthy, single and young individuals would nevertheless somehow be able to survive under these conditions. Upon his return, the beneficiary was handed to the Airport Police Department and was provided with a 10-day duration police note. According to this note, he should visit the Asylum Service to proceed with his case. Eight months after his arrival into Greece, no residence permit has been delivered, no health insurance and tax numbers have been issued, no action for accommodation has been taken due to lack of identification documents.<sup>359</sup>

Finally, it should be mentioned that applicants who are subject to the EU-Türkiye statement and left the islands, despite the geographical restriction imposed, will be returned to said island upon return to Greece from another Member State within the framework of the Dublin Regulation, in virtue of a 2016 police circular.<sup>360</sup> Their application will be examined under the fast-track border procedure, which offers limited guarantees.<sup>361</sup>

For further information about the situation of beneficiaries of international protection returned to Greece, see ‘Return of beneficiaries of international protection to Greece’ under [Housing](#).

### 3. Admissibility procedure

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

Under Article 89 Asylum Code, an application can be considered inadmissible on the following grounds:

- ❖ Another EU Member State has granted international protection status to the applicant;
- ❖ Another EU Member State has accepted responsibility under the Dublin Regulation for the applicant;
- ❖ 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>362</sup>

<sup>358</sup> RSA, Dublin returns to Greece, available at: <https://bit.ly/3tHwi7T>: ‘At the moment, the Greek reception system is undergoing a gradual transformation through the dismantling of open housing facilities in favour of large-scale ‘closed controlled centres’, while a coherent policy to support integration of people granted international protection is still lacking. Despite these circumstances, EU Member States and Schengen Associated Countries continue to send thousands of Dublin take back requests to return asylum seekers to Greece. In line with a Recommendation<sup>358</sup> from the European Commission, Dublin transfers to Greece are carried out following the provision of individual assurances by the Greek Dublin Unit relating to the treatment of returnees in line with the EU asylum *acquis*.’

<sup>359</sup> RSA. Recognised refugee returned to Greece, destitute, forgotten and undocumented, available at: <https://bit.ly/3K0Mt6l>.

<sup>360</sup> Police Circular No 1604/16/1195968, available at: <https://bit.ly/3dVQ05t>.

<sup>361</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>362</sup> Article 88(2) Asylum Code. Different deadlines are provided ie. for subsequent applications; when the safe third country concept is examined under the fast-track border procedure, etc.

Article 91(5) Asylum Code, incorporating Article 38(4) of the Asylum Procedures Directive, provides that where the third country in question does not allow the applicant to enter its territory, his/her application shall be examined on the merits by the Competent Examination Authorities.

The examination of the safe third country concept in practice used to take place under the scope of the fast-track border procedure since 2016. More specifically, up until June 2021 it was applied exclusively to Syrians who fell under the EU Türkiye Statement, namely those who had entered Greece via the Greek Aegean islands and who were subject to a geographical restriction. Syrians whose geographical limitation was lifted were then channelled to the mainland and were examined under the regular procedure. The situation changed significantly in 2021 following the Joint Ministerial Decision issued on 7 June 2021, designating Türkiye as a safe third country for asylum applicants coming from Syria, Afghanistan, Somalia, Pakistan and Bangladesh.<sup>363</sup>

Apart from the numerous concerns that have been repeatedly raised as to whether Türkiye should be considered a “safe third country” for the abovementioned asylum seekers in Greece,<sup>364</sup> an additional significant element of the unfeasibility of this new decision concerns the fact that Türkiye has not been accepting any readmissions from Greece since March 2020.<sup>365</sup> As a consequence, refugees whose applications have been/are rejected as inadmissible based on the “safe third country” concept end up in a state of limbo in Greece, exposed to a direct risk of destitution and detention, without access to an in-merit examination of their application and without the possibility to lodge a subsequent asylum application.

The Commissioner for Migration and Home Affairs of the European Commission has reiterated several times the importance of examining the merits of these applications for international protection, in accordance with EU law.<sup>366</sup> On 7 December 2021, the Commissioner issued a response to a joint open letter by civil society organisations, where she reiterated the Commission’s continued concerns over individuals left in “legal limbo” in Greece.<sup>367</sup> As she stated, “in line with Article 38(4) of the Asylum Procedures Directive, the Greek authorities should ensure that applicants whose applications have been declared inadmissible under the Joint Ministerial Decision and who are not being admitted to Türkiye should be given access to the in-merits asylum procedure”.<sup>368</sup>

According to the UNHCR’s position and recommendations on the Safe Third Country declaration by Greece:<sup>369</sup>

‘The absence of a mutually agreed readmission arrangement or delay in the implementation elevates the risk of protracted detention and situations of legal limbo for those concerned who may not be readmitted, increasing human misery and in all likelihood, fuelling further onward movement within the EU. Where cooperation is not mutually agreed to, or required protection safeguards are not in place, an in-merit examination of asylum claims of applicants of those nationality groups should take place without undue delay to avoid legal limbo situations.’

According to Communication from the Commission to the Council and the European Parliament ‘Responding to repeated requests from the Greek authorities and the European Commission regarding the resumption of return operations, Türkiye has stated that no return operation would take place unless

<sup>363</sup> Joint Ministerial Decision (JMD) 42799/2021, Gov. Gazette 2425/B/7-6-2021, available at: <https://bit.ly/3KBM4HG>.

<sup>364</sup> Indicatively see: GCR, Greece deems Türkiye ‘safe’, but refugees are not: The substantive examination of asylum applications is the only safe solution for refugees, 14 June 2021, available at: <https://bit.ly/3E3qgCe>.

<sup>365</sup> For instance see: MoMA, 28-07-2021, New request from Greece for the return of 1.908 illegal economic migrants to Türkiye : <https://bit.ly/3rl5bhy>; European Commission, Commission Staff Working Document: Türkiye 2020 Report, 6 October 2020, <https://bit.ly/3xgt4aK>, 48.

<sup>366</sup> Answers given by Ms Johansson on behalf of the European Commission, EN P-000604/2021, 1 June 2021, available at: <https://bit.ly/3M01UMo>; E-003875/2021, 18 October 2021, available at: <https://bit.ly/3uxkTbg>; E-004131/2021, 21 December 2021, available at: <https://bit.ly/3KuohcB>.

<sup>367</sup> Joint Open Letter, Denying food: instead of receiving protection people go hungry on EU soil, available at: <https://bit.ly/3uyeEEb>.

<sup>368</sup> Ylva Johansson, Ares S(2021)8048555, 7 December 2021, available at: <https://bit.ly/3Jyt7V4>.

<sup>369</sup> UNHCR’s Position and Recommendations on the Safe Third Country Declaration by Greece, 2 August 2021, available at: <https://bit.ly/3EuyKm1>.

the alleged pushbacks along the Turkish-Greek border stop and Greece revokes its decision to consider Türkiye a Safe Third Country' (24 May 2022).<sup>370</sup>

Despite the fact that readmissions to Türkiye have been suspended since March 2020, the Asylum Service continues not to apply Article 38(4) of the Procedural Directive to applicants whose application is examined on the admissibility under the safe country concept vis-a vis Türkiye. Thus, applicants subject to the Joint Ministerial Decision, whose application has been rejected as inadmissible, are deprived of access to an in merits asylum procedure and they face the risk to remain in legal limbo, without access to reception conditions and health care and in risk of detention.

Data for 2022 is not available.

It should be noted that an application for the annulment of the JMD was submitted before the Greek Council of State and its examination was discussed on 11 March 2022.<sup>371</sup> In a decision issued on 3 February 2023, the Council of State referred a question to the CJEU for a preliminary ruling on the interpretation of article 38 of 2013/32/EU Directive, since Türkiye has not accepted any readmissions from Greece since March 2020 (Council of State (Plenary) Decision no 177/2023). In particular, the majority opinion considers that it is not possible to designate a country as a safe third country if the readmission of the applicant to that country does not appear to be possible. This possibility should be assessed both in terms of legal provisions and obligations of the third country to accept readmissions as well as the actual compliance to those legal provisions. Readmissions to Türkiye are not implemented and the competent authority did not adequately explore the possibility of Türkiye changing its stance. Thus, in view of ensuring a quick examination of asylum applications<sup>372</sup> the national list established by the JMD should be annulled. There has also been two dissenting opinions on whether the non-implementation of returns should be taken into consideration either at the time of issuance of an individual decision on the asylum application assessing whether Türkiye is a safe third country or at the time of executing the decision of return and not before including this country in the national list of safe third countries.

However, given that reasonable doubts arose as to the meaning of Article 38 of the Directive, the Court postponed its final judgement and formulated preliminary questions to the CJEU. The Court requested clarification as to whether Article 38 of the Directive should be interpreted as precluding national (regulatory) provisions, which characterises a third country as generally safe for certain categories of applicants for international protection and that country has undertaken the legal obligation to readmit those categories of applicants to its territory, despite for a period of over twenty months, that the country that is considered as safe third country having refused readmissions ; or whether the readmission to the third country is a cumulative condition for the issuance of the national (regulatory) act, according to which a third country is characterised as generally safe for certain categories of applicants for international protection, or for the issuance of the individual act, according to which a specific application for international protection is rejected as inadmissible on the "safe third country" ground; or, finally, whether the readmission to the "safe third country" should only be determined at the time of the decision's execution, when the decision to reject the application for international protection is based on the "safe third country" ground.

Finally, the 42799/3-6-2021 JMD declaring Türkiye as a safe third country was amended by Decision no. 458568/2021 (FEK 5949/16-12-2021) to include Albania and Northern Macedonia as safe third countries for all nationals entering Greece from the countries listed.

In addition to this, JMD 78391/10-02-2022 (FEK 667/15-02-2022) was issued in February 2022 regarding the national list of safe countries of origin<sup>373</sup>. The list includes Egypt, Albania, Algeria, Armenia, Georgia,

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<sup>370</sup> Communication from the Commission to the Council and the European Parliament sixth annual report on the Facility for Refugees in Türkiye, 24 May 2022, available at: <https://bit.ly/417mB1B>.

<sup>371</sup> GCR, Press Release, Εκδικάστηκε ενώπιον του ΣτΕ η αίτηση ακύρωσης της Απόφασης με την οποία η Τουρκία χαρακτηρίστηκε ασφαλής τρίτη χώρα, 15 March 2022, available in Greek at: <https://bit.ly/365HJJ9>.

<sup>372</sup> As provided by Article 18 of the Charter of Fundamental Rights and Article 38 of the 2013/32/EU Directive.

<sup>373</sup> The formation of the National List of Safe Countries of Origin is provided in Article 92 para. 1 (b) of the Asylum Code.



Ghana, Gambia, India, Morocco, Bangladesh, Benin, Nepal, Ukraine, Pakistan, Senegal, Togo and Tunisia. In December 2022, Ukraine, after almost one year of war, was finally removed from the national list of safe countries of origin

### 3.2. Personal interview

#### Indicators: Admissibility Procedure: Personal Interview

☐ Same as regular procedure

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

The conduct of an interview on the admissibility procedure varies depending on the admissibility ground examined.

According to Article 94(2) Asylum Code, as a rule, no interview should be held during the preliminary examination of a subsequent application. The examination of a subsequent application takes place only through written submissions and submitted documents together with the elements of the first asylum application. The interview is conducted only if the subsequent application for asylum is deemed admissible (see section on [Subsequent Applications](#)). As regards the process for Dublin cases, see section on [Dublin](#).

Personal interviews in cases examined under the “safe third country” concept focus on the circumstances that the applicants face in Türkiye. More specifically, focus is put on:

- ❖ whether they have asked for international protection in Türkiye and;
- ❖ if not, which reasons prevented them from doing so;
- ❖ whether they have family and friends in Türkiye;
- ❖ how long they remained in Türkiye;
- ❖ if they had access to work, housing, education and health care;
- ❖ and in general, if Türkiye is a safe country for them.

Since 1 January 2020, it is possible for the admissibility interview to be carried out by personnel of EUAA or, in particularly urgent circumstances, trained personnel of the Hellenic Police or the Armed Forces. The training needs to be in international human rights law, EU Law on Asylum and the procedures for conducting interviews.<sup>374</sup> Such personnel are not allowed to wear military or law enforcement uniforms during interviews.<sup>375</sup> However, EUAA caseworkers do not draft Opinions on cases where the JMD 42799/2021 designating Türkiye as a safe third country applied, as it fell outside their competence. The number of concluding remarks issued by EUAA decreased to 5,071 in 2022, almost half of those issued in 2021 (9,230). This is due to the fact that, following the new Joint Ministerial Decision designating Türkiye as a safe third country for applicants from five of the most common countries of origin in Greece, the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases, that is those examined on admissibility.<sup>376</sup> Instead, EUAA caseworkers, following the interview, can send to Asylum Service caseworkers an annex with notes and comments on crucial issues to be taken into consideration.

Different practices were adopted by the various RAOs in the different islands in 2022 as regards to the conduct of asylum interviews. In Kos the asylum interviews were conducted with the physical presence of the caseworkers and usually an interpreter was also present. However, in certain cases the interpreter was only present through teleconference. In **Lesvos** interviews were carried out both in person and

<sup>374</sup> Article 82(1) Asylum Code.

<sup>375</sup> Article 82(12) (c) Asylum Code.

<sup>376</sup> Information provided by the EUAA, 28 February 2023.



through videoconferencing. Moreover, in view of the EUAA's significant reduction of staff during 2022, EUAA case workers were under pressure to conduct at least two interviews per day and deliver three opinions per day or four admissibility interviews per day.

In **Samos, Kos, Lesbos** and **Chios**, interviews on the examination of the asylum application were mainly conducted before an efficient vulnerability assessment had been completed. Requests for the interviews' postponement (until the vulnerability assessment is completed) have been rejected by the Regional Asylum Offices (RAOs), despite the fact that the recognition/certification of a vulnerability can have a significant impact on the outcome of individuals' asylum procedure, inter alia with regard to the credibility of the asylum applicant's claims. Additionally, the asylum interviews of alleged minors were conducted before an age assessment procedure had been completed. However, the legal actors noticed that the asylum interview was concluded and the issuance of the decision was frozen until the issuance of a decision on the age assessment procedure.<sup>377</sup> In general, no reasonable time has been provided before the interview for applicants to access information on asylum procedures, legal aid, prepare for the interview and collect and submit significant documents/evidence in support of their application for international protection.

Even if indications of vulnerability arose during an asylum interview, the caseworkers did not refer the applicants for psychosocial assessment. There was thus no individualised assessment of the specific profile and circumstances of the asylum-seeker.

3,601 asylum applications were found inadmissible based on the "safe third country" concept in 2022, including 3,445 in which Türkiye was the "safe third country", 96 where it was North Macedonia and 60 where it was Albania.<sup>378</sup> More specifically, 1,089 asylum applications by Afghans and 1,259 asylum applications by Syrians were found to be inadmissible based on Türkiye being a "safe third country".<sup>379</sup>

According to internal SOPs that were circulated within the Asylum Service in autumn 2021, asylum seekers of these nationalities, who had entered Greece from Türkiye and one year (or more) had passed since then, must be considered as not having a special link with the third country or that in any case the special link with Türkiye had been breached (See [Safe third country](#)).

In Lesbos, the asylum application of a Palestinian single woman who grew up in a Syrian refugee camp was rejected as inadmissible.<sup>380</sup> Despite the fact that this category of asylum seekers (stateless persons with one of the 5 countries of JMD on STC and Türkiye as countries of habitual residence) is not explicitly mentioned in the relevant JMD on STC and Türkiye, stateless persons with one of the 5 countries of the JMD as countries of habitual residence were included in the admissibility procedure. Based on this reasoning, Lesbos RAO examined the aforementioned applicant on admissibility grounds and rejected her at first instance.

Additionally, in Lesbos, legal aid actors that undertook and represented the cases of survivors of the shipwreck of 6 October 2022 reported that the survivors' asylum procedures that followed were particularly fast.<sup>381</sup> Namely, a Somali single woman who survived the shipwreck received a first instance negative decision on admissibility just a few days after her interview.<sup>382</sup> Her vulnerability assessment had not been concluded, nor had it been explored during the interview. The shipwreck was never mentioned by the case worker, nor was it mentioned in the negative decision.

Moreover, many subsequent applications were firstly examined on admissibility based on the safe third country concept under the JMD. In February 2022, the RAO of Thessaloniki accepted the subsequent application of a single vulnerable woman from Syria as admissible in the preliminary stage on the basis

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<sup>377</sup> Information acquired during the Lesbos LAsWG meeting, 28 June 2022.

<sup>378</sup> Reply of the Ministry to the Greek Parliament.

<sup>379</sup> Ibid.

<sup>380</sup> Information acquired during the Lesbos LAsWG meeting, 25 October 2022.

<sup>381</sup> Information acquired during the Lesbos LAsWG meeting, 25 October 2022.

<sup>382</sup> The case was represented by GCR and a second instance decision is still pending at the time of writing.

that ‘the absence of the applicant from [Türkiye] for more than a year is a new element’.<sup>383</sup> Additionally, the RAO considered that the link with Türkiye was ‘weakened due to the lapse of a period of more than a year’ according to Article 86(1)(f) of Law 4636/2019. The subsequent application was firstly examined on admissibility based on the safe third country concept under the JMD. During the interview the case worker deemed that Türkiye could not be considered a safe third country for the applicant and found her claim to be admissible. Accordingly, the interview continued, her claim was examined on its merits and she was granted refugee status.

In practice, the Asylum Service did not issue nor notify applicants of their admissibility decisions. As a result, many of them received an invitation to their personal interview on its merits before RAOs without prior information on the admissibility decision and the next step of the procedure, thus not being able to prepare for the interview. In many cases, the interview on the merits followed the interview on admissibility on the same day without a prior notification of the applicants and provision of information as regards the different procedures.

### 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 ☒ Yes ☐ No
- ❖ If yes, is it automatically suspensive ☐ Judicial ☒ Administrative
- ☐ Yes ☒ Some grounds ☐ No

According to the Asylum Code, 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>384</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 a dependent	20	✓	Single judge

The Appeals Committee must decide on the appeal within 20 days, as opposed to 30 days in the regular procedure.<sup>385</sup>

Following the entry into force of the JMD on STC declaring Türkiye a safe third country, most of the cases lodged by Syrians, Afghans and Somalis were considered inadmissible at first instance and quickly confirmed as inadmissible by the Appeals Committees.

Appeals Committees do not apply Art. 38(4) of the Procedural Directive with regard to applications having been rejected as inadmissible on the basis of the safe third Country concept vis a vis Türkiye, despite the fact that readmissions to Türkiye have been suspended since March 2020. It is only in a limited number of cases that the Appeals Committees have proceeded to an on merits examination of the Application,

<sup>383</sup> FenixAid, Regional Asylum Office of Thessaloniki recognises a vulnerable single woman from Syria as a refugee after accepting her subsequent application as admissible, 23 June 2022, available in: <https://bit.ly/3l8hi94>.

<sup>384</sup> Article 97(d). Kindly note that the deadline for appealing against decisions issued under the provision of Article 95 Asylum Code (border procedure) is 10 days.

<sup>385</sup> Article 101 (d) L4636/2019, as amended by Article 25 (d) L4686/2020.

invoking, inter alia, Article 38(4) of the Procedural Directive by taking into consideration the suspension of readmissions to Türkiye.<sup>386</sup>

A characteristic example concerns the case of a single man of Syrian nationality, who entered Greece in September 2019 and submitted a first asylum application. After having received a final rejection, on the grounds of a safe third country, he submitted a subsequent asylum application on 20 October 2021. His subsequent application was rejected at first instance due to the lack of new elements, despite the fact that he had explicitly invoked Article 91(5) of the Asylum Code<sup>387</sup> and that no readmission had taken place for over two years since he had first arrived in Greece. Following the initial rejection, the same request was also submitted with his appeal, at second instance. However, in January 2022, a final rejection was issued by the Appeals' Committee, which stated that the applicant's claim that he had not been readmitted to Türkiye for over two years, may be a new, but it is not a substantial, element as it is not a reason that could lead to recognition of international protection status. The Committee concluded that the legal framework on which the applicant was supposed to be readmitted was still in force. Furthermore, the Committee did not consider the period of more than two years since the applicants' entrance in Greece as a substantial element that could overturn the initial judgement regarding the establishment of his connection to Türkiye as a safe third country.<sup>388</sup>

In May 2022, the 4th Appeals Committee accepted the appeal of an Afghan family, composed of a couple and 5 minor children, and overturned the first instance negative decision of the Regional Asylum Office of Western Greece that had rejected their asylum application as inadmissible, based on the safe third country concept.<sup>389</sup> The Appeals Committee noted that the family has been residing in Greece for 3 years and that during this period the children *"have integrated in a social reality in Greece, attending Greek schools"*. The Appeals Committee also acknowledged the inexistence of any family members or social support network in Türkiye, and concluded that *"due to the situation of the appellants, it will be particularly difficult for them to contact the Turkish authorities in order to obtain the necessary documentation in order to get access to health facilities and to education"*. Finally, the Appeals Committee also highlighted that women and girls are vulnerable to sexual and labour exploitation in Türkiye, putting the mother and several of the children at risk.

In April 2022, the 10th Appeals Committee accepted the appeal of a single Somali woman and overturned the first instance negative decision that had rejected her asylum application as inadmissible based on the safe third country concept.<sup>390</sup> The Appeals Committee took into consideration the applicant's gender, the fact that she was travelling alone, and that she remained in Türkiye for 15 days, during which she didn't search for a job nor develop any link with the country, where for 5 days she was slept on the road.

In September 2022, the 8th Appeals Committee accepted the appeal of an Afghan couple, whose asylum application had been found as inadmissible at first instance by the Kos RAO based on the safe third country concept and recognised them as refugees.<sup>391</sup> The Appeals Committee took into consideration the asylum applications of the two minor siblings of the second appellant, who had been accepted at first instance by the same RAO. The Public Prosecutor of the Court of Kos at first instance had assigned to the second appellant the temporary real care of her siblings, pending the issuance of the decision on the custody of the two minor children. The Public Prosecutor took into consideration the report that was submitted by the RIS that affirmed the strong connection among the siblings and explicitly stated that: *"it*

<sup>386</sup> Indicatively: 21st Appeals Committee, Decision 115795/2022, issued 28 February 2022, 10th Appeals Committee, Decision 224433/2022, issued 20 April 2022, 3rd Appeals Committee, Decision 345521/2022, issued 16 June 2022.

<sup>387</sup> Article 91 (5), transposing Article 38(4) of the Asylum Procedures Directive provides that: 'where the third country in question does not allow the applicant to enter its territory, his application shall be examined on the merits by the Competent Examination Authorities.'

<sup>388</sup> 3rd Appeals Committee, No 8620/2022, 7 January 2022, para IV.4, p.23 in Equal Rights Beyond Borders, HIAS Greece and RSA, The State of the Border Procedure on the Greek Islands, September 2022, <https://bit.ly/3EjqYMY>

<sup>389</sup> FenixAid, Appeals Authority accepts the appeal of the B. family and overturns the first instance decision rejecting their asylum application as inadmissible, 23 June 2022, available in: <https://bit.ly/3Ys2WaJ>

<sup>390</sup> GCR, HIAS, RSA et al, Greek Asylum Case Law Report, Issue 1/2022, p.7, 10η Επιτροπή 224433/2022 και 224438/2022.

<sup>391</sup> Decision No. 511455/5.9.2022, 8th Appeals' Committee, represented by GCR.

is estimated that the separation of the minors from their sister would cause damage in the mental and their broader emotional development” and that it would harm family unity irreparably. Even though the RIS connected the cases, the Asylum Service found the Afghan couple’s case as inadmissible and laid down a seven-day deadline for their voluntary departure from Greece, endangering the unity of the family for all family members. The Appeals Committee found that it was essential for the appellant not to be readmitted to Türkiye and her claim as well as her husband’s was to be examined on the merits.

### 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?
 

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

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

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

<input type="checkbox"/> Representation in courts
<input checked="" type="checkbox"/> 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](#)). Thus, asylum seekers do not have access to free legal assistance during the admissibility procedures at first instance. The lack of legal assistance has proven particularly problematic, especially for cases falling under the JMD designating Türkiye as a safe third country. Newly arrived persons did not receive information from the authorities regarding the application of the JMD or have access to legal aid, since they were rushed through the procedures (the full registration of the asylum application was conducted immediately after the end of the quarantine while, in numerous cases, asylum interviews were conducted within 2 days from the day of arrival or the end of the quarantine).

While there is provision of legal aid services at second instance, meaning the submission of an appeal against the first instance negative decision on admissibility, the 5-day deadline for the submission of the appeal following the notice of an inadmissibility decision is not, in any case, adequate for asylum applicants, who had not been informed of the admissibility procedure, nor for the registry lawyers to be properly prepared for the appeal procedure and prepare an effective representation before the Appeals Authority.

## 4. Border procedure (border and 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

There are two different types of border procedures in Greece. The first will be cited here as the “normal border procedure” and the second as the “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](#). Article 95 Asylum Code establishes the border procedure, limiting its applicability to admissibility or to the substance of claims processed under an accelerated procedure.<sup>392</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 applications are lodged in the mainland.<sup>393</sup> However, deadlines are shorter: for example, when an appeal is lodged, its examination can be carried out at the earliest of 5 days after its submission.<sup>394</sup>

According to Article 70 of the Asylum Code, 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>395</sup> During this 28-day period, applicants remain *de facto* in detention (see [Grounds for Detention](#)).

In practice, the above-mentioned 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 authorization 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 centre or a RIC wishes to apply for international protection, which includes persons subject to border procedure.<sup>396</sup>

The number of asylum applications subject to the border procedure at the airport in 2022 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?  
  - ❖ If so, are questions limited to nationality, identity, travel route? ☒ Yes ☐ No
  - ❖ If so, are interpreters available in practice, for interviews? ☐ Yes ☒ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

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

Where the application has been lodged at the **Athens International Airport** transit zone, the asylum seekers are transferred in most cases to the AAU of **Amygdaleza** for the full registration of their asylum application and for the interview. Consequently, GCR is not aware of any interview through video conferencing in the transit zones to date.

<sup>392</sup> Article 95(1) Asylum Code

<sup>393</sup> Articles 51, 74, 76, και 80 Asylum Code

<sup>394</sup> Article 100 (2) c Asylum Code

<sup>395</sup> Art. 95(2) Asylum Code.

<sup>396</sup> Police Circular No 1604/16/1195968/18-6-2016, available in Greek at: <http://bit.ly/2nglEj6>.

### 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 automatically suspensive

☒ Yes ☐ No

☐ Judicial

☒ Administrative

☒ Yes ☐ Some grounds ☐ No

The Asylum Code foresees that the deadline for submitting an appeal against a first instance negative decision is 10 days.<sup>397</sup> 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 application for leave to remain before the Appeals Committee.<sup>398</sup>

In practice, in those cases where the appellant has to submit a separate request before the Appeals Committee for leave to remain in Greek territory pending the outcome of the appeal. This request is being examined by the Appeals Committee on the same day with the appeal, so there has been no issue of removal from the country until the notice of the second instance decision.

In cases 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>397</sup> Article 95(3)(c) Asylum Code.

<sup>398</sup> Article 110(3) Asylum Code.



## 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 2022, the total number of applications lodged before the RAOs of **Lesvos, Samos, Chios, Leros and Kos** was 11,408, which represents approximately 1/3 of the total number of applications lodged in Greece in the same year (37,362).<sup>399</sup>

The impact of the EU-Türkiye Statement has been, *inter alia*, a *de facto* dichotomy of the asylum procedures applied in Greece.<sup>400</sup> This is because, the fast-track procedure is applied in cases of applicants subject to the EU-Türkiye Statement, i.e. applicants who arrived on the Greek Eastern Aegean islands after 20 March 2016 and have lodged applications before the RAO of **Lesvos, Chios, Samos, Leros and Kos**. However, 5,052 applications lodged before the Asylum Unit of **Fylakio** by persons who entered through the Greek-Turkish land border and remain in the RIC in Fylakio in Evros are not examined under the fast-track border procedure.

Different procedures were applied for arrivals in **Rhodes**, as, up until November 2022, certain arrivals were considered as residing illegally in Greece and they were transferred to the Pre- Removal Detention Centre of **Kos** while others were given a police note and transferred to the mainland. No reception services were provided for either category. Since November 2022 the procedure has changed and those newly arrived in Rhodes are finally considered new arrivals and are being transferred to the Kos RIC (now CCAC), where they are being provided with reception services and their asylum applications are being processed.<sup>401</sup>

Asylum procedures are currently regulated by the new law on asylum (Asylum Code), L. 4939/2022. More particularly, Article 95(3) Asylum Code foresees that the fast-track procedure can be applied 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 30 December 2020, foresees the application of the fast-track border procedure under Article 90 (3) for those who arrived at the Greek Eastern Aegean Islands. The JMD was in force until 31 December 2021,<sup>402</sup> and it has not been extended through a new JMD since that date.

#### Main features of the fast-track border procedure under the Asylum Code

The fast-track border procedure under Article 95(3) Asylum Code, repeats the previous legal framework and provides amongst others that:

<sup>399</sup> Reply of the Ministry to the Greek Parliament

<sup>400</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>.

<sup>401</sup> According to information provided by the GCR lawyer operating in Kos.

<sup>402</sup> Joint Ministerial Decision for the application of the provisions of par. 3 and 5 of article 90 of IPA, No 15996/30.12.2020, Gov. Gazette 5948/B/31.12.2020.

- (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 are not sufficient.
- (b) The asylum seeker interview may also be conducted by Greek language personnel deployed by EUAA. However, Article 95(3) also introduced the possibility, “in particularly urgent circumstances”, that the interview can 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 previous L. 4375/2016.
- (c) The asylum procedure shall be concluded in a short time period.

This may result – and it often has resulted- 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 95(3)(c) Asylum Code:

- ❖ the Asylum Service shall issue a first instance decision within seven days;
- ❖ the deadline for submitting an appeal against a negative decision is ten days;
- ❖ the deadline for, and submission of, the appeal does not always have an automatic suspensive result, as provided by Article 110 (3) Asylum Code 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 four days. The appellant is notified within one day to appear for a hearing before the Appeals’ Committees or to submit supplementary evidence; and
- ❖ the second instance decision shall be issued within seven days.

It should be noted that these very short time limits seem to be 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 takes several months on average, applicants still have to comply with the very short time limits provided by Article 95(3) Asylum Code.<sup>403</sup> In 2022, the average time between the full registration of the asylum application and the issuance of a first instance decision under the same procedure was not available.

The Greek Asylum Service is under 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 to the very limited processing time imposed in the scope of the previous legal framework and the impact that this could have on 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>404</sup>

<sup>403</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>404</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’.

In 2022, 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:

- ❖ The Asylum Service issued a total of 2,286 in-merit and inadmissibility decisions during 2022 in the framework of the fast-track border procedure. Out of the above, 462 were inadmissibility decisions, 74 were manifestly unfounded rejections, and 1,824 in merit decisions. Out of the 1,824 in-merit decisions, 1,580 were positive decisions, demonstrating a remarkably high recognition rate.<sup>405</sup>
- ❖ In parallel, notes by the Readmission Unit of the Hellenic Police Headquarters confirmed that Türkiye has indefinitely suspended returns from Greece since 16 March 2020. Due to this suspension, the Greek authorities stopped sending readmission requests to Türkiye based on the Common EU- Türkiye Statement for rejected asylum seekers.<sup>406</sup> Despite this suspension, the Greek authorities refused to examine applications for international protection on their merits, as required by Article 91(5) of Asylum Code.

As a consequence, applicants whose applications have been/are rejected as inadmissible based on the “safe third country” concept end up in a state of legal uncertainty in Greece, exposed to a direct risk of destitution and detention, without access to an in-merit examination of their application and without the means to lodge a subsequent asylum application. As already explained in the section on [Admissibility](#), this has been criticised by the European Commission.

Generally, in 2021, a large number of asylum seekers with specific profiles (i.e. asylum seekers from Palestine, Eritrea and Yemen) had been granted refugee status on the basis of their administrative file, without undergoing an asylum interview, although this was not a consistent practice of the Asylum Service throughout the year or even between different Regional Asylum Offices applying the border procedure. This practice changed during 2022 and asylum seekers with specific profiles, where before their asylum application would have been examined on the basis of their administrative file, had to undergo asylum interviews. In **Lesvos**, at least since April 2022, Eritrean nationals had to undergo asylum interviews, while before their asylum application had been examined on the basis of their administrative file.<sup>407</sup> In **Lesvos, Chios and Kos**, all asylum seekers from Palestine had to undergo an asylum interview, while in Kos all Palestinians coming from Syria are being examined on admissibility and the safe third country basis.<sup>408</sup>

Applications by asylum seekers from countries listed in the national list of countries of origin characterised as safe, according to Article 92 paragraph 5 of Asylum Code, have been examined on their merits only to the extent of their claims against the application of the safe country of origin assumption.

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 EUAA’s undisclosed internal guidelines, which frame the hotspot asylum procedures in order to implement the EU-Türkiye statement.”<sup>409</sup>

### **Exempted categories from the fast-track border procedure under the Asylum Code**

As opposed to previous legislation, the Asylum Code repeals the exception of persons belonging to vulnerable groups and applicants falling under the Dublin Regulation from the fast-track border procedure

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<sup>405</sup> Reply of the Ministry to the Greek Parliament.

<sup>406</sup> Fenix, Fenix calls the Greek authorities to examine the merits of asylum applications rejected on admissibility, 1 February 2022, available at: <https://bit.ly/3wUxsyN>.

<sup>407</sup> Information acquired during the Lesvos LAsWG meeting, 3 May 2022.

<sup>408</sup> Information acquired during the GCR’s mission to Chios and visit to Chios RAO, 24-26 May 2022, from the GCR lawyer operating in Kos and legal actors operating on the field in Lesvos

<sup>409</sup> Greens/EFA, *The EU-Türkiye Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, available at: <https://bit.ly/2sJM2H4>, 17.

(see [Identification](#) and [Special Procedural Guarantees](#)). In any case, in 2022 only seven cases were exempted from the border procedures on grounds of vulnerability and need for special procedural guarantees.<sup>410</sup>

In **Lesvos**, legal aid actors observed that, since June 2022, RAO has automatically applied non-border procedures for applicants where the first instance decision has not been notified to them within 28 days from registration, without however issuing any decision for a referral to the normal procedure (as it is not foreseen in the law, according to RAO).<sup>411</sup> In these cases, the deadline for the appeal is automatically extended as follows: for admissibility, the 10 days turn automatically to 20 days and for eligibility they turn from 10 to 30 days. This practice is based on article 95 paragraph 2 of law 4939/2022, however the JMD regulating this procedure has not been issued for 2022.

In **Kos** this practice was first noticed at the beginning of 2023, however, during 2022, all asylum applications were examined under the border procedure regardless of whether a first instance decision had been issued and served to the asylum seekers within 28 days of the registration of the asylum application.

Furthermore, the total number of unaccompanied minors examined under border procedures in 2022 is not available. In particular, as far as unaccompanied minors are concerned, Article 80 (7) Asylum Code provides that applications filed 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 95 (4) Asylum Code provides that unaccompanied minors are examined under the fast-track border procedure in the case that:

- ❖ the minor comes for a country designated as a safe country of origin in accordance with the national list (according to article 92 (5) Asylum Code);
- ❖ 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 their identification documents or travel document, under the conditions that they or their guardian will be given the opportunity to provide sufficient grounds on this.

## 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 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

According to Article 69 (1) of the Asylum Code, asylum applicants are already required at the stage of registration of their asylum application before RAOs, to give exhaustive reasons for fleeing their country of origin. If they fail to mention all reasons during the registration, they have no right to develop claims which are only for the first time mentioned during their asylum interview. However, in practice the registration of the asylum application in the islands is by no means exhaustive and it mostly includes some very basic information.

<sup>410</sup> Reply of the Ministry to the Greek Parliament.

<sup>411</sup> Information acquired during the Lesvos LASWG meeting, 25 October 2022.

Moreover, it should be underlined that in all of the islands the full registration of asylum applications is processed by the Reception Service (RIS). More specifically the RISs in Kos and Samos first introduced this practice at the end of 2021, and later, in 2022, the rest followed. It has been observed that ever since the registration of asylum applications was removed from the Asylum Service and was undertaken by the RIS, the registration form very often only includes very limited information. Nevertheless, in practice, asylum seekers have the opportunity during their interviews to present their claims, even if no mention of said claims has been included in their registration form.

In any case, persons newly arrived on the islands had the full registration of their asylum application immediately after the end of the quarantine/first reception (waiting) area, where they could not have access to legal consultation (see the [Reception and Identification Procedure](#)). Subsequently, in most cases, their interviews were scheduled within 1-3 days after the registration, preventing them from having enough time to access legal aid and prepare for their asylum interview.

In **Lesvos**, the issue of unavailability of interpreters in Somali remained, as the majority of organisations either did not have Somali interpretation or had very limited capacity. The lack of Somali interpretation combined with the fact that very often all newly arrived were scheduled for their interview on the same day, leaving them almost no time for preparation before the interview, hindered their access to legal aid even further.

Moreover, the **Lesvos** UNHCR Field Office observed that interviews for asylum applicants with rare mother languages (i.e. Amharic or Tigrinya) were postponed depending on the availability of the interpreters.<sup>412</sup> When there were no available interpreters in the Krio language, applicants from Sierra Leone had the full registration of their asylum applications made in English; in most cases, people had only basic English knowledge.<sup>413</sup> In **Kos**, the same practice was observed and the newly arrived asylum applicants who spoke rare languages were receiving invitations for the conduct of their asylum interview within one day of their asylum application registration or within three days in case they had been assessed as vulnerable, however, their interviews were postponed due to the lack of proper interpretation.<sup>414</sup>

According to Article 82(4) of Asylum Code, 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 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 95(3)(c) of the Asylum Code.

However, in practice in most cases the interviews of the newcomers are being scheduled and conducted before examination by the competent Medical and Psychosocial Units, thus they undergo the interview procedure without prior evaluation of their potential vulnerabilities. Most of the time, the authorities proceed with a typical medical screening and record only manifest vulnerabilities. In any case, there is no information exchange mechanism between the RIS' Vulnerability Focal Point (VFP) and RAO, and no relevant joint process to ensure that interviews are scheduled after the vulnerability assessment is completed. Even when RAO caseworkers refer the case to RIC's Medical and Psychosocial Unit for a further vulnerability assessment, they do so after the interview has been completed. No postponements have been granted for interviews despite the applicants' and their legal representatives' relative requests that vulnerability assessments have not been completed. Accordingly, no reasonable time for their preparation can be granted on the basis of their vulnerabilities, since they have not been identified as such.

According to Article 74(3) Asylum Code, it is expressly foreseen that communication with asylum applicants (including interviews) may be conducted in the official language of their country of origin, or in

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<sup>412</sup> Information acquired during the Lesvos LAsWG meeting, 17 May 2022.

<sup>413</sup> Ibid.

<sup>414</sup> Information provided by the GCR lawyer based in Kos.



another language that it is reasonably considered that the asylum applicant comprehends, if 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 a violation of their obligation to cooperate with the authorities and lead to the rejection of their application.

According to Article 95(3)(b) Asylum Code, the personal interview may be conducted by Asylum Service staff or EUAA personnel or, “in particularly urgent circumstances”, by trained personnel of the Hellenic Police or the Armed Forces.<sup>415</sup> With regard to the possibility of personnel of Hellenic Police or Armed Forces conducting 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>416</sup> This has not been applied in practice so far. Yet, it has been applied as regards the full registration of the asylum applications.

As regards EASO, now the EUAA, 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-Türkiye 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 (face-to-face and remote) in different asylum procedures, drafting opinions and recommending decisions to the Asylum Service throughout 2017, 2018, 2019, 2020 and 2021.<sup>417</sup> A similar role is foreseen in the Operational & Technical Assistance Plan to Greece 2022-2024, including in the Regular procedure.<sup>418</sup>

In practice, in cases where the interview is conducted by an EUAA Greek language 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 are written in Greek, while in 2020, they could be written either in Greek or in English, which is not the official language of the country.<sup>419</sup> The issuance of an opinion / recommendation by EASO/EUAA personnel to the Asylum Service is not foreseen by any provision in national law and thus lacks a legal basis.<sup>420</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/EUAA.<sup>421</sup>

In 2022, the number of interviews carried out by EUAA caseworkers in Greece further decreased to interviews in the asylum cases of 16,639 applicants. Of these, 85% related to the top 10 citizenships of applicants interviewed by the EUAA, in particular Afghanistan (3,799), Bangladesh (1,957), Somalia (1,804), Palestine (1,403), Syria (1,396) and Democratic Republic of Congo (1,158).<sup>422</sup> The number of concluding remarks issued by EUAA decreased to 5,071 in 2022, almost half of those issued in 2021

<sup>415</sup> Article 95(3)(b) Asylum Code.

<sup>416</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>417</sup> EASO, *Special Operating Plan to Greece 2017*, December 2016, available at: <http://bit.ly/2h1M2dF>, 9; EASO, *Operating Plan to Greece 2018*, December 2017, available at: <http://bit.ly/2BO6EAo>, 13-14, EASO, *Operating Plan to Greece 2019*, 19 December 2018, available at: <https://bit.ly/2W6vJB2>, 14-15, EASO, *Operational & Technical Assistance Plan to Greece*, 20 December 2019, available at: <https://bit.ly/2VUAj6P>, 14.

<sup>418</sup> EASO, *Operating Plan to Greece 2022-2024*, 9 December 2021, available at: <https://bit.ly/3uIsWCt>, 20-21.

<sup>419</sup> Previously, the transcript of the interview and the opinion/recommendation had been written either in Greek or in English, which was not the official language of the country. This issue, among others, had been 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>420</sup> Article 60(4)(b) L 4375/2016 and 90(3)(b) only refer to the conduct of interviews by EASO staff.

<sup>421</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>422</sup> Information provided by the EUAA, 28 February 2023.



(9,230). This is due to the fact that, following the new Joint Ministerial Decision designating Türkiye as a safe third country for applicants from five of the most common countries of origin in Greece, the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases, that is those examined on admissibility.<sup>423</sup>

Particularly, the RAOs had no consistent practice regarding the examination of allegations of pushbacks during the asylum interview and it is unknown if the Asylum Service collects these transcripts. The caseworkers had discretion as to whether to devote time during the interview and ask further questions regarding the reported “pushback” incident by the asylum applicant.

Moreover, it remains unclear whether the newly appointed EUAA Fundamental Rights Officer (FRO) has any intention to develop a system to collect asylum applicants’ testimonies on alleged pushbacks. Additionally, it remains unclear how the EUAA case workers manage any information on criminal acts and violation of EU and international law in EU external borders that come into their possession in the exercise of their duties and if the EUAA FRO will be willing to create a relevant reporting mechanism/ procedure.

In an unknown number of cases, following internal SOPs of the Asylum Service, interviews on admissibility and on their merits have been conducted on the same day (the one after the other) by RAOs on the islands, when admissibility criteria were “obvious” (e.g. when a period of more than one year had elapsed since their transit via the third country). Additionally, certain interviews were even conducted by case workers of RAOs of other islands. In a number of cases, decisions have been issued by different RAOs and/or AAUs from those where the interviews have been conducted, operating supportively to the latter.

In **Lesvos**, the applicants continued to receive an invitation for their interview, according to which they needed to present themselves before the RAO at the day of their interview either at 6:30 or at 7:30 in the morning, without any information regarding the actual time that their interview was scheduled. In practice, this meant that there were many applicants that appeared before the RAO’s gate at 6:30 only to start their interviews at 12:00 or even at a later time.

### Quality of interviews

The quality of interviews conducted by EUAA and RAO caseworkers has been highly criticised. *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 continue to be reported.<sup>424</sup>

In 2022, legal aid actors continued to observe issues concerning the quality of the interviews as well as the procedural fairness of how they are conducted. Specifically, concerns were raised about the use of inappropriate communication methods and unsuitable questions related to past experience of harm and/or persecution which included 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 a) the applicants’ age, in cases of alleged minors, and more generally, violations of the right to a child-friendly environment and procedure, b) gender based violence (GBV) survivors, and c) LGBTQI+ persons. In general, no individualised assessment of the specific profile and circumstances of the asylum applicant or gender-sensitive assessment was taking place.

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<sup>423</sup> Information provided by the EUAA, 28 February 2023.

<sup>424</sup> See AIDA, Country Report Greece, 2021 Update, p. 100, <https://bit.ly/3IAjhVm>

Moreover, in 2022 a significant number of asylum applicants continued to report that, during their interview, they were not granted sufficient time and, as a result, their asylum claims were not examined thoroughly. An additional issue relates to the fact that the caseworkers do not follow a standard procedure on the examination of allegations regarding previous pushbacks that are being mentioned during the asylum interview. According to lawyers, in certain cases the caseworkers disregard allegations, claiming that they are not relevant to the interview, while other caseworkers proceed to further investigate the incidents by asking focused questions.

In 2022 the issue of the use of outdated sources in a number of decisions for cases especially concerning the examination of the safe third country concept vis-a-vis Türkiye still remains. Additionally, in a number of cases, an absence of country-of-origin information with regard to the examination of the merits of the applications was noted (such as absence of sources regarding gender-based violence, honour crimes and persecution of rare ethnic origin groups in the country of origin).

### 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 accelerated procedure?

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes ☐ No

☐ Judicial

☒ Administrative

☐ Yes ☒ Some grounds ☐ No

In 2022, a total of 1,880 appeals were lodged on the islands against first instance decisions by the Asylum Service.

#### Changes in the Appeals Committees

As noted in the [Regular procedure](#), according to Article 116 IPA (that remains in force after the publication of the Asylum Code),<sup>425</sup> the Appeals Committees shall consist of three judges and the Independent Appeal Committees may operate in a single or three-member composition.

#### Rules and time limits for appeal

Similar to the first instance fast-track border procedure, truncated time limits are also foreseen in the appeal stage. In particular, the deadline for appealing a negative decision is 10 days, instead of the 30 days deadline foreseen in the regular procedure.<sup>426</sup> The Appeals Committee examining the appeal must make a decision within 7 days,<sup>427</sup> contrary to 30 days in the regular procedure.<sup>428</sup> In practice, this very short deadline is difficult for the Appeals Committees to meet, while it raises serious concerns over the quality of the decisions issued.

As a rule, the procedure before the Appeals Committees must be written, based on the examination of the dossier, except from cases, provided by the article 102(3) Asylum Code, where the Appeals Committee decides to call for an oral hearing.<sup>429</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–. Specifically, Article 98 of the Asylum Code 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 to the applicants in Greek, so it is

<sup>425</sup> Article 148 Asylum Code.

<sup>426</sup> Article 95(3)(c) Asylum Code.

<sup>427</sup> Article 95(3)(c) Asylum Code.

<sup>428</sup> Article 106(1)(a) Asylum Code.

<sup>429</sup> Article 102(3) Asylum Code.

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 Greek.

The provisions of the Asylum Code 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>430</sup>

In **Lesvos** and **Kos**, since the second quarter of 2022, an order for voluntary departure from the country (usually with a seven-day deadline) was incorporated in the first instance negative decisions issued by the RAO.<sup>431</sup> In **Chios**, since March 2022, the same practice has been applied in first instance negative decisions issued by the RAO.<sup>432</sup>

In **Kos** and **Chios**, many asylum seekers reportedly departed from the islands after being informed about the voluntary departure order. Concerns were raised by legal aid organisations regarding the provision (or not) of sufficient information by the RAOs to asylum seekers, specifically regarding the asylum seekers' understanding of the departure order and their right to appeal the negative decision. Concerns were also raised with regards to whether the asylum seekers that had departed from the islands would practically have access to the mainland's RAOs in order to submit their appeal.

Following the amendment of Article 83(3) Asylum Code, 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 the appellant cannot be represented by a lawyer or another authorised person/ consultant, a certification shall be submitted before the Appeal Authority. More specifically, for the appellants who reside in a Reception/Accommodation facility a residence written certification 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 certification confirms that the appellant resided in the facility on the day that the application for the certificate was filed. Appellants, against whom a geographical restriction is imposed must submit a written certification issued by the Police or a Citizens' Service Centre (*ΚΕΠ*) located at the area of the geographical restriction by the day before the examination of their appeal, confirming that they presented themselves before said authorities. The application for such a certificate must not be filed longer than two days before the date of the appeal's examination. In case the appellant does not submit the aforementioned certification, it is presumed that they have implicitly revoked their appeal according to Article 86 of Asylum Code.

Moreover, in the case of force majeure, such as serious illness, serious physical disability or the case of an insurmountable impediment that made the in-person appearance of the appellant impossible, the obligation for the in-person appearance is suspended throughout the duration of the force majeure. In these cases, the appellant needs to submit a relevant application, and invoke in a particular manner the incidents that constitute force majeure or insurmountable impediment that made their appearance in-person impossible; the allegation needs to be proved with written documents and relevant certifications or certificates from a public service. In case the reasons constituting force majeure or insurmountable impediment are proven and under the condition of the in- person appearance of the appellant before the competent authorities, the consequences of the non-appearance are lifted.

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 residence certificates before the Appeals Authority was not accurate. Indeed, the written information provided within the 'Document – Proof of Submission of the Appeal' explicitly stated that appellants are obliged to submit

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<sup>430</sup> Article 87 and 108 Asylum Code.

<sup>431</sup> Information acquired during the Lesvos LASWG meeting, 28 June 2022 and from the GCR lawyer based in Kos.

<sup>432</sup> Information acquired during GCR mission to Chios and visits to the Chios RAO and Police Station, 24-26 May 2022.

a residence certificate before the Appeals Authority up to the day before the examination of their appeal. No mention was made of the obligation to apply for the certificate no earlier than three 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 the Appeals Committee (with no examination either of the admissibility or the merits of the asylum applications) on the grounds of the submission of an out-of-date residence certificate by the Head of the RIC. GCR has introduced cases such as these before the Greek administrative courts, which are still pending examination.

More specifically, in **Lesvos**, there have been cases where the applicants reported to their lawyers that they had not been properly informed about their obligations, namely their obligation to submit the residence certificate to the Appeals Authority, once they had received it from the RIS.<sup>433</sup> Legal actors also observed that the practice regarding the submission of residence certificates was not consistent, as there were cases where the RIS staff did not deliver the attestation to the applicants, stating that they would be sent directly to the RAO instead, in order to be included in the applicants' files.<sup>434</sup> Additionally, there were cases where the Appeals Authority rejected appeals due to lack of residence certificates, and at least one such case was rejected although a residence certificate had been included in the applicant's administrative file on time.<sup>435</sup>

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 a violation of the principle of non-refoulement are also applicable to appeals in the context of fast-track border procedures.

### **Suspensive effect**

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 Asylum Code 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 should be granted with the right to remain in the Greek territory.<sup>436</sup>

It should be noted that Article 110(3) Asylum Code has incorrectly transposed Art 46(7) of the recast Asylum Procedures Directive. Instead of cross-referring to Article 110(2) Asylum Code on the categories of appeals stripped of automatic suspensive effect, Article 110(3) Asylum Code provides that "the possibility to derogate from the right to remain" may be applied in border procedures subject to requirements including interpretation, legal assistance and at least one week. Accordingly, the law incorrectly suggests that the derogation from the right to remain on the territory may be imposed in any decision taken in a border procedure, insofar as the above guarantees are complied with in practice, the derogation from the right to remain has been generally applied to the fast-track border procedure on the Eastern Aegean islands, including in "safe third country" cases which should have suspensive appeals according to the law.<sup>437</sup> In any case, as it has been already mentioned, the Appeals Committees proceed to the examination of the suspension application the same day that the appeal is being examined.

### **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

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<sup>433</sup> Information acquired during the Lesvos LAsWG meeting, 28 September 2022.

<sup>434</sup> Ibid.

<sup>435</sup> Ibid.

<sup>436</sup> Article 110(3) Asylum Code.

<sup>437</sup> According to input provided by the RSA

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.

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. In the past and in particular up until March 2020, this would mean that they would be in imminent risk of readmission to Türkiye. However, since readmissions remain frozen for the last three years, the detention of the people with a second negative decision serves no purpose whatsoever and is considered a disproportionate measure.

In general, the Asylum Service registered subsequent asylum applications despite pending applications for annulment before the Administrative Court; both procedures can run in parallel.

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 new Asylum Code, as the relevant article 115 (2) IPA remains in force.<sup>438</sup> 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 to applications 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>439</sup> Furthermore, legal aid actors on the islands mention as a further impediment in the overall procedure, that most of the notaries operating on the islands deny to proceed with cases of rejected asylum seekers that wish to submit legal remedies against the second negative decision and have to appoint their legal representative via a notary. This is a serious obstacle in the submission of a legal remedy, especially in the cases of rejected applicants under geographical limitation that are restricted to leave the island of their arrival.

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.

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<sup>438</sup> Article 148(a) Asylum Code.

<sup>439</sup> *Mutandis mutandis* ECHR, Kaak v. Greece, Application No 34215/16, Judgement of 3 October 2019.

## 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?  
☐ 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 decision in practice?  
☐ Yes ☒ With difficulty ☐ No  
❖ Does free legal assistance cover  
☐ Representation in courts  
☒ Legal advice

The Asylum Code 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.

During the quarantine period, newly arrived asylum seekers were held in the quarantine area in isolation and without access to legal information or other information with regards to the reception, identification and asylum procedures. In general, only RIS personnel had access to the newly arrived individuals who were detained in quarantine; neither UNHCR personnel nor legal aid organisations had access to the newly arrived asylum seekers. According to information provided by the RIS, the RIS personnel provided general information to the quarantine detainees, however, this stood in contrast to the testimonies of individuals released from quarantine given to legal aid organisations, who reported that they did not receive any information regarding their rights and the asylum procedure during quarantine. Moreover, the reception and identification procedures were only carried out once the asylum seekers had been moved out of quarantine. No official registration of the asylum seekers was taking place during the quarantine period. This means that during the quarantine period, asylum seekers remained unregistered, without access to their rights and without any assessment of potential vulnerabilities.

In Kos, throughout 2022, containers within the Pre-Removal Detention Centre (PRDC) section of the new CCAC were used to quarantine newly arrived asylum seekers. During the quarantine period, individuals held in the containers could not communicate with anyone outside of the detention area and had no access to legal aid, as their phones were arbitrarily confiscated upon arrival.

In parallel, legal aid organisations' and lawyers' access to asylum applicants for provision of legal aid was hindered in multiple ways.

In May 2022, GCR was denied access to visit VIAL (Chios RIC). The RIS claimed that the number of residents had significantly decreased and there was no longer a need for legal information and assistance.

In parallel, legal assistance was further hindered by a new rule requiring all NGO personnel, including lawyers, to present a smart card with a photo, personal details as well as fingerprints, in order to access the centres. This led the Athens Bar Association to issue a legal opinion (under protocol number 185/1-12-2022), following requests from registered legal organisations, stating that according to the Lawyers' Code of Conduct (L.4194/2013), lawyers can freely enter Ministries and all public facilities (See section on [Regular Procedure: Legal Assistance](#)).



In January 2023, lawyers working for a registered legal aid NGO operating in Samos CCAC, reported that the CCAC administration had informed them that they would no longer have access to the CCAC unless they had been issued a smart card.

As of 16 February 2021, and according to the final lists of the Ministry of Migration and Asylum concerning the Registry of the lawyers providing legal assistance to asylum seekers at the second instance, 24 lawyers were appointed on the islands. These lawyers have been appointed to provide free legal aid under the state funded legal aid scheme at second instance as follows: 12 lawyers on **Lesvos**, 2 lawyers on **Samos**, 4 lawyers on **Chios**, 2 lawyers on **Kos**, 2 lawyers on **Rhodes**, and 2 lawyers on **Leros**.<sup>440</sup> In reality, however, there were never that many lawyers operational, due to administrative obstacles and issues.

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. This is something that continued throughout 2021 and 2022. As a result, appeals have only taken into consideration the material already included in the file and the appellants had no way to communicate to their appointed lawyer any new elements related to their case and/or new significant documents. Moreover, some asylum applicants reported communication issues with their state-registered lawyers and the short duration of their preparation meetings.

More specifically, in **Lesvos**, legal aid organisations observed recurring problems regarding the representation of asylum applicants by the Registry lawyers. In particular, there have been complaints about a) the preparatory meetings between the asylum seekers and the lawyers not taking place, b) issues with the interpretation, which was available to the Registry lawyers for a maximum of 2 hours, and c) gaps in legislation concerning the second instance procedure further to the submission and the examination of the appeal; namely, there were no provisions as regards to the provision of legal aid services in the additional hearings before the Appeals Committee, for additional consultations with the clients when needed, for efficient means of communication between the asylum applicants and the Registry lawyers representing them.<sup>441</sup>

In 2022, free legal assistance by the Registry of Lawyers was requested in 1,122 cases in the Eastern Aegean islands’ RAOs.<sup>442</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.

## 6. Accelerated procedure

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

The Asylum Code 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>443</sup> The wording of the law continues to be misleading, however, given that the accelerated procedure entails exceptions from automatic suspensive effect and thereby applicants’ right to remain on the territory. According to Art. 88(4) Asylum Code the examination of an application under the accelerated procedure must be concluded within 20 days, subject to the possibility of a 10-day exception.

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<sup>440</sup> MoMA, Decision No 1836/21, 16 February 2021.

<sup>441</sup> Information acquired during the Lesvos LAsWG meeting, 28 June 2022.

<sup>442</sup> Reply of the Ministry to the Greek Parliament.

<sup>443</sup> Art. 88 (2) Asylum Code.

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>444</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; or
- (k) the applicant refuses to comply with the obligation to have his or her fingerprints taken according to the legislation

## 6.2. Personal interview

### Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

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

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

<sup>444</sup> Art. 88(9) Asylum Code.

### 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?

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes ☐ No

☐ Judicial ☒ Administrative

☒ Yes ☐ Some grounds ☐ 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>445</sup> as opposed to 30 days under the regular procedure. The Appeals Committee must reach a decision on the appeal within 20 days of the examination.<sup>446</sup>

Appeals in the accelerated procedure in principle do not have automatic suspensive effect.<sup>447</sup> The Appeals Committee decides on appeals in the accelerated procedure and appeals against manifestly unfounded applications in single-judge format.<sup>448</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 decision in practice?

☐ Yes

☒ With difficulty

☐ No

❖ Does free legal assistance cover

☐ Representation in courts

☒ Legal advice

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: Special Procedural Guarantees

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 “Asylum Code”, i.e. Law 4939/2022 ‘ratifying the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons’<sup>449</sup> in force since 10 June 2022 repealed the IPA (International Protection Act, i.e. Law 4636/2019)<sup>450</sup> without making any amendments to the definition of vulnerable groups and persons in need of special procedural guarantees.

<sup>445</sup> Article 97(1)(b) Asylum Code.

<sup>446</sup> Article 106(1)(b) Asylum Code.

<sup>447</sup> Article 110(2)(e) Asylum Code, citing Article 88 (9) & (10) Asylum Code.

<sup>448</sup> Article 116(7) IPA that remains in force according to Article 148(a) Asylum Code.

<sup>449</sup> ASYLUM CODE, Gov. Gazette A’ 111/10.06.2022

<sup>450</sup> L 4636/2019, Gov. Gazette A’ 169/01.11.2019

According to Article 1-λγ of the Asylum Code 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.'

According to Article 62(2) of the Asylum Code 'The assessment of vulnerability shall take place during the identification process, the registration process and the medical screening of the Art. 41 without prejudice to the assessment of international protection needs'. According to Article 62(4) of the Asylum Code 'Only the persons belonging to vulnerable groups are considered to have special reception needs and thus benefit from the special reception conditions'. Article 62(3) of the Asylum Code 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 77(3) of the Asylum Code:

'[...]Upon the completion of the medical and psychosocial assessment, the (Medical Screening and Psychosocial Support) Unit of the RIC [...] shall inform the Head of the competent RAO. The above-mentioned assessment 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 72 of the Asylum Code 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 2022 was not provided. The number and type of decisions taken at first instance on cases of vulnerable applicants in 2022 was not provided. The number of first instance decisions granting refugee status or subsidiary protection to vulnerable applicants in 2022 was not provided.<sup>451</sup>

In Greece in 2022, through vulnerability assessments for residents in the reception facilities in the context of support to first and second-line reception, EUAA staff identified 4,805 persons as presenting vulnerability indicators.<sup>452</sup>

## **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 the Asylum Code which repealed the 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 41(d) of the Asylum Code, 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 Centre, shall refer persons belonging to vulnerable groups to the competent public

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<sup>451</sup> Ibid.

<sup>452</sup> Information provided by the EUAA, 28 February 2023.

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 80 (3) of the Asylum Code,

‘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 has been the National Public Health Organisation (EODY), which was established by 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 2022 was not provided.

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 in 2022 was not provided.

The low quality of the process of medical and psychosocial screening (if any) has remained a source of serious concern. Vulnerabilities are often missed, with individuals going through the asylum procedure without having their vulnerability assessment completed first. As RSA and other civil society organisations have recently reported “Severe delays persist when it comes to conducting vulnerability assessments even after the reception and identification procedure formally ends: The time delay ranges from ten days to longer than three months in some cases. Yet, the Asylum Service and EUAA continue to process asylum claims before individuals have undergone a vulnerability assessment, and routinely disregard or deny special procedural guarantees afforded by EU law, even where they are specifically requested by the applicants in writing and/or orally prior to the interview. They instead insist on completing the interview under the border procedure. The medical cards issued to people undergoing reception and identification procedure do not clearly indicate whether and when a vulnerability assessment was conducted”<sup>453</sup> At the same report, it is also mentioned that “On the one hand, the RIS consistently issues referrals of the individuals concerned to the competent authorities (i.e. the Asylum Service and Hellenic Police) stating that the reception and identification procedure has been completed without a finding of vulnerability. On the other hand, the exact date of the medical check and vulnerability assessment is not marked in the case file of the person. The Foreigner’s Medical Card (*Κάρτα Υγείας Αλλοδαπού*) issued on the day the reception and identification procedure takes place automatically carries that same date. The card may be amended following an assessment, in which case a re-issuance date is indicated. However, this is not necessarily the date on which the vulnerability assessment takes place. This means that asylum seekers are referred to the Asylum Service with a Medical Card which in most cases precedes the actual medical check and vulnerability assessment.”<sup>454</sup>

Based on GCR’s information from the field, a lack or complete absence of psychosocial assessment, difficulties in carrying out referrals from RIS to public hospitals, the low quality of the medical screening and psycho-social support, the classification of vulnerability and non-vulnerability and the lack of information on the outcome of the procedure,<sup>455</sup> were the main problems concerning the vulnerability assessment in the context of Reception and Identification procedures during 2022. As mentioned in the

<sup>453</sup> Equal Rights Beyond Borders, HIAS Greece & RSA, The state of the border procedure on the greek islands, September 2022, available at: <https://bit.ly/40VTZrM>, 4.

<sup>454</sup> Equal Rights Beyond borders and others, see above, p. 15.

<sup>455</sup> For a detailed description of the issues that exacerbate the procedure of the vulnerability assessment see AIDA report on Greece 2021.

[Regular procedure](#) and [Fast-track border procedure](#), many asylum seekers continue to be forced into the personal interview before the Asylum Service without prior assessment of their vulnerability, including pregnant women.

The number of healthcare professionals involved in the provision of medical and psychosocial services at different Reception and Identification Centres in the border regions in 2022 is not available.

**Lesvos:** According to GCR's observations, on Lesvos the quarantine period imposed upon arrival could last 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. UNHCR Units had no access to the quarantine area where all new arrivals were being placed for as long as the quarantine lasted, thus depriving newcomers of the possibility to undergo a vulnerability assessment and access basic information regarding their rights, the procedures and their general status. Even after the completion of the quarantine period, only evident vulnerabilities were identified given the low quality of the medical screening. Psychosocial support was conducted mostly after the first instance interview. Due to these shortcomings, a considerable number of newcomers and asylum seekers were not properly assessed regarding potential vulnerabilities. RAO continued scheduling interviews before the completion of the vulnerability assessment, while there was no information exchange between RIS and RAO to ensure interviews were scheduled after the assessment had been completed. Indicatively, an applicant suffering from active tuberculosis at the time of her interview before RAO had not been identified by RIS during the medical screening and in any case the RAO's caseworker was not aware of her health condition. Also, any reassessment of vulnerabilities only took place for active asylum cases - subsequent applications that had not yet received a positive decision on admissibility were not considered as such.

In most cases a vulnerability assessment was conducted only after the examination of the asylum claim and the results of the vulnerability assessment were often not communicated to the Asylum Service prior to the examination of the asylum claim. Shortcomings related to understaffing were also reported in the RIS of Kos, as there was no EODY doctor in 2022 and vulnerability assessments were signed in mass when a visitor doctor from EODY arrived at the RIS. Only obvious vulnerabilities were identified (e.g. pregnant women, elderly people); while victims of GBV or Female Genital Mutilation victims were often identified as vulnerable by RIS only after a first instance negative decision on their asylum application.

### **The lifting of the geographical restriction (see also [Error! Reference source not found.](#))**

Under the IPA and the Asylum Code, 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 Lesvos, Chios, Samos, Kos, Leros, and Rhodes during 2022, a restriction of movement within each island ('geographical restriction') was imposed as per the Ministerial Decision 1140/2.12.2019 (GG B' 4736/20.12.2019) in force since 1 January 2020.<sup>456</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 it 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>457</sup> be lifted by a decision of the Manager of the RIC for vulnerable

<sup>456</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-Türkiye statement.

<sup>457</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



persons or persons in need of special reception conditions if appropriate support may not be provided within the area of restriction,<sup>458</sup> without sufficiently describing what such appropriate support entails.<sup>459</sup>

The number of decisions to lift geographical restrictions per RIC and per category of vulnerability (or other cases) in 2022 is not available.

### **Vulnerability identification in the asylum procedure**

According to Article 77 (3) of the Asylum Code:

‘During the Reception and Identification procedure or the border procedure of art. 95 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 41 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 80 (3) of the Asylum Code ‘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.’

Article 72(1) of the Asylum Code 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 72(3) of the Asylum Code ‘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 62 (5) of the Asylum Code ‘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 Articles 76 and 79 L. 4781/2021’.

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 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.

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concerned member state; and c. persons whose applications for international protection are reasonably considered to be founded.

<sup>458</sup> See Article 67 (2) L. 4636/2019 and Article 2 (d) of the Ministerial Decision 1140/2.12.2019.

<sup>459</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.’

As mentioned above, due to significant gaps in the provision of reception and identification procedures in 2022, 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.

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. However, according to GCR's observations, the referral for further medical/psychosocial screening by the caseworker after the first instance interview before the competent RAO is not common practice.

Also, according to GCR's knowledge, 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 far as GCR is aware, Article 72(3) of the Asylum Code (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 lifting of the geographical restriction during 2022. It was also noted that after the lifting of geographical restriction for reasons not related to vulnerability, Article 72(3) of the Asylum Code was applied in several cases by the Asylum Service and the case was referred to the regular procedure without the person being identified as vulnerable. If the interview of first instance had already been conducted before the decision to lift the geographical restriction and the referral to the regular procedure due to vulnerability, it was not conducted again in accordance with the guarantees provided by Article 72(2) of the Asylum Code.

Data for applications exempted from the fast-track border procedure and referred to the regular procedure on grounds of vulnerability was not provided.

Throughout 2022 the various RAOs in the different islands followed different practices as regards the conduct of asylum interviews (see the [Regular procedure](#) and [Fast-track border procedure](#)).

### 1.1.2 Vulnerability identification in the mainland

On 22 November 2021, the Greek authorities issued a circular establishing that asylum seekers (except for unaccompanied minors) who have not been through the reception and identification process can submit their asylum applications only in the Reception and Identification Centres (RIC) on the Aegean island hotspots of **Samos, Chios, Lesbos, Leros** and in the **Evros** region. Following strong opposition in the parliament however, the government backed up and clarified that applicants will not be transferred from the mainland to the islands, without however providing further information on the competent authorities for the registration of said applications. According to the authorities, the island centres will exclusively process the cases of people arriving by sea. Furthermore, Skype is no longer used as a channel to access to the asylum procedure for new applicants.<sup>460</sup> Consequently, vulnerable persons in the mainland (with the exception of unaccompanied minors) who have not been subjected to the reception and identification procedures were not able to have access to the asylum procedure via Skype. Moreover, even if a lawyer intervenes and requests the registration of the asylum application of a vulnerable person in the mainland, a medical document of vulnerability issued from a public entity is most of the times needed according to the competent Regional Asylum Offices.

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<sup>460</sup> Εφsyn, 'Μόνο σε νησιά και Έβρο τα νέα αιτήματα ασύλου', 24 November 2021, available at: <https://bit.ly/3HqcnOM>.

On 13 July 2022, the new Asylum Service registration platform was launched and since that date any appointment for lodging an asylum application in the mainland, even for vulnerable asylum seekers, needs to be booked through the platform. According to the Ministry's announcement<sup>461</sup>, the registration of applicants staying in Southern Greece was to take place in the facility of Malakasa while the registration of applicants staying in Northern Greece would take place in the facility of Diavata. Appointments were available from 1 September 2022. However, in practice, appointments were available several months later, depending on the language of the applicant.

According to the law, when indications or claims of past persecution or serious harm arise, the Asylum Service should refer the applicant for a medical and/or psychosocial examination, which should be conducted free of charge and by qualified, specialised personnel. Otherwise, the applicant must be informed that they are eligible to such examinations at their own initiative and expense.<sup>462</sup> However, Article 77(2) of the Asylum Code 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 relatively 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' funding is often interrupted. In **Athens**, torture survivors may be referred for identification purposes to Metadrasi in the context of the programme "VicTorious: Identification and Certification of Victims of Torture". However, those referrals take place mostly by other NGOs.

Also, according to Article 62(5) of the Asylum Code "In case the competent Authorities identify victims of human trafficking, they are obliged to inform the National Referral Mechanism (NRM) for the identification and referral of victims of Human Trafficking as soon as possible <sup>463</sup> in accordance with Articles 76 and 79 L. 4781/2021".

As far as GCR is aware, during 2022 the Asylum Service did not refer any case for further vulnerability assessment neither to EODY nor to any public entity.

## **1.2 Age assessment of unaccompanied children by the RIS and in the asylum procedure**

On 13 August 2020 the Joint Ministerial Decision 9889/2020<sup>464</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.

Article 41 (f) of the Asylum Code related to reception and identification procedures refers to the relevant legislation; i.e. 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>465</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 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

<sup>461</sup> MOMA, «Ξεκινά η λειτουργία της πλατφόρμας ηλεκτρονικής αίτησης για ραντεβού καταγραφής αιτούντων άσυλο», 2022, available at: <https://bit.ly/3S76tJ6>

<sup>462</sup> Article 77(3) Asylum Code

<sup>463</sup> Office Of The National Rapporteur On Trafficking In Human Beings, <https://bit.ly/3rVPLxB>.

<sup>464</sup> Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020.

<sup>465</sup> See Article 1(3) JMD 9889/2020.

carried out by EODY within the RIC, by any public health institution, or otherwise, by a private practitioner under a relevant programme.<sup>466</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>467</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>468</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>469</sup>

According to Article 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>470</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. The number of appeals submitted against age assessment decisions in 2022 is not available.

The findings of a report published by several civil society organisations at the beginning of 2020 are still valid for the year 2022:

'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 [...] 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 systematic 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

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<sup>466</sup> See Art 4 JMD 9889/2020.

<sup>467</sup> See Article 1(5)(a) JMD 9889/2020.

<sup>468</sup> See Art. 1(5)(b) JMD 9889/2020.

<sup>469</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>470</sup> See Art1(9) JMD 9889/2020.

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>471</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 assess 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>472</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.

According to GCR's findings, 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. During 2022 there was no pediatrician at the Public Hospital of Kos. Also, the authenticity of children's documents proving their age was controlled by FRONTEX which always concluded that the documents were forged.

On Chios, during the first semester of 2022, in case of minors lacking documents, both RIS and FRONTEX registered them as adults.

Concerning age assessment in the asylum procedure, the Asylum Code (Article 80(3)) includes procedural safeguards and refers explicitly to 'applicable regulatory procedures', i.e. to JMD 9889/2020. Also, '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 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;
- ❖ 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;
- ❖ Unaccompanied children or their guardians consent to carry out the procedure for the determination of the age of the children concerned;
- ❖ 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
- ❖ 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 80, unless during the interview it appears that the applicant who is registered as an adult is

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<sup>471</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>, 21.

<sup>472</sup> *Ibid*, 10-11.

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>473</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>474</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>475</sup> In this case, referral to the age assessment procedure largely lies at the discretion of the Asylum Service caseworker.<sup>476</sup>

The number of age assessments conducted within the framework of the asylum procedure in 2022 was not provided.

## 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:  
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.”

### 2.1 Adequate support during the interview

According to Article 72 (2) Asylum Code, where 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.

The Asylum Code provides examples of forms of adequate support that can be granted in the procedure.

<sup>473</sup> Article 84(4) of the Asylum Code

<sup>474</sup> Decision of the Director of the Asylum Service No 3153, Gov. Gazette B' 310/02.02.2018.

<sup>475</sup> Article 80(3) Asylum Code.

<sup>476</sup> For a detailed description of the problems related with the age assessment on Lesbos island, see Fenix, A Child's Best Interests? Rights Violations in the Absence of Presumption of Minority, 13 October 2022, available at : <https://bit.ly/3ACqg2t>



More specifically:<sup>477</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; and
- ❖ 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 'trained in particular as of the special needs of women, children, and victims of violence and torture.'<sup>478</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>479</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.

Inadequate interview conditions continued to be reported in the premises of RAO's and AAU's in 2022 according to GCR, i.e. registrations and interviews were conducted without consideration of potential vulnerabilities and relevant needs. Certain interviews and registrations took place simultaneously in different spaces within the same container, which does not grant proper sound insulation and is not in line with the principle of confidentiality.

The Appeals Committees further contribute to the non-implementation of special procedural guarantees through a strict interpretation of Article 72 Asylum Code. Several Committees have ruled that the onus is on the asylum seeker to establish exactly what evidence he or she would have been able to submit in his/her specific case if procedural guarantees had been provided during the procedure.<sup>480</sup>

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. The number of decisions granting refugee status or subsidiary protection to unaccompanied children and the number of in-merit rejection decisions issued throughout 2022 is not available.

## 2.2 Exemption from special procedures

The Asylum Code does not provide for the exemption of vulnerable persons from special procedures as a rule<sup>481</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 (see above).<sup>482</sup>

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<sup>477</sup> Article 67(2) IPA.

<sup>478</sup> Article 83(12)(a) Asylum Code.

<sup>479</sup> Article 83(5) Asylum Code, 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>480</sup> 6<sup>th</sup> Appeals Committee, Decision 30955/2020, 18 May 2021, para II.4; 12<sup>th</sup> Appeals Committee, Decision 233902/2021, 9 September 2021, 3.

<sup>481</sup> Article 41 (d) Asylum Code provides state that the determination of an applicant as vulnerable has the sole effect of triggering immediate care of particular reception, and Article 77 (3) Asylum Code adds 'the provision of special procedural guarantees'

<sup>482</sup> Article 72(3) Asylum Code. 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](#)).

Appeal Committees have continued to dismiss alleged infringements of Article 72(3) Asylum Code stemming from the failure of the Asylum Service to exempt the applicant from the fast-track border procedure, on the ground that the appellant has not demonstrated procedural damage (δικονομική βλάβη). The position of the Appeals Committees remains incompatible with the case law of administrative courts, according to which failure to refer such cases to the regular procedure unlawfully circumvents the special protection afforded by law to vulnerable groups.

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>483</sup> For those aged 15 or over who are not victims of trafficking, torture or violence, exemption from special procedures depends on the individual grounds applied by the authorities in each case:<sup>484</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	✗	First country of asylum	✓
False information or documents	✓	Safe third country	✗
Destruction or disposal of documents	✓	Subsequent application	✗
Clearly unconvincing application	✓	Application by dependant	✓
Subsequent application	✗	Claim unrelated to the protection	✓
Application to frustrate return proceedings	✓	Safe country of origin	✗
Application not as soon as possible	✓	False information or documents	✗
Refusal to be fingerprinted under Eurodac	✓	Destruction or disposal of documents	✗
Threat to public order or national security	✗	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	✗
		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>485</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-Türkiye statement and the increase of returns to Türkiye has already been reported since late 2016.<sup>486</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>487</sup>

<sup>483</sup> Article 75(7) IPA.

<sup>484</sup> Articles 83(10) and 90(4) IPA.

<sup>485</sup> Article 90(4)(d) IPA.

<sup>486</sup> European Commission, *Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Türkiye 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>487</sup> MSF, *A dramatic deterioration for asylum seekers on Lesbos*, July 2017, 3.

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>488</sup> Subsequently, both IPA and the Asylum Code have not included persons suffering from post-traumatic stress disorder (PTSD) in the list of vulnerable individuals.

## 2.3 Prioritisation

Both definitions of “vulnerable group” and “applicant in need of special procedural guarantees” were used by IPA before the amendment by L4686 in relation to other procedural guarantees such as the examination of applications by way of priority.<sup>489</sup> Although Article 39(5)(d) IPA provided that applications of persons belonging to vulnerable groups were examined “under absolute priority”<sup>490</sup>, this provision was abolished by L. 4686/2020.<sup>491</sup>

## 3. Use of medical reports

### Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? ☒ Yes ☐ In some cases ☐ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☒ Yes ☐ No

Upon condition that the applicant consents to it, the law provides for the possibility for the competent authorities to refer him or her for a medical and/or psychosocial diagnosis where there are signs or claims, which might indicate past persecution or serious harm. These examinations shall be free of charge and shall be conducted by specialised scientific personnel of the respective specialisation and their results shall be submitted to the competent authorities as soon as possible. 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>492</sup> The Asylum Code 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>493</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>494</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>495</sup> The provision has been maintained by the IPA<sup>496</sup> and the Asylum Code.<sup>497</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>488</sup> Article 20(1) L. 4540/2018.

<sup>489</sup> See also Articles 39(6)(c) and 83(7) IPA.

<sup>490</sup> Article 39(5)(d) L.4636/2019.

<sup>491</sup> Article 2(3) L. 4686/2020.

<sup>492</sup> Article 53 L 4375/2016.

<sup>493</sup> Article 77 Asylum Code

<sup>494</sup> Article 23 L 4540/2018.

<sup>495</sup> Immigration.gr, ‘Η πιστοποίηση θυμάτων βασανιστηρίων αποκλειστικό «προνόμιο» του κράτους;’, May 2018, available in Greek at: <https://bit.ly/2TVAMXv>

<sup>496</sup> Article 61(1) IPA.

<sup>497</sup> Article 67 Asylum Code

Such cases of best practice, where Asylum Service officers referred applicants for such reports, were not recorded by GCR in 2022. However, several cases have been reported to GCR where the Asylum Service or the Appeals Authority did not take into account the medical reports provided (see [Special Procedural Guarantees](#)).

As reported by several civil society organisations,<sup>498</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 are appropriately trained for such a certification and whether the victims are able to receive the necessary care for their rehabilitation.’

Reports published by MSF and METAdrasi in December 2021 confirm that no public hospital is able to carry out the procedure set out in Article 61(1) IPA (now Article 67 Asylum Code) in practice. Ten public hospitals across Greece confirmed to MSF in 2021 that they lack the capacity or expertise to provide certification or rehabilitation to victims of torture. Out of 89 public hospitals contacted by METAdrasi throughout the country in 2021, only seven replied in writing and none conducts the certification procedure set out in the law.<sup>499</sup>

During 2022, a subsequent asylum application lodged by a national of the Democratic Republic of Congo, a victim of torture in his country of origin and suffering from serious mental health disorders, was rejected as inadmissible by Western Greece’s RAO on the grounds that the medical certificates by the psychiatrist and psychologist from “ARSIS” as well as the “Certification of Torture Victims” issued by “MetAdrasi” that were submitted for the first time before the Authorities could not be considered as “new substantial elements” due to the fact that during his first asylum application, which was rejected, the applicant had already claimed to have been a victim of torture in his country of origin.<sup>500</sup> An appeal was submitted before the Appeals Authority and the decision is still pending.

#### 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 and the Special Secretariat for the Protection of Unaccompanied Minors.<sup>501</sup> According to IPA, before the amendment by L.4756/2020,<sup>502</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>503</sup>. However, since the entry into force of L.4756/2020, the responsible authority for the procedure of guardianship of unaccompanied children was 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 (EKKA) or other authorities.<sup>504</sup>

<sup>498</sup> RSA, p.16

<sup>499</sup> METAdrasi, *Θύματα βασανιστηρίων: Από την ανίχνευση στην προστασία: Ιστορικό, πρακτικές και συστάσεις για τη βελτίωση της προστασίας των θυμάτων βασανιστηρίων στην Ελλάδα*, 21 December 2021, available at: <https://bit.ly/3170BJQ>; MSF, ‘Οι Γιατροί Χωρίς Σύνορα ολοκληρώνουν τη δράση τους στην κλινική για επιζώντες βασανιστηρίων στην Αθήνα’, 21 December 2021, <https://bit.ly/3EBMrOC>.

<sup>500</sup> Decision on file with the author

<sup>501</sup> Article 64(1) of the Asylum Code as amended by article 4 L.4960/2022.

<sup>502</sup> L. 4756/2020, Gov. Gazette A’ 235/26-11-2020.

<sup>503</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>504</sup> Articles 13 and 14 L.4756/2020 amending respectively articles 32 and 60 IPA.

On 22 July 2022, L 4960/2022 on the National Guardianship System and Framework of Accommodation of UAMs<sup>505</sup> entered into force replacing former law L 4554/2018 on guardianship, which was never implemented in practice. New provisions on guardianship and accommodation were inserted in the third part of the Asylum Code regarding Reception (provisions on guardianship were incorporated in Chapter C / Part 3 in Articles 66A-66KΔ and provisions on accommodation in Chapter D / Part 3 in Articles 66KE–66ΛΔ). Under the new legislative provisions on guardianship, general competency was passed from the National Centre for Social Solidarity of the Ministry of Labour and Social Affairs to the Special Secretary for the Protection of Unaccompanied Minors (SSPUAM).

Under the new law, the provision of guardianship is relegated to a list of legal entities appointed by the Prosecutor (i.e., public entities, NGOs, international organisations) who collaborate with persons acting as guardians. The Prosecutor can also appoint a child's family member or friend to be responsible for their everyday care. However, Ministerial Decisions are yet to be issued for the full implementation of the new law. Currently, until the relevant Ministerial Decisions are issued, the former guardianship law is still in force regarding the Public Prosecutor acting as temporary guardian for unaccompanied children.

In May 2019, the European Committee on Social Rights of the Council of Europe adopted its Decision on Immediate Measures following a collective complaint lodged by ECRE and ICJ, with the support of GCR, and indicated to the Greek Authorities, *inter alia*, to immediately appoint effective guardians.<sup>506</sup> The Greek Authorities had still not complied with this Decision by the end of February 2022.

The fact that the public sector is severely untrained and understaffed hinders the situation even more. Assigning the additional task of guardianship to prosecutors has proved to be particularly disastrous over the years, especially given the number of prosecutors and their workload as prosecuting authorities.<sup>507</sup>

Several civil society organisations have mentioned that “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”.<sup>508</sup>

The total number of applications for international protection lodged by unaccompanied minors before the Asylum Service in 2022 is not available.

On 6 April 2021, the Ministry of Migration and Asylum and UNHCR, in collaboration with IOM and the NGOs Arsis, METAdrasi and the Network for Children's Rights, launched a mechanism to rapidly identify unaccompanied children who are homeless or live in insecure conditions and transfer them to safe accommodation. The mechanism includes a 24/7 telephone hotline for identifying and tracing children in need, available in six languages.<sup>509</sup> According to GCR's observations, the new mechanism is very responsive to requests addressed both by NGO's and by UAMs themselves.

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<sup>505</sup> L 4960/2022 *National Guardianship System and Framework of Accommodation of UAMs and other provisions under the jurisdiction of the MoMA*.

<sup>506</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>507</sup> Rosa Luxemburg Foundation, *Children Cast Adrift: Exclusion and exploitation of unaccompanied minors (UAMs) in Greece (2019)*, available at: <https://bit.ly/2y9sEd3>.

<sup>508</sup> RSA and other civil society organisations, as above, 24.

<sup>509</sup> MoMA, 6 April 2021, available at: <https://bit.ly/3JGUhJk>.

## E. Subsequent applications

### Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
2. Is a removal order suspended during the examination of a first subsequent application?
  - ❖ At first instance ☒ Yes ☐ No
  - ❖ At the appeal stage ☐ Yes ☐ No ☒ In some cases (under the IPA)
3. Is a removal order suspended during the examination of a second, third, subsequent application?
  - ❖ At first instance ☐ Yes ☒ No
  - ❖ At the appeal stage ☐ Yes ☒ No

The law sets out no time limit for lodging a subsequent application.<sup>510</sup> Subsequent applications are lodged before the Regional Asylum Offices (RAO) across the country following appointment given upon preregistration on electronic platform.

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. Exceptionally, an interview shall be held for this purpose.<sup>511</sup>

A total of 8,265 subsequent asylum applications were submitted to the Asylum Service in 2022 (5,802 in 2021).<sup>512</sup> During 2022, almost one in five asylum applications registered was a subsequent application, as in 2021.

Subsequent applications in 2022*	
	Number of applications
First	7,078
Second	1,087
Third	91
Fourth	9
<b>Total</b>	<b>8,265</b>

\*The initial application for international protection was placed at any given time since the launch of Asylum Service (7.6.2013)

Neither the total number of subsequent applications considered admissible and referred to be examined on the merits, nor the number of subsequent applications dismissed as inadmissible at first instance in 2022 is available.

“Subsequent application” is an application for international protection submitted after a final decision has been taken on a previous application for international protection, including cases where the applicant has explicitly withdrawn his/her application and cases where the determining authority has rejected the application following its implicit withdrawal.<sup>513</sup>

The definition of “final decision” was amended in 2018. According to the new definition, as maintained in Asylum Code, a “final decision” is a decision granting or refusing international protection: (a) taken by the Appeals Committees following an appeal, or (b) which is no longer amenable to the aforementioned

<sup>510</sup> Article 94 of Asylum Code.

<sup>511</sup> Article 94(5) of Asylum Code.

<sup>512</sup> Reply of the Ministry to the Greek Parliament.

<sup>513</sup> Article 1(κδ) of Asylum Code.



appeal due to the expiry of the time limit to appeal.<sup>514</sup> An application for annulment can be lodged against the final decision before the Administrative Court.<sup>515</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>516</sup>

Subsequent applications are subject to a preliminary examination, during which the authorities examine whether new substantial elements have arisen or have been presented by the applicant and could not be invoked by the applicant during the examination of her/his previous application for international protection. 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>517</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>518</sup>

During that preliminary stage, according to the law all information is provided in writing by the applicant.<sup>519</sup>

Elements or claims related either to the applicant's personal circumstances or to the situation in the applicant's country of origin that did not exist during the examination of his/her previous application are considered new in light of the first asylum procedure. Elements previously available to the applicant or claims that could have been submitted during the first asylum procedure are considered new when the applicant provides valid reasoning for not presenting them at that stage. Furthermore, such new elements should be considered to be substantial if they lead to the conclusion that the application is not manifestly unfounded, that is to say, if the applicant does not invoke claims clearly not related to the criteria for refugee status or subsidiary protection.

Accordingly, the 18<sup>th</sup> Appeals Committee noted in its 4829/2020 Decision that "although the applicant's claims presented in his subsequent application were also presented in general terms during the examination of his first application for international protection, the subsequent application presents for the first time in a coherent manner elements related to his mental state that shed light and explain the reasons that made him leave his country of origin and the connection between his health issues and his fear of persecution he claims to face in his country. These elements were presented during the examination of his first application through no fault of his own due to the fact that his mental health was already at that time particularly strained and he was in no position to present the reasons of his fear of persecution explicitly".<sup>520</sup>

Similarly, the Asylum Unit in Amygdaleza considered in its 366444/ 2021 Decision as new and substantial the applicant's claims, i.e. his sexual orientation and the tortures he experienced, presented in his subsequent application on the basis that he could not present them at an earlier stage due to the fact that 'he is suffering from depression and post-traumatic stress disorder and depressive episode of a reactive nature' and therefore merit further consideration.<sup>521</sup>

In its 7268/2021 Decision, the RAO Thessaloniki noted that 'while examining an international protection application it should be taken into account that that the cultural factors, the gender or the traumatic experiences of the applicants may affect the way in which they are likely to express themselves. It is common that asylum seekers find it difficult to tell their personal story. Fear and distrust of the authorities

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<sup>514</sup> Article 1(κδ) of Asylum Code.

<sup>515</sup> Article 114 (1) of Asylum Code.

<sup>516</sup> Article 94 (1) of Asylum Code.

<sup>517</sup> Article 94 (2) of Asylum Code.

<sup>518</sup> Articles 94(2) and 94 (9) of Asylum Code.

<sup>519</sup> Article 94 (2) of Asylum Code.

<sup>520</sup> Greek Asylum Case Law Report, available at: <https://bit.ly/3Nxgexp>, 47.

<sup>521</sup> Greek Asylum Case Law Report, available at <https://bit.ly/3Nxgexp>, 50.

also plays a role in maintaining the applicant's silence. It is therefore accepted that applicants were afraid to present the reasons which led them to leave their country in an earlier stage'.<sup>522</sup>

However, in most cases, the Asylum Service incorrectly interprets the concept of new and substantial elements according to GCR findings and dismisses relevant subsequent applications as inadmissible.

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>523</sup>

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal of applicants who have lodged a subsequent asylum application are suspended.<sup>524</sup>

Exceptionally, under the Asylum Code, '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>525</sup>

Any new submission of an identical subsequent application is dismissed as inadmissible.<sup>526</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.

An appeal against the decision rejecting a subsequent application as inadmissible can be lodged before the Independent Appeals Committees under the Appeals Authority within 5 days of its notification to the applicant.<sup>527</sup>

## **Second and every following subsequent application**

Since September 2021, each subsequent application after the first one is subject to a fee amounting to €100 per application.<sup>528</sup> This amount may be revised through a Joint Ministerial decision. A Joint Ministerial Decision of the Ministers of Migration and Asylum and of Finance, entered into force on 1 January 2022, determining various issues concerning the implementation of the statutory provision (definitions, payment procedure, reimbursement of unduly paid fees etc.).<sup>529</sup>

In the intervening time between the legislative change and the issuance of the JMD – between September 2021 and 1 January 2022 – the competent authorities refused to register second subsequent applications or more. However, one month after the JMD, they resumed the registration of such applications. Since September 2021, Lesvos RAO, amongst other RAOs, had informally suspended the registration process of second subsequent applications or more in violation of the principle of legal certainty and in violation of Article 6(1) of Directive 2013/32/EU. As a result, those applicants who had their first subsequent application rejected were unable to submit a new subsequent application and remained in legal limbo and an extremely precarious situation. They had been living in inhuman and degrading conditions for several months given that they were deprived of access to healthcare and financial benefits after the final rejection

<sup>522</sup> Greek Asylum Case Law Report, available at <https://bit.ly/3Nygexp>, 48.

<sup>523</sup> Article 94(4) of Asylum Code.

<sup>524</sup> Article 94(9) of Asylum Code.

<sup>525</sup> Article 94(9) of Asylum Code.

<sup>526</sup> Article 94(7) of Asylum Code.

<sup>527</sup> Article 97(1d) of Asylum Code.

<sup>528</sup> Article 94(10) of Asylum Code.

<sup>529</sup> Joint Ministerial Decision 472/ 21.12.2021, Gazette 6246/ B/ 27.12.2021 entered into force on 01 January 2022.

of their previous application and the consequent deactivation of PA.A.Y.P.A. They were also deprived of any other financial resources and at risk of arrest, administrative detention and deportation.

Moreover, the Ministerial Decision foresees that if the application is submitted on behalf of several members of the applicant's family, the fee is required for each applicant separately, including minor children. By way of illustration, in a constellation of five family members - two parents with three minor children - a fee of €500 is required.<sup>530</sup>

Particular concerns arise in relation to applications for international protection falling under the scope of the JMD designating Türkiye as a "safe third country" for applicants whose country of origin is Syria, Afghanistan, Pakistan, Bangladesh, Somalia; i.e. cases where their previous applications have been examined only on admissibility (Türkiye safe third country) and have been rejected as inadmissible, without ever having been examined on the merits. Moreover, despite the fact that Türkiye has suspended readmission for almost four years, these applications have been rejected as inadmissible due to the continued refusal of the Greek authorities to enforce the relevant provisions of the Asylum Code and previously of the IPA, which foresee that they should be examined on the merits if applicants cannot return to the third country in question.

It should be noted that the above procedure was in force for Syrian citizens even before the implementation of the JMD which defines Türkiye as a "safe third country" and as a result there are cases of applicants who have not been able to access a safe legal status for four years, as they are constantly rejected on admissibility. For the applicants whose application for international protection have never been examined on the merits, the Administration must invite them to an oral hearing to assess the merits according to Article 91(5) of the Asylum Code and not to lead them to apply for international protection for a third time, while obliging them to pay a fee of €100 for this purpose. Moreover, this provision also includes asylum seekers from countries where a substantial change of circumstances has taken place, such as Afghanistan, despite the fact that the existence of new and essential elements and the non-abusively submission of the application are given.

National human rights bodies including the Greek Ombudsman and civil society organisations repeatedly called on the Minister of Migration and Asylum to abolish the aforementioned legislative regulation "as it is clear that the legislative provision including the payment of a fee as a prerequisite for the submission of a subsequent application for international protection for a financially deprived and vulnerable population, such as asylum seekers and especially for large families, makes the submission of the asylum application prohibitive."<sup>531</sup> As a result, this condition undermines the right of access to asylum, as enshrined in Article 18 of the Charter of Fundamental Rights, as the provision is contrary to Articles 6(1) and 40-42 of Directive 2013/32/EU. In addition, it conflicts with the provisions of Articles 25(2) and 20(1) of the Constitution of Greece, Articles 47 and 52 of the Charter of Fundamental Rights of the EU and the relevant case law of the ECtHR regarding the provisions of Articles 3, 8 and 13 of the ECHR.<sup>532</sup> The Greek Council for Refugees (GCR) and Refugee Support Aegean (RSA) have filed a judicial review petition before the Greek Council of State for the annulment of the aforementioned Joint Ministerial Decision. The date of the hearing was set for June 2022 but was subsequently postponed.

Furthermore, it appears that the European Commission has also pointed out to the Greek authorities that the unconditional submission of a fee of €100 for the second and subsequent applications raises issues regarding effective access to the asylum procedure as evidenced by European Commissioner Johansson's reply of 25 January 2022 to a relevant question submitted under the urgent procedure by the German Green MEP Erik Marquardt.<sup>533</sup>

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<sup>530</sup> Article 1 (2) Joint Ministerial Decision 472/2021.

<sup>531</sup> Document Prot. No 43/30.08.20201 'Comments and observations on the draft law 'Reform of deportation procedures and returns of third country nationals, attracting investors and digital media nomads, issues of residence permit and procedures for granting international protection and other provisions of the MoMA and Ministry of Citizen Protection], available at <https://bit.ly/36adOEj>, 11.

<sup>532</sup> GCR, Imposition of a fee of 100 euros for access to asylum from the 2nd and every following subsequent application to applicants for international protection, including minors, available at: <https://bit.ly/3jBxUdN>.

<sup>533</sup> European Parliament, Parliamentary question E-005103/2021, 20 January 2022, available at: <https://bit.ly/3M3dGWh>.

## F. The safe country concepts

### Indicators: Safe Country Concepts

- |  |   |
|--|---|
| 1. Does national legislation allow for the use of “safe country of origin” concept?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin?                              | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice?                            | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept?      | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice?                                | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Following the EU-Türkiye 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 Türkiye. Serious concerns about the compatibility of the EU-Türkiye 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>534</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-Türkiye Statement. The order stated that ‘the EU-Türkiye 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>535</sup> Therefore, ‘the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States.’<sup>536</sup> The decision became final on 12 September 2018, as an appeal against it before the CJEU was rejected.<sup>537</sup>

### 1. Safe country of origin

According to Article 92 of Asylum Code, 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 applications for international protection and published in accordance with Article 92 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.

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, 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>538</sup>

<sup>534</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-Türkiye Agreement of 18 March 2016’, available at: <http://bit.ly/2fISxIY>; 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>535</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/2lWZPrr>.

<sup>536</sup> *Ibid.*

<sup>537</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.

<sup>538</sup> Article 92(3) of Asylum Code.

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>539</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>540</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. Following a joint Ministerial Decision issued on 31 December 2019,<sup>541</sup> 12 countries were designated as safe countries of origin. These are Ghana, Senegal, Togo, Gambia, Morocco, Algeria, Tunisia, Albania, Georgia, Ukraine, India and Armenia. In January 2021 Pakistan and Bangladesh were included in the aforementioned list.<sup>542</sup> In February 2022, Benin, Nepal and Egypt were also added to the list.<sup>543</sup> The list of safe countries of origin was updated in November 2022 by Ministerial Decision 708368, which removed Ukraine from the list.

The number of asylum applications submitted by citizens of countries considered as safe countries of origin throughout 2022 is not available.

According to Art. 88 (7 στ) of the Asylum Code, the asylum applications by applicants for international protection, coming from “safe countries of origin”, are examined under the [Accelerated Procedure](#).

## 2. Safe third country

The “safe third country” concept is a ground for inadmissibility (see [Admissibility Procedure](#)).

According to Article 91 (1) of the Asylum Code, a country shall be considered as a “safe third country” for a specific applicant when all the following criteria are **cumulatively** 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) The 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

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<sup>539</sup> Article 92 (4) of Asylum Code.

<sup>540</sup> Article 92 (2) of Asylum Code.

<sup>541</sup> Joint Ministerial Decision No 1302/20.12.2019, Gov. Gazette 4907/B/31.12.2019.

<sup>542</sup> Joint Ministerial Decision No 778/2021, Gov. Gazette 317/B/29-1-2021.

<sup>543</sup> Joint Ministerial Decision No 78391/2022, Gov Gazette 667/15-02-2022



- (f) The applicant has a connection with that country, under which it would be reasonable for the applicant to move to it<sup>544</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 move to it.

The Asylum Code provides the possibility for the establishment of a list of safe third countries by way of Joint Ministerial Decision.<sup>545</sup> On 7 June 2021, a Joint Ministerial Decision of the Deputy Minister of Foreign Affairs and the Minister of Migration and Asylum was issued, designating Türkiye as "safe third country" in a national list for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia, without providing any legal reasoning.<sup>546</sup> The aforementioned Joint Ministerial Decision was amended by a subsequent JMD under Article 86(3) IPA, previously in force, declaring Türkiye a safe third country for the said nationalities, again, without providing any legal reasoning.<sup>547</sup> The abovementioned JMD designated Albania as a safe third country for the first time for people entering Greece from the Albanian-Greek borders, and North Macedonia as a safe third country for people entering the Greek territory from the borders between North Macedonia and Greece.<sup>548</sup> Subsequently, on 12 December 2022, a new JMD<sup>549</sup> was issued pursuant to which JMD 42799/03.06.2021<sup>550</sup>, as amended by the JMD 458568/15.12.2021, upon review of the existing information (domestic legislative status of the third country, bilateral or multilateral inter-governmental agreements or agreements of the third country with the European Union, as well as internal practice)<sup>551</sup>, remains in force..

It must be stressed that these JMDs provide no reasoning as to why and on the basis of which information Türkiye was designated as a safe third country for the five nationalities. Instead, they refer to "Opinions" of the Head of the Asylum Service, which have not been made public, in contravention of Articles 12(1)(d) and 38(2)(c) of the Asylum Procedures Directive and Articles 86(3) IPA, previously in force and 91(3) of the Asylum Code. According to Article 91(3) of the Asylum Code, the information (domestic legislative status of the third country, bilateral or multilateral inter-governmental agreements or agreements of the third country with the European Union, as well as internal practice)" taken into account for the adoption of a JMD designating a country as a "safe third country", must be "up to date and come from credible sources of information, in particular from official domestic and foreign diplomatic sources, EASO, the legislation of the other Member States in relation to the concept of safe third countries, the Council of Europe, and UNHCR. The European Commission shall be informed of any decision designating a country as a safe third country.

The European Commission has expressly stated that:<sup>552</sup>

'Article 12(1)(d) of Directive 2013/32/EU provides that such information, when taken into account by the deciding authority, should also be accessible to the applicant and his/her legal advisers.

<sup>544</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 foresee 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>545</sup> Article 91(3) of the Asylum Code.

<sup>546</sup> JMD 42799/03.06.2021, Gov. Gazette 2425/B/7-6-2021, available in Greek at: <https://bit.ly/3zbSojR>.

<sup>547</sup> JMD 458568/15.12.2021, Gov. Gazette 5949/B/16.12.2021, available in Greek at: <https://bit.ly/3IQer3d>.

<sup>548</sup> *Ibid.*

<sup>549</sup> JMD 734214/06.12.2022 (Gov. Gazette 6250/B/12-12-2022), available in Greek at: <https://bit.ly/427H9GU>.

<sup>550</sup> JMD 42799/03.06.2021 (Gov. Gazette 2425/B/7-6-2021, as above).

<sup>551</sup> JMD 458568/15.12.2021, Gov. Gazette 5949/B/16.12.2021, as above.

<sup>552</sup> European Commission, *Reply to parliamentary question E-3532/2021*, 4 October 2021, available at: <https://bit.ly/3Q7dFTJ>.



To the extent Opinion 8815/14.05.2021 of the Director of the Asylum Service contains information referred to in Article 10(3)(b) of Directive 2013/32/EU, and the deciding authority takes the opinion into account for the purpose of taking a decision on an application for international protection, it should be made accessible to the applicant and his/her legal advisers’.

Contrary to Article 91(3) of the Asylum Code, the Opinion was simply a compilation of sources of information about Türkiye and contains no legal reasoning as to why this information leads to the conclusion that Türkiye is a safe third country for asylum seekers from the five countries concerned. In fact, the sources mentioned in the “Opinion” seem to rather substantiate the opposite conclusion. Finally, it should be mentioned that the “Opinion” has still not been published by the authorities nor is it included as part of the applicants’ file in the inadmissibility decisions.<sup>553</sup>

As a result, from the entry into force of the JMDs, the applications lodged by those nationalities can be rejected as “inadmissible” without their applications being examined on their merits.

Prior to any analysis of the statistics, it must be noted that ‘Full and transparent publication of asylum statistics has been a core demand of MPs and civil society in Greece from the re-establishment of the Ministry of Migration and Asylum to present [...] monthly reports of the Ministry of Migration and Asylum do not disaggregate first and second instance decisions by country of origin. However, detailed figures by country and type of decisions have been secured through parliamentary questions’.<sup>554</sup>

In 2022, 6,105 inadmissibility decisions were issued in application of JMD 42799/2021, out of which 3,409 first instance inadmissibility decisions and 2,696 second instance inadmissibility decisions.<sup>555</sup>

The criteria provided by the Asylum Code are to be assessed in each individual case, except where a third country has been declared as generally safe in the national list.<sup>556</sup> Such provision seems to derogate from the duty to carry out an individualised 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 individualised examination of the fulfilment 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>557</sup>

Up 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, previously in force, on the islands for those that arrived after 20 March 2016 and subject to the EU-Türkiye Statement, and in particular *vis-à-vis* Syrians, who fall under the EU Türkiye Statement, namely those who have entered Greece via the Greek Aegean islands and a geographical restriction is imposed to them.

Since June 2021, all applications for international protection submitted by nationals of Syria, Afghanistan, Somalia, Pakistan and Bangladesh throughout the Greek territory are examined under the safe third country concept pursuant to JMD 42799/2021, as amended by JMD 485868/2021 and 734214/2022. Based on this new policy, asylum applications of people from the aforementioned five nationalities are not examined on the basis of their individual circumstances and the risks they face in their country of origin. Instead, they are presumed to be safe in Türkiye, and only if Türkiye is proven not to be safe, these applications are deemed ‘admissible’, and the competent decision authorities proceed to the examination of the applications for international protection on the merits. Three out of the five nationalities mentioned in the JMD 42799/03.06.2021 are those who are most often recognised as refugees in Greece. In 2020, before the said JMD, 92% of Syrians, 66% of Afghans, and 94% of Somalis (median acceptance rate:

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<sup>553</sup> Equal Rights Beyond Borders, Hias Greece and RSA, *The state of the Border Procedure on the Greek islands*, September 2022, available at: <https://bit.ly/3VbNjU5>, 19-20.

<sup>554</sup> RSA, *The Greek asylum procedure in figures in 2022, Analysis of main trends in refugee protection*, available at: <https://bit.ly/4482hhP>, 2.

<sup>555</sup> MoMA, Reply of the Ministry to the Greek Parliament, 156079/2023, 16 March 2023, available at: <https://bit.ly/3Jly0y6>, 12.

<sup>556</sup> Article 91(2) of the Asylum Code.

<sup>557</sup> RSA Comments on the International Protection Bill, October 2019, available at: <https://bit.ly/3eqsDC0>, 4-5.

84%) received refugee or subsidiary status. However, following the JMD, rejections have increased significantly.<sup>558</sup>

In addition to the above, according to the official statistics of the Ministry of Migration and Asylum published in December 2022, 'Returns under the EU - Türkiye Joint Declaration have not been made since March 2020 due to Covid-19. It should be noted that despite the lifting of the Covid-19 measures the requests of missions-returns of the Greek authorities have not been answered'.<sup>559</sup>

Furthermore, the suspension of returns/readmissions under the EU-Türkiye Statement is publicly acknowledged by both the European Commission and the competent Ministers of the Greek government.<sup>560</sup> The European Commission in the 12 October 2022 report about Türkiye explicitly states, inter alia, the following: 'Türkiye maintained the suspension of returns from the Greek islands that it put in place in March 2020 [...] The return of irregular migrants from the Greek islands under the EU-Türkiye Statement continued to be suspended, as it has been since March 2020.'<sup>561</sup> while in its 6<sup>th</sup> Annual report clearly points out that Türkiye was no longer using COVID-19 as a pretext for refusing returns. In particular, in this report, it is explicitly stated that: 'Although resettlements from Türkiye resumed as of July 2020, returns from Greece remain suspended. Responding to repeated requests from the Greek authorities and the European Commission regarding the resumption of return operations, Türkiye has stated that no return operation would take place unless the alleged pushbacks along the Turkish-Greek border stop and Greece revokes its decision to consider Türkiye a Safe Third Country'.<sup>562</sup> The Minister of Citizen Protection has explicitly stated that Türkiye refuses to implement the Statement and invokes the COVID-19 pandemic as grounds for suspending readmissions. The Minister of Migration and Asylum noted in early 2022 that "Türkiye has unilaterally suspended admission of those who do not qualify international protection since March 2020, under the pretext of COVID". In a previous statement, the Minister stressed that Türkiye "has refused to implement its commitments, and continues to refuse to engage in any way on the issue".<sup>563</sup> Besides, the Readmission Unit of the Migration Management Directorate of the Hellenic Police, in response to relevant questions submitted by GCR, systematically confirms the absence of any prospect of removal of refugees from the Eastern Aegean islands to Türkiye, while the Administrative Courts on judicial review of detention affirm the manifest lack of prospects of readmission to Türkiye, highlighting that the procedure for the readmission of third-country nationals to Türkiye has already been suspended since 16 March 2020 and there is no evidence that this suspension will be lifted immediately, that the police authority has not proceeded to any action to execute the readmission decision, as well as that precondition for the readmission of third-country nationals to Türkiye is the submission of a relevant return application by the competent Greek authority, however, no requests have been submitted for the applicants' return to Türkiye nor does it appear that there is any intention to do so, due to the indefinite suspension of the relevant procedures on the part of the Turkish authorities.<sup>564</sup>

<sup>558</sup> EU-Türkiye Statement: *Six years of undermining refugee protection, 8 NGOs warn that policies implemented in Greece keep displaced people from accessing asylum procedures, despite clear need of protection*, available in Greek at: <https://bit.ly/3tMP7GU>, 1.

<sup>559</sup> MoMA, *Report A, December 2022*, available in Greek at: <https://bit.ly/41Nfmqu>, 19.

<sup>560</sup> European Commission, *Türkiye Report 2021*, SWD(2021) 290, 19 October 2021, available at: <https://bit.ly/3DiPMTP>, 48; Reply to parliamentary question, Answer given by Ms Johansson on behalf of the European Commission, Question reference: P-000604/2021, 1 June 2021, available at: <https://bit.ly/3Ilx2hW>; European Commission, *Commission Staff Working Document: Türkiye 2020 Report*, 6 October 2020, available at: <https://bit.ly/3xgt4aK>, 48.

<sup>561</sup> European Commission, *Türkiye 2022 Report*, SWD(2022) 333 final, 12 October 2022, available at: <https://bit.ly/3HmE7X0>, 5, 8. European Commission, *Sixth Annual Report on the Facility for Refugees in Türkiye*, COM(2022) 243, 24 May 2022, available at: <https://bit.ly/40N9H7r>, 2, 3.

<sup>562</sup> European Commission, *Sixth Annual Report on the Facility for Refugees in Türkiye*, COM(2022) 243, 24 May 2022, available at: <https://bit.ly/3LakP8y>, 3.

<sup>563</sup> RSA, *Greece arbitrarily deems Türkiye a 'safe third country' in flagrant violation of rights*, February 2022, available at: <https://bit.ly/3ilFsen>, 3; MoMA, 'Request by Greece towards the EU for the immediate return 1,450 third country nationals under the Joint EU-Türkiye Statement', 14 January 2021, available in Greek at: <https://bit.ly/3izPzma>.

<sup>564</sup> Administrative Court of Kavala, AR779/2022, 14 July 2022, para 4, Administrative Court of Athens AP831/2022, 26 May 2022, para 4, Administrative Court of Korinthos, Π2424/2022, 24 June 2022, para 3, Administrative Court of Rhodes, AP46/2022, 24 March 2022, para 4, AP72/2022, 25 May 2022, para 4, AP78/2022, 21 June 2022, para 3, AP79/2022, 21 June 2022, para 3, AP515/2021, 16 December 2021, para 3; AP514/2021, 16 December 2021, para 3; AP450/2021, 3 November 2021, para 4; AP136/2021, 24 March 2021, para 4; AP122/2021, 4 March 2021.

It is also worth noting that due to this suspension, the Greek authorities do not send readmission requests to the Turkish authorities regarding persons whose applications have been examined under the safe third country concept<sup>565</sup>.

Article 38(4) of the Asylum Procedures Directive, which provides that “where the third country does not permit the applicant to enter its territory, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II”, was transposed into Greek law through Article 91(5) of the Asylum Code,<sup>566</sup> pursuant to which “where the safe third country does not allow the applicant to enter its territory, his/her application shall be examined on the merits by the competent Examination Authorities”.

Despite the suspension of returns to Türkiye since March 2020,<sup>567</sup> and the aforementioned provision of Article 91(5) of the Asylum Code, the Greek asylum authorities systematically applied the safe third country concept during 2022 vis-à-vis applicants originating from Syria, Afghanistan, Somalia, Pakistan and Bangladesh, leading to a large number of applicants having their claims dismissed as inadmissible and being ordered to return to Türkiye, without any prospects of readmission. As already noted above, as many as 6.105 asylum applications (at first and second instance) were dismissed as inadmissible based on the safe third country concept in 2022.. The overwhelming majority of those decisions concerned the procedure on the mainland<sup>568</sup>. Subsequent applications lodged following a final rejection of an application for international protection as inadmissible are channelled again into admissibility procedures and dismissed based on the safe third country concept or due to a lack of new elements. In 2022, 109 claims by Somalis, 80 by Afghans and 22 by Syrians, normally lodged following rejection of the initial claim on “safe third country” grounds, were dismissed as inadmissible subsequent claims<sup>569</sup>.

Only a few decisions, to the knowledge of GCR, have exceptionally been issued by the Committees of the Appeals Authority, pursuant to which the applications for international protection were deemed admissible as it was certain that Türkiye would not allow the appellants to enter its territory, given the refusal of Türkiye to admit the applicants on its territory and the practice of absolute exclusion of returns of migrants/refugees who had irregularly entered Greece through its territory<sup>570</sup>.

This practice exposes applicants for international protection to a legal limbo whereby they are not granted access to an examination of their applications on the merits, contrary to the purpose of the Geneva Convention and of the Asylum Procedures Directive. It also leads to the exclusion of people from reception conditions, resulting in no access to dignified living standards or to cater for their basic subsistence needs, including health care and food.

The issue on non-compliance by Greece with Article 38(4) of the Asylum Procedures Directive has been raised before the European Commission by the European Parliament<sup>571</sup>, while the issue of the

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<sup>565</sup> See e.g. Hellenic Police, 4666/3-123706, 14 February 2022; 4666/3-123672, 2 February 2022; 4666/3-123670, 31 January 2022; 4666/3-123598, 20 January 2022; 4666/3-123580, 17 January 2022; 4666/3-123567, 15 January 2022; 4666/3-123539, 11 January 2022; 4666/3-229920, 27 December 2021; 4666/3-229748, 29 November 2021.

<sup>566</sup> L. 4636/2019, Gov. Gazette A' 169/01.11.2019.

<sup>567</sup> European Commission, *Türkiye 2022 Report*, SWD(2022) 333 final, 12 October 2022, available at: <https://bit.ly/41KEpPW>, p. 5, 8, 21, RSA, Greece arbitrarily deems Türkiye a ‘safe third country’ in flagrant violation of rights, February 2022, available at: <https://bit.ly/3JGol9L>, p. 2-3, EASO, *Asylum Report 2021*, 29 June 2021, 242; Hellenic Parliament, *Defence & Foreign Affairs Committee*, 17 December 2021, available at: <https://bit.ly/3g864nv>.

<sup>568</sup> RSA, *The Greek asylum procedure in figures in 2022, Analysis of main trends in refugee protection*, available at: <https://bit.ly/3VgNoG3>, 10.

<sup>569</sup> MoMA, Reply of the Ministry to the Greek Parliament, 156079/2023, 16 March 2023, available at: <https://bit.ly/3Jly0y6>, 7.

<sup>570</sup> 3rd Appeals Committee, No 345521/2022, 18 June 2022; 21st Appeals Committee, No 364000/2021, 4 November 2021; No 115795/2022, 28 February 2022

<sup>571</sup> European Parliament, Written Questions P-000604/2021, 1 February 2021; E-4131/2021, 8 September 2021; E-5103/2021, 12 November 2021; E-1347/2022, 5 April 2022.

implementation of the safe third country concept in Greece has been raised by civil society organisations<sup>572</sup> as well as by applicants for international protection affected by these violations.<sup>573</sup> In response to the parliamentary questions raised by the European Parliament, the European Commission stated that:

‘Türkiye suspended returns from Greece in March 2020, in the context of COVID-19 related restrictions and albeit repeated calls from Greece and the Commission to resume returns pursuant to the EU-Türkiye Statement, Türkiye has not so far resumed operations. Article 38(4) of the Asylum Procedures Directive provides that ‘where the third country does not permit the applicant to enter its territory, Member States shall ensure that access to [an asylum] procedure is given’. In line with that provision, applicants whose application has been declared inadmissible are therefore able to apply again. In re-examining and deciding on those applications, Greece will need to take into account the circumstances at the time of the (re-) examination of the individual applications, including with regard to the prospect of return in line with the EU-Türkiye Statement’.<sup>574</sup>

‘In the Commission’s view, to the extent inadmissible applicants are not being permitted to enter Türkiye, Article 38(4) of the directive should also be applied in relation to these applications and access given to the asylum procedure on the basis of their merits’<sup>575</sup>.

‘The condition for the application of Article 38(4) of the Asylum Procedures Directive is that ‘the third country does not permit the applicant to enter its territory’. If that condition is met, Member States shall ensure that access to a procedure on substance is given, and therefore shall not reject the subsequent application as inadmissible on the basis of the safe third country concept’.<sup>576</sup>

‘Different factual or legal situations may result in an applicant not being permitted to enter the territory of a country designated as a safe third country in accordance with Article 38 of the Asylum Procedures Directive. Such situations include the suspension by either party of a bilateral readmission agreement, or the failure by the third country to respond within the relevant deadlines to readmission requests made by the Member State. To the extent the applicant is not permitted to enter the territory of the safe third country, in particular if the underlying situation preventing entry persists since 2018 or 2020, the Member State shall ensure, in accordance with the Asylum Procedures Directive, that access to a procedure is given to the applicant’.<sup>577</sup>

Following the 27 October 2022 report of the European Commission, civil society organisations co-signed a letter addressed to the Director of the Asylum Service on the very same day, copied to the Ministers of Migration and Asylum, Foreign Affairs, as well as to the Deputy Minister of Foreign Affairs, the Executive Director of the Appeals Authority and the Deputy Director-General for Migration and Home Affairs of the European Commission. In the letter they urged the Director of the Asylum Services and the Ministries of Migration and Asylum and of Foreign Affairs to: ‘1. Immediately repeal the national list of safe third countries set out by JMD 42799/2021, as amended by JMD 458568/2021. 2. Publish previous and upcoming opinions of the Director of the Asylum Service regarding the designation of safe third countries, which should be made available to asylum seekers subject to the application of the list according to the

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<sup>572</sup> Joint Civil Society Letter to Commissioner Johansson: Implementation of the safe third country concept in Greece, 8 March 2022 Reference No: β/50/4.3.2022, available at: <https://bit.ly/3iN3RPI>.

<sup>573</sup> CHAP(2021)02261, 7 June 2021; CHAP(2021)02274, 8 June 2021, CHAP(2021)02994, 31 July 2021. See also RSA, *Asylum seekers in Greece lodge complaint on infringement of Asylum Directives*, 16 June 2021, available at: <https://bit.ly/3tkl5ZV>.

<sup>574</sup> European Commission, *Reply to parliamentary question P-000604/2021(ASW)*, 1 June 2021, available at: <https://bit.ly/44otFZl>.

<sup>575</sup> European Commission, *Reply to parliamentary question E-004131/2021(ASW)*, 21 December 2021, available at: <https://bit.ly/45w7rFb>.

<sup>576</sup> European Commission, *Reply to parliamentary question E-005103/2021(ASW)*, 25 January 2022, available at: <https://bit.ly/3Q3NugU>.

<sup>577</sup> European Commission, *Reply to parliamentary question E-001347/2022(ASW)*, 22 June 2022, available at: <https://bit.ly/3oZYlqU>.



European Commission. 3. Stop dismissing asylum applications as inadmissible based on the “safe third country” concept.<sup>578</sup>

It should also be noted that as of 2021 ‘the Commission has requested the Greek authorities to apply Article 38(4) of the Asylum Procedures Directive (2013/32/EU), to the extent the conditions are met, to applicants whose applications have been deemed inadmissible on the basis of the Safe Third Country Concept under the Joint Ministerial Decision of 7 June 2021, in order to avoid the legal limbo you refer to. The Commission will continue to monitor the situation on the ground’.<sup>579</sup>

Moreover, the Greek Ombudsman highlighted that:<sup>580</sup>

‘if readmission to that country is not possible, the application must be examined by the Greek authorities on the merits. Otherwise, this creates a perpetual cycle of admissibility assessments of applications for international protection, without ever examining their merits and without readmission to seek protection in the safe third country being possible. As a result, the fulfilment of the objective of the Geneva Convention and of relevant European and national legislation on refugee protection is essentially rendered null and void.’

According to internal SOP of the Asylum Service in October 2021, still in force, asylum seekers of these nationalities that had crossed from Türkiye a year ago or more must be considered as not having a special link with the country or that in any case the special link with Türkiye had been breached. Subsequently, this was the rationale, applied to the majority of cases examined before the RAOs on the islands, leading to admissibility decisions and an examination of the asylum applications on their merits. Several first instance decisions with the same reasoning have been issued since October 2021, namely since the aforementioned SOP started to be implemented. This has been of great importance for all Syrian cases, and even Afghanis and Somalis stuck in “limbo” in Greece for more than a year, many of whom were waiting for the examination of their subsequent applications. However, this practice was not consistent. For instance, there were cases, where the Asylum Service had applied the new JMD even to the cases of old arrivals that had been already referred to the regular procedure.

On 7 October 2021, GCR and Refugee Support Aegean (RSA) filed a judicial review before the Greek Council of State for the annulment of the JMD 42799/03.06.2021 designating Türkiye as a safe third country for nationals of Syria, Afghanistan, Somalia, Pakistan and Bangladesh.<sup>581</sup> On 4 March 2022, requests for the continuation of the hearing were filed before the Council of State for the annulment of the subsequent JMD, 458568/15.12.2021, of the Minister of Migration and Asylum and the Deputy Minister of Foreign Affairs. The application for annulment was examined before the Plenary of the Council of State on 11 March 2022.

On 3 February 2023, the Plenary of the Council of State issued the decision No 177/2023,<sup>582</sup> which postpones the final judgment and refers the following questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling, given that there are reasonable doubts as to the meaning of Article 38 of the Directive:

- a) Must Article 38 of the Asylum Procedures Directive, read in conjunction with Article 18 of the Charter of Fundamental Rights of the European Union, be interpreted as precluding national legislation, designating a third country as generally safe for certain categories of applicants for

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<sup>578</sup> Letter to the Director of the Asylum Service by co-signing civil society organisations, *European Commission dispels Greece’s designation of Türkiye as a ‘safe third country’ for refugees – Repeal the national list of safe third countries*, Ref. no: β/72/27.10.2022, 27 October 2022, available in Greek at: <https://bit.ly/40Lhq5J>.

<sup>579</sup> European Commission, Directorate General for Migration and Home Affairs, Ref.Ares(2021)7836311, 17 December 2021.

<sup>580</sup> (RSA, *Greece arbitrarily deems Türkiye a ‘safe third country’ in flagrant violation of rights*, February 2022, available at: <https://bit.ly/3iIFsen>, 5; Ombudsman, Letters 301551/41050/2021 and 301755/41017/2021, 22 July 2021.

<sup>581</sup> GCR, ‘Decision declaring Türkiye a ‘safe third country’ brought before Greek Council of State’, 7 October 2021, available at: <https://bit.ly/3iLkeMJ>.

<sup>582</sup> Plenary of the Council of State, 177/2023, available in Greek at: <https://bit.ly/426WSpv>. See also RSA, *Key points of the Greek Council of State ruling on the ‘safe third country’ concept*, 17 February 2023, available at: <https://bit.ly/3FB91KC>.

international protection, which has undertaken the legal obligation to readmit those categories of applicants to its territory, but it follows that for a long time (in case more than twenty months) this country has refused readmissions and that the possibility to change the country's attitude in the near future does not appear to have been explored? Or,

- b) Must this Article be interpreted as meaning that readmission to the third country is not a cumulative condition for the adoption of the national act designating a third country as safe for these categories of applicants, but it is a cumulative condition for the adoption of an individual act rejecting a specific application for international protection as inadmissible on the ground of 'safe third country'? Or,
- c) Must Article 38 be interpreted as meaning that the possibility of readmission to the 'safe third country' must be established only at the time of enforcement of the decision, where that decision to reject the application for international protection is based on the 'safe third country' ground?<sup>583</sup>

## 2.1 Safety criteria

### Applications lodged by Syrian, Afghan, Somali, Bangladeshi and Pakistani nationals

In 2022, the Asylum Service issued 8,611 first instance decisions regarding applications lodged by Syrian (initially subject to the fast-track border procedure), Afghans, Somalis, Bangladeshis and Pakistanis applicants, including third country nationals of Palestinian Origin with previous habitual residence in Syria. The applications submitted by the aforementioned applicants were examined under the safe third country concept.<sup>584</sup> According to the official figures provided by the Ministry of Migration and Asylum to the Hellenic Parliament, the Asylum Service dismissed 3,409 claims as inadmissible based on the "safe third country" concept (Afghanistan: 1,095, Bangladesh: 231, Pakistan: 249, Somalia: 577, Syria: 1,257).<sup>585</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 Türkiye 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>586</sup>

Specifically, the Asylum Service, reaches the conclusion that Türkiye 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>587</sup> the Turkish Temporary Protection Regulation (TPR), published on 2014<sup>588</sup> and the Regulation on Work Permit for Applicants for and

<sup>583</sup> European Legal Network on Asylum (ELENA), 'Greece: Preliminary reference regarding Türkiye as a safe third country', 3 February 2023, available at: <https://bit.ly/3LhmQzH>.

<sup>584</sup> MoMA, 'Parliamentary Control', Protocol No 9715717.02.2022, available in Greek at: <https://bit.ly/3qGGT16>, 8.

<sup>585</sup> MoMA, Reply of the Ministry to the Greek Parliament, 156079/2023, 16 March 2023, available at: <https://bit.ly/3Jly0y6>, 12.

<sup>586</sup> ECRE, *The role of EASO operations in national asylum systems*, 29 November 2019, available at: <https://bit.ly/2RVALRt>, 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>587</sup> Türkiye: 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://bit.ly/3LhAJhk>.

<sup>588</sup> National Legislative Bodies / National Authorities, *Türkiye: Temporary Protection Regulation*, 22 October 2014, available at: <https://bit.ly/2YM9F3T>.



Beneficiaries of International Protection, published on 26 April 2016,<sup>589</sup> without taking into consideration its critical amendments, based on emergency measures;<sup>590</sup>

- (b) the letters, dated 2016, exchanged between the European Commission and Turkish authorities,<sup>591</sup>
- (c) the letters, dated 2016, exchanged between the European Commission and the Greek authorities,<sup>592</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 Türkiye and
- (e) 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 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 applications continue to be rejected as inadmissible on the same reasoning as before.<sup>593</sup>

Accordingly, negative first instance decisions, qualifying Türkiye 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 Türkiye, and the actual regime in the country, given the absolute nature of the protection afforded by Article 3 ECHR.

It is worth noting that as regards negative first decisions qualifying Türkiye as a safe third country for all the other nationalities, namely Afghans, Somalis, Bangladeshis, Pakistanis, they are based *inter alia* on the aforementioned letters dated 2016, exchanged between the European Commission and Turkish authorities, the letters exchanged between the European Commission and the Greek authorities as well as the letters of UNHCR to the Greek Asylum Service. Nevertheless, it has to be highlighted that these letters, apart from the fact that they are outdated, they concern only Syrian nationals.

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<sup>589</sup> National Legislative Bodies / National Authorities, *Türkiye: Regulation on Work Permit of International Protection Applicants and International Protection Status Holders*, 26 April 2016, available at: <https://bit.ly/3oTLij3>.

<sup>590</sup> Venice Commission, Opinion No. 865 / 2016, *Opinion on the Emergency Decree Laws Nos. 667-676 adopted following the failed coup of 15 July 2016*, adopted at its 109th plenary session, 9-10 December 2016, Doc. CDL-AD(2016)037, available at: <https://bit.ly/3tK5YKt>; International Commission of Jurists, *Türkiye: Justice suspended, Access to justice and the State of Emergency in Türkiye*, available at: <https://bit.ly/3DlcsTi>, 2.

<sup>591</sup> Letters between the European Commission and the Turkish and Greek authorities, available at: <https://bit.ly/2ygrz32>.

<sup>592</sup> Ibid.

<sup>593</sup> ACCORD, Türkiye COI Compilation, August 2020, available at: <https://bit.ly/3iKTfRv>; Syrian Observatory for Human Rights, Türkiye's involvement in Libya war | 150 Syrian children recruited and sent to fight in Libya, 16 killed, May 13, 2020, available at: <https://bit.ly/3iIE2QT>; UD Department Of State: 2019 Country Reports on Human Rights Practices: Türkiye, available at: <https://bit.ly/3wMJAM1>; European Asylum Support Office, Syria: Internally displaced persons, returnees and internal mobility, April 2020, available at: <https://bit.ly/35nygBg>; ECRE – European Council on Refugees and Exiles: Country Report: Türkiye, April 2020, available at: <https://bit.ly/3wKv5i6>; Report: Türkiye, 2019 Update, 30 April 2020, available at: <https://bit.ly/3wLBmu1>; European Commission, European Civil Protection and Humanitarian Aid Operations, ECHO Factsheet Türkiye: Refugee Crisis, Last updated 17/05/2021, available at: <https://bit.ly/3JJyami>; Republic of Türkiye, Regulation on Work Permit of International Protection Applicants and International Protection Status Holders, 26 April 2016 (Unofficial translation by UNHCR Türkiye), available at: <https://bit.ly/3INTB4y>; Country Report on Human Rights Practices: Türkiye, 30 March 2021, <https://bit.ly/3xonaaj>; European Commission, Türkiye 2020 Report [SWD(2020) 355 final], 6 October 2020, available at: <https://bit.ly/38aSywW>; UNHCR, Key information for non-Syrians, Livelihoods, undated, available at: <https://bit.ly/3DJkufi>; AAN, Afghan Exodus: Migrant in Türkiye left to fend for themselves, 22 December 2020, available at: <https://bit.ly/3LptQZT>; UNHCR, Key information for non-Syrians, Medical and psychological assistance, undated, available at: <https://bit.ly/3iPQ8Yk>; UNHCR, Key information for non-Syrians, Education, undated, available at: <https://bit.ly/3iLI9eY>; UNHCR, Türkiye Education Sector Achievements; as of March 2021, March 2021, available at: <https://bit.ly/3wRJ3z3>; Respond, Susan Beth Rottmann - Özyeğin University, Türkiye Country Report, Integration Policies, Practices and Experiences, Global Migration: Consequences and Responses, Paper 2020/50, June 2020, available at: <https://bit.ly/3qJOJXE>.

As the same template decision has been 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 Türkiye as a safe third country and reject the application as inadmissible: this makes them practically unreviewable”)<sup>594</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 2022, 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. Since June 2021, applications submitted by nationals of Afghanistan, Somalia, Pakistan and Bangladesh are also rejected as inadmissible based on JMD 42799/2021.

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, 2019, 2020 and 2021 respectively. These findings are still relevant as the same template has been 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.

Greece, throughout 2022 maintained the use of the fast-track border procedure under the derogation provisions of Article 95(3) of the Asylum Code.<sup>595</sup>

In contravention of the boundaries of the border procedure, however, the Asylum Service continued to systematically use the border procedure in the CCAC of Lesbos, Chios, Samos, Leros and Kos in 2022 without there being circumstances of “mass arrivals” or regulations to that end after the effects of JMD 15596/2020 ceased at the end of 2021. The Asylum Service took 2,286 first instance decisions in the border procedure in 2022. Yet, only 462 of those were inadmissibility decisions and 74 were manifestly unfounded rejections. This means that the majority of decisions (1,750) exceed the scope of Article 95(1) of the Asylum Code and should not have been issued in that procedure.<sup>596</sup>

#### *Decisions under the fast-track border procedure [article 90(3)] and JMD 42799/2021*

While the JMD 42799/2021 was in force from 7 June to 31 December 2021, a total of 2,000 decisions by the Committees of the Appeals Authority were issued under the fast-track border procedure [article 90(3) IPA] regarding the five main nationalities (Syria, Afghanistan, Somalia, Pakistan and Bangladesh). Out of the 2,000 decisions under the safe third country concept, 1,635 considered the applications “inadmissible”, (Syria: 542, Afghanistan: 417, Bangladesh: 126, Pakistan: 498 and Somalia: 52).<sup>597</sup> The number of applications deemed admissible under the JMD by the Appeals Committees was 216, and the number of appeals pending by the end of the year reached 1,601. Similarly to previous years, it is worth noting that the statistics provided by the Ministry of Migration and Asylum continue to show inconsistencies.<sup>598</sup>

#### *Decisions under the JMD 42799/2021*

During 2022, 2.709 decisions were issued under the JMD 42799/2021 from the Appeals Committee. Out of these decisions, 2.696 applications of Syrians, Afghans, Somalis, Pakistanis and Bangladeshis

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<sup>594</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.

<sup>595</sup> Article 95(3) Asylum Code.

<sup>596</sup> RSA, *The Greek asylum procedure in figures in 2022, Analysis of main trends in refugee protection*, available at: <https://bit.ly/4482hhP>, 12.

<sup>597</sup> Information provided by the Appeals Authority, 11 March 2022.

<sup>598</sup> RSA, *The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021*, available at: <https://bit.ly/3qH3qeo>, 9.

nationals, were deemed “inadmissible” (Afghanistan: 1.113, Bangladesh: 345, Pakistan: 626, Somalia: 307, Syria: 305).<sup>599</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 Türkiye.<sup>600</sup> Even where reliable reports on risks of non-compliance by Türkiye 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>601</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 Türkiye, 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 2021, the Appeals Committees cited the aforementioned letters and selected provisions of Turkish legislation as reliable evidence of compliance by Türkiye with the principle of *non-refoulement*.<sup>602</sup> In addition, Appeals Committee decisions in 2021 have dismissed alleged risks of *refoulement* on the ground that the evidence put forward by the appellants did not point to “structural problems” (*δομικού χαρακτήρα*), to “systematic violations” (*συστηματικές παραβιάσεις*) or to “mass *refoulement*” (*μαζικές επαναπροωθήσεις*) of Syrian refugees from Türkiye.<sup>603</sup>

To the knowledge of GCR, there have been certain appeals of Syrians and Afghans which have been considered as admissible at second instance.<sup>604</sup> For example, in a case of a Syrian single man, his subsequent application was deemed admissible, as, the fact that a long period of time has elapsed since the rejection of his application as inadmissible, during which his readmission to Türkiye has not been completed, was considered to be a new and substantial element. Furthermore, the Appeals Committee took into consideration the information available, pursuant to which there is no imminent change in Türkiye's position and it therefore decided that it must be accepted that the relevant application cannot be dismissed as inadmissible.<sup>605</sup>

Few appeals of Syrians who used to reside in Syrian areas where Türkiye 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 Türkiye in their region of origin. Also, GCR is aware of a second instance decision which considered the appeal of a Syrian who remained in Türkiye 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.

## 2.2 Connection criteria

Article 91(1)(f) of the Asylum Code 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

<sup>599</sup> MoMA, Reply of the Ministry to the Greek Parliament, 156079/2023, 16 March 2023, available at: <https://bit.ly/3Jly0y6>, 12.

<sup>600</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>601</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>602</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.

<sup>603</sup> 5<sup>th</sup> Appeals Committee, Decision 202946, 25 August 2021, 5<sup>th</sup> Appeal Committee, 202789/2021, 25 August 2021.

<sup>604</sup> Greek Council for Refugees (GCR), HIAS Greece and RSA, Greek Asylum Case Law Report, 1/2021, available in Greek at: <https://bit.ly/3DmHWs9>, Greek Asylum Case Law Report 1/2022, June 2022, available in Greek at: <https://bit.ly/3oLmN7P>, Greek Asylum Case Law Report 2/2022, December 2022, available in Greek at: <https://bit.ly/3Ldr3EB>.

<sup>605</sup> 19<sup>th</sup> Appeals Committee, Decision 761318, 19 December 2022.

in previous legislation<sup>606</sup> as to the connections considered “reasonable” between an applicant and a third country,<sup>607</sup> the IPA, as amended by the Asylum Code, 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>608</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 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 Türkiye 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 such provision with the EU *acquis* should be further assessed, in particular by taking into consideration the 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>609</sup>

It is worth noting that since October 2021, the applications for international protection of asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia are deemed admissible whether a period of more than one year has elapsed since the applicants’ transit from the third country – Türkiye and the applicants have not maintained relations (economic, social, etc.) with that country during that period. Hence, it is considered that the precondition of the link as per Article 91(1)(f) of the Asylum Code is no longer fulfilled and as such it would be not reasonable for the applicants to return to that country. The aforementioned admissibility decisions are based on the internal Guidelines of the Asylum Service issued in October 2021, which have nevertheless not been made public to date.

As regards the subsequent applications after a safe third country decision, on 6 July 2021, the Ministry of Migration and Asylum issued a Circular as per which,

‘Specifically, for those applicants entering from Türkiye, the invocation of new and substantial elements must relate exclusively as foreseen in the law and the EU-Türkiye Joint Statement, to the finding on the initial application as to whether Türkiye – as the country of transit of the applicant – is safe or not for them in accordance with the national and European legislation. In the absence of any new and substantial elements as provided above, the subsequent application shall be rejected by the competent examination authorities as inadmissible, in accordance with [Article 94(4) of the Asylum Code].’<sup>60</sup> According to the above Circular, the fact that readmissions to

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<sup>606</sup> Article 56(1)(f) L 4375/2016.

<sup>607</sup> Article 56(1)(f) L 4375/2016.

<sup>608</sup> Article 86(1)(f) IPA and 91(1)(f) of the Asylum Code.

<sup>609</sup> Article 91(1)(f) of the Asylum Code.

Türkiye have been suspended since March 2020 is not considered as a new and substantial element.<sup>610</sup>

In these cases, the applicants were expected to provide new and substantial elements as to why Türkiye could not be considered a safe third country for them, albeit in the end, once the application was found admissible based on the new elements provided, the final judgment of the Asylum Service invoked the lapse of the one-year period as the basis on which the admissibility of the request was judged, in terms of the application of the safe third country concept.<sup>611</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 case law of the CJEU.<sup>612</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>613</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 Türkiye, even in cases of very short stays and in the absence of other links.<sup>614</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 Türkiye, the “free will and choice” of the applicants to leave Türkiye and “not organise their lives in Türkiye”, “ethnic and/or cultural bonds” without further specification, the proximity of Türkiye to Syria, and the presence of relatives or friends in Türkiye without effective examination of their status and situation there. Additionally, in line with the 2017 rulings of the Council of State,<sup>615</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 fulfilment 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 Türkiye 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 2022 regarding Afghan and 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>616</sup>

### 3. First country of asylum

The “first country of asylum” concept is a ground for inadmissibility (see [Admissibility Procedure](#) and [Fast-Track Border Procedure](#)).

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<sup>610</sup> RSA, *The state of the border procedure on the Greek islands*, September 2022, available at: <https://bit.ly/3oPTIZ0>, 22.

<sup>611</sup> Ibid, 23-24.

<sup>612</sup> CJEU, Case C-564/18, LH v Bevándorlási és Menekültügyi Hivatal, 19 March 2020; see RSA, Comments on the Reform of the International Protection Act, <https://bit.ly/3dLzGUt>, 14.

<sup>613</sup> CJEU, Case C-528/15, Policie ČR, Krajské ředitelství policie Ústeckého kraje, odbor cizinecké policie v Salah Al Chodor, 15 March 2017; see RSA, Comments on the Reform of the International Protection Act, idem.

<sup>614</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 Template Decision in AIDA, Country Report Türkiye, 2017 Update, March 2018.

<sup>615</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>616</sup> Greek Council for Refugees (GCR), HIAS Greece and RSA, Greek Asylum Case Law Report 1/2021, December 2021, available in Greek at: <https://bit.ly/3VeqUW4>, Greek Asylum Case Law Report 1/2022, June 2022, available in Greek at: <https://bit.ly/3oLmN7P>, Greek Asylum Case Law Report 2/2022, December 2022, available in Greek at: <https://bit.ly/3Ldr3EB>.



According to Article 90 of the Asylum Code, 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 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.

## 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 74 paras1 to 8 of the Asylum Code (Greek Law 4939/2022 ratifying the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons) 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, the consequences of the rejection of their application, as well as on the possibilities of challenging it.

The Asylum Service assists applicants in understanding the information document, applicants and state whether they have actually understood its contents. A copy of the document with the applicant's signature is kept in the applicant's file.

Interpretation, (or tele-interpretation when the physical presence of the interpreter is not possible using appropriate technical means) 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 as long as the necessary communication cannot be ensured without a translator. The cost of interpretation is borne by the State where it is demonstrably impossible to provide interpretation in the language of the applicant's choice, interpretation shall be provided in the official language of the applicant's country of origin or in another language that the applicant is reasonably expected to understand, including international sign language.

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>617</sup>.

For accurate and timely dissemination of the latest update on asylum and migration issues, the Ministry has also created a Viber community.<sup>618</sup>

Another initiative in 2020 was the launching of the new platform of the Ministry of Migration and Asylum<sup>619</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
- ❖ 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

<sup>617</sup> See: <https://bit.ly/39WDeDR>.

<sup>618</sup> See: <https://bit.ly/3J1xTKx>.

<sup>619</sup> See: <https://bit.ly/3tLovGq>.



- ❖ 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

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, the adjustment of the applicants and beneficiaries to this new reality was not easy, and at times, not even possible. 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 that the Asylum Offices did not serve requests that could be submitted through the online system, eventually excluded many applicants and beneficiaries from those services. The need for improvement and for the provision of alternative solutions was raised by several NGOs through a letter addressed to the National Commission of Human Rights in December 2021.<sup>620</sup> In 2022, Amnesty International also drew attention to the fact that the platform is still not available in all languages, the initial menu is only in Greek and English, and there is a special section for refugees from Ukraine – which is an obvious discrimination against the rest of the refugee population<sup>621</sup>, – providing more information and facilitations options for the user of Ukrainian origin – (pending referral to the section regarding regulation of status of population of Ukrainian origin).

Moreover, legal aid for the appeals procedure must be requested via the electronic application of the Ministry for Migration and Asylum, 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.<sup>622</sup> Moreover, in practice the Head of the RICs on the islands and Evros and the Head of Pre-removal detention facilities in Athens (Amigdaleza and Tavros) notify applicants of first instance decisions. In both cases, the inability of the applicants to understand the content of the communicated documents and the procedure has been reported.

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. According to the delegation, “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>623</sup> These findings remain valid in 2021 and 2022.

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. 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

<sup>620</sup> Letter signed by 14 NGOs communicated to the National Commission of Human Rights on 16 of December 2021.

<sup>621</sup> Amnesty International, ‘ΠΡΟΣΒΑΣΗ ΣΤΟ ΑΣΥΛΟ (ΚΑΠΟΙΕΣ ΕΠΙΣΗΜΑΝΣΕΙΣ)’, 30 June 2022, available in Greek at: <https://bit.ly/3WtfkXV>.

<sup>622</sup> See: <https://bit.ly/3BPGrCV>.

<sup>623</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, available at: <https://bit.ly/3MDGG8Z>, para. 100.

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>624</sup> Similar observations were made by the Council of the European Union after the 2021 evaluation and its recommendations to the Greek Government that followed.<sup>625</sup> and were reported once again in a legal note issued in June 2022 by NGO Refugee Support at the Aegean (RSA).<sup>626</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. Article 78 of the Asylum Code (Greek Law 4939/2022 ratifying the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons) provides for the obligation of all Greek and International Organisations of Civil Society active in the field of refugee support and protection as well as their members to register in the established Registry of Greek and Foreign Non-Governmental Organisations (NGOs) in the Special Secretariat for the Coordination of Involved Agencies of the Ministry of Immigration and Asylum.

NGOs that meet the minimum necessary conditions for participation as provided in the Asylum Code are registered by the competent service. Non-profit organisations, voluntary organisations and any corresponding organisation, Greek or international, that is not registered in the registry, may not participate in the implementation of international protection, immigration and social integration actions within the Greek territory, and in particular in the provision of legal, psychosocial and medical services. The Law also provides of an additional registry of Members of Non-Governmental Organisations (NGOs) active in matters of international protection, immigration and social integration, in which the members, employees and partners of the above organisations active in Greece are registered and registered. The registration of these persons in the Registry and their certification is a necessary condition both for their activity within the Greek territory and for their cooperation with public bodies.

In practise employees of NGOs and members that their name is not provided for in the registry are banned from entering places of detention and reception facilities under the Ministry's responsibility. GCR is aware of several instances when access was refused to interpreters and on occasion lawyers or were obliged to wait for several hours before they were granted permission to enter.

Concerning the lawfulness of the registration in ECRE's Expert Opinion upon request from the ELENA Coordinator in Greece published in December 2021<sup>627</sup> mentions that the registry has been heavily

<sup>624</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, available at: <https://bit.ly/3quLJ4r>, para.22 -23.

<sup>625</sup> Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2021 evaluation of Greece on the application of the Schengen acquis in the field of return, 9 November 2021, available at: <https://bit.ly/3BVJWYB>.

<sup>626</sup> RSA, *Persisting systematic detention of asylum seekers in Greece*, June 2022, available at: <https://bit.ly/3qcFGkD>.

<sup>627</sup> ECRE *Concerning the lawfulness of Greek legislation regulating the registration of non-governmental organisations (NGOs) on the Registry of NGOs working with refugees and migrants in Greece*, December 2021, available at: <https://bit.ly/3yvt6xc>.

criticised by civil society organisations<sup>628</sup>, the Council of Europe<sup>629</sup> and in the context of the UN Special Procedures<sup>630</sup> and it has also been the subject of a question at the European Parliament<sup>631</sup>. The criticism focuses on the lack of meaningful public consultation before the adoption of the framework, the excessive requirements for registration/certification, the designation of the latter as a precondition for NGO activities, the introduction of seemingly unlimited discretion to deny registration or remove NGOs from the registry on the basis of vague criteria, and the absence of effective remedies. According to the reports, such a framework can interfere with the freedom of association by establishing a situation of legal uncertainty and restricted guarantees that could create significant obstacles in the free development of NGO activities in Greece. As of October 2021, at least three refugee-assisting organisations have been denied registration. The refusal for two of these was based on formalities, i.e., the absence of required documentation without them being first requested, and/or lack of operational efficiency. A third organisation was refused as a result of lack of updated documentation, non-compliance with the criterion of effectiveness, and due to the fact that the organisation's statute referred to provision of 'support to individuals under deportation', which was deemed to be an unlawful activity. The Greek Ombudsman has since called for the re-examination of the rejection decision as it found that it resulted in violation of national, EU and international law"<sup>632</sup>.

UNHCR is present in **Athens, Lesbos, Chios, Samos, Kos, Thessaloniki**, covering through *physical presence, field missions* and *ad hoc visits* all sites in their area of responsibility.<sup>633</sup> UNHCR's teams continue to assist new arrivals by helping them gain access to necessary services, and by providing them with information on procedures, rights and obligations.

Asylum seekers can access UNHCR as well as other organisations through a variety of means. UNHCR has established the UNHCR HELP Website providing information on how to apply for asylum, cash assistance, family reunification, access to employment as well as a UNHCR WhatsApp automatic information system<sup>634</sup>. Helplines are also provided depending of the refugees whereabouts providing information and assistance<sup>635</sup>. After the Covid pandemic several helplines and helpdesks were established by the majority of actors allowing asylum seekers and recognised refugees to access information and services remotely. During 2022 more lines and helpdesks were made available by NGOs.<sup>636</sup>

<sup>628</sup> Amnesty international, Greece: Regulation of NGOs working on migration and asylum threatens civ space, 31 July 2020, available at: <https://bit.ly/3rsGjVW>; RSA, Risk of Repression: New Rules on Civil Society Supporting Refugees and Migrants in Greece, available at: <https://bit.ly/31dyTLH>, 3; RSA, *Repression Continued: Greece Further Restricts Civil Society Supporting Refugees and Migrants*, September 2020, available at: <https://bit.ly/3J0OL6N>; HIAS Greece, *Some thoughts on the new Joint Ministerial Decision, regulating the registration of migration-related NGOs in Greece*, 8 May 2020, available at: <https://bit.ly/3OYVm5E>.

<sup>629</sup> Letter of Commissioner for Human Rights, 3 May 2021, available at: <https://bit.ly/3MSLWGb>; Council of Europe, *Expert Council on NGO Law of the Conference of INGOs, Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration*, 6 July 2020, available at: <https://bit.ly/3WP56RL> and Addendum to that opinion, 23 November 2020, available at: <https://bit.ly/3NcGpeU>.

<sup>630</sup> OHCHR, *Letter to Greece by the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human rights of migrants*, 31 March 2021.

<sup>631</sup> European Parliament, 'Follow-up to the letter from the Committee on Civil Liberties, Justice and Home Affairs regarding Greece's NGO registration law (JMD 10616/2020)', 16 October 2020, available at: <https://rb.gy/7kt7jr>.

<sup>632</sup> RSA, 'Ombudsman calls for re-examination of rejection of RSA's registration on the NGO Registry', 13 December 2021, available at: <https://bit.ly/3MSpU7o>.

<sup>633</sup> UNHCR, 'About UNHCR in Greece', available at: <https://bit.ly/428wpYa>.

<sup>634</sup> UNHCR, 'Information on the road with you', available at: <https://bit.ly/428wpYa>.

<sup>635</sup> See <https://bit.ly/3MvAsYT>.

<sup>636</sup> i.e Psychosocial Support (PSS) Helpline: <https://bit.ly/3ouzDaO>; City of Athens, 'Targeted support and assistance to asylum seekers and beneficiaries of international protection with disabilities', available at: <https://bit.ly/3ICrSpX>, and Caritas ADAMA center, see: <https://bit.ly/3BT7YDn>; Hellenic Red Cross (HRC) Information Hotline, see: <https://bit.ly/4235Xz5GCR>; GCR Helpline, see: <https://bit.ly/3WvGyNo>; Danish Refugee Council (DRC), Greece Help Line: <https://bit.ly/45rL3N6>.

## 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>637</sup> ☒ Yes ☐ No  
❖ If yes, specify which:

Egypt, Albania, Algeria, Armenia, Georgia, Gambia, Ghana, India, Morocco, Bangladesh, Benin, Nepal, Pakistan, Senegal, Togo, Tunisia

Since 2014 up until the first half of 2021, Syrians and stateless persons were eligible to a fast-track procedure examining their cases and often resulting in the granting of refugee status. This applied to those with a former residence in Syria who could provide original documents such as passports, or who had been identified as Syrians/persons with a former residence in Syria within the scope of the Reception and Identification Procedure; provided that the EU-Türkiye Statement and the Fast track border procedure did not apply to their cases. However, the Joint Ministerial Decision 42799/2021 issued in June 2021, pursuant to Article 86 of L. 4636/2019, already replaced by Article 92 of the Asylum Code established that Türkiye is to be considered safe for applicants from Syria, Afghanistan, Pakistan, Bangladesh and Somalia. As a result, applications lodged by nationals of the above-mentioned countries are now channelled into the [admissibility procedure](#) upon arrival, to assess whether Türkiye is a [safe third country](#) and whether their cases are admissible and should be examined on the merits.

Also, although the [fast-track border procedure](#) was initially introduced as an exceptional and temporary procedure, it has become the rule for the applicants residing in Lesbos, Samos, Chios, Leros, and Kos.

Legislation also provides for the application of the Safe Country of Origin concept to consider applications manifestly ill-founded unless specifically proven otherwise by the person of concern. Article 92 of the Asylum Code (replacing by codification article 87 of Law 4636/2019, according to Articles 36 - 37 of 2013/32/EE Directive) authorises for the relevant Joint Ministerial Decision that can provide for the countries that would be included in the national catalogue. Joint Ministerial Decision 78391 (ΦΕΚ Β' - 667/ 15.02.2022)<sup>638</sup> of Ministry of Migration and Asylum and external Affairs (replacing JMD 778/20.1.2021) designated as safe countries of origin, Egypt, Albania, Algeria, Armenia, Georgia, Gambia, Ghana, India, Morocco, Bangladesh, Benin, Nepal, Ukraine, Pakistan, Senegal, Togo, Tunisia. The Decision was amended in November 2022 by JMD 708368 / 25.11.2022 in order to exclude Ukraine from the catalogue.

Differential treatment according to nationality was repeatedly reported during 2022 after the initiation of temporary protection of Ukrainian Nationals in April. The Greek Government seemed to openly discriminate in favour of asylum seekers of Ukrainian origin against all other nationalities. Human Rights Watch reported on Greece's migration minister, addressing the parliament in March mentioning that Ukrainians are "real refugees," while those arriving from Syria or Afghanistan are "irregular migrants," even though many Syrians and Afghans have valid refugee claims.<sup>639</sup> The same attitude was noted and criticised by GCR, Oxfam and Save the Children in May 2022 describing in detail in how many ways Greece's welcome of people fleeing Ukraine stands in stark contrast with others seeking safety.<sup>640</sup> Amnesty International also commented on the fact.<sup>641</sup> Ukrainian nationals were provided with a specific process for their nationality procedure contrary to all other asylum seekers including immediate access, 24-hour information through the Ministry's hotline for Ukrainian nationals as well as special status – a temporal protection residence permit which was provided immediately after the application for the duration of one year (see [Temporary protection annex](#)).

<sup>637</sup> Whether under the 'safe country of origin' concept or otherwise.

<sup>638</sup> Available only in Greek at: <https://bit.ly/3MUZJgG>.

<sup>639</sup> HRW, 'World Report 2023- Greece', 2023, available at: <https://bit.ly/3lDr3gy>.

<sup>640</sup> GCR Oxfam & Save the Children, *Greece: A two-tier refugee system*, available at: <https://bit.ly/3q6DtHD>.

<sup>641</sup> Amnesty International, 'ΠΡΟΣΒΑΣΗ ΣΤΟ ΑΣΥΛΟ (ΚΑΠΟΙΕΣ ΕΠΙΣΗΜΑΝΣΕΙΣ)', 30 June 2022, available in Greek at: <https://bit.ly/3WtfkXV>.



## Reception Conditions

### Short overview of the reception system

In May 2018, L 4540/2018 transposed the recast Reception Conditions Directive into national law, almost three years after the transposition deadline. In 2019 L. 4540/2018 was replaced by the IPA (L. 4636/2019), which entered into force on 1 January 2020 and was amended with a series of laws (*inter alia* L. 4686/2020 and L. 4825/2021). The IPA constituted a uniform legislation for the provisions of reception, asylum procedure and recognition of international protection incorporating the relevant EU (recast) Directives (Directive 2013/33/EU, Directive 2013/32/EU and Directive 2011/95/EU).

On 10 June 2022, the IPA (Articles 1-112 and 114) was also replaced by L 4939/2022 (Asylum Code), which constitutes a codification of legislation on reception, international protection of third country nationals and stateless persons, as well as on temporary protection in the event of a mass influx of displaced persons, which was incorporated as per the provisions of P.D. 80/2006 (A' 82), following the Council Implementing Decision (EU) 2022/382. Lastly, after the replacement of L. 4554/2018 on guardianship – which was never implemented – by L. 4960/2022 on the National Guardianship System and Framework of Accommodation of Unaccompanied Minors (UAMs),<sup>642</sup> which entered into force on 22 July 2022, the relevant provisions of L. 4960/2022 were also incorporated in the Asylum Code.

Under the Asylum Code, the Reception and Identification Service (RIS) within the Secretariat General of Reception of Asylum Seekers under the Ministry of Migration and Asylum (MoMA) is defined as the authority responsible for reception.<sup>643</sup> The Special Secretary for the Protection of Unaccompanied Minors (SSPUM), which was established under the MoMA in February 2020,<sup>644</sup> also remains competent for the protection of UAM, including for their accommodation. Per the aforementioned 2022 legislative changes, the SSPUM now also has general competency over the guardianship of UAMs, which was previously under the National Centre for Social Solidarity of the Ministry of Labour and Social Affairs.

With regard to the composition of the reception system, the core change in 2022 has been the termination of the ESTIA accommodation scheme, which provided rented housing to vulnerable asylum applicants in the context of reception. The scheme, which since January 2021 has operated under the sole responsibility of the MoMA,<sup>645</sup> was terminated at the end of the year, amidst increased concerns for former residents, such as families that had already started the integration process and children who were enrolled to school, who upon exiting ESTIA, were frequently left to their fate or on the streets or forced to interrupt their education (school).<sup>646</sup> The programme's termination, which had been announced by the MoMA in February 2022,<sup>647</sup> also signifies the transformation of Greece's reception system into one near exclusively modelled on camp-based accommodation.

Notwithstanding this, overall, in 2022, island RICs – including the newly established Closed-Controlled Centres – and mainland camps, as well as the ESTIA scheme remained the predominant forms of reception. According to the most recent data, from 1 January to 30 September 2022, there were 18,046 referrals for reception to the RIS. Of these, 8,502 (47%) were made by the Asylum Service, 6,900 (38%) by the Police, 1,591 (9%) by Social Support or Protection Services (SSPUM / NCSS) and 1,053 (6%) by health services<sup>648</sup>.

<sup>642</sup> L 4960/2022 *National Guardianship System and Framework of Accommodation of UAMs and other provisions under the jurisdiction of the MoMA*.

<sup>643</sup> Article 1(ιστ') Asylum Code.

<sup>644</sup> Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.

<sup>645</sup> For instance: MoMA, Press Release on ESTIA 2021, February 2021, available in Greek at: <https://bit.ly/3uwgpxX>.

<sup>646</sup> EfSyn, 'Ανέσπιοι πρόσφυγες χωρίς το ESTIA', 24 December 2022, available in Greek at: <https://bit.ly/3YYaWjw>; News24/7, 'The government threw mothers with underage children on the streets', 10 December 2022, available in Greek at: <https://bit.ly/3IFktO2> and GCR, 'Evictions, Homelessness and setbacks to integration', 30 November 2022, available in Greek at: <https://bit.ly/3S9uwHz>.

<sup>647</sup> MoMA, 'ESTIA II to be completed in 2022', 22 February 2022, available in Greek at: <https://bit.ly/3iGewf1>.

<sup>648</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Referrals 2022*, see: <https://bit.ly/3OuNZm9>.

During the same period, there were 9,423 registrations, 2,174 of which concerned persons aged between 0-17<sup>649</sup> and 3,146 vulnerable persons (amongst whom 1,314 UAMs, 1,086 victims of physical abuse and 121 victims of trafficking).<sup>650</sup> The majority of those registered were from Syria (22,7%), followed by people from Palestine (13,8%), Somalia (13,3%) and from Afghanistan (11,2%).<sup>651</sup> The majority of registrations took place in Orestiada (3,392 registrations, including 305 of UAMs), followed by Lesvos (1,853 registrations, including 496 of UAMs), Samos (1,486 registrations, including 162 of UAMs), Kos (1,109 registrations, including 69 of UAMs), Chios (806 registrations, including 185 of UAMs) and Leros (777 registrations, including 97 of UAMs).<sup>652</sup>

EUAA support: In 2022, the EUAA provided Greek authorities with 60 containers, out of which 17 to be used as asylum interview rooms, and 43 as administrative offices or destined to other uses.<sup>653</sup>

## A. Access and forms of reception conditions

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

#### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?
 

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?
 

	<input checked="" type="checkbox"/> Yes		<input type="checkbox"/> No
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Article 59 par. 1 of the Asylum Code<sup>654</sup> 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 material 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>655</sup>

Article 44 of the Asylum Code states that during the reception and identification procedures, the Director (Διοικητής) and staff of the RIC or CCAC must ensure that third country citizens or stateless persons: a)

<sup>649</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Registered TCNs/stateless persons (by age group) 2022*, available at: <https://bit.ly/3OuNZm9>.

<sup>650</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Registered TCNs/stateless persons per category of vulnerability 2022*, available at: <https://bit.ly/3OuNZm9>.

<sup>651</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Registered TCNs/stateless persons per Nationality 2022*, available at: <https://bit.ly/3OuNZm9>.

<sup>652</sup> MoMA / General Secretariat for the Reception of Asylum Seekers / Reception and Identification Service / R.I.Cs and C.C.A.Cs Directorate, *Registered TCNs/stateless persons per place of registration 2022 and Unaccompanied minors per place of registration 2022*, available at: <https://bit.ly/3OuNZm9>.

<sup>653</sup> Information provided by the EUAA, 28 February 2023.

<sup>654</sup> Law 4939/2022 (A' 111/10.06.2022). *Ratification of Code of Legislation on the reception, international protection of third country nationals and stateless persons and the temporary protection in the event of a mass influx of displaced aliens* abolished with its articles 148 articles 1 – 112 and 114 of former L. 4636/2019 on international protection.

<sup>655</sup> Article 59(1) Asylum Code.



live in decent living conditions, b) maintain their family unity, c) have access to emergency health care and necessary treatment or psychosocial support, d) receive the appropriate treatment, in case they belong to vulnerable groups, particularly if they are UAM or persons with disabilities, e) are sufficiently informed about their rights and obligations, f) have access to guidance and legal advice and assistance, g) maintain contact with institutions and civil society organisations active in the field of migration and human rights that provide legal or social assistance and h) have the right to communicate with their relatives and loved ones.

Asylum seekers are entitled to reception conditions from the time they submit an asylum application and throughout the asylum procedure. As regards children, reception conditions apply to minors, unaccompanied or not, and to separated minors, regardless of whether they have submitted an application for international protection.<sup>656</sup> In case of status recognition, reception conditions are terminated (with a few exceptions) within 30 days of the notification of the positive decision. In the specific case of UAM, this time limit starts counting from the time they reach adulthood.<sup>657</sup>

Delays in accessing reception continued to be reported in 2022, on account of chronic delays in accessing asylum on the mainland, which have intensified during the year and have persisted even after the substitution of the skype registration system with the MoMA's new electronic platform in the summer of 2022.<sup>658</sup> During the months preceding the new platform becoming operational, and by contrast to temporary protection applications (which with scarce exceptions were registered in a timely manner) access to asylum from the mainland for people that hadn't undergone first reception procedures became a near impossibility, leaving many applicants in a state of legal limbo. Yet even after the new platform became operational, delays of months in the scheduling of (asylum) registration appointments, which on several occasions were also unavailable via the new platform, continued hindering access to asylum and concomitantly reception.<sup>659</sup>

Most importantly, the new platform only serves the purpose of scheduling the registration of a person's request for international protection and thus their willingness to apply for asylum. Ongoing practice by the MoMA not only fails to recognise recourse to the platform as tantamount to a person expressing their willingness to apply for asylum, but on the contrary, the attestation granted through the platform clearly states that it does not amount to proof of such willingness. As increasingly observed by GCR's Legal Unit, this has frequently resulted in the arbitrary use of detention for the purpose of returning people who had already registered their willingness to apply for asylum via the platform. In the case of at least six individuals represented by GCR in the first months of 2023 (up to April), most of which concerned applicants from Afghanistan, competent First Instance Administrative Courts have also ruled that upon requesting the scheduling of the registration of an application for international protection via the platform, the persons concerned receive the status of an asylum applicant, as per the law. Yet as far as GCR is aware, the MoMA has yet to change this arbitrary practice.<sup>660</sup>

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<sup>656</sup> Article 37(1) and 62(3) Asylum Code.

<sup>657</sup> Article 109 Asylum Code.

<sup>658</sup> MoMA, 'Launch of the online application platform for asylum seeker registration appointments', 13 July 2022, available in Greek at: <https://bit.ly/43PpBki>. For more on the skype system, see MIT, *Lives on Hold: Access to Asylum on Mainland Greece, Crete and Rhodes*, November 2021, available at: <https://bit.ly/3JOqBe2>. MIT, *Blocked from the system: Voices of people excluded from the asylum procedure on mainland Greece, Crete and Rhodes*, May 2022, <https://bit.ly/45wetd3>. MIT, 'Statement on new registration asylum procedure', 1<sup>st</sup> September 2022, available at: <https://bit.ly/3Ms6Onu>.

<sup>659</sup> For more, see GCR, Oxfam & Save the Children, *Greece: A two-tier refugee system*, May 2022, available at: <https://bit.ly/440sgaU>, and GCR, Oxfam & Save the Children, *Bimonthly Bulletins on Refugees and Migrants* for July and October 2022, available at <https://bit.ly/41u35vM> and <https://bit.ly/43YoBuf>. For more on the skype system, see MIT, *Lives on Hold: Access to Asylum on Mainland Greece, Crete and Rhodes*, November 2021, available at: <https://bit.ly/3JOqBe2>. MIT, *Blocked from the system: Voices of people excluded from the asylum procedure on mainland Greece, Crete and Rhodes*, May 2022, <https://bit.ly/45wetd3>. MIT, 'Statement on new registration asylum procedure', 1<sup>st</sup> September 2022, available at: <https://bit.ly/3Ms6Onu>.

<sup>660</sup> Also see GCR, 'The detention of asylum seekers, to whom the Ministry of Migration & Asylum does not recognise the status of applicant, is again deemed illegal', 21 March 2023, available in Greek at: <https://bit.ly/3AqDlo4>.

The law also foresees that the provision of all or part of the material reception conditions presupposes that asylum seekers lack employment or that their employment does not provide them with sufficient resources to maintain an adequate standard of living that is sufficient to safeguard their health and sustenance.<sup>661</sup> The latter is examined in proportion to the financial criteria determining eligibility for the Social Solidarity Benefit (*Κοινωνικό Επίδομα Αλληλεγγύης*, ΚΕΑ),<sup>662</sup> which was renamed to Minimum Guaranteed Income (*Ελάχιστο Εγγυημένο Εισόδημα*) in 2020.<sup>663</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 (recast) Reception Directive, including if it is established that the applicant concealed their financial means or if they have lodged a subsequent asylum application.<sup>664</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 asylum seekers as of 31 December 2022 (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>665</sup> According to Article 60(1) of the Asylum Code, 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;
- (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, such as minors (accompanied and unaccompanied), people with disabilities, elderly people, single-parent households and pregnant women, should be taken into account in the provision of reception conditions.<sup>666</sup>

In practice, a variety of accommodation schemes remained in place as of the end of 2022. These included mainly large-scale camps, initially designed as emergency accommodation facilities on the mainland, Closed Control Access Centres (CCACs) operated –under EU funding– on the Eastern Aegean islands, where asylum seekers are contained in prison-like conditions,<sup>667</sup> and to a significantly lesser degree apartments and NGO-run facilities (see Types of Accommodation).

The end of 2022 marked the termination of the “Emergency Support to Integration and Accommodation” (ESTIA) programme for vulnerable asylum seekers. The positive impact of this accommodation scheme on local communities has been recognised by the municipalities that hosted it. For instance, as noted in January 2023 by the President of the Developmental Agency (Anaptyxiaki) of Irakleio, Crete, and Mayor of Archanes Asterousia, Crete while commenting on the termination of ESTIA, ‘[t]he framework, the rules and the whole organisation of the hospitality [under ESTIA] was exemplary and gave no room to the xenophobia that was initially expressed’.<sup>668</sup>

<sup>661</sup> Article 59(3) Asylum Code.

<sup>662</sup> Article 235 L 4389/2016.

<sup>663</sup> Article 29 L. 4659/2020.

<sup>664</sup> Article 61 Asylum Code.

<sup>665</sup> Article 59(1) Asylum Code.

<sup>666</sup> Article 62(1) Asylum Code in connection with article 1λγ’ Asylum Code regarding the definition of ‘*vulnerable persons*’ in a non-exhaustive manner.

<sup>667</sup> Greek Council for Refugees / OXFAM / Save the Children International, *Greece: A two-tier refugee system*, Bi-monthly bulletin, May 2022, available at: <https://bit.ly/3OJOetv>.

<sup>668</sup> Ekriti, ‘Crete: An end to the hospitality program for refugees’, 2 January 2023, available in Greek at: <https://bit.ly/3IEwj4h>.

The Ministry of Migration & Asylum had surprisingly announced in February 2022 that the programme would be terminated by the end of the year, by quoting the ‘improved management of Migration’.<sup>669</sup> At the time, no information was provided on what would happen with the programme’s beneficiaries or if any provisions would be in place to address the needs of vulnerable asylum seekers. From 16 April ESTIA’s accommodation places were decreased to 10,000, less than half than those available in 2021 (27,000) and the programme was officially terminated at the end of the year. Its termination undermines the legal obligation of the State to provide specific support for the special reception needs of vulnerable persons throughout the asylum procedure.<sup>670</sup> It also marks the complete transformation of the Greek Reception system into a system of social isolation of those seeking international protection in Greece, including of those most vulnerable among them.<sup>671</sup> This is despite the reported willingness of the European Commission to continue the programme’s funding in the context of supporting alternative modes of accommodation to camps.<sup>672</sup>

Up to the end of September 2021, UNHCR, in collaboration with the Catholic Relief Services (CRS), the International Federation of Red Cross and Red Crescent Societies (IFRC), and METAdrasi, also continued to provide cash assistance in Greece, in the context of the “ESTIA II-CBI” programme, financed through AMIF with the aim to partly cover material reception conditions by addressing beneficiaries’ basic needs (e.g. clothing, medication).<sup>673</sup> The cash card assistance programme is being implemented throughout Greece. As of October 2021, the programme was fully handed over to the Greek state,<sup>674</sup> and has since been implemented under the MoMA. A serious gap in the distribution of the assistance was identified as part of this transition, which remained unresolved until December 2021. In January 2022, overdue payments for October and November 2021 were made. However, significant numbers of eligible asylum seekers ended up not receiving cash, or backdated payments, as a result of changes in their legal status.<sup>675</sup> Disbursements resumed at the beginning of March 2022.<sup>676</sup>

Under the ESTIA II-CBI programme, the beneficiaries of the cash-based assistance are:<sup>677</sup>

- ❖ Adult asylum seekers who have submitted or fully lodged an asylum application in accordance with article 65 (1)(2)&(7) L. 4636/2019, as long as they reside in the centres and facilities provided under para. 4 article 8 L. 4375/2016, in accommodation programmes of the MoMA, in shelters and hospitality centres operated by international organisations and legal entities governed by public law, local authorities, as well as civil society actors that are registered in the Registry of

<sup>669</sup> MoMA, ‘The ‘ESTA II’ housing programme to be completed in 2022’, available in Greek at: <https://bit.ly/3AqGd4k>.

<sup>670</sup> For the closure of ESTIA, see among others: RSA, *A Step backwards for protection and integration: On the termination of the ESTIA II housing programme for asylum applicants*, 22 December 2022, available at: <https://bit.ly/43vr3Y5>, GCR, Press Release, «Εξώσεις, αστεγία και πτωχολόγισμα στην ένταξη», 30 November 2022, available at: <https://bit.ly/3oBev2B>; FENIX, *Closure of ESTIA II: thousands of extremely vulnerable asylum seekers to be left without humane and adequate accommodation and proper care*, 31 October 2022, available at: <https://bit.ly/43nPgZO>.

<sup>671</sup> See among others: Greek Council for Refugees, Press release: *Εξώσεις, αστεγία και πτωχολόγισμα στην ένταξη*, 30 November 2022, available in Greek: <https://bit.ly/43JHgsN>. See also: FENIX, ‘Closure of ESTIA II: A Political choice behind its closure’, 6 December 2022, available at: <https://bit.ly/3N3jJhb>.

<sup>672</sup> Fenix, ‘Closure of ESTIA II: a political choice behind its closure’, December 2022, available at: <https://bit.ly/3VbYagQ>.

<sup>673</sup> Ministerial Decision 115202/2021 on the Terms of provision of material reception conditions in the form of financial assistance to applicants for international protection, Gov. Gazette 3322/B/26-7-2021. See also: Article 4 of Ministerial Decision 2857/29.9.2021 that adds Annexe III to JDM 2089/16.7.2021 regarding the provision of cash assistance as material reception condition to international protection applicants.

<sup>674</sup> MoMA, ‘The MoMA undertakes the provision of financial assistance to asylum applicants as of 1 October 2021’, available at: <https://bit.ly/3HygEiT>.

<sup>675</sup> GCR/Save the Children, *Greece: Children on the move*, January-March 2022, available at: <https://bit.ly/3OJ66Vm>, 5.

<sup>676</sup> For more, *inter alia*, Joint advocacy letter by 14 NGOs in Greece, ‘NGOs welcome the resumption of cash assistance for asylum seekers in Greece, call for gaps to be urgently filled’, 8 March 2022, <https://bit.ly/3WKzHQw>; Joint Statement by 26 NGOs in Greece, ‘Are you eligible to eat?’, 18 October 2021, available at: <https://bit.ly/3ipbE6a>; GCR/Save the Children, *Greece: Children on the move*, January-March 2022, available at: <https://bit.ly/3OJ66Vm>, 5.

<sup>677</sup> Article 1(d) Ministerial Decision 115202/2021, *op.cit.*

Greek and foreign NGOs of the MoMA. Applicants in detention are not entitled to the cash-based support.

- ❖ 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 placement to the aforementioned accommodation spaces.

In both cases, the new residency requirement as a pre-condition for receiving cash assistance, took effect on 1 July 2021, after first being announced through Press Releases issued by the MoMA in April and May 2021,<sup>678</sup> and subsequently introduced in ministerial decisions in July and September.<sup>679</sup> As per the new framework, cash assistance is provided to those eligible at the end of each month, as long as it can be certified that they continue to reside in the facilities designated by the MoMA (i.e. facilities of the reception system). Applicants who are not accommodated in these facilities need to first apply, then be referred to and lastly placed to such accommodation, before the procedure for accessing the cash assistance can (re)start.<sup>680</sup> In these cases, the application can only be made through actors that are registered on the special referral platform of the ESTIA program (e.g. NGOs), while referrals can only take place under the responsibility of the RIS.

The decision to interrupt cash assistance to asylum applicants not accommodated in the reception system raised significant concerns, *inter alia* because it amounted to the withdrawal of material reception conditions to an estimated 25,000 asylum applicants,<sup>681</sup> without any personalised assessment or reasoned decision, thus potentially also amounting to a violation of article 20 of Directive 2013/33/EU (as transposed by article 57 L 4636/2019 which was afterwards replaced by article 61 of L. 4939/2022). Furthermore, as highlighted by 30 civil society organisations in a joint statement published in June 2021,<sup>682</sup> the decision came at the detriment of integration. In practice, many of those affected were called to abandon a place of residence of their own choice –which they were able to sustain with the cash-based support– and to abandon their communities and friends, in order to return to camps, where they would have to be in isolation from society. The decision also failed to take into consideration the protection risks that could arise at least for some in the context of suddenly having to share accommodation in a camp. As observed,<sup>683</sup> applicants from some communities ended up preferring losing the financial support out of fear (e.g. of being identified by authorities of their countries). It lastly also failed to take into consideration the severely limited capacity of NGOs, which were in practice called to implement the decision, to support their beneficiaries as part of the transition.

With regard to distribution, in December 2022, a total of 4,728 asylum applicants (3,008 households) received cash assistance throughout Greece, primarily in the region of North Aegean (22%), Epirus (17%) and Central Macedonia (15%).<sup>684</sup> This amounts to less than a third of the 15,785 asylum seekers reported by the MoMA as residing in Greece's reception system during the same month, and to less than a fifth of total (22,170) asylum applications reported by the MoMA as pending decisions at 1<sup>st</sup> and 2<sup>nd</sup> instance in the same month.<sup>685</sup> It also helps to a degree to better contextualise observations made by GCR in the field.

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<sup>678</sup> MoMA, 'The financial assistance to international protection applicants that are not accommodated in facilities under the responsibility of the MoMA or MoMA partners is abolished from 1/7/21', 15 April 2021, available at: <https://bit.ly/3IEvEgx> and 'Pre-requisites for the disbursement of financial assistance to international protection applicants', 25 May 2021, available at: <https://bit.ly/3IDe5xx>.

<sup>679</sup> Ministerial Decision 115202/2021 *op.cit* and JMD 2857/2021 Amending JMD 2089/16-07-2021 on a 'Common Framework for Managing Programmes that are assigned to the Special Secretariat for the Coordination and Management of Programmes under the Asylum, Migration and Integration Fund and the Internal Security Fund and other resources and are not financed through National Programmes' (B' 3120), Gov. Gazette 4496/29-09-2021.

<sup>680</sup> Annex III, JMD 2089/16.7.2021 as amended by JMD 2857/29.9.2021.

<sup>681</sup> Estimates provided by UNHCR in the protection working group of 7 June 2021.

<sup>682</sup> Joint Statement: A big setback in integration: The cut in aid to asylum seekers, June 2021, available at: <https://bit.ly/3qMKIBV>.

<sup>683</sup> As per information shared in the protection working group of 7 June 2021.

<sup>684</sup> MoMA, Factsheet December 2022: Programme 'Financial assistance to applicants of international protection', available in Greek at: <https://bit.ly/43JDRLi>.

<sup>685</sup> MoMA, 'Statistics: December 2022 - International Protection | Appendix A', available at: <https://bit.ly/3mIVrhX>, tables 4 and 9a.



Namely, as observed in Kos, since the cash support programme was handed over to the MoMA, nearly all applicants on the island have stopped receiving this type of material reception support and, importantly, are no longer informed by the RIS of their right to receive it. Amidst changing practices, a further hindering factor observed is that applicants are required to hold a Greek phone number to be able to request cash support, meaning they must first have their asylum application registered, in order to then be able to exit the CCAC –where they frequently remain in conditions of de facto detention for up to 25 days– to procure such a number. Yet fast registration and processing times lead to situations where, within very few days (e.g. 4 in November) , applicants have already received a negative decision and are thus excluded from cash support before they even had the opportunity to apply for it.<sup>686</sup> Whether similar practices apply to other applicants who did not receive cash needs to be further assessed, yet lack of access to cash was also reported in Lesbos,<sup>687</sup> and affects all those who for (*inter alia*) reasons of dignity or fear have “opted out” of being accommodated in Greece’s camp-based reception system.

Of the 4,728 applicants who received cash in December 2022, the majority were from Afghanistan (23%), followed by Syrians (10%), nationals of the DRC (10%), Somalia (9%), Sierra Leone and Iraq (8% each). The vast majority of beneficiaries (58%) were between 18-34, 17% between 35-64, 21% were between 0-13, 4% between 14-17 and less than 2% were 65 years of age or older as per the MoMA’s data. No disaggregated data on the family situation of the applicants was published.<sup>688</sup>

The amount distributed to each household is proportionate to the size of each household and differs depending on whether the accommodation is catered or not. The financial sums in 2022 remained the same as the ones distributed in 2021, ranging from € 75 for single adults in catered accommodation to € 420 for a family of four or more in self-catered accommodation.<sup>689</sup> In general terms, the sum provided is lower than what is provided under the Minimum Guaranteed Income, which foresees € 200 support for a single-member household that is increased by € 100 for each additional adult member of the household and by € 50 for each minor member, up to a € 900 ceiling,<sup>690</sup> albeit variations may arise depending on each household.

In addition to the fact that cash assistance preserves refugees’ dignity and facilitates the process of regaining an autonomous life, by 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 was expected to be injected into the local economy in December 2020.<sup>691</sup> No relevant data has been reported since the MoMA started issuing reports on the implementation of the cash programme.

### 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 law provide for the possibility to withdraw material reception conditions?  
☒ Yes ☐ No

There are several scenarios.

Firstly, reception conditions may be reduced or in exceptional and specifically justified cases withdrawn, following a decision of the competent reception authority, where applicants:<sup>692</sup>

<sup>686</sup> Feedback from GCR team on Kos in January 2023.

<sup>687</sup> Information from the 11 January 2023 protection working group operating under UNHCR on Lesbos.

<sup>688</sup> MoMA, Factsheet December 2022, *op.cit.*

<sup>689</sup> Article 3 Ministerial Decision 115202/2021 on the ‘Terms of material reception conditions in the form of financial assistance to applicants for international protection’, Gov. Gazette 3322/B/26-7-2021. See also: Ministerial Decision 2857/29.9.2021 regulating the cash assistance program.

<sup>690</sup> Article 2 (7) JMD 3359/2021,

<sup>691</sup> UNHCR, *Factsheet: Greece*, 1-31 December 2020, available at: <https://bit.ly/2QVbl8l>, 3.

<sup>692</sup> Article 61 (1), (2), (3) and (4) of Asylum Code.

- (a) If provided with accommodation in the context of reception, abandon said accommodation without informing the competent administration or without permission or abandon the geographical location of residence which has been determined for them by the competent authority under article 49 (2) Asylum Code (see geographical restriction);
- (b) Do not comply with the obligation to report personal information, such as address and employment contracts, or do not attend in person or do not respond to requests for information or do not attend, in the process of the examination of their application for international protection, a personal interview within the deadline set by the receiving and examining authorities;
- (c) Have lodged a Subsequent Application;

In cases (a) and (b), when the applicant is located or voluntarily presents themselves before the competent authority, a specially justified decision, assessing the reasons of abandonment, is taken with respect to the renewal, in part or in full, of the provision of the material reception conditions that were reduced or withdrawn.

Secondly, the competent Reception Authority reduces material reception conditions, when it finds that the applicant, without justifiable reason, has not submitted an application for international protection as soon as possible after their arrival on the Greek territory.

Thirdly, the competent Reception Authority withdraws material reception conditions, when it is established that the applicant has concealed financial resources and has, as a consequence, illegitimately taken advantage of the material reception conditions.

Moreover, in cases of serious breach of the Operating Regulations of the accommodation centres, which disturbs the smooth operation of the centres and the coexistence of the people in them, especially when demonstrating particularly violent behaviour, material conditions are withdrawn as a sanction. At the same time, the competent Police Director and, in the case of the General Police Directorates of Attica and Thessaloniki, the Police Director responsible for aliens is immediately informed, in order to ascertain whether there is a case of application of paragraph 2d or par. 3 of article 50 of this Code. In the case of UAMs, the competent Reception Authority must, before imposing the interruption of accommodation, contact the assistance services and/or the judicial authorities responsible for the protection of UAMs, to ensure the placement of the minor in a structure appropriate for his/her needs and to order other potential relief measures, if this is justified by the circumstances.

Lastly, material reception conditions may be reduced in accordance with article 61 in cases where minor applicants and the minor children of the applicants do not comply with the obligation to enrol and attend school (primary and secondary education of the public system of education), due to an unwillingness to integrate into the education system.<sup>693</sup>

Article 61 (5) of the Asylum Code provides that the decision to reduce or withdraw material reception conditions or the decision imposing the sanction of para. 4, is taken by the competent Reception Authority on an individual and objective basis and must be justified. It also provides that the special situation of the person concerned, particularly if vulnerable, is to be taken into account and that the decision to reduce or withdraw material reception conditions should not obstruct the applicant's access to medical and pharmaceutical care, in accordance with article 59 (2) of the Asylum Code, or make it impossible for them to access basic means that ensure a dignified standard of living. Lastly, the same article also provides that the decision to reduce or withdraw material reception conditions or to impose the sanction of par. 4 is to be communicated to the applicant in a language they understand.

As per article 61(6), material reception conditions cannot be withdrawn or reduced before the aforementioned decision is taken. The procedure to be followed is laid down in the General Regulation of Temporary Reception and Temporary Accommodation Facilities for third country nationals or stateless persons under the responsibility of the RIS (*Γενικός Κανονισμός Λειτουργίας Δομών Προσωρινής Υποδοχής και Δομών Προσωρινής Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών, που λειτουργούν με μέριμνα της Υπηρεσίας Υποδοχής και Ταυτοποίησης*) and the General Regulation for the Operation of

<sup>693</sup> Article 55 (2) Asylum Code.



Reception and Identification Centres and Mobile Reception and Identification Units (*Γενικός Κανονισμός Λειτουργίας Κέντρων Υποδοχής και Ταυτοποίησης και Κινητών Μονάδων Υποδοχής και Ταυτοποίησης*). In the first case, the procedure foresees: (a) a written warning and (b) a reasoned decision reducing or withdrawing material reception conditions, while in the second case a three-step procedure is foreseen, consisting of (a) an oral recommendation, (b) a written warning and (c) the interruption of accommodation as long as reception and identification procedures have been completed.<sup>694</sup>

Lastly, a new regulation covering the newly established Closed-Controlled Facilities on the islands was issued in 2021. This regulation *inter alia* foresees the possibility to terminate accommodation and withdraw material reception if applicants are unjustifiably not identified during the regular census-verification of the resident population for two consecutive times,<sup>695</sup> albeit no separate procedure is foreseen.

Between June and December 2020, reception conditions were withdrawn in the case of 4,957 people, 2,964 of whom were accommodated in camps, and 2,033 in the ESTIA accommodation scheme (2,033), following status recognition or after a second instance negative decision. Data on decisions reducing or withdrawing material reception conditions have since not been provided by the MoMA, even though GCR has requested it.

Applicants have the right to lodge an appeal (*προσφυγή*) against decisions that reduce or withdraw reception conditions before the Administrative Courts. In the case of appeal before the Courts, applicants also have a right to free legal aid and representation.<sup>696</sup> However, as explained further below, the remedy provided by this provision is not available in practice.

#### 4. Freedom of movement

##### Indicators: Freedom of Movement

- |  |   |  |
|--|---|--|
| 1. Is there a mechanism for the dispersal of applicants across the territory of the country? | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 2. Does the law provide for restrictions on freedom of movement?                             | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |

Asylum seekers may move freely within the territory of Greece or an area (*περιοχή*) assigned by a regulatory (*κανονιστική*) decision of the Minister of Migration and Asylum<sup>697</sup> (formerly, the Minister of Citizen Protection). This geographical restriction of freedom movement within a particular area should not affect the inalienable sphere of private life and should not hinder the exercise of rights provided by the law.<sup>698</sup>

Following the entry into force of the IPA, on 1 January 2020, and subsequently the Asylum Code that replaced it, asylum seekers' freedom of movement can also be restricted through assignment to a specific place (*τόπος*), 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. This restriction is imposed by the Head of the Asylum Service and is mentioned on the asylum seekers' cards.<sup>699</sup> Applicants who are subject to this type of restriction are provided with material reception conditions, as long as they reside within the place indicated and, in case of non-compliance, the provision of material reception conditions is interrupted in accordance with article 61 of the Asylum Code<sup>700</sup>.

<sup>694</sup> Article 18 (1) Ministerial Decision 23/13532/2020, Gov. Gazette, 5272/B/30.11.2020 and article 10(1) Joint Ministerial Decision 1/7433/10-6-2019, Gov. Gazette 2219/B/10.6.2019.

<sup>695</sup> Article 7 (2) Decision 25.0/118832 of the General Secretary of Reception of the MoMA, Gov. Gazette 3191/B/20.7.21.

<sup>696</sup> Article 118 (1) and (2) Asylum Code.

<sup>697</sup> Article 49 (1) Asylum Code.

<sup>698</sup> *Ibid.*

<sup>699</sup> Article 49(2) Asylum Code.

<sup>700</sup> Article 49(3) of L 4939/2022.

Applicants are required to immediately notify the competent authorities of any changes to their place of residence for as long as the examination of their asylum application is pending.<sup>701</sup>

Finally, applicants have the right to lodge an appeal (*προσφυγή*) before the Administrative Court against decisions that restrict their freedom of movement.<sup>702</sup> However, as explained below, the remedy regulated by this provision is not available in practice.

### 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-Türkiye statement and the [Fast-Track Border Procedure](#), whose movement is systematically restricted to 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>703</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 their intention to seek asylum upon arrival, thus prior to the issuance of a deportation decision.<sup>704</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>705</sup>

**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>706</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>707</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>708</sup> This Decision was replaced in October 2018 by a new Decision of the Director of the Asylum Service.<sup>709</sup> Following an amendment introduced in May 2019 the competence for issuing

<sup>701</sup> Article 49(6) Asylum Code.

<sup>702</sup> Article 118(1) Asylum Code.

<sup>703</sup> Pursuant to Article 78 L 3386/2005.

<sup>704</sup> Article 1 (c) Asylum Code clearly states that a ‘third country national or stateless person who declares orally or in writing before any Greek authority, at entry points or in the Greek territory, that they seek asylum or subsidiary protection [...] or asks in any way to not be deported to some country due to fear of persecution [...]’ is an asylum applicant.

<sup>705</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>.

<sup>706</sup> Asylum Service Director Decision 10464, Gov. Gazette B 1977/7.06.2017.

<sup>707</sup> Council of State, Decision 805/2018, 17 April 2018, EDAL, available at: <https://bit.ly/2GmnbTI>.

<sup>708</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>709</sup> Asylum Service Director Decision 18984, Gov. Gazette B 4427/05.10.2018.

the Decision imposing the geographical restriction was transferred from the Director of the Asylum Service to the Minister of Migration Policy.<sup>710</sup> A decision of the Minister of Migration Policy imposing the geographical restriction was issued in June 2019.<sup>711</sup> Following the amendment of the IPA (November 2019), a new decision imposing the geographical restriction was issued by the Minister of Citizen Protection in December 2019, which remains in effect.<sup>712</sup> A new application for annulment was filed by GCR before the Council of State against these Decisions, however the hearing has been since consistently postponed and was still pending examination in December 2022.

The Decision issued by the Minister of Citizen Protection in December 2019 regulates the imposition of the geographical restriction since 1 January 2020, and states the following:

- '1. A restriction of 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, as long as another member state, following a request by the Greek authorities, has accepted and undertaken the obligation to receive them in their territory,
  - (c) persons whose applications can be reasonably considered to be well founded and
  - (d) persons belonging to vulnerable groups or who are in need of special reception conditions as per the provisions of L. 4636/2019, as long as it is not possible to provide them with appropriate support in accordance with the specific provisions of article 67 IPA ("applicants in need of special procedural guarantees").

In line with said Decisions in force during 2019 and since 1 January 2020, the geographical restriction on each asylum seeker who enters 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 [...]". In case the applicant holds the new type of "smart card", a separate category stating whether they are subject to the geographical restriction is included on the card (e.g. stating "Ανέυ" if no restriction is applied). No individual decision is issued for each asylum seeker.

The lawfulness of the aforementioned practice is questionable, for the following reasons:

- ❖ No prior individual decision for the imposition of the geographical restriction is issued, as the restriction 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>713</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>714</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.

<sup>710</sup> Art. 7 L.4540/2018 as amended by L. 4609/2019.

<sup>711</sup> Ministerial Decision 13411/2019, Gov. Gazette 2399/B/19.6.2019 – Abolished by Ministerial Decision 1140/2019 (Gov. Gazette 4736/B/20.12.2019).

<sup>712</sup> Ministerial Decision 1140/2019, Gov. Gazette 4736/B/20.12.2019.

<sup>713</sup> Article 7 recast Reception Conditions Directive.

<sup>714</sup> Article 17(2) recast Reception Conditions Directive.

- ❖ No time limit or any re-examination at regular intervals is provided for the geographical restriction imposed;
- ❖ No effective legal remedy is provided in order to challenge the geographical restriction 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) remains 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 to challenge said restriction is provided by the new Asylum Code that replaced the IPA.

During 2021 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).

Relevant data for 2022 has not been provided, even though it was requested by GCR. Yet based on data published by the MoMA on the number of people transferred from the islands to the mainland during the year, it could be presumed that the geographical restriction might have been lifted in the case of at least 7,363 persons (see Conditions on the Eastern Aegean Islands).<sup>715</sup> The specific data published by the MoMA does not include any additional information on the status or potential vulnerabilities of the people transferred (or any more specific breakdown whatsoever). Yet based on highly limited statistics issued by the RIS on people registered as vulnerable during the first 3 quarters of 2022, it could also be presumed that amongst those having their geographical restriction lifted, there might have been 1,314 UAM, 64 persons with disabilities, 14 elderly people, 121 pregnant women/women who had recently given birth, 426 single parent families, 1,086 victims of physical abuse, and 121 victims of trafficking.<sup>716</sup> This might have been the case if the specific data, which concerns applicants registered as vulnerable by the RIS in the first 3 quarters of 2022, specifically concerns people registered on the islands, who actually had their geographical restriction lifted, which is something that is not clarified in the data issued by the RIS.

Nevertheless, in all cases the lifting of the geographical restriction does not necessarily amount to an immediate change in living conditions or the actual departure from the islands. For instance, in a case documented by RSA, an elderly woman who had her geographical restriction lifted in August 2020 with a view to her Dublin transfer remained under inappropriate living conditions on in the RIC of Lesbos for six months. She was only placed in suitable accommodation after repeated complaints to the Ombudsman and an interim measure request to the European Court of Human Rights (ECtHR).<sup>717</sup> Similarly, in another case handled by GCR concerning a vulnerable family of 5 living in highly unsuitable conditions in the RIC of Lesbos, with the spouse in advanced pregnancy, and one of the children with a serious medical issue that could not be addressed on the island, the geographical restriction was lifted in March 2021. Yet the family was not allowed to leave until 5 months later, after consecutive interventions by GCR's lawyer *inter alia* to the Greek Ombudsman in August 2021. The reasoning provided by the administration to the

<sup>715</sup> MoMA, Briefing Notes: International Protection, Annex A, December 2022, available (in Greek) at: <https://bit.ly/41W5ZsN>.

<sup>716</sup> MoMA, General Secretariat for the Reception of Asylum Seekers, Reception and Identification Service, R.I.Cs & C.C.A.Cs Directorate, *Registered TCNs/stateless persons per category of vulnerability 2022 (1/1/2022 - 30/9/2022)*, available at: <https://migration.gov.gr/statistika/>.

<sup>717</sup> RSA, 'Refugees unprotected against COVID-19 risks in Greece', 12 March 2021, available at: <https://bit.ly/3JAmF0R>.

family's lawyer for the delay was that there was no organised transfer off the island scheduled and that the family would not be allowed to leave the island on their own, despite the lift of the restriction.

In a similar vein, on 9 August 2022, the ECtHR granted *interim measures* in a case represented by the organisation I Have Rights (IHR).<sup>718</sup> The case concerned two highly vulnerable applicants, one of whom a beneficiary of international protection and the other a person with a pending appeal on their subsequent asylum application, who remained on the island of Samos. Both applicants were reportedly in need of emergency medical treatment due to their medical condition (Hepatitis B), which they could not receive on the island. Yet despite having their geographical restriction lifted for months, they still remained there because, as noted,<sup>719</sup> 'in 2022, the authorities stopped conducting "organised transfers" from Samos'. The applicants were ultimately transferred following the Court's intervention, which ordered the Greek Government to 'a) guarantee to the applicants a medical assessment by a gastroenterologist/hepatologist, and b) ensure, if necessary, their medical treatment'.

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 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. For instance, as reported during the Lesvos Inter-Agency Coordination Meeting, which operates under UNHCR, on 19 January 2022, due to increased arrivals, the CCAC Director had informed that shelter availability in the Lesvos CCAC had become scarce, impacting on living conditions. At the time, the CCAC reportedly hosted 1,920 persons, which seems to also highlight a significant discrepancy vis-à-vis the nominal capacity of the CCAC, which has been consistently reported at 8,000 places by the National Coordination Centre for border Control, Immigration and Asylum, operating under the Ministry of Citizen Protection.<sup>720</sup>

Throughout 2020, a total of 5,543 persons had their geographical restriction lifted, following a decision of the RIS on the islands of Lesvos (1,513), Samos (1,777), Chios (1,491), Leros (457) and Kos (305). Such data has not been provided by the MoMA either in 2021 or in 2022, even though it had been requested by GCR.

In sum, the practice of indiscriminate imposition of the geographical restriction since the launch of the EU-Türkiye Statement had for years been the cause of consistent and significant overcrowding in the island facilities and remains a factor that could contribute to the repetition of similar situations. Yet even amidst the reduced number of arrivals observed in recent years, which coincides with the exponential increase in reported pushback incidents at Greece's land and sea borders, which have yet to be effectively investigated,<sup>721</sup> and a policy of "intercept[ing] people at sea" as per the statements of the Greek PM in April 2023,<sup>722</sup> which raises more questions on the methods used by the Greek authorities than answers, people are still obliged to reside in unsuitable and, in the case of the CCACs, prison-like conditions, which fail to respect their rights (see Conditions in Reception Facilities).

In September 2020, 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'.<sup>723</sup> The GNCHR also noted that regardless of circumstances 'any

<sup>718</sup> ECtHR, Application no. 32683/22, *C.N. v. Greece & Application no. 32755/22, R.M. v. Greece*, 10 August 2022, available at: <https://bit.ly/44318s0>.

<sup>719</sup> IHR, 'Interim measure granted in case concerning denial of emergency medical treatment for two of IHR's beneficiaries', August 2022, available at: <https://bit.ly/3L3Asic>.

<sup>720</sup> For instance, see NCCBCIA, National Situational Picture Regarding the Islands at Eastern Aegean Sea (19/01/2022), 20 January 2022 and National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2022), 1 January 2023. Both can also be accessed on the MoMA's website at: <https://migration.gov.gr/en/statistika/>, under the label 'National Situation: Migrant and Refugee Issue'.

<sup>721</sup> *Inter alia* see Joint letter by GCR & HLHR on irregular forced returns (pushbacks), criminalisation and the Rule of Law in Greece, 17 March 2023, available at: <https://bit.ly/43VLqyS>, paras 4-9 and relevant references.

<sup>722</sup> Ta Nea, 'Mitsotakis at Bild: 'There cannot be a European migration policy without fences and walls'', 17 April 2023, available in Greek at: <https://bit.ly/3mMZ46C>.

<sup>723</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>, 44.



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'.

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 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. The Commissioner also ‘urge[d] 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.’ She further 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>724</sup>

Despite these urgings, as reported by GCR and Oxfam in a joint submission to the EU Ombudsman in March 2023,<sup>725</sup> ‘[t]he confinement of asylum applicants appears to be a primary objective in the new EU-funded sites [i.e. CCACs]’, with several measures leading to the deprivation of applicants’ liberty. The joint submission was made following the EU Ombudsman’s opening of an own-initiative inquiry to assess how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece.<sup>726</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.

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<sup>724</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>725</sup> GCR and Oxfam, *Contribution to the European Ombudsman's own-initiative inquiry OI/3/2022 MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece*, 9 March 2023, available at: <https://bit.ly/3CjEbnT>, 3.

<sup>726</sup> For more, see EU Ombudsman, ‘How the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece’, Case OI/3/2022/MHZ - Opened on Monday, 11 July 2022, available at: <https://bit.ly/43bmmDb>.



## B. Housing

### 1. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of reception centres: 24
2. Total number of places in the reception system: 49,790 (reportedly)<sup>727</sup>
3. Total number of places in private accommodation: 10,363<sup>728</sup>
4. Type of accommodation most frequently used in a regular procedure:  
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:  
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other

Article 28 L. 4825/2021 (replacing para. 4 art. 8 L 4375/2016) provides that the Regional Services of the RIS are the:

- ❖ Reception and Identification Centres (RICs)
- ❖ Controlled Temporary Accommodation Centres and
- ❖ Closed Controlled Access Centres (CCACs), which are structured and have similar responsibilities to the RICs and which include distinct spaces for the operation of Temporary Accommodation facilities and Pre-Removal Centres.

The same article also provides for the operation of distinct spaces, within the perimeter of the aforementioned types of accommodation, that should fulfil specifications appropriate for the accommodation of third country nationals or stateless persons belonging to the vulnerable groups prescribed by law.

Overall, 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>729</sup>

From mid-2015, when Greece was facing large-scale arrivals of refugees, those shortcomings became increasingly apparent. The imposition of border restrictions and the subsequent closure of the Western Balkan route in March 2016 resulted in trapping about 50,000 third-country nationals in Greece. This created *inter alia* an unprecedented burden on the Greek reception system.<sup>730</sup> Since then, the number of reception places has increased mainly through camps and the UNHCR accommodation scheme, until the latter was terminated at the end of 2022. Despite this increase, destitution and homelessness remain a risk, which has continued affecting asylum seekers and refugees,<sup>731</sup> particularly following the Greek government's decision to link eligibility for the cash-based support provided in the context of material

<sup>727</sup> Includes the nominal capacity of island facilities and the ESTIA scheme, as reported by the MoMA and the National Coordination Centre for Border Control, Immigration and Asylum, and data on the 24 mainland camps as per IOM's last update on 1 March 2022. For ESTIA data is updated up to November 2022 and for RICs/CCACs up to end December 2022. Does not include data on Evros RIC.

<sup>728</sup> The number of the ESTIA apartments up to November 2022, as reported by the MoMA.

<sup>729</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, *A.D. v Greece*, Application no. 55363/19, Judgement of 4 April 2023.

<sup>730</sup> See also AIRE Centre and ECRE, With Greece: Recommendations for refugee protection, July 2016, available at: <https://bit.ly/3WRDBXE>, 7-8.

<sup>731</sup> Amongst others see M. Kakaounaki, 'Thousands of refugees back out in the cold', *Kathimerini*, 20 January 2023, available at: <https://bit.ly/3mWTzm3>; K. Fallon, 'Destitution is almost inevitable': Afghan refugees in Greece left homeless by failed system', 30 November 2022, *The Guardian*, available at: <https://bit.ly/3HbNicW>; GCR, Diotima Centre & IRC, *Homeless & Hopeless: An assessment of the housing situation of asylum applicants and beneficiaries of international protection in Greece*, January 2022, available at: <https://bit.ly/3uwZ2zC>; 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>.

reception with residence in Greece's reception system, coupled with the termination of ESTIA and systematic application of the "safe third country" concept in cases where provisions of article 38 Directive 2013/32/EU are not fulfilled in practice.

The Reception and Identification Service (RIS), operating under the General Secretariat for the Reception of Asylum Applicants of the MoMA, is the responsible authority for the reception of asylum seekers,<sup>732</sup> including of unaccompanied minors.<sup>733</sup> Following the full handover of "ESTIA" to the MoMA in May 2021,<sup>734</sup> the RIS has also been responsible for managing the accommodation programme, in collaboration with implementing partners,<sup>735</sup> until the programme was terminated in December 2022. Yet as far as GCR is aware, the RIS had stopped receiving new referrals for accommodation to ESTIA, even for highly vulnerable cases, several months before the programme's termination. Following the entry into force of the Asylum Code and relevant amendments by L. 4960/2022, the Special Secretary for Unaccompanied Minors (SSUM) of the MoMA remains the competent authority for the protection of UAM, including for the referral and accompaniment of UAM to dedicated accommodation facilities for UAM and the implementation of Guardianship.<sup>736</sup>

### 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 were created on the mainland in order to increase accommodation capacity.

Article 10 of L. 4375/2016<sup>737</sup> provided a legal basis for the establishment of different accommodation facilities.

In addition to *Reception and Identification Centres*,<sup>738</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>739</sup> as well as open Temporary Accommodation Facilities (*Δομές Προσωρινής Φιλοξενίας*) for persons subject to return procedures or whose return has been suspended.<sup>740</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>741</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>742</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 Centres and Closed-Controlled Island Centres for

<sup>732</sup> Article 1(ιστ) Asylum Code.

<sup>733</sup> Article 64 (2) Asylum Code as amended.

<sup>734</sup> ECRE, 'Greece: Hearing Reveals Hostile Environment for Human Rights Defenders, Strategy of Deflection and Denials on Pushbacks Continue, ESTIA Cash Scheme Unravels as Government Takes Over', 15 October 2021, available at: <https://bit.ly/3LmNohy>.

<sup>735</sup> MoMA, ESTIA Programme, see: <https://bit.ly/439Selj>.

<sup>736</sup> Article 64 Asylum Code.

<sup>737</sup> As in force after replacement with article 29 of L. 4825/2021 regarding reform of deportation and returns procedures, attraction of investors and digital nomads, issues of residence permits and of procedures for granting international protection, provisions of the competence of the MoMA and of the Ministry of Citizen Protection and other urgent provisions.

<sup>738</sup> Article 10(1)-(2) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>739</sup> Article 10(4) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>740</sup> Article 10(5) L 4375/2016. The article has not been abolished by the IPA and remains the same.

<sup>741</sup> Article 11 (2)(d) of L. 4650/2019, on the Regulation of Issues pertaining to the Ministry of Defence and other matters is abolished with article 48 of L. 4960/2022 regarding the National Guardianship System and Accommodation Framework for Unaccompanied Minors.

<sup>742</sup> Article 190 L. 4662/2020.

asylum applicants subject to a detention order, for asylum applicants or persons subject to a return procedure or whose removal has been suspended, provided that restrictive conditions have been imposed on them.<sup>743</sup> As per the same amendment, Reception and Identification Centres (RICs), Closed Temporary Reception Structures, Pre-Removal Detention Centres (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 Centres and Closed-Controlled Island Centres.

As of 24 March 2020, following the issuance of a relevant Joint Ministerial Decision of the Ministers of Finance and of Migration & Asylum,<sup>744</sup> all temporary accommodation centres (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>745</sup> **Schisto** and **Diavata**,<sup>746</sup> with the rest operating without an official manager, through Site Management & Support. As of May 2020, following a decision issued by the Minister of Migration and Asylum,<sup>747</sup> Directors were assigned for a period of a year, which is renewable for up to an additional 2 years, to the entire island, RICs and the temporary mainland accommodation centres. 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>748</sup>

During 2019, 950 requests from homeless asylum seekers or asylum seekers under precarious living conditions 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>749</sup> Relevant data has not been provided since 2020 yet some indications of ongoing and new challenges, including following the termination of the ESTIA program, can be inferred from the observations of GCR's Social Unit in 2022.

In 2022, more than 146 asylum applicants (families, single-headed families, and individual applicants) reached GCR's Social Unit to request support with accessing accommodation in the context of reception. In 52 cases (71 persons) GCR's Social Unit referred the applicants to the competent service and the applicants were placed either in the ESTIA accommodation programme (up to March 2022) or in camps. The reminder (75 persons) denied to even be referred, after being informed that they would only be able to receive reception conditions in a camp. Overall, in GCR's experience the termination of ESTIA and the transformation of Greece's reception system into one near unilaterally focused on isolated, camp-based accommodation, has 'resulted in many people losing their trust in the country's Reception system, preferring to search on their own for alternatives to cover their needs, despite the fact that this increases the risk of being again exposed to violence and exploitation'.<sup>750</sup>

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<sup>743</sup> Article 30 (4) and (5) L. 4686/2020 amending articles 8 and 10 of L. 4375/2016 respectively.

<sup>744</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>745</sup> JMD 3/5262, 'Establishment of the Open Facility for the hospitality of asylum seekers and persons belonging to vulnerable groups in Elaionas 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>746</sup> JMD 3/14762, 'Establishment of Open Facilities for the Temporary Hospitality of applicant for international protection', Gov. Gazette B' 3720/16.11.2016.

<sup>747</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>748</sup> JMD 4712, 4711 and 5099, Gov. Gazette 2043/B/30-5-2020.

<sup>749</sup> Idem.

<sup>750</sup> GCR, 'Evictions, homelessness and setbacks to integration', 30 November 2022, available in Greek at: <https://bit.ly/3Lwyh8f>.

The capacity and occupancy of accommodation sites can be seen in the following table:

Capacity and occupancy of the asylum reception system: March 2022 (for camps) / December 2022 (for CCACs)		
Centre	Capacity	Occupancy at end of March 2022 (for camps) & December 2022 (for RICs/CCACs)
Islands		
Lesvos CCAC	8,000	1,709
Samos CACC	2,040	1,013
Chios CCAC	1,014	374
Leros CACC	1,780	358
Kos CACC	2,356	917
Mainland		
Agia Eleni	462	176
Alexandria	584	241
Andravida	498	194
Diavata	906	552
Drama	390	199
Elaionas	1,820	1,588
Filippiada	737	295
Katsikas	1,152	676
Kavala	1,207	272
Klidi-Sintiki	492	-----
Korinthos	896	638
Koutsochero	1,678	600
Lagadikia	426	129
Malakasa	1,785	864
Nea Kavala	1,680	520
Oinofyta	621	351
Ritsona	2,948	2,283
Schisto	1,358	742
Serres	1,651	736
Thermopyles	560	195
Thiva	956	488
Vagiochori	792	216
Veria	489	201
Volos	149	83
<b>Grand total</b>	<b>39,427</b>	<b>16,610</b>

Source: IOM, *Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants* (SMS), March 2022, available at: <https://bit.ly/43mIVEv>; National Coordination Centre for border Control, Immigration and Asylum, *Εικόνα Κατάστασης Στο Ανατολικό Αιγαίο* 31.12. 22, 31 December 2022, available in Greek at: <https://bit.ly/45kpuOq>.

## 1.2 ESTIA accommodation scheme

UNHCR started implementing an accommodation scheme dedicated to relocation candidates (“Accommodation for Relocation”) through its own funds in November 2015.<sup>751</sup> Following a Delegation

<sup>751</sup> UNHCR, *Greece: Accommodation for Relocation Project Factsheet*, 1 July 2016, available at: <http://bit.ly/2INOmLG>.

Agreement signed between the European Commission and UNHCR in December 2015,<sup>752</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.

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 to a maximum of 30,000 applicants by the end of 2017. The European Commission provided assurances that funding for the accommodation programme of asylum seekers in apartments would continue in 2019.<sup>753</sup> The takeover of activities by AMIF, managed by DG HOME, was confirmed in February 2019.<sup>754</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. A total of €91.5 million (AMIF funds) were approved for the programme's continuation in 2020, with the Ministry stating that its aim would be to increase the programme's available accommodation places from 25,000 to 40,000 by 2021.<sup>755</sup> As noted by the then 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>756</sup> In November 2020, another € 91.5 million was approved for the programme's continuation in 2021.<sup>757</sup>

Yet despite the MoMA's previously stated aims, between December 2021-February 2022 the number of accommodation places under the ESTIA II programme was significantly reduced to 16,875.<sup>758</sup> This was followed by a sudden announcement in February 2022 that by mid-April the programme's capacity would be further reduced to 10,000 places and that the programme would be terminated by the end of the year.<sup>759</sup>

Though reasons may vary for this inconsistency, it is important to note that had the programme reached the initially stated capacity of 40,000 places, it could have provided a significantly improved alternative to camps for all registered new arrivals for both 2021 (9,157) and 2022 (18,780)<sup>760</sup>.

Instead, the Greek government's decision to terminate ESTIA, in spite of available alternatives, amounts to the consolidation of a camp-based approach to reception, where applicants' access to some of their rights (material reception conditions) is subject to their isolation from society, where other rights, such as access to healthcare or education, cannot be effectively fulfilled.

The decision to terminate ESTIA also hinders integration prospects and ultimately delays the integration process for those granted international protection in Greece, given that, as *inter alia* noted by the Commission, '[i]ntegration happens in every village, city and region where migrants live, work and go to

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<sup>752</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, available at: <https://bit.ly/433cbQZ>.

<sup>753</sup> UNHCR, 'Interview with UNHCR Representative in Greece on housing programme for asylum-seekers', 19 February 2018, available at: <http://bit.ly/2sJf6lh>.

<sup>754</sup> European Commission, 'Greece – End of activation of the Emergency Support Instrument (DG ECHO)', 13 February 2019, available at: <https://bit.ly/2SIi5UV>.

<sup>755</sup> MoMA, '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>756</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>757</sup> MoMA, '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 Greek at: <https://bit.ly/3tWxPow>.

<sup>758</sup> MoMA, *ESTIA 2021 Factsheet December 2021 – January/February 2022*, 28 February 2022, available in Greek at: <https://bit.ly/3JQFwEt>.

<sup>759</sup> MoMA, 'The accommodation programme ESTIA II to be concluded ('ολοκληρώνεται') in 2022', 22 February 2022, available in Greek at: <https://bit.ly/35m5UXW>.

<sup>760</sup> Data on arrivals retrieved from UNHCR's operational data portal for Greece at: <https://bit.ly/3WubNsb>.



school or to a sports club<sup>761</sup> – isolation can only function in the opposite direction. It also led to a significant setback to the integration efforts already carried out by the programme's beneficiaries, including families with children, while virtually forcing others, such as people with serious and/or chronic health conditions, to interrupt access to necessary care,<sup>762</sup> if they wished to retain their right to access the reception system.

As noted in December by a family supported by GCR, following their eviction from ESTIA and transfer to a camp on the mainland:

'We had little by little started to integrate into Greek social life. My children were going to school, my wife was attending classes to become a housekeeper, I had managed to get a job contract. We also had a baby. Our daily schedule was full, well planned [...] Unfortunately, we were forced to go 3-4 hours away from where we were staying, to start everything all over again. When you find out you're leaving, it ruins everything, even the job I got. With the time it takes to get from camp to work, it just doesn't work. The kids were seeing their classmates, going on field trips, learning and seeing the city. I could see that they were on their path and that made me very happy. Now they are restless, traumatised. They don't go to school; they spend the whole day cooped up in a small space. I see the adults too, all day, morning and evening, they do nothing, they don't go anywhere, because transportation is difficult and expensive. It is a prison'.<sup>763</sup>

As further noted by RSA in the same month: '[s]uddenly, children had to leave their schools, hobbies and friends, adults their language and vocational classes, persons with (mental) health problems had to interrupt their treatment. Those who had found occasional work moved far away from their small job opportunities'.<sup>764</sup> Short notifications of eviction (e.g. even 2 days) without information on where the applicants would be moved after exiting ESTIA, and the lack of organised transportation in many cases, have also been observed as further negative factors, *inter alia* causing undue anxiety and stress.

'We lived in the flat in Athens for around two years. Then we were suddenly informed we had to be transferred to a camp within two days. They told us we had no choice. Now we are in the camp. We have to start from zero again', stated a single mother from Afghanistan. 'Only one week before the transfer to the camp were we told the exact location', stated a father of a 12-year old, while adding: 'It is not just a step backwards for my daughter and me, it's like uprooting a young tree that just found some strength to grow. The house was our home and the only place where my daughter felt safe [...] We were pulled away from any chance to heal and integrate'. In some cases, the former residents of ESTIA were not informed at all about the place where they would be provided with accommodation following their eviction from ESTIA: 'We don't even know which camp we'll go to', said the Afghan father of three daughters.<sup>765</sup>

The termination of ESTIA also raises questions with respect to Greece's capacity to fulfil obligations arising vis-à-vis applicants falling under article 21 of Directive 2013/33/EU. As noted in an interview by UNHCR's communication officer, Stella Nanou: 'it is reasonable for the accommodation capacity to be adapted to the population of asylum seekers in the country', but UNHCR considers that 'a number of apartments should be maintained in the urban fabric', as a type of asylum seeker accommodation 'necessary for the most vulnerable asylum seekers and their families to live in safe conditions and with easier access to necessary services'.<sup>766</sup>

In March 2022, in the context of referring for accommodation to ESTIA a highly vulnerable applicant, single woman, survivor of serious gender-based violence (GBV) incidents –including in the RIC from which she had been transferred– with burn scars on her body, and in need of regular medical and

<sup>761</sup> EC, *Action plan on Integration and Inclusion 2021-2027*, 24 November 2020, available at: <https://bit.ly/41DzCz2>, 7.

<sup>762</sup> GCR, 'Evictions, homelessness and a setback to integration', 30 November 2022, available in Greek at: <https://bit.ly/3LfqbAu>.

<sup>763</sup> Aggelidis, D., 'Homeless ['ἀνέσθιοι'] refugees without ESTIA', *EfSyn*, 24 December 2022, available in Greek at: <https://bit.ly/3LvXNis>.

<sup>764</sup> RSA, 'A Step Backwards for Protection and Integration: On The Termination of the Estia II Housing Programme for Asylum Applicants', 22 December 2022, available at: <https://bit.ly/3HmVE1F>.

<sup>765</sup> Ibid.

<sup>766</sup> Ecopress, 'ESTIA: the programme ends, thousands of properties are rented out', 17 November 2022, available in Greek at: <https://bit.ly/3qwwwMj>.



psychosocial support, GCR received the following reply from the MoMA: ‘we will never again accommodate refugees in apartments, but only in camps’. After consistent effort by GCR’s Social Unit, the applicant was ultimately placed in ESTIA. Yet this was the last time a GCR beneficiary was accepted to accommodation other than a camp, despite the fact that there have since been several more applicants with similar vulnerabilities, which on several occasions have been accentuated and/or resulted from past traumatic experiences in Greece’s camps, where (amongst others) GBV incidents continue being reported to this day.<sup>767</sup>

In a slightly hopeful development, in January 2023 it was reported that the MoMA would initiate an informal, even if severely limited (up to 500 places), alternative accommodation scheme within the first quarter of 2023, aimed at covering the needs of severely vulnerable applicants.<sup>768</sup> Yet GCR is not aware of any development on this front up to April 2023.

ESTIA II accommodation scheme: September-November 2022*	
Type of accommodation	Capacity
Total number of reported places	10,363
Resident population during reporting period	1,843
Reported occupancy rate	18%

\* Last publicly available data for ESTIA since the programme was terminated in December 2022.

Source: MoMA, *ESTIA 2022 Factsheet – September/October/November 2022*, 30 November 2022, available in Greek at: <https://bit.ly/3YPrj2f>

Between September-November 2022, the ESTIA II accommodation programme operated in 1,683 apartments and 76 rooms found in 9 buildings, in 19 cities throughout Greece. Out of the total of 10,363 places reported by November 2022, 404 were reported on the islands of Crete and Tilos, as the programme had been terminated on the rest of the islands by November 2021.

In total, 93,000 individuals have benefitted from the accommodation programme since the start of its implementation in November 2015.

Out of the 1,843 people reported to be accommodated under the programme between September-November 2022 –which is also the last reporting period for which public data are available– 781 were beneficiaries of international protection. During the same period, 42% of all residents were children, while the clear majority of those accommodated continued being families with children, primarily from the DRC (23%), Afghanistan (20%), Syria (11%), Iraq (9%), and Iran (5%).<sup>769</sup>

### 1.3 The islands and accommodation in the hotspots

Immediately after the launch of the EU-Türkiye 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>770</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>771</sup> this practice was largely abandoned shortly afterwards. As a result, before the COVID-19 pandemic and the subsequent establishment of the new CCACs, islands RICs were mainly operating as open reception centres, albeit similar to mainland camps.

<sup>767</sup> Information *inter alia* acquired from the Lesvos Inter-Agency Coordination Meeting of 27 March 2023.

<sup>768</sup> Ta Nea, ‘From ‘ESTIA’ to social housing’, 6 January 2023, available in Greek at: <https://bit.ly/3AeHzjJ>.

<sup>769</sup> MoMA, *ESTIA 2022 Factsheet – September/October/November 2022*, 30 November 2022, available in Greek at: <https://bit.ly/3YPrj2f>.

<sup>770</sup> AIDA, *Country Report Greece: 2016 Update*, March 2017, available at: <https://bit.ly/3J8Qw23>, 100 et seq.

<sup>771</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, available at: <https://bit.ly/3IN3hPk>, 10.

In March 2020, following the breakout of the global COVID-19 pandemic, those residing in RICs and camps became subject to disproportionate restrictions of their freedom of movement in the context of measures aimed at restricting the spread of the COVID-19 pandemic.<sup>772</sup> These restrictions have continued being renewed up to December 2022, even though restrictive measures in the context of the pandemic had largely stopped being applied for the rest of the population.

The latest JMD for 2022,<sup>773</sup> which was issued on 31 December, replicating wording available in previous such decisions, and with application to the RICs, CCACs, Controlled Temporary Accommodation Centres and more broadly facilities hosting third country nationals throughout the country's territory, *inter alia* maintains:

- 1) 'The possibility of circulation of third country nationals residing in the RICs, CCACs and other accommodation facilities throughout the territory strictly within the respective perimeter that the Greek Police (EL.AS) will implement, in accordance with its operational planning.'
- 2) "Every day and from 7:00 to 21:00, representatives of families or groups of people staying in the RICs, CCACs and other accommodation facilities for third country nationals are given the opportunity to travel to the nearest urban centres to meet their needs. In areas where it is possible to travel by public transport, this shall be done without causing confusion on the means of transport concerned. The control of the above measures is carried out by personnel of the EL.AS.'

Following a controversial press briefing on the Government's operational plan for responding to the refugee issue, on 20 November 2019,<sup>774</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 were condemned by a wide array of actors, including members of the European Parliament – who addressed an open letter to the Justice and Home Affairs Council – the CoE Commissioner for Human Rights,<sup>775</sup> as well as GCR and other civil society actors,<sup>776</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>777</sup>

Notwithstanding this, it should be mentioned that throughout 2019 people residing in the RICs continued to be 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. These disproportionate restrictions, with small variations, continued to be imposed, albeit implemented differently in different locations, up to the end of 2022. As per the latest relevant Joint Ministerial Decision issued as of the time of writing, covering the period between 30

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<sup>772</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>773</sup> JMD Δ1α/ΓΠ.οικ. 75297 on Emergency measures to protect public health against the risk of further spread of COVID-19 coronavirus in the whole territory from Sunday, 1 January 2023 at 06:00 until Monday, 30 January 2023 at 06:00, published on 31 December 2022, available in Greek at: <https://bit.ly/3na7qVX>, Annex II.

<sup>774</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>775</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>776</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>777</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>, 4-5.

January-13 February 2023, exit from the facilities (includes RICs and the totality of accommodation centres for third-country nationals) is only allowed between 7am-9pm, only for representatives of families or groups, and only in order 'to meet essential needs in the nearest urban centres'.<sup>778</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>779</sup>

More than 35 Joint Ministerial Decisions, *inter alia* imposing and/or renewing or amending restrictions in the RICs and camps were issued in 2022<sup>780</sup>. Additionally, full lockdowns were imposed on several occasions on the island RICs 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>781</sup> No relevant data has been provided for 2021 at the time of writing.

Beyond the hotspots, each island had 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, namely PIKPA Lesbos and PIKPA Leros in November 2020, as well as the municipal Kara Tepe camp in Lesbos in April 2021,<sup>782</sup> PIKPA Lesbos, and the announced plan to terminate the ESTIA accommodation scheme on the islands by November 2021<sup>783</sup>, these have gradually given way to the new Closed-Controlled island facilities in 2021<sup>784</sup>, as the exclusive form of first-line reception starting 2021. The first such Centre was inaugurated in Samos in September 2021, in an isolated area in the region of Zervou, and already within two months of its operation the facility's resemblance to a prison, with residents being subject to disproportionate and severe measures of control and movement restrictions tantamount to *de facto* detention measures for some, was evident.<sup>785</sup> As noted by Médecins sans frontières (MsF) in September 2021, the new facility "*is a dystopian nightmare that contributes to [refugees'] isolation and their further re-traumatisation*".<sup>786</sup> Three months following the facility's inauguration, in December 2021, the Court of Syros confirmed the unlawful character of the

<sup>778</sup> Annex II, JMD Δ1α/ΓΠ.οικ. 17567, Gov. Gazette 1454/B/25-03-2022, available at: <https://bit.ly/3NxeOmL>, as replaced at the time of writing with JMD Δ1α/ΓΠ.οικ. 5432/2023.

<sup>779</sup> FRA, Coronavirus pandemic in the EU – fundamental rights implications: focus on social rights, Bulletin 6, November 2020, available at: <https://bit.ly/3eUZDEC>, 31.

<sup>780</sup> All relevant JMDs can be found in this site: <https://bit.ly/3qd6lho>.

<sup>781</sup> Summary of information provided by the RIS on 11 February 2021.

<sup>782</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>; MoMA, '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>783</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. MoMA, 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/3fm9ZfW>, 11, 13.

<sup>784</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' ('Εκλείσσε το ΚΥΤ του Καρά Τεπέ - Ν. Μηταράκης: 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>.

<sup>785</sup> GCR, 'The new Closed Controlled Facility in Samos: An isolated 'modern prison'?', November 2021, available in Greek at: <https://bit.ly/38d1Z0N>.

<sup>786</sup> efsyn, 'Medecins sans Frontieres: the new facility in Samos is a dystopian nightmare', 18 September 2021, available in Greek at: <https://bit.ly/3iPSWEW>.

prohibition of exit imposed by the Greek state on residents of the facility, in a case brought forth by GCR.<sup>787</sup> The Closed-Controlled Centres of **Leros** and **Kos** became operational in November 2021.<sup>788</sup> The relevant facilities in **Lesvos** and **Chios** have yet to become operational as of the time of writing of this report.

As of 31 December 2022, 4,735 persons remained on the Eastern Aegean islands, of whom 36 were in detention in police cells and the Pre-Removal Detention Centre (PRDC) of Kos, 14 were in detention in the police cells of Rhodes and 2 in Ikaria. The nominal capacity of reception facilities reached 15,790 places, which includes the RIC of Lesbos and Chios, the temporary Mavrovouni camp, the Closed-Controlled Centres of Samos, Kos and Leros, the accommodation facility of West Lesbos functioning as a quarantine unit for new arrivals and the accommodation facility of Tilos and other accommodation facilities, including shelters for UAM.<sup>789</sup>

More precisely, the figures reported by the National Coordination Centre for Border Control, Immigration and Asylum, under the Ministry of Citizen Protection, were as follows:

Accommodation on the Eastern Aegean islands: 31 December 2022								
Island	RICs & Closed-Controlled Centres		MoMA		UAM accommodation		Other facilities	
	Nominal capacity	Occupancy	Nominal capacity	Occupancy	Nominal capacity	Occupancy	Nominal capacity	Occupancy
Lesvos	8,000	1,709	-	-	168	157	352	128
Chios	1,014	374	-	-	20	11	-	-
Samos	2,040	1,013	-	-	20	16	-	-
Leros	1,780	358	-	-	-	-	-	-
Kos	2,356	917	-	-	-	-	-	-
Others	-	-	40	0	-	-	-	-
<b>Total</b>	<b>15,190</b>	<b>4,371</b>	<b>52</b>	<b>3</b>	<b>208</b>	<b>184</b>	<b>352</b>	<b>128</b>

Source: National Coordination Centre for Border Control, Immigration and Asylum, *Situational Picture in the Eastern Aegean 31.12.2022*, 1 January 2023, available in Greek at: <https://bit.ly/3V3rTlw> and <https://bit.ly/3OFIP83>.

## 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 59(1) of the Asylum Code provides that material reception conditions must provide asylum seekers with an adequate standard of living that guarantees their subsistence and protects their physical and mental health, based on respect for 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>790</sup>

<sup>787</sup> GCR, 'The Administrative Court of Syros ruled unlawful the measure of prohibiting the exit of an Afghan asylum seeker from the new Closed Controlled Access Facility of Samos (CCF Samos)', 22 December 2022, available at: <https://bit.ly/3qMfOtV>.

<sup>788</sup> MoMA, 'New Closed Controlled Center in Leros' and 'New Closed-Controlled Center in Kos', 27 November 2021, available in Greek at: <https://bit.ly/36APk7w> and <https://bit.ly/38eyXxN>.

<sup>789</sup> National Coordination Centre for Border Control, Immigration and Asylum, *Situational Picture in the Eastern Aegean 31.12.2022*, 1 January 2023, available in Greek at: <https://bit.ly/45kpuOq>.

<sup>790</sup> See for example: FRA, *Current migration situation in the EU: Oversight of reception facilities*, September 2017, available at: <http://bit.ly/2xObtYA>, 2.



## 2.1 Conditions in temporary accommodation facilities on the mainland

A total of 32 mainland camps, most of which were created in 2015-2016 as temporary accommodation facilities in order to address urgent reception needs on the mainland, following the imposition of border restrictions were operating in December 2020.<sup>791</sup> However, following the continued drop in arrivals in 2021 (roughly 42% drop compared to 2020),<sup>792</sup> which coincides with the exponential increase of the number of reports and allegations regarding pushbacks at the borders, since March 2020,<sup>793</sup> these temporary accommodation facilities were reduced to 24 by March 2022.<sup>794</sup> Following the closure and handover of the (former) Elaionas camp to the Municipality of Athens in December 2022, these have been further reduced by year's end.<sup>795</sup>

Prior to the eviction of Elaionas' residents and the camp's ultimate closure, residents of the camp, as well as various solidarity groups, had protested on multiple occasions, *inter alia* requesting for the camp to remain open until a solution for their dignified accommodation within the urban fabric could be found, to not be "uprooted" again and forced to relocate to other mainland camps, as per the MoMA's plan, and for the professionals previously providing them with psychosocial care to be re-employed.<sup>796</sup>

Amidst these reactions, questionable practices by the MoMA that have been characterised as "blackmailing" by the camp's former employees<sup>797</sup>, were reported at the end of August to have taken place, in an effort to convince the camp's residents to accept their transfer to other camps or eviction. As noted by previous employees of Elaionas camp "[t]hey are not entitled to the continuation of the financial assistance (cash card) since they are automatically deleted from the facility, while the acceleration of the asylum procedure takes the form of a promise for those who consent [to be moved]. To this day, in an attempt to informally punish the protesting residents and to suppress their resistance, the administration staff refuses to provide them with any kind of service, e.g. refusing to hand over travel documents [...]". They further noted that "people with very serious health issues were not allowed to collect their personal belongings, while with regards to a visually impaired person awaiting possible surgery the [camp's] administration [seems to have] said: "What [do you think] we are here to collect everyone?"".<sup>798</sup>

These developments came 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. By 7 January 2021, the Filoxenia programme was officially terminated, pending the transfer of the last 130 beneficiaries to other accommodation facilities.<sup>799</sup>

Regarding conditions in the mainland camps, these vary across facilities, as different types of accommodation and services are offered at each site. Therefore, notwithstanding the fact that camps are

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<sup>791</sup> IOM, *Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS): Factsheets*, December 2021, available at: <https://bit.ly/36YGhx1>.

<sup>792</sup> UNHCR data portal, available at: <https://bit.ly/3JXA7ep>.

<sup>793</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 Türkiye', 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>794</sup> IOM, *Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS)*, March 2022, available at: <https://bit.ly/43mIVEv>.

<sup>795</sup> A list of relevant facilities is available on the MoMA's website, under 'Facilities/Temporary Reception' at: <https://bit.ly/42b3wuv>. However, the list is not necessarily accurate given that Elaionas is still listed as an operating facility.

<sup>796</sup> EfSyn, 'They dynamically demand their stay in Elaionas camp', 16 August 2022, available in Greek at: <https://bit.ly/3V5LTKO>; 'The refugees of Elaionas say 'No' to second 'uprooting'', 8 August 2022, available in Greek at: <https://bit.ly/443jlFK> and 'Mobilisation refugees and solidarity groups', 5 July 2022, available in Greek at: <https://bit.ly/41BSDIW>.

<sup>797</sup> EfSyn, 'They refute Mitarakis, talk about blackmailing practices of the administration', 30 August 2022, available in Greek at: <https://bit.ly/40GYVj4>.

<sup>798</sup> *Ibid.*

<sup>799</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/3wfcfn3>.

never suitable for long-term accommodation, compliance with the standards of the recast Reception Conditions Directive should be assessed against the situation prevailing in each camp.

Overall, even if conditions on the mainland have been generally reported as better compared to those on the island RICs,<sup>800</sup> living conditions in the camps remain unsuitable. By way of illustration, out of 22 people residing in mainland camps interviewed by GCR, Diotima Centre, and IRC between mid-November 2021 and 1 March 2022, 10 described the living conditions in the camps as “very bad”, 8 as “Bad” and 4 as “neither good nor bad”. Moreover, in 68% of the cases, respondents stated that they do not feel safe in the camp, 60% stated they felt forced to share accommodation with people they did not know and/or with whom they did not wish to be jointly accommodated, 64% that the place they lived in was not clean, 50% that they could not easily reach necessary services (e.g. hospitals) outside of the camp, and 60% that they did not have a chance to get to know the Greek society or meet Greek people, due to their accommodation,<sup>801</sup> further highlighting the negative impact of camp-based accommodation on prospects of integration.

As noted by UNHCR in December 2022:

‘UNHCR considers that housing in apartments, particularly if there is already a programme in operation, should be retained as the preferred type of housing when emergency conditions do not prevail. Camps should be the exception and only a temporary response measure in situations of forced displacement, as our Agency’s experience worldwide has shown that camps can have a significant negative impact in the long term for all. They perpetuate the trauma of displacement and create obstacles to finding solutions for refugees, whatever they may be. On the other hand, enabling refugees to stay with their host communities in conditions of legality and peaceful coexistence supports their ability to become self-reliant, to take responsibility for their lives, to integrate and contribute to their host community’.<sup>802</sup>

Challenges regarding the camps’ remoteness and their residents’ accessibility to rights and services, including education, also continued being reported in 2021<sup>803</sup> and in 2022, including on account of ongoing challenges with respect to the lack of transportation (or lack of resources to access it when available), which have continued being reported in the first months of 2023.<sup>804</sup> Out of the 24 mainland camps that were operational in March 2022, 5 still lacked public transportation, even though distances from the specific facilities to services that can be necessary (e.g. Citizen’s Service Centre [KEP], Tax Office and ATM)) ranged from 2 km to 31.9 km.<sup>805</sup> Especially for the camps without public transportation and without a doctor present at the site, the distance to the nearest health facility or pharmacy can reach up to 15,3 km<sup>806</sup>.

As noted by a single mother from Afghanistan in December 2022, after her eviction from ESTIA and return to a camp: ‘It takes hours for an ambulance to arrive here if there is an emergency. For any doctor

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<sup>800</sup> For instance, UNHCR, *Greece Update No.16: Lesbos*, 9 March 2021, available at: <https://bit.ly/3opJQkl>.

<sup>801</sup> Data collected through a joint questionnaire prepared by GCR, Diotima Centre, and IRC in the context of the joint project prepared by GCR, Diotima Centre and IRC, under the joint project ‘Do the human right thing–Raising our Voice for Refugee Rights’. The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow. As of 1 March 2022, 188 such questionnaires have been collected, albeit only 22 were filled by people specifically residing in mainland camps.

<sup>802</sup> New 247, ‘The government threw mothers with underage children on the streets’, 10 December 2022, available in Greek at: <https://bit.ly/3AsMA7x>.

<sup>803</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>.

<sup>804</sup> *Inter alia*, as per information acquired during the 17 March 2023 protection working group for Northern Greece, which is organised under UNHCR.

<sup>805</sup> IOM, *Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants* (SMS), December 2021, available at: <https://bit.ly/3L4TFhN>.

<sup>806</sup> IOM, *Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants* (SMS), March 2022, available at: <https://bit.ly/43mIVEv>.



appointments we have to pay the expenses for the public transportation by ourselves and we go without any translator. A doctor appointment without a translator is like no appointment.<sup>807</sup>

In January 2023, a 45 year-old Congolese national residing in **Ritsona** camp was found dead in his shelter. Reportedly,<sup>808</sup> during the night, the man had been complaining of feeling chest pains and was requesting medical support. Yet as further reported,<sup>809</sup> the facility, which was at the time accommodating roughly 2,000 persons, lacked sufficient medical personnel, practically operating only one first aid station that was not operational during night hours. Though an ambulance was called, as per complaints by the camp's residents, it arrived with delay, and upon being transferred to the hospital in Chalkida (roughly 15 km away) the man was confirmed dead. Residents of the facility reacted by demanding adequate health coverage.

Regarding housing arrangements, with very few exceptions (e.g. 8 tents in all of the mainland camps), there has been a significant reduction in the emergency units used to address accommodation needs, which were mostly covered through containers, apartments/rooms, and shelters by March 2022<sup>810</sup>. This is also due to the significant decrease in the number of people hosted in the camps which were all operating below their capacity by December 2021, with the sole exception of Elaionas camp in Athens (109.23% occupancy).<sup>811</sup> At the same time, however, more than 2,261 unregistered persons continued residing in mainland camps in March 2022. As far as GCR is aware, this includes persons whose asylum applications have not yet been registered, beneficiaries of international protection, and persons with rejected asylum applications, thus highlighting a significantly underreported issue that is closely linked to access to reception conditions, integration policies and prospects, and the persistent application of the "third safe country" (STC) concept by the Greek Asylum Service, which has *inter alia* continued leading a large number of asylum applicants in a state of legal limbo.<sup>812</sup> That being said, in 2022 and the beginning of 2023, GCR has increasingly received complaints by residents of the camps, regarding poor and unsanitary conditions (e.g. very high levels of humidity, lack of warm water, holes in the walls etc.) in housing units of at least some mainland camps.

Moreover, since October 2021, the MoMA decided to interrupt the provision of food to residents of the camps that were no longer in the asylum procedure, as a means to force them out of the accommodation. As noted by 26 civil society organisations in the same month, of those affected, 25% are women (including pregnant women), single-headed families, 40% children, chronic patients, and patients with special medical and nutritional conditions. In some places, food is not even provided to those put in quarantine due to COVID- 19.<sup>813</sup> By November 2021, this food crisis was affecting 60% of all mainland camp residents,<sup>814</sup> many of whom were beneficiaries of international protection who continue to be forced to stay and/or return to camps in 2021 due to a lack of alternatives as well. In several cases known to GCR, some of them stayed even after having completed the sole available large-scale integration program (Helios) in Greece. Though specific statistics are not available for 2022, GCR and other organisations are aware of similar cases in 2022 as well.

In December 2022, media also reported that up to 1,000 residents of **Ritsona** camp were not receiving food, likely due to having received a negative asylum decision. Amongst them there were families with

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<sup>807</sup> RSA, 'A Step Backwards for Protection and Integration: On The Termination of the Estia II Housing Programme for Asylum Applicants', 22 December 2022, available at: <https://bit.ly/3HmVE1F>.

<sup>808</sup> To Kouti tis Pandoras, 'Dead refugee in Ritsona facility', 16 January 2023, available in Greek at: <https://bit.ly/3n2wmid>.

<sup>809</sup> 902.gr, 'The death of a refugee in Ritsona proves the deterioration of health structures', 18 January 2023, available at: <https://bit.ly/3HeP7WG>.

<sup>810</sup> IOM, *Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS)*, March 2022, available at: <https://bit.ly/43mIVEv>.

<sup>811</sup> IOM, *Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS)*, December 2021, available at: <https://bit.ly/3L4TFhN>.

<sup>812</sup> In 2022, the number of applications rejected as inadmissible due to ongoing application of the 'safe third country' concept in the case of Türkiye, stood at 3,409 at first instance and 2,696 at second instance. MoMA, Reply to parliamentary question, 156079/2022, 16 March 2023, available at: <https://bit.ly/3Lid1In>.

<sup>813</sup> Joint Statement by 26 NGOs, 'Are you eligible to eat?', 18 October 2021, available at: <https://bit.ly/3LovDyr>.

<sup>814</sup> *Inter alia* see Joint Statement by 27 NGOs, 'NGOs raise alarm at growing hunger amongst refugees and asylum seekers in Greece', 25 November 2021, available at: <https://bit.ly/3iLj1Fe>.

children and babies. As noted by one of those affected: 'When my children queue up for the soup kitchen, the guards push them [...] I may not have suffered physical violence, but the fact that my children have no rights, no right to food and medical care is a form of violence [...] I came here to protect my children. If my life was not in danger in Iraq, I would have gone back'.<sup>815</sup>

That being said, as in previous years, so too in 2022, GCR continued receiving complaints by its beneficiaries with respect to the quality of food –which many have stressed is not edible or even expired at the time they receive it– and to the lack of specific food products, such as suitable milk for babies, throughout several of Greece's camps, including near Athens and Thessaloniki.

As stated by a single-headed family supported by GCR,<sup>816</sup> after being transferred to a camp (previously residing in ESTIA): 'The situation is very bad. With this cold, we don't have winter clothes, they didn't even give us [i.e. the camp authorities] a blanket. We cannot eat the food. The milk they give for the children makes them feel discomfort (« τα ενοχλεί »). They told me they cannot change something [i.e. the camp authorities]. In the [ESTIA] apartment we did things on our own, we cooked the food we eat. Here, we do not have a choice'.

Likewise, while commenting on the quality of food provided to those considered eligible by the Greek administration, an employee of Ritsona camp stated: '[t]he food they provide is terrible. It is not edible'.<sup>817</sup>

During the 2020-2021 winter, conditions were also reported as highly substandard, as several mainland camps, including Schisto, Elaionas, and the old Malakasa camp were covered by snow during adverse weather conditions in February 2021, and hundreds of persons, particularly those living in tents at the time, were unable to warm themselves, not least, due to reported electricity shortages in several mainland camps.<sup>818</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 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>819</sup>

As of October 2021, electricity shortages in Ritsona camp continued to create concerns about the residents' access to heating for yet another winter (2021-2022).<sup>820</sup> Though the extent to which similar challenges remain in 2022 needs to be further checked, residents of the camps have continued complaining about lack of access to sufficient warmth during the 2022-2023 winter as well. For instance, as noted by a 21-year-old applicant from the DRC, following his eviction from ESTIA and return to a camp outside of Athens, where he was placed in a container: 'The container was dirty, and there were not enough beds inside. The heating wasn't working properly, and it was very cold. The first day we arrived, the cold was unbearable. They gave us only bedding, but no blankets in the beginning'.<sup>821</sup>

By April 2021, it was also reported that works had commenced on the construction of 2.5 to 3-meter concrete walls and fences around the open (COVID-19 restrictions notwithstanding) mainland camps of Ritsona, Diavata and Nea Kavala, raising questions for the camp's employees, who were reportedly not informed of the initiative, but also 'discomfort to refugees who have for years been living in isolation,

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<sup>815</sup> Avgi, 'Ritsona / Holidays without food for hundreds of refugees and migrants', 18 December 2022, available in Greek at: <https://bit.ly/43dn7eM>.

<sup>816</sup> Aggelidis, D., 'Homeless [ἀνέστιοι] refugees without ESTIA', *EfSyn*, 24 December 2022, available in Greek at: <https://bit.ly/3LvXNis>.

<sup>817</sup> Avgi, 'Ritsona / Holidays without food for hundreds of refugees and migrants', 18 December 2022, available in Greek at: <https://bit.ly/43dn7eM>.

<sup>818</sup> In.gr., 'The snow is not pleasant when you are living in a tent – 'Medea' buried the refugee camps ('Τοχιόνι δεν είναι ευχάριστο όταν μένεις σε σκηνή – Η «Μήδεια» έθαψε τους προσφυγικούς καταυλισμούς')', 16 February 2021, available at: <https://bit.ly/3fmDFJl>.

<sup>819</sup> Efsyn, 'Last minute improvisations for the refugees in Elaionas' ('Αυτοσχεδιασμοί της τελευταίας στιγμής για τους πρόσφυγες στον Ελαιώνα'), 16 February 2021, available in Greek at: <https://bit.ly/3wfWTf>.

<sup>820</sup> GCR, Diotima Centre and IRC, *Homeless and Hopeless: an assessment of the housing situation of asylum applicants and beneficiaries of international protection in Greece*, January 2022, available at: <https://bit.ly/3fTuCsm>, 9.

<sup>821</sup> RSA 'A step backwards for protection and integration: On the termination of the ESTIA II housing programme for asylum applicants', 22 December 2022, available at: <https://bit.ly/43vr3Y5>.

outside the urban fabric'.<sup>822</sup> As noted by a single woman refugee from Afghanistan residing in the mainland camp of Diavata in May 2021, 'At night, when I look behind the camp's barbed wire fences, I realise how different my life here is from the rest [...] I can only observe the beauty of the city lights from afar, without even knowing for how long I have to stay here'.<sup>823</sup> This came close to a month after the MoMA issued a public call for tenders for the construction of fencing and the necessary infrastructure for enhancing security in Migrant Accommodation Structures.<sup>824</sup>

At the beginning of February 2022, the Ministry of Migration and Asylum assigned a contractor -selected in an international tender- the work of fencing and installing security infrastructure in the camps of Koutsochero, Vagiochori, Lagadikia, Alexandria, Filippiada and Serres until the end of April 2022. The same happened in the camp of Katsikas in Ioannina.<sup>825</sup> Due to the installation of the "HYPERION" surveillance system under the Greek Data Protection Authority review, cameras were installed, with private security guards controlling the entry and exit to and from the camp, demanding residents identify themselves.

These practices, in conjunction with the isolated nature of the camps and the frequent inability of residents to access means of transportation, have led to the establishment of prison-like structures, which make residents feel like they are being imprisoned.<sup>826</sup> 'I feel trapped' stated a single Afghan father of a 12-year-old girl, who was forced to leave ESTIA and return to a camp. 'I felt I had been dumped there. Around the camp, there is nothing. To enter and exit, you need to show your papers. There are walls around the camp. I feel imprisoned even though I am allowed to go out', added a 21-year-old Afghan resident after his transfer to the camp. As noted by RSA, there was a victim of gender-based violence in his country of origin and had been a victim of assault during his previous stay in Moria camp. His transfer to a camp took place in blatant disregard for his mental health condition or previous efforts to re-establish a semblance of 'normal' life:

To go to Athens from here I have to walk 30 minutes to the nearest bus station and then ride a bus for more than one hour. I have to pay 6.10 euros for each ride. The busses don't go to Athens often. I receive a 70€ allowance per month, so going to Athens is a luxury I cannot often afford and it is likewise hard for my partner to visit me here. I have many doctor's appointments in Athens, sometimes three a week and is really hard to attend them. I have also enrolled on Greek classes in Athens but I cannot go there anymore. In the camp I went three times to find classes but there was nobody there. As I have almost no possibility to go anywhere, I am forced to stay most of the time in the camp and far from my friends. Since I've been in the camp, I keep thinking all the time. My psychological situation is worse'.<sup>827</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,

<sup>822</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>823</sup> Solomon, 'We call it modernisation' – The facilities for refugees on the islands and the mainland are closed', 10 May 2021, available in Greek at: <https://bit.ly/372ij3X>.

<sup>824</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>825</sup> EFSYN, «Υψώνουν τείχος στη δομή των Ιωαννίνων» (Greek), 14 February 2022, available in Greek at: <https://bit.ly/3C2pjKi>.

<sup>826</sup> RSA 'A step backwards for protection and integration: On the termination of the ESTIA II housing programme for asylum applicants', 22 January 2022, available at: <https://bit.ly/43vr3Y5>.

<sup>827</sup> Ibid.

camps may increase critical protection risks, including sexual and gender-based violence (SGBV) and child protection concerns.<sup>828</sup>

In several cases in 2021, asylum seekers and refugees residing in mainland camps continued to protest against substandard living conditions, their ongoing exclusion from the Greek society, and the new policy of excluding those not eligible for reception conditions from the provision of food, amidst severe delays in the distribution of cash assistance. In October 2021, residents of **Nea Kavala** camp protested by obstructing entry to the camp, while calling to for food not to be cut. As stated, '[o]ur children go to school without having eaten; is this humanitarian?'.<sup>829</sup> Small tensions were reported in April, amid a protest in **Skaramangas** camp which was scheduled to close without, reportedly, the residents being informed of where or if they would be transferred and how their housing needs would be met after the camp's closure.<sup>830</sup> In the same month, residents of **Oinofyta** camp barred entry to the camp for at least two days, protesting for the ongoing rejections of asylum claims lodged by Kurdish nationals, on account of the Greek Asylum Service's persistent application of the "safe third country" concept in the case of Türkiye. As *inter alia* stated, 'We have no other solution [...] For three months they are not providing us with cash assistance, the situation is very difficult. But the most important issue is that for the past two-three months approximately 150 Kurdish nationals from Syria, amongst whom families, women, and children, had their asylum applications rejected. We explained in the asylum interview our situation in Türkiye. It is not safe at all'.<sup>831</sup>

Protests were also reported in 2022, yet to the extent GCR can be aware, these were mostly related to the closure of Elaionas camp and the termination of ESTIA. For instance, in June 2022, Elaionas camp residents addressed an open letter to the Greek Minister of Migration and Asylum, The Mayor of Athens, the IOM Chief of Mission in Greece and Greek civil society more broadly. In the letter, they *inter alia* demanded an end to the closure of Elaionas camp. As noted: 'Here we brought our hope of being able to start a new life, for us and our children, in peace. But the Greek authorities do not see in us human beings forced to flee: they see in us a problem to hide, taking us away from the eyes of Greek citizens, closing us in camps far from the cities, far from the rest of the society.' With their letter, they called in June 2022 the Greek community to a demonstration, starting from the gates of the Elaionas camps to the Ministry of Immigration and Asylum.<sup>832</sup> In November 2022, refugees in **Elaionas** camp protested again, calling for the site to not be closed and for procedures to be speeded-up. As stated, by a woman from Somalia, 'The municipality wants to transfer us from here, but where can we go? We have children that go to school, we have people that work in the city. Why do they want to remove us from here and where can we go?'.<sup>833</sup> In November 2022, in the context of an eviction operation from ESTIA, as part of which the (former) residents were to be transferred to Katsikas camp, it was also reported that 'the vast majority of refugees refused to enter the bus that had arrived to take them to the Katsikas camp, in Ioannina, and remained outside the building shouting slogans'.<sup>834</sup>

Last but not least, since March 2020, asylum seekers residing in mainland camps, RICs and CCACs 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. Even though such measures have for months been lifted for the rest of the population, they remain in application to facilities hosting refugees and third country nationals more broadly, with the last decision for 2022 issued on 31 December. Similar to previous such decisions, the latest one for 2022 *inter alia* maintains that exit from refugee-hosting

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<sup>828</sup> UNHCR, Policy on Alternatives to Camps, 22 July 2014, UNHCR/HCP/2014/9, available at: <http://bit.ly/1DAf2kz>, 4.

<sup>829</sup> alter thess, 'Ten days without food – Refugee protest in Nea Kavala', 13 October 2021, available in Greek at: <https://bit.ly/3JLctIW>.

<sup>830</sup> Efsyn, 'Refugee Protest in Skaramangas', 12 April 2021, available in Greek at: <https://bit.ly/3qE9XpW>.

<sup>831</sup> Efsyn, 'Oinofyta: The refugee facility is closed – Protest on the mass rejection of Kurds', 24 November 2021, available in Greek at: <https://bit.ly/3JIAaeD>.

<sup>832</sup> Europe Must Act 'Eleonas Camp/ Athens: Open Letter by Camp Residents', June 2022.

<sup>833</sup> Euronews, 'Migrant protest in Elaionas – they call for the accommodation facility to not be closed', 4 November 2021, available in Greek at: <https://bit.ly/3La4CP8>.

<sup>834</sup> Kontranews, 'ESTIA programma: new refugee evictions – they are sending them to an accommodation facility', 15 November 2022, available in Greek at: <https://bit.ly/3AswLNY>.



facilities is only allowed between 7am-9pm, only for family members or representatives of a group, and only in order 'to meet essential needs in the nearest urban centres'.<sup>835</sup>

## 2.2 Conditions on the Eastern Aegean islands

The situation on the islands has been widely documented and remains alarming, despite the gradual decrease in the levels of overcrowding since 2020 and the lack of overcrowding by the end of 2022.

Between January and December 2022, a total of 7,363 persons from the islands of **Lesvos, Samos, Chios, Kos** and **Leros** were able to leave the islands, while another 558 were transferred to the mainland from other islands.<sup>836</sup> By the end of December 2022, 4,371 asylum seekers and refugees were living in facilities with a designated nominal capacity of 15,190, with the majority in Lesvos (1,709), Samos (1,013) and Kos (917).<sup>837</sup> As per observations in the field, nominal capacity seems to not necessarily equate to actual capacity. For instance, as reported during the Lesvos Inter-Agency Coordination Meeting, which operates under UNHCR, on 19 January 2022, due to increased arrivals, the CCAC Director had informed that shelter availability in the Lesvos CCAC had become scarce, impacting on living conditions. At the time, the CCAC reportedly hosted 1,920 persons, which seems to also highlight a significant discrepancy vis-à-vis the nominal capacity of the CCAC, which has been consistently reported at 8,000 places by the National Coordination Centre for border Control, Immigration and Asylum, operating under the Ministry of Citizen Protection.<sup>838</sup> Nevertheless, despite available capacity, conditions remain unfit for purpose.

In 2021, similar to mainland camps, there was a lack of access to heating during the winter on the islands in early 2021 in the RIC of Chios and Mavrovouni. Even if heating devices had been secured in the latter camp, insufficient and/or unstable power supplies made it impossible for residents to use them.<sup>839</sup> By the end of the year, this had yet to be resolved, exposing the residents of Mavrovouni, who still lived in tents to experience yet another winter with severe shortages in electricity and heating, after the MoMA failed to renew the electricity generator maintenance contract that had expired in September.<sup>840</sup> As noted in December 2021,<sup>841</sup> "[m]any Mavrovouni residents report that they still only have electricity for 1-2 hours during the morning and 1-2 hours during the night. The lack of electricity and thus lighting is also causing protection risks, particularly for women. Women in Mavrovouni report sexual harassment and assaults on a regular basis, especially during the night due to inadequate lighting and slow response by the police".

Challenges with the stable supply of electricity in Mavrovouni have continued to be reported in the first months of 2023 and were reportedly expected to be resolved towards the end of March.<sup>842</sup> Amongst other issues reported was an increase in GBV incidents for which, with scarce exceptions, the survivors did not wish to follow through and open a case, as well as a concerning increase in the number of scabies cases in the camp.<sup>843</sup>

In 2022, infrastructure-related problems were also mentioned in Zervou Centre in Samos, the first among the five Closed Control Access Centres (CCACs) constructed. As mentioned by MSF, despite improvements (e.g. decongestion and the placement of containers instead of tents), the Zervou CCAC

<sup>835</sup> JMD Δ1α/ΓΠ.οικ. 75297 on Emergency measures to protect public health against the risk of further spread of COVID-19 coronavirus in the whole territory from Sunday, 1 January 2023 at 06:00 until Monday, 30 January 2023 at 06:00, published on 31 December 2022, available in Greek at: <https://bit.ly/3na7qVX>, Annex II.

<sup>836</sup> MoMA, Briefing Notes: International Protection, Annex A, December 2022, available in Greek at: <https://bit.ly/41W5ZsN>.

<sup>837</sup> National Coordination Centre for Border Control, Immigration and Asylum, *Situational Picture in the Eastern Aegean* 31.12.22, 1 January 2023.

<sup>838</sup> For instance, see NCCBCIA, National Situational Picture Regarding the Islands at Eastern Aegean Sea (19/01/2022), 20 January 2022 and National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2022), 1 January 2023. Both can also be accessed on the MoMA's website at: <https://migration.gov.gr/en/statistika/>, under the label 'National Situation: Migrant and Refugee Issue'.

<sup>839</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>, 2.

<sup>840</sup> GCR & Oxfam, *Lesbos Bulletin: Update on the EU response in Lesbos, by the Greek Council for Refugees & Oxfam*, 1 December 2021, available at: <https://bit.ly/36yc2wL>.

<sup>841</sup> *Ibid.*

<sup>842</sup> Based on information received through the Lesvos Inter-Agency Coordination Meetings, operating under UNHCR, on 15 February 2023 and 27 March 2023.

<sup>843</sup> *Ibid.*

remains “a hostile environment, and fails to receive people in humane and dignified conditions”. The infrastructure problems, including interruptions in water supply and lack of access to heating and air conditioning, aggravate the living conditions in the winter and summer respectively.<sup>844</sup>

The island Centres’ location, in general, is usually remote, away from the island’s cities. In combination with the lack of access due to cost to public transportation, this adds a significant barrier for the centres’ residents to access health care or administrative services. The geographical, and thus social, isolation exacerbates the feeling of imprisonment for asylum seekers residing in reception centres on the islands. For example, Zervou camp in Samos is a closed centre surrounded by a double layer of barbed wire and camera surveillance where entry and exit are only allowed between 8 am – 8 pm. According to a testimony of a 23-year-old man from Afghanistan residing in the camp: ‘When you arrive at the camp doors, one by one they let you inside, to the checkpoint where they check your phone, wallet, pockets, and even the small pockets of your clothes. Then when you want to go inside you have to pass through doors with fingerprints.’<sup>845</sup>

These inadequate and dangerous conditions, have dire consequences on asylum seekers’ mental health, while a number of fatal events have been reported. In May 2021, the body of a young Somali refugee was found with bite marks and surrounded by rodents in his tent, after the man had passed away.<sup>846</sup> As noted at the time by the Director of Intersos Hellas ‘[p]eople are exposed daily to rats, garbage and violence. In the island hospitals children are frequently accepted with marks from rat bites. It is shameful and frightening to have to live in such conditions, when in reality this isn’t necessary’.<sup>847</sup> Since February 2022, in the Zervou reception camp in Samos, there has been a lack of medical staff and supplies, as no appointed doctor was provided. A doctor from Samos Hospital was visiting the centre to identify vulnerable people among the asylum seekers, without providing, though, medical care. Since April 2022, MSF has been filling the gap in medical care services by running a mobile clinic three times per week. According to MSF, people first arriving at Zervou centre were not provided with medical care, as they underwent COVID-19 quarantine. This led to medical emergencies, stating that the health condition of a person with diabetes became life threatened as his condition was not identified. People needing special medical care were confronted with administrative impediments that delayed their transfer to hospitals on the mainland.<sup>848</sup> According to I Have Rights (IHR, an organisation that provides free legal information and support in Samos), in 2022 ‘42% of IHR beneficiaries met the legal category of vulnerability in Greece, of which 26% were survivors of torture and 12% of human trafficking. However, only 33% of those who were vulnerable got in contact with the centre’s psychologist’.<sup>849</sup>

According to MSF, between September 2021 and September 2022, 40% of their mental health patients in Zervou Centre displayed symptoms related to psychological trauma. ‘Everyone is suffering from a basic level of psychological distress,’ said Elise Loyens, MSF medical coordinator in Greece. ‘And always with the same symptoms; body pains, dissociation, depression, sleep disorders. People feel humiliated living under these conditions,’ she added. MSF revealed that one of its patients described Zervou Centre as ‘mental punishment’ while avoiding leaving his room so as not to see the barbed wire and police surveillance.<sup>850</sup> Alkistis Afrafioti, Advocacy Officer at the Greek Council for Refugees, after GCR visited the Zervou camp, said:

‘Going to the centre, you have only one question: how is this suitable for people? It feels like visiting a prison located in the middle of nowhere. To enter and exit, people must go through a whole array of security measures with turnstiles, magnetic gates, x-rays, scanning cards, and fingerprints. The security guards are all over and you feel followed at every step. One resident

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<sup>844</sup> Doctors Without Borders, ‘in Greek reception centers, asylum seekers are stranded in prison-like conditions’, 30 November 2022, available at: <https://bit.ly/3qeYNL1>.

<sup>845</sup> Fenix ‘One year since Greece opened new ‘prison-like’ refugee camps, NGOs call for a more humane approach, September 20, 2022, available at: <https://bit.ly/3WAQZiZ>.

<sup>846</sup> The Guardian, ‘A scene out of the middle ages’: Dead refugee found surrounded by rats at Greek camp’, 7 May 2021, available at: <https://bit.ly/3NnNMMy1>.

<sup>847</sup> Avgi, ‘Guardian / «Scenes out of the middle ages in Greece with a dead refugee surrounded by rats’, 7 May 2021, available in Greek at: <https://bit.ly/35e2ars>.

<sup>848</sup> Doctors Without Borders, ‘in Greek reception centers, asylum seekers are stranded in prison-like conditions’, 30 November 2022, available at: <https://bit.ly/3qeYNL1>.

<sup>849</sup> Fenix ‘One year since Greece opened new ‘prison-like’ refugee camps, NGOs call for a more humane approach, September 20, 2022, available at: <https://bit.ly/3WAQZiZ>.

<sup>850</sup> Doctors Without Borders, ‘in Greek reception centers, asylum seekers are stranded in prison-like conditions’, 30 November 2022, available at: <https://bit.ly/3qeYNL1>.



we talked to told us how it felt like there were three security guards to one person. We met with an Afghan young man, suffering from post-traumatic stress disorder, that has turned to self-harm several times as he is trapped on the island for the last 3 years. For two months, he could not even exit the new facility due to an illegal exit ban.’<sup>851</sup>

Throughout the years, a number of cases regarding the situation on the Greek Islands have been examined before international jurisdictional bodies and temporary protection has been granted.

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 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 ordered the Greek authorities to arrange for their timely transfer to a centre for unaccompanied minors and to ensure that their reception conditions were compatible with Article 3 of the Convention (prohibition of torture and inhuman and degrading treatment) and the applicants' particular status.<sup>852</sup>

Moreover, in three cases of vulnerable applicants living on the Greek Islands under a geographical restriction, supported by Equal Rights Beyond Borders, the ECtHR ordered the Greek Authorities to provide reception conditions in line with Art. 3. These included the case of a pregnant woman and persons with medical conditions during the Covid-19 pandemic.<sup>853</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>854</sup>

In May 2020, in a case supported by METAdrasi, the ECtHR granted interim measures for a Syrian family in the RIC of Samos with a 10-month-old baby girl who was suffering from severe bronchiolitis. Doctors recommended improvements in the girl's living conditions and gave her special medication that required the use 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, since they had not been registered by the Regional Asylum Office of Samos, despite almost 4 months passing 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 girl.<sup>855</sup>

In September 2020, in a case supported by RSA, the ECtHR indicated that the Government of Greece should 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 were still confined on the island in the aftermath of the Moria

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<sup>851</sup> Oxfam International, 'New Oxfam report uncovers stories from the 'prison-like' EU funded refugee center', March 2022, available at: <https://bit.ly/439Mf6r>.

<sup>852</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>853</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.

<sup>854</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>.

<sup>855</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>.

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>856</sup>

In a similar vein, on 9 August 2022, the ECtHR granted *interim measures* in a case represented by the organisation (IHR).<sup>857</sup> The case concerned two highly vulnerable applicants, one of whom was a beneficiary of international protection and the other a person with a pending appeal on their subsequent asylum application, who remained on the island of Samos. Both applicants were reportedly in need of emergency medical treatment due to their condition (Hepatitis B), which they could not receive on the island. Yet despite having their geographical restriction lifted for months, they still remained there, because as noted,<sup>858</sup> 'in 2022, the authorities stopped conducting "organised transfers" from Samos'. The applicants were ultimately transferred following the Court's intervention, which ordered the Greek Government to "a) guarantee to the applicants a medical assessment by a gastroenterologist/hepatologist, and b) ensure, if necessary, their medical treatment".

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 2022 as well.

By 15 August 2021, and despite for example the Decision of the European Committee on Social Rights indicating immediate measures and *inter alia* ordering the Greek Authorities to ensure that migrant children in RICs are provided with immediate access to age-appropriate shelters,<sup>859</sup> some 6,600 refugees and asylum-seekers continued residing on the Aegean islands, the majority of whom were from Afghanistan (48%), Syria (13%) and DRC (10%). Women accounted for 21% of the population, and children for 29% of whom nearly 7 out of 10 were younger than 12 years old. Approximately 14% of the children were unaccompanied or separated, among them, most came from Afghanistan.<sup>860</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>861</sup> By 1 January 2023, 389 unaccompanied minors remained in RICs,<sup>862</sup> almost three times higher than one year earlier when 131 unaccompanied minors were in RICs.<sup>863</sup> The available data does not allow the identification of the extent to which this concerned the islands and/or the RIC of **Evros**.

As highlighted by GCR / OXFAM / SCI:

'In the new €43 million Closed Controlled Access Centre of Samos, which is fully funded by the European Union, asylum seekers had no access to adequate water for more than two weeks in May 2022. Due to a water pump malfunction the tap water supply was limited to only two hours per day (8-9 am and 7-8 pm). According to organisations operating on Samos island, there were days when asylum seekers living in the facility had no access to tap water at all, while receiving only three bottles of water (4.5 litres) per person per day, to meet all their needs - consumption, personal hygiene, laundry, personal and household cleaning. According to the World Health

<sup>856</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>857</sup> ECtHR, Application no. 32683/22, *C.N. v. Greece & Application no. 32755/22, R.M. v. Greece*, 10 August 2022, available at: <https://bit.ly/44318s0>.

<sup>858</sup> IHR, 'Interim measure granted in case concerning denial of emergency medical treatment for two of IHR's beneficiaries', August 2022, available at: <https://bit.ly/3L3Asic>.

<sup>859</sup> European Committee of Social Rights, *Idem*.

<sup>860</sup> UNHCR, Aegean Islands Weekly Snapshot, 9-15 August 2021, available at: <https://bit.ly/3JUG78d>.

<sup>861</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>862</sup> Special Secretary for the Protection of Unaccompanied Minors, *Situation Update: Unaccompanied Children (UAC) in Greece*, 1 January 2023, available in Greek at: <https://bit.ly/43sXXss>.

<sup>863</sup> AIDA, *Country Report: Greece, 2021 Update*, May 2022, available at: <https://bit.ly/3MRVklf>.

Organisation (WHO), 50 - 100 litres of water are needed per person per day to ensure that their most basic needs are met.<sup>864</sup> International humanitarian standards stipulate that each person should receive a minimum of 15 litres per day for drinking and domestic hygiene. Inadequate access to water leads to degrading and dangerous living conditions, especially for vulnerable people. Water supply deficiencies are not limited to the Samos CCAC. The remote and isolated areas often selected for refugee camps and reception centres frequently result in water and electricity shortages. According to the UNHCR Chios Office and the Municipality of Chios, VIAL refugee camp on Chios island has regular water supply problems. Firstly, due to water supply needs that have to be covered for the surrounding agricultural fields and the neighbouring village's residents; secondly, as no company has been contracted to fix immediate technical deficiencies'.<sup>864</sup>

In October 2022, one year after its opening, Samos CCAC, still had no permanent doctor. According to GCR/OXFAM/SCI common bimonthly bulletin:

'A doctor 'loaned' by the already under-staffed Samos General Hospital, occasionally visits the facility. This makeshift solution jeopardizes residents' health, as there is no one to provide medical first aid or to assess daily health risks in the CCAC. In combination with the centre's remote location and the fee imposed for buses to the city centre, this severely impedes residents' effective access to healthcare. Moreover, the lack of full-time medical staff hinders adequate and timely vulnerability and age assessments, procedural safeguards that have a significant impact on the outcome of individuals' asylum procedure'.<sup>865</sup>

### Measures taken in the context of the COVID-19 pandemic

The restriction of the movement of persons residing on the island RICs was successively prolonged up to 3 June 2020,<sup>866</sup> contrary to the lockdown on the general population which ended on 4 May 2020. Since then, these disproportionate restrictions have continued being renewed on a regular basis, with the most recent decision being issued in the time of writing this report<sup>867</sup>. As already mentioned, said JMDs published on a regular basis cover all refugee hosting facilities and provide that exit from the facilities is only allowed between 7am-9pm, only for family members or representatives of a group, and only in order 'to meet essential needs in the nearest urban centres'.<sup>868</sup>

As noted by MSF in June 2021:

'There are significant gaps in access to adequate and timely healthcare for people held on the Greek islands. This may lead to otherwise manageable medical and mental health conditions deteriorating, becoming more severe and potentially chronic. The COVID-19 pandemic should have been the final straw to abandon cramped hotspots. Instead, the pandemic has amplified the suffering of migrants subjected to a chaotic COVID-19 outbreak response and harsh lockdowns in poor living conditions, with little to no access to water, hygiene, or essential services. Measures taken have dangerously conflated public health and migration control agendas'.<sup>869</sup>

Additionally, as mentioned in Reception and identification procedures on the islands, since late March-April 2020 newly arrived persons on the Greek Islands, have been subject to 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 arose on Lesbos, where newly arrived persons are quarantined in the Megala Therma facility, from where 13 asylum seekers, among whom

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<sup>864</sup> GCR / OXFAM / SCI, *Bimonthly bulletin on refugees and migrants on Greece*, July 2022, available at: <https://bit.ly/45DRD36>.

<sup>865</sup> GCR / OXFAM / SCI, *Bimonthly bulletin on refugees and migrants on Greece*, October 2022, available at: <https://bit.ly/3WEk9xy>.

<sup>866</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>867</sup> Annex II of JMD Δ1α/ΓΠ.οικ. 5432/2023.

<sup>868</sup> Annex II, JMD Δ1α/ΓΠ.οικ. 17567, Gov. Gazette 1454/B/25-03-2022, available at: <https://bit.ly/3NxeOmL>.

<sup>869</sup> MsF, 'Constructing Crisis at Europe's Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands', June 2021, available at: <https://bit.ly/3tVzwFg>, 2.

were pregnant women and families with children, were reportedly forcibly removed and illegally sent back to Türkiye at the end of February 2021, after being beaten with batons and stripped of their belongings.<sup>870</sup>

As also noted by MsF:

'[t]he designated COVID-19 quarantine sites for new arrivals have become de-facto detention centres. As of mid-January 2021, more than 500 people arriving to the north coast of Lesbos have been confined in the Megala Therma quarantine site, often for weeks at a time, in grossly undignified and inhumane conditions. Our teams provide general healthcare on-site once a week. They have witnessed a very serious and systematic neglect in the provision of essential services, protection and proper access to specialist healthcare. There have also been deeply concerning allegations of asylum seekers being taken from Melaga Therma and returned to Türkiye'.<sup>871</sup>

As highlighted in the joint bimonthly bulletin on refugees and migrants of GCR / OXFAM / SCI published in July 2022:

'Double standards are similarly evident in the supposed handling of COVID-19 precautions. All refugees who enter Greece via the Eastern-Aegean islands or Evros are immediately isolated in quarantine areas under the pretext of containing the spread of COVID-19. The quarantine period currently lasts for 5 days, but it can be prolonged if there are positive cases of COVID-19 amongst the group. However, quarantine is no longer required in Greece and no one entering Greece is subjected to this measure,<sup>46</sup> apart from people claiming asylum. Ukrainians entering Greece and applying for temporary protection are not being put into quarantine. It therefore remains unclear why one specific group of people is forced to quarantine based solely on the fact that they are seeking asylum'.<sup>872</sup>

## 2.3 Destitution

Destitution and homelessness still remain matters of concern, despite the efforts made in previous years 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>873</sup> Though the population of concern has since been significantly reduced, following the termination of ESTIA, which as far as GCR has observed was preceded by a stop in the acceptance of new residents several months before the programme's termination, this remains valid in 2022 and the start of 2023, as based on observations from the field, particularly after the termination of ESTIA, in several cases applicants preferred pursuing alternatives to cover their survival needs, instead of being forced to remain in isolated, prison-like, camps.<sup>874</sup>

As noted in May 2022 by an LGBTQI+ applicant from Cameroon, upon entering Greece and being registered on island RIC alongside other newcomers, they did not receive shelter, 'despite it being mid-winter', as at the time, they were told the RIC was full. As per the person's accounts, this resulted in being forced to undergo several days living in abandoned houses, without medical care, which was required due to suffering from burns on various body parts and from terrible pains. The person managed to leave the island and reached Athens during the first lockdown, finding a place to stay with the support of a fellow community member, but was soon forced to leave, as the person's nightmares and screams during nights, wouldn't let their roommates to sleep. This resulted in ending up again living in an abandoned building. A year later the person underwent surgery and finally managed to contact the asylum service. Yet as

<sup>870</sup> GCR & Oxfam, Lesbos Bulletin: April 2021, 21 April 2021, available at: <https://bit.ly/2SUxV29>, 3, refers to Aegean Boat Report, 'Small Children Left Drifting In Life Rafts In The Aegean Sea!', 22 February 2021, 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>871</sup> MsF, Constructing Crisis at Europe's Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands, June 2021, available at: <https://bit.ly/3tVzwFg>, 2.

<sup>872</sup> GCR / OXFAM / SCI, *Bimonthly bulletin on refugees and migrants on Greece*, July 2022, available at: <https://bit.ly/45DRD36>.

<sup>873</sup> UNHCR, Factsheet, Greece: 1-29 February 2020.

<sup>874</sup> GCR, 'Evictions, homeless and setbacks to integration', 30 November 2022, available in Greek at: <https://bit.ly/3HGKftw>.



recounted, the asylum service ‘denied to offer any support’. The result was to remain stranded in a situation ‘without a roof, without social or medical support’.<sup>875</sup> As further noted by a professional of Diotima in June 2022: ‘Many people from this population [i.e. LGBTQI+] sleep in parks, groves, or abandoned dilapidated buildings. Without any support from public institutions, completely deprived of resources, they pursue various individual survival strategies: collecting and reselling used bottles, or engaging in survival sex. In this precarious context they are exposed to all kinds of dangers on a daily basis’.<sup>876</sup>

That being said, the number of applicants, including those still unregistered/pending registration of their asylum claim (who face homelessness in accordance with the ETHOS typology developed by FEANTSA,<sup>877</sup>) or who in any case lack access to reception conditions, is not known, as no official data is published on the matter and a detailed assessment of needs is further hindered by challenges in fully determining the statuses of those affected by conditions of homelessness and destitution. Nevertheless, organisations in the field have continued to report cases of applicants reaching Greece’s mainland camps in search of a shelter without any previous referral from authorities. In parallel, some broad indications on the number of those affected can potentially be revealed by reference to the number of appointments for the registration of asylum applications scheduled via the MoMA’s new platform in the RICs of Malakasa and Diavata, which at the end of 2022 stood at 34,395.<sup>878</sup> These regard applicants without access to reception, albeit, without it being possible to confirm whether each of these appointments relates to a unique applicant. Indications of ongoing challenges can also be revealed in a survey conducted under UNHCR between February 2022 and April 2023, which reached 47 households consisting of registered and pre-registered asylum applicants, as well as unregistered persons wishing to apply for asylum in Greece. With respect to their accommodation, only 25.53% were residing in (mainland and island) camps, while 8.51% declared they were hosted by others, 2.13% being homeless, 4.26% residing in accommodation they owned, and 2.13% being self-accommodated/renting. A large portion (42.55%) were at the time of the survey still residing in ESTIA,<sup>879</sup> and therefore their housing situation is not known following the programme’s termination, yet as has been reported, the termination of ESTIA *inter alia* led to at least some of the programme’s former beneficiaries in a situation of homelessness and destitution.<sup>880</sup>

Moreover, the Greek government’s decision to reduce the time beneficiaries of international protection are allowed to stay in accommodation designated for asylum seekers, has continued to exacerbate the risk of homeless and destitution for refugees in Greece, not least due to the ongoing lack of a comprehensive integration strategy and concrete measures.<sup>881</sup> As already noted by UNHCR in June 2020, 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>882</sup> and given the ongoing lack of comprehensive and viable solutions for beneficiaries of international protection in Greece, homelessness and destitution have remained a risk in 2022 as well.

For instance, data collected in the context of a joint research carried by GCR, Diotima Centre and IRC in 2021 and 2022, which *inter alia* reached 64 households consisting of beneficiaries of international

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<sup>875</sup> Popaganda, ‘What I’m living is the worst thing I’ve ever been through in my entire life’, 11 May 2022, available in Greek at: <https://bit.ly/3AXE7te>.

<sup>876</sup> Tsadirakis G., ‘Refugee men, survivors of gender-based violence and torture’, 22 June 2022, *Popaganda*, available in Greek at: <https://bit.ly/3LE58a5>.

<sup>877</sup> See *ETHOS - European Typology of Homelessness and housing exclusion*, available at: <https://bit.ly/3N1vuV3>.

<sup>878</sup> MoMA, Reply to parliamentary question, 156079/2022, 16 March 2023, available at: <https://bit.ly/3Lid1In>.

<sup>879</sup> See UNHCR, ‘Inter-Agency Protection Monitoring for Refugees in Greece: Key findings’, available at: <https://bit.ly/43dZsuK>.

<sup>880</sup> Amongst others, news 247, ‘The government threw mothers with children in the streets’, 10 December 2022, available in Greek at: <https://bit.ly/426nB68>.

<sup>881</sup> Amongst others, see Joint Press Release of 74 organisations, ‘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>882</sup> Euronews, ‘Thousands of migrants face eviction in Greece sparking fears over homelessness’, 2 June 2020, available at: <https://bit.ly/2SZa6Xb>.



protection in Greece, who were interviewed based on a predetermined questionnaire between November 2021 and April 2022, found that 28% of said households were as per their accounts living in conditions of homelessness or without a stable roof over their head, while another 22% were at imminent risk of homelessness due to becoming ineligible to remain in Greece's reception system.<sup>883</sup>

The 6-month restriction with respect to applicants' right to access the labour market (see Access to Labour), initially introduced via the IPA in 2019, is an additional factor that needs to be taken into consideration, particularly amidst ongoing challenges in accessing the asylum procedure and accordingly reception conditions on the mainland, given that throughout this time asylum seekers are exclusively dependent on support received in the context of reception (once access is secured) and/or through civil society initiatives and soup kitchens.

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 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>884</sup>. The number of UAM estimated as homeless and/or living in precarious conditions by the end of 2022 is not available, as relevant estimates have stopped being published. Nevertheless, between April 2021 and 1<sup>st</sup> January 2023, the National Emergency Response Mechanism aimed at tracing UAM in precarious conditions registered more than 5,000 new and unique requests for accommodation for UAM,<sup>885</sup> highlighting an ongoing challenge.

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. 146 (3,069 end December 2021) applications pending registration, 17,249 (31,787 end December 2021) applications pending at first instance and 4,921 (5,258 end December 2021) appeals pending before different Appeals Committees, at the end of 2022. In parallel, as of December 2022, 34,395 (asylum) registration appointments were reported as scheduled for 2023 in the mainland RICs of Malakasa and Diavata.<sup>886</sup>

## 2.4 Racist violence

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 the spring of 2020, where an asylum-seeking victim of crime who complained to the police about assault and bodily injury with racist bias by police officers had his complaint set aside and found himself subject to criminal prosecution and subsequent conviction under a hearing raising fairness concerns.<sup>887</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 organisations and NGOs and 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>888</sup>

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<sup>883</sup> For more on the relevant data see Ministerie van Buitenlandse Zaken, *Verslag feitenonderzoek naar statushouders in Griekenland*, June 2022, available at: <https://bit.ly/43OPuAJ>, 34.

<sup>884</sup> EKKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 30 April 2021, available at: <https://bit.ly/3tZxCjo>.

<sup>885</sup> Special Secretary for the Protection of Unaccompanied Minors, *Situation Update: Unaccompanied Children (UAC) in Greece*, 1st January 2023, available at: <https://bit.ly/43sXXss>.

<sup>886</sup> MoMA, Reply to parliamentary question, 156079/2022, 16 March 2023, available at: <https://bit.ly/3Lid1ln>.

<sup>887</sup> RSA, *Submission in Sakir v. Greece*, July 2020, available at: <https://bit.ly/331Tmkh>.

<sup>888</sup> RVRN, 'Racist Violence Recording Network expresses concern over xenophobic reactions against refugees', 11 November 2019, available at: <https://bit.ly/3963YPt>.

In 2020, the RVRN recorded a further increase in incidents of racist violence against refugees and migrants, as well as human rights defenders who were targeted due to their affiliation with these groups, from 51 in the previous year to 74 in 2020. Yet 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 [have] contribute[d] to the invisibility of the specific target group and to the reduction of recorded incidents against them [...] indicat[ing] that in 2020 the Networks recordings [were], more than ever, the tip of the iceberg'.<sup>889</sup>

The same seems to apply in 2021, during which 28 incidents against refugees and asylum seekers were recorded by the network,<sup>890</sup> indicating a decrease compared to previous years. According to RVRN, 2021 was also the first year when no incidents of organised violence by far-right groups against refugees and migrants were recorded. Yet as per the RVRN's estimation, this was due to the conviction of the far-right Golden Dawns party as a criminal organisation in 2020.<sup>891</sup> The RVRN also noted that the decrease in the report of such incidents against refugees and migrants is not indicative of the wider picture of racist violence for the reporting year, given that the specific trend was observed in a period with intense racist rhetoric and institutional targeting of refugees and migrants. Amongst the possible causes of this decrease is the reduction of flows and of the number of refugees on the islands and on the mainland. The broader restrictions of movement imposed in the context of combating the COVID-19 pandemic, have been also reported as a possible cause, as these measures seemed to have contributed to decreasing the visibility of this particular population in local communities and in the quantitative trends of related incidents of racist violence.<sup>892</sup>

In 2022 the RVRN reported 33 (among 74 in total) incidents of racist violence against migrants, refugees, or asylum-seekers. Victims were targeted due to their national origin, religion, or color. One among the victims faced racist violence due to their national origin, sexual orientation, and gender identity. During the same year, there were recorded incidents of racist violence where the perpetrators were members of official and unofficial racist groups.

Moreover, according to the RVRN, the specific attack pattern recorded throughout the years seems to have applied to other settings in 2021 and 2022, such as in schools. Namely, the RVRN recorded racist actions against migrants and refugees from perpetrators that acted individually in the victim's neighbourhood, in a public service, or in a public transport. Despite their low intensity, those incidents increase the victims' feelings of threat and insecurity and impact the bond of trust between them and the social environment. These incidents declined during the pandemic due to restrictions on movement in public spaces. However, they re-appeared during 2022.<sup>893</sup>

In 15 of the incidents recorded in 2022, as per their testimonies, the victims were subjected to verbal and physical violence and sexual assault by law enforcement officials. Among those incidents, 7 took place on Greece's borders during the asylum seekers' entry into the territory. In some of those incidents, the victims stated that they were detained and subjected to violence during detention. Also, the victims testified that they were subjected to violence on the borders by groups of men who reportedly wore black or military-type clothing and had guns or batons. In one case, they covered their faces with full face masks and had radio contact. In the latter incidents, the victims testified that they did not recognise any distinctive characteristics of any (Greek or international) law enforcement agency in their clothing or appearance. However, due to their equipment and modus operandi, victims perceived that their perpetrators were actors representing the state. The targeting of refugees, migrants, and asylum seekers has already been stated, according to the RVRN, by the Recording Mechanism of Incidents of Informal Forced Returns. The latter reported 51 cases where victims were subjected to verbal and physical violence, sexual assault, and theft as their perpetrators pushed them back. As per the Mechanism's Report, in 33 cases, the perpetrators were from law enforcement authorities, and in 18, the perpetrators reportedly did not bear any distinctive mark.<sup>894</sup>

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<sup>889</sup> RVRN, *Annual Report 2021*, 26 May 2022, available at: <https://bit.ly/3IKZnGI>.

<sup>890</sup> Ibid.

<sup>891</sup> UNHCR, 'Racist Violence Recording Network: Presentation of the Annual Report for 2022', April 6 2022, available at: <https://bit.ly/42HG2xz>.

<sup>892</sup> RVRN, *Annual Report 2021*, 26 May 2022, available at: <https://bit.ly/3IKZnGI>, 6-7.

<sup>893</sup> RVRN, 'Presentation of the Annual Report for 2022', 6 April 2022, written in Greek available at <https://bit.ly/3OSKKVA>.

<sup>894</sup> RVRN, 'Presentation of the Annual Report for 2022', 6 April 2022, written in Greek available at <https://bit.ly/3OSKKVA>.

Added to these seemingly organised incidents of racist violence is the attack against a shelter for unaccompanied minors from a group of 40-50 people covered with full face masks and hoods, throwing rocks against the building while using xenophobic language. The perpetrators targeted children and employees working at the shelter. Indeed, among the victims, there were human rights defenders who were subjected to harassment or violent behaviours due to their support towards migrants, refugees, and asylum seekers. The UN Special Rapporteur in June 2022 spoke of a climate of fear due to the attempts to criminalise, among others, the action of human rights defenders.<sup>895</sup>

Lastly, as highlighted by the US Department of State, as part of its 2022 Country Reports on Human Rights Practices in Greece:

‘Significant human rights issues [in Greece] included credible reports of: cruel, inhuman, or degrading treatment or punishment of prison detainees and of migrants and asylum seekers by law enforcement authorities; [...] forced returns and alleged violence by government authorities towards migrants and asylum seekers; [...] crimes involving violence targeting members of national/racial/ethnic minority groups; and crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons’.<sup>896</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? ❖ If yes, when do asylum seekers have access the labour market?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 6 months
2. Does the law allow access to employment only following a labour market test?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Does the law only allow asylum seekers to work in specific sectors? ❖ If yes, specify which sectors:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Does the law limit asylum seekers' employment to a maximum working time? ❖ If yes, specify the number of days per year	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5. Are there restrictions to accessing employment in practice?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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>897</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>898</sup> Relevant data on the time between pre- and full registration for 2022 is not available at the time of writing.<sup>899</sup>

Following the entry into force of the IPA on 1 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>900</sup> The right is automatically withdrawn upon issuance of a negative decision which is not subject to an automatically suspensive appeal.<sup>901</sup>

<sup>895</sup> RVRN, 'Presentation of the Annual Report for 2022', 6 April 2022, written in Greek available at <https://bit.ly/3OSKKVA>.

<sup>896</sup> US Department of State, '2022 Country Reports on Human Rights Practices: Greece', available at: <https://bit.ly/3L7A9Tq>.

<sup>897</sup> Article 71 L 4375/2016, as previously in force; Article 15 L 4540/2018 as previously in force.

<sup>898</sup> Information provided by the Greek Asylum Service on 17 February 2020.

<sup>899</sup> Information provided by the Office of Analysis and Studies of the MoMA on 31 March 2021.

<sup>900</sup> Article 53(1) IPA (replaced by article 57(3) of L 4939/2022); Article 71 L 4375/2016, as amended by Article 116(10) IPA.

<sup>901</sup> Article 53(2) IPA (replaced by article 57(3) of L 4939/2022).

This 6-month time limit continues with the new Asylum Code which entered into force on 10 of June 2022. The new law specifies that access to employment shall be “effective”.<sup>902</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 obstacles to obtain necessary document, which may lead to undeclared employment with severe repercussions on the enjoyment of the basic social rights.<sup>903</sup>

Unemployment rates remain high in 2022 in Greece- despite a slight improvement with a minimal decrease in recent years- compared to other EU Member States (13% in the third quarter of 2021 compared to the EU average of 6,2%). Based on data collected through a survey conducted under UNHCR between February 2022 and April 2023,<sup>904</sup> 29% of asylum seekers (registered, pre-registered and unregistered) who were at the time working or had been able to work occasionally during the period had done so without any type of formal contract. Of the total respondents, the vast majority (73%) were not working at the time the survey was conducted. The lack of knowledge for the language, lack of documentation and the inability to find legal employment were noted as the main three challenges with respect to finding work in Greece.

In another survey conducted by GCR, IRC, and Diotima between November 2021 and April 2022, which reached more than 180 respondents to referred to the lack of Greek and/or English courses, the lack of a social network and connection with the Greek labour, insufficient explanation of procedures, obstacles in recognising their qualifications and skills, prolonged displacement, secluded accommodation, or restriction of movement imposed, delays in access to the asylum system on mainland Greece, and racism and discrimination.<sup>905</sup>

Based on the same survey,<sup>906</sup> the main obstacle in finding employment for both applicants and beneficiaries of international protection was correlated with the lack of Greek and/or English language competence, a prerequisite for any job in the Greek labour market. Lack of access to sponsored or free workshops by the Greek Manpower Employment Organisation (OAED), according to the social service of the GCR, and a gap in Greek language programs, which, however, is covered, as far as possible, free of charge by non-governmental organisations. The sole exception is the HELIOS programme, which, however, is addressed to beneficiaries of international protection, providing integration courses, including 280 hours of the Greek language. Also, according to the data provided by UNHCR, the primary problem in accessing the labour market identified by the respondents-asylum seekers (61, 76%) is Greek language competence.<sup>907</sup>

Difficulties in accessing the labour market continued being marked for applicants residing in mainland camps and/or informal accommodation<sup>908</sup> due to the prolonged displacement, the secluded accommodation structures, the movement restrictions, and the long distance from the urban centres. In addition to the secluded accommodation facilities hindering the connection with the local community, the absence of a social network impedes asylum seekers from contacting potential employers. Also, difficulties in accessing the labour market for international protection applicants residing in ESTIA accommodation program that ceased end of 2022 and also persons residing in Elaionas camp in Attica that was evacuated the 30 of November 2022. These persons were obliged to leave their home and were transferred to camps far from urban areas and lost their jobs because of this forced transfer.

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<sup>902</sup> Article 57 (1) Asylum Code.

<sup>903</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.

<sup>904</sup> See UNHCR, ‘Inter-Agency Protection Monitoring for Refugees in Greece: Key findings’, available at: <https://bit.ly/43dZsuK>.

<sup>905</sup> GCR, ‘Do the *human* right thing: Seeking a new life, seeking employment’, March 2022, available at: <https://bit.ly/42eyDWf>.

<sup>906</sup> Ibid.

<sup>907</sup> See UNHCR, ‘Inter-Agency Protection Monitoring for Refugees in Greece: Key findings’, available at: <https://bit.ly/43dZsuK>.

<sup>908</sup> AIDA, *Country Report: Greece, 2021 Update*, May 2022, available at: <https://bit.ly/3MRVklf>.

Also, the documentation is identified by asylum seekers as an impediment to their entry into Greece's workforce, as is also confirmed by the data collected by the UNHCR.<sup>909</sup> Based on the latter, 35.29% of the respondent-asylum seekers classified documentation as the biggest challenge. According to the last information available in March 2022, 50,88% of the total adult population of 12,239 people residing in camps had managed to obtain an AFM (the number was almost the same as in December 2021, which was 50%). According to the report implemented by the GCR<sup>910</sup>, out of a total of 66 asylum seekers who completed the questionnaire, 20 had an insurance registration number (AMKA), 20 had a Temporary Insurance and Health Care Number (PAAYPE), 6 did not issue any of the two, and 3 did not wish to answer. Applicants' access to the labour market is still hindered by obstacles connected with the temporary social security number (PAAYPE, see healthcare), which is a requirement for employment, albeit at a reduced rate compared to 2020. "According to the law, PAAYPE is registered on the social security e-government service (IDIKA), which is interconnected with the online employment platform, ERGANI, where employers are required to notify the hiring, termination and declaration of employment terms."<sup>911</sup> In October 2022, a new Ministerial Decision was issued regarding access for international protection applicants to health care services, medical and pharmaceutical care, social security, the labour market, and the acquisition of a PAAYPE. number. Regarding the labour market, the Ministerial Decision states that the System of the Social Security e-governance updates the information regarding the PAAYPE of international protection applicants with the indication "*access to the labour market*" so that this information can be used by other systems related to work and social security. However, in practice, the ERGANI platform does not recognise PAAYPE. Consequently, access to the labour market is possible for asylum seekers only if they physically present themselves to a tax office with a certificate of employment issued by the prospective employer, so that their recruitment can progress. This requires that the employer and the applicant know the process as stated in the GCR's report.<sup>912</sup>

As further noted by the Greek National Commission for Human Rights since 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 PAAYPE 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'.

Also, according to the GCR's report, out of the 183 participants, 138 issued a VAT verification number (AFM), while 30 did not.<sup>913</sup> Also, based on the UNHCR data, 56% of the respondents did not have an insurance registration number (AMKA), as they did not even know the procedure for its issuance. Relevant data for those residing under the ESTIA II accommodation scheme has not been published and included in the project's updates issued by the MoMA in November 2022.

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 salaries, which are a precondition for payment in the private sector.<sup>914</sup> The four major banks in Greece have repeatedly refused to open bank accounts to asylum seekers, even in cases where the employer submitted a certification of recruitment, while they have asked for a national passport as a certificate of identification, unaware that the asylum seekers have to submit it to the Asylum Service, as the GCR's report mentions. In the absence of a passport before and upon recognition of their status as applicants and beneficiaries of international protection they could submit the residence permit, which, however, this is not accepted. '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

<sup>909</sup> See UNHCR, 'Inter-Agency Protection Monitoring for Refugees in Greece: Key findings', available at: <https://bit.ly/43dZsuK>.

<sup>910</sup> GCR, 'Do the *human* right thing: Seeking a new life, seeking employment', March 2022, available at: <https://bit.ly/42eyDWf>.

<sup>911</sup> GCR, 'Do the *human* right thing: Seeking a new life, seeking employment', March 2022, available at: <https://bit.ly/42eyDWf>.

<sup>912</sup> Ibid.

<sup>913</sup> Ibid.

<sup>914</sup> JMD 26034/695/2019 regarding 'Mandatory payment by employers of the salaries of employees in the private sector, as well as their severance pay, through a payment account, Gov. Gazette B' 2362/18.06.2019.



highlighted by the civil society organisation Generation 2.0.<sup>915</sup> Moreover, according to article 15 (non-discrimination) the Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (as incorporated with L. 4465/2017): ‘Member States shall ensure that credit institutions do not discriminate against consumers legally resident in the Union by reason of their nationality or place of residence or by reason of any other ground as referred to in Article 21 of the Charter, when those consumers apply for or access a payment account within the Union. The conditions applicable to holding a payment account with basic features shall be in no way discriminatory’.

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 a bank account), when compared to recognised refugees (6% with bank account),<sup>916</sup> though the difference is practically negligible and even more concerning for the latter, considering the severely restricted time (30 days) during which they can remain in reception-based accommodation post-recognition,<sup>917</sup> and that they need a bank account, to be able to access the solely accessible rent subsidy, under the Helios II integration programme. Relevant statistics are not published since the MoMA is in charge of issuing the updates on ESTIA II.<sup>918</sup> Nevertheless, out of the 188 aforementioned asylum seekers and refugees interviewed by GCR, Diotima Centre and IRC as of 1 March 2022, access to bank accounts seems to remain an ongoing barrier, as 62% of them did not have a bank account.<sup>919</sup>

Another obstacle hindering the employment procedure for asylum seekers is their inability to prove and recognise existing education and training qualifications, as, due to the circumstances they may not have the original documents with them, nor can they issue copies in Greece, despite the European Qualification Passport for Refugees (EQPR), which could be used to recognise studies from third countries outside the EU. Also, there is neither a training certification system nor a degree recognition mechanism which can provide the equivalent documents without providing the originals from the country of origin.

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 58 (1) of L. 4939/2022. 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>920</sup> Article 58 (2) of L. 4939/2022 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 of the Ministers of Labour and Social Affairs, Education and Religious Affairs and Migration and Asylum. As far as GCR is aware such a decision had not been issued by the end of 2022.

In April and May 2021, UNHCR conducted a pilot registration of the educational background and professional skills of asylum applicants and beneficiaries of international protection residing in the islands of Lesbos, Chios, Samos, Kos, Leros, Rhodes and Tilos. The exercise, which was based on individuals’ declarations with respect to their educational background and skills, highlights a significant range of skills

<sup>915</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>916</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>917</sup> Article 109 para. 1 Asylum Code.

<sup>918</sup> The transition of the accommodation scheme for asylum-seekers ‘ESTIA’, managed by UNHCR, to the MoMA began on 1 September 2020 and was completed in early 2021. ESTIA programme was officially terminated by the Ministry of Migration end of 2022.

<sup>919</sup> The data have been collected through a questionnaire drafted as part of an ongoing joint research carried by GCR, Diotima Centre and IRC in the context of the joint project ‘Do the human *right thing*—Raising our Voice for Refugee Rights’. The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow.

<sup>920</sup> GCR, *Observations on the Draft Law transposing the Reception Directive*, 31 October 2016, available in Greek at: <https://bit.ly/42sh0Cb>.

amongst the population of concern. The pilot scheme participants resulted in having skills in 20 different sectors, including in the fields of trade, engineering, manufacturing and social work. Only a fraction of participants (7%) stated they had no previous occupations or skills. Likewise, in what concerned their educational background, the majority (78%) of those interviewed had at least some level of formal education, including from a university institution (8%).<sup>921</sup>

Refugee and asylum-seeking women face several additional barriers in the labour market. They have difficulties in coping with professional and family obligations, especially in cases where they face an increased vulnerability being a single mother, or a survivor of gender-based violence. Indeed, as the UNHCR data show,<sup>922</sup> the lack of day care for children is classified by asylum-seekers as the main barrier to finding employment (23, 53%). Also, the gender division of professions into “masculine” and “feminine”, leading to unequal pay and precariousness, hinders to a great extent asylum-seeking women’s entry to the country’s labour market. This, combined with the racism, discrimination and hostility that the asylum-seekers and refugees are facing, further impedes women’s employment.

Access to the labour market is the means for applicants and beneficiaries of international protection to integrate into the social environment regain their autonomy and self-esteem and feel empowered.

## 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?

A number of factors concerning enrolment, attendance and transportation hinder access of all children to education

According to Article 55 of L. 4939/2022, asylum-seeking children are required to attend primary and secondary school under the public education system under similar conditions as Greek nationals. Children who are applicants of international protection are obliged to attend school and competent authorities are obliged to provide the necessary and adequate means to support and facilitate the relevant procedure. The integration takes place under conditions, analogous to those that apply to Greek citizens. Contrary to the previous provision,<sup>923</sup> IPA (L 4636/2019) and afterwards L 4939/2022 (that replaced L 4636/2019) 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 is to take place no 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>924</sup>

A Ministerial Decision issued in September 2016, which was repealed in 2017 by Joint Ministerial Decision 139654/ΓΔ4 (B’ 2985/30.08.2017), established a programme of afternoon preparatory classes (Reception School Facilities for Refugee Education – DYEP classes / Δομές Υποδοχής και Εκπαίδευσης Προσφύγων - ΔΥΕΠ) for all school-aged children aged 4 to 15.<sup>925</sup> The programme is implemented in public schools neighbouring camps or places of residence. The organisation, operation, coordination and training program of DYEP classes is supervised by the Refugee Education Management, Coordination and Monitoring Team as defined by the Secretary General of the Ministry of Education, in cooperation with the competent Directorates of the Ministry of Education, the competent Regional Directorates of Education and the competent Directorates of Primary and Secondary Education.<sup>926</sup>

<sup>921</sup> UNHCR, *The talent behind the numbers: Introducing refugees on the Greek islands*, June 2021, available at: <https://bit.ly/36vDwTS>.

<sup>922</sup> See UNHCR, ‘Inter-Agency Protection Monitoring for Refugees in Greece: Key findings’, available at: <https://bit.ly/43dZsuK>.

<sup>923</sup> Article 13 L 4540/2018.

<sup>924</sup> Article 55(2) of L 4939/2022.

<sup>925</sup> Joint Ministerial Decision 180647/ΓΔ4/2016, GG 3502/2016/B/31-10-2016, available in Greek at: <https://bit.ly/36W3cDn>.

<sup>926</sup> Article 1 par. 4 of JMD 139654/ΓΔ4 (B’ 2985/30.08.2017).

The location and operationalisation of the afternoon preparatory classes is 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 the Deputy Minister of Education). Such decisions have been respectively issued for each school year up to the current school year 2022-2023.<sup>927</sup>

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 a 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>928</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 and in remote camps to be guaranteed access to education.

According to UNICEF's Annual Report on Greece for 2021, it was estimated that by the summer of 2021 there were more than 31,000 refugee and migrant children in Greece, while by the end of the year the number of unaccompanied children was 2,225.<sup>929</sup>

For the school year of 2020-2021, conflicting data provided by the Ministry of Education seem either to highlight a 32.52% decrease in the number of children enrolled or a 12.67% increase in the number of children enrolled to education compared to 2019. Namely, per the response of the Deputy Minister of Education to a Parliamentary question in March 2021,<sup>930</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>931</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>932</sup>

In either case, the number of children enrolled to education for the school year 2020-2021 remained well below the number of 20,000 school-aged (aged 4-17) children provided in the Ministry's April 2021 reply.<sup>933</sup> Moreover, because of the 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>934</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.

Furthermore, in 2020-2021, 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>935</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

<sup>927</sup> For the current school year, see Ministerial Decision Φ1/90023/ΑΔ/Δ1 (Β' 4032/29.07.2022).

<sup>928</sup> Ministry of Education, Q&A for access to education for refugee children, 1 February 2017, available at: <http://bit.ly/2malzAv>.

<sup>929</sup> UNICEF, Country Office Annual Report 2021 - Greece, available at: <https://bit.ly/43eOpDk>.

<sup>930</sup> RSA, *Excluded and segregated: the vanishing education of refugee children in Greece*, 13 April 2021, available at: <https://bit.ly/3ozTZuY>.

<sup>931</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>, 3.

<sup>932</sup> *Ibid*, 2.

<sup>933</sup> *Ibid*, 2.

<sup>934</sup> UNICEF, *Refugee and Migrant Response in Europe: Humanitarian Situation Report No. 38*, 28 January 2021, available at: <https://bit.ly/3fjMjdi>, 3.

<sup>935</sup> For more, RSA, *Excluded and segregated*, op.cit.

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>936</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>937</sup>

On the **Eastern Aegean islands**, where children 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, the vast majority remained without access to formal education during school year 2020-2021 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 in school, out of whom 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>938</sup>

**The school year 2021-2022** was marked by positive developments in some areas compared to school year 2020-2021, but with actions that still need to be undertaken. In particular:

Regarding enrolment, there was a significant improvement compared to previous school year 2020-2021 when school enrolment ranged from 8,637 to 14,423 children out of an estimated 20,000 eligible children. During the 2021-2022 school year, 17,186 children were enrolled. More specifically, 1,817 children were enrolled in Reception School Facilities for Refugee Education (DYEP classes), 10,718 children were enrolled in primary and secondary education schools with reception classes (3,294 children in primary and 1,538 children in secondary education) and 4,651 children in schools without reception classes. The main difficulties in enrolment during the 2021-2022 school year included the limited school capacity in urban areas, the lack of information by school Directors that all children, even the ones without regular residence (i.e. who are not included in the official reception system or are homeless) and children arriving in the middle of the school year, have the right to enrol.<sup>939</sup>

Regarding attendance, there was an improvement in attendance compared to the previous school year (2020-2021) when 7,769 attended (14% attendance in open accommodation centres and less than 1% in Reception and Identification Centres). More precisely 12,285 children attended (75%) out of 17,186 children enrolled during the 2021-2022 school year. The main difficulties of attendance during the 2021-2022 school year included the worsening of living conditions, the restrictions children and their families face in accessing asylum, the fact that refugee and migrant children regularly have to move, often due to the asylum procedure, abrupt changes of children's legal status with the issuance of final rejections of the asylum claim, all being a common reality. Also the lack of language skills deters children from attending school that has also resulted in dropouts. The change of children's legal status has led to discontinuation of state support and assistance. Ministerial decisions denying specific groups of people access to food catering, caused families additional stress and unwillingness to put education as their primary focus as they needed their children to help them earn a livelihood. People who have not yet been registered in the reception system, and individuals whose request for asylum has been rejected also struggled with access.<sup>940</sup>

Regarding the transportation of children to school, - a State obligation to provide transport to school for those students who need it and absolutely necessary in the case of refugee and asylum seeking children who mainly live in remote areas in camps, RICs and CCACs - there is a significant improvement compared to the previous school year (2020-2021) when transportation of children to school was not provided or did

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<sup>936</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>, 12.

<sup>937</sup> Ibid.

<sup>938</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>, 9.

<sup>939</sup> Greek Council for Refugees/Save the Children/Terre des hommes, *Must do better: Grading the Greek government's efforts on education for refugee children*, July 2022, available at: <https://bit.ly/43tDBPN>.

<sup>940</sup> Ibid.



not work properly and smoothly in many areas of Greece, largely due to issues with transport contracts between the decentralised administrations (Ministry of Interior) and the bus companies.<sup>941</sup> During the 2021-2022 school year, most transportation problems were settled due to the direct cooperation of the Ministry of Education with the Prefectures, the Regional Directorates of Education and schools. The main issues regarding transportation that were registered during the 2021-2022 school year included the lack of escorts on the buses, whose presence for the transportation of younger students is mandatory by law and the unsuccessful tenders and the inflexibility of the State who should provide other means of transportation.<sup>942</sup>

Regarding adequate staffing and timely scheduling of reception classes, compared to the previous school year (2020-2021), where there were significant delays<sup>943</sup> and an insufficient number of teachers recruited in staffing reception and DYEP classes,<sup>944</sup> during the 2021-2022 school year, there was an improvement. More specifically, there were 1,358 teachers recruited for Reception Classes both in primary and secondary schools and 110 school units with DYEP classes with 220 teachers recruited. The main issues regarding staffing and scheduling of reception and DYEP classes during the 2021-2022 school year included the delay in the start of classes and in the placement of teachers (even in the middle of the school year) and the shortage of teachers<sup>945</sup>

Regarding the inclusiveness of education, compared to previous school year (2020-2021) when no specific initiatives for refugee and migrant children were undertaken, there was an improvement during the 2021-2022 school year with a new UNICEF project *All Children in Education (ACE)*<sup>946</sup>, aiming to facilitate the integration of refugee and migrant children in formal education through non-formal education services, such as interpretation services in schools, Greek language courses, psychosocial support for students and teachers' empowerment. The main barriers to an inclusive education included curricula and school materials that were not adjusted to refugee children and their specific educational needs and teachers not adequately trained on intercultural education.<sup>947</sup>

Despite the positive steps undertaken by the Ministry of Education during the school year 2021-2022, and the announcements made at the beginning of the school year 2022-2023 for an upgraded education system and improved school integration of refugee students, numerous shortcomings remain in school enrolment, attendance, and transportation. At the beginning of the school year 2022-2023, Greek Refugee Education Coordinators reported that a significant number of children with their families have moved within Greece, due to the termination of the ESTIA accommodation programme. This forced students to leave their school and enrol in new schools in other regions, disrupting their education and integration into the school community. Moreover, the new asylum application system introduced on 1 September 2022, is also impeding school enrolment and attendance, as the electronic lodging of the asylum claim does not provide asylum seekers with an official document serving as a proof of their application, rendering children and their families 'invisible' to the state until the registration of their asylum claims at one of the competent RICs. Without being able to prove the legality of their residence, children often face difficulties in school enrolment, as an identity document and proof of vaccination booklet are usually requested during

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<sup>941</sup> Greek Ombudsman, *Εκπαιδευτική ένταξη παιδιών που διαβιούν σε Δομές και ΚΥΤ του Υπουργείου Μετανάστευσης & Ασύλου*, available in Greek at: <https://bit.ly/43u5aIP> and Greek Council for Refugees/Save the Children/Terre des hommes, *Must do better: Grading the Greek government's efforts on education for refugee children*, July 2022, available at: <https://bit.ly/43tDBPN>.

<sup>942</sup> Greek Council for Refugees/Save the Children/Terre des hommes, *Must do better: Grading the Greek government's efforts on education for refugee children*, July 2022, available at: <https://bit.ly/43tDBPN>.

<sup>943</sup> Greek Ombudsman, *Εκπαιδευτική ένταξη παιδιών που διαβιούν σε Δομές και ΚΥΤ του Υπουργείου Μετανάστευσης & Ασύλου*, available in Greek at: <https://bit.ly/43u5aIP>.

<sup>944</sup> Greek Council for Refugees / Save the Children, *Back to School? Refugee Children in Greece Denied Right to Education*, available at: <https://bit.ly/43otEn2>, 4.

<sup>945</sup> Greek Council for Refugees/Save the Children/Terre des hommes, *Must do better: Grading the Greek government's efforts on education for refugee children*, July 2022, available at: <https://bit.ly/43tDBPN>.

<sup>946</sup> Launched in September 2021 by UNICEF with the collaboration of the Ministry of Education and religious Affairs and the MoMA. UNICEF, press release entitled: "Διαβιτήριο για την εκπαίδευση για 8.400 το ελληνικό πρόγραμμα ACE που θα γίνει πρότυπο για εφαρμογή σε όλη την ΕΕ (in Greek), 17 June 2022, available in Greek at: <https://bit.ly/3WRcFHG>.

<sup>947</sup> Greek Council for Refugees/Save the Children/Terre des hommes, *Must do better: Grading the Greek government's efforts on education for refugee children*, July 2022, available at: <https://bit.ly/43tDBPN>.



enrolment, despite not being a legal requirement. Finally, families' fear of being deprived of their freedom of movement or arrested, deters parents from approaching public authorities generally, including schools.<sup>948</sup>

## D. Health care

### Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?  
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?  
☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?  
☐ Yes ☐ Limited ☒ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?  
☒ Yes ☐ Limited ☐ No

L 4368/2016, which provides free access to public health services and pharmaceutical treatment for persons without social insurance and vulnerable social groups<sup>949</sup> is also applicable for asylum seekers and members of their families.<sup>950</sup> However, in spite of the favourable 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 of financial crisis and the austerity measures on the Greek public Health System.<sup>951</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.) also continued to persist in 2022. In addition to the limited capacity of the public Health system, applicants' access to healthcare was further hindered as far back as 2016,<sup>952</sup> due to the reported 'generalised refusal of the competent public servants to provide asylum seekers with an AMKA'<sup>953</sup> (i.e. social security number), which up to the entry into force of article 55 IPA (as replaced by article 59 par. 2 of L. 4939/2022) 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>954</sup>

Article 55 of the IPA (as replaced by article 59 par. 2 of L. 4939/2022), introduced a new a Foreigner's Temporary Insurance and Health Coverage Number (*Προσωρινός Αριθμός Ασφάλισης και Υγειονομικής Περιθαλψής Αλλοδαπού*, PAAYPA), replacing the previous Social Security Number (AMKA). PAAYPA is to be issued to asylum seekers together with their asylum seeker's card.<sup>955</sup> With this number, asylum seekers are entitled free of charge to access the necessary health, pharmaceutical and hospital care, including the necessary psychiatric care where appropriate. The PAAYPA is deactivated if the applicant

<sup>948</sup> Greek Council for Refugees / OXFAM / Save the Children International, *Greece: Bimonthly bulletin on Refugees and Migrants*, October 2022, available at: <https://bit.ly/3qhEmxb>, 12-13.

<sup>949</sup> Article 33 L 4368/2016, as amended with article 38 par. 1 of L. 4865/2021.

<sup>950</sup> Article 59 (2) Asylum Code referring to art. 33 L. 4368/16.

<sup>951</sup> Amnesty International, *Greece: resuscitation required – the Greek health system after a decade of austerity*, April 2020, available at: <https://bit.ly/3cAKeG0>.

<sup>952</sup> SolidarityNow, 'Issues with the issuance of AMKA to international protection applicants', 10 November 2016, available (in Greek) at: <https://bit.ly/3bgttja>.

<sup>953</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>954</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>955</sup> Article 59 (2) Asylum Code.

loses the right to remain on the territory.<sup>956</sup> Said provisions of the IPA entered into force on 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>957</sup> officially triggering the mechanism. The activation of the PAAYPA number was announced in April 2020.<sup>958</sup> Acquisition of the PAAYPA by its beneficiaries (i.e. applicants) was recorded as 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>959</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>960</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, apart from in emergency cases. 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>961</sup> Relevant data for residents of the camps are not available, at least, to GCR's awareness. Also, relevant data for those residing under the ESTIA II accommodation scheme has not been published in the project's updates issued by MoMA in the most recent available statistics for 2022.<sup>962</sup>

Furthermore, throughout 2020 challenges were also observed due to the automatic extension of documents, amid measures aimed at restricting the 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 receive and/or renew their PAAYPA during the foreseen renewal of their documents, since no similar automatic extension of the PAAYPA was foreseen. Delays with the renewal of the PAAYPA were also observed in 2021.

By February 2021, even though challenges persist, the issue of PAAYPA seemed to have been almost completely solved as far as GCR is aware, 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 the full registration of a claim, and considering ongoing relevant delays particularly on the mainland, 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 where individuals have remained without either an AMKA or a PAAYPA for up to 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.

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, had been unable to obtain a PAAYPA by March 2021 and as a result has been unable to access the 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>963</sup> the

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<sup>956</sup> Article 59 (2) Asylum Code.

<sup>957</sup> Joint Ministerial Decision 717/2020, Gov. Gazette 199/B/31-1-2020 The said JMD is replaced by JMD 605869/B' 5392/18.10.2022.

<sup>958</sup> Skai.gr, Προσωρινός αριθμός ασφάλισης - περίθαλψης: Από σήμερα σε όλους τους αιτούντες άσυλο, 1 April 2020, available at: <https://bit.ly/3cjTyh4>.

<sup>959</sup> UNHCR, Population breakdown in ESTIA II Accommodation Scheme (as of 7 December 2020), 12 December 2020, available at: <https://bit.ly/2RM76NA>.

<sup>960</sup> *Ibid.*

<sup>961</sup> UNHCR, *Fact Sheet: Greece (1-31 December 2020)*, 27 January 2021, available at: <https://bit.ly/34nl7Te>.

<sup>962</sup> ESTIA updates can be found (in Greek) on the webpage of the MoMA, under *ESTIA 2022 FACTSHEET – Σεπτέμβριος/Οκτώβριος/Νοέμβριος 2022*, published 30 November 2022, available at: <https://bit.ly/3qhEmxb>.

<sup>963</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.

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 institution’s 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 seemingly 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 were present in the island RICs, 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>964</sup> amid a recorded growing mental health crisis because of prolonged containment.<sup>965</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>966</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>967</sup> By the end of October 2021, it was estimated that slightly less than 25% of the population residing in reception facilities had been vaccinated.<sup>968</sup>

Lastly, in a positive development in November 2021, a procedure for issuing a temporary AMKA (PAMKA) for accessing vaccines was introduced for people in vulnerable conditions (e.g. homeless) that lack any type of social security number, irrespective of their legal status,<sup>969</sup> albeit the extent to which undocumented people have been able to issue the PAMKA and get vaccinated is unavailable as far as GCR is aware.

In October 2022, a new Ministerial Decision<sup>970</sup> was issued regarding access of international protection applicants to health care services, medical and pharmaceutical care, social security, the labour market, and the acquisition of a PAAYPA number.

For every applicant of international protection, a PAAYPA number is issued. This number is unique and corresponds to the number of the applicant’s international protection card.<sup>971</sup> The competent service for the procedure of PAAYPA issuance is the Asylum Service. The latter proceeds with the issuance of the PAAYPA when registering the application for international protection and writes the PAAYPA number on the international protection applicant’s card.<sup>972</sup>

PAAYPA holders benefit from primary and secondary health care upon presentation of their international protection applicant card.<sup>973</sup> The PAAYPA number remains active as long as there is an active international protection applicant’s card and is renewed automatically with the renewal of the applicant’s card. The validity of PAAYPA is equivalent to the duration of the applicant’s card, except for pregnant women, whose number remains valid for one year.<sup>974</sup>

<sup>964</sup> For instance, GCR & Oxfam, Lesbos Bulletin (April 2021), 21 April 2021, available at: <https://bit.ly/3wyyD3N>.

<sup>965</sup> For more International Rescue Committee, *The Cruelty of Containment: The Mental Health Toll of the EU’s ‘Hotspot’ Approach on the Greek Island*, 2020, available at: <https://bit.ly/2XWKyJA>.

<sup>966</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>967</sup> As per information shared through the Greek advocacy working group on 26 May 2021.

<sup>968</sup> Data provided during the Health working group of 27 October 2021.

<sup>969</sup> JMD 5160/2021, Gov. Gazette 5247/B/12-11-2021.

<sup>970</sup> Ministerial Decision 605869 (B’ 5392/18.10.2022).

<sup>971</sup> Article 1(3) of Ministerial Decision 605869/2022.

<sup>972</sup> Article 2(1) of Ministerial Decision 605869/2022.

<sup>973</sup> Article 3 of Ministerial Decision 605869/2022.

<sup>974</sup> Article 6(1), (2) of Ministerial Decision 605869/2022.

For UAMs applicants for international protection, PAAYPA remains active even after the issuance or service of a decision rejecting their asylum application and its validity is extended until the execution of a return decision or until the UAM reaches adulthood.<sup>975</sup>

## E. Special reception needs for 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, the 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 a 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>976</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 (and after with the new law 4939/2022 that abolished with its article 148 articles 1-112 and 114 of IPA), it is no longer connected to the assessment of the asylum application.<sup>977</sup>

Under the reception and identification procedure, upon arrival, the Head of the RIC or of the Closed Control Centre 'shall refer persons belonging to vulnerable groups to the competent social support and protection institution.'<sup>978</sup>

However, shortages in the identification of vulnerabilities, together with a critical lack of suitable reception places for vulnerable applicants on the islands (see [Types of Accommodation](#)) prevents vulnerable persons from enjoying special reception conditions. A report published by MSF highlights alarming levels of mental health problems among asylum applicants on the Greek islands, including self-harming and suicidal acts among children. According to MSF, the indefinite detention, sense of limbo and systematic violence further traumatised people seeking protection. The ESTIA scheme on Samos, which had offered safe apartments to vulnerable applicants in the past, including victims of sexual and gender-based violence, was discontinued. Due to a lack of alternative accommodation, even sexually abused persons stayed in tents in a separate section of Vathy camp, where the alleged perpetrators also stayed. On Lesbos, following the closure of the Kara Tepe site, a model facility offering dignified accommodation in prefabricated containers, vulnerable persons were transferred to Mavrovouni tent camp. Owing to the reduced numbers of alternatives to camps on both islands, there are significant difficulties in finding dignified accommodation even for persons with serious health issues, as reported by MSF.<sup>979</sup>

### Reception of unaccompanied children

Following the establishment of the Special Secretary for the Protection of Unaccompanied Minors (SSPUM) under the MoMA in February 2020,<sup>980</sup> the SSPUM has become the competent authority for the protection of UAM, including the accommodation of UAM.

**Ongoing progress regarding the reception capacity for unaccompanied children:** As of 1 January 2023, there were at least 2,624 unaccompanied and separated children in Greece and a total of 2,272 dedicated accommodation places in shelters and Semi-Independent Living (SILs) facilities, plus 240

<sup>975</sup> Article 6(6) of Ministerial Decision 605869/2022.

<sup>976</sup> Article 62 (1) Asylum Code in combination with article 14γ' of the same law.

<sup>977</sup> Article 62 (2) Asylum Code, citing Article 41 of the same law.

<sup>978</sup> Article 40 Asylum Code.

<sup>979</sup> MSF, *Constructing Crisis at Europe's Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands*, June 2021, available at: <https://bit.ly/3tVzwFg>; FRA, *Migration: Key fundamental rights concerns - Bulletin 2 – 2021*, September 2021, available at: <https://bit.ly/3LopAcY>.

<sup>980</sup> Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.



places in urgent accommodation facilities.<sup>981</sup> The latter have recently increased in number, due to the increasing housing needs of UAMs. They are located in a total of 6 Emergency Accommodation Structures operating under the responsibility of the International Organisation of Migration (IOM) with five of them located in the mainland (Athens and Thessaloniki) and one in Lesbos<sup>982</sup>.

Moreover, in 2022, the National Emergency Response Mechanism launched in April 2021 with the aim to trace UAM in precarious conditions and provide them with access to necessary protection, managed to identify and accommodate approximately 3,000 children who were living in precarious conditions or were homeless<sup>983</sup> The number may provide an indication of the ongoing level of needs, since relative data on the number of UAM estimated to be living in insecure and/or precarious conditions have stopped being issued. From the beginning of the war in Ukraine until 30 November 2022, the National Emergency Response Mechanism received 515 referrals for separated and unaccompanied children from Ukraine.<sup>984</sup>

The National Mechanism is operated by the SSPUM, in collaboration with UNHCR (expert support) and NGOs Arsis, METAdrasi and the Network for Children's Rights (operational/field support). The Mechanism also includes a 24/7 telephone hotline for identifying and tracing children in need, which is available in six languages. The hotline provides guidance to children, citizens, local and public authorities on steps and actions to be taken from the point of identification of an unaccompanied child until his/her timely inclusion in emergency accommodation.<sup>985</sup>

The total number of referrals of unaccompanied children received by SSPUM in 2022 was 6,383, marking a 34% increase compared to the same period in 2021 (4,748).<sup>986</sup> At the same time, the number of accommodation spaces, specifically designated for unaccompanied minors was slightly increased, reaching a total of 2,511 places by the end 2022,<sup>987</sup> as opposed to 2,478 by the end of 2021.<sup>988</sup> Of these, roughly 90.5% (2,271) concerned long-term accommodation (including SILs), while the rest (240) concerned temporary/emergency accommodation under the relevant mechanism established by the MoMA in April 2021. Based on updates by EKKA, by the year's end the majority of referrals regarded UAM from Afghanistan, Pakistan and Syria.<sup>989</sup>

In December 2022, the average waiting period for the placement of unaccompanied minors residing in island RICs to suitable accommodation places for UAMs was 13.77 days, marking almost a seven-day increase compared to 2021 (7.4 days). The relevant period for UAM in "protective custody" or in the RIC of **Fylakio**, Evros, was 6.5 days, marking a two-day increase compared to 2021 (4.7 days), albeit the average time of placement for UAM specifically in "protective custody" was 2.5 days. Lastly, the average time for the placement of UAM in a shelter was 6.5 days, similarly marking a slightly more than a two-day increase, compared to 2021 (4.1 days).<sup>990</sup> In all cases, despite the increases in average placement times, which could potentially be attributed to the increase in UAM referrals throughout 2022 (34.4%), the SSPUM's data seem to re-affirm improvements in this field if compared to previous years, which should continue to ensure that all UAM have timely access to suitable reception.

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<sup>981</sup> MoMA / Special Secretary for the Protection of Unaccompanied Minors, Situation Update: Unaccompanied Children (UAC) in Greece, 1 January 2023, available in Greek at: <https://bit.ly/43sXXss>.

<sup>982</sup> Special Secretary for the Protection of Unaccompanied Minors (SSPUM), *Action Report 2022*, available at: <https://bit.ly/3IKZmCB>.

<sup>983</sup> Special Secretary for the Protection of Unaccompanied Minors (SSPUM), *Action Report 2022*, available at: <https://bit.ly/3IKZmCB>.

<sup>984</sup> Special Secretary for the Protection of Unaccompanied Minors (SSPUM), *Action Report 2022*, available at: <https://bit.ly/3IKZmCB>.

<sup>985</sup> UNHCR, 'Greece launches national tracing and protection mechanism for unaccompanied children in precarious conditions', 6 April 2021, available at: <https://bit.ly/3uBRICl>.

<sup>986</sup> Written reply by the SSPUM to GCR request for statistics on 16 February 2023. See AIDA, *Country Report: Greece, 2021 Update*, May 2022, available at: <https://bit.ly/3MRVklf>, 194.

<sup>987</sup> Written reply by the SSPUM to GCR request for statistics on 16 February 2023.

<sup>988</sup> AIDA, *Country Report: Greece, 2021 Update*, May 2022, available at: <https://bit.ly/3MRVklf>, 194.

<sup>989</sup> MoMA / Special Secretary for the Protection of Unaccompanied Minors, Situation Update: Unaccompanied Children (UAC) in Greece, 1 January 2023, available in Greek at: <https://bit.ly/43sXXss>.

<sup>990</sup> Written reply by the SSPUM to GCR request for statistics on 16 February 2023. AIDA, *Country Report: Greece, 2021 Update*, May 2022, available at: <https://bit.ly/3MRVklf>, 194.



Of the total UAM referred, 5,729 were boys, in most cases older than 12 (98.4%), while 654 were girls, in most cases similarly older than 12 (92.5%).<sup>991</sup>

Q 2022	No. of referrals for accommodation	% of referrals addressed in the same Q	% of referrals addressed after the specific Q
Q1	934	86.8%	4.3%
Q2	1,311	85.8%	7.7%
Q3	2,124	77.9%	10.6%
Q4	2,014	63.6%	18.7%
Total	<b>6,383</b>	-	-

Source: Special Secretary for the Protection of Unaccompanied Minors. Data received on 16 February 2022.

Nevertheless, challenges remained regarding the proper identification of UAM upon arrival, and as a consequence cases where UAM have been accommodated alongside the adult population continued to be observed in 2022, at least on the islands, amongst others due to the lack of specialised medical staff.<sup>992</sup> Furthermore, as also highlighted by the aforementioned referral times, despite significant improvements following the legislative abolition of “protective custody” in 2020, UAM continued to be subject to detention/“protective custody” in 2022 as well.

The lack of appropriate care, including accommodation for unaccompanied children, in Greece has been repeatedly raised by human rights bodies.<sup>993</sup> In 2019, in the context of his visit to the Lesvos, 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>994</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>995</sup>

On 9 June 2022 the UN Child Rights Committee (CRC) issued its Concluding Observations on Greece, reviewed during its 90th session. The Committee raises serious concerns, among others, regarding the detention of children for identification purposes, inappropriate age determination procedures, the precarious living conditions in the RICs on the Aegean islands and a lack of access to food and healthcare.<sup>996</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>997</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

<sup>991</sup> Written reply by the SSPUM to GCR request for statistics on 16 February 2023.

<sup>992</sup> GCR & Oxfam, *Lesbos Bulletin: Update on Lesbos and the Aegean Islands*, by the Greek Council for Refugees & Oxfam, March 2022, available at: <https://bit.ly/3YEXp0H>, 5.

<sup>993</sup> For instance, see UNHCR, ‘Lone children face insecurity on the Greek islands’, 14 October 2019, available at: <https://bit.ly/36XQ6pf>.

<sup>994</sup> Euronews, ‘U.N. refugees chief urges Greece to improve ‘miserable’ camp conditions’, 27 November 2019, available at: <https://bit.ly/2vWsjt3>.

<sup>995</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>996</sup> UN Committee on the Rights of the Child, *Concluding observations on the combined fourth to sixth reports of Greece*, 28 June 2022, available at: <http://bit.ly/3aZgiY1>; and UN Human Rights Office of the High Commissioner, Press release ‘UN Child Rights Committee issues findings on Cambodia, Canada, Chile, Croatia, Cuba, Cyprus, Djibouti, Greece, Iceland, Kiribati, Somalia and Zambia’, 9 June 2022, available at: <http://bit.ly/3OaDu42>.

<sup>997</sup> Council of Europe, ‘New complaint registered concerning Greece’, 21 December 2018, available at: <https://bit.ly/2SG0FpF>.

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>998</sup>

Furthermore, in December 2019, in a case represented by GCR, in cooperation with ASGI, Still I Rise and Doctors Without Borders, the 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 ordered the Greek authorities to arrange for their timely transfer to a centre for unaccompanied minors and to ensure that their reception conditions were compatible with Article 3 of the Convention (prohibition of torture and inhuman and degrading treatment) and the applicants' particular status.<sup>999</sup>

In March 2020, a number of EU Member States accepted to relocate about 1,600 unaccompanied children from Greece.<sup>1000</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>1001</sup>), this is a welcome initiative and tangible display of responsibility sharing that facilitates 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>1002</sup>

From April 2020 until December 2022, a total of 1,313 UAM had been relocated to other EU member states, most of them to Germany, France, Portugal and Finland.<sup>1003</sup> During 2022, a total of 113 UAMs were transferred on 13 flights to France and Portugal, while three flights to Portugal, with a total of 28 UAMs took place in December 2022.<sup>1004</sup> The relocation scheme has been extended in an attempt to meet the total number of pledges made by Member States.<sup>1005</sup> By January 2023, a total of 1,332 out of the 1,500 relocation pledges for UAM had been successfully implemented, primarily to France (501), Portugal (344), Germany (204) and Finland (111).<sup>1006</sup>

### Types of accommodation for unaccompanied children

Out of the 2,511 total number of available places for unaccompanied children in Greece by the end of 2022 (i) 1,963 were in 70 shelters for unaccompanied children; (ii) 308 places were in 77 Supported Independent Living apartments (SILs) for unaccompanied children over the age of 16, and (iii) 240 places

<sup>998</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>.

<sup>999</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>1000</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>1001</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 15 April 2021, available at: <https://bit.ly/3vpPEMR> [last accessed 28 April 2021].

<sup>1002</sup> IOM, UNHCR & UNICEF, 'UN agencies welcome first relocation of unaccompanied children from Greece', 15 April 2020, available at: <https://bit.ly/2Pv0BNY>.

<sup>1003</sup> Special Secretary for the Protection of Unaccompanied Minors (SSPUM), *Action Report 2022*, available at: <https://bit.ly/3IKZmCB>, and MoMA, Press Release «Συνεχίζεται το Πρόγραμμα Εθελοντικής Μετεγκατάστασης – 1.313 ασυνόδευτα παιδιά έχουν μεταφερθεί σε άλλες χώρες κράτη-μέλη της ΕΕ», 20 December 2022, available at: <https://bit.ly/3ILCbgn>.

<sup>1004</sup> MoMA, Press Release «Συνεχίζεται το Πρόγραμμα Εθελοντικής Μετεγκατάστασης – 1.313 ασυνόδευτα παιδιά έχουν μεταφερθεί σε άλλες χώρες κράτη-μέλη της ΕΕ», 20 December 2022, <https://bit.ly/3ILCbgn>.

<sup>1005</sup> GCR & SCI, Children on the move (November-December 2021 update), available at: <https://bit.ly/3IK6mx0>.

<sup>1006</sup> IOM, *Voluntary Scheme For The Relocation from Greece to Other European Countries* (infographic), 31 January 2023: <https://bit.ly/3xsvAgb>.

were in six temporary accommodation facilities operating under the National Emergency Response Mechanism (NERM).<sup>1007</sup>

Notwithstanding these, as reported by EKKA,<sup>1008</sup> out of the total estimated 2,624 UAM in Greece on 1 January 2023, 1,736 resided in shelters, 241 in SILs, 214 in temporary accommodation under the NERM, 389 in RICs and 44 in other camps, which in turn highlights a significant divergence between the available, dedicated places for UAM and those actually in use.

**Shelters for unaccompanied children:** long-term and short-term accommodation facilities for unaccompanied children (shelters) are managed primarily by civil society entities and charities as well as by and with the support of IOM.

Shelters as of December 2022			
Implementing Actor	No. of facilities	Total Capacity	Type of Accommodation
HOME PROJECT	8	130	Long-term
TEEN SPIRIT	2	50	Long-term
APOSTOLI	1	20	Long-term
ARSIS	8	222	Long-term
EES	5	154	Long-term
ILIAKTIDA	6	148	Long-term
INEDIVIM	1	25	Long-term
METADRASI	2	40	Long-term
PHAROS	3	94	Long-term
SMAN	2	33	Long-term
SMILE OF THE CHILD	1	10	Long-term
ORION	1	24	Long-term
MEDIN	3	76	Long-term
ICSD	3	120	Long-term
ZEUXIS	2	53	Long-term
IOM	5	132	Long-term
EUROPEAN EXPRESSION	2	81	Long-term
n/a	2	80	Long-term
SOCIAL EKAB	6	208	Long-term
KEAN	2	72	Long-term
SYNYPARXIS	5	194	Long-term

Source: Information provided by SSPUM on 16 February 2023.

<sup>1007</sup> SSPUM, data provided on 16 February 2023.

<sup>1008</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 1 January 2023, available in Greek at: <https://bit.ly/3KgilKW> [last accessed 17 February 2023].

**Supported Independent Living (SIL):** “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>1009</sup>

SILs as of December 2022		
Implementing Actor	Capacity (each)	Capacity (total)
METADRASI	4	28
IRC	4	40
ARSIS	4	60
PRAKSIS	4	24
KEAN	4	12
ILIAKTIDA	4	20
EUROPEN EXPRESSION	4	28
ICSD	4	40
NOSTOS	4	56

Source: Information provided by SSPUM on 16 February 2023.

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

According to Article 47 (1) of L. 4939/2022, the 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>1010</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>1011</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 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 L. 4939/2022.

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. 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-Türkiye statement.

<sup>1009</sup> Metadrasi, *Supported Independent Living for unaccompanied minors*, available at: <https://bit.ly/2tPEIjv>.

<sup>1010</sup> Article 47 (2) Asylum Code.

<sup>1011</sup> Article 47 (3) Asylum Code.

## 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 60 (2)(b) of the Asylum Code, asylum seekers in reception facilities have the right to be in contact with relatives, legal advisers, 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.

With the exception of NGOs that are operational within a site and enrolled to the registry of NGOs of the MoMA, access to temporary accommodation Centres, Reception and Identification Centres and the new Closed-Controlled Centres is subject to prior official authorization at the central level, while the Director of each facility may define more specific terms and conditions for each relevant visit (e.g. time of visit).

## G. Differential treatment of specific nationalities in reception

During 2022, there was obvious differential treatment by the State towards Ukrainian refugees and asylum seekers and refugees from all other countries; a welcoming policy that created a two-tiered reception system. Immediate access to the labour market and medical care, accommodation and food support; launch of an online pre-registration platform were all completed by the end of March 2022. For all other refugees and asylum seekers and also for Ukrainians who were in Greece before 26 November 2022 the situation has not ameliorated: difficulties in accessing the asylum procedure, problematic reception procedure and provisions of material conditions, pushbacks practices and quarantine measures remain.<sup>1012</sup>

Implementation of the so-called “pilot project” by the police, which resulted 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>1013</sup> was not observed during the year in the case of **Lesvos** (where it was implemented up-to the destruction of Moria RIC) or **Kos**. Nevertheless, in the case of **Kos**, this seems to have been fully replaced by the detention upon arrival of the majority of newcomers, which remained in effect throughout the largest part of the year.

<sup>1012</sup> For the two-tier refugee response, see among others: Greek Council for Refugees / OXFAM / Save the Children International, *Greece: A two-tier refugee system*, Bi-monthly bulletin, May 2022, available at: <https://bit.ly/3OJOetv>. Greek Council for Refugees / OXFAM / Save the Children International, *Greece: Bimonthly bulletin on Refugees and Migrants*, July 2022, available at: <https://bit.ly/3qhFfWx>, 12-14.

<sup>1013</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>1014</sup>

1. Total number of asylum seekers detained in pre-removal centres in 2022:	11,857
2. Number of asylum seekers in administrative detention at the end of 2022:	1,006 <sup>1015</sup>
3. Number of pre-removal detention centres:	8 <sup>1016</sup>
4. Total capacity of pre-removal detention centres:	3,676

Law 4939/2022, in force since 10 June 2022, introduced extensive provisions on the detention of asylum seekers and significantly less guarantee during the imposition of detention measures against asylum applicants, following previous legislative amendments,<sup>1017</sup> to the extent that they threaten to undermine the principle that detention of asylum seekers should only be applied exceptionally and as a measure of last resort. In particular, Law 4939/2022 foresees:

- ❖ 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>1018</sup>. Art. 50(2) Asylum Code 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;
  - (e) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;
- ❖ Extensive maximum time limits for the detention of asylum seekers. According to Article 50 (5) Asylum Code, the detention of an asylum seeker can be imposed for an initial period of up to 50 days and may be successively prolonged up to a maximum of 18 months. Furthermore, according to Article 46(5), the detention period in view of removal (return/deportation etc.) is not considered when calculating 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 about its compliance with the obligation to impose asylum detention "only for as short a period as possible" and to effectuate asylum procedures with "due diligence" in virtue of Article 9 the Reception Conditions 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. The IPA provided that the detention of an asylum seeker could only be imposed following prior relevant recommendation by the Asylum Service, with the exception of cases that detention was ordered on public order grounds, when the detention could be ordered directly by the Police Director. Article 50(4) of the Asylum Code abolished the

<sup>1014</sup> Information provided by the Directorate of the Hellenic Police, 2 February 2023.

<sup>1015</sup> Total number of asylum seekers under administrative detention in pre-removal detection centers and in other detention facilities such as police stations.

<sup>1016</sup> The operation of one of eight the PRDCs (Lesvos) was suspended during 2020, 2021 and 2022.

<sup>1017</sup> UNHCR, 'UNHCR urges Greece to Strengthen Safeguards in Draft Asylum Law', 24 October 2019, available at: <https://bit.ly/2IzauTV>.

<sup>1018</sup> Article 50(2) Asylum Code.

requirement for a recommendation issued by the Asylum Service and provides that the detention of an asylum seeker on any ground may be imposed directly by the police upon prior notification by the Asylum Service. As the Asylum Service is the only authority that may assess the need for detention based on the specific elements of the application and substantiate the grounds for detention as required by law, this amendment raises concerns *inter alia* of the respect of the obligation for an individual assessment and the principle of proportionality before the detention of an asylum applicant.

For further amendments previously introduced to the legal framework of detention, see AIDA report on Greece 2021.<sup>1019</sup>

During 2022, despite the fact that no readmission to Türkiye has been implemented for more than three years,<sup>1020</sup> and for the time being no reasonable prospect of readmission to Türkiye exists, third-country nationals, including asylum seekers whose applications have been rejected as inadmissible on the basis of the safe third country concept, remain detained for prolonged periods reaching several months, and in some cases, for periods exceeding a year. Moreover, the Greek Authorities have not taken any measures to release Afghan citizens in detention<sup>1021</sup> despite the rapid deterioration in the security and human rights situation in their country of origin since August 2021 and the fact that returns to Afghanistan has been suspended.<sup>1022</sup>

### Statistics on detention

At the end of 2022, the total number of third-country nationals detained in pre-removal detention centres countrywide was 2,500.<sup>1023</sup> Out of these, 1,006 persons (40.24%) were asylum seekers.<sup>1024</sup> An additional 316 third-country nationals were detained in police stations or other facilities countrywide by the end of the year, of whom, 35 persons (11.07%) were asylum seekers. Furthermore, the total number of unaccompanied children in pre-removal detention centres countrywide was 14 at the end of 2022, and the number of unaccompanied children in other detention facilities such as police stations was nine.<sup>1025</sup>

**Detention in pre-removal centres:** The number of asylum seekers detained in pre-removal detention facilities in Greece slightly increased in 2022, as well as the total number of third-country nationals under administrative detention.

Administrative detention: 2017-2022						
	2017	2018	2019	2020	2021	2022
Number of asylum seekers detained	9,534	18,204	23,348	10,130	6,447	11,857
Total number of persons detained	25,810	31,126	30,007	14,993	12,020	18,966

Source: Directorate of the Hellenic Police, 29 January 2018; 23 January 2019; 8 February 2020, 11 February 2021, 8 March 2022, 2 February 2023.

The number of persons who remained in pre-removal detention facilities was 2,500 at the end of 2022, of whom 1,006 were asylum seekers.<sup>1026</sup>

<sup>1019</sup> AIDA, Country Report – Greece, update on the year 2021, May 2022, available at: <https://bit.ly/3MRVklf>.

<sup>1020</sup> MoMA, *Removals within the framework of the EU-Türkiye Statement have not been implemented since March 2020*, July 2021, available in Greek at: <https://bit.ly/3lvS76h>, 11.

<sup>1021</sup> According to information provided by the Directorate of the Hellenic Police on 2 February 2023, during 2022 there were 1,895 return decisions as well as 1,272 return decision imposing detention on Afghan citizens.

<sup>1022</sup> Information provided by the Directorate of the Hellenic Police, 2 February 2023.

<sup>1023</sup> Unaccompanied minors are also included.

<sup>1024</sup> Information provided by the Directorate of the Hellenic Police, 2 February 2023.

<sup>1025</sup> *Ibid.*

<sup>1026</sup> *Ibid.*

The breakdown of detained asylum seekers and the total population of detainees per pre-removal centre is as follows: <sup>1027</sup>

Breakdown of asylum seekers detained by pre-removal centre in 2022				
Centres	Detention throughout 2022		Detention at the end of 2022	
	Asylum seekers	Total population	Asylum seekers	Total population
Amygdaleza	2,823	7,168	190	866
Tavros (Petrou Ralli)	221	1,171	11	97
Corinth	2,389	2,761	546	897
Paranesti, Drama	870	995	125	349
Xanthi	902	1,086	126	229
Fylakio, Orestiada	4,414	5,499	1	28
Lesvos	0	0	0	0
Kos	238	286	7	34
<b>Total</b>	<b>11,857</b>	<b>18,966</b>	<b>1,006</b>	<b>2,500</b>

Source: Directorate of the Hellenic Police 2 February 2023.

The breakdown of unaccompanied children under administrative detention per pre-removal centre is as follows:

Breakdown of unaccompanied minors under detention by pre-removal centre in 2022		
Centre	Detentions throughout 2022	In detention at the end of 2022
Amygdaleza	305	1
Tavros (Petrou Ralli)	0	0
Corinth	35	0
Paranesti, Drama	10	6
Xanthi	3	1
Fylakio, Orestiada	156	4
Lesvos	0	0
Kos	8	0
<b>Total</b>	<b>517</b>	<b>12</b>

Source: Directorate of the Hellenic Police 2 February 2023.

Although the number of persons detained during the past few years has significantly increased in proportion to the number of the arrivals,<sup>1028</sup> this has not been mirrored by a corresponding increase in the number of forced returns. 24,058 detention orders were issued in 2022 compared to 20,219 in 2021. The number of forced returns decreased to 2,763 in 2022 from 3,276 in 2021.<sup>1029</sup> Also to note that out of the 2,763 detainees who were forcibly returned, 2,022 were Albanian nationals. These findings corroborate that immigration detention is not only linked with human rights violations but also fails to effectively contribute to return.

There were seven active pre-removal detention centres in Greece at the end of 2022. This includes five centres on the mainland (**Amygdaleza, Tavros, Corinth, Xanthi, Paranesti, Fylakio**) and one on the islands (**Kos**). Lesvos pre-removal detention centre has temporarily suspended its operation. The total

<sup>1027</sup> Unaccompanied minors included.

<sup>1028</sup> According to UNHCR the total number of arrivals by land and sea was 9,157 in 2021 and 18,780 in 2022: see UNHCR, 'Operational data portal, Mediterranean Situation, Greece', available at: <https://bit.ly/3t8i3GD>.

<sup>1029</sup> Ombudsman, *Return of third-country nationals*, Special Report 2018; Information provided by the Directorate of the Hellenic Police, 8 February 2020, 11 February 2021, 8 March 2022 and 2 February 2023.

pre-removal detention capacity is 3,676 places.<sup>1030</sup> A new pre-removal detention centre established in **Samos** in 2017 is not yet operational.

In 2022, a total of 31 persons were returned to the Eastern Aegean islands after being apprehended outside their assigned island, down from 119 in 2021:

Returns to the islands due to non-compliance with a geographical restriction: 2022						
Lesvos	Chios	Samos	Kos	Leros	Rhodes	Total
4	6	1	20	0	0	31

Source: Directorate of the Hellenic Police, 2 February 2023

The number of persons lodging an asylum application from detention in 2022 was not made available. The number of first instance decisions on applications submitted from detention issued by the Asylum Service in 2022 is not available.

**Detention in police stations and holding facilities:** In addition to the above, there were 316 persons, of whom 35 were asylum seekers, detained in several other detention facilities countrywide such as police stations, border guard stations etc. at the end of 2022.<sup>1031</sup>

Furthermore, at the end of 2022, the total number of unaccompanied children in detention in several detention facilities countrywide was 14.<sup>1032</sup>

As the ECtHR has found, these facilities are not in line with Article 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>1033</sup>

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

- In practice, are most asylum seekers detained
  - ❖ on the territory: ☒ Yes ☐ No
  - ❖ at the border: ☐ Yes ☒ No
- Are asylum seekers detained during a regular procedure in practice?
 

☐ Frequently ☒ Rarely ☐ Never
- Are asylum seekers detained during a Dublin procedure in practice?
 

☒ Frequently ☐ Rarely ☐ Never

#### 1.1 Asylum detention

According to Article 50 Asylum Code, 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>1034</sup> However as mentioned above the Asylum Code 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

<sup>1030</sup> Information provided by the Directorate of the Hellenic Police, 2 February 2023.

<sup>1031</sup> Information provided by the Directorate of the Hellenic Police, 2 February 2023.

<sup>1032</sup> *Ibid.*

<sup>1033</sup> *H.A. and Others v. Greece*, application no. 19951/16, 28 February 2019, available in French at: <https://bit.ly/3OI4fAf>; *S.Z. v. Greece*, application no. 66702/13, 21 June 2018, available at: <https://bit.ly/45tcBBL>, para. 40.

<sup>1034</sup> Article 50(1) Asylum Code.

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 on the basis of one of the following 5 grounds:<sup>1035</sup>

- (a) in order to determine their 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 by 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>1036</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>1037</sup>

- ❖ Does not comply with an obligation of voluntary departure;
- ❖ Has explicitly declared that he or she will not comply with the return decision;
- ❖ Is in possession of forged documents;
- ❖ Has provided false information to the authorities;
- ❖ Has been convicted of a criminal offence or is undergoing prosecution, or there are serious indications that he or she has or will commit a criminal offence;
- ❖ Does not possess travel documents or other identity documents;
- ❖ Has previously absconded; and
- ❖ Does not comply with an entry ban.

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>1038</sup>

Article 50(2)(3) Asylum Code 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 the Asylum Code is issued following prior notification by the Head of the Asylum Service. However, the final decision on the detention lies with the Police. The number of information notes to this end made by the Asylum Service in 2022 is not available.

### 1.1.1 Detention of asylum seekers applying at liberty

The Asylum Code 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:

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<sup>1035</sup> Article 50(3) Asylum Code

<sup>1036</sup> Article 18(g) L 3907/2011, cited by Art. 50(2-b) and 50(3-b) Asylum Code.

<sup>1037</sup> Article 18(g)(a)-(h) L 3907/2011.

<sup>1038</sup> Article 3(7) Directive 2008/115/EC; see also *mutandis mutandis* CJEU, C-528/15, *Al Chodor*, 15 March 2017, available at: <https://bit.ly/3q7nVTY>, 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’.



- (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 by 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 States by a third-country national or a stateless person (10).

Up until the end of 2022 asylum seekers, who had 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 their 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 should not be applied to asylum seekers.

### 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>1039</sup> This continues to be the case. The Return Directive does not cover detention on public order grounds,<sup>1040</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 the Council of State and the CJEU.<sup>1041</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

<sup>1039</sup> Ombudsman, *Return of third-country nationals*, Special Report 2018, 17.

<sup>1040</sup> European Commission, *Return Handbook*, 27 September 2017, available at: <http://bit.ly/2nITCQ>, 78-79.

<sup>1041</sup> CJEU, Case C-601/15 PPU *J.N.*, 15 February 2016, available at: <https://bit.ly/3BXp7vY>, 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.

has once again in 2019 criticised this practice.<sup>1042</sup>

In addition, detention on national security or public order grounds has also been ordered for reasons of irregular entry into a territory, contrary to Article 31 of the Refugee Convention and the prohibition on detaining asylum seekers on account of their irregular entry or presence under Article 46(1) IPA. Furthermore, as highlighted by the Ombudsman 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>1043</sup>

### **Detention of applicants considered to apply merely in order to delay or prevent return**

Applicants subject to the JMD designating Türkiye as a safe third country together with applicants submitting a subsequent asylum application were systematically detained on the basis that “there are reasonable grounds to believe that the application is submitted merely in order to delay or prevent the enforcement of the return decision”. The detention order and the recommendation of the Asylum Service issued in such detention cases are lacking proper justification. Instead, they simply repeat part of the relevant legal provision, without due consideration of objective criteria or individual circumstances. Regarding those subjected to the JMD, it should also be mentioned that the actual prospect of return is never considered, neither from the police nor from the Asylum Service, despite suspending returns to Türkiye in March 2020. Moreover, those who apply for asylum in detention are often detained ‘in order to decide, in the context of a procedure, on the applicant’s right to enter the territory’ despite the fact that this reason can only justify detention of those who have applied for international protection in liberty.

It should also be noted that, as stated before, since a number of persons are immediately detained upon arrival, 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.

### **Detention despite the actual prospect of return**

During 2022, applicants for international protection as well as rejected asylum seekers continued to remain systematically detained without any proper consideration of the prospect of return to Türkiye despite returns being suspended since March 2020. A number of court decisions acknowledged that in the absence of an actual prospect of removal, detention lacks a legal basis.<sup>1044</sup>

### **Detention of applicants who have already asked for asylum though the platform**

A number of applicants who have booked a registration appointment through the Ministry’s platform have been held in detention despite holding a document proving the existing appointment, in violation of national and European legislation. This pattern was widespread until the end of 2022 and as a result a growing number of asylum seekers have been detained in pre-removal detention under L 3386/2005 and L 3907/2011. In February 2023 the Administrative Court of Kavala ruled in a case of an Afghan national represented by GCR’s Legal Unit that he was unlawfully detained since he had already booked a registration appointment and thus according to the law he had to be considered as an asylum seeker.<sup>1045</sup> Following the abovementioned decision, a number of similar decisions have been issued by several

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<sup>1042</sup> Ombudsman, *Return of third-country nationals*, Special Report 2018.

<sup>1043</sup> GCR, *2018 Detention Report*; and Ombudsman, *Return of third-country nationals*, Special Report 2018.

<sup>1044</sup> Administrative Court of Corinth Decisions Π2424/24-06-2022, Π2806/ 19-07- 2022, Π3179/21-09-2022, Π3166/19-09-2022, Π2814/20-07-2022, Π4118/27-10-2022, Π4123/31-10-2022, Π4194/09-11-2022, Π3633/17-10-2022, Π4248/15-11-2022 Administrative Court of Athens Decision AP831/2022, Administrative Court of Kavala Decision AP779/2022, Administrative Court of Rhodes Decisions AP515/2021, AP514/2021, AP450/2021, AP136/2021, AP122/2021, AP96/2022, AP97/2022, AP98/2022, AP99/2022.

<sup>1045</sup> Administrative Court of Kavala, Decision 163/2023. See also GCR’s press release for two subsequent cases available in Greek at: <https://bit.ly/3IYJqNv>.

## 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 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:

### Detention in the ‘closed-controlled centre’ (KEDN) of Samos

According to the Greek General Regulation on the Operation of the Islands’ CCACs, residents are only permitted to enter and exit the centre from 8am-8pm daily, which restricts their freedom of movement and access to basic goods and services. However, in practice, in Samos and Kos CCACs, all newly arrived asylum applicants are only permitted to exit the centre after 25 days, not including the quarantine period, as a general and unjustified 25-day restriction of freedom of movement has been applying to new arrivals. Specifically: following an illegal *de facto* detention practice implemented in the first months of the Samos CCAC’s operation, from mid-April 2022 administrative delays in the issuance of the applicants’ cards resulted in them not being allowed to exit the centre. At least since July 2022, a general and unjustified 25-day restriction of freedom of movement has been applied to new arrivals. According to the administration of Samos CCAC, all newly arrived asylum applicants are only permitted to exit the centre after 25 days, despite being fully identified and registered within the first five days of their arrival. Therefore, there is no justification for the extension of the restriction of residents’ freedom of movement which the law provides by way of exception. According to UNHCR, the 25-day movement restriction did not include the five or more days of mandatory quarantine.

### Detention of newly arrived persons under quarantine

Throughout 2022, Greece continued to subject newly arriving asylum seekers to several days of quarantine in Reception and Identification Centres, Closed Controlled Access Centres and other reception facilities throughout its territory, citing COVID-19 prevention reasons. There was no permanent presence of staff in quarantine sites, even for emergency cases. The policy had no basis insofar as all other movement restrictions previously imposed in light of the pandemic had been lifted for the remainder of the population. Furthermore, the authorities still refrained from notifying deprivation of liberty orders in the form of administrative decisions to the persons affected.

### Detention upon entry in RICs

Upon entry in the Reception and Identification Centres (RICs) beneficiaries may face decisions of restriction of their personal liberty for a period of up to 25 days (*de facto* detention), according to Article 40 of the Asylum Code. In January 2023 the European Commission launched an infringement procedure against Greece following several letters of notice to Greece over failure to comply with EU law including in relation to the reception and detention of asylum seekers and refugees and *de facto* detention in the RICs.<sup>1047</sup>

Other forms of *de facto* detention such as detention pending transfer to RICs, *de facto* detention in RIC, *de facto* detention in transit zones, detention of recognised refugees and detention in the case of alleged push backs continue to occur during 2022 according to information received by GCR.

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<sup>1046</sup> Administrative Court of Kavala Decisions AP379/2023, AP382/2023 and AP421/2023, Administrative Court of Athens AP721/2023 and AP741/2023, Administrative Court of Xanthi AP209/2023 Administrative Court of Corinth Π1473/2023.

<sup>1047</sup> European Commission, ‘January Infringements package: key decisions’, 26 January 2023, available at: <https://bit.ly/45tH02U>.

## 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  
☐ Other
2. Are alternatives to detention used in practice? ☐ Yes ☒ No

Articles 50(2) and 50(3) of the Asylum Code 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 guarantee.<sup>1048</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>1049</sup>

The Asylum Code repealed the condition of a prior recommendation on the continuation or termination of detention from the Asylum Service (article 46(4) Asylum code) 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>1050</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-Türkiye 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>1051</sup> In any event, it should be mentioned that the measure is:

- ❖ Not examined and applied before ordering detention;<sup>1052</sup>
- ❖ Not limited to cases where a detention ground exists;<sup>1053</sup>
- ❖ 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.

<sup>1048</sup> Article 22(3) L 3907/2011.

<sup>1049</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, available at: <https://bit.ly/3Wyxw2a>, 5.

<sup>1050</sup> Article 46(3) L 4375/2016.

<sup>1051</sup> See *inter alia* ECtHR, *Guzzardi v. Italy*, Application No 7367/76, Judgment of 6 November 1980, available at: <https://bit.ly/4211xc8>, para 92-93.

<sup>1052</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>1053</sup> FRA, *Fundamental rights: challenges and achievements in 2012*, available at: <http://bit.ly/2EHr0k7>, 52.

As 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>1054</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.

### 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 52 Asylum Code women should be detained separately from men,<sup>1055</sup> the privacy of families in detention should be duly respected,<sup>1056</sup> and the detention of minors should be a last resort measure and be carried out separately from adults.<sup>1057</sup>

More generally, Greek authorities have the positive obligation to provide special care to applicants belonging to vulnerable groups (see Special Reception Needs). However in practice, persons belonging to vulnerable groups are detained without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order. In 2022 GCR has supported various cases of vulnerable persons in detention whose vulnerability had not been taken into account.

These include:

- ❖ A man from the Democratic Republic of Congo, suffering from epilepsy, who was detained in PRDC of Amygdaleza for almost two months.
- ❖ A rejected asylum seeker from Somalia, suffering from epilepsy, who was detained in PRDC of Amygdaleza for almost two months.
- ❖ A woman asylum seeker originating from Iran, victim of domestic violence, who was detained in a police station and in PRDC of Amygdaleza for a period of one month.<sup>1058</sup> After the submission of Objections against detention by GCR the Administrative Court of Athens ordered her release considering her serious mental disorder.

Moreover, 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 that the applicant’s living conditions were 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>1059</sup>

<sup>1054</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.

<sup>1055</sup> Article 52 (4) Asylum Code.

<sup>1056</sup> Article 52 (3) Asylum Code.

<sup>1057</sup> Article 52 (2) Asylum Code.

<sup>1058</sup> Administrative Court of Athens, AP373/2023.

<sup>1059</sup> ECtHR, *M.A. v. Greece*, App No 18179/20, Order of 6 May 2020: Information provided by RSA, 4 January 2021.



### 3.1 Detention of unaccompanied children

Following criticism by international bodies and civil society actors as well as several decisions of the ECtHR, L. 4760/2020 entered into force on 11 December 2020, the possibility to detain unaccompanied children under the pretext of 'protective custody' has been abolished.<sup>1060</sup> Other legal provisions that allow the detention of unaccompanied children are still in force.<sup>1061</sup>

Since the start of the implementation of the new legislation, unaccompanied children as a rule do not remain in administrative detention and they are transferred to reception facilities. However, even in 2022 a small number of unaccompanied children, as corroborated by the official statistics has been placed in detention, in most of the cases for very short periods. At the end of 2022, 14 unaccompanied children were detained, in most cases for very short periods. In total, 515 unaccompanied children were kept in PRDCs countrywide during 2022.<sup>1062</sup>

#### 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>1063</sup> as well as persons whose case was still pending before the authorities of the "old procedure".<sup>1064</sup>

On 13 August 2020 the Joint Ministerial Decision 9889/2020 entered into force.<sup>1065</sup> It 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 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.

A number of cases of unaccompanied children detained as adults were identified by GCR during 2022. It is also to be mentioned that those who have been registered as adults remain detained until the fulfilment of the age assessment procedure without any consideration of the presumption of minor age that must accompany the age assessment procedure. The same occurs in cases of individuals who have been identified within the spectrum of the age of minority and they remain detained until the medical examinations are finalised.

### 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>1066</sup> families with children are in practice detained. Among others, GCR has supported cases throughout 2022 of single-parent families, families with minor children or families where one member remained detained. For instance, there have been cases of families remaining detained for

<sup>1060</sup> Gov. Gazette A' 247/11-12-2020, L. 4760/2020.

<sup>1061</sup> Article 48(2) IPA, article 118 of the Presidential Decree 141/1991 regarding 'protective custody' of unaccompanied minors, L.3907/2011.

<sup>1062</sup> Information provided by the Directorate of the Hellenic Police, 8 March 2022.

<sup>1063</sup> Joint Ministerial Decision 1982/2016, Gov. Gazette B'335/16-2-2016.

<sup>1064</sup> Article 22(A)11 JMD 1982/2016, citing Article 34(1) PD 113/2013 and Article 12(4) PD 114/2010.

<sup>1065</sup> Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020.

<sup>1066</sup> See for example ECtHR, *Mahmundi and Others v. Greece*, Application No 14902/10, Judgment of 31 July 2012, available in Greek at: <https://bit.ly/436t650>.

periods exceeding one month following a shipwreck before they were transferred to open accommodation facilities.

#### 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 |

The Asylum Code 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>1067</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>1068</sup> Moreover, 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.

It should also 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>1069</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>1070</sup>

Following changes in legislation and practice, it is evident that detention lasts for prolonged periods, risking sometimes reaching the maximum time limits. For instance, out of 2,500 persons detained at the end of 2022, 724 had been detained for periods exceeding six months. Moreover, out of 1,006 asylum seekers detained at the end of 2022, 283 had also been detained for periods more than six months.<sup>1071</sup>

<sup>1067</sup> Article 50(5)(b) Asylum Code.

<sup>1068</sup> Article 50(5)(a) Asylum Code.

<sup>1069</sup> Article 30(5) L 3907/2011.

<sup>1070</sup> Article 30(6) L 3907/2011.

<sup>1071</sup> Information provided by the Directorate of the Hellenic Police, 2 February 2023.

## 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 51(1) L 4939/2022, 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>1072</sup>

Seven pre-removal detention centres were active at the end of 2022. The PRDC of Lesbos, has temporarily suspended its operation due to extended damages following the widespread fire of September 2020. The total pre-removal detention capacity is 3,676 places. A ninth pre-removal centre has been legally established on **Samos** but was not yet operational as of March 2023. 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>1073</sup>		
Centre	Region	Capacity
Amygdaleza	Attica	1,000
Tavros (Petroi Ralli)	Attica	150
Corinth	Peloponnese	1,344
Paranesti, Drama	Thrace	300
Xanthi	Thrace	210
Fylakio, Orestiada	Thrace	232
Lesvos	Eastern Aegean	0
Kos	Dodecanese	440
Samos	Eastern Aegean	0
<b>Total</b>		<b>3,676</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>1074</sup> According to this Decision, the estimated budget for the functioning of the pre-removal detention centres is € 80,799,488.

#### 1.2 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>1075</sup> Despite commitments from the Greek authorities to

<sup>1072</sup> Joint Ministerial Decision 8038/23/22-14 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>1073</sup> According to the information provided by the Directorate of Hellenic Police, 2 February 2023.

<sup>1074</sup> Joint Ministerial Decision 8038/23/22-πζ/, Gov. Gazette B' 5906/31.12.2018.

<sup>1075</sup> Article 50 Asylum Code.

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 2022. As confirmed by the Directorate of the Hellenic Police, there were 316 persons in administrative detention at the end of 2022 in facilities other than pre-removal centres, of whom 35 were asylum seekers.<sup>1076</sup>

As stated in [Grounds for Detention](#), detention is also *de facto* applied at the RIC of **Fylakio**.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

- |   |   |   |                             |
|---|---|---|-----------------------------|
| 1. Do detainees have access to health care in practice? | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care?       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> 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>1077</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>1078</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>1079</sup> Women and men shall be detained separately,<sup>1080</sup> unaccompanied children shall be held separately from adults,<sup>1081</sup> and families shall be held together to ensure family unity.<sup>1082</sup> Moreover, the possibility to engage in leisure activities shall be granted to children.<sup>1083</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. 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>1084</sup> The precise observations for each PRDF, included on the previous AIDA report are still valid.<sup>1085</sup>

<sup>1076</sup> Information provided by the Directorate of the Hellenic Police, 3 February 2023.

<sup>1077</sup> Article 51 (7) Asylum Code.

<sup>1078</sup> Article 50(2) and 50(3) Asylum Code.

<sup>1079</sup> Article 51(7) Asylum Code.

<sup>1080</sup> Article 53(4) Asylum Code.

<sup>1081</sup> Article 53(2) Asylum Code.

<sup>1082</sup> Articles 53(3) Asylum Code.

<sup>1083</sup> Article 53(2) Asylum Code.

<sup>1084</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://bit.ly/3lI3jZ1>.

<sup>1085</sup> AIDA, *Country Report: Greece, 2021 Update*, May 2022, available at: <https://bit.ly/3MRVkJf>.

In June 2021, the Greek Ombudsman pointed in particular to the following main issues:<sup>1086</sup>

- ❖ Overcrowding in detention, especially in police stations;
- ❖ Lack of doctors, nurses, psychologists and social workers;
- ❖ Total lack of interpretation services;
- ❖ Lack of entertaining activities;
- ❖ Poor structures, hygiene conditions and lack of light and heating;
- ❖ Inadequate cleaning;
- ❖ Lack of clothing; and
- ❖ Lack or limited possibility of access open air spaces.

Poor detention conditions have often been invoked by appeal lawyers during detention reviews, as the court must decide not only on the necessity of detention, but also on its compatibility with certain human rights conditions. The Greek administrative courts have been very reluctant to accept arguments based on the poor detention conditions. In most cases, these arguments have been rejected as ‘vague and inadmissible’, with the justification that ‘direct medical care can be provided [...] there is an area available for physical activity and by its nature it is not only intended for short stay’. In other cases, the conditions of detention are not examined at all.<sup>1087</sup>

According to GCR’s experience, detention conditions remained the same as those described above in 2022.

### 2.1.2 Healthcare in detention

The law states that the authorities shall make efforts to guarantee access to health care for detained asylum seekers.<sup>1088</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 the Ministry of Health.<sup>1089</sup>

However, substantial medical staff shortage has been observed in PRDFs already since previous years. The CPT has long urged the Greek authorities to improve the provision of healthcare 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 healthcare have been compounded by the severe shortage of resources, including staffing resources, and the complete lack of integrated management of healthcare services; combined with the lack of hygiene and appalling detention conditions, the Committee considered that they presented a public health risk.

Official statistics demonstrate that the situation has not improved in 2022 and that pre-removal centres continue to face a substantial medical staff shortage. At the end of 2022, there were only four doctors in total in the detention centres on the mainland (1 in **Amygdaleza**, 1 in **Korinthos**, 1 in **Fylakio** and 1 in **Paranesti**). 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-Türkiye Statement, there was no doctor.<sup>1090</sup>

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<sup>1086</sup> These major problems were also pointed out by the Greek Ombudsman in June 2021.

<sup>1087</sup> OXFAM. GCR, *Detention as the default*, November 2021, available at: <https://bit.ly/3wpTmtW>.

<sup>1088</sup> Article 52(1) Asylum Code.

<sup>1089</sup> Article 47(1) IPA

<sup>1090</sup> Information provided by the Directorate of the Hellenic Police, 2 February 2023.



According to the official data, the coverage (in percentage) of the required staff in 2022 was as follows:

Provision of medical / health care	Provision of phycological care	Provision of social support services	Provision of interpretation services
Doctors: 22.22%	Physiatrists: 0%	Social workers: 28.57%	Interpreters: 14.29%
Nurses: 29.27%	Psychologists: 38.46%		
Health visitors: 37.50%			
Administrators: 27.27%			

Source: Information provided by the Directorate of the Hellenic Police, 2 February 2023.

More precisely, at the end of 2022, the number of AEMY staff present in each pre-removal detention centre was as follows:

Category	Amygdaleza	Tavros	Corinth	Paranesti	Xanthi	Kos	Fylakio
Doctors	1	0	1	1	0	0	1
Psychiatrists	0	0	0	0	0	0	0
Nurses	1	1	2	3	1	2	1
Interpreters	3	0	1	1	0	0	0
Psychologists	2	1	1	0	1	1	1
Social workers	1	0	1	0	1	0	1
Health visitors	1	1	1	0	0	0	0
Administrators	0	0	1	0	1	0	1

Source: Information provided by the Directorate of the Hellenic Police, 8 March 2022.

## 2.2 Conditions in police stations and other facilities

In 2022, 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, Cholongos, Omonoia, Egaleo, Exarheia, Kolonos, Galatsi
- **Northern Greece:** police stations *inter alia* in Transfer Directorate (Μεταγωγών), Themi, Agiou Athanasίου, 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>1091</sup> However, they are constantly used for prolonged migration detention. As mentioned above and according to the official data there were 316 persons in administrative detention at the end of 2022 in facilities other than pre-removal centres, of whom 35 were asylum seekers.<sup>1092</sup> According to GCR findings, detainees 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

<sup>1091</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>1092</sup> Information provided by the Directorate of the Hellenic Police, 2 February 2023.

police stations are totally unsuitable for holding persons for periods exceeding 24 hours.<sup>1093</sup> Despite this, police stations throughout Greece are still being used for holding irregular migrants for prolonged periods. GCR has supported several cases in 2022 in which migrants remained in detention for several days, even 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>1094</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>1095</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>1096</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>1097</sup> In June 2019, the Court found that the conditions of the detention of three 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>1098</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>1099</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>1100</sup>

In practice, NGOs’ capacity to access detainees is limited due to human and financial resource constraints. Moreover, after the outbreak of the pandemic, access to pre-removal detention centres was often restricted by the police due to the application of strict quarantine 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.

<sup>1093</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>1094</sup> Ombudsman, *Συνηγορός του Πολίτη, Εθνικός Μηχανισμός Πρόληψης των Βασανιστηρίων & της Κακομεταχείρισης - Ετήσια Ειδική Έκθεση OPCAT 2017*, 46.

<sup>1095</sup> ECtHR, *Ahmade v. Greece*, Application No 50520/09, Judgment of 25 September 2012, available in Greek at: <https://bit.ly/3N6cYLD>, para 101.

<sup>1096</sup> ECtHR, *S.Z. v. Greece*, Application No 66702/13, 21 June 2018, available at: <https://bit.ly/45tcBBL>, para 40.

<sup>1097</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>1098</sup> ECtHR, *Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia*, Application no. 14165/16.

<sup>1099</sup> Article 51(4) Asylum Code.

<sup>1100</sup> Article 51(5) Asylum Code.

## 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. The Asylum Code 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>1101</sup>

Article 50(5) Asylum Code 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>1102</sup> statistics on the outcome of *ex officio* judicial scrutiny confirm that the procedure is highly problematic and illustrates the rudimentary and ineffective way in which this judicial review takes place.

Ex officio review of detention by the Administrative Courts: 2022		
	Under asylum provisions (Article 50 Asylum Code)	Under pre-removal provisions (Article 30 L 3907/2011)
Detention orders transmitted	5,839	1,008
Approval of detention order	5,828	836
No approval of detention order	11	10
Abstention from decision*	0	161

Source: Administrative Court of Athens, Information provided on 3 March 2022.

\* "Abstention from decision" in the Asylum Code (art. 50 par. 5) 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>1103</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.

<sup>1101</sup> Article 30(3) L 3907/2011.

<sup>1102</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.

<sup>1103</sup> Article 50(6) Asylum Code, citing Article 76(3)-(4) L 3386/2005.

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>1104</sup>

Over the years the ECtHR has found that the objections remedy is not accessible in practice.<sup>1105</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 connection with this, the Court noted that the Greek government had also not specified which refugee-assisting NGOs were available.<sup>1106</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>1107</sup>

Moreover, the ECtHR has found on various occasions the objections procedure to be an ineffective remedy, contrary to Article 5(4) ECHR,<sup>1108</sup> as the lawfulness of detention, including detention conditions, was not examined. In order to bring national law in line with ECHR standards, legislation was amended in 2010. However, the ECtHR has found in a number of cases that, despite the amendment of the Greek law, the lawfulness of applicants' detention had not been examined in a manner equivalent to the standards required by Article 5(4) ECHR,<sup>1109</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>1110</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

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<sup>1104</sup> UNWGAD, *idem*.

<sup>1105</sup> ECtHR, *J.R. and Others v. Greece*, Application No 22696/16, Judgment of 25 January 2018, available in Greek at: <https://bit.ly/3MAFjYN>, para 99.

<sup>1106</sup> ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019, available in Greek at: <https://bit.ly/3WwhOEu>.

<sup>1107</sup> ECHR, *Kaak v. Greece*, Application No 34215/16, Judgment of 3 October 2019, available in Greek at: <https://bit.ly/43bEmgD>.

<sup>1108</sup> See e.g. ECtHR, *Rahimi v. Greece* Application No 8687/08, Judgment of 5 April 2011, available in Greek at: <https://bit.ly/3IDXE69>; *R.U. v. Greece* Application No 2237/08, Judgment of 7 June 2011, available at: <https://bit.ly/3MA2QsP>; *C.D. v. Greece*, Application No 33468/10, Judgment of 19 March 2014, available at: <https://bit.ly/45x94m8>.

<sup>1109</sup> ECtHR, *R.T. v. Greece*, Application no 5124/11, Judgment of 11 February 2016, available in Greek at: <https://bit.ly/3qdUKhU>; *Mahammad and others v. Greece*, Application No 48352/12, 15 January 2015, available in Greek at: <https://bit.ly/437MYVF>; *MD v. Greece*, Application No 60622/11, Judgment of 13 November 2014, available in Greek at: <https://bit.ly/3OF4Xyd>; *Housein v. Greece*, Application No 71825/11, Judgment of 24 October 2013, available in Greek at: <https://bit.ly/3OFLj5d>. In this last case, 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>1110</sup> ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, , available at: <https://bit.ly/45tcBBL>, para 72.

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.

For example, despite the halt on removals to Türkiye since March 2020, there have been rulings of the Administrative Courts concerning pre-removal detention which made no assessment of the clear obstacles to a reasonable prospect of the individuals' removal to Türkiye.<sup>1111</sup> However, during 2022 in several decisions of Administrative Courts it was ruled that there was no prospect of removal to Türkiye considering the suspension of returns as well as the individual situation of the detainees, thereby ordering their release.<sup>1112</sup>

The lack of proper examination, or disregard, by courts of applicants' critical submissions regarding the lawfulness of their detention includes also cases where courts: (i) have disregarded allegations that detention has been ordered on grounds not set out in national legislation<sup>1113</sup> (ii) have refrained from terminating pre-removal detention of bona fide asylum seekers<sup>1114</sup> (iii) have failed to assess the impact of impossibility of removal in cases of asylum seekers, whilst citing the C-601/15 PPU J.N. ruling of the CJEU to state that detention of asylum seekers is imposed to ensure the effectiveness of the removal procedure.<sup>1115</sup> (iv) ineffectively assessed allegations on detention conditions. As a rule, courts dismiss them as unsubstantiated<sup>1116</sup> and/or solely examine detention conditions based on information provided by the Hellenic Police.<sup>1117</sup>

In 2022, only 2,803 objections against detention were submitted to the competent Administrative Courts across the country compared to a total of 12,020 detention orders issued by national authorities.<sup>1118</sup> This illustrates the difficult access to an effective review of detention orders.

## 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 50(7) Asylum Code 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 their detention. Free legal assistance for detained asylum seekers provided by NGOs cannot sufficiently address the needs and in any event

<sup>1111</sup> Administrative Court of Corinth, Decision Π4252/2022, 16 November 2022; rejecting the remedy by stating the 'it is not proven that the suspension (of removals) will continue up until the maximum detention time limit provided by Art. 30 L. 3907/2011 by which the Authorities must carry out the removal', Administrative Court of Athens, Decision AP727/2022, 10 May 2022.

<sup>1112</sup> Administrative Court of Corinth Decisions Π2424/24-06-2022, Π2806/ 19-07- 2022, Π3179/21-09-2022, Π3166/19-09-2022, Π2814/20-07-2022, Π4118/27-10-2022, Π4123/31-10-2022, Π4194/09-11-2022, Π3633/17-10-2022, Π4248/15-11-2022 Administrative Court of Athens Decision AP831/2022, Administrative Court of Kavala Decision AP779/2022, Administrative Court of Rhodes Decisions AP515/2021, AP514/2021, AP450/2021, AP136/2021, AP122/2021, AP96/2022, AP97/2022, AP98/2022, AP99/2022.

<sup>1113</sup> Administrative Court of Corinth, Decision Π3577/2022, 26 September 2022.

<sup>1114</sup> Administrative Court of Athens, Decision AP410/2022, 14 March 2022.

<sup>1115</sup> Administrative Court of Corinth, Decision Π2867/2022, 12 August 2022.

<sup>1116</sup> Administrative Court of Athens, Decision AP1099/2022, 13 July 2022; Decision AP1985/2021; Decision AP1436/2021, 30 July 2021; Decision AP1043/2021, 31 May 2021.

<sup>1117</sup> Administrative Court of Corinth, Decision Π2137/2022, 27 May 2022.

<sup>1118</sup> Source: Administrative Court of Athens, Information provided on 3 March 2022.



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>1119</sup> This continued to be the case in 2022, 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. No free legal aid is provided in order a detainee to challenge their detention decision before Courts, contrary to national and EU law. In 2022, out of the total 18,966 detention orders issued, only 5,011 (26.4%) were challenged before a Court.

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>1120</sup> This situation remained unchanged during 2022.

As mentioned above in two 2019 ECtHR judgments, by taking into consideration inter alia the lack of legal aid to challenge the detention order the Court found a violation of Art 5(4).<sup>1121</sup> This was also the case in another Court’s judgment in 2021.<sup>1122</sup>

## E. Differential treatment of specific nationalities in detention

Specific nationalities, i.e. Syrians not subject to the EU-Türkiye Statement and Somalians, previously not subject to detention as their return was not feasible, after the issuance of the new JMD 42799/2021 designating Türkiye as a safe third country for asylum-seekers originating from Syria, Afghanistan, Bangladesh, Pakistan and Somalia, face the risk of detention. Additionally, if they lodge an asylum application under custody, their detention can be prolonged as it is considered that they applied for asylum in order to avoid their return to Türkiye.

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<sup>1119</sup> Article 9(6) recast Reception Conditions Directive.

<sup>1120</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 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, available at: <https://bit.ly/3MxmQMF>, paras 78-80.

<sup>1121</sup> ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019, available in Greek at: <https://bit.ly/3WwhOEu>; ECtHR, *Kaak v. Greece*, Application No 34215/16, Judgment of 3 October 2019, available in Greek at: <https://bit.ly/43bEmgD>.

<sup>1122</sup> ECtHR, *E.K. v. Greece*, 15 January 2021, available at: <https://bit.ly/35iB2HP>.

## 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  | No longer available through the asylum procedure |

Individuals recognised as refugees are granted a three-year residence permit (“ADET”), which can be renewed after a decision of the Head of the Regional Asylum Office.<sup>1123</sup> However, since the IPA (L. 4636/2019) came into force, beneficiaries of subsidiary protection no longer have the right to receive a three-year permit; they obtain a one-year residence permit, which is renewable for a period of two-years.<sup>1124</sup>

Residence permits are usually delivered at least four to five 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. With regards to the deliverance of their residence permits, the Asylum Service does not notify the beneficiaries individually. Rather, it uploads a list of case numbers on its website ready for collection on the indicated day by the ADET. Therefore, beneficiaries have to regularly consult the daily lists online until they find an entry corresponding to their individual case number.<sup>1125</sup> On 12 September 2022, a joint Ministerial Decision was issued providing clarifications on the Procedure for granting a Residence Permit to beneficiaries of international protection.<sup>1126</sup> It is worth mentioning that until the issuance of the residence permits, applicants hold the asylum seeker card and are considered asylum seekers by ERGANI (ΕΡΓΑΝΗ) the Information System of the Ministry of Employment.<sup>1127</sup> In practice, this means that they face the same legal restrictions to access the labour market as asylum seekers in spite of the fact that they are beneficiaries of international protection that are unable to be self-employed.<sup>1128</sup> Moreover, after the service of the Residence Permit (Α.Δ.Ε.Τ.), the Asylum Service informs the Electronic Governance of Social Security, SA (ΗΔΙΚΑ Α.Ε.), to deactivate the Provisional Foreigner’s Insurance and Health Care Number for asylum seekers (ΠΑΑΥΠΑ) and update its expiry date for one (1) month, after which it will be automatically deactivated. Along with the service of Residence Permit (Α.Δ.Ε.Τ.), the Asylum Service is obliged to inform the beneficiary that they are henceforth a beneficiary of a social security number (ΑΜΚΑ) and that they must take the legally required steps for its issuance within one (1) month.<sup>1129</sup> In practice, due to the delay of the system, beneficiaries of international protection have no access to health care or the labour market for many months.

According to the practice followed by certain RAOs in 2021 – such as, the RAO of Lesbos – the issuance of the special ID decision (Απόφαση ΑΔΕΤ) was subject to certain requirements which were not laid down by the IPA. Namely, an employment contract with a duration of at least six-months, a tax declaration from the previous financial year, and a lease agreement.

Moreover, after being granted international protection on the Eastern Aegean Islands, many individuals who travelled to the Attica region did not have access to the RAOs unless they submitted proof of their new address in Attica. In many cases, this was impossible given that many did not have a permanent

<sup>1123</sup> Article 24 Asylum Code.

<sup>1124</sup> *Ibid.*

<sup>1125</sup> See also RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece: Access to documents and socio-economic rights*, March 2022, available at: <https://bit.ly/3IRUB1C>, para 17.

<sup>1126</sup> Joint Ministerial Decision 513542/2022, Official Gazette 4763/B/12-9-2022.

<sup>1127</sup> See website of the Ministry of Employment: <https://bit.ly/3KZj7oE>.

<sup>1128</sup> Article 57 Asylum Code & Article 26 Asylum Code

<sup>1129</sup> Article 11 JMD 717/31.01.2020.

accommodation or were homeless. Thus, they could not proceed with the issuance of the “ADET decision” on the ground that ‘the RAO was not competent’.<sup>1130</sup>

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>1131</sup>

An application for renewal should be submitted no later than 30 calendar days before the expiry of the residence permit. In the absence of justification, the mere delay in an application for renewal could not lead to its rejection.<sup>1132</sup> Prior to June 2022, this was solely valid for recognised refugees, the IPA having abolished the guarantee for beneficiaries of subsidiary protection.<sup>1133</sup> The new Asylum Code allows once again beneficiaries of international protection to submit their applications with delay without the risk of being rejected solely based on this delay.<sup>1134</sup> Moreover, in the case of delay in the application for renewal, a fine of EUR 100 is imposed. The authority responsible for the procedure of imposing the fine shall be determined by a joint decision of the Ministers of Immigration, Asylum and Finance.<sup>1135</sup> In practice, this fine has never been imposed.

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.

GCR is aware that long waiting periods are observed in a number of renewal cases. In practice, these often last up to nine months due to the high number of applicants and the fact that the Asylum Unit of International Protection of Beneficiaries (*Αυτοτελές Κλιμάκιο Ασύλου Δικαιούχων Διεθνούς Προστασίας*) is extremely understaffed. Ascribing agency to the backlog caused by COVID-19, the waiting period in some cases is over a year. During this procedure, the Legal Unit of the Asylum Service process 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 during 2022 for six months. For the issuance of this certificate, the renewal application must have been uploaded to the electronic system of “ALKYONI” (*ΑΛΚΥΟΝΗ*). According to GCR’s observations, the Asylum Unit for Beneficiaries of International Protection could upload the application up to four months after the initial submission of the renewal application. 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, healthcare and the labour market. As far as GCR is aware, public services, such as the Manpower Employment Organisation (OAED), are reluctant to accept this certificate of application (*βεβαίωση κατάστασης αιτήματος*), because the document lacks a photo, a watermark, and any other relevant legal provisions allowing the document to be accepted. This certificate is providing the beneficiaries with less rights (e.g. right to access labour market, social welfare, public

<sup>1130</sup> See also RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece: Access to documents and socio-economic rights*, March 2022, available at: <https://bit.ly/3IRUB1C>, para 7-8.

<sup>1131</sup> Ibid., para. 12-14.

<sup>1132</sup> Article 23 (1) Asylum Code

<sup>1133</sup> Article 24(1) IPA.

<sup>1134</sup> Article 23(1) Asylum Code

<sup>1135</sup> Article 17 L.4825/2021.

healthcare, etc.) than the certificate of art. 8 L.4251/2014 that is issued for immigrants. In fact, beneficiaries of international protection holding these certificates are only protected from detention and have access to no rights at all pending their residence permit renewals. GCR has filed various complaints before the Greek Ombudsperson concerning the aforementioned shortcomings, however only a few decisions were issued.

It is worth noting that the beneficiaries are never served their official renewal decision. They are simply notified via email by the Asylum Service that the renewal of their residence permit has been accepted. This notice also outlines the procedure that they ought to follow to submit the required documentation before the competent Alien's Directorate for the issuance of their renewed residence permit. In practice, after the notification email is sent, the beneficiaries should follow the exact same procedure they followed for the initial issuance of their residence permit. For the deliverance of their renewed residence permits, the Asylum Service does not notify the beneficiaries individually. It uploads on its website a list of case numbers for which the renewed ADET are ready for collection on the indicated day. Therefore, beneficiaries have to regularly consult the lists online until they find an entry corresponding to their individual case number. However, the lists of the renewed residence permits are announced on the same segment of the website of the Ministry as the residence permits that are issued for the first time. This creates an enormous confusion to beneficiaries taking into account the residence permit guidelines of the Asylum Service advise them to consult the list of the renewed residence permits that was last updated on December 2020(!)<sup>1136</sup> A large number of beneficiaries have been consulting the wrong list for months and missing their scheduled appointments that they were never aware had been scheduled.

Data concerning the total number of applications for renewal and the respective positive decisions was not provided by the Asylum Service for the year 2022. However, the Ministry of Asylum and Migration replied to the Greek Parliament that 2,488 applications for renewal submitted in 2022 are still pending.<sup>1137</sup> As of yet, 849 out of said renewal applications are in the process of being processed and the procedure of carrying out the requisite background checks has begun. Moreover, 1704 out of 2588 pending applications have not yet been assigned to the competent employee of the Asylum Service ready to initiate the residence permit renewal procedure. Finally, 35 out of 2588 applications which require verification as to their correctness must then be given a protocol number and posted on the ALKYONI electronic system.

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. Based on available Country of Origin Information (COI), the application must demonstrate that reasons of persecution still exist. The decision used to be issued after a period of more than a year. In 2022, 651 applications for renewal were submitted before the Aliens Police Directorate. Out of those, 419 were positive, 57 were rejected and 175 are still pending.<sup>1138</sup> The delay in the renewal procedure is caused due to the delay by Courts to provide data for potential ongoing criminal proceedings against beneficiaries and by the size of the administrative files of beneficiaries and the fact the files are available only in hard copy and not digitally. Due to these 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. The certificate of application (*βεβαίωση κατάθεσης αίτησης ανανέωσης άδειας διαμονής*) provided by the Aliens Directorate, similarly to the certificate of application provided by the Asylum Service, lacks a photo or a watermark and any relevant legal provisions allowing the document to be accepted by other Greek Public Authorities. Moreover, this certificate has no expiration date.

In January 2020, GCR and other organisations sent a letter of complaint to the Secretary General of the Ministry of Citizen Protection, however the issue has yet to be resolved by the time of writing. The adoption of Law no. 4703/2020 (Government Gazette A 131/10.7.2020) provided for the transfer of the relevant

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<sup>1136</sup> MoMA, 'Initial Residence Permits that are Ready', available at: <https://bit.ly/3w1La2H>. The separate page for renewed residence permits is available at: <https://bit.ly/3qkhmkk>.

<sup>1137</sup> Reply of the Ministry to the Greek Parliament.

<sup>1138</sup> Information provided by the Headquarters of the Hellenic Police, 13 February 2023.

competences to the General Secretariat of Public Order of the Ministry of Citizen Protection. The examination, renewal, and service of residence permits for the beneficiaries of international protection of the so called “old procedure” are now handled by the competent Directorate.<sup>1139</sup> However, the adoption of this law has not solved the problem either with the delay of residence permits of beneficiaries of international protection or with the practically legally invalid certificate of submission of an application for renewal of a residence permit.

## 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>1140</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>1141</sup>

As for the birth registration, beneficiaries of international protection have reported to GCR that if they do not or 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 made by many mothers and interferes with the 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 make a decision concerning 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. This is a lengthy and uncertain outcome of legal procedure since the Greek Civil code provides strictly for the reasons of removal of parental responsibility.<sup>1142</sup> With the new Ministerial Decision 9169 ΕΞ 2022-10.3.2022, the name-giving (*ονοματοδοσία*) could be done electronically through the Greek government's official webpage.<sup>1143</sup> However, in order to access the electronic site of the Greek Government (gov.gr), the beneficiary would need to verify his phone number through e-banking. The system theoretically allows the usage of taxisnet codes (taxation/fiscal electronic codes used for the submission of tax declaration). In practice, after a couple of steps, if the beneficiary's phone number is not verified through e-banking, the system shuts down. This means that a large number of beneficiaries de facto cannot access this new electronic name-giving system.

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>1144</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>1145</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>1146</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, in some cases leading them to obtain a court order for the officiation of their wedding ceremony .<sup>1147</sup>

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

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<sup>1139</sup> The mediation of Greek Ombudsman on this case available in Greek at: <https://bit.ly/41MUIM9>.

<sup>1140</sup> L 344/1976 on Civil Registration Acts, Official Gazette 143/A/11.6.1976.

<sup>1141</sup> Article 49 L 344/1976.

Article 1514 and 1532 Greek Civil Code:

<sup>1143</sup> Ministerial Decision 9169 ΕΞ 2022-10.3.2022 (Official Gazette B' 1210/16-03-2022).

<sup>1144</sup> Article 29 L 344/1976.

<sup>1145</sup> Article 1(3) PD 391/1982.

<sup>1146</sup> See e.g. Ministry of Interior, General Orders to municipalities 4127/13.7.81, 4953/6.10.81 and 137/15.11.82.

<sup>1147</sup> Single Member Court of First instance of Athens 6459/2009, 3581/2010 Single-member Court of First Instance of Kos 390/2013 and Athens Magistrates' Court 91/2017.



recognised as a family member of a beneficiary of international protection and to be granted a similar residence permit according to Articles 22 (2) and 23 (3) Asylum Code (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.

### 3. Long-term residence

#### Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2022: Not available<sup>1148</sup>

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>1149</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>1150</sup> A fee of €150 is also required.<sup>1151</sup>

To be granted long-term resident status beneficiaries of international protection must also fulfil the following conditions:<sup>1152</sup>

- ❖ 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;
- ❖ Full health insurance, providing all the benefits provided for the equivalent category of insured nationals, which also covers their family members;
- ❖ 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>1153</sup>

Despite the Ombudsman's successful intervention in 2018,<sup>1154</sup> the Greek Police are still reluctant to renew the travel documents of beneficiaries of international protection that had been granted 'long-term residence permits' (under the 'old' procedure) on the grounds that it is not possible to electronically connect said permits with the travel documents because they were issued by different services.

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

<sup>1148</sup> The MoMA has published general data for the number of 'other types of residence permits' in 2022: 228,983. This number includes long-term residence permits among various other types of residence permits (namely the permanent residence permit of an investor (golden visa), according to article 20B of Law 4251/2014, residence permits for the second generation, residence permits for vulnerable groups of third country nationals (humanitarian reasons) and residence permits for exceptional reasons). However, no specific data for beneficiaries of international protection that were issued long-term residence permits were provided. Available in Greek at: <https://bit.ly/3oPoP6W>.

<sup>1149</sup> Article 89(2) L 4251/2014 (Immigration Code).

<sup>1150</sup> Article 89(3) Immigration Code.

<sup>1151</sup> Article 132(2) Immigration Code, as amended by Article 38 L 4546/2018.

<sup>1152</sup> Article 89(1) Immigration Code.

<sup>1153</sup> Article 90(2)(a) Immigration Code.

<sup>1154</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>.

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>1155</sup> These findings are also valid for 2022. The renewal of long-term residence permits is now only possible electronically through the special website of the Ministry of Asylum and migration (<https://portal.immigration.gov.gr/login>).<sup>1156</sup> However the electronic renewal procedure started off as technically problematic. Thus the Ministry of Migration and Asylum, granted an extension of the duration of residence permits until 30/06/2022 for

- (a) residence permits and certificates of submission (blue certificates) that expired in the first quarter of 2022 i.e. from 01/01/2022 to 31/03/2022. These include those that had already expired by 31/12/2021 and were extended until 31/03/2022.
- (b) certificates of submission (blue certificates) from applications for residence permits submitted between 01/04/2014 and 31/12/2020 for which no decision has been issued and which have to be renewed with new permits according to Article 139 of Law 4876/2021.<sup>1157</sup>

The extension also includes long-term residence permits and certificates of submission for long-term residence permits. The granting of such an extension ensured the legality of residence, the uninterrupted interaction of third-country nationals' with public services, access to the whole of the rights deriving from the title they hold and ensured that they had adequate access to all their rights and enough time to renew their residence permit in time (before the expiry of the extension) through the electronic platform of the Ministry of Migration and Asylum.

#### 4. Naturalisation

##### Indicators: Naturalisation

- |  |                               |
|--|-------------------------------|
| 1. What is the minimum residence period for obtaining citizenship? |                               |
| ❖ Refugee status   | 7 years                       |
| ❖ Subsidiary protection  | 7 years                       |
| 2. Number of citizenship grants to beneficiaries in 2022:          | Not available <sup>1158</sup> |

##### 4.1 Conditions for citizenship

The Citizenship Code<sup>1159</sup> has been subject to numerous amendments over the years.<sup>1160</sup> Prior to the amendment of March 2020,<sup>1161</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>1162</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 naturalisation of refugees’ and ‘in particular make every effort to expedite naturalisation 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>1163</sup> In 2021, some legislative changes were introduced by L. 4873/2021.<sup>1164</sup> Even if these changes do not refer specifically to beneficiaries of international protection, they also affected the change

<sup>1155</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/3MziWTJ>, paras 72-73.

<sup>1156</sup> Ministerial Decision 374365/2021 (Official Gazette 5242/B/12-11-2021).

<sup>1157</sup> Ministerial Decision 180838/2022 (Official Gazette 1535/B/30.3.2022).

<sup>1158</sup> Ministry of Interior has only published general statistics for all third-country-national and only for 2021 without any available statistics for 2022. See statistics available in Greek at: <https://bit.ly/3qJAW3k>.

<sup>1159</sup> L. 3284/2004, Gov. Gazette A' 217/10-11-2004.

<sup>1160</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>1161</sup> L. 4674/2020.

<sup>1162</sup> Article 5(1)(d) Code of Citizenship as amended by L. 4674/2020.

<sup>1163</sup> Ministry of Interior, Circular No 151/2020, 25 May 2020, available in Greek at: <https://bit.ly/3sDV5pG>, 8.

<sup>1164</sup> L.4873/2021 Gov. Gazette A 248/16.12.2021.

in the procedure. In particular, the fact that the exams involve a written test makes it increasingly difficult for every applicant including beneficiaries of international protection.

More precisely, according to the Citizenship Code,<sup>1165</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 after three 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>1166</sup>

Applicants should also:

- (a) have sufficient knowledge of the Greek language;
- (b) be normally integrated in the economic and social life of the country. According to the new law, supporting documents proving the economic independence of the applicant must be submitted in the application.<sup>1167</sup> Additionally, the above-mentioned law provides that the applicant is not examined through an interview regarding his/hers financial independence, yet the examiner of each case is responsible for issuing the decision taking under consideration only the provided documents.<sup>1168</sup> It is worth mentioning that according to Ministerial decision No 29845/16-4-2021, applicants for and beneficiaries of international protection, who have submitted their application before 31-3-2021 are required to submit documents proving their economic independence and social life for the last 5 years before their application.<sup>1169</sup>
- (c) 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>1170</sup>

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>1171</sup> Simplified instructions on the acquisition of Greek citizenship was also released by the Ministry of Interior.<sup>1172</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>1173</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>1174</sup>

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<sup>1165</sup> Article 5(1) Citizenship Code.

<sup>1166</sup> Article 5(1)(e) Citizenship Code, as amended by Ministerial Decision 130181/6353/2018, Gov. Gazette B/3142/02.04.2018.

<sup>1167</sup> Article 37 L.4873/2021.

<sup>1168</sup> Article 38 L.4873/2021.

<sup>1169</sup> Ministerial Decision 29845/16.4.2021 Gov. Gazette 1652/B/22.4.2021.

<sup>1170</sup> Article 5A (1) Citizenship Code.

<sup>1171</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>1172</sup> Ministry of Interior, *Simplified instructions on the acquisition of Greek citizenship*, available at: <https://bit.ly/2TCz35h>.

<sup>1173</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>1174</sup> Article 5A (3) Citizenship Code as amended by Article 32 L.4604/2019.

They must answer correctly 20 out of 30 written questions from a pool of 300 questions<sup>1175</sup>. The sufficient knowledge of the Greek language is also tested through a language test.<sup>1176</sup> The exams take place each year on May and November. On the 8<sup>th</sup> May 2022: the number of test centres for the exams increased to 98 in 13 cities. The total number of applications for participation in the exams was 8,281. Of these, 5,730 were made by applicants with a file pending to be examined by the citizenship services and 2,551 were new applications for participation in the exams without having applied for naturalisation. The total number of participants on the day of the examination amounted to 7,318, 5,031 with the old system and 2,287 under the new system. The total number of successful candidates was 3,353 of which 2,153 were pending and 1,200 were new applications. The pass rate for these examinations was estimated at only 45,82%.<sup>1177</sup> Moreover in the exams of 13 November 2022: Only 4,564 applications were submitted, 2,576 by persons with a pending naturalisation file and 1,988 by persons intending to apply for naturalisation under the new system. On the day of the examination, 4,094 candidates finally arrived, 2,335 under the old system and 1,759 under the new system. Of these, a total of 1,741 persons succeeded, 936 and 805 respectively from the two systems. The pass percentage was the lowest ever recorded.<sup>1178</sup> The above-mentioned statistics are general. There is no data available specifically for beneficiaries of international protection.

However, the aforementioned provisions regarding the examination procedure of Article 5A<sup>1179</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>1180</sup> The suspension of the said provisions, that were actually never applied, results from 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>1181</sup>.

Furthermore, Article 5A of Citizenship Code, as amended by L.4604/2019, was 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>1182</sup> A pool of questions for the acquisition of the newly introduced Certificate of Adequacy of Knowledge for Naturalisation (*Πιστοποιητικό Επάρκειας Γνώσεων για Πολιτογράφηση (ΠΕΓΠ)*)<sup>1183</sup> and information on the respective exams were posted on the webpage of the Ministry of Interior.<sup>1184</sup> Moreover, a decision regulating and providing more details on the procedure of the exams was published on 15 April 2021 and later abolished by Ministerial Decision 71728/8.10.2021.<sup>1185</sup> Furthermore, on February 2022, a circular was issued providing more details on the procedure of the exams.<sup>1186</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 was reduced in 2019 from € 700 to € 550.<sup>1187</sup> A € 200 fee is required for a re-examination of the case<sup>1188</sup>. In addition to this, every third-country-national who wishes to obtain the Greek Citizenship must participate in a written exam that requires an exam fee of € 150. For those who

<sup>1175</sup> Ministry of Interior, Circular No 38788/2018, 26 July 2018, available in Greek at: <https://bit.ly/2utnJye>.

<sup>1176</sup> Article 5A Citizenship Code as amended by Article 32 L.4604/2019.

<sup>1177</sup> Generation 2.0, *Citizenship in practice - Report on proposals*, April 2023, available in Greek at: <https://bit.ly/3oUtqor>.

<sup>1178</sup> *Ibid.*

<sup>1179</sup> Article 5A (3),(4), (5), (6) Citizenship Code as amended by Article 32 L.4604/2019.

<sup>1180</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>1181</sup> Circular of the Ministry of Interior, No 151/25-05-2020.

<sup>1182</sup> For more information on the new Law, see also Generation 2.0, 'Naturalization becomes a 'privilege' for a few', 10 September 2020, available at <https://bit.ly/3avpiBj> and Generation 2.0, 'Generation 2.0 RED on the new naturalization law', 20 October 2020, available at: <https://bit.ly/3xc2mR3>.

<sup>1183</sup> General Secretariat of Citizenship available at: <https://bit.ly/3s9ln31>.

<sup>1184</sup> General Secretariat of Citizenship available at: <https://bit.ly/3sCYd5k>.

<sup>1185</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>1186</sup> Circular No 81-4/02/2022, *Ministry of Interior Prot.No: Φ 130181/6929*, 4 February 2022, available in Greek at: <https://bit.ly/3wMsSmz>.

<sup>1187</sup> Article 6 (3) (g) Citizenship Code as amended by Article 33 L. 4604/2019.

<sup>1188</sup> *Ibid.*

already have a pending application before the change of the law and the provision of the written test, the first participation in the examinations does not require a fee.<sup>1189</sup>

The naturalisation procedure requires an application for naturalisation to the authorities of the Prefecture.<sup>1190</sup> After obtaining the Certificate of Adequacy of Knowledge for naturalisation and having collected all the required documents, the applicant must submit an application before the Decentralised Administration competent Prefecture. As of 1 April 2021, there is no longer a need to make a declaration to the Municipality of residence with two Greek witnesses before filing the naturalisation application with the Directorate of Citizenship, as this was a symbolic action that did not produce any further effects.<sup>1191</sup>

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. After the Adoption of Law 4735/2020, the possibility of filing objections against the negative recommendation of the Commission was abolished. In other words, the right to object to a complaint against the Commission's decision was abolished. stage of appeal to the Administration, and the applicant may now appeal to the against a negative decision by filing an application for annulment directly before the competent Administrative Court of Appeal.<sup>1192</sup>

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. Security services are required to provide an answer 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 he/she must undergo a written test under the procedure introduced by L.4604/2019. In addition to the examination, the applicant must go through a new form of interview, which will last about half an hour and be conducted by a three-member committee. The three-member committees, according to the provisions of par. 7 of article 7 of the Greek Citizenship Code, as in force, is composed of employees of the General Secretariat of Citizenship of higher education, with at least five years of experience in citizenship matters. Each three-member committee should be composed of two employees working for the Regional Citizenship Directorate (Headquarters or Department) who keeps the file and an employee belonging to another Regional Citizenship Directorate or the Central Citizenship Directorate, who will participate in the interview through teleconference. The Head of each Regional Directorate, according to his territorial competence, determines the total number of employees of his Directorate that will participate in the three-member committees, depending on the number of serving employees who meet the formal requirements provided by law. The General Directorate of Citizenship, taking into account the above-mentioned data, determines the exact number and composition of the three-member committees that will conduct the interviews per Regional Directorate for the next month in the whole territory, notifying the relevant name lists to the Heads of Citizenship.<sup>1193</sup> This Committee will determine the adequate integration of each applicant in the economic and social life of the country based on specific rules, common standards and a unified methodology, compiled by the National Transparency Authority (NAC), in the form of a multi-page Practical Interview Guide. The procedure of the interview is described in detail in the 738/2022 Ministerial Decision.<sup>1194</sup>

In practice, interviews under the new system started in October 2021 and lasted only two months. After Law 4873/2021, which reintroduced amendments to Article 5A of the Code of Citizenship, came into force

<sup>1189</sup> Article 2 par.2 Ministerial Decision 28881 – Gov. Gazette B' 1535/15.04.2021.

<sup>1190</sup> Article 6 (1) Citizenship Code.

<sup>1191</sup> Generation 2.0, *Citizenship in practice - Report on proposals*, April 2023, available in Greek at: <https://bit.ly/3oUtqor>.

<sup>1192</sup> *Ibid.*

<sup>1193</sup> Article 1 Ministerial Decision 738/2022 Gov. Gazette B 121/19.1.2022.

<sup>1194</sup> Ministerial Decision 738/2022 Gov. Gazette B 121/19.1.2022.



in December 2021, the oral interview was abolished and the recommendation for naturalisation decision is henceforth based only on the examination of additional documents, which constitute presumptions of economic and social integration. As outlined above, the invitation to interview by the three-member committees is only granted in instances where there is doubt surrounding the requirements of the economic or social criteria. On the other hand, the possibility of participating in the political life of the country has been removed from the essential requirements for naturalisation.<sup>1195</sup>

In the 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 was issued in May 2019.<sup>1196</sup> 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>1197</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>1198</sup> If the oath is not taken during this period, the decision is revoked.

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 considerable backlog pending since 2010'.<sup>1199</sup> In January 2020, the issue of delays in the naturalisation procedure has been brought up before the Parliament through a parliamentary question submitted by the main opposition party.<sup>1200</sup>

According to the official statistics of the Ministry of Interior, in 201 a total of 1,882 foreigners were granted citizenship by way of naturalisation,<sup>1201</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>1202</sup>

The authorities provided no similar data for the years 2020 and 2022.

As mentioned above, Articles 5A, 6 and 7 of Citizenship Code, as amended by L.4604/2019, were recently replaced by Articles 3, 5 and 6 L. 4735/2020. The new articles 5A, 6 and 7 of the Citizenship Code came into force on 1 April 2021.

GCR noticed that during 2022 the competent Directorates of Citizenship of the Prefectures accepted applications for naturalisation and additional documents mainly by post. Afterwards, the protocol numbers were sent to the beneficiaries of international protection via email after 15 days to a month and only after numerous interventions.

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<sup>1195</sup> Generation 2.0, *Citizenship in practice - Report on proposals*, April 2023, available in Greek at: <https://bit.ly/3oUtqor>.

<sup>1196</sup> Ministerial Decision 34226/06.05.2019, published in the Government Gazette B'1603/10.05.2019.

<sup>1197</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>1198</sup> Article 9(5) Citizenship Code.

<sup>1199</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>1200</sup> Parliamentary Question, *Delays in the naturalization procedure for adults and second-generation children*, 7 January 2020, available in Greek at: <https://bit.ly/2wGB6Q9> (in Greek).

<sup>1201</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>1202</sup> *Ibid.*

## 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 10 and 15 of Asylum Code .

Refugee status ceases where the person:<sup>1203</sup>

- (a) Voluntarily re-avail themselves of the protection of the country of origin;
- (b) Voluntarily re-acquire the nationality they had previously lost;
- (c) Has obtained a new nationality and benefits from that country's protection;
- (d) Has voluntarily re-established themselves f in the country they had fled or outside of which they had 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 their recognition as a refugee have ceased to exist. The change of circumstances must be substantial and durable,<sup>1204</sup> and cessation is without prejudice to compelling reasons arising from past persecution for denying the protection of that country.<sup>1205</sup>

Cessation on the basis of changed circumstances also applies to subsidiary protection beneficiaries under the same conditions.<sup>1206</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 their views on why protection should not be withdrawn.<sup>1207</sup> This provision is always respected by the Asylum Service. However, the Alien's Directorate does not apply this provision in practice. It does not give the beneficiaries the right to a prior hearing either in written or oral form. The beneficiary is just given notice of the cessation decision. The Appeals Authority hearing the appeal against the decision submits that this defect is cured by the beneficiary being invited by them to an oral hearing before the final decision is issued. However, this practice deprives the beneficiary of a degree of jurisdiction. In 2022, GCR observed a rapid increase in the number of cessation decisions concerning beneficiaries of the so-called "old procedure". Beneficiaries whose countries of origin were included in the list of safe countries of origin by Joint Ministerial Decisions were served with decisions of a few paragraphs long without individualised assessment, citing only the Joint Ministerial Decision as reasoning. Beneficiaries have to wait months until their case is given an asylum case number before their appeal can be examined by the Appeals Authority, it only having a Police Headquarters file number until then. They then have to wait months after their appeal has been heard to be called for an oral hearing by the Appeals Authority. Throughout this time, they are in possession of the certificate of filing an appeal which does not give them access to the labour market, health care, or social assistance system. In fact, it only offers them protection from detention. In this respect, this is similar to the beneficiaries of the Asylum Service, as they too receive a similar certificate of appeal, which does not allow them to enjoy the benefits of refugee status.

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>1208</sup>

<sup>1203</sup> Article 10(1) Asylum Code.

<sup>1204</sup> Article 11(2) Asylum Code.

<sup>1205</sup> Article 10(3) Asylum Code.

<sup>1206</sup> Article 15 Asylum Code.

<sup>1207</sup> Article 96 (2) Asylum Code

<sup>1208</sup> Article 102 (3) Asylum Code

## 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 13 of the Asylum Code, where the person:

- (a) Ceases to be a refugee according to Article 10 of the Asylum Code
- (b) Should have been excluded from refugee status according to Article 11 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>1209</sup>

According to the practice followed since the mid-2020, the Police arbitrarily places beneficiaries of international protection under administrative detention on public order grounds and then asks the Asylum Service to revoke their status on the grounds that they face criminal charges, regardless of the nature and the stage of the attributed illegal act. Thus, recognised 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. However, the detention of beneficiaries of international protection is illegal as it is not prescribed within the national legislation (See: **Error! Reference source not found.**).

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 97 (2) Asylum Code, if an appeal is submitted against a decision of revocation of Article 13 of Asylum Code the residence permit is returned to the appellant.

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 labour 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.

In 2017, a stateless refugee applied for the renewal of her residence permit. A year later, in 2018, a non-renewal decision / revocation was issued. The rejection decision mentioned that she had 3 forgery convictions (she had only one conviction that she had already mentioned in the interview and the others concerned other people with different father and mother names, and her own criminal record did not even mention them). GCR filed an appeal in 2018 and continued to support the case. Three years later, in May 2021, the appeal was finally examined. The 11<sup>th</sup> Committee accepted GCR's appeal and annulled the decision of the Hellenic Police Headquarters issuing a positive decision through protocol nr. 118468/9.7.2021. According to the decision, ‘The present Committee does not ignore the inaccurate statements about the number of convictions, however, in view of the applicant's educational level and fragile mental health at the relevant time, it concludes that these inaccuracies are due to a misunderstanding’. All in all, ‘the nature and gravity of the offenses committed by the applicant in conjunction with her personality do not in any way constitute a danger to society as a whole’. The

<sup>1209</sup> Asylum Service, Circular 1/2018 of 26 January 2018.

Committee did not recognise the wrongful decision of the Police Headquarters, annulling the decisions for completely other reasons. The decision had no retroactive effect and left a four-year gap in her residence permit, not allowing her to apply for the Greek citizenship through the naturalisation procedure since her stay in the country is not considered legal and permanent for the years 2017-2021<sup>1210</sup>.

Moreover, in November 2020, a recognised refugee submitted an application for the renewal of his residence permit under the so-called 'old procedure' examined by the Headquarters of the Hellenic Police. In April 2021, a decision was issued not to renew his residence permit, as it was considered that the paramilitary group that is his persecuting body is no longer so dangerous, despite the fact that for his partner and their two minor children the same persecuting body was considered active and dangerous in a decision issued only 8 days after his decision. In December 2021, his appeal against this aforementioned decision was examined by the competent Appeals Committee and he was invited for an oral hearing in May 2022. The positive decision was issued in July 2022 but he was served this decision in November 2022 after numerous interventions by GCR. The decision of the 20<sup>th</sup> Committee had no retroactive effect and left a two-year gap in his residence permit, not allowing him to apply for the Greek citizenship through the naturalisation procedure since his stay in the country is not considered legal and permanent for the years 2020-2022. During these two years the refugee had no access to labour market, social security and healthcare. He was dismissed from his job and was not entitled to receive his severance pay which had been deposited with the bank, which asked him for a valid residence permit to access his account.<sup>1211</sup>

Under Article 18 of the Asylum Code, **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. 2 IPA).<sup>1212</sup> Moreover, on 14 February 2022, the Asylum Service issued a new circular providing clarification on the commission of a serious crime and its consequences for granting and withdrawal of international protection status<sup>1213</sup>

According to a document presented by the Ministry of Asylum and Migration during parliamentary control on 17 February 2022, the Asylum Service revoked 19 international protection statuses in 2021, out of which 17 concerned refugee status and 2 were subsidiary protection statuses. In 14 out of 19 cases, the international protection status was revoked due to public security reasons.<sup>1214</sup> In addition to this, six revocation decisions were issued by the Headquarters of the Hellenic Police ("old procedure").<sup>1215</sup> Furthermore, only 17 decisions of revocation of international protection statuses of the "old procedure" were issued in 2022 according to the Headquarters of the Hellenic Police.<sup>1216</sup> However, for 2022 data was not provided by the Asylum Service that is competent for the largest number of beneficiaries of international protection residing in Greece.

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<sup>1210</sup> Decision 118468/9.7.2021 of the 11th Independent Committee of Appeal, composed of three members.

<sup>1211</sup> Decision 387611/4.7.2022 of the 20th Independent Committee of Appeal, composed of three members.

<sup>1212</sup> MoMA, 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>.

<sup>1213</sup> MoMA, 87206/14.2.2022, *Διάπραξη σοβαρού εγκλήματος και οι συνέπειές της στη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας*, 14 February 2022, available in Greek at: <https://bit.ly/3leaaYQ>.

<sup>1214</sup> MoMA, 97157/17.2.2022, *Θ Έ Μ Α: Κοινοβουλευτικός Έλεγχος ΣΧΕΤΙΚΑ: Η υπ' αριθμ. Πρωτ. 2608/24-1-2022 Ερώτηση*, 17 February 2022, available in Greek: <https://bit.ly/3D4TKPw>.

<sup>1215</sup> Information provided by the Headquarters of the Hellenic Police, 25 February 2022.

<sup>1216</sup> Information provided by the Headquarters of the Hellenic Police, 13 February 2023.

## 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?  
☒ Yes ☐ No  
❖ If yes, what is the time limit?  
No time limit – after the period of 3 months, the law further requires the person prove possession of social security and a sufficient income
3. Does the law set a minimum income requirement?  
☒ Yes ☐ No

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.
- (f) 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>1217</sup>

- (a) A recent family status certificate, birth certificate or other document officially translated into Greek and certified by a competent Greek authority, proving the family bond and/or the age of family members; and
- (b) A certified copy of the travel documents of the family members.

However, if the applicant cannot provide these certificates, the authorities take into consideration other appropriate evidence.

On the other hand, if the refugee is an adult and the application refers to their parents and/or the application is not filed within 3 months from recognition, apart from the documents mentioned above, further documentation is needed:<sup>1218</sup>

- (a) Full Social Security Certificate, i.e. certificate from a public social security institution, proving the applicant's full social security coverage; or
- (b) 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

<sup>1217</sup> Article 14(1) PD 131/2006.

<sup>1218</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).



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;

- (c) 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 light. Either a full social security certificate or tax declaration proving sufficient income is required (not both of them). On the contrary, the Aliens Police Directorate, i.e. in cases of recognised applicants under the “old procedure” (PD 114/2010), requires both certificates after the three months of 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 recognised 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>1219</sup> The Asylum Service has decided that unaccompanied or separated children who are recognised refugees, under the age of 15 years old, and have applied for family reunification do not require a family reunification interview. Instead, a written memo has to be submitted before the Asylum Unit for Beneficiaries of International Protection (AUIPB). Despite the fact that P.D. 131/2006 does not include siblings as family members, the AUIPB, in cases of unaccompanied minors, is asking from the Director of the Asylum Service an *ad hoc* exception in order to issue a positive family reunification decision also for the refugee's siblings. However, since neither P.D. 131/2006 nor art. 23 of the Asylum Code provides for the issuance of residence permits to the siblings of the refugee, it remains to be seen how this legal vacuum will be covered.

If the application for family reunification is rejected, the applicants have 10 days to submit an appeal before the competent administrative authorities.<sup>1220</sup> It is 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 within 60 days from the deliverance of the negative decision.<sup>1221</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.as refugee family members<sup>1222</sup>

In practice, the family reunification procedure is extremely lengthy and complicated. It lasts years and requires constant legal assistance and support. Specifically, the procedure includes, *inter alia*, communication and cooperation with the competent Greek Consulates, interviews with both the refugee before the AUIPB and his/her family members before the Competent Consulate, DNA testing where requested, as well as legal representation before the competent Administrative Court in case of rejection of family reunification or negative family reunification visa decision. It is worth mentioning that since December 2019, no DNA tests have been 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”). Most importantly, there is no legal provision for family reunification where the refugee family members cannot issue travel documents, since the Greek Authorities continue to deny the issuance of laissez-passer for family reunifications and the Greek Ministry of Foreign affairs has stated that since January 2021, it is not competent to issue one- way- travel documents. Thus, family reunifications for stateless persons or asylum seekers in other countries are literally impossible. This is of outmost importance since P.D. 131/2006 requires the travel documents in order to issue family reunification decisions, while the International Committee of the Red Cross (the only

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<sup>1219</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

<sup>1220</sup> Article 12 (1) P.D.131/2006.

<sup>1221</sup> Article 46 (1) P.D. 18/1989.

<sup>1222</sup> Article 15 (2) P.D. 131/2006.

viable solution for the issuance of travel documents) requires a positive family reunification decision in order to issue its Emergency Travel Document. Thus, the refugees are trapped in a vicious circle without alternative solutions. In 2022, the ICRC issued commitment letters for the issuance of an emergency travel document in two family reunification cases concerning refugee family members that were stateless persons and asylum seekers in third countries. Unfortunately, these letters had no effect in the outcome of those cases that have remained frozen for almost 4 years.

In light of the above shortcomings, for several years GCR has been representing a strategic litigation case of a refugee who has spent 12 years (since 2011) trying to bring his family to Greece through family reunification. However, his application for family reunification has been rejected in all instances twice. The first rejection was based on the lack of certified copies of official documents proving the family link with his family members that were asylum seekers in another third country at the time as well as the lack of travel documents of the latter. The Administrative First Instance Court of Athens annulled the first decision (ΔΠΑ 59/2018). Nevertheless, the Greek Administration has never complied with the abovementioned judicial decision in breach of the law and in 2019 rejected his application for family reunification once again on the grounds of a lack of travel documents and the fact that, according to the Greek Administration, there is no legal basis for the issuance of travel documents (*laissez-passer*). Thus, an application for annulment was submitted for the second time to the Administrative court of First Instance of Athens aimed at setting aside the negative decision. On 20 June 2022, the Court annulled the aforementioned decision and referred the case back to the competent administrative authority again in order to take a new legal decision. (See the decision below: ΔΠΑ861/2022).

In September 2022, the refugee was served a legal document by the Hellenic Police asking him whether his family members have travel documents. He was given 10 days to reply to this document in writing. In the meantime, his family members were recognised as refugees in the third country, but their travel documents had not been issued and it was doubtful if they would be issued in the future. In October 2022, a memo was submitted before the Aliens Department of the Hellenic Police. On the same day a commitment letter for the issuance of (Emergency Travel Documents) ETD for his family members by the International Committee of the Red Cross after the issuance of a positive family reunification decision was submitted to the afore-mentioned authority. Subsequently, in January 2023, a special letter was signed by the refugee for the issuance of the travel documents of his family members by the Authorities of the State that had recognised them as refugees. The travel documents were finally issued in February 2023. However, a decision is yet to be issued even though copies of the travel documents certified by a Greek Consulate were submitted.

In addition to the above, in December 2022, with GCR's assistance, one of the oldest and most difficult family reunification cases in Greece was completed after six years. A positive family reunification decision had been issued in 2016 for a refugee suffering from kidney failure and undergoing dialysis. The Greek Consulate, after 2.5 years of obstructiveness and based on an opinion of a law firm that cooperates with the Consulate, ruled that the family reunification documents were forged, because a part of them was handwritten. An independent law firm and the Municipality of the city that issued the documents conducted research into this matter and reached the conclusion that the documents were NOT forged. Despite GCR's long correspondence with the Greek Ministry of Foreign Affairs, a DNA test was never conducted due to the unwillingness of the Greek Consulate. On February 2020, after the health condition of the refugee deteriorated, the refugee's wife entered Greece with a tourist visa, applied for asylum and got recognised as a refugee in November 2022. In April 2022, the three-member Magistrate Court of Athens finally declared the refugee innocent of forgery. In July 2022, GCR filed a complaint to the Greek Ombudsman for the obstructiveness of the Greek Consulate. Afterwards, the Greek Consulate replied to the Ombudsman stating that appointments for the issuance of visas can NOT be requested by lawyers. In an attempt to make the procedure even harder, the Greek Consulate conducted several interviews with the family members that lasted almost a working day at a time. The family reunification visas were finally issued in December 2022 and the family members arrived in Greece.

Moreover, 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>1223</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, he submitted an application for family reunification with his three children and his wife at the Alien's Department of Attica. Upon notification of a 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 individualised 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". In March 2023, the Greek Ambassador demanded that the refugee's family members provide the Embassy with a certified copy of the family reunification decision as proof of their identity even though the original family reunification decision was already in the family reunification file sent to the Embassy by the Greek Ministry of Foreign Affairs in 2020 and all family members hold passports as proof of their identity. Obtaining a certified copy of the family reunification decision was extremely difficult since the Headquarters of the Hellenic Police never serve the positive family reunification decisions to the refugee, instead the decisions are directly sent to the competent Greek Diplomatic Authorities. However, after filing of a reasoned application for service of the family reunification decision to the refugee and after numerous interventions, the family reunification decision was served in May 2023. As of May 2023 his family members had still not been issued family reunification visas.

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 certification of documents, 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>1224</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>1225</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>1226</sup> The Asylum Service due to the nature of this procedure cannot specify the time needed for a decision to be issued.<sup>1227</sup> This information was not provided by the Asylum Service for the year 2021. However, only one family member arrived in Greece from the old procedure.<sup>1228</sup> In 2022 data was not provided by the Asylum Service concerning family reunifications. However, 7 family reunification applications were submitted in

<sup>1223</sup> Administrative Court of 1<sup>st</sup> Instance of Athens, Decision 493/2020.

<sup>1224</sup> See e.g. Pro Asyl and RSA, *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/2FkNOi9>, 26-27.

<sup>1225</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/3MziWTJ>, paras 68-69.

<sup>1226</sup> Information provided by the Asylum Service, 17 February 2020.

<sup>1227</sup> Information provided by the Asylum Service, 17 February 2020.

<sup>1228</sup> Information provided by the Headquarters of the Hellenic Police, 25 February 2022.

the so called old- procedure of the Hellenic Police. Five (5) of them were rejected, one was accepted and one is still pending..<sup>1229</sup>

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>1230</sup> Among other provisions, this Decision sets out a DNA test procedure in order to prove family links and foresees 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>1231</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. According to GCR's experience even an urgent DNA test may last up to three months.

In November 2019, GCR supported the first and only so far 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 finalised. 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 recognised refugee. In March 2022 the family members obtained special refugee travel documents for the first time, since refugee family members are required to keep their national passports and can be issued special refugee travel documents only if they can not renew their national passports for objective reasons.

In June 2020 GCR lodged two applications for the annulment of negative decisions issued by the competent Greek Consulate against the Greek Ministry of Foreign Affairs. The Competent Greek Consulate ignored the positive family reunification decision that had already been issued by the Asylum Service and decided to conduct a family reunification interview without the request of the Asylum Service, in violation of the Joint Ministerial Decision 47094/2018 for family reunifications. It further omitted to conduct a DNA test as requested by the beneficiary of international protection. The court date for the two applications was set on April 2022. The court decisions are still pending.

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>1232</sup> P.D. 131/2006 provides for a special one-year residence permit until they reach the age of 21.<sup>1233</sup> However, they still need a valid residence permit in order to apply for the said one-year residence permit before the competent Decentralised 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. In 2021, GCR represented a similar case: a 17.5-year-old-refugee arrived in Greece through family reunification and was issued a residence-permit valid for six months until the age of 18, in violation of art. 15 par.2

<sup>1229</sup> Information provided by the Headquarters of the Hellenic Police, 13 February 2023.

<sup>1230</sup> JMD 47094/2018, Gov. Gazette B/3678/28.08.2018.

<sup>1231</sup> Ministry of Foreign Affairs, *Immigration Code Handbook*, 2019, 123-127.

<sup>1232</sup> Article 1 Asylum Code.

<sup>1233</sup> Article 11 (1) P.D. 131/2006.

P.D.131/2006 that requires the residence permit to be valid for at least a year. The Headquarters of the Hellenic Police denied to renew her residence permit until the age of 21, claiming that they had no competence to do so. GCR filed a complaint to the Greek Ombudsman for the above-mentioned case. Eventually, in March 2022, her residence permit was renewed by the Aliens Department of Attica, that declared itself competent and was once again renewed by the same Authority in November 2022 for a year. However, no relevant decision was issued both of the times. It is worth to be mentioned that the status of residence for refugee family members after the age of 21 remains to this day a legal vacuum, since article 11 P.D.131/2006 provides protection until the age of 21.

Data was not provided concerning the total number of applications for visas submitted before Greek Consulates following a positive family reunification decision during 2022. Nevertheless, the Greek Consulates in Yerevan- Armenia<sup>1234</sup> and Baghdad-Iraq<sup>1235</sup> informed the Greek Ministry of Foreign Affairs that during 2022 they did not handle any application for the issuance of family reunification visas. Only the Greek Consulate in Jerusalem provided data according to which 24 family reunification visas were issued by them in 2022.<sup>1236</sup> In addition, the Greek Consulate in Jerusalem noted that there is a delay in collecting the necessary supporting documents for the issuance of visas from the persons concerned and in locating them after the issuance of the positive decision on family reunification. In all family reunification cases handled by this Consulate the refugee family members were interviewed. However, as the majority of refugee family members reside in the Gaza Strip, there was a difficulty in moving them to East Jerusalem. Finally, the consulate in question pointed out that no DNA testing was conducted for the family reunification cases handled in 2022 as the testing can only be carried out with the written consent of the person concerned, while the family link had already been proven with documents and through the interview.<sup>1237</sup> It is worth noting that the Greek Ministry of Foreign Affairs required data on family reunification from the Greek Embassies/Consulates in: Ankara, Amman, Baghdad, Beirut, Damascus, Yerevan, Kinshasa, Nairobi, Rabat, Teheran, Erbil, Jerusalem, Cairo, Istanbul, Izmir and Jeddah. Nevertheless only the three above-mentioned Consulates provided data. Furthermore, the total number of refugee family members arriving to Greece through family reunification in enforcement of decisions issued by the Asylum Service was also not provided. No family members arrived to Greece through the "old procedure".<sup>1238</sup>

## 2. Status and rights of family members

According to Article 22 and Article 23 of Asylum Code, 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 and within 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>1239</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. The new Asylum Code allowed also partners with cohabitation agreements to obtain residence permits as refugee family members.<sup>1240</sup> The Asylum Code as well as previous legislation requires also the family to be formed within Greece. This means that beneficiaries' children that were born after their parent entered Greece but outside of Greece could not obtain a residence permit as refugee family member. Moreover, after the implementation of the previous IPA and with the new Asylum Code, underage beneficiaries of international protection can no longer apply for the issuance of residence permit for their non-refugee parent. The refugee family members that were granted a refugee family member residence permit cannot issue a travel document of the Geneva Convention of 1951. This derives from the fact that art. 24 Asylum Code does not include refugee family members. In practice this

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<sup>1234</sup> Information provided by the Greek Ministry of Foreign Affairs, 13 March 2023.

<sup>1235</sup> Information provided by the Greek Ministry of Foreign Affairs, 3 March 2023.

<sup>1236</sup> Information provided by the Greek Ministry of Foreign Affairs, 8 March 2023.

<sup>1237</sup> *Ibid.*

<sup>1238</sup> Information provided by the Headquarters of the Hellenic Police, 13 February 2023.

<sup>1239</sup> Article 23(4) Asylum Code.

<sup>1240</sup> *Ibid.*



provision has been applied only to spouses that are required to keep the travel document/passport of their country of origin.

## C. Movement and mobility

### 1. Freedom of movement

According to Article 32 Asylum Code, 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>1241</sup> that regulated the procedures to issue travel documents for beneficiaries of international protection was abolished and replaced by Joint Ministerial Decision 10302/2020<sup>1242</sup> which came into force on 30 May 2020.

Recognised **refugees**, upon a 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>1243</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>1244</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>1245</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>1246</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>1247</sup>

JMD 10302/2020 provides that the Alien's Directorates is the only competent authority for the issuance of travel documents<sup>1248</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. Travel documents are issued by the Passport Offices of the Hellenic Police. Beneficiaries of international protection are required to book an appointment, similar to the one for their residence permit (ADET) In case of travel documents, however, the payment of a fee is a prerequisite to obtaining such an appointment.<sup>1249</sup> After the travel document is issued, they must regularly check the website of the Asylum

<sup>1241</sup> Ministerial Decision 1139/2019, Gov. Gazette 4736/B/20.12.2019, available in Greek at: <https://bit.ly/3dDfiYI>.

<sup>1242</sup> Joint Ministerial Decision 10302/2020, Gov. Gazette 2036/B/30-5-2020, available in Greek at: <https://bit.ly/2P71hc8>.

<sup>1243</sup> Article 25(1) IPA.

<sup>1244</sup> Article 25(2) IPA.

<sup>1245</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>1246</sup> Article 25(4) IPA.

<sup>1247</sup> Article 7(2) MD 1139/2019 and Article 6(2) JMD 10302/2020.

<sup>1248</sup> Article 3 JMD 10302.

<sup>1249</sup> See also RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece: Access to documents and socio-economic rights*, March 2022, available at: <https://bit.ly/3IRUB1C> para. 31.

Service for their scheduled deliverance appointment.<sup>1250</sup> If they miss that appointment they must book another one through the electronic platform of the Ministry of Migration; that appointment may be scheduled months after the missed one. Travel documents may only be collected at the RAO of Attica and the RAO of Thessaloniki. This means that beneficiaries of international protection on the islands have to travel either to Athens or to Thessaloniki to collect their document. Yet, if there is any error on their personal details or in the fingerprinting process affecting the document, they are required to return to the island where they were initially residing in order to repeat the procedure. However, they are again asked to prove their address in order for the document to be re-issued.<sup>1251</sup>

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>1252</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 their 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>1253</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>1254</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.

No data were provided concerning the applications submitted for the renewal of Travel Documents and the positive decisions taken by the Asylum Service during 2022.

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<sup>1250</sup> MoMA, 'Travel documents', available at: <https://bit.ly/2Pd4kQe>.

<sup>1251</sup> RSA and Stiftung Pro Asyl, *Beneficiaries of international protection in Greece: Access to documents and socio-economic rights*, March 2022, available at: <https://bit.ly/3IRUB1C> para. 33.

<sup>1252</sup> Article 1(2) MD 1139/2019 and Article 1(2) JMD 10302/2020.

<sup>1253</sup> Articles 1(6) and 1(7) JMD 1032/2020.

<sup>1254</sup> MoMA, Information on travel documents at: <https://bit.ly/2Pd4kQe>.

## D. Housing

### Indicators: Housing

1. For how long are beneficiaries entitled to stay in ESTIA centres? 1 month
2. Number of beneficiaries staying in ESTIA centres
  - ❖ as of 31 December 2022 Not available due to the closure of ESTIA in 2022
  - ❖ Sept./Nov. 2022 trimester: 781<sup>1255</sup>

According to Article 29 Asylum Code 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 2022, 19,243 people were granted international protection at first instance (18,730 refugee status and 513 subsidiary protection),<sup>1256</sup> compared to 16,588 in 2021, down from 34,321 in 2020, 17,355 in 2019, 15,192 in 2018 and 10,351 in 2017.<sup>1257</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>1258</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 recognised 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>1259</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>1260</sup>

On 22 February 2022 the Ministry of Migration announced that from 16 April 2022, the number of places in the "ESTIA II" housing programme would be reduced to 10,000 from 27,000 in 2021, with a view to

<sup>1255</sup> MoMA, 11/30/2022, *ESTIA 2022 Factsheet*, available at: <https://bit.ly/41OgLS7>.

<sup>1256</sup> Reply of the Ministry to the Greek Parliament.

<sup>1257</sup> Information provided by the Asylum Service, 31 March 2021 and 17 February 2020; Asylum Service, *Statistical data*, December 2018.

<sup>1258</sup> UNHCR, *Greece Fact Sheet*, 1-31 January 2019.

<sup>1259</sup> Protothema.gr, 'End of the benefits to refugees according to Mitarakis', 7 March 2020, available in Greek at: <https://bit.ly/2lwvE51>.

<sup>1260</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).

completing the programme by the end of 2022.<sup>1261</sup> This announcement also effects beneficiaries of international protection who must leave the accommodation within a month of their recognition.

According to the UNHCR data, beneficiaries of international protection, 8.86% of the respondents lived at an accommodation provided under the ESTIA II program, as the majority (41.25%) remained at the reception centres due to the lack of financial resources. Based on the data provided by the Greek Ministry of Migration and Asylum for the trimester of September-October-November 2022, 1,843 people were beneficiaries of the ESTIA II accommodation. Among them, 781 were recognised beneficiaries of international protection, while 42% were children.<sup>1262</sup> The closure of the ESTIA II program in December 2022 forced beneficiaries to leave their apartments and urban communities and move to camps in remote areas, increasing the number of self-accommodated people in Greece, as stated by UNICEF in the country office annual report 2022.<sup>1263</sup> A letter submitted by the European Parliament to the Commission on 16th November 2022, almost a month before the ESTIA II termination, stated that:

'the end of the EU-funded ESTIA II program [...] will lead to approximately 10,000 evictions [...]. Consequently, vulnerable asylum seekers- including survivors of torture and persons with disabilities or severe illness- will lose their homes. They will have to live on the streets or in remote and freedom restricting camps with markedly worse living conditions and a lack of access to health, education, and special rehabilitation services.'<sup>1264</sup>

There is a serious information gap on the issue of the access of beneficiaries of international protection to housing. Recent research found that 18 out of 64 beneficiaries of international protection are homeless or in precarious housing conditions, 14 out of 64 are at an immediate risk of being homeless (living in ESTIA or camp after their recognition).<sup>1265</sup> A total of 32 out of 64, i.e. 50% of all beneficiaries of international protection live in precarious housing conditions

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>1266</sup>

As has been mentioned, 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 sublet.

### **Return of beneficiaries of international protection to Greece**

Upon arrival at Athens International Airport, returnees are only provided with a police note (*ενημερωτικό σημείωμα*) written in Greek, directing them to the Regional Asylum Office of Attica.

<sup>1261</sup> MoMA, 'Ολοκληρώνεται το πρόγραμμα στέγασης 'ESTIA II' to 2022', 22 February 2022, available in Greek at: <http://bit.ly/3XSXwEG>.

<sup>1262</sup> MoMA, 11/30/2022, *ESTIA 2022 Factsheet*, available at: <https://bit.ly/41OgL57>.

<sup>1263</sup> UNICEF, *Country Annual Report 2022*, available at: <https://bit.ly/3Lhlsgv>.

<sup>1264</sup> European Parliament, 'EU-funded ESTIA II programme ending in Greece', 16 November 2022, available at: <https://bit.ly/3AECHDH>.

<sup>1265</sup> Information gathered through a joint questionnaire prepared by GCR, Diotima Centre and IRC, under the joint project 'Do the human *right thing*—Raising our Voice for Refugee Rights'. The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow. As of the time of writing, the data is based on a total of 188 questionnaires, out of which 64 were filled by beneficiaries of international protection residing in Greece.

<sup>1266</sup> Article 31 Asylum Code.

Several courts in countries such as Germany, the Netherlands and Belgium have halted returns of beneficiaries of international protection to Greece.<sup>1267</sup> However, courts in countries such as Switzerland and Norway have maintained the view that conditions for beneficiaries do not infringe the prohibition on inhuman and degrading treatment.<sup>1268</sup>

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>1269</sup>

Moreover, on 19 April 2021, the Higher Administrative Court of the state of Lower Saxony ruled that two Syrian sisters who were recognised as refugees in Greece could be returned there because there was a serious risk that their most basic needs ("bed, bread, soap") could not be met.<sup>1270</sup>

On 28 July 2021, the Council of State of the Netherlands published two rulings (202005934/1 and 202006295/1) concerning the return to Greece of Syrian nationals granted international protection in Greece. In both cases, after receiving international protection in Greece the applicants travelled to the Netherlands, where they applied again for protection. The Secretary of State declared their applications inadmissible as the applicants were already beneficiaries of protection in another Member State. The applicants unsuccessfully appealed against these decisions to the District Court of The Hague. The Council of State considered previous caselaw, which indicated difficulties in accessing accommodation, health care and employment but nevertheless, beneficiaries of international protection could be returned to Greece. However, due to new developments indicated by the Greek AIDA report including *inter alia* a significant decrease in the length of time that beneficiaries can remain in the reception for asylum applicants after obtaining their status and before finding independent accommodation, the Council of State found that in practice, Greece cannot ensure that beneficiaries of international protection will be able to meet their main basic needs. In that regard, it held that the Secretary of State failed to properly justify its reliance on the principle of interstate trust with respect to Greece. Additionally, it failed to justify its finding that the living conditions that beneficiaries of international protection face upon return to Greece do not reach the threshold of severity stipulated by the CJEU's judgment in Ibrahim. The decision was annulled and remitted to the Secretary of State for reconsideration.<sup>1271</sup>

On 16 November 2021, the Higher Administrative Court of Bremen<sup>1272</sup> made its decision in the case of a Syrian national in Germany who had international protection in Greece. The applicant arrived in Greece in 2017 and was granted international protection in March 2018. In March 2019, the applicant then travelled to Germany and claimed asylum. In May of that year, the Federal Office for Migration and Refugees rejected his asylum claim as inadmissible on the basis of Section 29 of the Asylum Act and due to the fact

<sup>1267</sup> For further information see the 2022 updates of the respective country reports at: <https://bit.ly/3OFfA4i>. (Germany) Higher Administrative Court of North-Rhine Westphalia, Decision 11 A 1564/20.A, 21 January 2021, available in German at: <https://bit.ly/3WCfeNM>; Higher Administrative Court of Lower Saxony, 10 LB 245/20, 19 April 2021; Higher Administrative Court of Bremen, 1 LB 371/21, 16 November 2021, available in German at: <https://bit.ly/3BWabhG>; (Netherlands) Council of State, 202005934/1/V3, 28 July 2021, available in Dutch at: <https://bit.ly/45I7aiH>; (Belgium) Council of Alien Law Litigation, 259 385, 13 August 2021; Decision 261 291, 28 September 2021, available in Dutch at: <https://bit.ly/45t5CZD>.

<sup>1268</sup> (Switzerland) Federal Administrative Court, Decision D-4359/2021, 8 October 2021, available in German at: <https://bit.ly/3IEcLfM>; (Norway) District Court of Oslo, Decision 21-063000TVI-TOSL/04, 1 November 2021.

<sup>1269</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>1270</sup> Higher Administrative Court of Niedersachsen, 19 April 2021, 'In Griechenland anerkannte Flüchtlinge dürfen derzeit nicht dorthin rücküberstellt werden', available in German at: <https://bit.ly/3eopXWj>.

<sup>1271</sup> Netherlands Council of State, 'Decision 202006295/1/V3 and decision 202005934/1/V3', 28 July 2021, available at: <https://bit.ly/3DnZ40A>.

<sup>1272</sup> Higher Administrative Court of Bremen, 1 LB 371/21, 16 November 2021, available at: <https://bit.ly/3SmzC37>.



that international protection had already been granted in Greece and the humanitarian conditions for beneficiaries of protection there did not reach a threshold of Article 3 ECHR. The applicant subsequently appealed this decision. The Court firstly noted that although the inadmissibility decision follows the domestic Asylum Act and Article 33 of the Asylum Procedures Directive, it is not compatible with EU law. The Bremen Court elaborated on this by explaining that Article 4 of the Charter of Fundamental Rights of the EU which prohibits any form of inhuman or degrading treatment is of a general and absolute nature. Therefore, this guarantee also applies after the conclusion of the asylum procedure and thereby prohibits a Member State rejecting an asylum application as inadmissible on the basis of international protection in another Member State, if the person concerned faces a serious risk of inhuman or degrading treatment in that Member State within the meaning of Article 4 CFR. The Court proceeded to explain that a high threshold needs to be reached for there to be an assumed violation of Article 4 CFR or Article 3 ECHR. In the case at hand, the Court found that on evaluation of the available evidence and current press reports it is to be assumed that on the applicant's return to Greece he would not find dignified accommodation or be supported by Greece in a housing program. The Court furthermore held that although support from private third parties and NGOs must be taken into account, the applicant would not be able to rely on his own network or private services or support if he was to be returned, based on his lack of network in Greece and the limited support available. Additionally, the Court mentioned, the labour market, economic situation, language barriers and the high unemployment rate as important factors which determine the difficulty in which the applicant would find employment if returned to Greece. For these reasons, the Administrative Court annulled the decision of the Federal Office of Migration and Refugees and ordered that they continue the applicant's asylum procedure and make a decision on the merits of his case.<sup>1273</sup>

The recent report by Refugee Support Aegean (RSA) entitled 'People Deported to destitution' reveals the dire situation people recognised as refugees by Greece face when returned from other European countries. According to statistics published by RSA on 13 October 2022, close to 100 refugees have been deported to Greece by European states in the first half of 2022 despite the evident risks they face upon return. The situation of beneficiaries of international protection in Greece raises critical questions regarding European countries' compliance with their human rights obligations. In spring 2022, Germany decided to refrain from returning recognised refugees to Greece and to process their claims on the merits, apart from exceptional cases. The Netherlands recently followed suit with a similar policy in September 2022 refraining from returning recognised refugees to Greece.<sup>1274</sup> Moreover on 29 September 2022, the EC opened infringement procedures against Belgium, Germany, Greece and Spain for failing to comply with the Return Directive 2008/115/EC. The Commission sent a letter of formal notice to these four Member States concerning an incorrect transposition of certain provisions of the Return Directive, which establishes a common set of rules for the return of third-country nationals who do not fulfil the conditions for entry, stay or residence in a Member State, and called upon them to comply with the EU legislation. From that date onwards, the Member States have two months to respond to the arguments raised by the Commission and, in the absence of a satisfactory response, the Commission may decide to issue a reasoned opinion to the MS concerned.

## E. Employment and education

### 1. Access to the labour market

Article 26 Asylum Code 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 research from 2018 '[t]hose few who manage to find

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<sup>1273</sup> Ibid.

<sup>1274</sup> ECRE Weekly Bulletin 14.10.2022 available at: <https://bit.ly/3XRSR5J>.

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 extends the need for emergency services, increases the risk of exploitation, and hinders their integration prospects.<sup>1275</sup>

Due to the abovementioned shortcomings, many 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>1276</sup>

The National Integration Strategy<sup>1277</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 recognised refugees in Attica and Central Macedonia in collaboration with the Ministry of Labour and an employment programme 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>1278</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>1279</sup>

There is a lack of information on the employment of beneficiaries of international protection. A recent research found that only 14 out of 64 beneficiaries of international protection were working at the time of the research and only 23 out of 64 were able to work during the last six months.<sup>1280</sup>

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 three months. In practice this certificate is not allowing them to access the labour market and many of them are losing their jobs as soon as their residence permit expires. Furthermore, according to GCR experience, recently recognised beneficiaries of international protection, are considered by the electronic system ERGANI (ΕΡΓΑΝΗ) as asylum seekers pending the issuance of their first residence permit, since they still hold their asylum seekers card. This malpractice has prevented beneficiaries of international protection from accessing

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<sup>1275</sup> ELIAMEP, *Refugee Integration in Mainland Greece: Prospects and Challenges*, March 2018, available at: <https://bit.ly/2T5untb>, 3.

<sup>1276</sup> Decision on file with the author.

<sup>1277</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>1278</sup> CNN, 'Στα «χαρτιά» η εθνική στρατηγική για την ένταξη των μεταναστών', 30 September 2019, available in Greek at: <https://bit.ly/2W03do0>.

<sup>1279</sup> RSA and Pro Asyl, *Idem*, para. 15-16.

<sup>1280</sup> Information gathered through a joint questionnaire prepared by GCR, Diotima Centre and IRC, under the joint project 'Do the human right thing—Raising our Voice for Refugee Rights'. The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow. As of the time of writing, the data is based on a total of 188 questionnaires, out of which 64 were filled by beneficiaries of international protection residing in Greece.

employment until they are served their residence permit. This is contrary to Article 27 of IPA as they should be able to access the labour market freely from the first day of their recognition.

## 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>1281</sup> Similar to [Reception Conditions: Access to Education](#), the new Asylum Code 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>1282</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>1283</sup> Based on data provided by UNHCR for 2022, 64% of the respondent - beneficiaries of international protection (85 responses) stated that their children of school-going age attended public school classes, while 19% (25 responses) stated that they did not. The children either attended non-formal education classes (7) or had no additional support to learn Greek language. Among the reasons impeding school-going age children from attending public school classes was the frequent change of residence place, lack of enrollment places, lack of money, inability to meet the vaccine requirements, willingness to leave Greece, bullying, and other reasons not declared. Also, 5.26% declared that their children occasionally attended public school classes, 10% that some of their children attended (not all), and 2% did not attend anymore.<sup>1284</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 courses or integration programmes in Greece'.<sup>1285</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>1286</sup> Moreover, the Municipality of Athens regularly organises Greek language courses for adult immigrants, as well as IT seminars, for, among others, adult refugees.<sup>1287</sup>

As of May 2023, the D.O.A.T.A.P – Hellenic National Academic Recognition and Information Centre (Hellenic NARIC) the official body of the Hellenic Republic for the academic recognition of titles and qualifications awarded by foreign Higher Education Institutions has not provided any exceptions from its extremely strict requirements for the recognition of university degrees of beneficiaries of international protection. The following requirements must be met and submitted: a legally certified copy of High School Diploma and translation in Greek; a legally certified copy of the degree to be recognised and its official translation in Greek; a legally certified copy of the official transcript of records (grades from all subjects and from all the years of study, signed and stamped by the University, stating the date of award) and its official translation in Greek; the University Certificate.<sup>1288</sup> Moreover, L. 4957/2022 establishes the National Register of Recognised Higher Education Institutions of Foreign Countries and the National Register of Types of Degrees of Recognised Higher Education Institutions of Foreign Countries which includes extremely difficult conditions to be met by the refugees for the inclusion of their universities in it.<sup>1289</sup> These

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<sup>1281</sup> Article 28(1) IPA.

<sup>1282</sup> Article 28(2) IPA.

<sup>1283</sup> UNICEF, *Refugee and migrant children in Greece as of 31 January 2019*, available at: <https://uni.cf/2SH2pz4>.

<sup>1284</sup> UNHCR, 'Greece: Inter-Agency Protection Monitoring of Refugees in Greece', available at: <https://bit.ly/3VhVyOo>.

<sup>1285</sup> in.gr, 'Υπατη Αρμοσσία ΟΗΕ για πρόσφυγες: Δίκαιη απονομή ασύλου, όχι μόνο γρήγορη', 6 May 2020, <https://bit.ly/2LazMJf>

<sup>1286</sup> IOM, 'Hellenic Integration Support for Beneficiaries of International Protection (HELIOS)', available at: <https://bit.ly/3d9OJbp>.

<sup>1287</sup> City of Athens, 'Εκπαιδευτικά Προγράμματα', available in Greek at: <https://www.cityofathens.gr/node/2545>.

<sup>1288</sup> DOATAP website available at: <https://bit.ly/3q8RqET>.

<sup>1289</sup> Article 304 L.4957/2022.

requirements are impossible to be met by the vast majority of beneficiaries of international protection. Thus, most of them cannot continue their education in their field of studies.

## 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>1290</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>1291</sup>

**Family allowance:** Family allowance is provided to families that can demonstrate 5 years of permanent, uninterrupted and legal stay in Greece.<sup>1292</sup> As a result, the majority of beneficiaries of international protection are excluded from this benefit.

**Single mother allowance:** The allowance for 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 allowance and is provided explicitly to refugees or beneficiaries of subsidiary protection.<sup>1293</sup>

**Birth allowance:** The newly established birth allowance is granted to any 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 any mother – third country national, who 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>1294</sup>

**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>1295</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>1296</sup> Even if this is successfully done, there are often significant delays in the procedure. In January 2022 a technical error in the system did not allow the residence permit of

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<sup>1290</sup> Articles 28 and 29 Asylum Code.

<sup>1291</sup> Pro Asyl and RSA, *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>1292</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>1293</sup> Article 214 L. 4512/2018, as amended by Article 15 L. 4659/2020.

<sup>1294</sup> Articles 1 and 7 L. 4659/2020.

<sup>1295</sup> Article 10 L 3220/2004.

<sup>1296</sup> JMD Γ4α/Φ. 225/161, Official Gazette 108/B/15.2.1989.

beneficiaries of international protection to be examined by the Disability Accreditation Centre. However, the problem was resolved at the end of 2022.

The **guaranteed minimum income** (ελάχιστο εγγυημένο εισόδημα),<sup>1297</sup> formerly known as Social Solidarity Income (Κοινωνικό Επίδομα Αλληλεγγύης “ΚΕΑ”, established in February 2017 as a new welfare programme regulated by Law 4389/20169).<sup>1298</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>1299</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>1300</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>1301</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>1302</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 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 Centre (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).

Lastly a new Ministerial Decision that came into effect on 16 March 2022 provides that the prescription of medicines, therapeutic operations and diagnostic examinations for patients without health insurance will be possible, only by doctors of public hospitals and Primary Health Care structures.<sup>1303</sup> This Ministerial

<sup>1297</sup> Article 29(2) L. 4659/2020, Official Gazette A’ 21/3.2.2020.

<sup>1298</sup> Article 235 L 4389/2016. See also KEA, ‘Πληροφορίες για το ΚΕΑ’, available in Greek at: <http://bit.ly/2HcB6XT>.

<sup>1299</sup> ΟΠΕΚΑ, Ελάχιστο Εγγυημένο Εισόδημα (ΚΕΑ), available at: <https://bit.ly/3chQsdD>.

<sup>1300</sup> Article 93 L 4387/2016.

<sup>1301</sup> Article 31(2) IPA.

<sup>1302</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, <https://bit.ly/3MziWTJ>, para 40.

<sup>1303</sup> Ministerial Decision 12184/2022 Gov. Gazette 899/B/28.2.2022.



Decision will affect the vast majority of beneficiaries of international protection, since most of them do not have health insurance and will therefore no longer be able to visit private doctors .

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 characteristic incompatibilities in transposition of the CEAS in national legislation which were previously identified in IPA and are maintained in Asylum Code.

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	31(8)	Article 88(9)ia Asylum Code	Asylum Code maintains IPA's provision (Article 83(9)) which exceeds the permissible grounds for applying the accelerated procedure, given that it foresees as ground for using the procedure cases where the applicant refuses to comply with the obligation to be fingerprinted under domestic legislation.
	38 (2)	Article 91(1)f Asylum Code	Article 91(1)f Asylum Code maintains article 86(1)(f) IPA, with regards the safe third country concept, and 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 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), which sheds doubts on the compatibility of the provision with Article 38(2) of the Directive. Moreover, contrary to Article 38(2) of the Directive, national law does not foresee 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.
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20(4)	Article 61(4) Asylum Code	Asylum Code maintains IPA's provision (article (4)) which 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> .