

## **REPORT OF THE GREEK COUNCIL FOR REFUGEES TO THE UN COMMITTEE AGAINST TORTURE IN VIEW OF ITS 67th SESSION**

The Greek Council for Refugees (GCR) is a Greek Non-Governmental Organization, which has been active since 1989, providing legal assistance and social support to persons in need of international protection in Greece. GCR has a Consultative Status in the Economic and Social Council (ECOSOC) of the UN and is an implementing partner of the UN High Commissioner for Refugees (UNHCR).

The present submission concerns particularly the issues arising in relation to the prevention of torture and other cruel, inhuman or degrading treatment or punishment of persons in need of international (or other kind of) protection in Greece, namely asylum-seekers, refugees, persons granted subsidiary protection and persons granted leave to remain in the country for humanitarian reasons.

### **ATTACHED DOCUMENTS:**

1. AIDA Report on Greece, Update 2018, available at:  
<https://www.asylumineurope.org/reports/country/greece>
2. The new normality: Continuous push-backs of third country nationals on the Evros river, available at:  
<https://www.gcr.gr/el/ekdoseis-media/reports/item/1028-i-nea-kanonikotita-ston-evro-ameiotes-synexizontai-oi-paranomes-epanaproothiseis-politon-triton-xoron>
3. Borderlines of Despair: First-line reception of asylum seekers at the Greek borders, available at:  
<https://www.gcr.gr/media/k2/attachments/SCIZReportZfinalZPDF.pdf>
4. Limits of Indignation: the EU-Turkey Statement and its implementation in the Samos 'hotspot', available at:  
[https://www.gcr.gr/media/k2/attachments/Report\\_Samos.pdf](https://www.gcr.gr/media/k2/attachments/Report_Samos.pdf)
5. Administrative detention in Greece: Findings from the field (2018), Executive Summary, available at:  
[https://www.gcr.gr/media/k2/attachments/GCR\\_Ekthesi\\_Dioikitik\\_Kratisi\\_2019\\_en.pdf](https://www.gcr.gr/media/k2/attachments/GCR_Ekthesi_Dioikitik_Kratisi_2019_en.pdf)

OBSERVATIONS PER ARTICLE .....	3
ARTICLE 2 IN CONJUNCTION WITH ARTICLE 3 .....	3
Detention of asylum seekers .....	3
Lack of legal safeguards.....	3
Detention of unaccompanied minors with adults and men with women .....	4
Detention without individual assesment and examination of alternative measures .....	4
Detention on public order grounds without legal justification.....	5
Length of detention .....	5
Asylum procedure .....	5
Push-backs at the Greek-Turkish border.....	5
Obstacles of access to the asylum procedure .....	6
Delays in the asylum procedure .....	6
Shortcomings regarding fairness and impartiality of the asylum procedure .....	7
Differential treatment of specific nationalities in the procedure .....	9
Forms of violence against refugee women and women seeking asylum .....	10
ARTICLE 11 IN CONJUNCTION WITH ARTICLE 16.....	10
Detention conditions .....	10
Judicial review of detention orders.....	11
ARTICLE 16 .....	12
Lack of protection and detention of unaccompanied minors .....	12

## **OBSERVATIONS PER ARTICLE**

### **ARTICLE 2 IN CONJUNCTION WITH ARTICLE 3**

#### **Detention of asylum seekers<sup>1</sup>**

The number of administrative detainees in Greece is one of the highest among all EU Member States. Following a significant reduction of the number of detainees in 2015, the use of administrative detention has been gradually resumed, in particular after the launch of the EU-Turkey Statement of 18 March 2016. The total number of asylum seekers detained in 2018 was 18,204, almost doubling 2017 figures (9,534). Out of the total 2,933 persons detained by the end of 2018, 1,815 were asylum seekers.

#### **Lack of legal safeguards**

The ability of detainees to challenge their detention before domestic Courts is severely restricted in practice, due to the lack of information on their legal status and the possibility of challenging their detention and further due to the lack of free legal aid scheme<sup>2</sup>. As stated by the CPT, following the visit of the delegation in April 2018 “the delegation met again a large number of foreign nationals in the pre-removal centres visited who complained that the information provided was insufficient – particularly concerning their (legal) situation and length of detention – or that they were unable to understand this information... 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”.<sup>3</sup> Recent case-law of the ECtHR corroborates that major obstacles hinder the effective access to the domestic legal remedy against detention, in practice. In said case the Court found that the remedy was not available in practice due to the lack of information, as detention orders were written in Greek and they only included general and vague references regarding the legal avenues. Moreover, no free legal assistance was available and competent Courts were located on another island.<sup>4</sup>

In April 2018 regarding the provision of health care in pre-removal centres, the CPT found that “the available resources are totally inadequate compared to the

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<sup>1</sup> AIDA Report on Greece, Update 2018, pp. 145-163 and Administrative detention in Greece: Findings from the field (2018), Executive Summary.

<sup>2</sup> AIDA Report on Greece, Update 2018, pp. 170-173.

<sup>3</sup> CPT, *Report on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, paras 78-80.

<sup>4</sup> ECtHR, *J.R. and Others v. Greece*, application No 22696/16, 25 January 2018 and ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019.

needs observed. The number of health-care staff in each of the centres is insufficient. In some centres, there is no doctor and even the most basic medical equipment is lacking. There is also a total lack of effective routine medical screening of new arrivals, including screening for contagious diseases or vulnerabilities. In short, even the most basic health-care needs of detained persons are not being met”.<sup>5</sup> Official statistics demonstrate that the situation has not improved in the course of 2018 and that pre-removal centres continue to face substantial medical staff shortages. Out of the total 20 advertised positions for doctors in pre-removal centres, only 9 were actually occupied by the end of 2018. There was no doctor present in Paranesti, Lesvos and Kos and no psychiatrist in any of the pre-removal detention centres at the end of 2018<sup>6</sup>.

### **Detention of unaccompanied minors with adults<sup>7</sup> and men with women**

In March 2019, the European Court of Human Rights applying Rule 39 of the Rules of the Court, indicated interim measures in the case of two unaccompanied minors seeking international protection (represented by GCR’s Legal Unit) and ordered the Greek authorities to transfer them immediately from the pre-removal detention centre for adults to an accommodation facility for minors<sup>8</sup>. In addition, the CPT found in 2018 in one of the cells of Fylakio Pre-departure Centre “95 foreign nationals, including families with young children, unaccompanied minors, pregnant women and single adult men, who were detained in about 1m<sup>2</sup> of living-space per person”<sup>9</sup>. Detention of women with unrelated men has also been observed by GCR in Kos Pre-departure centre.

### **Detention without individual assessment and examination of alternative measures<sup>10</sup>**

No individual assessment procedure prior to the imposition of detention is in place and detention continues to apply indiscriminately, including against vulnerable applicants –families with children, persons suffering from mental health problems, victims of torture etc.-, while no alternatives to detention are examined or applied in practice.

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<sup>5</sup> CPT, *Preliminary Observations made by the CPT which visited Greece from 10 to 19 April 2018*, CPT/Inf (2018) 20, 1 June 2018, para 21.

<sup>6</sup> AIDA Report on Greece, Update 2018, pp. 167-169.

<sup>7</sup> See Article 11 in conjunction with article 16 for details regarding detention of minors and an overview of their protection challenges.

<sup>8</sup> *T.S. and M.S. v. Greece*, Application no. 15008/19

<https://www.gcr.gr/en/news/press-releases-announcements/item/1069-the-european-court-of-human-rights-grants-interim-measures-in-favour-of-two-detained-unaccompanied-girls>

<sup>9</sup> CPT, *Preliminary observations made by the CPT which visited Greece from 10 to 19 April 2018*, CPT/Inf (2018) 20, 1 June 2018, para 16

<sup>10</sup> AIDA Report on Greece, Update 2018, pp. 151-161.



### **Detention on public order grounds without legal justification<sup>11</sup>**

Public order is used as ground for detention in an excessive and, on numerous occasions, unjustified manner. 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. In addition, detention on national security or public order grounds has been also ordered for reasons of irregular entry into the territory, contrary to Article 31 of the Refugee Convention and the prohibition on detaining asylum seekers on account of their irregular entry or presence under Article 46(1) of Law 4375/2016.

### **Length of detention<sup>12</sup>**

GCR has observed delays in the full registration of applications for international protection of detainees for a period ranging in 2018, from one to four months, during which the detainees are deprived of the procedural guarantees provided to asylum applicants. Furthermore, since the time between the expression of intention of the detainee to apply for asylum and the full registration of the application is not counted in the duration of detention of an asylum seeker, applicants for international protection may be detained for a period exceeding the maximum time limits of 3 months, provided by Law 4375/2016. Delays are also observed with regards to the conduct of the asylum procedure per se in detention.

### **Asylum procedure<sup>13</sup>**

#### **Push-backs at the Greek-Turkish border<sup>14</sup>**

Following an increasing number of cases of alleged push-backs (summary returns without prior registration and access to the asylum procedure) at the Greek-Turkish border of Evros in 2017, allegations of push backs were systematically reported in 2018 as well. These persistent allegations have been decried *inter alia* by UNHCR, the European Committee for the Prevention of Torture (CPT) and the Commissioner for Human Rights of the Council of Europe, the National Commission for Human Rights and civil society organisations. For example, as noted by the CPT, during their visit in Greece, the delegation “received several consistent and credible allegations of informal forcible removals (push-backs) of foreign nationals by boat from Greece to Turkey at the Evros River border by

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<sup>11</sup> AIDA Report on Greece, Update 2018, p. 152 and Administrative detention in Greece: Findings from the field (2018), Executive Summary, p. 2

<sup>12</sup> AIDA Report on Greece, Update 2018, p. 162 and Administrative detention in Greece: Findings from the field (2018), Executive Summary, p. 2

<sup>13</sup> AIDA Report on Greece, Update 2018, pp. 42-85.

<sup>14</sup> The new normality: Continuous push-backs of third country nationals on the Evros river and AIDA Report on Greece, Update 2018, pp. 27-29.

masked Greek police and border guards or (para-)military commandos". According to the allegations, reported push-back operations in Evros follow a pattern of arbitrary arrest of newly arrived persons entering the Greek territory from the Turkish land borders, *de facto* detention, and transfer to the border from where they are pushed back to Turkey, without having the opportunity to apply for international protection in Greece, and thus prevented from accessing asylum in practice. No proper official investigation has been launched following these allegations. An *ex officio* investigation as launched by the Ombudsman in June 2017 has not been finalised yet. Moreover, an investigation of the Public Prosecutor of Orestiada (Evros) has been initiated in March 2019. In May 2019, GCR issued a press release regarding repeated complaints about push-backs of Turkish citizens in the Evros area and called on the competent judicial authorities to effectively investigate these allegations<sup>15</sup>. In June 2019, GCR submitted three complaints before the Prosecutor's Office regarding the cases of six victims of push-backs, who are represented by its Legal Unit, as well as a report before the Prosecutor of the Supreme Court<sup>16</sup>. GCR expresses its deep concern regarding violations of article 3 par. 2 of the Convention by the Greek Authorities in cases of persecuted Turkish citizens pushed-back to Turkey.

### **Obstacles of access to the asylum procedure<sup>17</sup>**

Access to asylum on the mainland is problematic due to the obligation for applicants to have fixed an appointment by Skype prior to appearing before the Asylum Service. Deficiencies in the Skype appointment system, stemming from limited capacity and availability of interpretation and barriers to applicants' access to the internet, hinder the access of persons willing to apply for asylum to the procedure. Consequently, prospective asylum seekers frequently have to try multiple times, often over a period of several months, before they manage to get through the Skype line. GCR has found third-country nationals, including persons belonging to vulnerable groups, detained on the basis of a removal order issued due to 'lack of legal documentation' according to the justification provided by the police, who argued that, despite multiple efforts, they did not manage to gain access to the asylum procedure through Skype.

### **Delays in the asylum procedure<sup>18</sup>**

The average processing time at first instance is reported at about 8.5 months in 2018 – 42 days on average between pre-registration and registration and 216 days on average between registration and issuance of a first instance decision. However, in the vast majority of still pending cases by the end of 2018, the interview had not been conducted. Thus, the backlog of cases pending for

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<sup>15</sup> <https://www.gcr.gr/en/news/press-releases-announcements/item/1141-gcr-publishes-a-press-release-about-repeated-complaints-on-pushbacks-in-evros>

<sup>16</sup> <https://www.gcr.gr/el/news/press-releases-announcements/item/1200-to-esp-katathetei-minyseis-kai-anafora-meta-apo-kataggelies-prosfiyon-gia-epanaproothiseis-ston-evro>

<sup>17</sup> AIDA Report on Greece, Update 2018, pp. 39-41.

<sup>18</sup> *Ibid.*, pp. 42-43 and 52.

prolonged periods is likely to increase in the future, as well as the processing time. More precisely, out of the total of 58,793 applications pending as of the end 2018, in 47,325 of them (80.5%) the personal interview had not yet taken place. Moreover, in more than half of the applications pending at the end of the year, the interview has been scheduled in a period of at least six months after the full registration: in 10,095 cases (21.3%) the interview has been scheduled within the second semester of 2019 and in 15,640 cases (33%) the interview is scheduled after 2019. As underlined by UNHCR, “[d]elays in interview scheduling times all over Greece are indicative of the extent of the current challenges. In Attica, the Fast-track Syria Unit applicants receive interview appointments for 2021, while in Thessaloniki interview dates are currently given for 2024 for applicants from Turkey, Iran and Afghanistan, and for late 2023 for Iraq and for African countries”.<sup>19</sup> . Consequently, for an important number of applicants the first instance examination will be significantly delayed. Moreover, processing time while the second instance procedure and judicial review should also be taken into consideration. In addition, no operating “backlog” Appeals Committees, competent for examining an approximate number of 3,500 appeals lodged before June 2016, were in place by the end of 2018. Therefore, in these cases the appellants have to wait for years in order the examination of their asylum application to be finalized.

### **Shortcomings regarding fairness and impartiality of the asylum procedure**

Without underestimating the fact that the recognition rate of the first instance procedure remains high, at 49.4% of in-merit decisions issued in 2018, GCR is aware of a number of first instance cases in 2018 where the assessment of the asylum claims and/or the decisions delivered raise issues of concern. Among others, these concern the credibility assessment and the wrong use of country of origin information (COI) and cases where first instance decisions have omitted the mental / psychological situation of the applicant even when supported by allegations of ill-treatment and torture<sup>20</sup>. As noted by the UNHCR, “while the quality of first instance examination remains largely in line with international and European recommended standards and procedural safeguards, UNHCR has observed a deterioration in quality at first instance as a result of the pressure resulting from the large pending caseload (62,418 as of 31/3/2019). Applications are being examined as fast as possible by a team of caseworkers, many of whom are new and not sufficiently trained and supported locally”.<sup>21</sup>

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<sup>19</sup> UNHCR, Communication from the United Nations High Commissioner for Refugees (UNHCR) in the M.S.S. and Rahimi groups v. Greece (Applications No. 30696/09, 8687/08), 15 May 2019, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168094938c](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168094938c).

<sup>20</sup> AIDA Report on Greece, Update 2018, pp. 46 and 96. According to information provided by the Asylum Service, 47 alleged victims of torture, rape or other serious forms of violence or exploitation were rejected at 1st instance in 2018, See AIDA Report p. 86.

<sup>21</sup> UNHCR, Communication from the United Nations High Commissioner for Refugees (UNHCR) in the M.S.S. and Rahimi groups v. Greece, *ibid*.

The fast-track border procedure applied on the islands raises, however, the most serious concerns<sup>22</sup>. The impact of the EU-Turkey statement has been *inter alia de facto* dichotomy of the asylum procedures applied in Greece. Asylum seekers arriving after 20 March 2016 on the Greek islands are subject to a fast-track border procedure, i.e an exceptional procedure. The United Nations Special Rapporteur on the Human Rights of migrants highlighted in 2017 that the provisions with regard to the exceptional derogation measures for persons applying for asylum at the border raise “serious concerns over due process guarantees”<sup>23</sup>. In 2018, the European Ombudsman found with regards admissibility interviews conducted by EASO personnel within the framework of the fast-track border procedure that “there are genuine concerns about the quality of the admissibility interviews as well as about the procedural fairness of how they are conducted.”<sup>24</sup> In February 2019, the EU Fundamental Rights Agency (FRA) noted that “almost three years of experience [of processing asylum claims in facilities at borders] in Greece shows, [that] this approach creates fundamental rights challenges that appear almost insurmountable”<sup>25</sup>. Within the framework of the fast-track border procedure, since mid-2016, the same template decision is issued to dismiss claims of Syrians applicants as inadmissible on the basis that Turkey is a safe third country for them. Accordingly, negative first instance decisions qualifying Turkey as a safe third country for Syrians are not only identical and repetitive – failing to provide an individualised assessment – but also out-dated insofar as they do not take into account developments after that period, such as the current legal framework in Turkey, including the derogation from the principle of *non-refoulement*. Second instance decisions issued by the Independent Appeals Committees for Syrian applicants systematically uphold the first instance inadmissibility decision, if no vulnerability is identified. Thus, the risk of chain-refoulement remains high.

Regarding fairness and impartiality at the stage of appeal, it should be noted that since the amendment of the composition of the Appeals Committees in June 2016, following reported EU pressure on Greece to respond to an overwhelming majority of decisions rebutting the presumption that Turkey is a “safe third country” or “first country of asylum” for asylum seekers, second instance recognition rate has decreased significantly. Despite a slight increase in 2018, recognition rates remain significantly low. Out of the total in-merit decisions

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<sup>22</sup> AIDA Report on Greece, *Ibid.* pp. 73-83.

<sup>23</sup> Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, available at: <https://www.refworld.org/docid/593a8b8e4.html>, para 78.

<sup>24</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office's' (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, 5 July 2018, available at: <https://www.ombudsman.europa.eu/el/decision/en/98711>, para 33.

<sup>25</sup> FRA, *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the 'hotspots' set up in Greece and Italy*, 3/2019, 4 March 2019.

issued in 2018, 2.8% granted refugee status, 1.5% subsidiary protection, 4.5% referred the case for humanitarian protection, and 91% were negative. This may be an alarming finding as to the operation of an efficient and fair asylum procedure in Greece<sup>26</sup>.

Furthermore, the effectiveness of legal remedies against a second instance negative decision is severely undermined by a number of practical and legal obstacles. *Inter alia*, the application for annulment and application for suspension can only be filled by a lawyer. However, no free legal aid scheme is available. Neither the application for annulment, nor the application for suspension has an automatic suspensive effect. Therefore, between the application of suspension and the decision of the Court, there is no guarantee that asylum-seekers 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, while the overall procedure is reported lengthy<sup>27</sup>.

Regarding legal assistance, it should be noted that no state-funded free legal aid is provided at first instance, nor is there an obligation to provide it in law. The free legal assistance and counselling is only provided by a number of civil society organisations but 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. A state-funded legal aid scheme in the appeals procedure, on the basis of a list managed by the Asylum Service, exists since September 2017. However, its capacity remains limited. Out of a total of 15,355 appeals lodged in 2018, only 3,351 (21.8%) asylum seekers benefited from the state-funded legal aid scheme<sup>28</sup>.

### **Differential treatment of specific nationalities in the procedure<sup>29</sup>**

Fast-track processing under the regular procedure has been applied since 23 September 2014 for Syrian nationals and stateless persons with former habitual residence in Syria. The fast-track procedure is available only for those who entered the Greek territory before the announcement of the EU-Turkey Statement or entering through the Greek Turkish land borders (in all other cases the fast-track border procedure is applied on the islands). Thus, the implementation of the EU-Turkey Statement has varied depending on the nationality of the applicants concerned. Applications by Syrian asylum seekers are examined on admissibility on the basis of the Safe Third Country concept, with the exception of Dublin cases and vulnerable applicants who are referred to the regular procedure. Applications by non-Syrian asylum seekers from countries with a recognition rate below 25% are examined only on the merits and applications by non-Syrian asylum seekers

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<sup>26</sup> AIDA Report on Greece, Update 2018, pp. 47-55

<sup>27</sup> *Ibid.* pp. 54-55

<sup>28</sup> *Ibid.* pp. 56-58.

<sup>29</sup> *Ibid.* p. 114



from countries with a recognition rate over 25% are examined on both admissibility and merits (“merged procedure”).

### **Forms of violence against refugee women and women seeking asylum**

Serious concerns with regards sexual and gender-based violence (SGBV) have been expressed, among others, by the UNHCR<sup>30</sup> and the Council of Europe Commissioner for Human Rights<sup>31</sup>. According to the UNHCR, sexual harassment, violence and abuse, including against men and boys, is a major risk in the reception centres and some mainland sites with poor lighting and few lockable shelters and latrines. There are limited shelters across Greece where women victims could be housed, and no dedicated shelters for men.<sup>32</sup> The limited number of specialised services, interpreters and police officers hinders the management of cases and perpetuates feelings of insecurity among the refugee population. Limited access to toilets and showers, and the uncoordinated allocation of shelter are of particular concern, especially for single parents and women<sup>33</sup>. In Moria RIC (Lesvos) and Vathy RIC (Samos), “bathrooms and latrines are no-go zones after dark for women and children, unless they are accompanied. Even bathing during day time can be dangerous”<sup>34</sup>.

## **ARTICLE 11 IN CONJUNCTION WITH ARTICLE 16**

### **Detention conditions<sup>35</sup>**

The overall detention conditions in pre-removal detention facilities, fail to meet standards, in many cases, *inter alia* due to their carceral, prison-like design, lack of sufficient hygiene and non-food items, including clothes and shoes, clean mattresses and clean blankets, and overcrowding persisting in some facilities. Police stations and other police facilities continue to be widely used in 2018 for detaining third country nationals, including asylum seekers. Out of the total 2,933 persons in immigration detention by the end of 2018, 835 persons (28.4%) were

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<sup>30</sup> UNHCR, ‘Refugee women and children face heightened risk of sexual violence amid tensions and overcrowding at reception facilities on Greek islands’, 9 February 2018, available at: [https://www.unhcr.org/5a7d67c4b?utm\\_source=PR\\_COMMMS&utm\\_medium=email&utm\\_content=UNHCR%20Communication%20Service&utm\\_campaign=HQ\\_EN\\_BriefingNotes\\_171027](https://www.unhcr.org/5a7d67c4b?utm_source=PR_COMMMS&utm_medium=email&utm_content=UNHCR%20Communication%20Service&utm_campaign=HQ_EN_BriefingNotes_171027)

<sup>31</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

<sup>32</sup> UNHCR, Factsheet: Greece, April 2019, <https://data2.unhcr.org/en/documents/download/69780>

<sup>33</sup> UNHCR, Factsheet: Greece, December 2018.

<sup>34</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, para 36.

<sup>35</sup> AIDA Report on Greece, Update 2018, pp. 164-170 and Administrative detention in Greece: Findings from the field (2018), Executive Summary.

detained in police stations. *Inter alia* no medical services are provided to police stations and other police facilities. Detention conditions in police stations and other police facilities are by their nature not suitable for detention exceeding 24 hours.

### **Judicial review of detention orders<sup>36</sup>**

In addition to the lack of information and free legal aid for administrative detainees mentioned above (See Article 2 in conjunction with article 3), it should also be noted that to a large extent, national remedy against detention (Objections against detention) is non-effective as the *per se* lawfulness of the detention, including detention conditions, are not effectively examined in that framework. The ECtHR has found that, in a number of cases, 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>37</sup> and that "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>38</sup> Based on the cases supported by GCR, it seems that Administrative Courts tend to not examine thoroughly complaints regarding detention conditions. Moreover, 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. To this end, it should be recalled that Objections against detention is the only, and thus the last available domestic legal remedy provided by national legislation to challenge administrative detention. Finally, the *ex officio* judicial review of the detention orders has been criticized as highly ineffective, due to the fact that the review is taking place in a stereotypical and rudimentary way. Official data corroborate these concerns. Out of the total 1,192 detention orders for asylum seekers examined by the Administrative Court of Athens in 2018, there have been just four cases where the *ex officio* review did not approve the detention measure imposed (0,3%).

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<sup>36</sup> AIDA Report on Greece, Update 2018, pp. 170-173.

<sup>37</sup> ECtHR, *R.T. v. Greece*, application no 5124/11, 11 February 2016; *Mahammad and others v. Greece*, application no 48352/12, 15 January 2015; *MD v. Greece*, application no 60622/11, 13 November 2014; *Housein v. Greece*, application no 71825/11, 24 October 2013. In the case *F.H. v. Greece*, application no 78456/11, 31 July 2014, the Court found a violation of Article 3 combined with Article 13, due to lack of an effective remedy in the Greek context in order to control detention conditions.

<sup>38</sup> ECtHR, *S.Z. v. Greece*, application No 66702/13, 21 June 2018, para 72.

## ARTICLE 16

### **Lack of protection and detention of unaccompanied minors<sup>39</sup>**

A regulatory framework for the guardianship of unaccompanied children was introduced for the first time in Greece in 2018. However, in practice, the system of guardianship is still not operating, given the fact that required secondary legislation has not been issued as of June 2019. Moreover, the lack of sufficient accommodation capacity results in a significant number of unaccompanied children being deprived of any reception conditions. As of 31 December 2018, there were 3,741 unaccompanied and separated children in Greece, but only 1,064 places in long-term dedicated accommodation facilities, and 895 places in temporary accommodation schemes. According to the official statistics, a number of 1,983 children were out of long term or temporary accommodation as of 31 December 2018. UNHCR notes that “as a result, many children spend lengthy periods in protective custody or in the RICs on the islands and Evros waiting for a place in age-appropriate shelters or other facilities. Others stay in informal housing or risk homelessness”. Furthermore, Greek law does not explicitly prohibit the detention of unaccompanied children and children are detained in practice, under the pretext of ‘protective custody’ while awaiting a place in a shelter to be found and despite the fact that ‘detention is never in their best interest’. As of 31 December 2018, out of the total number of children on the waiting list, 86 children were in detention facilities and 701 in RIC facilities. Detention on the basis of the provisions concerning “protective custody” is not subject to a maximum time limit. In February 2019, GCR issued a press release providing official data published by the National Centre of Social Solidarity (EKKA) as a response to the Minister’s of Migration declarations that “unaccompanied minors are not detained in Greece”<sup>40</sup>. According to EKKA’s data as of February 15, 2019, 82 unaccompanied minors were detained. In May 2019, the European Committee on Social Rights, decided to indicate to the Greek Authorities to take “immediate measures” in order to protect the rights of migrant children, including UAMs.<sup>41</sup>

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<sup>39</sup> AIDA Report on Greece, Update 2018, pp. 91-95, 99-101, 138-143 and 158-162.

<sup>40</sup> <https://www.gcr.gr/en/news/press-releases-announcements/item/1057-na-termatistei-amesa-i-kratisei-ton-asynodefton-paidion-stin-ellada>

<sup>41</sup> See 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, <http://hudoc.esc.coe.int/eng?i=cc-173-2018-dadmissandimmed-en>; see also ECRE/ICJ/GCR, European Committee on Social Rights decision on "immediate measures" for migrant children requires urgent action, June 2019, <https://www.gcr.gr/en/ekdoseis-media/echr-cases/echr-cases-decisions/item/1188-european-committee-on-social-rights-decision-on-immediate-measures-for-migrant-children-requires-urgent-action>.



### **Geographical restriction under inhuman and degrading conditions on the Eastern Aegean islands<sup>42</sup>**

Asylum seekers subject to the EU-Turkey Statement are issued a geographical restriction, ordering them not to leave the respective island until the end of the asylum procedure. The practice of geographical restriction has led to a significant overcrowding of the facilities on the islands and thus to the deterioration of reception conditions. Asylum seekers are obliged to reside for prolonged periods in overcrowded facilities, where food and water supply is reported insufficient, sanitation is poor and security highly problematic.


### **Racist violence<sup>43</sup>**

Despite the solidarity with refugees generally exhibited by local communities, incidents of racist violence and tension have been recorded through 2018 both on the islands and the mainland. As recently noted by the coordinator of the Racist Violence Recording Network there is an alarming expansion of racism and a continuation of the culture of violence at neighbourhoods. Attacks took place against refugees, members of solidarity groups and civil society organisations, and in one case against Asylum Service staff. A racist attack against a GCR's interpreter, who is refugee himself, took place in March 2019<sup>44</sup>.

Athens, 20.6.2019

### **Greek Council for Refugees**

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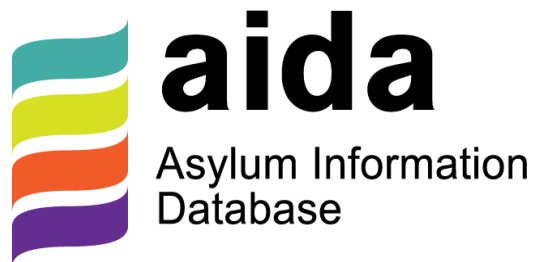
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<sup>42</sup> AIDA Report on Greece, Update 2018, pp. 119-121 and 128-131, 3. Borderlines of Despair: First-line reception of asylum seekers at the Greek borders, pp. 32-46 and Limits of Indignation: the EU-Turkey Statement and its implementation in the Samos 'hotspot'.

<sup>43</sup> AIDA Report on Greece, Update 2018, pp. 132-134.

<sup>44</sup> <https://www.gcr.gr/en/news/press-releases-announcements/item/1068-anakoinosi-to-esp-katadikazei-tin-ratsistiki-epithesi-pou-elave-xora-enantia-se-dierminea-tou-kai-zitei-tin-amesi-dierevnisi-tou-peristatikou-gia-tin-anevresi-kai-timoria-ton-draston>





# Country Report: Greece



2018  
Update



## Acknowledgements & Methodology

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

This report draws on information provided by the Asylum Service, the Appeals Authority and the Appeals Committees (PD 114/2010), the Directorate of the Hellenic Police, the Directorate for Protection of Asylum Seekers of the Ministry for Migration, the Reception and Identification Service, the Ministry of Foreign Affairs, the Administrative Court of Athens, the National Center for Social Solidarity (EKKA), the Hellenic Centre for Disease Control and Prevention (KEELPNO), Health Unit SA (AEMY), national and international jurisprudence, reports by European Union institutions, international and non-governmental organisations, as well as GCR's observations from practice and information provided by the GCR Legal and Social Unit.

GCR would like to particularly thank the abovementioned authorities for the data and clarifications provided on selected issues addressed to them by GCR Legal Unit, for the purposes of the present report.

The information in this report is up-to-date as of 31 December 2018, unless otherwise stated.

## The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 20 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



This report is part of the Asylum Information Database (AIDA), funded by the European Programme for Integration and Migration (EPIM), a collaborative initiative by the Network of European Foundations, and the European Union's Asylum, Migration and Integration Fund (AMIF) and Horizon 2020 research and innovation programme (grant agreement No 770037). The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of EPIM or the European Commission.



# Table of Contents

<b>Glossary</b> .....	<b>6</b>
<b>List of Abbreviations</b> .....	<b>7</b>
<b>Statistics</b> .....	<b>8</b>
<b>Overview of the legal framework</b> .....	<b>10</b>
<b>Overview of the main changes since the previous report update</b> .....	<b>14</b>
<b>Asylum Procedure</b> .....	<b>19</b>
<b>A. General</b> .....	<b>19</b>
1. Flow chart .....	19
2. Types of procedures .....	21
3. List of authorities intervening in each stage of the procedure .....	21
4. Number of staff and nature of the first instance authority .....	22
5. Short overview of the asylum procedure .....	26
<b>B. Access to the procedure and registration</b> .....	<b>27</b>
1. Access to the territory and push backs .....	27
2. Reception and identification procedure .....	29
3. Registration of the asylum application .....	38
<b>C. Procedures</b> .....	<b>42</b>
1. Regular procedure .....	42
2. Dublin .....	58
3. Admissibility procedure .....	70
4. Border procedure (airport and port transit zones) .....	71
5. Fast-track border procedure (Eastern Aegean islands) .....	73
6. Accelerated procedure .....	83
<b>D. Guarantees for vulnerable groups</b> .....	<b>85</b>
1. Identification .....	85
2. Special procedural guarantees .....	95
3. Use of medical reports .....	99
4. Legal representation of unaccompanied children .....	99
<b>E. Subsequent applications</b> .....	<b>101</b>
<b>F. The safe country concepts</b> .....	<b>103</b>
1. Safe third country .....	104
2. First country of asylum .....	110

3. Safe country of origin .....	110
<b>G. Information for asylum seekers and access to NGOs and UNHCR .....</b>	<b>111</b>
1. Provision of information on the procedure .....	111
2. Access to NGOs and UNHCR.....	113
<b>H. Differential treatment of specific nationalities in the procedure .....</b>	<b>114</b>
<b>Reception Conditions.....</b>	<b>115</b>
<b>A. Access and forms of reception conditions .....</b>	<b>115</b>
1. Criteria and restrictions to access reception conditions.....	115
2. Forms and levels of material reception conditions.....	116
3. Reduction or withdrawal of reception conditions.....	117
4. Freedom of movement.....	118
<b>B. Housing .....</b>	<b>122</b>
1. Types of accommodation .....	122
2. Conditions in reception facilities.....	126
<b>C. Employment and education .....</b>	<b>134</b>
1. Access to the labour market.....	134
2. Access to education .....	136
<b>D. Health care .....</b>	<b>138</b>
<b>E. Special reception needs of vulnerable groups .....</b>	<b>138</b>
<b>F. Information for asylum seekers and access to reception centres .....</b>	<b>143</b>
1. Provision of information on reception.....	143
2. Access to reception centres by third parties .....	143
<b>Detention of Asylum Seekers .....</b>	<b>145</b>
<b>A. General .....</b>	<b>145</b>
<b>B. Legal framework of detention .....</b>	<b>150</b>
1. Grounds for detention .....	150
2. Alternatives to detention.....	157
3. Detention of vulnerable applicants.....	158
4. Duration of detention.....	162
<b>C. Detention conditions .....</b>	<b>164</b>
1. Place of detention .....	164
2. Conditions in detention facilities.....	165
3. Access to detention facilities .....	170
<b>D. Procedural safeguards .....</b>	<b>170</b>
1. Judicial review of the detention order .....	170

2. Legal assistance for review of detention.....	173
<b>E. Differential treatment of specific nationalities in detention .....</b>	<b>174</b>
<b>Content of International Protection .....</b>	<b>175</b>
<b>A. Status and residence .....</b>	<b>175</b>
1. Residence permit .....	175
2. Civil registration.....	176
3. Long-term residence .....	176
4. Naturalisation .....	177
5. Cessation and review of protection status .....	180
6. Withdrawal of protection status .....	180
<b>B. Family reunification .....</b>	<b>181</b>
1. Criteria and conditions .....	181
2. Status and rights of family members.....	183
<b>C. Movement and mobility .....</b>	<b>184</b>
1. Freedom of movement.....	184
2. Travel documents.....	184
<b>D. Housing.....</b>	<b>185</b>
<b>E. Employment and education .....</b>	<b>187</b>
1. Access to the labour market.....	187
2. Access to education .....	188
<b>F. Social welfare .....</b>	<b>189</b>
<b>G. Health care .....</b>	<b>190</b>
<b>ANNEX I – Transposition of the CEAS in national legislation .....</b>	<b>191</b>

## Glossary

<b>EU-Turkey statement</b>	Statement of Heads of State or Government of 18 March 2016 on actions to address the refugee and migration crisis, including the return of all persons irregularly entering Greece after 20 March 2016 to Turkey.
<b>Fast-track border procedure</b>	Expedient version of the border procedure, governed by Article 60(4) of Law 4375/2016 and applicable in exceptional circumstances on the basis of a Ministerial Decision.
<b>Objections</b>	Procedure for challenging detention before the President of the Administrative Court, whose decision is non-appealable
<b>Old Procedure</b>	Asylum procedure governed by PD 114/2010, applicable to claims lodged before 7 June 2013
<b>Reception and Identification Centre</b>	Formerly First Reception Centre, closed centre in border areas where entrants are identified and referred to asylum or return proceedings. Six such centres exist in <b>Fylakio, Lesvos, Chios, Samos, Leros</b> and <b>Kos</b> .



## List of Abbreviations

<b>AEMY</b>	Health Unit SA   Ανώνυμη Εταιρεία Μονάδων Υγείας
<b>AIRE</b>	Advice on Individual Rights in Europe
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>AMKA</b>	Social Security Number   Αριθμός Μητρώου Κοινωνικής Ασφάλισης
<b>AAU</b>	Autonomous Asylum Unit   Αυτοτελές Κλιμάκιο Ασύλου
<b>AVRR</b>	Assisted Voluntary Return and Reintegration
<b>CERD</b>	United Nations Committee on the Elimination of Racial Discrimination
<b>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>GCR</b>	Greek Council for Refugees
<b>JMD</b>	Joint Ministerial Decision
<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
<b>MD</b>	Ministerial Decision
<b>NCHR</b>	National Commission for Human Rights
<b>PACE</b>	Parliamentary Assembly of the Council of Europe
<b>PD</b>	Presidential Decree
<b>RIC</b>	Reception and Identification Centre (formerly First Reception Centre)
<b>RIS</b>	Reception and Identification Service (formerly First Reception Service)
<b>RAO</b>	Regional Asylum Office   Περιφερειακό Γραφείο Ασύλου
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Statistics

### Overview of statistical practice

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

### Applications and granting of protection status at first instance: 2018

	Applicants in 2018	Pending at end 2018	Refugee status	Subsidiary protection	Rejection	Refugee rate	Subs. Prot. rate	Rejection rate
<b>Total</b>	66,969	58,793	12,611	2,578	15,559	41.1 %	8.3 %	50.6%

Breakdown by countries of origin of the total numbers

Syria	13,390	13,917	5,976	0	0	100%	0%	0%
Afghanistan	11,926	12,664	1,570	963	842	46.5%	28.5%	25%
Iraq	9,731	7,749	2,235	1,257	1,720	42.9%	24.1%	33%
Pakistan	7,743							
Turkey	4,834							
Albania	3,319							
Iran	1,763							
Bangladesh	1,552							
Palestine	1,519							
Georgia	1,460							

Source: Asylum Service, 26 March 2019.

<sup>1</sup> Asylum Service, *Statistical data*, available at: [http://asylo.gov.gr/en/?page\\_id=110](http://asylo.gov.gr/en/?page_id=110).

### Gender/age breakdown of the total number of applicants: 2018

	Number	Percentage
<b>Total number of applicants</b>	66,969	-
Men	32,260	48.2%
Women	12,939	19.3%
Children	21,770	32.5%
Unaccompanied children	2,639	3.5%

Source: Asylum Service, 26 March 2019.

### Comparison between first instance and appeal decision rates: 2018

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	30,748	-	6,178	-
Positive decisions	15,189	49.4%	271	4.3%
<i>Refugee status</i>	12,611	41%	176	2.8%
<i>Subsidiary protection</i>	2,578	8.4%	95	1.5%
<i>Referral for humanitarian status</i>	-	-	282	4.6%
Negative decisions	15,559	50.6%	5,625	91%

Source: Asylum Service, 26 March 2019.

## Overview of the legal framework

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

Title (EN)	Original Title (GR)	Abbreviation	Web Link
<p>Law 4375/2016 “Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive 2013/32/EU of the European Parliament and of the Council ‘on common procedures for granting and withdrawing international protection (recast)’ (L 180/29.6.2013), provisions on employment of beneficiaries of international protection” and other provisions. Gazette 51/A/3-4-2016</p> <p><i>Amended by:</i> Law 4399/2016, Gazette 117/A/22-6-2016  <i>Amended by:</i> Law 4461/2017, Gazette 38/A/28-3-2017  <i>Amended by:</i> Law 4485/2017, Gazette 114/A/4-8-2017  <i>Amended by:</i> Law 4540/2018, Gazette 91/A/22-5-2018</p>	<p>Νόμος 4375/2016 «Οργάνωση και λειτουργία Υπηρεσίας Ασύλου, Αρχής Προσφυγών, Υπηρεσίας Υποδοχής και Ταυτοποίησης σύσταση Γενικής Γραμματείας Υποδοχής, προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/32/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου «σχετικά με τις κοινές διαδικασίες για τη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας (αναδιατύπωση)» (L 180/29.6.2013), διατάξεις για την εργασία δικαιούχων διεθνούς προστασίας και άλλες διατάξεις. ΦΕΚ 51/A/3-4-2016</p> <p><i>Τροπ.:</i> Νόμος 4399/2016, ΦΕΚ 117/A/22-6-2016  <i>Τροπ.:</i> Νόμος 4461/2017, ΦΕΚ 38/A/28-3-2017  <i>Τροπ.:</i> Νόμος 4485/2017, ΦΕΚ 114/A/4-8-2017  <i>Τροπ.:</i> Νόμος 4540/2018, ΦΕΚ 91/A/22-5-2018</p>	<p>L 4375/2016 (Asylum Act)</p>	<p><a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN)  <a href="http://bit.ly/234vUhp">http://bit.ly/234vUhp</a> (GR)</p> <p><a href="http://bit.ly/2IKABdD">http://bit.ly/2IKABdD</a> (GR)  <a href="http://bit.ly/2y0vNq5">http://bit.ly/2y0vNq5</a> (GR)  <a href="http://bit.ly/2FLLM3H">http://bit.ly/2FLLM3H</a> (GR)  <a href="https://bit.ly/2KCbDx6">https://bit.ly/2KCbDx6</a> (GR)</p>
<p>Law 4540/2018 “Transposition of Directive 2013/33/EU of the European Parliament and of the council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast, L 180/96/29.6.2013) and other provisions... Amendment of asylum procedures and other provisions” Gazette 91/A/22-5-2018</p>	<p>Νόμος 4540/2018 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 26ης Ιουνίου 2013, σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία (αναδιατύπωση, L 180/96/29.6.2013) και άλλες διατάξεις - Τροποποίηση του ν. 4251/2014 (Α' 80) για την προσαρμογή της ελληνικής νομοθεσίας στην Οδηγία 2014/66/ΕΕ της 15ης Μαΐου 2014 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου σχετικά με τις προϋποθέσεις εισόδου και διαμονής υπηκόων τρίτων χωρών στο πλαίσιο ενδοεταίρικής μετάθεσης - Τροποποίηση διαδικασιών ασύλου και άλλες διατάξεις»</p>	<p>L 4540/2018 (Reception Act)</p>	<p><a href="https://bit.ly/2KCbDx6">https://bit.ly/2KCbDx6</a> (GR)</p>
<p>Law 3907/2011 “on the establishment of an Asylum Service and a First Reception Service, transposition into</p>	<p>Νόμος 3907/2011 «Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της</p>	<p>L 3907/2011</p>	<p><a href="http://bit.ly/1KH9dV">http://bit.ly/1KH9dV</a> (EN)</p>

<p>Greek legislation of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third country nationals" and other provisions. Gazette 7/A/26-01-2011</p> <p><i>Amended by:</i> Presidential Decree 133/2013, Gazette 198/A/25-09-2013 Law 4058/2012, Gazette 63/A/22-03-2012 Law 4375/2016, Gazette 51/A/3-4-2016</p>	<p>ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/ΕΚ «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη-μέλη για την επιστροφή των παρανόμως διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις» ΦΕΚ 7/A/26-01-2011</p> <p><i>Τροποποίηση από:</i> Προεδρικό Διάταγμα 133/2013, ΦΕΚ 198/A/25-09-2013 Νόμος 4058/2012, ΦΕΚ 63/A/22-03-2012 Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016</p>	<p>PD 133/2013 L 4058/2012 L 4375/2016</p>	<p><a href="http://bit.ly/1GfXFJ2">http://bit.ly/1GfXFJ2</a> (GR) <a href="http://bit.ly/1F0oiWx">http://bit.ly/1F0oiWx</a> (GR) <a href="http://bit.ly/234vUhP">http://bit.ly/234vUhP</a> (GR)</p>
<p>Presidential Decree 114/2010 "on the establishment of a single procedure for granting the status of refugee or of beneficiary of subsidiary protection to aliens or to stateless persons in conformity with Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status" Gazette 195/A/22-11-2010</p> <p><i>Amended by:</i> Presidential Decree 116/2012, Gazette 201/A/19-10-2012 Presidential Decree 113/2013, Gazette 146/A/14-06-2013</p> <p>Presidential Decree 167/2014, Gazette 252/A/01-12-2014 Law 4375/2016, Gazette 51/A/3-4-2016</p>	<p>Προεδρικό Διάταγμα 114/2010 «Καθιέρωση ενιαίας διαδικασίας αναγνώρισης σε αλλοδαπούς και ανιθαγενείς του καθεστώτος του πρόσφυγα ή δικαιούχου επικουρικής προστασίας σε συμμόρφωση προς την Οδηγία 2005/85/ΕΚ του Συμβουλίου 'σχετικά με τις ελάχιστες προδιαγραφές για τις διαδικασίες με τις οποίες τα κράτη μέλη χορηγούν και ανακαλούν το καθεστώς του πρόσφυγα», ΦΕΚ 195/A/22-11-2010</p> <p><i>Τροποποίηση από:</i> Προεδρικό Διάταγμα 116/2012, ΦΕΚ 201/A/19-10-2012 Προεδρικό Διάταγμα 113/2013, ΦΕΚ 146/A/14-06-2013</p> <p>Προεδρικό Διάταγμα 167/2014, ΦΕΚ 252/A/01-12-2014 Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016</p>	<p>PD 114/2010 (Old Procedure Decree)</p> <p>PD 116/2012 PD 113/2013 PD 167/2014 L 4375/2016</p>	<p><a href="http://bit.ly/1LWAO3C">http://bit.ly/1LWAO3C</a> (EN)</p> <p><a href="http://bit.ly/1GfXCwV">http://bit.ly/1GfXCwV</a> (EN) <a href="http://bit.ly/1M36apZ">http://bit.ly/1M36apZ</a> (EN) <a href="http://bit.ly/1ENgV9B">http://bit.ly/1ENgV9B</a> (GR) <a href="http://bit.ly/1ct2sZY">http://bit.ly/1ct2sZY</a> (GR) <a href="http://bit.ly/234vUhP">http://bit.ly/234vUhP</a> (GR)</p>
<p>Presidential Decree 141/2013 "on the transposition into the Greek legislation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (L 337) on minimum standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted (recast)"</p>	<p>Προεδρικό Διάταγμα 141/2013 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2011/95/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 13ης Δεκεμβρίου 2011 (L 337) σχετικά με τις απαιτήσεις για την αναγνώριση και το καθεστώς των αλλοδαπών ή των ανιθαγενών ως δικαιούχων διεθνούς προστασίας, για ένα ενιαίο καθεστώς για τους πρόσφυγες ή για τα άτομα που δικαιούνται επικουρική προστασία και για το περιεχόμενο της παρεχόμενης προστασίας (αναδιατύπωση)», ΦΕΚ 226/A/21-10-2013</p>	<p>PD 141/2013 (Qualification Decree)</p>	<p><a href="http://bit.ly/21bV4aM">http://bit.ly/21bV4aM</a> (GR)</p>

Gazette 226/A/21-10-2013			
Presidential Decree 220/2007 on the transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers Gazette 251/A/13-11-2007	Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2003/9/ΕΚ του Συμβουλίου της 27ης Ιανουαρίου 2003, σχετικά με τις ελάχιστες απαιτήσεις για την υποδοχή των αιτούντων άσυλο στα κράτη μέλη, ΦΕΚ 251/A/13-11-2007	PD 220/2007 (Reception Decree)	<a href="http://bit.ly/2IIMseP">http://bit.ly/2IIMseP</a> (GR)
Law 4251/2014 "Immigration and Social Integration Code and other provisions" Gazette 80/A/01-04-2014	Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις» ΦΕΚ 80/A/01-04-2014	Immigration Code	<a href="http://bit.ly/1FOuxp0">http://bit.ly/1FOuxp0</a> (GR)
<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	<i>Τροπ:</i> Νόμος 4332/2015, ΦΕΚ 76/A/09-07-2015 <i>Τροπ.:</i> Νόμος 4540/2018, ΦΕΚ 91/A/22-5-2018	L 4332/2015	<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"  <i>Abolished by:</i> Law 4251/2014 except for Articles 76, 77, 78, 80, 81, 82, 83, 89(1)-(3) <i>Amended by:</i> Law 4332/2015	Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια»  <i>Καταργήθηκε από:</i> Νόμος 4251/2014 πλην των διατάξεων των άρθρων 76, 77, 78, 80, 81, 82, 83, 89 παρ. 1-3 <i>Τροπ.:</i> Νόμος 4332/2015	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)
Law 4554/2018 "Guardianship of unaccompanied children and other provisions" Gazette 130/A/18-7-2018	Νόμος 4554/2018 «Επιτροπεία ασυνόδευτων ανηλίκων και άλλες διατάξεις», ΦΕΚ 130/A/18-7-2018	L 4554/2018	<a href="https://bit.ly/2FAeL7z">https://bit.ly/2FAeL7z</a> (GR)
Presidential Decree 131/2006 on the transposition of Directive 2003/86/EC on the right to family reunification Gazette 143/A/13-7-2006  <i>Amended by:</i> PD 167/2008, PD 113/2013	Προεδρικό Διάταγμα 131/2006 Εναρμόνιση της ελληνικής νομοθεσίας με την Οδηγία 2003/86/ΕΚ σχετικά με το δικαίωμα οικογενειακής επανένωσης, ΦΕΚ 143/A/13-7-2006  <i>Τροπ:</i> ΠΔ 167/2008, ΠΔ 113/2013	PD 131/2006 (Family Reunification Decree)	<a href="http://bit.ly/2nHCPOu">http://bit.ly/2nHCPOu</a> (GR)

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

Title (EN)	Original Title (GR)	Abbreviation	Web Link
Joint Ministerial Decision οικ. 13257/2016 on the implementation of the special border procedure (Article 60(4) L 4375/2016)	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)

Gazette B/3455/26.10.2016			
Joint Ministerial Decision οικ. 12205 on the provision of legal aid to applicants for international protection Gazette B/2864/9-9-2016	Κοινή Υπουργική Απόφαση οικ. 12205: Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία, ΦΕΚ B/2864/9-9-2016	Legal Aid JMD	<a href="http://bit.ly/2kPSjzE">http://bit.ly/2kPSjzE</a> (GR)
Joint Ministerial Decision 1982/2016 on age assessment of applicants for international protection Gazette B/335/16-2-2016	Κοινή Υπουργική Απόφαση 1982/2016 διαπίστωση ανηλικότητας των αιτούντων διεθνή προστασία, ΦΕΚ B/335/16-2-2016	Age Assessment JMD	<a href="http://bit.ly/2lc8mDX">http://bit.ly/2lc8mDX</a> (GR)
Decision οικ. 868/2018 of the Director of the Asylum Service on the duration of international protection applicants' cards Gazette B/201/30.01.2018	Απόφαση αριθμ. οικ. 868/2018 της Διευθύντριας Υπηρεσίας Ασύλου: Διάρκεια ισχύος δελτίων αιτούντων διεθνή προστασία, ΦΕΚ B/201/30.01.2018	Asylum Seeker Card Decision	<a href="http://bit.ly/2DEDtka">http://bit.ly/2DEDtka</a> (GR)
Decision οικ. 8269/2018 of the Director of the Asylum Service on restriction of movement of applicants for international protection Gazette B/1366/20.04.2018	Απόφαση αριθμ. οικ. 8269/2018 του Διευθυντή Υπηρεσίας Ασύλου: Περιορισμός κυκλοφορίας των αιτούντων διεθνή προστασία, ΦΕΚ B/1366/20.04.2018	Restriction of Movement Decision	<a href="https://bit.ly/2NrYgO4">https://bit.ly/2NrYgO4</a> (GR)
Decision οικ. 18984/2018 of the Director of the Asylum Service on restriction of movement of applicants for international protection Gazette B/4427/05.10.2018	Απόφαση αριθμ. οικ. 18984/2018 του Διευθυντή Υπηρεσίας Ασύλου: Περιορισμός κυκλοφορίας των αιτούντων διεθνή προστασία, ΦΕΚ B/4427/05.10.2018	Restriction of Movement Decision	<a href="https://bit.ly/2QDDmkn">https://bit.ly/2QDDmkn</a> (GR)
Joint Ministerial Decision οικ. 10566 on the procedure for issuing travel documents to beneficiaries of and applicants for international protection Gazette B/3223/2-12-2014	Κοινή Υπουργική Απόφαση οικ. 10566 Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους διεθνούς προστασίας, καθώς και στους αιτούντες διεθνή προστασία, ΦΕΚ B/3223/2-12-2014	Travel Documents JMD	<a href="http://bit.ly/2mfwqXA">http://bit.ly/2mfwqXA</a> (GR)
Joint Ministerial Decision 7315/2014 on the procedure for granting residence permits to beneficiaries of international protection Gazette B/2461/16-9-2014	Κοινή Υπουργική Απόφαση 7315/29.8.2014 Διαδικασία χορήγησης ΑΔΕΤ στους δικαιούχους διεθνούς προστασίας, ΦΕΚ B/2461/16-9-2014	Residence Permits JMD	<a href="http://bit.ly/2o6rTuM">http://bit.ly/2o6rTuM</a> (GR)
Hellenic Police Circular 1604/17/681730 on participation of applicants for international protection in voluntary repatriation programmes of the International Organisation for Migration (IOM)	Εγκύκλιος Ελληνικής Αστυνομίας 1604/17/681730 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 the main changes since the previous report update

The report was previously updated in **March 2018**.

- ❖ A total of 32,494 persons arrived in Greece by sea in 2018, compared to 29,718 in 2017. The majority originated from Afghanistan (26%), Syria (24%) and Iraq (18%). More than half of the population were women (23%) and children (37%), while 40% were adult men. In addition, 18,014 persons arrived in Greece through the Greek-Turkish land border of Evros in 2018, compared to 6,592 in 2017.

While the number of asylum applications EU-wide dropped by 10% compared to 2017, the number of applications with the Greek Asylum Service rose by 14%; 66,969 in 2018 compared to 58,642 in 2017. Greece received the 11% of the total number of applications submitted in the EU, meaning that it was the third Member State with the largest number of applications, following Germany (28%) and France (19%). In 2018, Syrians continue to be the largest group of applicants with 13,390 applications. A substantial increase of applications submitted from Turkish nationals was noted in 2018; 4,834 applications in 2018, compared to 1,826 in 2017 and 189 in 2016.

- ❖ 2018 was the third year of the implementation of the EU-Turkey statement, despite the fact it was initially described “a temporary and extraordinary measure”. The order of the General Court of European Union (CJEU), by which the CJEU declared that “the EU-Turkey statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure”, became final in September 2018, as an appeal lodged before the CJEU was rejected.<sup>2</sup> The EU Fundamental Rights Agency (FRA) noted that “the past three years have shown that the manner in which the hotspot approach is applied in Greece is not sustainable from a fundamental rights point of view”.<sup>3</sup> From the launch of the EU-Turkey statement on 20 March 2016 until 31 December 2018, 1,484 individuals had been returned to Turkey on the basis of the statement. Of those, 337 were Syrian nationals. 36 of them have been returned on the basis that their asylum claims were found inadmissible at second instance on the basis of the “safe third country” concept.
- ❖ Substantial asylum reforms, driven by the implementation of the EU-Turkey statement, also took place in 2018. Provisions related to the implementation of the statement introduced by L 4375/2016 in April 2016 have been amended in June 2016 and subsequently in March 2017, August 2017 and May 2018. L 4540/2018 provided the possibility of participation of Greek-speaking EASO personnel in the regular procedure, and transposed the recast Reception Conditions Directive. On the involvement of the EASO in national asylum procedure, the European Ombudsman has highlighted that “In light of the Statement of the European Council of 23 April 2015 (Point P), in which the European Council commits to ‘deploy EASO teams in frontline Member States for joint processing of asylum applications, including registration and finger-printing’, EASO is being encouraged politically to act in a way which is, arguably, not in line with its existing statutory role.”<sup>4</sup>

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<sup>2</sup> CJEU, Cases C-208/17 P, C-209/17 P and 210/17 P *NF, NG and NM v European Council*, Order of 12 September 2018.

<sup>3</sup> FRA, *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the ‘hotspots’ set up in Greece and Italy*, 3/2019, 4 March 2019, available at: <https://bit.ly/2WpjLCF>.

<sup>4</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office’s (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, available



- ❖ Following an increasing number of cases of alleged push backs at the Greek-Turkish border of Evros in 2017, allegations of push backs were systematically reported in 2018. The persisting practice of alleged push backs has been decried *inter alia* by UNHCR, the European Committee for the Prevention of Torture (CPT) and the Commissioner for Human Rights of the Council of Europe, the National Commission for Human Rights and civil society organisations. No proper official investigation has been launched following these allegations. An *ex officio* investigation as launched by the Ombudsman in June 2017 has not been finalised yet.

#### *Asylum procedure*

- ❖ **Operation of the Asylum Service:** At the end of 2018, the Asylum Service operated in 23 locations throughout the country, compared to 22 locations at the end of 2017 and 17 locations at the end of 2016. The recognition rate at first instance in 2018 was 49.4%, up from 46% in 2017. The first instance recognition rate for unaccompanied children was 38%.
- ❖ **Registration:** Without underestimating the number of applications lodged in 2018, access to asylum on the mainland continued to be problematic throughout 2018. Access to the asylum procedure for persons detained in pre-removal centres is also a matter of concern. The average period between pre-registration and full registration was 42 days in 2018.
- ❖ **Processing times:** The average processing time at first instance is reported at about 8.5 months in 2018 – 42 days on average between pre-registration and registration, and 216 days on average between registration and issuance of a first instance decision). Out of the total of 58,793 applications pending as of the end 2018, in 47,325 (80.5%) the personal interview had not yet taken place. Moreover, in more than half of the applications pending at the end of the year, the interview has been scheduled in a period of at least six months after the full registration: in 10,095 (21.3%) the interview has been scheduled within the second semester of 2019 and in 15,640 (33%) of cases the interview is scheduled after 2019. Thus, the backlog of cases pending for prolonged periods is likely to increase in the future.
- ❖ **Fast-track border procedure:** The impact of the EU-Turkey statement has been *inter alia* a *de facto* dichotomy of the asylum procedures applied in Greece. Asylum seekers arriving after 20 March 2016 on the Greek islands are subject to a fast-track border procedure. The United Nations Special Rapporteur on the human rights of migrants highlighted in 2017 that the provisions with regard to the exceptional derogation measures for persons applying for asylum at the border raise “serious concerns over due process guarantees”.<sup>5</sup> In 2018, the European Ombudsman found that “there are genuine concerns about the quality of the admissibility interviews as well as about the procedural fairness of how they are conducted.”<sup>6</sup> In February 2019, FRA noted that “almost three years of experience [of processing asylum claims in facilities at borders] in Greece shows, [that] this approach creates fundamental rights challenges that appear almost unsurmountable.”<sup>7</sup>

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at: <https://bit.ly/2XVUfXq>, para 33. The Decision of the European Ombudsman refers to the EASO involvement in the fast-track border procedure, however this finding is also valid with regard to EASO involvement in the regular procedure.

<sup>5</sup> Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, available at: <http://bit.ly/2rHF7kl>, para 78.

<sup>6</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office's (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, 5 July 2018, available at: <https://bit.ly/2XVUfXq>, para 33.

<sup>7</sup> FRA, *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the 'hotspots' set up in Greece and Italy*, 3/2019, 4 March 2019.

- ❖ **Appeal:** Since the amendment of the composition of the Appeals Committees competent for examining appeals in June 2016, following reported EU pressure on Greece to respond to an overwhelming majority of decisions rebutting the presumption that Turkey is a “safe third country” or “first country of asylum” for asylum seekers, the second instance recognition rate has decreased significantly. Despite a slight increase in 2018, recognition rates remain significantly low. Out of the total in-merit decisions issued in 2018, 2.8% granted refugee status, 1.5% subsidiary protection, 4.5% referred the case for humanitarian protection, and 91% were negative. This may be an alarming finding as to the operation of an efficient and fair asylum procedure in Greece.
  
- ❖ **Legal assistance:** A state-funded legal aid scheme in the appeal procedure on the basis of a list managed by the Asylum Service exists for the first time in Greece as of September 2017. Despite this welcome development, the capacity of the second instance legal aid scheme remains limited. Out of a total of 15,355 appeals lodged in 2018, only 3,351 (21.8%) asylum seekers benefited from the state-funded legal aid scheme. Therefore, compliance of the Greek authorities with their obligations under national legislation and the recast Asylum Procedures Directive remains a matter of concern and should be further assessed. Additionally, 600 applicants received legal aid in appeal procedures under UNHCR’s Memorandum of Cooperation with the Ministry of Migration Policy in 2018. This scheme was concluded by the first quarter of 2018.
  
- ❖ **Dublin:** In 2018, Greece addressed 5,211 outgoing requests to other Member States under the Dublin Regulation. Within the same period, 2,509 requests were expressly accepted, 139 were implicitly accepted and 1,561 were rejected. Additional obstacles to family reunification continued to occur in 2018 due to practices adopted by a number of the receiving Member States, which may underestimate the right to family life. The Greek Dublin Unit received 9,142 requests in 2018, compared to 1,998 incoming requests under the Dublin Regulation in 2017. Out of the total number of incoming requests only 233 were accepted. In a number of cases Dublin transfers have been suspended by domestic courts in different Member States.
  
- ❖ **Relocation:** During the phasing out of the relocation scheme, which officially ceased in September 2017, 293 transfers from Greece took place in 2018. In a report assessing the relocation programme, the Greek Ombudsman noted: “one may conclude that by accepting the actual amendment of the relocation scheme in practice by the EU-Turkey Joint Statement, the EU Member-States and the Commission limited the scope of the relocation scheme to a small fragment of asylum seekers that had nothing to do with the initial number of predictions of 2015.”<sup>8</sup> In a positive development, in March 2019 the Greek and Portuguese authorities concluded a bilateral agreement to relocate 1,000 asylum seekers from Greece to Portugal by the end of the year.
  
- ❖ **Safe third country:** Since mid-2016, the same template decision is issued to dismiss claims of Syrians applicants as inadmissible on the basis that Turkey is a safe third country for them. Accordingly, negative first instance decisions qualifying Turkey as a safe third country for Syrians are not only identical and repetitive – failing to provide an individualised assessment – but also outdated insofar as they do not take into account developments after that period, such as the current legal framework in Turkish, including the derogation from the principle of *non-refoulement*. Second instance decisions issued by the Independent Appeals Committees for Syrian applicants systematically uphold the first instance inadmissibility decisions, if no vulnerability is identified.

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<sup>8</sup> *Ibid*, 49.

- ❖ **Identification:** Major delays occur in the identification of vulnerability on the island, due to significant lack of qualified staff, which in turn also affects the asylum procedure. As highlighted in the report of the Commissioners for Human Rights of the Council of Europe, “the vulnerability assessment procedure... is reportedly excessively lengthy and often fails”.<sup>9</sup> In a positive development, a regulatory framework for the guardianship of unaccompanied children was introduced for the first time in Greece in 2018. In practice, the system of guardianship is still not operating, as required secondary legislation has not been issued as of March 2019.

#### *Reception conditions*

- ❖ **Freedom of movement:** Asylum seekers subject to the EU-Turkey statement are issued a geographical restriction, ordering them not to leave the respective island until the end of the asylum procedure. The practice of geographical restriction has led to a significant overcrowding of the facilities on the islands and thus to the deterioration of reception conditions. On 17 April 2018, following an action brought by GCR, the Council of State annulled the Decision of the Director of the Asylum Service regarding the imposition of the geographical limitation. A new 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. This Decision was replaced in October 2018. A new application for annulment has been filled by GCR before the Council of State against both Decisions of the Directive of the Asylum Service. The hearing of the case has been scheduled for April 2019.
- ❖ **Reception capacity:** Most temporary camps on the mainland, initially created as emergency accommodation facilities, continue to operate without clear legal basis or official site management. Official data as of their capacity are not available, however, as reported, a number of 16,110 persons were accommodated as of September 2018.

In December 2018, 22,686 people were accommodated under the UNHCR accommodation scheme (ESTIA), 5,649 of whom were recognised refugees and 17,037 were asylum seekers. The occupancy rate of the scheme was 98%. Respectively, as of 31 December 2018, there were 3,741 unaccompanied and separated children in Greece but only 1,064 places in long-term dedicated accommodation facilities, and 895 places in temporary accommodation. On the Eastern Aegean islands, the nominal capacity of reception facilities, including RIC and other facilities, was at 8,245 places as of 31 December 2018, while a total of 14,615 newly arrived persons remained there. The nominal capacity of the RIC facilities (hotspots) was of 6,438 while 11,683 were residing there under a geographical restriction. Compliance of the Greek authorities with their obligations under the recast Reception Conditions Directive should be assessed against the total number of persons with pending asylum applications, i.e. 58,793 applications pending at first instance and about 17,300 appeals pending at the end of 2018.

- ❖ **Living conditions:** Reception facilities on the islands remain substandard and may reach the threshold of inhuman and degrading treatment, as it has been widely documented. Overcrowding, lack of basic services, including medical care, limited sanitary facilities, and violence and lack of security poses significant protection risks. The mental health of the applicants on the islands is reported aggravating. On the mainland, even if the capacity in sites has increased, the shortage of accommodation country-wide is increasingly leading to the overcrowding of many mainland camps, creating tension and increasing protection risks for the residents.

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<sup>9</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>, para 46.

## *Detention of asylum seekers*

- ❖ **Statistics:** The total number of detention orders issued in 2018 was 31,126 compared to 25,810 in 2017. The total number of asylum seekers detained throughout the year was 18,204, almost doubling 2017 figures (9,534). The total number of third-country nationals in detention at the end of 2018 was 2,933. Of those, 835 persons (28.4%) were detained in police stations. Moreover, out of the total 2,933 persons detained by the end of 2018, 1,815 were asylum seekers.
- ❖ **Detention facilities:** There were 8 active pre-removal detention centres in Greece at the end of 2018. Police stations continued to be used for prolonged immigration detention.
- ❖ **Detention of vulnerable persons:** Persons belonging to vulnerable groups are detained in practice, without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order. Due to the lack of accommodation facilities or transit facilities for children, detention of unaccompanied children is systematically imposed and may be prolonged for periods. A number of 42 unaccompanied children were detained (“protective custody”) in the pre-removal detention centre of Amygdaleza, 44 in police stations and 701 in RIC on the Eastern Aegean islands and Evros, by the end of 2018. In March 2019, in a case supported by GCR, the ECtHR ordered Rule 39 interim measures regarding two unaccompanied girls placed in protective custody in the pre-removal centre of Tavros while waiting to be transferred to a shelter, and requested the authorities to immediately transfer the girls to an accommodation facility for minors and ensure that their living conditions are in line with Article 3 ECHR.
- ❖ **Detention conditions:** Conditions of detention in pre-removal centres, in many cases fail to meet standards, *inter alia* due to their carceral, prison-like design. Police stations and other police facilities, which by their nature are not suitable for detention exceeding 24 hours, continue to fall short of basic standards. On the overall, available medical services provided in pre-removal centres are inadequate compared to the needs observed. At the end of 2018, out of the total 20 advertised positions for doctors in pre-removal centres, only 9 were actually present. There was no doctor present in Paranesti, Lesbos and Kos and no psychiatrist in any of the pre-removal detention centres at the end of 2018. Medical services are not provided in police stations.

## *Content of international protection*

- ❖ **Family reunification:** 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 of refugees. However administrative obstacles which hinders the effective exercise of the right to family reunification for refugees persists. As noted by the Council of Europe Commissioner for Human Rights, these obstacles result in a short number of beneficiaries of international protection being able to initiate a family reunification procedure.<sup>10</sup> In 2018, 346 applications for family reunification were submitted before the Asylum Service. The Asylum Service took 19 positive decisions, 6 partially positive decisions and 16 negative decisions. Respectively, 10 applications for family reunification were submitted in 2018 before the Aliens Police Directorate of Attica by applicants recognised as refugees under the “old procedure”. Of those, only 2 applications were accepted. Greek Consulate Authorities have issued a total of 15 visas for family reunification of refugees in 2018.

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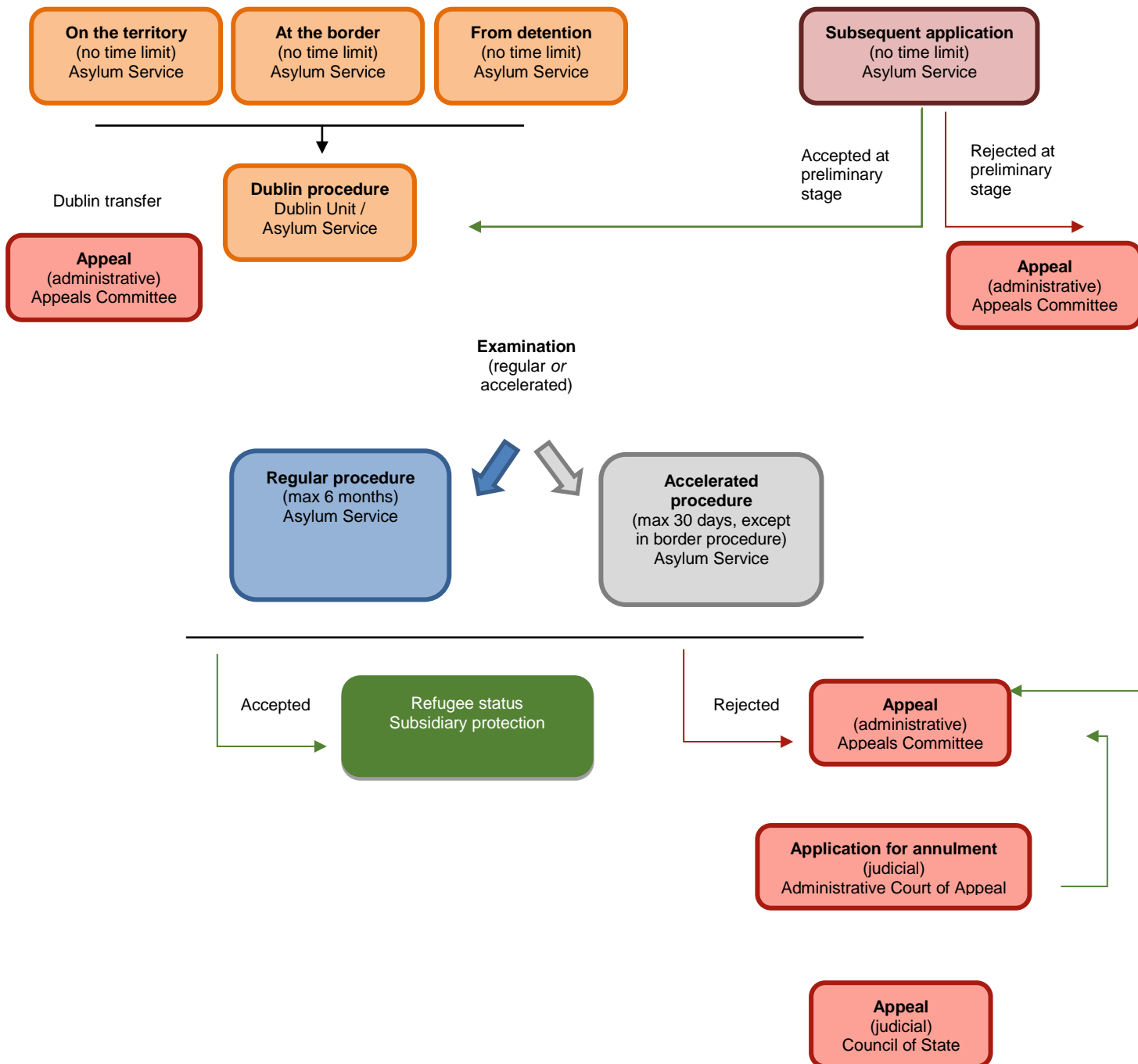
<sup>10</sup> Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 68-69.

# Asylum Procedure

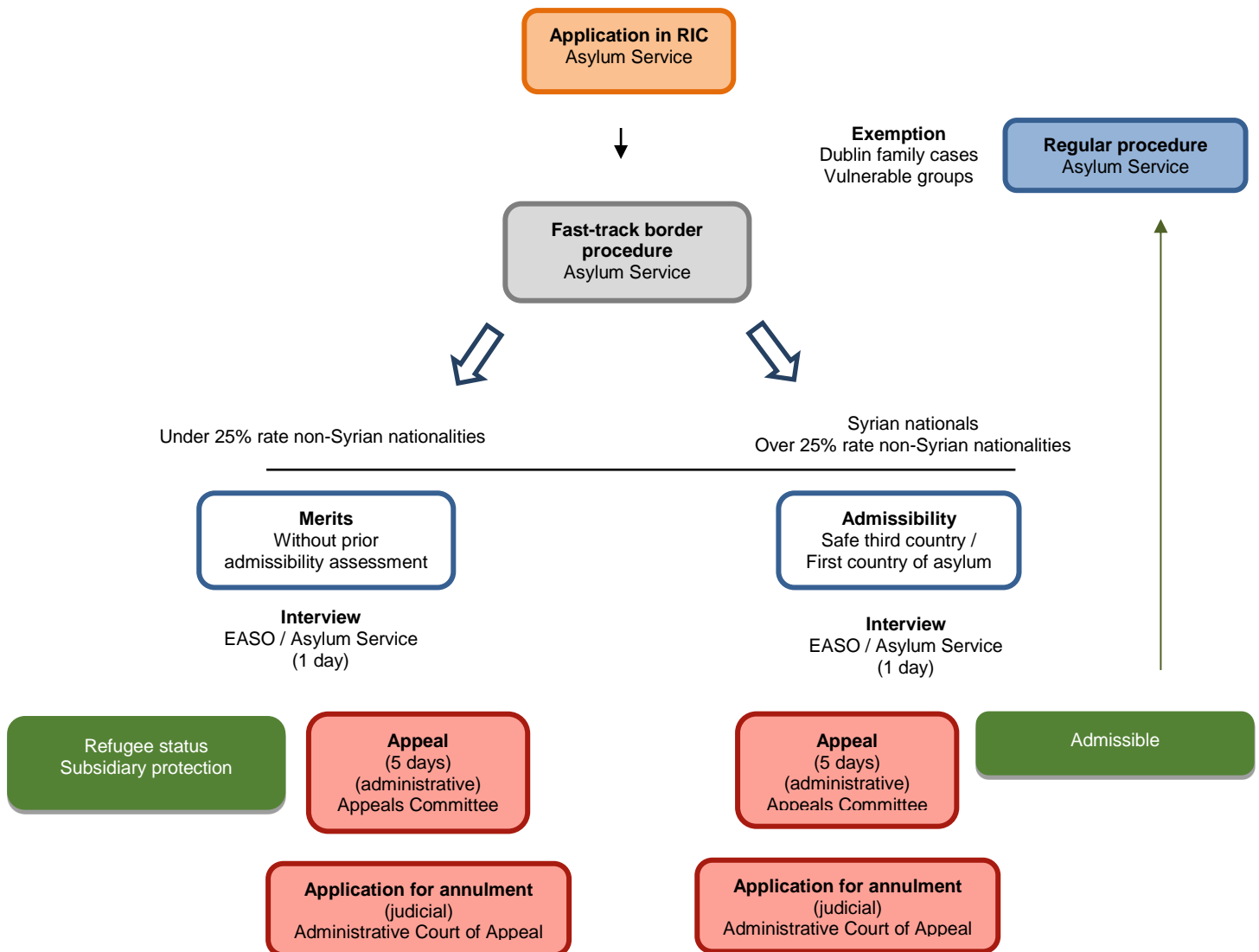
## A. General

### 1. Flow chart

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



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



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

## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

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

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

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

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

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

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

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

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

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the first instance authority? <sup>14</sup>
Asylum Service	679	Ministry of Migration Policy	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
EASO	Not available		

Source: Asylum Service, 26 March 2019.

##### 4.1. Staffing and capacity

Article 6(1) PD 104/2012, as modified by L 4375/2016, provides for 12 Regional Asylum Offices (RAO) to be set up in Attica, Thessaloniki, Thrace, Epirus, Thessaly, Western Greece, Crete, Lesvos, Chios, Samos, Leros and Rhodes. It is possible to establish more than one Regional Asylum Office per region by way of Ministerial Decision for the purpose of covering the needs of the Asylum Service.<sup>15</sup>

At the end of 2018, the Asylum Service operated in 23 locations throughout the country, compared to 22 locations at the end of 2017 and 17 locations at the end of 2016.<sup>16</sup> A new Autonomous Asylum Unit (AAU) in **Ioannina**, Western Greece started operating mid-March 2018.<sup>17</sup>

12 RAO and 11 AAU were operational as of 31 December 2018:

Operation of Regional Asylum Offices and Autonomous Asylum Units: 2018		
Regional Asylum Office	Start of operation	Registrations 2018
Attica	Jun 2013	8,377
Thrace	Jul 2013	2,385
Lesvos	Oct 2013	17,270
Rhodes	Jan 2014	727
Patra	Jun 2014	775
Thessaloniki	Jul 2015	7,369
Samos	Jan 2016	6,743
Chios	Feb 2016	4,082
Leros	Mar 2016	1,784
Alimos	Sep 2016	2,572
Piraeus	Sep 2016	2,053
Crete	Dec 2016	765
Autonomous Asylum Unit	Start of operation	Registrations 2018
Fylakio	Jul 2013	4,182
Amygdaleza	Sep 2013	1,901
Xanthi	Nov 2014	1,232

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

<sup>15</sup> Article 1(3) L 4375/2016.

<sup>16</sup> Information provided by the Asylum Service, 26 March 2019; Asylum Service, 'The work of the Asylum Service in 2017', 25 January 2018, available at: <http://bit.ly/2BsCDGd>.

<sup>17</sup> Asylum Service Director Decision 3028, Gov. Gazette B' 310/2.02.2018.



Kos	Jun 2016	2,141
Corinth	Aug 2016	1,972
Fast-Track Syria (Attica)	Nov 2016	-
Applications from Pakistan	Dec 2016	-
Applications from Albania and Georgia	Mar 2017	-
Beneficiaries of international protection	Jun 2017	-
Applications from custody	Jun 2017	-
Ioannina	Mar 2018	639

Source: Asylum Service, 26 March 2019; *Regional Asylum Offices*: <http://bit.ly/2opit9F>.

Applications lodged in **Attica** include applications lodged before the AAU for applications from Pakistan, the AAU Fast-Track Syria and the AAU Applications from custody. Applications lodged in **Thessaloniki** include applications lodged before the AAU for applications from Georgia and Albania.

The number of employees of the Asylum Service, distributed across the Central Asylum Service, RAO and AAU, was 679 at the end of 2018, compared to 515 at the end of 2017. The total number of staff of the Asylum Service includes 320 permanent employees and 359 staff members on fixed-term contracts. 179 officials were hired in 2018, of whom 48 permanent employees and 131 staff members on fixed-term contracts. A further 156 permanent employees are expected to be recruited in the first semester of 2019.<sup>18</sup>

Out of the total number of staff, the distribution of Asylum Service staff by RAO or AAU at the end of 2018 was as follows:

Distribution of active Asylum Service staff: 31 December 2018			
Location	Permanent	Fixed-term	Total
Fast Track (Syria)	2	12	14
AAU Applications from Albania and Georgia	8	2	10
AAU Beneficiaries of international protection	5	4	9
AAU Applications from custody	1	1	2
AAU Applications from Pakistan	5	2	7
RAO Alimos	13	30	43
AAU Amygdaleza	6	10	16
RAO Attica	64	38	102
RAO Patra	5	3	8
RAO Thessaloniki	37	19	56
RAO Thrace	10	11	21
AAU Ioannina	4	2	6
AAU Corinth	5	10	15
RAO Crete	8	2	10
AAU Kos	2	10	12
RAO Leros	3	10	13
RAO Lesvos	8	25	33
AAU Xanthi	4	6	10
RAO Piraeus	9	33	42
RAO Rhodes	4	6	10

<sup>18</sup> Information provided by the Asylum Service, 26 March 2019.

RAO Samos	1	19	20
AAU Fylakio	3	8	11
RAO Chios	5	21	26
<b>Total</b>	<b>212</b>	<b>284</b>	<b>496</b>

Source: Asylum Service, 26 March 2019.

The short term working status of almost half of the total number of the employees of the Asylum Service staff, coupled with the precarious working environment for employees, may create problems in the operation of the Asylum Service. For example, between 5 and 21 March 2018, fixed-term staff have stopped providing their services (*επίσχεση εργασίας*) as they have remained unpaid for a period exceeding three months.<sup>19</sup> Consequently, as a number RAO such as **Lesvos** and **Samos** are mainly staffed with fixed-term employees, they have temporarily halted their operation during that period.

In April 2016, the law introduced the possibility for the Asylum Service to be assisted by European Asylum Support Office (EASO) personnel “exceptionally” and “in case where third-country nationals or stateless persons arrive in large numbers”, within the framework of the [Fast-Track Border Procedure](#).<sup>20</sup> By a subsequent amendment in June 2016, national legislation explicitly provided the possibility for the asylum interview within that procedure to be conducted by an EASO caseworker.<sup>21</sup> In May 2018, a reform introduced the possibility of participation of Greek-speaking EASO personnel in the [Regular Procedure](#). The law provides that in case of urgent need, EASO personnel can carry out any administrative procedure needed for processing applications.<sup>22</sup> EASO caseworkers have conducted interviews under the regular procedure since the end of August 2018.<sup>23</sup>

In the course of 2018, EASO deployed among others 175 caseworkers (Interviewers) from other Member States, 91 locally recruited caseworkers (Interim Interviewers), 29 vulnerability experts, 2 Dublin experts and 2 country of origin information (COI) experts.<sup>24</sup>

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

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

<sup>19</sup> The Press Project, ‘Ξεκίνησαν επίσχεση εργασίας οι εργαζόμενοι της Υπηρεσίας Ασύλου’, 7 March 2018, available in Greek at: <http://bit.ly/2ldZYzR>.

<sup>20</sup> Article 60(4)(b) L 4375/2016.

<sup>21</sup> Article 60(4)(b) L 4375/2016, as amended by Article 80(13) L 4399/2016.

<sup>22</sup> Article 36(11) L 4375/2016, inserted by Article 28(7) L 4540/2018.

<sup>23</sup> Information provided by EASO, 13 February 2019.

<sup>24</sup> *Ibid.*

<sup>25</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office’s’ (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, available at: <https://bit.ly/2XVUfXq>, para 33. The Decision of the European Ombudsman refers to the EASO involvement in the fast-track border procedure, however this finding is also valid with regard to EASO involvement in the regular procedure.

Nevertheless, the Ombudsman decided to close the case by taking into consideration that it is likely that EASO's founding Regulation will be amended in the near future.<sup>26</sup> No amendment of the EASO Regulation has taken place at the time of the writing.

Despite the growth of the Asylum Service in particular since 2016, its capacity should be further monitored, given that the number of applications submitted before the Asylum Service remained significantly high. The additional pressure on the Asylum Service to accelerate the asylum procedure may undermine the quality of first instance decisions, which in turn would prolong the overall length of procedure, as more work would be shifted to the appeals stage.<sup>27</sup>

In 2018, while the number of asylum applications EU-wide dropped by 10% compared to 2017, the number of claims lodged before the Asylum Service rose by 14%; 66,969 in 2018 compared to 58,642 in 2017. Greece received the 11% of the total number of applications submitted in the EU, meaning that it was the third Member State with the largest number of applications, following Germany (28%) and France (19%).<sup>28</sup> In the first nine months of 2018, the Asylum Service issued twice as many decisions as the number it took in 2016.<sup>29</sup> However, by the end of 2018, a total of 58,793 applications were still pending (see [Regular Procedure](#)).

## 4.2. Training

Caseworkers of the Asylum Service responsible for examining applications and issuing decisions on asylum applications hold a degree in Law, Political Science or Humanities. Newly recruited staff has undergone an introductory training on the following topics: "Human Rights, Refugee Law and Greek Asylum Procedure", "Management of the Asylum Service database", "Cooperation with Interpreters", "Health and Safety Conditions", "Data Protection". In addition, during 2018 a number of trainings through an electronic platform and two-day seminars were also conducted based on the EASO materials on the following topics: "Refugee Status Determinations", "Interview technics", "Assessment of evidence", "Country of Origin Information", "CEAS", "Effective Administration" and "Exclusion from International Protection". 237 staff members participated in the training through the electronic platform and 37 staff members participated in EASO "train the trainers" seminars. Repeat trainings ("refreshers") have also been conducted in 2018 for a number of staff of the Asylum Service and trainings with regards the "Exclusion", in collaboration with UNHCR.

Specific trainings for handling vulnerable cases are provided to a number of caseworkers. An additional 10 staff members have been qualified in order to conduct interviews with vulnerable applicants. It should be mentioned that as all Asylum Service caseworkers are entitled to conduct interviews with all categories of applicants, including vulnerable persons, and that vulnerable cases may not be handled by staff specifically trained in interviewing vulnerable persons.

Trainings have also been conducted to EASO staff involved in the fast-track border procedure and the regular procedure, *inter alia* regarding the national procedures in which EASO staff participate. These trainings are conducted by Asylum Service staff in collaboration with EASO.

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<sup>26</sup> *Ibid.*, paras 34-35; A request to review this decision has been submitted by the complainant organisation in September 2018, see European Center for Constitutional and European Rights( ECHHR), European Ombudsperson should not close inquiry into maladministration by EASO in Greek Hotspots, available at: <https://bit.ly/2MKVJN8>.

<sup>27</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>28</sup> Eurostat, '580 800 first-time asylum seekers registered in 2018, down by 11% compared with 2017', 14 March 2019, available at: <https://bit.ly/2O32V9F>.

<sup>29</sup> *Ibid.*

## 5. Short overview of the asylum procedure

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

### First instance procedure

Asylum applications are submitted before the Asylum Service. Twelve Regional Asylum Offices and eleven Asylum Units were operational at the end of 2018. The Asylum Service is also competent for applying the **Dublin procedure**, with most requests and transfers concerning family reunification in other Member States. The Asylum Service may be assisted by European Asylum Support Office (EASO) staff in registration and interviews. Access to the asylum procedure still remains an issue of concern.

A **fast-track border procedure** is applied to applicants subject to the EU-Turkey statement, i.e. applicants arrived on the islands of Eastern Aegean islands after 20 March 2016, and takes place in the Reception and Identification Centres (RIC) where hotspots are established (Lesvos, Chios, Samos, Leros, Kos) and before the RAO of Rhodes. Under the fast-track border procedure, *inter alia*, interviews may also be conducted by EASO staff, while very short deadlines are provided to applicants. The concept of “safe third country” has been applied for the first time for applicants belonging to a nationality with a recognition rate over 25%, including Syrians.

### Appeal

First instance decisions of the Asylum Service are appealed before the Independent Appeals Committees under the Appeals Authority. An appeal must be lodged within 30 days in the regular procedure, 15 days in the accelerated procedure, in case of an inadmissibility decision or where the applicant is detained, and 5 days in the border procedure and fast-track border procedure. The appeal has automatic suspensive effect.

Since an amendment introduced in June 2016, following reported EU pressure on Greece with regards the implementation of the EU-Turkey Statement, *inter alia* the right to an oral hearing has been severely restricted. A further reform of March 2017 foresees the involvement of rapporteurs appointed by EASO, to assist the Appeals Committees in the examination of appeals.

An application for annulment may be filed before the Administrative Court of Appeals against a negative second instance decision within 60 days from the notification. No automatic suspensive effect is provided.

## B. Access to the procedure and registration

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

#### Indicators: Access to the Territory

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

A total of 32,494 persons arrived in Greece by sea in 2018, compared to 29,718 in 2017. The majority originated from Afghanistan (26%), Syria (24%) and Iraq (18%). More than half of the population were women (23%) and children (37%), while 40% were adult men.<sup>30</sup>

Moreover, 18,014 persons arrived in Greece through the Greek-Turkish land border of **Evros** in 2018, compared to a total of 6,592 in 2017, according to UNHCR data.<sup>31</sup>

According to Police statistics, 15,154 persons were arrested in 2018 for irregular entry on the Evros land border with Turkey,<sup>32</sup> compared to a total of 5,677 persons in 2017 and 3,784 persons in 2016.<sup>33</sup> 40% of those arrived in 2018 via Evros were Turkish nationals. A new trend of sea arrivals from Turkey to **Alexandroupoli**, the capital of the Evros region, has also been noted in the beginning of 2019. Out of 596 arrivals in Evros in January 2019, 202 were by boat.<sup>34</sup>

However, the figure of entries through the Turkish land border in 2018 may under-represent the number of people actually attempting to enter Greece through Evros, given that, following an increasing number of cases of alleged push backs at the Greek-Turkish border of Evros in 2017, cases of alleged push backs have been systematically reported in 2018 as well. A case of alleged push back at sea, regarding a boat with 54 persons, including 24 children close to **Samos** island, was reported in January 2019.<sup>35</sup>

According to these allegations, the Greek authorities in **Evros** continue to follow a pattern of arbitrary arrest of newly arrived persons entering the Greek territory from the Turkish land borders, *de facto* detention in police stations close to the borders (see [Grounds for Detention](#)), and transfer to the border, accompanied by the police, where they are pushed back to Turkey.

The persisting practice of push backs had been decried *inter alia* by UNHCR, Council of Europe bodies, the National Commission for Human Rights and civil society organisations, which have raised the alarm concerning such allegations throughout 2018.

In February 2018, a report issued by GCR documented a number of complaints of push backs in Evros region.<sup>36</sup> GCR mentioned that allegations of push backs have been consistent and increasing in numbers, referring *inter alia* to large families, pregnant women, victims of torture and children.

Following a visit to Greece in April 2018, the European Committee for the Prevention of Torture (CPT) stressed it had:

<sup>30</sup> UNHCR, *Greece – Sea arrivals dashboard*, December 2018, available at: <https://bit.ly/2BFpqNh>; *Factsheet: Greece*, December 2018, available at: <https://bit.ly/2t6YKQD>.

<sup>31</sup> UNHCR, *Mediterranean Situation, Greece*, available at: <https://bit.ly/2roctD6>.

<sup>32</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>33</sup> Hellenic Police, *Arrested irregular migrants for illegal entry or stay*, 2016-2017, available in Greek at: <https://bit.ly/2GI52oY>.

<sup>34</sup> Εφση, 'Άλλα λέει η Γερμανία, άλλα η πραγματικότητα', 1 February 2019, available in Greek at: <https://bit.ly/2N09FVj>.

<sup>35</sup> I Efimerida, 'Μετανάστης καταγγέλλει ότι το Λιμενικό προσπάθησε να βυθίσει τη βάρκα τους, ανοιχτά της Σάμου -Τι απαντά το ΕΛΣ', 17 January 2019, available in Greek at: <https://bit.ly/2UOTq0z>.

<sup>36</sup> GCR, *Reports of systematic pushbacks in the Evros region*, 20 February 2018, available at: <http://bit.ly/2FndTBN>.

“[R]eceived several consistent and credible allegations of informal forcible removals (push-backs) of foreign nationals by boat from Greece to Turkey at the Evros River border by masked Greek police and border guards or (para-)military commandos. In a number of these cases, the persons concerned alleged that they had been ill-treated and, in particular, subjected to baton blows after they had been made to kneel face-down on the boat during the push-back operations. These allegations, which were obtained through individual interviews with 15 foreign nationals carried out in private, all displayed a similar pattern and mainly referred to incidents that had taken place between January and early March 2018, whereas some dated back to 2017. The persons who alleged that they had been pushed back from Greece to Turkey had again entered Greek territory, and had subsequently been apprehended by the Greek police.”<sup>37</sup>

The CPT highlighted that the “information gathered during the visit suggests that – until early March 2018 – a number of foreign nationals were not effectively protected against the risk of refoulement” and urged the Greek authorities to prevent any form of push back.<sup>38</sup>

Respectively, in a report following her visit to Greece in June 2018, the Council of Europe Commissioner for Human Rights expressed her “deep concern about persistent and documented allegations of summary returns to Turkey, often accompanied by the use of violence” and also urged the Greek authorities to put an end to push backs and to investigate any allegations of ill-treatment perpetrated by members of Greek security forces in the context of such operations.<sup>39</sup>

In report published in August 2018, UNHCR mentioned that it continued to receive “numerous credible reports of alleged push-backs” by Greek authorities at the land border between Greece and Turkey,

“[I]ncluding by detaining persons, giving no opportunity to apply for asylum, and then summarily returning them to Turkey via the Evros River, with violence sometimes being used... UNHCR has received multiple accounts of such incidents since the start of the year referring to summary group returns through the river allegedly affecting several hundred people. Such returns pose several physical and other protection risks to persons affected, who often include children and vulnerable individuals.”<sup>40</sup>

In December 2018, GCR, Arsis and HumanRights360 published another report containing 39 testimonies of people who attempted to enter Greece from the Evros border with Turkey and were subjected to illegal detention and push backs.<sup>41</sup> 24 similar incidents have also been registered by Human Rights Watch, in a report issued during the same period.<sup>42</sup>

Despite the increasing number of allegations regarding push backs at the Greek Turkish land border in Evros, no proper official investigation has been launched following these allegations as the Greek

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<sup>37</sup> CPT, *Preliminary observations made by the CPT which visited Greece from 10 to 19 April 2018*, CPT/Inf (2018) 20, 1 June 2018, available at: <https://rm.coe.int/16808afaf6>, 24- 25. See also CPT, *Report to the Greek Government on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, available at: <https://rm.coe.int/1680930c9a>.

<sup>38</sup> *Ibid*, 24- 25.

<sup>39</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>, 64.

<sup>40</sup> UNHCR, *Desperate Journeys: Refugees and migrants arriving in Europe and at Europe's borders*, January-August 2018, available at: <https://bit.ly/2O1NSj8>, 17-18; *Desperate Journeys: Refugees and migrants arriving in Europe and at Europe's borders*, January-December 2018, available at: <https://bit.ly/2E35pl3>.

<sup>41</sup> GCR, Arsis and HumanRights360, *The new normality: Continuous push-backs of third country nationals on the Evros river*, December 2018, available at: <https://bit.ly/2DsFj9S>.

<sup>42</sup> Human Rights Watch, ‘Greece: Violent Pushbacks at Turkey Border’, 18 December 2018, available at: <https://bit.ly/2SHfYme>.



authorities deny the allegations. In their response to the Council of Europe Commissioner for Human Rights' report, for example, the authorities "pointed out that the behaviours and practices denounced do not exist at all as operational activity and practice of the personnel of Border Guarding Agencies, who are mainly involved in actions for facing the phenomenon of illegal immigration at the Greek-Turkish borders". As stated, following "the conduct of investigation of a number of similar denounced incidents by the competent Agencies of Hellenic Police, the conclusion is reached that the said allegations cannot be confirmed",<sup>43</sup> without providing more information on the nature and the extent of this investigation.

However, in the same document, the authorities stated that operations "for the prevention of the immigrants' entry into our country is focused on their detection inside the Turkish territory by the use of technical means during their movement and approach to Evros river, and then on the prevention of its crossing, both by the use of light and sound signals from the Greek riverbank, and by the immediate arrival to the crossing point of floating patrols. Finally, the respective Turkish authorities are immediately informed in order to help the immigrants prior to their entry into the Greek territory".<sup>44</sup>

Beyond alleged push back practices, these 'preventive' operations raise issues of compatibility with the *non-refoulement* principle. Finally, bearing mind that the Hellenic Police operating at the Evros border is assisted by personnel of the European Border and Coast Guard (Frontex) in "prevention operations (entry prevention)" and "in the management of immigrants after their detection",<sup>45</sup> a thorough investigation into these allegations should also be conducted by Frontex.

In November 2018, the National Commission for Human Rights recalled "the need for timely and thorough investigation of the above complaints by the competent authorities in order to bring those responsible for the abovementioned illegal actions to justice."<sup>46</sup>

In January 2019, the UNHCR Representation in Greece commented that both UNHCR Offices in Greece and Turkey continue to receive credible allegations of push backs in Evros and noted that UNHCR is not satisfied by the procedure followed by the Greek authorities in order to investigate those allegations.<sup>47</sup>

An *ex officio* investigation into the cases of alleged push backs initiated by the Greek Ombudsman in June 2017, has not yet delivered results.<sup>48</sup>

During 2018, 174 persons have been reported dead or missing at the Aegean Sea or the Evros border.<sup>49</sup>

## 2. Reception and identification procedure

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

The "hotspot approach" was first introduced in 2015 by the European Commission in the European Agenda on Migration as an initial response to the exceptional flows.<sup>50</sup> Its adoption was part of the

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<sup>43</sup> Ministry of Citizen Protection, *Report of the Commissioner for Human Rights of the Council of Europe following her visit to Greece from 25 to 29 June 2018: Comments of the Ministry of Citizen Protection*, available at: <https://bit.ly/2SrXuGK>.

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

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

<sup>46</sup> National Commission for Human Rights, 'Statement on complaints regarding informal push-backs at the region of Evros', 29 November 2018, available at: <https://bit.ly/2SHpxkW>.

<sup>47</sup> Το Βίμα, 'Ο απολογισμός για το 2018 από την Υπατη Αρμοσσία του ΟΗΕ για τους Πρόσφυγες', 31 January 2018, available in Greek at: <https://bit.ly/2I6JAoL>.

<sup>48</sup> Ombudsman, Decision No 105, 9 June 2017, available in Greek at: <http://bit.ly/2ofLt6p>.

<sup>49</sup> UNHCR, *Mediterranean Situation, Greece*, available at: <https://bit.ly/2roctD6>; UNHCR, 'UNHCR saddened at deaths in Aegean Sea shipwreck', 17 March 2018, available at: <https://bit.ly/2Okdo0T>; Efsyn, 'Νεκροί πέντε Σύροι πρόσφυγες στον Έβρο', 30 September 2018, available in Greek at: <https://bit.ly/2TFLi1P>.

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 their obligations under EU law and swiftly identify, register and fingerprint incoming migrants, channel asylum seekers into asylum procedures, implement the relocation scheme and conduct return operations.<sup>51</sup>

For the achievement of this goal, EU Agencies, namely the European Asylum Support Office (EASO), Frontex, Europol and Eurojust, would work alongside the Greek authorities within the context of the hotspots.<sup>52</sup> The hotspot approach was also expected to contribute to the implementation of the relocation scheme, proposed by the European Commission in September 2015.<sup>53</sup> Therefore, hotspots were envisaged initially as reception and registration centres, where all stages of administrative procedures concerning newcomers – identification, reception, asylum procedure or return – would take place swiftly within their scope.

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

The total capacity of the five hotspot facilities was initially planned to be 7,450 places.<sup>54</sup> However, according to official data available by the end of 2018, their capacity has been reduced to 6,438 places:

Hotspot	Start of operation	Capacity	Occupancy
Lesvos	October 2015	3,100	5,010
Chios	February 2016	1,014	1,252
Samos	March 2016	648	3,723
Leros	March 2016	860	936
Kos	June 2016	816	762
<b>Total</b>		<b>6,438</b>	<b>11,683</b>

Source: National Coordination Centre for Border Control, Immigration and Asylum, Situation as of 31 December 2018: <https://bit.ly/2N1znbX>.

In March 2016, the adoption of the highly controversial EU-Turkey Statement committing “to end the irregular migration from Turkey to the EU”,<sup>55</sup> brought about a transformation of the so-called hotspots on the Aegean islands.

With the launch of the EU-Turkey statement, hotspot facilities turned into closed detention centres. People arriving after 20 March 2016 through the Aegean islands and thus subject to the EU-Turkey Statement were automatically *de facto* detained within the premises of the hotspots in order to be readmitted to Turkey in case they did not seek international protection or their applications were rejected, either as inadmissible under the [Safe Third Country](#) or [First Country of Asylum](#) concepts, or on the merits. Following criticism by national and international organisations and actors, as well as due to the limited capacity to maintain and run closed facilities on the islands with high numbers of people, the

<sup>50</sup> European Commission, *European Agenda on Migration*, COM(2015) 240, 13 May 2015, 6.

<sup>51</sup> European Commission, *The hotspot approach to managing migration flows*, available at: <http://bit.ly/2kESJFK>.

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

<sup>53</sup> Council Decisions (EU) 2015/1523 and 2015/1601 of 14 and 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, OJ 2015 L248/80.

<sup>54</sup> European Commission, *Third Report on the Progress made in the implementation of the EU-Turkey Statement*, COM(2016) 634, 28 September 2016.

<sup>55</sup> European Council, *EU-Turkey statement*, 18 March 2016, available at: <http://bit.ly/1VjZvOD>.



practice of blanket detention has largely been abandoned from the end of 2016 onwards. It has been replaced by a practice of systematic geographical restriction, i.e. an obligation not to leave the island and reside at the hotspot facility, which is imposed indiscriminately to every newly arrived person (see [Freedom of Movement](#)).

Since the launch of the EU-Turkey statement on 20 March 2016 and until 31 December 2018, 1,484 individuals had been returned to Turkey on the basis of the EU-Turkey Statement, of which 801 in 2016, 683 in 2017 and 322 in 2018. In total, Syrian nationals account for 337 persons (19%) of those returned. 36 of them have been returned on the basis that their asylum claims were found inadmissible at second instance on the basis of the “safe third country” concept. Moreover, of all those returned, 45% did not express the intention to apply for asylum or withdrew their intention or their asylum application in Greece.<sup>56</sup>

In this respect, it should be mentioned that on 28 February 2017, the European Union General Court gave an order, ruling that “the EU-Turkey statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure.” Therefore “the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States”.<sup>57</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.<sup>58</sup>

## 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 under L 4375/2016. In practice, the concept of reception and identification procedures for newly arrived law under Greek law predates the “hotspot” approach.

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

- (a) Identity and nationality verification;
- (b) Registration;
- (c) Medical examination and any necessary care and psychosocial support;
- (d) Provision of proper information about newcomers’ obligations and rights, in particular about the conditions under which they can access the asylum procedure; and
- (e) Identification of those who belong to vulnerable groups so that they be given the proper procedure.<sup>59</sup>

This approach was first implemented by the First Reception Centre (FRC) set up in **Evros** in 2013,<sup>60</sup> which has remained operational to date even though it has not been affected by the hotspot approach. Joint Ministerial Decision 2969/2015 issued in December 2015 provided for the establishment of five FRCs in the Eastern Aegean islands of **Lesvos, Kos, Chios, Samos and Leros**,<sup>61</sup> the regulation of

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<sup>56</sup> UNHCR, *Returns from Greece to Turkey*, 31 December 2018, available at: <https://bit.ly/2HM6txP>.

<sup>57</sup> General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: <http://bit.ly/2IWZPrr>.

<sup>58</sup> CJEU, Cases C-208/17 P, C-209/17 P and 210/17 P *NF, NG and NM v European Council*, Order of 12 September 2018.

<sup>59</sup> Article 7 L 3907/2011.

<sup>60</sup> Joint Ministerial Decision 11.1/1076/2012, Gov. Gazette 3543/B/31.12.2012; Reception and Identification Service, *RIC at Fylakio, Evros*.

<sup>61</sup> Joint Ministerial Decision No 2969/2015, Gov. Gazette 2602/B/2-12-2015.

which was provided by existing legislation regarding the First Reception Service.<sup>62</sup> However, this legislative act failed to respond to and regulate all the challenges arising within the scope of hotspots' functions. As a result, issues not addressed by the existing legal framework, for example the involvement of EU Agencies in different procedures, long remained in a legislative vacuum.

In the light of the EU-Turkey statement of 18 March 2016, the Greek Parliament adopted on 3 April 2016 a law "On the organisation and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EU, provisions on the employment of beneficiaries of international protection and other provisions". This reform was passed through L 4375/2016.<sup>63</sup>

L 4375/2016 has partially attempted to regulate the establishment and function of hotspots and the procedures taking place there. However, national legislation has failed to effectively regulate the involvement of the EU Agencies, for example Frontex agents.

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

According to Article 8(2) L 4375/2016, the RIS is responsible for "Registration, identification and data verification procedures, medical screening, identification of vulnerable persons, the provision of information, especially for international or another form of protection and return procedures, as well as the temporary stay of third-country nationals or stateless persons entering the country without complying with the legal formalities and their further referral to the appropriate reception or temporary accommodation structures."<sup>64</sup>

Moreover, Article 9(1) L 4375/2016 provides: "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. Reception and identification procedures include:

- a. the registration of their personal data and the taking and registering of fingerprints for those who have reached the age of 14,
- b. the verification of their identity and nationality,
- c. their medical screening and provision any necessary care and psycho-social support,
- d. informing them about their rights and obligations, in particular the procedure for international protection or the procedure for entering a voluntary return program,
- e. attention for those belonging to vulnerable groups, in order to put them under the appropriate, in each case, procedure and to provide them with specialised care and protection,
- f. referring those who wish to submit an application for international protection to start the procedure for such an application,
- g. referring those who do not submit an application for international protection or whose application is rejected while they remain in the RIC to the competent authorities for readmission, removal or return procedures."

According to the law, newly arrived persons should be directly transferred to a Reception and identification Centre (RIC), where they are subject to a 3-day "restriction of freedom within the premises of the centre" (*περιορισμός της ελευθερίας εντός του κέντρου*), which can be further extended by a

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<sup>62</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>63</sup> L 4375/2016, Gov. Gazette 51/A/3-4-2016, available at: <http://bit.ly/2kKm2cu>.

<sup>64</sup> See also Article 9 L 4375/2016, outlining the "reception and identification procedures".

maximum of 25 days if reception and identification procedures have not been completed.<sup>65</sup> This restriction of freedom entails “the prohibition to leave the Centre and the obligation to remain in it”.<sup>66</sup>

Bearing in mind that according to the law the persons should remain restricted within the premises of the RIC and are not allowed to leave, the measure provided by Article 14 L4375/2016 is a *de facto* detention measure, even if it is not classified as such under Greek law. No legal remedy in order to challenge this “restriction of freedom” measure is provided by national legislation for the initial 3-day period.<sup>67</sup> Moreover, the initial restriction is automatically imposed,<sup>68</sup> as national law does not foresee an obligation to conduct an individual assessment.<sup>69</sup> This measure may also applied to asylum seekers even after the lodging of their application, requiring them to remain in the premises of RIC for a total period of 25 days.<sup>70</sup>

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

As regards persons arriving on the Eastern Aegean islands and thus subject to the EU-Turkey Statement, as mentioned above, at the early stages of the implementation of the Statement, a detention measure, 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, was systematically and indiscriminately imposed to all newcomers.

Following criticism by national and international organisations and actors, and due to limited capacity to maintain and run closed facilities on the islands with high numbers of populations,<sup>71</sup> the “restriction of freedom” within the RIC premises as a *de facto* detention measure is no longer applied in the RIC of **Lesvos, Chios, Samos, Leros** and **Kos**, as of the end of 2016. In most cases, newly arrived persons are allowed to exit the RIC, at least after some days. However, a geographical restriction is systematically imposed on every newly arrived person on the Greek islands, initially by the police and subsequently by the Asylum Service.

On the islands of **Lesvos, Kos** and to a certain extent **Leros**, the policy of automatic detention upon arrival persists for newly arrived persons who belong to a so-called “low recognition rate” nationality and, who are still immediately detained upon arrival pursuant to the “pilot project” (see [Detention: General](#)). Moreover, unaccompanied children as a rule are prohibited from moving freely on the islands and remain in the RIC under “restriction of liberty” or in “protective custody”. They spend lengthy periods in the RIC while waiting for a place in age-appropriate shelters or other facilities (see [Detention of Vulnerable Applicants](#)).

Since the implementation of the EU-Turkey Statement, and due to the manageable number of people arriving in Greece, all newcomers are registered by the RIS. However, serious shortcomings are noted in the provision of medical and psychosocial services as required by law due to the insufficient number of medical staff working in the RIC on the islands (see also [Identification](#)).<sup>72</sup>

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<sup>65</sup> Article 14(2) L 4375/2016.

<sup>66</sup> Article 14(3) L 4375/2016.

<sup>67</sup> Article 14(4) L 4375/2016.

<sup>68</sup> *Ibid.*

<sup>69</sup> Article 14(2) L 4375/2016.

<sup>70</sup> Article 14(4) L 4375/2016.

<sup>71</sup> UNHCR, *Explanatory Memorandum pertaining to UNHCR’s submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, available at: <http://bit.ly/2BbSrAA>, 2.

<sup>72</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>, 42.

In practice, those arriving on the Greek islands and falling under the EU-Turkey statement are subject to a “restriction of freedom of movement” decision issued by the Head of the RIC. The decision is revoked once the registration by the RIC is completed, usually within a couple of days. At the same time, a removal decision “based on the readmission procedure” and a pre-removal detention order are issued by the competent Police Directorate upon arrival, parallel to the decision of the Head of the RIC. The removal decision and detention order are respectively suspended by a “postponement of deportation” decision of the General Regional Police Director.<sup>73</sup> The latter decision imposes a geographical restriction, ordering the individual not to leave the island and to reside – in most cases – in the RIC or another accommodation facility on the island until the end of the asylum procedure. Once the asylum application is lodged, the same geographical restriction is imposed by the Asylum Service (see [Freedom of Movement](#)).

Different patterns of administrative practice and different regimes are applied in each RIC, resulting in a certain degree of ambiguity:

**Lesvos:** As of December 2018, the police issues a decision ordering the detention of the newcomer upon arrival, which is followed within 2-3 days by a decision of the Head of the RIC. Newcomers remain restricted in the sector used by the RIS within the RIC, until reception and identification procedures are conducted.

**Leros:** Newly arrived persons are restricted within the RIC premises for an initial period not exceeding 25 days.

**Samos, Chios:** A decision of the police is issued upon arrival prior of the decision of the Head of the RIC. As of December 2018, however, newcomers are not restricted within the RIC premises and are allowed to exit the RIC in practice.

The lawfulness of the practice applied on the Greek islands is questionable for a number of reasons:

- A deportation decision to be followed by a geographical restriction is systematically issued against every newly arrived person, despite the fact that the majority of newcomers have already expressed the intention to seek asylum upon arrival, thus prior to the issuance of a deportation decision.<sup>74</sup>
- The decision of the Police imposing the geographical restriction on the island, entailing a restriction to the freedom of movement, is imposed indiscriminately without any individual assessment and a proportionality test to have taken place prior to its issuance. Moreover, it is imposed for an indefinite period, without a maximum time limit provided by law and without an effective legal remedy to be in place.<sup>75</sup>
- No prior individual decision of the Asylum Service is issued, as the limitation is imposed on the basis of a regulatory (*κανονιστική*) Decision of the Asylum Service and no proper individualised justification is provided for the imposition of the restriction of movement on each island, within the frame of the asylum procedure.<sup>76</sup> According to the latest (regulatory) Decision of the Director of the Asylum Service,<sup>77</sup> any asylum seeker who enters the Greek territory from **Lesvos**,

<sup>73</sup> Pursuant to Article 78 L 3386/2005.

<sup>74</sup> Article 36(3) L 4375/2016: “The person who expresses his/her intention to submit an application for international protection is an asylum applicant, in accordance with the provisions of Article 34 point (d) of the present law.”

<sup>75</sup> See e.g. Human Rights Committee, *General Comment No. 27: Article 12 (Freedom of Movement)*, 2 November 1999, CCPR/C/21/Rev.1/Add.9, available at: <http://www.refworld.org/docid/45139c394.html>.

<sup>76</sup> Article 7 recast Reception Conditions Directive.

<sup>77</sup> Asylum Service Director Decision No 8269, Gov. Gazette B’ 1366/20.04.2018, replaced by Decision No 18984, Gov. Gazette B’ 4427/05.10.2018.

**Rhodes, Samos, Leros, Chios and Kos** is subject to a geographical restriction on said island, with the exception of applicants falling within the family provisions of the Dublin Regulation or applicants identified as vulnerable.<sup>78</sup> Consequently, the geographical restriction in the asylum procedure is applied indiscriminately, *en masse* and without any individual assessment. The impact of the geographical restriction on applicants' "subsistence and... their physical and mental health",<sup>79</sup> by taking into consideration reception conditions prevailing on the islands is not assessed.

On 17 April 2018, the Council of State annulled the (then applicable) Decision of the Director of the Asylum Service. The Council of State ruled that the imposition of a limitation on the right of free movement on the basis of a regulatory 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.<sup>80</sup> Some days after the judgment, on 20 April 2018, a new Decision of the Director of the Asylum restored the containment policy on the islands.<sup>81</sup> An application for annulment has also been lodged by GCR before the Council of State against this Decision. The hearing is scheduled for April 2019 (see [Freedom of Movement](#)).

- The practice of indiscriminate imposition of geographical restrictions, initially by the police and then by the Asylum Service, against every newly arrived persons on the islands since the launch of the EU-Turkey Statement and for the implementation of the Statement, has led to a significant deterioration of the living conditions on the islands, which do not meet the basic standards provided by the Reception Directive. Newly arrived persons are obliged to reside for prolonged periods in overcrowded facilities, where food and water supply is reported insufficient, sanitation is poor and security highly problematic, while their mental health is aggravated (see [Reception Conditions](#)).

The Council of State highlighted on 17 April 2018 that the regime of geographical restriction on 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>82</sup>

In October 2018 the National Commission for Human Rights reiterated "its firm and consistently expressed position about the immediate termination of the entrapment of the applicants for international protection in the Eastern Aegean islands and the lifting of geographical limitations imposed on them."<sup>83</sup>

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<sup>78</sup> Article 14(8) L 4375/2016.

<sup>79</sup> Article 17(2) recast Reception Conditions Directive.

<sup>80</sup> Council of State, Decision 805/2018, 17 April 2018, EDAL, available at: <https://bit.ly/2GmVbTI>.

<sup>81</sup> Asylum Service Director Decision No 8269, Gov. Gazette B' 1366/20.04.2018, replaced by Decision No 18984, Gov. Gazette B' 4427/05.10.2018. See also GCR and Oxfam, 'GCR and Oxfam issue joint press release on CoS ruling', 24 April 2018, available at: <https://bit.ly/2N0Rwqv>.

<sup>82</sup> Council of State, Decision 805/2018, 17 April 2018.

<sup>83</sup> National Commission for Human Rights, 'The GNCHR expresses its deep concerns about the situation in the Reception Centers of the Eastern Aegean islands and, especially, of Moria in Lesbos', 15 October 2018, available at: <https://bit.ly/216tTy7>.

In February 2019, the EU Fundamental Rights Agency (FRA) noted that “the past three years have shown that the manner in which the hotspot approach is applied in Greece is not sustainable from a fundamental rights point of view”.<sup>84</sup>

### Actors present in the RIC

A number of official actors are present in the RIC facilities on the inlands, including RIS, Frontex, Asylum Service, EASO and the Hellenic Police.

**Police:** The Police is responsible for guarding the external area of the hotspot facilities, as well as for the identification and verification of nationalities of newcomers.

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

**UNHCR / IOM:** Information is provided by UNHCR and International Organisation for Migration (IOM) staff.

**Asylum Service:** Similarly, the Asylum Service has presence in the hotspots. According to L 4375/2016, those registered by the RIS expressing their will to seek international protection shall be referred to the competent Regional Asylum Office in order to have their claims registered and processed.<sup>85</sup>

**EASO:** EASO is also engaged in the asylum procedure. EASO experts have a rather active role within the scope of the [Fast-Track Border Procedure](#), as they conduct first instance personal interviews, they issue opinions regarding asylum applications and they are also involved in the vulnerability assessment procedure. Following a legislative reform in 2018, Greek-speaking EASO personnel can also conduct any administrative action for processing asylum applications, including in the [Regular Procedure](#).<sup>86</sup>

**RIS:** The RIS previously outsourced medical and psychosocial care provision to NGOs until mid-2017. Since then, the Centre for Disease Control and Prevention (*Κέντρο Ελέγχου και Πρόληψης Νοσημάτων*, KEELPNO), a private law entity supervised and funded directly by the Ministry of Health and Social Solidarity,<sup>87</sup> has started taking over the provision of the medical and psychosocial services. Serious shortcomings have been noted in 2018 due to the insufficient number of medical staff in the RIC (see also [Identification](#)).

### 2.2.2. Reception and identification procedures in Evros

Persons entering Greece throughout the Greek-Turkish land border in Evros are subject to reception and identification procedures at the RIC of **Fylakio**, Orestiada. 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. No official data are available on the capacity and occupancy of Fylakio in 2018. As far as GCR is aware, the capacity of the facility is 240 places. In

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<sup>84</sup> FRA, *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the ‘hotspots’ set up in Greece and Italy*, 3/2019, 4 March 2019, available at: <https://bit.ly/2WpjLCF>.

<sup>85</sup> Article 14(7) L 4375/2016.

<sup>86</sup> Article 36(11) L 4375/2016, inserted by Article 28(7) L 4540/2018.

<sup>87</sup> Established by L 2071/92.



August 2018, 264 persons were reported to be in the RIC of Fylakio.<sup>88</sup>

After the maximum period of 25 days, newly arrived persons are released, with the exception of those referred to pre-removal detention facilities, where they are further detained in view of removal. However, unaccompanied children may remain in the RIC of Fylakio for a period exceeding the maximum period of 25 days under the pretext of “protective custody”, while waiting for a place in a reception facility to be made available. In December 2018, Médecins Sans Frontières (MSF) mentioned that half of the total population of 240 persons in the RIC of Fylakio were unaccompanied children.<sup>89</sup>

According to official data, the average waiting period for unaccompanied children in the RIC of Fylakio until transfer to a shelter was 57.4 days in 2018.<sup>90</sup> However, cases where unaccompanied children had to wait for longer periods are also witnessed. For example, unaccompanied children reportedly protested against their prolonged stay of about 2 to 3 months in February 2019.<sup>91</sup> Moreover, in some cases documented by GCR, unaccompanied children who reached adulthood whilst in the RIC have been transferred to pre-removal detention and detained there in view of removal. This was the case for a minor from Pakistan, supported by GCR, who remained in the RIC of Fylakio, while waiting a place to be made available. After 5 months of waiting, he reached adulthood in April 2018 and received a removal decision, following which he was transferred to the pre-removal detention centre of **Paranesti**.

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

Since the last months of 2016 onwards, due to a gradual increase in arrivals at the Evros land border, delays between initial arrest by the police and transfer to the RIC have intensified, resulting in people including vulnerable groups and families being detained in pre-removal facilities or police stations.<sup>92</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](#)), and in 2018 ranged from 24 hours to several weeks or even months, depending on the flows and available capacity in the RIC.<sup>93</sup>

Substantial gaps in the provision of reception and identification services, including medical services, are reported at the RIC of Fylakio.

For example, as of March 2018 there are no interpreters for Farsi and no medical and social-psychological services; due to this, the identification of persons belonging to vulnerable groups was not possible.<sup>94</sup> A lack of interpretation in Turkish language has also been reported since mid-2018, as far as GCR is aware.

Due to the lack of medical services, MSF implemented a project between July 2018 and December 2018 in order to cover crucial gaps in the provision of health care services and to provide the authorities the opportunity to fill the gaps. Before the launch of the MSF project in the RIC of Fylakio, no doctor had

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<sup>88</sup> UNHCR et al., *Greece – SMS WG-Site Profiles*, August-September 2018, available at: <https://bit.ly/2UiXMNj>, 31.

<sup>89</sup> MSF, ‘Εβρος: Έκκληση στις αρχές για φροντίδα υγείας στο KYT, όπου ο μισός πληθυσμός είναι ασυνόδευτοι ανήλικοι’, 20 December 2018, available in Greek at: <https://bit.ly/2Gm36Mw>.

<sup>90</sup> Information provided by EKKKA, 7 February 2019.

<sup>91</sup> Voria.gr, ‘Εβρος, επεισόδια με ανήλικες πρόσφυγες στο KYT Ορεσιάδας’, 5 February 2019, available in Greek at: <https://bit.ly/2WSGfgp>.

<sup>92</sup> UNHCR, *Explanatory Memorandum pertaining to UNHCR’s submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, 10.

<sup>93</sup> GCR, *2018 Detention report*, forthcoming.

<sup>94</sup> RIC Evros, Doc No. 3956/2018.

been present there for a period of 8 months,<sup>95</sup> while according to MSF, despite the fact that “the authorities had ample time to organize medical services, yet these needs are still not being covered” as of December 2018.<sup>96</sup>

### 3. Registration of the asylum application

#### Indicators: Registration

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

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

Part III of L 4375/2016, as modified by L 4399/2016 and L 4540/2018, transposes the provisions of Article 6 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 under the Directive.

#### Registration of applications (“Καταγραφή”)

Article 36(1)(a) L 4375/2016 provides that any foreigner or stateless 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 Asylum Units (AAU) or Mobile Asylum Units of the Asylum Service,<sup>97</sup> depending on their local jurisdiction, which shall immediately proceed with the “full registration” (*πλήρης καταγραφή*) of the application. Following a legislative reform in 2018, in case of urgent need, the Asylum Service may be supported by Greek-speaking personnel provided by EASO for the registration of applications.<sup>98</sup>

Following the “full registration” of the asylum application,<sup>99</sup> following which an application is considered to be lodged (*κατατεθειμένη*).<sup>100</sup>

Where, however, “for whatever reason” full registration is not possible, following a decision of the Director of the Asylum Service, the Asylum Service may conduct a “basic registration” (*απλή καταγραφή*) of the asylum seeker’s necessary details within 3 working days, and then proceed to the full registration as soon as possible and by way of priority.<sup>101</sup>

According to the law, if the application is submitted before a non-competent authority, that authority is obliged to promptly notify the competent receiving authority and to refer the applicant thereto.<sup>102</sup> However, in practice in order for an asylum application to be properly lodged, the applicant should lodge an application in person before the Asylum Service.

For third-country nationals willing to apply for asylum while in detention or under reception and identification procedures, the detention authority or RIS registers the intention of the person on an

<sup>95</sup> MSF, “Έβρος: Έκκληση στις αρχές για φροντίδα υγείας στο ΚΥΤ, όπου ο μισός πληθυσμός είναι ασυνόδευτοι ανήλικοι”, 20 December 2018, available in Greek at: <https://bit.ly/2Gm36Mw>.

<sup>96</sup> Kathimerini, ‘Syrian teenager expresses anguish over conditions at Evros camp’, 21 December 2018, available at: <https://bit.ly/2TbftNw>.

<sup>97</sup> Articles 34(1)(id) and 36(1) L 4375/2016.

<sup>98</sup> Article 36(11) L 4375/2016, as amended by Article 28(7) L 4540/2018.

<sup>99</sup> Article 36(1)(a) L 4375/2016.

<sup>100</sup> Article 36(1)(c) L 4375/2016.

<sup>101</sup> Article 36(1)(b) L 4375/2016.

<sup>102</sup> Article 36(4) L 4375/2016.



electronic network connected with the Asylum Service, no later than within 6 working days. In order for the application to be fully registered, the detainee is transferred to the competent RAO or AAU.<sup>103</sup>

The time limits of 3 or 6 working days respectively for the basic registration of the application may be extended to 10 working days in cases where a large number of applications are submitted simultaneously and render registration particularly difficult.<sup>104</sup>

### Lodging of applications (“Κατάθεση”)

No time limit is set by law for lodging an asylum application.<sup>105</sup> However, Article 42 L 4375/2016, which transposes Article 13 of the recast Asylum Procedures Directive that refers to applicants’ obligations, foresees in paragraph 1a that applicants are required to appear before competent authorities in person, without delay, in order to submit their application for international protection.<sup>106</sup>

Applications must be submitted in person,<sup>107</sup> except under *force majeure* conditions.<sup>108</sup>

For those languages that a Skype line is available, an appointment through Skype should be fixed before the person in question can present him or herself before the Asylum Service in order to lodge an application.

According to the latest decision of the Director of the Asylum Service issued in January 2018, the “asylum seeker’s card”, which is provided to all persons who have fully registered their application, is valid for 6 months.<sup>109</sup> This Decision abolished the exception that was in place in 2017 under a previous decision, according to which all cards were valid for 6 months except for those provided to nationals of Albania, Georgia and Pakistan, which were only valid for a period of 2 months.<sup>110</sup> However, asylum seeker’s cards for applicants remaining on the islands of **Lesvos, Samos, Chios, Leros, Kos** and **Rhodes** subject to a “geographical limitation” is valid for 1 month.

In total, the Asylum Service registered 66,969 asylum applications in 2018. Syrians continue to be the largest group of applicants with 13,390 applications. There has also been a substantial increase in applications from Turkish nationals (4,834 in 2018, compared to 1,827 in 2017 and 189 in 2016).<sup>111</sup>

## 3.2. Access to the procedure on the mainland

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

The Ombudsman has constantly highlighted that accessing the asylum procedure through Skype is a “restrictive system” which “appears to be in contrast with the principle of universal, continuous and

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<sup>103</sup> Article 36(3) L 4375/2016.

<sup>104</sup> Article 36(5) L 4375/2016.

<sup>105</sup> Article 39(1) L 4375/2016 provides that “[r]equests are not dismissed merely on the ground that they have not been submitted the soonest possible.”

<sup>106</sup> Article 42(1)(a) L 4375/2016.

<sup>107</sup> Article 36(2) L 4375/2016.

<sup>108</sup> Article 42(1)(a) L 4375/2016.

<sup>109</sup> Asylum Service Director Decision 868/2018 on the duration of validity of asylum seeker cards, Gov. Gazette B/201/30.1.2018.

<sup>110</sup> Asylum Service Director Decision 14720/2017 on the duration of validity of asylum seeker cards, Gov. Gazette B/3370/27.9.2017.

<sup>111</sup> Information provided by the Asylum Service, 26 March 2019.

unhindered access to the asylum procedure”. According to the Ombudsman, the Skype system has become part of the problem, rather than a technical solution.<sup>112</sup>

In 2018, the European Court of Human Rights (ECtHR) confirmed that “the possibility of making an asylum application in practice is a *conditio sine qua non* for the effective protection of aliens in need of international protection. In case that unhindered access to the asylum procedure is not ensured by the domestic authorities, asylum seekers cannot benefit from the procedural safeguards associated with this procedure and can be arrested and placed in detention. at any time. It must be noted that, even if the examination of the asylum application is guaranteed by an effective, reliable and serious procedure, the latter are meaningless if the person concerned do not have the possibility of seeing his application registered for a long time.”<sup>113</sup>

In this case, the Court found a violation of Articles 3 and 13 ECHR on the part of Greece due to the obstacles in accessing the asylum procedure in 2012, i.e. prior to the start of operations of the Asylum Service in 2013.

Without underestimating the important number of applications lodged in 2018 – 66,969 asylum applications about half of which were lodged at the mainland – and the 14% increase on 2017, access to asylum on the mainland continued to be problematic and intensified throughout 2018, in particular taking into consideration the rise in arrivals via the **Evros** land border.

As noted by the Greek Ombudsman in January 2018, following a complaint submitted by GCR on behalf of a number of a family from Iran, a family from Iraq and a woman from Syria who could not gain access to asylum through Skype:

“The Independent Authority has reported extensively in the past on the problems of accessing exclusively through Skype and has evaluated this specific practice to be a restrictive system that seems to be in contrast with the principle of universal, continuous and unobstructed access to the asylum procedure (Annual Reports 2015, 2016 and 2017.) Since this problem intensifies over time, the Greek Ombudsman is receiving numerous complaints concerning the inability of access to asylum despite the repeated efforts to connect with a line in Athens as well as in Thessaloniki.”<sup>114</sup>

In June 2018 the Director of the Asylum Service confirmed that access to the asylum procedure through Skype remains the “Achilles’ heel” of the procedure.<sup>115</sup> Moreover, he added that technical solutions are under examination. However, these have not been put in place as of March 2019.

As of January 2019, the Skype line is available for 22 hours per week for access to the RAO in **Attica** region. The detailed registration schedule through Skype is available on the Asylum Service’s website.<sup>116</sup> Two staff members of the Asylum Service together with an interpreter are dealing with the operation of the Skype application system for six hours on a daily basis.<sup>117</sup>

Deficiencies in the Skype appointment system, stemming from limited capacity and availability of interpretation and barriers to applicants’ access to the internet, hinder the access of persons willing to apply for asylum to the procedure. Consequently, prospective asylum seekers frequently have to try multiple times, often over a period of several months, before they manage to get through the Skype line

<sup>112</sup> See e.g. Greek Ombudsman, *Special Report: Migration flows and refugee protection*, April 2017.

<sup>113</sup> ECtHR, *A.E.A. v. Greece*, Application No 39034/12, Judgment of 15 March 2018, EDAL, available at: <https://bit.ly/2GmnFs3>, para 85.

<sup>114</sup> Ombudsman, Document No 233356/1616/2018, 12 January 2018, on file with the author.

<sup>115</sup> Efsyn, ‘Εξαιρετικά προβληματικές οι λογικές κλειστών συνόρων και αποκλεισμών’, 26 June 2018, available in Greek at: <https://bit.ly/2Bxrarl>.

<sup>116</sup> Asylum Service, *Registration Schedule*, 28 January 2019, available at: <https://bit.ly/2GnIROw>.

<sup>117</sup> Information provided by the Asylum Service, 26 March 2019.

and to obtain appointment for the registration of their application, meanwhile facing the danger of a potential arrest and detention by the police.

On many occasions in 2018, GCR has found third-country nationals, including persons belonging to vulnerable groups, detained on the basis of a removal order issued due to “lack of legal documentation” according to the justification provided by the police, who argued that despite multiple efforts they did not manage to gain access to the asylum procedure through Skype. For example, between May and June 2018, GCR provided legal assistance to about 70 detainees in the **Corinth** pre-removal detention centre, the majority of them from Afghanistan, who were arrested following a sweep police operation in a makeshift camp in **Patra**. Most of them mentioned that since their arrival in Greece, they had not managed to access the procedure through Skype despite multiple efforts, in some cases for months, and thus they found themselves detained. They also mentioned that due to the impossibility to access the asylum procedure, they face a real risk of homelessness and destitution, since they could not request reception conditions and lawfully access the labour market; due to this they were forced to reside in the makeshift camp in Patra.<sup>118</sup>

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

Access to the asylum procedure for persons detained for the purpose of removal is also highly problematic. The application of a detained person having expressed his or her will to apply for asylum is registered only after a certain period of time. During the time lapse between the expression of the intention to seek asylum and the registration of the application, the asylum seeker remains detained by virtue of a removal order and is deprived of any procedural guarantees provided to asylum seekers, despite the fact that according to Greek law, “the person who expresses his/her intention to submit an application for international protection is an asylum seeker.”<sup>119</sup> Among others, 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 3-month detention time limit.<sup>120</sup>

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

For example, according to GCR’s experience, an average period of one to one and a half months was needed for the registration of applications by persons detained in **Amygdaleza** and **Corinth**. This period can be longer for applicants belonging to certain nationalities and/or detained in other facilities. For example, they dela reached 2 months for the full registration of an application by an Afghan national (Pashtu speaker) in **Paranesti** in February 2018, and 3 months for Pakistani detained in the same facility in November 2018.<sup>121</sup>

According to the Asylum Service, 7,200 persons applied from pre-removal detention centres in 2018.<sup>122</sup>

The average time period between pre-registration and full registration was 42.3 days in 2018. This number encompasses pre-registration through Skype and pre-registration before the police of persons under administrative detention and before the RIS on the islands and **Evros** region.<sup>123</sup> As far as GCR is

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<sup>118</sup> GCR, *2018 Detention report*, forthcoming.

<sup>119</sup> Article 36(3) L 4375/2016.

<sup>120</sup> UNHCR, *Explanatory Memorandum pertaining to UNHCR’s submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, available at: <http://bit.ly/2BbSrAA>, 10.

<sup>121</sup> GCR, *2018 Detention report*, forthcoming.

<sup>122</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>123</sup> Information provided by the Asylum Service, 26 March 2019.

aware, full registration is faster on the islands compared to the mainland, where average time period between pre-registration through Skype and full registration is potentially longer.

## C. Procedures

### 1. Regular procedure

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

##### Indicators: Regular Procedure: General

- |  |   |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:     | 6 months  |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2018:  | 58,793  |

The Asylum Service received 66,969 new applications in 2018, of which 30,943 were initially channelled under the [Fast-Track Border Procedure](#). Of those, 22,963 were referred to the regular procedure to vulnerability and 2,062 due to the application of the Dublin Regulation.<sup>124</sup>

According to national legislation, an asylum application should be examined “the soonest possible” and, in any case, within 6 months, in the framework of the regular procedure.<sup>125</sup> This time limit may be extended for a period not exceeding a further 9 months, where:<sup>126</sup>

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

A further extension of 3 months is also provided “where necessary due to exceptional circumstances and in order to ensure an adequate and complete examination of the application for international protection.”<sup>127</sup>

Where no decision is issued within the maximum time limit fixed in each case, the asylum seeker has the right to request information from the Asylum Service on the timeframe within which a decision is expected to be issued. As expressly foreseen in the law, “this does not constitute an obligation on the part of the Asylum Service to take a decision within a specific time limit.”<sup>128</sup>

Decisions granting status are given to the person of concern in extract, which does not include the decision’s reasoning. According to Article 41(1)(f) L 4375/2016, in order for the entire decision to be delivered to the person recognised as a beneficiary of international protection, a special legitimate interest (*ειδικό έννομο συμφέρον*) should be proven by the person in question. If a special legitimate interest is not proven, the Asylum Service refuses to deliver the entire decision in practice.<sup>129</sup>

### Duration of procedures

<sup>124</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>125</sup> Article 51(2) L 4375/2016.

<sup>126</sup> Article 51(3) L 4375/2016.

<sup>127</sup> Article 51(4) L 4375/2016.

<sup>128</sup> Article 51(5) L 4375/2016.

<sup>129</sup> Asylum Service, Document no 34200/15.9.2016 “Request for a copy”.

Following the significant increase of asylum applications lodged in 2016 and 2017, the examination of asylum applications in due time is a matter of concern.

Out of a total of 58,793 applications pending at the end of the year, 45.6% were pending for more than six months from the day of full registration:

Pending applications at first instance from full registration: 31 December 2018	
Length of pending procedure	Number
< 6 months	31,503
> 6 months	27,290
<b>Total</b>	<b>58,793</b>

Source: Asylum Service, 26 March 2019.

In practice, the average processing time is longer if the period between pre-registration and **Registration** of the application is taken into consideration. Thus, the average time between the applicant's expression of intention to apply for asylum and the interview in 2018 was 8.5 months, due to the average 42-day delay between pre-registration and **Registration** of the application, and the average delay of 212 days between registration and personal interview.<sup>130</sup>

The average processing time between pre-registration and the issuance of a first instance decision was 8.6 months; 42 days on average between pre-registration and **Registration** and 216 days on average between registration and issuance of first-instance decision.<sup>131</sup>

Moreover, out of the total number of 58,793 application pending by the end of 2018, in 47,325 (80.5%) of the applications pending as of 31 December 2018, the **Personal Interview** had not yet taken place. In more than the half of these applications, the interview has been scheduled in a period of at least six months after the full registration. In 10,095 (21.3%) of the applications pending as of 31 December 2018, the interview has been scheduled within the second semester of 2019 and in 15,640 (33%) of cases the interview is scheduled after 2019.<sup>132</sup> These include, for example, several cases of Turkish asylum seekers in **Athens**, whose interview has been scheduled between 2022 and 2025. In **Thessaloniki**, the interview of an Afghan minor asylum seeker was scheduled for February 2023, while two Syrian families, of seven and five members respectively, were scheduled for an interview in February and March 2021.

A rescheduled appointment following a cancelled interview is usually set within 1 to 2 months, although there have been cases of delayed rescheduling as well. Taking into consideration the number of applications pending for more than 6 months and the number of applications pending without an interview having been conducted (80.5%) the backlog of cases pending for prolonged periods is likely to increase in the future.

A working group has been established by the Asylum Service in order to remedy delays in the scheduling of the interviews.

## 1.2. Prioritised examination and fast-track processing

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

<sup>130</sup> Information provided by the Asylum Service, 26 March 2019.

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

<sup>132</sup> Information provided by the Asylum Service, 26 March 2019.

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

Moreover, a fast-track procedure for the examination and the granting of refugee status to Syrian nationals and stateless persons with former habitual residence in Syria, is in place since September 2014.<sup>133</sup> In 2018, a total of 3,531 positive decisions were issued in the framework of the Syria fast-track procedure,<sup>134</sup> compared to 2,986 in 2017 and 913 in 2016.<sup>135</sup>

### 1.3. Personal interview

#### Indicators: Regular Procedure: Personal Interview

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

A personal interview with the applicant may be omitted where:<sup>136</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. In practice, the applicants themselves or usually their legal advisor, if there is one, must collect and submit such a certificate.

When the applicant or, where applicable, a family member of the applicant is not provided with the opportunity of a personal interview due to their being unfit or unable to be interviewed, as mentioned above, the Police or Asylum Service shall “make reasonable efforts” to provide them with the possibility to submit supplementary evidence.<sup>137</sup> The omission of a personal interview does not adversely affect the decision on the application, as long as the decision states the reasons for omitting the interview.<sup>138</sup>

The law provides that reasonable time shall be provided to the applicant to prepare for the interview, if he or she so requests.<sup>139</sup>

As mentioned in [Regular Procedure: General](#), significant delays continue to be observed in 2018 with regard to the conduct of interviews. The interview has not been conducted in 80.5% of the applications pending by the end of 2018, while in 21.3% of the applications the interview has been scheduled within the second semester of 2019 and in 33% of cases the interview is scheduled after 2019.<sup>140</sup> In a number of cases, interviews were set more than 2 years after the registration of the application, while

<sup>133</sup> For more details, see AIDA, Country Report Greece, Fourth Update, November 2015, 36.

<sup>134</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>135</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>136</sup> Article 52(8) L 4375/2016.

<sup>137</sup> Article 52(9) L 4375/2016.

<sup>138</sup> Article 52(10) L 4375/2016.

<sup>139</sup> Article 52(5) L 4375/2016.

<sup>140</sup> Information provided by the Asylum Service, 26 March 2019.



rescheduled interviews were generally set within 1 to 2 months later. GCR is aware of several such cases, including cases of vulnerable applicants. These include:<sup>141</sup>

- The case of an Iranian family whose application was registered in November 2018 and their interview was scheduled for October 2022 by the RAO of **Thessaloniki**;
- The case of an Afghan minor asylum seeker whose registration took place on December 2018 and while his interview was scheduled for February 2023 before the RAO of **Thessaloniki**;
- The case of two Syrian families that were registered on Samos, with one family registered in September 2018 and scheduled for interview in February 2021 before the RAO of **Attica**, while the other family was registered in October 2018 and their interviews are scheduled for March 2021 before the RAO of Attica as well;
- The case of a Palestinian six-member family registered on Leros on March 2019 and whose interviews were scheduled for July 2021 before the RAO of **Attica**;
- Several cases of Turkish asylum seekers whose interviews have been scheduled between 2022 and 2025 at the RAO of **Attica**.

Under the regular procedure, the interview takes place at the premises of the RAO on the designated day and is conducted by one caseworker.

Prior to L 4540/2018, only Asylum Service caseworkers could conduct interviews in the regular procedure, as opposed to the **Fast-Track Border Procedure: Personal Interview**. In case of applications referred from the fast-track border procedure to the regular procedure following an interview held by an EASO officer (e.g. due to vulnerability), a supplementary first instance interview should be conducted by an Asylum Service caseworker.<sup>142</sup> GCR is aware of cases where, despite referral to the regular procedure, no interview with an Asylum Service caseworker took place and thus the only interview conducted before the issuance of the first instance decision was done by an EASO caseworker. In 2018, in a case supported by GCR, the Administrative Court of Piraeus annulled the second instance asylum decision and returned the case to the Appeals Authority in order to handle it according to the regular procedure guarantees prescribed by law. In this case, despite the applicant's having been identified as vulnerable, the only interview had been conducted by EASO personnel.<sup>143</sup>

As far as GCR is aware, until September 2018, vulnerable asylum seekers on the islands had to complete their regular procedure interviews there in order for the geographical limitation to be lifted and for them be transferred to the mainland. Since September 2018, the geographical limitation of vulnerable asylum seekers is lifted at the time of the registration or once the vulnerability is identified, and they are transferred to the mainland before their interview. The regular procedure interview of applicants transferred to the mainland by the Ministry of Migration Policy or under the ESTIA accommodation programme, will be rescheduled before a RAO or a AAU of the mainland.<sup>144</sup> Applicants who following the lift of the geographical limitation and the referral of their case to the regular procedure travelled from the islands to the mainland by their own means, will have to return on said island in order to undergo their regular procedure interview.

With the amendments brought by L 4540/2018, EASO can now be involved in the regular procedure,<sup>145</sup> while the EASO personnel providing services at the Asylum Service premises are bound by the Asylum Service Rules of Procedure.<sup>146</sup> EASO caseworkers have started conducting interviews under the regular procedure since the end of August 2018.<sup>147</sup> Until the end of the year, EASO caseworkers had conducted 841 interviews in the regular procedure, mainly covering nationals of Iraq, Afghanistan, DRC,

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<sup>141</sup> Case numbers on file with the author.

<sup>142</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>143</sup> Administrative Court of Appeal of Piraeus, Decision 519/2018, available in Greek at: <https://bit.ly/2JiaUB0>.

<sup>144</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>145</sup> Article 36(11) L 4375/2016, inserted by Article 28(7) L 4540/2018.

<sup>146</sup> Article 1(2) Asylum Service Director Decision No 3385 of 14 February 2018.

<sup>147</sup> Information provided by EASO, 13 February 2019.

Cameroon, Somalia, Iran, Yemen, Palestine, Sudan and Eritrea. EASO caseworkers had issued 461 recommendations to the Asylum Service by the end of the year.<sup>148</sup>

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>149</sup> The personal interview must take place under conditions ensuring appropriate confidentiality.<sup>150</sup> However, GCR has expressed concerns relating to confidentiality in certain RAO or AAU due to the lack of appropriate spaces. This is for example the case in the RAO of **Chios**, **Leros** and **Samos**, where the office used for the interview cannot guarantee 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>151</sup> As stated in **Number of Staff**, specific trainings for handling vulnerable cases are provided to a number of caseworkers. In 2018 An additional 10 staff members have been qualified in order to conduct interviews with vulnerable applicants. As all Asylum Service caseworkers are entitled to conduct interviews with all categories of applicants, including vulnerable persons, and that vulnerable cases may not be handled by staff specifically trained in interviewing vulnerable persons.<sup>152</sup>

### Quality of interviews and decisions

Without underestimating the fact that the recognition rate of the first instance procedure remains high, at 49.4% of in-merit decisions issued in 2018,<sup>153</sup> GCR is aware of a number of first instance cases in 2018 where the assessment of the asylum claims and/or the decisions delivered raise issues of concern.

Among others, these concern the credibility assessment and the wrong use of country of origin information (COI). For example, in the case of an Iranian Kurdish family, the father of the family claimed to be communist and atheist. The claim of atheism was assessed as not credible by the caseworker *inter alia* due to lack of references to specific books and researchers concerning atheism or the origins of man; the applicant referred to the theory of the origin of human from ape, but did not mention Darwin or any other scientist. Furthermore, the caseworker used COI reporting that atheists can live peacefully in Iran, as long as they do not express publicly their beliefs, in order to assume that the objective component of fear of persecution is not fulfilled.<sup>154</sup>

Furthermore, GCR is aware of cases where first instance decisions have omitted the mental / psychological situation of the applicant even when supported by allegations of ill-treatment and torture. This was the case of an applicant from DRC who was not considered credible regarding his torture allegations because, according to the decision, he was not descriptive enough when narrating the ways he was tortured. Similarly, in the case of an applicant from Angola, his torture allegations were not even taken into account by the caseworker and this part of his story is not mentioned at all in the first instance decision, despite the fact that the applicant was supported by a lawyer, who submitted a written statement after the interview.<sup>155</sup>

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

<sup>149</sup> Article 52(11) L 4375/2016.

<sup>150</sup> Article 52(12) L 4375/2016.

<sup>151</sup> Article 52(13)(a) L 4375/2016.

<sup>152</sup> Information provided by the Asylum Service, 26 March 2019. The EU-28 first instance recognition rate in 2017 was 45.54% (including decisions on humanitarian grounds): Eurostat, *First instance decisions on asylum applications by type of decision - annual aggregated data*, available at: <https://bit.ly/21vghK8>.

<sup>153</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>154</sup> Decision on file with the author.

<sup>155</sup> *Ibid.*



## Interpretation

The law envisages that an interpreter of a language understood by the applicant be present in the interview.<sup>156</sup> The use of remote interpretation has been observed especially in distant RAO and AAU. The capacity of interpretation services remains challenging.

## Recording and transcript

The law envisages audio recording of the personal interview. A detailed report is drafted for every personal interview, which includes the main arguments of the applicant for international protection and all its essential elements. Where the interview is audio recorded, the audio recording accompanies the report. For interviews conducted by video-conference, audio recording is compulsory. Where audio recording is not possible, the report includes a full transcript of the interview and the applicant is invited to certify the accuracy of the content of the report by signing it, with the assistance of the interpreter who also signs it, where present.<sup>157</sup> The applicant may at any time request a copy of the transcript, a copy of the audio file or both.<sup>158</sup>

### 1.4. Appeal

#### Indicators: Regular Procedure: Appeal

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

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

  - ❖ If yes, is it
  - ❖ If yes, is it suspensive
2. Average processing time for the appeal body to make a decision: Not available

A twofold procedural framework remained in place by the end of 2018 for the examination of appeals against negative decisions. Appeals submitted after 21 July 2016, i.e. the operation of the new Independent Appeals Committees under the Appeals Authority, are examined by said Committees. Appeals against decisions on applications lodged before 7 June 2013, i.e. before the operation of the Asylum Service, are examined by the so-called “Backlog Committees” under PD 114/2010. Moreover, appeals submitted until 21 July 2016 against decisions rejecting applications for international protection lodged after 7 June 2013, are also examined by the “Backlog Committees”.<sup>159</sup>

#### 1.4.1. Applications lodged after 21 July 2016

### The Appeals Authority

The legal basis for the establishment of the Appeals Authority was amended twice in 2016 by L 4375/2016 in April 2016 and L 4399/2016 in June 2016, and then in 2017 by L 4461/2017. Further amendments were introduced by L 4540/2018.

The 2016 amendments, highly linked with the EU-Turkey statement, have been introduced following reported pressure on the Greek authorities by the EU with regard to the implementation of the EU-Turkey statement,<sup>160</sup> and “coincide with the issuance of positive decisions of the – at that time operational – Appeals Committees (with regard to their judgment on the admissibility) which, under

<sup>156</sup> Article 52(3) L.4375/2016.

<sup>157</sup> Article 52(14)-(15) L 4375/2016.

<sup>158</sup> Article 52(16) L 4375/2016.

<sup>159</sup> Article 80(4) L 4375/2016, as amended by Article 28(22) L 4540/2018.

<sup>160</sup> New Europe, ‘EU Council: Why Greece should consider Turkey safe for Syrian refugees’, 9 June 2016, available at: <http://bit.ly/2lWDYOa>; Keep Talking Greece, ‘EU presses Greece to change asylum appeal committees that consider “Turkey is not a safe country”’, 11 June 2016, available at: <http://bit.ly/2kNWR5D>.

individualised appeals examination, decided that Turkey is not a safe third country for the appellants in question”,<sup>161</sup> as highlighted by the National Commission on Human Rights regarding L 4399/2016.

L 4375/2016 provided the establishment of a new Appeals Authority, as a separate structure (*αυτοτελής υπηρεσία*) under the Minister of Interior and Administrative Reconstruction,<sup>162</sup> now under the Minister for Migration Policy. L 4399/2016 introduced *inter alia* a modification of the composition of the Appeals Committees and a restriction to the right of the appellant to request an oral hearing before the Appeals Committees. In particular, the amended Article 5(3) L 4375/2016 provides that new three-member Independent Appeals Committees (*Ανεξάρτητες Αρχές Προσφυγών*) will be established under the Appeals Authority. These Committees are established with the participation of two active Administrative Judges and one member holding a university degree in Law, Political or Social Sciences or Humanities with specialisation and experience the fields of international protection, human rights or international or administrative law.<sup>163</sup> The term of the Committee members is three years, instead of the previously foreseen five-year term.<sup>164</sup>

The involvement of judicial officials in the composition of the Appeals Committees, an administrative body, *inter alia* raised questions of constitutionality and compliance with the right to an effective remedy.<sup>165</sup> However, the Council of State rejected applications for annulment brought against this reform, considering *inter alia* that the presence of judges in the Appeals Committees is in line with the Constitution as the Appeals Committees exercise judicial powers.<sup>166</sup> As noted by the National Commission for Human Rights, the decisions of the Council of State “[do] not to apply its previous firm relevant jurisprudence, according to which these Committees do not constitute a judicial body, given the fact that they decide on administrative appeals (*ενδικοφανείς προσφυγές*) against administrative acts without elements similar to the performance of judicial task and exercise of competence of a judicial body, such as the publicity of the hearings and the obligation to guarantee adversarial proceedings.”<sup>167</sup>

Apart from constitutionality issues raised regarding the participation of active Administrative Judges in the Appeals Committees, a number of active Administrative Judges participating in the Appeals Committees also sit in the Administrative Courts of Appeal, competent to examine applications for annulment against second instance negative decisions.

In January 2018, the 7<sup>th</sup> Independent Appeals Committee accepted a request for exemption of one of its members, on the ground that “a suspicion of partiality is likely to be created to the appellant regarding his case, despite the fact that this does not correspond to reality.”<sup>168</sup> More precisely, the case concerned the 8 Turkish servicemen who fled Turkey after the failed coup d’état attempt and applied for asylum in Greece in July 2016. In December 2017, one of the eight servicemen was granted refugee status with a Decision issued by the 3<sup>rd</sup> Appeals Committee. This decision has been appealed by the Minister of Migration Policy with an application for annulment, an application for suspension and a request for an interim order (*προσωρινή διαταγή*) lodged before the Administrative Court of Appeal of Athens. The President of the Administrative Court entrusted with the examination of the request for an interim order had also participated as President of the 7<sup>th</sup> Independent Appeals Committee, which dealt with the

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<sup>161</sup> NCHR, Public Statement regarding the amendment of the composition of the Independence Appeals Committees, 17 June 2016, available at: <http://bit.ly/2k1Buhz>. Unofficial translation by the author.

<sup>162</sup> Article 4 L 4375/2016.

<sup>163</sup> The third member is appointed by UNHCR or the National Commissioner for Human Rights if UNHCR is unable to appoint one. If both are unable, the (now) Minister for Migration Policy appoints one.

<sup>164</sup> Article 5(3)(f) L 4375/2016, as amended by L 4399/2016.

<sup>165</sup> ECRE, ‘Greece amends its asylum law after multiple Appeals Board decisions overturn the presumption of Turkey as a “safe third country”’, 24 June 2016, available at: <http://bit.ly/28RnTqO>.

<sup>166</sup> Council of State, Decisions 2347/2017 and 2348/2017, 22 September 2017, available in Greek at: <http://bit.ly/2Fkxmno>.

<sup>167</sup> NCHR, *Report on the condition of Reception and Asylum system in Greece*, 22 December 2017, available at: <http://bit.ly/2nkf1PO>.

<sup>168</sup> 7<sup>th</sup> Independent Appeals Committee, Decision 1197/2018, 16 January 2018, available in Greek at: <http://bit.ly/2CKW7q4>.

appeal against the first instance asylum decision of another appellant of the eight servicemen. On 8 January 2018, with a decision of the President of the Administrative Court of Athens, the request for interim order was accepted and temporarily suspended the decision of the 3<sup>rd</sup> Appeals Committee. After the issuance of the judicial decision, and by invoking a number of comments on the press, the President of the 7<sup>th</sup> Appeals Committee and President of the Administrative Court had asked to be exempted from the composition of the 7<sup>th</sup> Appeals Committee and the request had been accepted on 16 January 2018. On 12 January 2018, the judge also asked to be exempted from the composition of the court examining the application for annulment and the application for suspension, which has also been accepted.<sup>169</sup>

The 2017 reform of the law further foresees that “in case of a large number of appeals”, the Appeals Committees may be assisted by “rapporteurs” provided by EASO.<sup>170</sup> According to the amendment, the rapporteurs will have access to the file and will be entrusted with the drafting of a detailed and in-depth report, that will contain a record and edit of the facts of the case along with the main claims of the appellant, as well as a matching of said claims (*αντιστοίχιση ισχυρισμών*) with the country of origin information that will be presented before the competent Committee in order to decide. This amendment echoes the recommendation made under the December 2016 Joint Action Plan for the Implementation of the EU-Turkey Statement for “the Appeal Committees to increase the number of decisions per committee through: a) the use of legal assistance in drafting decisions”.<sup>171</sup> Concerns have been raised by civil society organisations regarding the compliance of this amendment with the guarantees of independence and impartiality of the Appeals Committees.<sup>172</sup>

The 2018 reform has introduced a provision allowing for the replacement of judicial officials in the Appeals Committee by way of Joint Ministerial Decision in the event of “significant and unjustified delays in the processing of appeals” by a Joint Ministerial Decision, following approval from the General Commissioner of the Administrative Courts.<sup>173</sup> As noted by the Ombudsman, this provision raises concerns as of its compatibility with the quasi-judicial nature of the Appeals Committees in accordance with the aforementioned Council of State decisions of 2017.<sup>174</sup>

20 Independent Appeals Committees are operational as of August 2018.<sup>175</sup> Following the amendment introduced by L 4661/2017, 22 rapporteurs were made available to the Appeal Authority, of whom 11 were deployed to the Appeals Authority by EASO in the course of 2018.<sup>176</sup>

A total of 15,355 appeals were lodged to the Independent Appeals Committees in 2018. A total of 13,755 appeals were pending at the end of the year, of which 10,061 appeals had not been examined, while another 3,694 had been examined but the issuance of the decision was pending:<sup>177</sup>

Appeals before the Independent Appeals Committees: 2018			
Nationality	Appeals lodged	Appeals pending examination	Appeals examined and pending decision
Pakistan	5,451	1,373	3,517

<sup>169</sup> Administrative Court of Appeal of Athens, Decision 144/2018, 29 January 2018.

<sup>170</sup> Article 5(6) L 4375/2016, as inserted by Article 101 L 4461/2017.

<sup>171</sup> European Commission, *Joint action plan on the implementation of the EU-Turkey Statement*, Annex to COM (2016) 792, 8 December 2016, para 9.

<sup>172</sup> Asylum Campaign, ‘Σχετικά με την προτεινόμενη τροπολογία στο Ν. 4375/2016’, 15 March 2017, available in Greek at: <http://bit.ly/2EBt7DX>.

<sup>173</sup> Article 5(4) L 4375/2016, as amended by Article 28(3) L 4540/2018.

<sup>174</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, available in Greek at: <https://bit.ly/2unUcpH>.

<sup>175</sup> Joint Ministerial Decision No 17403/2018, Gov. Gazette 3710/B/29-8-2018.

<sup>176</sup> Information provided by EASO, 13 February 2019.

<sup>177</sup> Information provided by the Appeals Authority, 6 March 2019.

Albania	2,463	382	1,706
Iraq	1,441	359	963
Bangladesh	946	198	712
Georgia	879	135	605
Afghanistan	840	327	542
Egypt	565	91	427
Syria	420	129	58
Other	2,350	700	1,531
<b>Total</b>	<b>15,355</b>	<b>3,694</b>	<b>10,061</b>

Source: Appeals Authority, 6 March 2019.

The Independent Appeals Committees took 9,047 decisions in 2018, of which 6,178 decisions on the merits:

Decisions on the merits by the Independent Appeals Committees: 2018			
Refugee status	Subsidiary protection	Humanitarian protection	Rejection
<b>Total: 176</b>	<b>Total: 95</b>	<b>Total: 282</b>	<b>Total: 5,625</b>
Syria: 32	Afghanistan: 54	Albania: 100	Pakistan: 2,773
Iraq: 24	Iraq: 12	Pakistan: 44	Albania: 1,052
Afghanistan: 21	DRC: 10	Georgia: 30	Bangladesh: 455
Iran: 19	Nigeria: 3	Armenia: 17	Georgia: 278
DRC: 17	Pakistan: 3	Nigeria: 12	Egypt: 188
Pakistan: 15	Syria: 3	Afghanistan: 9	Iraq: 154
Turkey: 15	Ukraine: 2	Iraq: 9	Afghanistan: 106
Other: 33	Other: 8	Other: 61	Other: 619

Source: Appeals Authority, 6 March 2019.

The remaining 2,869 decisions taken by the Appeals Committees concerned inadmissible applications and appeals filed after the expiry of the deadline. A total of 720 decisions were issued following an appeal by Syrian nationals against a first instance inadmissibility decision based on the [Safe Third Country](#) concept.<sup>178</sup>

The launch of the operation of the Independent Appeals Committees after L 4399/2016 has led to a significant drop in the second instance recognition rate of international protection, which has been highly criticised by a number of actors, including the Athens Bar Association.<sup>179</sup> As already mentioned, there has been a glaring discrepancy between appeal recognition rates under the Appeals Committees following L 4399/2016 and the outcome of the second instance procedure of the previous years.

From the launch of the Independent Appeals Committees on 21 July and until 31 December 2016, the recognition rate was no more than 1% of the total number of the decisions issued (0.37% refugee status, 0.07% subsidiary protection, while 0.67% of the second instance decisions referred the case for humanitarian protection). The respective second instance recognition rate was 15.9% in 2015 (11.2%

<sup>178</sup> Information provided by the Appeals Authority, 6 March 2019.

<sup>179</sup> Athens Bar Association, 'Επιτροπή για θέματα Προσφύγων και Μεταναστών: Άσυλο, προβλήματα στη λειτουργία των Επιτροπών Προσφυγών και ανάγκη μεγαλύτερης αξιοποίησης των δικηγόρων', 21 September 2017, available in Greek at: <http://bit.ly/2orUlpv>.

refugee status, 4.7% subsidiary protection) and 16.1% in 2014 (11.1% refugee status, 5% subsidiary protection).<sup>180</sup>

In 2017, out of the total in-merit decisions issued in 2017, the international protection rate was 2.83% (1.84% granted refugee status, 0.99% subsidiary protection), 3.54% referred the case for humanitarian protection, and 93.63% were negative.<sup>181</sup>

In 2018, despite a slight increase, recognition rates remain significantly low. Out of the total in-merit decisions issued in 2018, the international protection rate was 4.3% (2.8% granted refugee status, 1.5% subsidiary protection), 4.5% referred the case for humanitarian protection, and 91% were negative.

### **Procedure before the Appeals Authority**

An applicant may lodge an appeal before the Appeals Authority against the decision rejecting the application for international protection as unfounded under the regular procedure, as well as against the part of the decision that grants subsidiary protection for the part rejecting refugee status, within 30 days from the notification of the decision. Where the decision cannot be notified for whatever reason, the deadline to appeal is 30 days from the expiry of the asylum seeker's card or, if the card has expired prior to the issuance of the decision, 30 days from the date of the decision.<sup>182</sup> In cases where the appeal is submitted while the applicant is in detention, the appeal should be lodged within 15 days from the notification of the decision.<sup>183</sup>

Appeals before the Appeals Authority have automatic suspensive effect. The suspensive effect covers the period "during the time limit provided for an appeal and until the notification of the decision on the appeal."<sup>184</sup>

As a rule, the procedure before the Appeals Committee is a written and the examination of the appeal is based on the elements of the case file without the presence of the appellant. However, the Appeals Committee must invite the appellant to an oral hearing when:<sup>185</sup>

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

It should be mentioned that the initial version of Article 62(1) L 4375/2016 required the Committees to invite the appellant also in the case where he or she had submitted a relevant request at least 2 days before the examination of the appeal.<sup>186</sup> This provision was abolished with the amendment of the law in June 2016.<sup>187</sup> It is disputed whether this amendment is in line with Greece's obligations under Article 47 of the EU Charter of Fundamental Rights.<sup>188</sup>

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<sup>180</sup> AIDA, Country Report Greece, 2016 Update, March 2017, 42-43.

<sup>181</sup> AIDA, Country Report Greece, 2017 Update, March 2018, 47.

<sup>182</sup> Article 61(6) L 4375/2016, as amended by Article 28(16) L 4540/2018.

<sup>183</sup> Article 61(1)(a)-(b) L 4375/2016, as amended by L 4399/2016.

<sup>184</sup> Article 61(4) L 4375/2016, as amended by L 4399/2016.

<sup>185</sup> Article 62(1) L 4375/2016, as amended by L 4399/2016.

<sup>186</sup> Article 62(1)(e) L 4375/2016, no longer in force.

<sup>187</sup> Article 88 L 4399/2016.

<sup>188</sup> ECRE and Dutch Council for Refugees, *The application of the EU Charter of Fundamental Rights to asylum procedural law*, October 2014, available at: <http://bit.ly/2agyJ6v>, 81-84.

According to the law, the Appeals Committee must reach a decision on the appeal within 3 months when the regular procedure is applied.<sup>189</sup>

If the Appeals Committee rejects the appeal on the application for international protection and considers that there are one or more criteria fulfilled for a residence permit on humanitarian grounds, the case is referred to the relevant authority which decides on the granting of such a permit.<sup>190</sup> As mentioned above, 282 cases (4.6%) were referred in 2018.

L 4540/2018 has introduced the possibility of fictitious notification (*πλασματική επίδοση*) of second instance decisions in case of applications submitted by asylum seekers in detention or in RIC or where the applicant cannot be found at his or her contact address, telephone number etc. In these cases, the notification on the appeal may be made to the representative or lawyer of the appellant who signed the appeal or who was present during the examination of the appeal or submitted observations before the Appeals Committee, the Head of the RIC, or online on a specific database.<sup>191</sup> According to the Ombudsman, this amendment limits effective access to judicial protection in practice.<sup>192</sup> In case where a second instance decision has been notified under this procedure, the deadline for judicial review may expire without the appellant having been informed of the decision rejecting his or her appeal.

#### 1.4.2. Backlog Committees: Appeals lodged before 21 July 2016

Appeals Committees established by PD 114/2010 (“Backlog Committees”) are competent to examine appeals against decisions rejecting applications lodged before 7 June 2013. Appeals submitted prior to 21 July 2016 against decisions rejecting applications for international protection lodged after 7 June 2013, are also examined by the “Backlog Committees”.<sup>193</sup>

The term of the Backlog Committees expired already in 2017 and no operational Backlog Committee was in place during 2018, meaning that no case has been examined and no decision has been issued in 2018 for the appeals subject to Backlog Committees. By the end of 2018, there were 563 pending appeals regarding applications lodged before 7 June 2013,<sup>194</sup> and about 3,000 appeals lodged before 21 July 2016 regarding applications submitted after 7 June 2013.<sup>195</sup> Due to non-operation of said Committees, about 3,500 appellants have therefore been waiting for years in order for the examination of their asylum application to be finalised.

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

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

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<sup>189</sup> Article 62(6) L 4375/2016, as amended by L 4399/2016.

<sup>190</sup> Article 61(4) L 4375/2016, as amended by L 4399/2016.

<sup>191</sup> Article 62(8) L 4375/2016, as introduced by Article 28(20) L 4540/2018.

<sup>192</sup> Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ (αναδιατύπωση 29.6.13) σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία κ.ά. διατάξεις*, April 2018.

<sup>193</sup> Article 80(4) L 4375/2016, as amended by Article 28(22) L 4540/2018.

<sup>194</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019. Of those, 205 appeals had been examined but the decision was pending.

<sup>195</sup> Εfsyn, ‘Ξανά στο σημείο μηδέν 3.000 αιτήματα ασύλου’, 1 March 2019, available in Greek at: <https://bit.ly/2HFT8WS>.



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

Under Ministerial Decision 5401/3-156958 issued in August 2016,<sup>196</sup> 20 Backlog Committees were (re)established with a term up to 31 December 2016, extended until mid-2017.<sup>197</sup> In May 2017, 16 Backlog Committees remained active under a new Ministerial Decision.<sup>198</sup> As mentioned above, by the end of 2017 their term had expired and it has not been renewed at the time of writing.<sup>199</sup>

According to the 2018 reform, a Ministerial Decision on operational issues is expected in order for these Committees to be re-established.<sup>200</sup>

Moreover, as provided by Article 22 L 4375/2016, appellants whose appeal was pending before the Backlog Committees are granted *ipso facto* a 2-year renewable residence permit on humanitarian grounds if their application has been lodged at least 5 years before 3 April 2016 and the application is still pending at second instance. Appellants who wish to continue the examination of the appeal on international protection grounds have the right to request so within 2 months of the date when the humanitarian protection decision is communicated. A total of 4,935 decisions granting humanitarian residence permits were issued in 2016, 971 were issued in 2017 and another 35 were issued in 2018.<sup>201</sup>

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

According to the law, applicants in the regular procedure have the right to lodge an administrative appeal before the Appeals Committees established by PD 114/2010 against a first instance decision rejecting an application, granting subsidiary protection instead of refugee status or withdrawing international protection status, within 30 days.<sup>202</sup> For decisions declaring an application as manifestly unfounded,<sup>203</sup> the deadline for appeals is 15 days.<sup>204</sup> Appeals submitted after this deadline are examined initially on admissibility and if declared admissible they are examined on the merits.<sup>205</sup>

Appeals have suspensive effect until the Appeals Committee reaches a decision.<sup>206</sup> Following a first instance decision, the asylum seeker's "pink card" is withdrawn, and a new one is issued when an appeal is lodged. This card is valid for 6 months in the regular procedure.<sup>207</sup>

The Appeals Committee may decide not to call the applicant for a hearing where it considers that it can issue a decision based only upon examination of the file. If the information included in the file is not sufficient for deciding on the appeal, the Appeals Committee shall invite the applicant to submit additional information within 10 days or to appear before it.<sup>208</sup> In the latter case the applicant shall be informed within 5 days before the date of the examination, in a language which he or she understands, of the place and date of the examination of the appeal, and for the right to attend in person or by an

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<sup>196</sup> Ministerial Decision 5401/3-156958, Gov. Gazette YOΔΔ 424/4-8-2016.

<sup>197</sup> Ministerial Decision 7396/30-12-2016, Gov. Gazette YOΔΔ 734/30-12-2016.

<sup>198</sup> Gazette YOΔΔ 222/15-5-2017.

<sup>199</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>200</sup> Article 80(4) L 4375/2016, as amended by Article 28(22) L 4540/2018.

<sup>201</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>202</sup> Article 25(1)(a) PD 114/2010, as amended by Article 35(17) PD 113/2013.

<sup>203</sup> Article 17(3) PD 114/2010.

<sup>204</sup> Article 25(1)(b) PD 114/2010.

<sup>205</sup> Article 25(1) PD 114/2010, as amended by Article 23 L 4375/2016.

<sup>206</sup> Article 25(2) PD 114/2010.

<sup>207</sup> Article 25(1)(a) PD 114/2010, as amended by Article 3(1) PD 167/2014.

<sup>208</sup> Article 26(5) PD 114/2010, as amended by Article 3 PD 167/2014.

attorney or other advisor before the Committee to verbally explain his or her arguments with the assistance of an interpreter, to give explanations or to submit any additional information.<sup>209</sup>

Following an amendment in 2016, it is provided that “in any event, an oral hearing is taking place if the appellant submits a relevant request at least two (2) days before the examination of the appeal.”<sup>210</sup>

A decision of the Appeals Committee rejecting the administrative appeal sets a specified timeframe of no more than 90 days for the applicant to leave the Greek territory.<sup>211</sup> While examining a case, and if they consider that the criteria for granting an international protection status are not fulfilled, Appeals Committees should examine if one or more of the criteria for granting a residence permit on humanitarian grounds are fulfilled and in this case refers the case to the competent authority under the Secretariat General for Migration Policy.

### 1.4.3. Judicial review

Applicants for international protection may lodge an application for annulment (*αίτηση ακύρωσης*) of a second instance decision of the Appeals Authority Committees or the Backlog Committees, before the Administrative Court of Appeals within 60 days from the notification of the decision.<sup>212</sup> As mentioned above, following a 2018 reform the deadline can start running even with a fictitious notification (*πλασματική επίδοση*). The possibility to file an application annulment, the time limits, as well as the competent court for the judicial review, must be expressly stated in the body of the administrative decision. Following the application for annulment, an application for suspension (*αίτηση αναστολής*) can be filled.

The definition of “final decision” was amended in 2018. According to the new definition, a “final decision” is a decision granting or refusing international protection (a) taken [by the Appeals Committees] following an administrative appeal, or (b) which is no longer amenable to an administrative appeal due to the expiry of the time limit to appeal.<sup>213</sup> Accordingly, persons whose asylum application is rejected at second instance no longer have “asylum seeker” status,<sup>214</sup> and thus do not benefit from reception conditions.

Before the amendments introduced by L 4540/2018, national legislation provided that following the lodging of the application for annulment, an application for suspension and a request for interim order (*προσωρινή διαταγή*) could be filled. The interim order was to be issued within a few days and the application for suspension was usually scheduled later on. Following L 4540/2018, echoing the 2016 Joint Action Plan on Implementation of the EU-Turkey Statement and pressure to limit the appeal stages,<sup>215</sup> the stages of interim order and application for suspension have been merged into one. The decision on this single application for temporary protection from removal should be issued within 15 days from the lodging of the application.<sup>216</sup>

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 can only be filled by a lawyer. In addition, no legal aid is provided in order to challenge a second instance negative decision on asylum application and the capacity of NGOs to file such application is very limited due to high

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<sup>209</sup> *Ibid.*

<sup>210</sup> Article 23(2) L 4375/2016.

<sup>211</sup> Article 26(6) PD 114/2010.

<sup>212</sup> Article 29 PD 114/2010 and Article 64 L 4375/2016, citing Article 15 L 3068/2002.

<sup>213</sup> Article 34(e) L 4375/2016, as amended by Article 28(5) L 4540/2018.

<sup>214</sup> Article 2(b) L 4540/2018.

<sup>215</sup> European Commission, *Joint Action Plan on Implementation of the EU-Turkey Statement*, 8 December 2016, available at: <https://bit.ly/2JwpFQS>.

<sup>216</sup> Article 15(5) L 3068/2002, as amended by Article 29(2) L 4540/2018.



legal fees. Legal aid may only be requested under the general provisions of Greek law,<sup>217</sup> which are in any event not tailored to asylum seekers and cannot be accessed by them in practice due to a number of obstacles: for example, the request for legal aid is submitted by an application written in Greek; free legal aid is granted only if the legal remedy for which the legal assistance is requested is not considered “manifestly inadmissible” or “manifestly unfounded”.<sup>218</sup>

- The application for annulment and application for suspension do not have automatic suspensive effect.<sup>219</sup> Therefore between the application of suspension and the decision of the court, there is no guarantee that the applicant will not be removed for 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 between two to three years for the issuance of a decision of the Administrative Court of Appeals following an application for annulment.

Moreover, according to Article 64 L 4375/29016, the Minister of Migration Policy also has the right to request the annulment of a decision of the Appeals Committee before the Administrative Court of Appeals.<sup>220</sup> On 30 December 2017, for the first time ever, an application for annulment, an application for suspension and a request for an interim order was filed before the Administrative Appeal Court of Athens on behalf of the Minister of Migration Policy against a second instance decision granting refugee status.<sup>221</sup> The case, supported by GCR, concerns one of the eight servicemen who fled Turkey after the failed coup d'état attempt in July 2016 and who was granted refugee status by the Appeals Committee on 28 December 2017. On 8 January 2018, the Administrative Court of Athens accepted the request for interim order and ordered the temporary suspension of the decision granting refugee status. On 9 February 2018, following a request of the applicant to whom refugee status had been granted, the Council of State decided to undertake the examination of the case.<sup>222</sup> The Athens Bar Association made a third party intervention in the support of the applicant.<sup>223</sup> The Council of State issued its final decision in May 2018, rejecting the application of annulment of the Minister of Migration Policy. The Council of State upheld the decision of the 3<sup>rd</sup> Independent Appeals Committee which granted refugee status to one of the eight Turkish servicemen, stating *inter alia* that there was no reasonable ground for the application of the exclusion clauses in the present case.<sup>224</sup>

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<sup>217</sup> Articles 276 and 276A Code of Administrative Procedure.

<sup>218</sup> *Ibid.*

<sup>219</sup> See e.g. ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.

<sup>220</sup> Article 26(7) PD 114/2010 and Article 64 L 4375/2016.

<sup>221</sup> Asylum Campaign, ‘The Asylum Campaign condemns the serious human rights violations concerning the asylum cases of the Turkish military officials’, 14 January 2018, available at: <http://bit.ly/2HNRjUy>.

<sup>222</sup> Council of State, Act 2/2018 of the Committee of Article 1(1) L 3900/2010, 9 February 2018, available in Greek at: <http://bit.ly/2FAQxtl>.

<sup>223</sup> Athens Bar Association, ‘Παράσταση του ΔΣΑ στο ΣΤΕ στην υπόθεση ασύλου του Τούρκου αξιωματικού’, 22 February 2018, available in Greek at: <http://bit.ly/2CLuhdv>.

<sup>224</sup> Council of State, Decision 1694/2018. See also GCR, ‘Δελτίο Τύπου του ΕΣΠ για το σκεπτικό της απόφασης του ΣΤΕ’, 11 September 2018, available in Greek at: <https://bit.ly/2TazB1Y>; Efsyn, ‘Το ΣΤΕ ανοίγει τον δρόμο για άσυλο στους Τούρκους στρατιωτικούς’, 23 May 2018, available in Greek at: <https://bit.ly/2O5RX3j>.

## 1.5. Legal assistance

### Indicators: Regular Procedure: Legal Assistance<sup>225</sup>

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>226</sup>

In September 2017, a state-run legal aid scheme in appeals procedures was put in place for the first time in Greece, with a number of 21 lawyers participating in the scheme. By the end of 2018, there were 31 lawyers deployed under the legal aid scheme.<sup>227</sup> Without underestimating this welcome development the availability of free legal aid under this scheme remains limited. No state-funded legal aid is provided for other procedures regarding the asylum application, including the examination of the application at first instance and the judicial review of second instance decisions.

NGO provide legal advice and legal assistance in asylum procedures based on the availability and their presence throughout the country.

According to GCR information and an informal mapping of legal assistance actors, at the end of January 2019 the total number of NGO or other *pro bono* lawyers providing legal assistance throughout the entire country was 176, excluding those under the state-funded legal aid scheme. This includes: 75 lawyers in **Attica**, 44 in **Thessaloniki**, 27 on **Lesvos**, 7 on **Chios**, 5 on **Samos**, 4 on **Kos**, 4 in **Evros**, 4 in **Larissa**, 3 in **Ioannina**, 2 on **Leros** and 1 part-time lawyer on **Rhodes**. The number of lawyers can vary throughout the year, depending on available funding. Moreover, not all lawyers provide services and representation to both first and second instance procedures and representation before the courts.

The number of asylum applicants remaining in Greece should be taken into consideration in order for the needs for legal assistance to be assessed. By the end of 2018 58,793 first instance asylum applications and about 17,300 appeals were pending.<sup>228</sup>

### 1.5.1. Legal assistance at first instance

No state-funded free legal aid is provided at first instance, nor is there an obligation to provide it in law. A number of non-governmental organisations provide free legal assistance and counselling to asylum seekers at first instance. 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. In a paper issued in January 2018, 14 legal aid NGOs identified 12 junctures for which legal assistance is required in the process of

<sup>225</sup> This refers to state-funded legal assistance.

<sup>226</sup> Article 44(1) L 4375/2016.

<sup>227</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>228</sup> Information provided by the Asylum Service, 26 March 2019; Appeals Authority, 6 March 2019; Information provided by the Directorate of the Hellenic Police, 23 January 2019; The total number of appeals includes 13,755 appeals pending by the end of 2018 before the Independent Appeals Committees, 563 appeals submitted before 7 June 2013 and about 3,000 appeals lodged before 21 July 2016 regarding applications submitted after 7 June 2013 pending before the Backlog Committees.

examination of asylum claims in order to ensure the respect of rights connected to applicants' basic needs.<sup>229</sup>

Over 10,000 asylum seekers and beneficiaries of international protection received services such as counselling, assistance and legal representation in asylum procedures and other issues relating to access to rights by NGOs under UNHCR funding in 2018.<sup>230</sup>

### 1.5.2. Legal assistance in appeals

According to Article 44(2) L 4375/2016, free legal assistance should be provided to applicants in appeal procedures before the Appeals Authority. The terms and the conditions for the provision of free legal assistance should be determined by a Ministerial Decision, which was issued in September 2016.<sup>231</sup> A state-funded legal aid scheme on the basis of a list managed by the Asylum Service is in place for the first time in Greece as of September 2017.

According to Ministerial Decision 12205/2016 regulating the state-funded legal aid scheme, asylum seekers must request legal aid at least 10 days before the date of examination of the appeal under the regular procedure, while shorter time limits are foreseen for the **Admissibility Procedure**, **Accelerated Procedure** and **Fast-Track Border Procedure**.<sup>232</sup> If a legal representative has not been appointed at the latest 5 days before the examination of the appeal under the regular procedure, the applicant may request a postponement of the examination.<sup>233</sup> The Decision also explicitly provides for the possibility of legal assistance through video conferencing in every Regional Asylum Office.<sup>234</sup> Following a recent amendment, the fixed fee has been raised from €80 to €120 per appeal.<sup>235</sup>

In practice, the scheme started operating on 21 September 2017 with a target of 21 lawyers to be registered on the list managed by the Asylum Service. By December 2018, 18 lawyers were registered on the list of the RAO of **Attica**, 3 before the RAO of **Thessaloniki**, 4 before the RAO of **Thrace**, 2 before the AAU of **Corinth**, 2 before the RAO of **Rhodes**, 1 before the RAO of **Crete** and 1 before the RAO of **Chios**.<sup>236</sup> In March 2019, the Asylum Service issued a call for the list to be supplemented by 20 lawyers.<sup>237</sup> The call concerns 2 lawyers in **Ioannina**, 1 in **Corinth**, 1 in **Western Greece**, 4 on **Lesvos**, 3 on **Leros**, 4 on **Samos**, 1 on **Chios**, 2 on **Kos** and 1 on **Crete**.

By the end of 2018, a total of 3,351 asylum seekers with applications rejected at first instance had benefited by the scheme, compared to 941 assisted asylum seekers through the same scheme in 2017:

Legal aid scheme managed by the Asylum Service: 2018		
Location	Lawyers	Cases supported
Attica	18	2,130
Thessaloniki	3	195
Thrace	4	347

<sup>229</sup> ActionAid et al., *Legal Aid (Individual Legal Representation in Asylum/Refugee Context) for Migrants, Asylum Seekers and Refugees in Greece: Challenges and Barriers*, January 2018, available at: <http://bit.ly/2FyEjRW>.

<sup>230</sup> UNHCR, *Greece Fact Sheet*, December 2018, available at: <https://bit.ly/2F7nBcu>.

<sup>231</sup> Ministerial Decision 12205/2016, Gov. Gazette 2864/B/9-9-2016.

<sup>232</sup> Article 1(3) MD 12205/2016.

<sup>233</sup> Article 1(4) MD 12205/2016.

<sup>234</sup> Article 1(7) MD 12205/2016.

<sup>235</sup> Article 3 MD 3651/2019, Gov. Gazette 528/B/21-2-2019.

<sup>236</sup> Asylum Service, 'Απόφαση ένταξης δικηγόρων για τη συμπλήρωση του μητρώου', 7 August 2018, available in Greek at: <http://asylo.gov.gr/?p=7087>.

<sup>237</sup> Asylum Service, 'Συμπλήρωση του Μητρώου Δικηγόρων για παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία', 12 March 2019, available in Greek at: <https://bit.ly/2WmScKu>.

Corinth	2	261
Lesvos	-	52
Rhodes	2	160
Chios	1	160
Crete	1	46
<b>Total</b>	<b>31</b>	<b>3,351</b>

Source: Asylum Service, 26 March 2019.

Without underestimating the welcome development of the first-ever launch of a state-funded legal aid scheme, the figures illustrate that the capacity of the second instance legal aid scheme remains limited and that the majority of appellants in 2018 did not have access to the scheme. Out of a total of 15,355 appeals lodged in 2018, only 3,351 (21.8%) asylum seekers benefited from the state-funded legal aid scheme.<sup>238</sup> Therefore compliance of the Greek authorities with their obligations under national legislation and the recast Asylum Procedures Directive remains a matter of concern and should be further assessed.

Additionally 600 applicants received legal aid in appeal procedures under UNHCR's Memorandum of Cooperation with the Ministry of Migration Policy in 2018.<sup>239</sup> This scheme was concluded by the first quarter of 2018.

## 2. Dublin

### 2.1. General

#### Dublin statistics: 2018

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
<b>Total</b>	5,211	5,460	<b>Total</b>	9,142	18
Germany	2,312	3,466	Germany	6,773	6
United Kingdom	778	940	Sweden	592	2
Sweden	471	228	Belgium	548	4
Switzerland	294	254	Norway	503	4
Austria	219	123	Slovenia	269	0
France	157	35	Switzerland	132	1
Netherlands	149	52	Croatia	104	0
Belgium	134	71	Netherlands	61	0
Italy	121	32	Finland	51	0
Malta	103	96	France	18	0
Bulgaria	103	0	Poland	15	1

Source: Asylum Service, 26 March 2019; Dublin statistics: <https://bit.ly/2V3uyIN>.

In 2018, Greece addressed 5,211 outgoing requests to other Member States under the Dublin Regulation. Within the same period, 2,509 requests were expressly accepted, 139 were implicitly

<sup>238</sup> Information provided by the Appeals Authority, 6 March 2019.

<sup>239</sup> UNHCR, *Greece Fact Sheet*, December 2018, available at: <https://bit.ly/2F7nBcu>.

accepted and 1,561 were rejected. There has been an important decrease in the number of outgoing requests compared to the previous year:

Outgoing Dublin requests: 2014-2018					
Year	2014	2015	2016	2017	2018
Number	1,126	1,073	4,886	9,784	5,211

Source: Eurostat; Asylum Service.

The significant increase of rejections merits consideration. Since 2017, the German Dublin Unit has shifted its practice following the *Mengesteab* ruling of the CJEU.<sup>240</sup> Soon after the judgment, it started rejecting “take charge” requests from Greece, where the applicant had expressed his or her intention to seek international protection – before the Police – more than three months prior to the date of the “take charge” request. This was contrary to the practice established until then, whereby Germany accepted the lodging of the application by the Asylum Service as the starting point of the three-month deadline for the issuance of “take charge” requests. This shift resulted in increasing rejections of Greek outgoing requests as inadmissible. Public debate has emerged around this topic,<sup>241</sup> and according to GCR’s information, although it did not officially accept this shift, the Greek Dublin Unit has altered its practice so as to avoid such rejections in the future, by sending the “take charge” requests as soon as possible and whenever possible within three months from the expression of the intention to seek international protection (*βούληση*).

### The application of the Dublin criteria

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

Outgoing and incoming Dublin requests by criterion: 2018		
Dublin III Regulation criterion	Outgoing	Incoming
Family provisions: Articles 8-11	3,688	57
Documentation: Articles 12 and 14	5	1,187
Irregular entry: Article 13	10	3,286
Dependent persons clause: Article 16	106	0
Humanitarian clause: Article 17(2)	825	11
“Take back”: Article 18	577	4,599
<b>Total outgoing and incoming requests</b>	<b>5,211</b>	<b>9,142</b>

Source: Asylum Service, 26 March 2019.

### Family unity

Out of 3,688 outgoing requests based on family reunification provisions in 2018, 2,065 were accepted by other Member States.<sup>242</sup>

In order for a “take charge” request to be addressed to the Member State where a family member or relative resides, the consent of the relative is required, as well as documents proving the legal status of

<sup>240</sup> CJEU, Case C-670/16 *Tsegezab Mengesteab v Bundesrepublik Deutschland*, Judgment of 26 July 2017, EDAL, available at: <https://bit.ly/2XvMKq2>.

<sup>241</sup> Ecumenical Refugee Programme, *Dublin III: The “exception” that became the rule*, May 2018, available at: <https://bit.ly/2IS1a02>.

<sup>242</sup> Information provided by the Asylum Service, 26 March 2019.

the relative in the receiving country (e.g. residence permit, asylum seeker's card or other documents certifying the submission of an asylum application) and documentation bringing evidence of the family link (e.g. certificate of marriage, civil status, passport, ID). The complete lack of such documentation leads to non-expedition of an outgoing request by the Dublin Unit.<sup>243</sup>

Furthermore, according to GCR's experience, only documents provided in English or translated in English seem to be taken into account by the Dublin Units of other Member States, thus making it more difficult for the applicants to provide those. Moreover, there have been a few cases where official translations were requested, especially in the case of ID or other official documents.

Throughout 2017, in cases where a subsequent separation of the family took place after their asylum application in Greece, rejections of Dublin requests stated that such 'self-inflicted' separation exposes children to danger and that reunification with such parents might not be in the child's best interests or that the separation of the family took place in order for the family provisions of the Regulation to be invoked in an abusive manner. This was contrary to previous practice and failed to take into consideration the individual circumstances of the case such as the reception conditions facing applicants in Greece.

In 2018, in cases of 'self-inflicted' family separations, where children already registered with their families in Greece show themselves in another Member State, the Asylum Service does not send outgoing "take charge" requests based on the family provisions or the humanitarian clause, on the basis that practises of 'self-inflicted' family separations are against the best interest of the child. A "take back" request will be sent by Greece for the return of the child and the reunification with his family in Greece.<sup>244</sup>

As regards the documents requested, in case the child is in another Member State, written consent of his or her guardian is always requested by the Dublin Unit in order to start the procedure.

#### *Unaccompanied children*

Problems also arise in the cases of unaccompanied children whose family members are present in another Member State. The system of appointing a guardian for minors is dysfunctional, as little is done after the Asylum Service or Police or RIC has informed the Public Prosecutor for minors who acts by law as temporary guardian for unaccompanied children; the Prosecutor merely assumes that capacity in theory. In practice, NGO personnel is usually appointed as temporary guardian by the Public Prosecutor. The difficulties underlying the current guardianship system were illustrated in a case before the Administrative Court of Münster in December 2018, where the Court held that:

"[T]he temporary guardianship awarded to the applicant's cousin could not be regarded as custody under Greek law, resulting in the cousin being considered as a representative of the minor in accordance with Article 6(2) of the Regulation. Following this, the Court concluded that the young brother was an unaccompanied minor and Germany was the Member State responsible for his application, as reunification with his older brother was in the best interest of the child. Moreover, this responsibility was not affected by the delayed request, as the failure should be attributed to the Greek authorities, having wrongfully insisted on the request for family reunification to be made in writing, and to his cousin's delay in submitting it."<sup>245</sup>

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<sup>243</sup> *Ibid.*

<sup>244</sup> Information provided by the Asylum Service: Legal Aid Working Group / Protection Working Group, 21 November 2018, available at: <https://bit.ly/2TW15xM>, para 5.

<sup>245</sup> EDAL, 'Germany – Münster Administrative Court obliged the German asylum authorities to accept a delayed take charge request from Greece', 22 December 2018, available at: <https://bit.ly/2tG9CVN>.



In August 2018, the Dublin Unit developed a new tool for the Best Interests Assessment of unaccompanied children, aiming to facilitate family reunification requests.<sup>246</sup> According to the Dublin Unit, the purpose of this tool is to gather all the necessary information required by Member States when assessing family reunification cases or unaccompanied children. The tool was developed following consultation with all international organisations and NGOs active in Greece.<sup>247</sup>

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

The acceptance rate has been lower on outgoing requests based on the humanitarian clause compared to requests based on the family provisions. Out of 825 outgoing requests under Article 17(2) of the Dublin Regulation in 2018, only 303 were accepted.<sup>248</sup> According to GCR's experience, requests under the humanitarian clause mainly concern dependent and vulnerable persons who fall outside the family criteria set out in Articles 8-11 and cases where the three-month deadline for a request has expired for various reasons. In those cases, the Dublin Unit has been reluctant to send re-examination requests after an initial rejection. As the Asylum Service informed the Legal Aid Working Group / Protection Working Group of Attica in November 2018, Germany does not accept "take charge" requests based on Article 17 of Dublin Regulation.<sup>249</sup>

### **Phase-out of the relocation scheme**

The relocation scheme established by Council Decisions (EU) 2015/1523 and 2015/1601 in September 2015 for a target of 160,000 asylum seekers was designed as an emergency measure to alleviate pressure on Italy and Greece and constituted a partial derogation from the Dublin Regulation criteria. Out of the target of 66,400 asylum seekers to be relocated from Greece, 22,822 had effectively been transferred by the end of the scheme.<sup>250</sup> The European Commission has been regularly reporting on the scheme, highlighting a number of challenges resulting in slow and inefficient implementation of Member States' commitments.<sup>251</sup>

In accordance with the Council Decisions, the relocation scheme was officially ceased at the end of September 2017 but the Relocation Unit continued operations on pending cases until the end of 2017. UNHCR called for the relocation scheme to be continued beyond the 26 September 2017 deadline and for the 75% average recognition rate as a threshold for relocation to be lowered. As highlighted by UNHCR, the need for such responsibility-sharing mechanisms remains acute.<sup>252</sup> GCR has analysed in detail the relocation procedure in previous updates of the AIDA report and highlighted shortcomings.<sup>253</sup>

In February 2019, the Ombudsman released a report assessing the relocation programme as a whole.<sup>254</sup> In its conclusions, the report notes that:

"The structure of the relocation scheme seemed to predetermine its results. By excluding a) asylum seekers crossing the Greek sea borders after the entry into force of the EU-Turkey Joint Statement on 20.3.2016, as well as b) all nationals from countries having a European

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<sup>246</sup> Asylum Service, *Best Interest Assessment Form for the Purposes of Implementing the Dublin Regulation*, available at: <https://bit.ly/2GQT8Tx>.

<sup>247</sup> Asylum Service, 'Best Interests Assessment for Dublin UAM' s cases – A new tool to serve the needs of family reunification applications of unaccompanied minors', 2 August 2018, available at: <https://bit.ly/2Sxi8QX>.

<sup>248</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>249</sup> Information provided by the Asylum Service: Legal Aid Working Group / Protection Working Group, 21 November 2018, para 5.

<sup>250</sup> Asylum Service, *Relocation statistics*, available at: <https://bit.ly/2vtpoaj>.

<sup>251</sup> The Commission's reports on relocation and resettlement are available at: <http://goo.gl/VkOUJX>

<sup>252</sup> UNHCR, 'UNHCR calls for the EU relocation scheme to continue', 26 September 2017, available at: <http://bit.ly/2fz1OSH>.

<sup>253</sup> AIDA, Country Report Greece, 2017 Update, March 2018, 106 et seq.

<sup>254</sup> Ombudsman, *Relocation revisited. The Greek case*, February 2019, available at: <https://bit.ly/2CEarU8>.



recognition rate lower than 75%, the relocation scheme's failure to reach the numbers perceived in 2015 appears to be a self-fulfilled prophecy.

The lack of legal consistency of the scheme is obvious, given that the Council Decisions on Relocation were never legally amended by the EU-Turkey Joint Statement, a non-legal document and non-attributable to an EU institution according to the EU General Court, yet able to create powerful political effects. Therefore, one may conclude that by accepting the actual amendment of the relocation scheme in practice by the EU-Turkey Joint Statement, the EU Member-States and the Commission limited the scope of the relocation scheme to a small fragment of asylum seekers that had nothing to do with the initial number of predictions of 2015.”<sup>255</sup>

Further points made by the Ombudsman referred to the lack precise and transparent procedures, for example on the rejection of requests on national security grounds without any motivation, lack of possibilities to appeal rejections of requests,<sup>256</sup> and the prevailing political dimension and lack of EU solidarity commitment on behalf of all Member States.<sup>257</sup>

During the phasing out of the relocation scheme, 293 transfers from Greece took place in 2018, of which 267 to Ireland, 18 to Germany, 7 to the Netherlands and 1 to Spain. 267 of the applicants transferred were Syrians, 17 were Palestinians and another 9 were Iraqis. It is also worth noting that 34 of the applicants transferred were unaccompanied children.

In a positive development, in March 2019 the Greek and Portuguese authorities concluded a bilateral agreement to relocate 1,000 asylum seekers from Greece to Portugal by the end of the year. The programme will start with a trial of 100 asylum seekers. Relocation candidates will have to initially apply for asylum in Greece and Portuguese authorities will then interview eligible asylum seekers in Greece to determine if they can be relocated to Portugal. Selection criteria are not known yet.<sup>258</sup>

## 2.2. Procedure

### Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 273 days

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

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

Similarly, requests for family reunification based however on the “humanitarian” clause due to the expiry of the three-month deadline due to the applicant's responsibility are usually rejected on the basis that

<sup>255</sup> *Ibid*, 49.

<sup>256</sup> *Ibid*, 50.

<sup>257</sup> *Ibid*, 51.

<sup>258</sup> Blog.refugee.info, 'Portugal will accept up to 1,000 asylum-seekers from Greece', 19 March 2019, available at: <https://bit.ly/2CEyYII>.

“art. 17(2) has not the intention to examine take charge requests which are expired”, according to the rejecting Member State.

Generally, outgoing requests by Greece receive a reply within 2 months after the request is submitted, in line with the time limits imposed by the Regulation.<sup>259</sup> In 2018, the overall average duration of the procedure between the lodging of the application and the actual transfer to the responsible Member State was 325 days, i.e. almost 11 months.<sup>260</sup>

### Individualised guarantees

The Greek Dublin Unit requests individual guarantees on the reception conditions of the applicant and the asylum procedure to be followed.<sup>261</sup> In any event, in family reunification cases, the applicant is willing to be transferred there and additionally he or she relinquishes his or her right to appeal against the decision rejecting the asylum application as inadmissible.

### Transfers

Dublin procedures appear to run smoothly, but usually making use of the maximum time of the requisite deadlines, although extremely vulnerable cases are reported to be treated with a certain priority. Generally, deadlines for “take charge” requests as well as transfers are usually met without jeopardising the outcome of family reunification. The delays that had arisen last year regarding the transfers to Germany are no longer relevant in 2018.

However, delays occur and the waiting time for transfers is still high. The average duration of the transfer procedure, after a Member State had accepted responsibility, was approximately 9 months in 2018. According to the Asylum Service, the 6-month time limit for the transfer was statistically exceeded in 2018 since the transfer of applicants to Germany, which was delayed for many months in 2017, finally took place.<sup>262</sup>

Applicants who are to travel by plane to another Member State are requested to be several hours in advance at **Athens International Airport**. The police officer escorts the applicants to the check-in counter. Once the boarding passes are issued, the escorting officer hands in the boarding passes, the *laissez-passer* and the applicant’s “asylum seeker’s card” to a police officer at the airport. The latter escorts the applicant into the aircraft, hands in the required documents to the captain of the aircraft and the applicant boards the aircraft.

Travel costs for transfers were covered by the Asylum Service in 2018.

Compared to a total of 5,211 requests in 2018, a total 5,460 transfers were implemented, namely due to the implementation of procedures initiated in previous years.

Outgoing Dublin transfers by month: 2018												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
545	247	317	236	502	807	670	222	593	577	522	222	<b>5,460</b>

Source: Asylum Service, 26 March 2019.

<sup>259</sup> Article 22(1) Dublin III Regulation.

<sup>260</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>261</sup> *Ibid.*

<sup>262</sup> *Ibid.*

Accordingly, the monthly Dublin transfers to Germany, the principal receiving Member State, were as follows:

Outgoing Dublin transfers to Germany by month: 2018												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
416	62	150	169	278	603	466	133	459	378	297	55	<b>3,466</b>

Source: Asylum Service, 26 March 2019.

### 2.3. Personal interview

#### Indicators: Dublin: Personal Interview

Same as regular procedure

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

Under the Dublin procedure, a personal interview is not always required.<sup>263</sup>

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

Questions relating to the Dublin procedure are always addressed to the applicant during the [Regular Procedure: Personal Interview](#) examining his or her asylum claim. According to GCR's experience, applicants who reveal at this later stage, well after the three-month deadline, the existence of a close family member in another EU Member State, thus fulfilling the criteria of Dublin III Regulation, are given the chance to apply for family reunification. However, the heavy workload of the Asylum Service and the fact that the deadline for a request is already missed result in those applicants waiting for prolonged periods before an outgoing request is even sent by the Greek Dublin Unit. In several relevant cases handled by GCR, the relevant outgoing requests have not been sent several months after the signature of consent for family reunification by the applicant.

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

<sup>263</sup> Article 5 Dublin III Regulation.

## 2.4. Appeal

### Indicators: Dublin: Appeal

Same as regular procedure

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

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

Applications for international protection are declared inadmissible where the Dublin Regulation applies.<sup>264</sup> An applicant may lodge an appeal against a first instance decision rejecting an application as inadmissible due to the application of the Dublin Regulation within 15 days.<sup>265</sup> Such appeal is also directed against the transfer decision, which is incorporated in the inadmissibility decision.<sup>266</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?

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

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

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

Access to free legal assistance and representation in the context of a Dublin procedure is available under the conditions described in [Regular Procedure: Legal Assistance](#). 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. Since September 2017, state-organised legal aid only at second instance has been organised in several RAO, with limited capacity, however.

Limited access to legal assistance creates difficulties for applicants in navigating the complexities of the Dublin procedure. The case files of the applicants are communicated by the police or RAO competent for the registration of asylum applications to the Dublin Unit. Moreover, the Dublin Unit does not consider itself responsible for preparing Dublin-related case files, as the applicants bear the responsibility of submitting to the Asylum Service all documents required in order for the Dublin Unit to establish a “take charge” request, such as proof of family links. However, in practice, according to GCR’s experience, Dublin Unit officers usually make every effort to notify applicants on time for the submission of any missing documents before the expiry of the deadlines.

<sup>264</sup> Article 54(1)(b) L 4375/2016.

<sup>265</sup> Article 61(1)(b) L 4375/2016.

<sup>266</sup> *Ibid.*

## 2.6. Suspension of transfers

### Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?  Yes  No

❖ If yes, to which country or countries?

No recent information on suspension of transfers is available. The Administrative Court of Appeal of Athens dismissed an appeal against a transfer to **Bulgaria** in 2018, finding that deficiencies in the asylum procedure did not point to a serious and established reason to believe that the asylum seeker would be subjected to inhuman or degrading treatment. The Court also found that there was no obligation on the competent authorities to investigate *proprio motu* the state of the asylum procedure and reception conditions in Bulgaria prior to issuing a transfer decision,<sup>267</sup> contrary to the case law of the European Court of Human Rights (ECtHR) and the CJEU.<sup>268</sup>

## 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>269</sup>

Following three Recommendations issued to Greece in the course of 2016,<sup>270</sup> and despite the fact that the Greek asylum and reception system remained under significant pressure, *inter alia* due to the closure of the so-called Balkan corridor and the launch of the EU-Turkey Statement, the European Commission issued a Fourth Recommendation on 8 December 2016 in favour of the resumption of Dublin returns to Greece, starting from 15 March 2017, without retroactive effect and only regarding asylum applicants who have entered Greece from 15 March 2017 onwards or for whom Greece is responsible from 15 March 2017 onwards under other Dublin criteria.<sup>271</sup> Persons belonging to vulnerable groups such as unaccompanied children are to be excluded from Dublin transfers for the moment, according to the Recommendation.<sup>272</sup>

The National Commission for Human Rights in a Statement of 19 December 2016, expressed its “grave concern” with regard to the Commission Recommendation and noted that “it should be recalled that all refugee reception and protection mechanisms in Greece are undergoing tremendous pressure... the GNCHR reiterates its established positions, insisting that the only possible and effective solution is the

<sup>267</sup> Administrative Court of Appeal of Athens, Decision 1141/2018, 23 October 2018.

<sup>268</sup> For a summary of case law, see e.g. UNHCR, *UNHCR Manual on the Case Law of the European Regional Courts*, June 2015, available at: <https://www.refworld.org/docid/558803c44.html>.

<sup>269</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>270</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>271</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, ‘Επτανέναρξη των επιστροφών «Δουβλίνου»’, 14 December 2016, available in Greek at: <http://bit.ly/2gHDKMJ>; Amnesty International, ‘EU pressure on Greece for Dublin returns is “hypocritical”’, 8 December 2016, available at: <http://bit.ly/2kG8Dzf>; Human Rights Watch, ‘EU: Returns to Greece Put Refugees at Risk’, 10 December 2016, available at: <http://bit.ly/2hgVaNi>; ECRE, GCR, Aitima and SolidarityNow, *Letter to the President of the European Commission and the Greek Minister of Migration Policy “Re: Joint Action Plan on EU-Turkey Statement and resumption of Dublin transfers to Greece”*, 15 December 2016, available at: <http://bit.ly/2kGcc8P>; National Commission for Human Rights, ‘Statement in response to the recommendation of the European Commission to reactivate the refugee return mechanism under the Dublin system’, 19 December 2016, available at: <http://bit.ly/2kGi7us>.

<sup>272</sup> Commission Recommendation C(2016) 8525, para 9.

immediate modification of the EU migration policy and in particular of the Dublin system, which was proven to be inconsistent with the current needs and incompatible with the effective protection of human rights as well as the principles of solidarity and burden-sharing among the EU Member-States.”<sup>273</sup>

These findings remain valid at the time of writing, since Greece continues to receive a considerably high number of asylum applications,<sup>274</sup> while competent authorities do not have the capacity to process the examination of the applications in due time (see [Regular Procedure: General](#)). In addition, reception capacity still fall short of actual needs and asylum seekers and status holders face homelessness and destitution risks, while living conditions are reported substandard in a number of facilities across the country (see [Reception Conditions: Conditions in Reception Facilities](#) and [Content of Protection: Housing](#)).

During 2017, the Greek Dublin Unit received 1,998 incoming requests under the Dublin Regulation. This number rose to 9,142 requests in 2018, coming predominantly from Germany (6,773). Of those, only 233 were accepted.

Incoming Dublin requests by sending country: 2018			
Country	Total requests	Accepted requests	Refused requests
Germany	6,773	134	6,739
Sweden	592	34	472
Belgium	548	12	488
Norway	503	11	484
Slovenia	269	4	262
<b>Total</b>	<b>9,142</b>	<b>233</b>	<b>8,825</b>

Source: Asylum Service, 26 March 2019.

18 persons have been transferred back to Greece in 2018, mainly from Germany, Belgium and Norway.<sup>275</sup>

Regarding the guarantees provided by Greece to the Member states requesting the return of a person to Greece, the Greek Dublin Unit and the RIS inform the Member State on the availability of accommodation in any reception facility and on the resumption of the asylum procedure, following the announcement of the person’s return.<sup>276</sup> Upon arrival at **Athens International Airport**, the person is received by the Police and referred to the Asylum Service.

If the application of the person concerned has not been closed, i.e. the deadline of 9 months from the discontinuation of the procedure has not expired,<sup>277</sup> the person can continue the previous procedure upon return to Greece. Otherwise, the person has to file a [Subsequent Application](#), contrary to Article 18(2) of the Dublin Regulation.

The case law of domestic courts on returns of asylum seekers to Greece has not been consistent in 2018. The Belgian Council for Alien Law Litigation upheld on 8 June 2018 the transfer of a Palestinian

<sup>273</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>274</sup> Eurostat, ‘580 800 first-time asylum seekers registered in 2018, down by 11% compared with 2017’, 14 March 2019, available at: <https://bit.ly/2O32V9F>.

<sup>275</sup> Asylum Service, *Statistical Data of the Greek Dublin Unit (7.6.2013 - 28.02.2019)*, available at: <https://bit.ly/2V3uyIN>.

<sup>276</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>277</sup> Article 47(4) L 4375/2016.



asylum seeker from Belgium. While recognising that there are still deficiencies in the asylum procedure and reception conditions in Greece, the Court found that there are no longer systematic deficiencies that would prevent all Dublin transfers to Greece. The Court further noted that the applicant had no particular vulnerability and that the Greek authorities had provided their Belgian counterparts with individualised guarantees with regard to the applicant's access to the asylum procedure in Greece and his reception in an official and open reception centre.<sup>278</sup> It did suspend a transfer of a vulnerable applicant later in 2018, however, arguing that there was no adequate reception for victims of gender-based violence in Greece.<sup>279</sup> The German Administrative Court of Hannover also ruled against the Dublin transfer of an applicant in Greece in January 2018.<sup>280</sup>

### **Greece-Germany Administrative Arrangement**

In August 2018, Germany and Greece concluded a so-called "Administrative Arrangement Agreement between the Ministry of Migration Policy of the Hellenic Republic and the Federal Ministry of the Interior, Building and Community of the Federal Republic of Germany on the cooperation when refusing entry into persons seeking protection in the context of temporary checks at the internal German-Austrian border". This 'agreement' did not take the form of an official bilateral agreement or treaty. The text of the arrangement was annexed to letters exchanged between German and Greek authorities,<sup>281</sup> and has not been officially published, though it has been leaked.<sup>282</sup>

The Administrative Arrangement lays down a fast-track procedure for the return to Greece of persons apprehended during border controls on the German-Austrian border, which circumvents the procedure and legal safeguards set *inter alia* by Dublin III Regulation. It "is essentially a fast track implementation of return procedures in cases for which Dublin Regulation already lays down specific rules and procedures. The procedures provided in the 'Arrangement' skip all legal safeguards and guarantees of European Legislation".<sup>283</sup>

According to the "Administrative Arrangement", persons who: (a) are arrested at the German-Austrian border; (b) who express their desire for international protection in Germany; and (c) have been fingerprinted in Eurodac as applicants for international protection in Greece from July 2017 onwards, are issued a refusal of entry decision and are automatically returned to Greece. The return of the person should be initiated no more than 48 hours from apprehension. Greece can object to the return within 6 hours from the automatic confirmation of the notification. Germany notifies the refusal of entry to the Greek Authorities. A mechanism for the automatic confirmation of the receipt of the notification is introduced from the Greek side.

A number of legal, including human rights, concerns are raised by said arrangement. These can be summarised as follows:<sup>284</sup>

- Despite the explicit intention of the person to apply for asylum in Germany, the application is not registered by the German authorities, in violation of the recast Asylum Procedures Directive among other instruments,
- Procedural safeguards prior to transfer are not followed and any safeguards set out namely in the Dublin III Regulation are bypassed. Human rights obligations under Article 3 ECHR and

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<sup>278</sup> Belgian Council of Alien Law Litigation, Decision 205 104, 8 June 2018.

<sup>279</sup> Belgian Council of Alien Law Litigation, Decision 210 384, 1 October 2018.

<sup>280</sup> German Administrative Court of Hannover, Decision 11 B 87/18, 11 January 2018.

<sup>281</sup> In.gr, 'Βίτσας: Τι προβλέπει η διμερής συμφωνία Ελλάδας – Γερμανίας', 17 August 2018, available in Greek at: <https://bit.ly/2HCtIJK>.

<sup>282</sup> Refugee Support Aegean, 'The Administrative Arrangement between Greece and Germany', 1 November 2018, available at: <https://bit.ly/2WcOymT>.

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

<sup>284</sup> For an analysis see ECRE, *Bilateral agreements: Implementing or bypassing the Dublin Regulation?*, December 2018, available at: <https://bit.ly/2rvGNur>; Refugee Support Aegean, 'The Administrative Arrangement between Greece and Germany', 1 November 2018, available at: <https://bit.ly/2WcOymT>.



Article 4 of the EU Charter, imposing on the returning state a duty to ensure guarantees against *refoulement* and with regard to the living conditions of the applicant, are also not met.<sup>285</sup> European Commission guidance on the need to obtain individual guarantees prior to transfers to Greece is also disregarded.<sup>286</sup>

- Access to asylum of those returned to Greece is not guaranteed.

The implementation of the transfer to Greece within a very short timeframe, coupled with the non-suspensive nature of appeals against refusal of entry decisions, also hinders access to an effective remedy.<sup>287</sup>

As of early March 2019, the German-Greece Administrative Arrangement had been implemented in nine cases.<sup>288</sup> The persons returned from Germany under the arrangement include 3 Syrian nationals, 3 Iraqi, 2 Pakistani and 1 Afghan national.<sup>289</sup>

In one case, supported by GCR after return to Greece, the applicant, a Syrian national who had initially applied for asylum on **Leros**, was apprehended German-Austrian border in September 2018. Despite the fact that the applicant explicitly expressed his will to apply for asylum in Germany, the German authorities did not register the application. They issued a refusal of entry decision and returned the applicant to Greece in less than 12 hours following the arrest, invoking the Administrative Arrangement. No individual guarantees were requested and, given the circumstances of the case, the applicant did not benefit from an affective remedy in order to challenge his return. Upon arrival in Greece, the applicant was automatically detained and transferred back to Leros where he remained detained in degrading conditions for a period exceeding two months in the Leros Police Station, i.e. a detention place which by nature is not suitable for detention over 24 hours. For example, he did not have access to outdoor exercise or yarding during the whole period of his detention. Upon his arrival in Greece, his asylum procedure had been discontinued and he faced a real risk of readmission to Turkey.<sup>290</sup> An application before the ECtHR against Germany and Greece was submitted for this case in early 2019.

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<sup>285</sup> See e.g. ECtHR, *M.S.S. v. Belgium and Greece*; CJEU, Joined Cases C-411/10 *NS* and C-493/10 *ME*, Judgment of 21 December 2011. For an overview of relevant case law, see UNHCR, *Manual on the Case Law of the European Regional Courts*, June 2015, , available at: <https://bit.ly/2WyQ8z3>.

<sup>286</sup> Point 10 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.

<sup>287</sup> See e.g. AIDA, *Access to protection in Europe: Borders and entry into the territory*, October 2018, available at: <https://bit.ly/2CLSIMg>, 9.

<sup>288</sup> Spiegel, 'Bisher nur elf Asylbewerber an Grenze abgewiesen', 3 March 2019, available in German at: <https://bit.ly/2TufzDQ>.

<sup>289</sup> For more details, see German Federal Government, Reply to parliamentary question by Die Linke, 19/8340, 13 March 2019, available in German at: <https://bit.ly/2HRUBsk>, 27.

<sup>290</sup> GCR, 'Serious violations regarding the return of an asylum seeker as part of the implementation of the so-called "Greek-German Administrative Arrangement"', 25 October 2018, available at: <https://bit.ly/2TvQX9D>.

### 3. Admissibility procedure

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

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

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

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

The Asylum Service dismissed 4,834 applications as inadmissible in 2018:

Inadmissibility decisions: 2018	
Type of decision	Number
Safe third country	399
Dublin cases	3,236
Relocation	33
Subsequent application	1,157
Formal reasons	9
<b>Total</b>	<b>4,834</b>

Source: Asylum Service, 26 March 2019.

#### 3.2. Personal interview

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

Same as regular procedure

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

The conduct of an interview on the admissibility procedure varies depending on the admissibility ground examined. For example, according to Article 59 L 4375/2016, as a rule no interview is taking place during the preliminary examination of a subsequent application.<sup>291</sup> In Dublin cases, an interview limited to questions on the travel route, the family members' whereabouts etc. takes place (see section on [Dublin: Personal Interview](#)). Personal interviews in cases examined under the “safe third country” concepts focus on the circumstances that the applicant faced in Turkey.

<sup>291</sup> According to the second limb of Article 59(2), “Exceptionally, the applicant may be invited, according to the provisions of this Part, to a hearing in order to clarify elements of the subsequent application, when the Determining Authority considers this necessary”.

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

An appeal against a first instance decision of inadmissibility may be lodged within 15 days,<sup>292</sup> instead of 30 in the regular procedure. Under the border procedure the appeal may be lodged within 5 days.<sup>293</sup> The appeal has automatic suspensive effect.

### 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 |
| ❖ 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 |
| ❖ 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](#)).

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

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

#### Indicators: Border Procedure: General

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

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

The law does not limit the applicability of the border procedure to admissibility or to the substance of claims processed under an accelerated procedure. Under the terms of Article 60 L 4375/2016, the merits of any asylum application could be examined at the border.

<sup>292</sup> Article 61(1)(b) L 4375/2016.

<sup>293</sup> Article 61(1)(c) L 4375/2016.

In the “normal border procedure”,<sup>294</sup> where applications for international protection are submitted in transit zones of ports or airports in the country, asylum seekers enjoy the same rights and guarantees with those whose applications are lodged in the mainland.<sup>295</sup> However, deadlines are shorter: asylum seekers have no more than 3 days for interview preparation and consultation of a legal or other counsellor to assist them during the procedure and, when an appeal is lodged, its examination can be carried out at the earliest 5 days after its submission.

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

Where no decision is taken within 28 days, asylum seekers are allowed entry into the Greek territory for their application to be examined according to the provisions concerning the [Regular Procedure](#).<sup>296</sup> During this 28-day period, applicants remain *de facto* in detention (see [Grounds for Detention](#)).

The abovementioned procedure is in practice applied only in airport transit zones, particularly to those arriving at **Athens International Airport** – usually through a transit flight – without a valid entry authorisation and apply for asylum at the airport.

With a Police Circular of 18 June 2016 communicated to all police authorities, instructions were provided *inter alia* as to the procedure to be followed when a third-country national remaining in a detention centre or a RIC wishes to apply for international protection, which includes persons subject to border procedure.<sup>297</sup>

The number of asylum applications subject to the border procedure at the airport in 2018 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?  
 Yes  No  
❖ If so, are questions limited to nationality, identity, travel route?  Yes  No  
❖ If so, are interpreters available in practice, for interviews?  Yes  No
2. Are interviews conducted through video conferencing?  Frequently  Rarely  Never

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

<sup>294</sup> Article 60(1) L 4375/2016.

<sup>295</sup> Articles 41, 44, 45 and 46 L 4375/2016.

<sup>296</sup> Article 60(2) L 4375/2016.

<sup>297</sup> Police Circular No 1604/16/1195968/18-6-2016, available in Greek at: <http://bit.ly/2ngIEj6>.

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

### 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?
 

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

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

In case where the appeal is rejected, the applicant has the right to appeal before the Administrative Court of Appeal (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?
 

<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 a negative 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
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The law does not contain special provisions regarding free legal assistance in the border procedure. The general provisions regarding legal aid are also applicable here (see section on [Regular Procedure: Legal Assistance](#)).

## 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? 2 days

Article 60(4) L 4375/2016 foresees a special border procedure, known as a “fast-track” border procedure, visibly connected to the implementation of the EU-Turkey statement. In particular, the fast-track border procedure as foreseen by L 4375/2016, voted some days after the launch of the EU Turkey

statement, provides an extremely truncated asylum procedure with fewer guarantees.<sup>298</sup> As the Director of the Asylum Service noted at that time:

“Insufferable pressure is being put on us to reduce our standards and minimise the guarantees of the asylum process... to change our laws, to change our standards to the lowest possible under the EU [Asylum Procedures] directive.”<sup>299</sup>

The United Nations Special Rapporteur on the human rights of migrants highlighted that the provisions with regard to the exceptional derogation measures for persons applying for asylum at the border raise “serious concerns over due process guarantees.”<sup>300</sup>

### Trigger and scope of application

The fast-track border procedure is introduced as an extraordinary and temporary procedure. However, its application is repeatedly extended and remains in force to date.<sup>301</sup>

According to Article 60(4) said procedure can be “exceptionally” applied in the case where third-country nationals or stateless persons arrive in large numbers and apply for international protection at the border or at airport / port transit zones or while remaining in Reception and Identification Centres (RIC), and following a relevant Joint Decision by the Minister of Interior and Administrative Reconstruction and the Minister of National Defence. Pursuant to the original wording of L 4375/2016, the duration of the application of the fast-track border procedure should not exceed 6 months from the publication of that law and would be prolonged for a further 3-month period by a decision issued by the Minister of Interior and Administrative Reconstruction.<sup>302</sup>

Since then, however, the duration of the fast-track border procedure has been repeatedly amended: under a June 2016 reform it would not exceed 6 months and could be extended for another 6 months,<sup>303</sup> and following an August 2017 reform it is applicable for 24 months from the publication of the latest amendment.<sup>304</sup> The May 2018 reform extended the validity of the procedure until the end of 2018,<sup>305</sup> and a December 2018 reform further prolonged it until the end of 2019.<sup>306</sup> Therefore the fast-track border procedure remains applicable to date.

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

In 2018 the total number of applications lodged before the RAO of Lesvos, Samos, Chios, Leros and Rhodes and the AAU of Kos was 30,943. This represented 42.9% of the total number of applications lodged in Greece that year.

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<sup>298</sup> GCR, *Παρατηρήσεις επί του νόμου 4375/2016*, 8 April 2016, available in Greek at: <http://bit.ly/1Sa2lmH>.

<sup>299</sup> IRIN, ‘Greek asylum system reaches breaking point’, 31 March 2016, available at: <http://bit.ly/1RNCKja>.

<sup>300</sup> Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece, A/HRC/35/25/Add.2*, 24 April 2017, available at: <http://bit.ly/2rHF7kl>, para 78.

<sup>301</sup> See also European Council, *EU-Turkey statement*, 18 March 2016, para 1: “It will be a temporary and extraordinary measure.”

<sup>302</sup> Article 80(26) L 4375/2016, as initially in force.

<sup>303</sup> Article 80(26) L 4375/2016, as amended by Article 86(20) L 4399/2016.

<sup>304</sup> Article 80(26) L 4375/2016, as amended by Article 96(4) L 4485/2017.

<sup>305</sup> Article 80(26) L 4375/2016, as amended by Article 28(23) L 4540/2018.

<sup>306</sup> Article 80(26) L 4375/2016, as amended by Article 7(3) L 4587/2018.

Therefore, despite being initially introduced as an exceptional and temporary procedure, the fast-track border procedure has become the rule for a significant number of applications lodged in Greece.

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

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

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

In 2018, an average 25 police officers were assisting the Asylum Service in this procedure. Their tasks included fingerprinting of applicants, issuance and renewal of asylum seekers' cards and notification of decisions.<sup>307</sup>

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

The initial provision of Article 60(4)(b) L 4375/2016 foresaw that the Asylum Service "may be assisted" in the conduct of interviews as well as any other procedure by staff and interpreters deployed by EASO. The possibility for the asylum interview to be conducted by an EASO caseworker was introduced by a subsequent amendment in June 2016.<sup>308</sup> As of May 2018, this possibility also exists for Greek-speaking EASO personnel in the [Regular Procedure](#).

The new Regulation of the Asylum Service, adopted in February 2018, expressly states that its provisions are also binding for EASO staff assisting the Asylum Service.<sup>309</sup>

In 2018, EASO deployed *inter alia* 175 caseworkers from other Member States and 91 locally recruited interim caseworkers.<sup>310</sup> EASO conducted 8,958 interviews in the fast-track border procedure during that year.<sup>311</sup>

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

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

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

- ❖ The time given to applicants in order to exercise their right to "sufficiently prepare and consult a legal or other counsellor who shall assist them during the procedure" is limited to one day;
- ❖ Decisions shall be issued, at the latest, the day following the conduct of the interview and shall be notified, at the latest, the day following its issuance;
- ❖ The deadline to submit an appeal against a negative decision is 5 days from the notification of this decision. In case that the first instance decision is not notified to the applicant for whatever

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<sup>307</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>308</sup> Article 80(13) L 4399/2016.

<sup>309</sup> Ministerial Decision 3385, Gov. Gazette B' 417/14.2.2018.

<sup>310</sup> Information provided by EASO, 13 February 2019.

<sup>311</sup> *Ibid.*



reason, the deadline to submit an appeal is 15 days from the expiry of the asylum seeker's card or 15 days for the issuance of the decision if the card has already expired;<sup>312</sup>

- ❖ When an appeal is lodged, its examination is carried out no earlier than 2 days and no later than 3 days after its submission, which means that in the first case appellants must submit any supplementary evidence or a written submission the day after the notification of a first instance negative decision; or within 2 days maximum if the appeal is examined within 3 days;
- ❖ In case the Appeals Authority decides to conduct an oral hearing, the appellant is invited before the competent Committee one day before the date of the examination of their appeal and they can be given, after the conclusion of the oral hearing, one day to submit supplementary evidence or a written submission. Decisions on appeals shall be issued, at the latest, 2 days following the day of the appeal examination or the deposit of submissions, and shall be notified at the latest on the day following their issuance. The notification of the decision may "alternatively" be done to the representative or lawyer of the appellant who signed the appeal or who was present during the examination of the appeal or submitted observations before the Appeals Committee, the Head of the RIC, or online on a specific database.<sup>313</sup>

As stated by the United Nations Special Rapporteur on the human rights of migrants, the duration of the procedure "raises concerns over access to an effective remedy, despite the support of NGOs. The Special Rapporteur is concerned that asylum seekers may not be granted a fair hearing of their case, as their claims are examined under the admissibility procedure, with a very short deadline to prepare."<sup>314</sup>

It should also be noted that these very short time limits are only applied against the applicant in practice. In fact, whereas processing times take several months on average, applicants still have to comply with the very short time limits provided by Article 60(4) L 4375/2016. For example as FRA notes "in **Kos**, which is one of the hotspots less affected in terms of overcrowding, in 2018, the average time from the lodging of the application until the first interview with EASO was 41 days while from the date of the interview until the issuance of the recommendation by EASO was 45 days".<sup>315</sup>

The average time between the full registration and the issuance of a first instance decision under the fast-track border procedure was 219 days in 2018, i.e. over 7 months. In practice, this period was even longer if the average of 42 days in 2018 between pre-registration and registration is taken into consideration.<sup>316</sup> "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) of Law 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>317</sup>

In practice, the fast-track border procedure has been variably implemented depending on the profile and nationality of the asylum seekers concerned (see also [Differential Treatment of Specific Nationalities in the Procedure](#)). Within the framework of that procedure:

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<sup>312</sup> Article 60(4)(e) L 4375/2016, as amended by Article 28(14) L 4540/2018.

<sup>313</sup> Article 62(8) L 4375/2016, inserted by Article 28(20) L 4540/2018. The Ombudsman has stated that this provision limits effective access to judicial protection: 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, available in Greek at: <https://bit.ly/2unUcpH>.

<sup>314</sup> Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, para 82.

<sup>315</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>316</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>317</sup> FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 4 March 2019, 26.

- Applications by Syrian asylum seekers are examined on admissibility on the basis of the [Safe Third Country](#) concept;
- Applications by non-Syrian asylum seekers from countries with a recognition rate below 25% are examined only on the merits;
- Applications by non-Syrian asylum seekers from countries with a recognition rate over 25% are examined on both admissibility and merits (“merged procedure”).

EASO caseworkers have conducted interviews mainly covering nationals of Iraq, Syria, Afghanistan, Cameroon, Palestine, DRC, Yemen, Iran, Somalia and Eritrea in 2018.<sup>318</sup>

It has been highlighted that “the practice of applying different asylum procedures according to the nationalities of the applicants is arbitrary, as it is neither provided by EU nor by domestic law. In addition, it violates the principle of non-discrimination as set out in Article 3 of the Geneva Convention of 28 July 1951 relating to the status of refugees. Instead, it is explicitly based on EASO’s undisclosed internal guidelines, which frame the hotspot asylum procedures in order to implement the EU-Turkey statement.”<sup>319</sup>

### Exempted categories

According to Article 60(4)(f) L 4375/2016, the fast-track border procedure is not applied to vulnerable groups or persons falling within the family provisions of the Dublin III Regulation.<sup>320</sup> The identification of vulnerability of persons arriving on the islands in the context of the fast-track border procedure on the islands takes place either by the RIS prior to the registration of the asylum application, or during the asylum procedure (see [Identification](#)).

In 2016, the Asylum Service issued a total of 5,075 decisions in the fast-track border procedure, of which 1,323 deemed the application inadmissible based on the safe third country concept, 1,476 exempted the applicant from the procedure pursuant to the Dublin III Regulation family provisions and 2,906 exempted the applicant for reasons of vulnerability.<sup>321</sup>

In 2017 and 2018, the Asylum Service took the following decisions:

First instance decisions taken in the fast-track border procedure: 2017-2018		
Decisions on admissibility	2017	2018
Inadmissible based on safe third country	912	399
Admissible based on safe third country	365	116
Admissible pursuant to the Dublin III Regulation family provisions	3,123	4,005
Admissible for reasons of vulnerability	15,788	21,020
Decisions on the merits	2017	2018
Refugee status	1,151	4,183
Subsidiary protection	225	2,047
Rejection on the merits	1,648	3,364
<b>Total decisions</b>	<b>23,212</b>	<b>35,134</b>

Source: Asylum Service, 15 February 2018; 12 March 2019.

<sup>318</sup> Information provided by EASO, 13 February 2019.

<sup>319</sup> Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, available at: <https://bit.ly/2sJM2H4>, 17.

<sup>320</sup> Article 60(4)(f) L 4375/2016, citing Articles 8-11 Dublin III Regulation and the categories of vulnerable persons defined in Article 14(8) L 4375/2016.

<sup>321</sup> Information provided by the Asylum Service, 26 March 2019.

This data, particularly the number of asylum seekers identified as vulnerable, should be read in conjunction with the profile of the persons arriving on the Greek islands in 2018, the vast majority of whom have lived through extreme violence and traumatic events. Out of the total number of 32,494 persons arriving in Greece by sea in 2018, the majority originated from Afghanistan (26%), Syria (24%), Iraq (18%). Typically, these three nationalities arrive in family groups. More than half of the population were women (23%) and children (37%).<sup>322</sup>

## 5.2. Personal interview

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

Same as regular procedure

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

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

As mentioned in **Fast-Track Border Procedure: General**, according to Article 60(4)(c) L 4375/2016, asylum seekers must prepare for the interview and consult a legal or other counsellor who shall assist them during the procedure within 1 day following the submission of their application for international protection. Decisions shall be issued, at the latest, the day following the conduct of the interview and shall be notified, at the latest, the day following its issuance.<sup>323</sup>

Under the fast-track border procedure, the personal interview may be conducted by Asylum Service staff or by EASO personnel. The competence of EASO to conduct interviews was introduced by an amendment to the law in June 2016, following an initial implementation period of the EU-Turkey statement marked by uncertainty as to the exact role of EASO officials, as well as the legal remit of their involvement in the asylum procedure. The EASO Special Operating Plans to Greece foresaw a role for EASO in conducting interviews in different asylum procedures, drafting opinions and recommending decisions to the Asylum Service throughout 2017 and 2018.<sup>324</sup> A similar role is foreseen in the Operating Plan to Greece 2019.<sup>325</sup>

However, following a complaint submitted examination by the European Centre for Constitutional and Human Rights (ECCHR) against EASO's involvement in the decision-making process concerning applications submitted on the islands, the European Ombudsman found that "in light of the Statement of the European Council of 23 April 2015 (Point P), in which the European Council commits to 'deploy EASO teams in frontline Member States for joint processing of asylum applications, including registration and finger-printing', EASO is being encouraged politically to act in a way which is, arguably, not in line with its existing statutory role. Article 2(6) of EASO's founding Regulation (which should be read in the light of Recital 14 thereof, which speaks of "direct or indirect powers") reads: 'The Support Office shall have no powers in relation to the taking of decisions by Member States' asylum authorities on individual applications for international protection.'<sup>326</sup>

<sup>322</sup> UNHCR, *Greece – Sea arrivals dashboard*, December 2018, available at: <https://bit.ly/2BFpqNh>.

<sup>323</sup> Article 60(4)(d) L 4375/2016.

<sup>324</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>, 14.

<sup>325</sup> EASO, *Operating Plan to Greece 2019*, December 2018, available at: <https://bit.ly/2W6vJB2>, 14.

<sup>326</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office's' (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, 5 July 2018, available at: <https://bit.ly/2XVUfXq>, para 33.

The content of the personal interview varies depending on the asylum seeker's nationality. Interviews of Syrians mostly focus only on admissibility under the [Safe Third Country](#) concept and are mainly limited to questions regarding their stay in Turkey. Non-Syrian applicants from countries with a recognition rate below 25% are only examined on the merits, in interviews which can be conducted by EASO caseworkers. Finally, non-Syrian applicants from countries with a rate over 25% undergo a so-called "merged interview", where the "safe third country" concept is examined together with the merits of the claim.

In practice, in cases where the interview is conducted by an EASO caseworker, he or she provides an opinion / recommendation (*πρόταση / εισήγηση*) on the case to the Asylum Service, that issues the decision. The transcript of the interview and the opinion / recommendation are written in English, which is not the official language of the country.<sup>327</sup> The issuance of an opinion / recommendation by EASO personnel to the Asylum Service is not foreseen by any provision in national law and thus lacks legal basis.<sup>328</sup> In 2018, EASO issued 8,340 such recommendations in the context of the fast-track border procedure, of which 5,826 recommended the referral of the asylum seeker to the regular procedure for reasons of vulnerability.<sup>329</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 EASO record and recommendation.<sup>330</sup>

### Quality of interviews

The quality of interviews conducted by EASO caseworkers has been highly criticised and its compatibility even with EASO standards has been questioned. *Inter alia*, quality gaps such as lack of knowledge about countries of origin, lack of cultural sensitivity, questions based on a predefined list, closed and leading questions, repetitive questions, frequent interruptions and unnecessarily exhaustive interviews and conduct preventing lawyers from asking questions at the end of the interview have been reported.<sup>331</sup>

In 2018, following the ECCHR complaint, the European Ombudsman found that "there are genuine concerns about the quality of the admissibility interviews as well as about the procedural fairness of how they are conducted".<sup>332</sup>

An analysis of 40 cases of Syrian applicants whose claims were examined under the fast-track border procedure further corroborated the use of "inappropriate communication methods and unsuitable questions related to past experience of harm and/or persecution" which include closed questions impeding a proper follow-up, no opportunity to explain the case in the applicant's own words, failure to consider factors that are likely to distort the applicant's ability to express him- or herself properly (such as mental health issues or prior trauma), lack of clarification with regard to vague or ambiguous

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<sup>327</sup> This issue, among others, was brought before the Council of State, which ruled in September 2017 that the issuance of EASO opinions / recommendations in English rather than Greek does not amount to a procedural irregularity, insofar as it is justified by the delegation of duties to EASO under Greek law and does not result in adversely affecting the assessment of the applicant's statements in the interview. The Council of State noted that Appeals Committees are required to have good command of English according to Article 5(3) L 4375/2016: Council of State, Decisions 2347/2017 and 2348/2017, 22 September 2017, para 33.

<sup>328</sup> Article 60(4)(b) L 4375/2016 only refers to the conduct of interviews by EASO staff.

<sup>329</sup> Information provided by EASO, 13 February 2019.

<sup>330</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>331</sup> See AIDA, Country Report Greece, 2017 Update, March 2018, 71-72.

<sup>332</sup> European Ombudsman, *Decision in case 735/2017/MDC on the European Asylum Support Office's' (EASO) involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek Hotspots, in particular shortcomings in admissibility interviews*, 5 July 2018, available at: <https://bit.ly/2XVUfXq>, para 33.

concepts mentioned by the interviewer, potential inconsistencies or misunderstandings regarding critical aspects of the case that could lead to confusion and/or the inability of the applicant to express him- or herself effectively, and more generally, violations of the right to be heard.”<sup>333</sup>

### 5.3. Appeal

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

Same as regular procedure

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

❖ If yes, is it

❖ If yes, is it suspensive

Yes

Judicial

Yes

No

Administrative

No

#### 5.3.1. Changes in the Appeals Committees

The legal basis for the establishment of the Appeals Authority was amended twice in 2016 by L 4375/2016 in April 2016 and L 4399/2016 in June 2016, and then in 2017 by L 4661/2017 (see [Regular Procedure: Appeal](#)). These amendments are closely linked with the examination of appeals under the fast-track border procedure, following reported pressure to the Greek authorities from the EU on the implementation of the EU-Turkey statement,<sup>334</sup> and “coincide with the issuance of positive decisions of the – at that time operational – Appeals Committees (with regard to their judgment on the admissibility) which, under individualised appeals examination, decided that Turkey is not a safe third country for the appellants in question”,<sup>335</sup> as highlighted by the National Commission on Human Rights.

Further amendments to the procedure before the Appeals Committees that have been introduced by L 4540/2018 echo the 2016 Joint Action Plan on Implementation of the EU-Turkey Statement,<sup>336</sup> and are visibly connected with pressure to limit the appeal steps and the procedure to be accelerated. These are the possibility judicial members of the Appeals Committee to be replaced in the event of “significant and unjustified delays in the processing of appeals” by a Joint Ministerial Decision, following approval from the General Commissioner of the Administrative Courts.<sup>337</sup>

#### 5.3.2. Rules and time limits for appeal

As with the first instance fast-track border procedure, truncated time limits are also foreseen in the appeal stage. According to Article 60(4) L 4375/2016, appeals against decisions taken in the fast-track border procedure must be submitted before the Appeals Authority within 5 days,<sup>338</sup> contrary to 30 days in the regular procedure. Appeals before the Appeals Committees have automatic suspensive effect.<sup>339</sup>

However, the right to appeal in the fast-track border procedure has been further curtailed by a Police Circular issued in April 2017.<sup>340</sup> In line with the recommendations of the European Commission’s Joint

<sup>333</sup> Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, 19.

<sup>334</sup> See e.g. NCHR, ‘Δημόσια Δήλωση για την τροπολογία που αλλάζει τη σύνθεση των Ανεξάρτητων Επιτροπών Προσφυγών’, 17 June 2016, available in Greek at: <http://bit.ly/2k1Buhz>.

<sup>335</sup> NCHR, ‘Public Statement regarding the amendment of the composition of the Independence Appeals Committees’, 17 June 2016, available at: <http://bit.ly/2k1Buhz>. Unofficial translation by the author.

<sup>336</sup> European Commission, *Joint Action Plan on Implementation of the EU-Turkey Statement*, 8 December 2016, available at: <https://bit.ly/2JwpFQS>.

<sup>337</sup> Article 5(4) L 4375/2016, as amended by Article 28(3) L 4540/2018.

<sup>338</sup> Article 61(1)(d) L 4375/2016.

<sup>339</sup> Article 61(4) L 4375/2016, as amended by L 4399/2016.

<sup>340</sup> Hellenic Police, ‘Υλοποίηση Κοινής Δήλωσης Ε.Ε.-Τουρκίας (Βρυξέλλες, 18-03-2016) -Συμμετοχή αλλοδαπών υπηκόων αιτούντων τη χορήγηση καθεστώτος διεθνούς προστασίας στα προγράμματα



Action Plan of 8 December 2016 to “remove administrative obstacles to swift voluntary return from the islands”,<sup>341</sup> upon receipt of a negative first instance decision, asylum seekers have either the right to appeal the decision or forego the appeal and benefit from Assisted Voluntary Return and Reintegration (AVRR) provided by the International Organisation for Migration (IOM). If they opt for an appeal, they lose the possibility of future AVRR. Fifteen organisations have denounced this policy for jeopardising the right to a fair asylum process under EU law as well as the right to return to one’s own country.<sup>342</sup> This circular remains valid as of 2018. However, it appears from available statistics on the number of appellants that its effects remain limited in practice.

The Appeals Committee examining the appeal must take a decision within 3 days,<sup>343</sup> contrary to 3 months in the regular procedure. However, as mentioned in [Fast-Track Border Procedure: General](#), the decision-making process before the Appeals Committees is considerably slow.<sup>344</sup>

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

As regards appeals against first instance inadmissibility decisions issued to Syrian asylum seekers based on the “safe third country” concept in the fast-track border procedure, it should be highlighted that in 2016, the overwhelming majority of second instance decisions by the Backlog Appeals Committees overturned the first instance inadmissibility decisions based on the safe third country concept. The Special Rapporteur on the human rights of migrants “commended the independence of the Committee, which, in the absence of sufficient guarantees, refused to accept the blanket statement that Turkey is a safe third country for all migrants — despite enormous pressure from the European Commission.”<sup>345</sup>

Conversely, following the amendment of the composition of the Appeals Committees, 98.2% of decisions issued by the Independent Appeals Committees in 2017 upheld the first instance inadmissibility decisions on the basis of the safe third country concept.

This was also the case in 2018. The Independent Appeals Committees issued 78 decisions dismissing applications by Syrian nationals as inadmissible based on the safe third country concept. As far as GCR is aware, there have been only two cases of Syrian families of Kurdish origin, originating from Afrin area, in which the Appeals Committee ruled that Turkey cannot be considered as a safe third country for said Syrian applicants due to the non-fulfilment of the connection criteria (see [Safe Third Country](#)).<sup>346</sup>

### 5.3.3. Judicial review

The 2018 reform has introduced the possibility to notify the second instance decision to the lawyer, the Head of the RIC, or online on a specific database.<sup>347</sup>

The general provisions regarding judicial review, as amended in 2018, are also applicable for judicial review issued within the framework of the fast-track border procedure and concerns raised with regard

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οικειοθελούς επαναπατρισμού του Διεθνούς Οργανισμού Μετανάστευσης (Δ.Ο.Μ.)’, Circular 1604/17/681730, 3 April 2017, available in Greek at: <http://bit.ly/2E8MlMr>.

<sup>341</sup> European Commission, *Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey Statement*, Annex 1 to COM(2016) 792, 8 December 2016, para 13.

<sup>342</sup> ActionAid et al., ‘15 NGOs Decry New Policy Limiting Asylum Seekers in Exercising their Right to Appeal’, 9 May 2017, available at: <http://bit.ly/2BPlcj7>.

<sup>343</sup> Article 60(4)(e) L 4375/2016.

<sup>344</sup> European Commission, *Seventh report on the progress made in the implementation of the EU-Turkey statement*, COM(2017) 470, 6 September 2017.

<sup>345</sup> Human Rights Council, *Report of the Special rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, para 85.

<sup>346</sup> 9<sup>th</sup> Independent Appeals Committee, Decisions 20802/25.9.2018 and 20898/26.9.2018, 25 September 2018, available at: <https://bit.ly/2CjbmCD>.

<sup>347</sup> Article 62(8) L 4375/2016, inserted by Article 28(20) L 4540/2018.

to the effectiveness of the remedy are equally valid (see [Regular Procedure: Appeal](#)). Thus, among others, the application for annulment before the Administrative Court of Appeal 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 of Appeal is not accessible to asylum seekers without legal representation.

Moreover, according to practice, appellants whose appeals are rejected within the framework of the fast-track border procedure are immediately detained upon the notification of the second instance negative decision and face an imminent risk of readmission to Turkey. As noted by the Ombudsman, detainees arrested following a second instance negative decision are not promptly informed of their impending removal.<sup>348</sup>

Given the constraints that detained persons face vis-à-vis access to legal assistance, the fact that legal aid is not foreseen by law at this stage, that an onward appeal 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 (see [Legal Assistance for Review of Detention](#)).

#### 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 negative decision in practice?

Yes       With difficulty       No

❖ Does free legal assistance cover

Representation in courts  
 Legal advice

The law does not contain special provisions regarding free legal assistance in the fast-track border procedure. The general provisions regarding legal aid are also applicable here (see section on [Regular Procedure: Legal Assistance](#)).

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.

As regards the second instance, at the end of 2018, there were only 3 lawyers operating under the state-funded legal aid scheme who provided legal aid services at the appeal stage for appellants under the fast-track border procedure. More specifically, there were two lawyers on **Rhodes** and one on **Chios**. No lawyers under the state-funded legal aid scheme were present as of 31 December 2018 on **Lesvos** and **Samos** – the two islands with the largest number of asylum seekers – **Kos** and **Leros**. By the end of the year, lawyers funded by the scheme had dealt with the following number of cases:

State-funded legal assistance on the islands: 2018	
Location	Number of cases handled

<sup>348</sup> Ombudsman, *Return of third-country nationals – Special Report 2017, 2018*, available at: <https://bit.ly/2TG2wjv>.



Lesvos	52
Chios	160
Samos	0
Leros	0
Kos	33
Rhodes	160
<b>Total</b>	<b>405</b>

Source: Asylum Service, 26 March 2019.

A public statement issued by GCR in November 2018, notes that for several months applicants on the Eastern Aegean Islands have not had the possibility to enjoy their rights as provided by EU and national law and to benefit from free legal aid at the appeal stage, since out of the total number of 21 lawyers initially intended to cover the needs of applicants on the islands, one lawyer on Chios and two lawyers on Rhodes were available.<sup>349</sup>

## 6. Accelerated procedure

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

According to L 4375/2016 the basic principles and guarantees applicable to the regular procedure are also applied to the accelerated procedure. In particular, it makes clear that “the accelerated procedure shall have as a sole effect to reduce the time limits” for taking a decision.<sup>350</sup>

The examination of an application under the accelerated procedure must be concluded within 30 days,<sup>351</sup> although the possibility to extend the time limits applies as in the [Regular Procedure](#). 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>352</sup>

- (a) The applicant comes from a [Safe Country of Origin](#);<sup>353</sup>
- (b) The application is manifestly unfounded. An application is characterised as manifestly unfounded where the applicant, during the submission of the application and the conduct of the personal interview, invokes reasons that manifestly do not comply with the status of refugee or of subsidiary protection, or where he or she has presented manifestly inconsistent or contradictory information, manifest lies or manifestly improbable information, or information which is contrary to adequately substantiated information on his or her country of origin, which renders his or her statements of fearing persecution under PD 141/2013 as clearly unconvincing;
- (c) The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents regarding his/her identity and/or nationality which could adversely affect the decision;
- (d) The applicant has likely destroyed or disposed in bad faith documents of identity or travel which would help determine his/her identity or nationality;
- (e) The applicant has submitted the application only to delay or impede the enforcement of an earlier or imminent deportation decision or removal by other means;

<sup>349</sup> GCR, ‘Άνευ νομικής συνδρομής οι πρόσφυγες στα νησιά’, 28 November 2018, available in Greek at: <https://bit.ly/2XZuup2>.

<sup>350</sup> Article 51(1) L 4375/2016.

<sup>351</sup> Article 51(2) L 4375/2016, as amended by Article 28(9) L 4540/2018.

<sup>352</sup> Article 51(7) L 4375/2016.

<sup>353</sup> Article 57 L 4375/2016.

- (f) The applicant refuses to comply with the obligation to have his or her fingerprints taken.

The number of asylum applications subject to the accelerated procedure in 2018 is not available.<sup>354</sup>

## 6.2. Personal interview

### Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

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

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

## 6.3. Appeal

### Indicators: Accelerated Procedure: Appeal

Same as regular procedure

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

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

The time limit for lodging an appeal against a decision in the accelerated procedure is 15 days,<sup>355</sup> as opposed to 30 days under the regular procedure.

The examination of the appeal shall be carried out at the earliest 10 days after the submission of the appeal.<sup>356</sup> The Appeals Committee must reach a decision on the appeal within 2 months.<sup>357</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?
 

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

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

<sup>354</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>355</sup> Article 61(1)(b) L 4375/2016.

<sup>356</sup> Article 62(2)(b) L 4375/2016.

<sup>357</sup> Article 62(6) L 4375/2016.

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

## D. Guarantees for vulnerable groups

### 1. Identification

#### Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?  Yes  For certain categories  No  
❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children?  Yes  No

According to Article 14(8) L 4375/2016, relating to **reception and identification** procedures offered principally to **newcomers**, the following groups are considered as vulnerable groups: unaccompanied minors; persons who have a disability or suffering from an incurable or serious illness; the elderly; women in pregnancy or having recently given birth; single parents with minor children; victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation; persons with a post-traumatic disorder, in particular survivors and relatives of victims of ship-wrecks; victims of human trafficking. Some aspects of this definition, namely as regards persons with post-traumatic stress disorder (PTSD) have been debated due to the [Special Procedural Guarantees](#) offered in the context of the [Fast-Track Border Procedure](#).<sup>358</sup>

In the context of reception conditions, Article 20 L 4540/2018 indicatively introduces more categories of **vulnerable applicants** such as persons with mental disorders and victims of female genital mutilation. However, persons with PTSD are not expressly mentioned in this list. Article 23 L 4540/2018 has also amended the procedure for certifying persons subject to torture, rape or other serious forms of violence (see [Use of Medical Reports](#)).

According to L 4375/2016, whether an applicant is in **need of special procedural guarantees** is for the Asylum Service to assess “within a reasonable period of time after an application for international protection is made, or at any point of the procedure the relevant need arises, whether the applicant is in need of special procedural guarantees” which is in particular the case “when there are indications or claims that he or she is a victim of torture, rape or other serious forms of psychological, physical or sexual violence.”<sup>359</sup>

<sup>358</sup> See General Commission of Administrative Courts, ‘Proposals regarding the acceleration of the asylum procedure’, 14 November 2017, available in Greek at: <http://bit.ly/2rYpmpk>; ECRE, ‘Greek judges recommend legal restrictions to accelerate procedure on the islands’, 24 November 2017, <http://bit.ly/2hRbIC3>.

<sup>359</sup> Article 50(2) L 4375/2016.

The number of asylum seekers registered by the Asylum Service as vulnerable in 2018 is as follows:

<b>Vulnerable persons registered among asylum seekers: 2018</b>		
Category of vulnerability	Applicants	Pending end 2018
Unaccompanied children	2,639	2,941
Persons suffering from disability or a serious or incurable illness	1,590	1,622
Pregnant women / new mothers	972	922
Single parents with minor children	685	631
Victims of torture, rape or other serious forms of violence or exploitation	358	380
Elderly persons	85	88
Victims of human trafficking	1	2
Minors accompanied by members of extended family	86	114
<b>Total</b>	<b>6,416</b>	<b>6,700</b>

Source: Asylum Service, 26 March 2019. Overlap in some cases is due to applicants falling in multiple vulnerability categories.

The number and type of decisions taken at first instance on cases by vulnerable applicants are as follows:

<b>First instance decisions on applications by vulnerable persons: 2018</b>			
Category	Refugee status	Subsidiary protection	Rejection
Unaccompanied children	279	66	563
Persons suffering from disability or a serious or incurable illness	141	31	294
Pregnant women / new mothers	204	24	141
Single parents with minor children	156	9	34
Victims of torture, rape or other serious forms of violence or exploitation	152	25	47
Elderly persons	15	2	6
Victims of human trafficking	0	1	1
Minors accompanied by members of extended family	33	10	11

Source: Asylum Service, 26 March 2019.

### 1.1. Screening of vulnerability

The law provides that:

“The Manager of [RIC] or the Unit, acting on a proposal of the Head of the medical screening and psychosocial support unit shall refer persons belonging to vulnerable groups to the competent social support and protection institution. A copy of the medical screening and psychosocial support file shall be sent to the Head of the Open Temporary Reception or Accommodation Structure or competent social support and protection institution, as per case,

where the person is being referred to. In all cases the continuity of the medical treatment followed shall be ensured, where necessary.”<sup>360</sup>

### 1.1.1. Vulnerability identification on the islands

The identification of vulnerability of persons arriving on the islands in the context of the [Fast-Track Border Procedure](#) on the islands takes place either by the RIS prior to the registration of the asylum application, or during the asylum procedure.

#### Vulnerability identification by the RIS

Since mid-2017, medical screening and psycho-social assessment within the framework of reception and identification procedures have been undertaken by the Centre of Disease Control and Prevention (KEELPNO), a public entity under the Ministry of Health.

In 2018, due to the fact that KEELPNO units at the RIC remained significantly understaffed (see [Health Care](#)), major delays occurred in the identification of the vulnerabilities of newly arrived persons in all of the islands. As noted by FRA:

“The time it takes to assess if a person is or is not vulnerable under Greek law varies considerably depending on the number of new arrivals, but also on the availability of professionals and interpreters. Insufficient number of doctors, psychologists (but also lack of space for them to have confidential interviews and examinations) as well as significant delays in recruiting interpreters limit the impact of these measures, leading to months of delays in some hotspots.”<sup>361</sup>

According to GCR findings, these delays and at times dysfunctional identification processes in 2018 resulted in a considerable number of asylum procedures being initiated without the applicants’ vulnerability having been assessed. In sum, this pointed to “a systematic failure in the identification and protection of vulnerable people particularly on the islands”.<sup>362</sup>

**Lesvos:** GCR has observed vulnerability assessments taking place between a period varying from a few days to 5 months from the arrival of the person depending on the availability of staff, including interpreters, and the number of arrivals. Since 24 October 2018, the medical and psychosocial division of KEELPNO in Lesvos RIC has halted its operation as the only doctor of the division resigned *inter alia* due to security reasons. Since then no vulnerability assessment was taking place, with the exception of very urgent medical screenings conducted by an army doctor. Due to this shortcoming, a backlog of cases has been created and applicants wait for prolonged periods in order to undergo medical and psychosocial screening. By the end of January 2019, vulnerability assessments were carried out for cases pending since November 2018.

**Chios:** As no doctor was present in the RIC since August 2018, the identification of vulnerabilities has been halted for a significant period.

**Samos:** Vulnerability assessments take place within an average period of one to one and a half months.

<sup>360</sup> Article 14(8) L 4375/2016.

<sup>361</sup> FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 4 March 2019, 46-47.

<sup>362</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>, para 46.

**Leros:** The average period for a vulnerability assessment by the psychosocial unit was about 4 months at the end of 2018. Due to lack of interpreters and/or doctors, vulnerability assessments have been halted from time to time during 2018.

**Kos:** The identification of persons with specific needs is also reported to be limited in the RIC. The inadequate number of medical staff, namely doctors and cultural mediators, creates further delays in the vulnerability assessment.<sup>363</sup>

Beyond delays, the following issues exacerbate problems in the identification of vulnerabilities:

- **Provision of the vulnerability assessment upon request:** Despite the relevant provision in national law which states that all newly arrived persons should be subject to reception and identification procedures, including medical screening and psychosocial assessment, during 2018 it has been reported that a psychosocial assessment is not offered to all newly arrived persons registered by the RIS, but only following a relevant request of the applicant or a referral by the competent RAO, Health Unit SA (*Ανώθυμη Εταιρεία Μονάδων Υγείας*, AEMY), or civil society organisations. This practice has been mainly observed during 2018 on **Lesvos** and **Samos**. Cases where applicants have had to ask repeatedly for psychosocial services have also been reported in 2018.
- **“High”, “medium” and “no” vulnerability:** As of the end of 2017 and early 2018, a new medical vulnerability template, entitled “Form for the medical and psychosocial evaluation of vulnerability”, has been adopted by KEELPNO.<sup>364</sup> This template introduces two levels of vulnerability: (A) Medium vulnerability, which could develop if no precautionary measures are introduced and (B) High vulnerability, when the occurrence of vulnerability is obvious and the continuation of the evaluation and the adoption of a care plan are recommended. Further referral is needed for immediate support. The classification of a case as “medium” or “high” vulnerability is decided by the medical unit (KEELPNO) of each RIC on the islands. In September 2018 the vulnerability template has been further amended to set out three relevant indicators to be used by the medical unit of each RIC: “(A) High vulnerability”, “(B) Medium vulnerability” and “(C) No vulnerability”.

Even if the distinction between “medium” and “high” vulnerability concerns the medical terminology used and the support that the person should receive, this vulnerability assessment procedure is used in a way in practice which underestimates vulnerabilities classified as “medium”, despite the fact that such a distinction is not provided by law. In practice it is only applicants who have been identified with a “high” vulnerability whose case is exempted from the Fast Track Border Procedure and the geographical limitation is lifted. Moreover, given the backlog of cases and the shortage of medical staff, further assessment of persons who have been identified with “medium” vulnerabilities is particularly difficult. A considerable number of vulnerable applicants are not identified as such. For example, on **Lesvos**, it is reported that roughly a quarter of the people that GCR social workers assist should have been classified as vulnerable but were not.<sup>365</sup>

- **Lack of information on the outcome of the procedure:** Since the end of 2018, applicants are not informed of the outcome of the vulnerability assessment and are not provided with a copy of the vulnerability assessment template. The RIS informs directly the Asylum Service of the outcome of the assessment. The applicant is informed only if he or she has been identified as

<sup>363</sup> UNHCR, *Factsheet: Aegean Islands*, June 2018, available at: <https://bit.ly/2C5hEP0>.

<sup>364</sup> European Commission, *Progress report on the Joint Action Plan on the implementation of the EU-Turkey statement*, Annex 2, COM(2017) 669, 15 November 2017.

<sup>365</sup> Oxfam, *Vulnerable and abandoned: How the Greek reception system is failing to protect the most vulnerable people seeking asylum*, January 2019, available at: <https://bit.ly/2QB7Heq>.

having “high vulnerability”, in which case his or her geographical restriction will be lifted (see [Freedom of Movement](#)).

The assessment by medical experts and the psychosocial unit of the KEELPNO is generally followed by the RIS and the Asylum Service. However, according to GCR observations from **Samos** and **Chios** during 2018, in some cases the Head of the RIC refers back to the medical unit or does not approve the vulnerability assessment of KEELPNO, even though the Head of the RIC is not competent to do so.

### **Vulnerability identification in the asylum procedure**

L 4375/2016, as amended in May 2018, provides that if the fast-track border procedure is applied, the competent RAO or AAU of the Asylum Service can refer the applicant to the medical and psychosocial unit of the RIC for vulnerability to be assessed at any point of the procedure.<sup>366</sup> Despite these provisions, the shortage of medical and psycho-social care can make it extremely complicated and sometimes impossible for people seeking asylum to be re-assessed during that process.<sup>367</sup> Following the medical and psychosocial assessment the medical psychosocial unit of the RIC informs the competent RAO or AAU of the Asylum Service.<sup>368</sup>

Accordingly, where vulnerability is not identified prior to the asylum procedure the initiation of a vulnerability assessment lies to a great extent at the discretion of the caseworker. As mentioned above, due to significant gaps in the provision of reception and identification procedures in 2018, owing to a significant understaffing of KEELPNO units, GCR has found that for a considerable number of applicants the asylum procedure was initiated without their medical and psychosocial assessment having been concluded.

As a result, indications of vulnerability have often surfaced during admissibility interviews conducted by EASO staff, who *de facto* play a crucial role in identifying and determining vulnerability and therefore the provision of [Special Procedural Guarantees](#). As far as GCR is aware, however, at the end of 2018 EASO caseworkers did not proceed with the first instance interview in case the applicant had not undergone at least a medical assessment by the KEELPNO medical unit, among others for their own health and safety. In these cases they postponed the interview.<sup>369</sup>

When vulnerability is not identified while the reception and identification procedure but during registration of the asylum application or the interview,

- If the procedure is conducted by an EASO caseworker, he or she is required to refer the case to an EASO vulnerability expert, who drafts an opinion.
- If the procedure is conducted by an Asylum Service caseworker, he or she refers the case to the vulnerability identification procedures conducted by the RIS, or assesses the vulnerability by his or her own means.<sup>370</sup>

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<sup>366</sup> Article 53 L 4375/2016, as amended by Article 28(10) L 4540/2018.

<sup>367</sup> Oxfam, *Vulnerable and abandoned*, January 2019.

<sup>368</sup> Article 53 L 4375/2016, as amended by Article 28(10) L 4540/2018.

<sup>369</sup> See also FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 4 March 2019, 26.

<sup>370</sup> Article 53 L 4375/2016, as amended by Article 28(10) L 4540/2018; Information provided by the Asylum Service, 26 March 2019.



In 2018, EASO made available the following vulnerability experts on the islands:

EASO Vulnerability Experts per island: 2018					
Type of deployment	Lesvos	Chios	Samos	Leros	Kos
Member State Expert	15	3	6	2	2
Interim Expert	6	3	2	1	1

Source: Asylum Service, 26 March 2019.

The vulnerability assessment and drafting of an opinion by an EASO vulnerability expert are not clearly set out in any provision of Greek law,<sup>371</sup> but by EASO's internal Standard Operating Procedures, which as reported leave the assessment of vulnerability to the discretion of the EASO staff.<sup>372</sup> It is not clear whether such assessments take into consideration the relevant provisions and safeguards under national law.<sup>373</sup>

In addition, the professional background and the level of expertise of EASO vulnerability experts deployed in Greece is not known, while concerns have been raised as to the feasibility of thorough investigations on asylum seekers' vulnerabilities in the context of the [Fast-Track Border Procedure](#) and as to whether vulnerability indications and/or relevant allegations of the applicant are properly assessed.<sup>374</sup> As reported, in some cases "strong indications of vulnerability have been ignored" in interviews conducted by EASO.<sup>375</sup> A qualitative analysis published in 2018, found that out of 40 cases examined 33 cases wrongfully not identified as vulnerable despite having undergo an EASO vulnerability assessment.<sup>376</sup>

Finally, the vulnerability expert has no direct access to the applicant. The vulnerability assessment only takes place on the basis of the documents on the file of the applicant.

### 1.1.2. Vulnerability identification in the mainland

In **Athens**, vulnerable groups are referred to the Municipality of Athens Centre for Reception and Solidarity in Frouarchion. In 2018, a total of 2,318 asylum applications were registered there.<sup>377</sup>

However, obstacles to [Registration](#) through Skype in the mainland also affects vulnerable persons. As referrals of vulnerable persons to Frouarchion in order to be registered is taking place through NGOs or other entities, GCR is aware of cases of vulnerable applicants who before being supported by NGOs or other entities and referred to Frouarchion have repeatedly and unsuccessfully tried to fix an appointment to register their application through Skype. Moreover, appointments for registration in Frouarchion can be delayed due to capacity reasons.

<sup>371</sup> Article 60(4)(b) L 4375/2016 provides that EASO staff may conduct a personal interview, but does not mention vulnerability assessments.

<sup>372</sup> Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, 19.

<sup>373</sup> Article 14(8) L 4375/2016.

<sup>374</sup> AIDA, *The concept of vulnerability in European asylum procedures*, September 2017, 30; ECCHR, *Case report Greece: EASO's influence on inadmissibility decisions exceeds the Agency's competence and disregards fundamental rights*, April 2017, available at: <http://bit.ly/2uhlhZF>.

<sup>375</sup> AIDA, *The concept of vulnerability in European asylum procedures*, September 2017, 30; Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, Special Report 2017, 31.

<sup>376</sup> Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, 22.

<sup>377</sup> Information provided by the Asylum Service, 26 March 2019.

In case that indications or claims as of past persecution or serious harm arise, the Asylum Service refers the applicant for a medical and/or psychosocial examination, which should be conducted free of charge and by specialised scientific personnel of the respective specialisation.<sup>378</sup> Otherwise, the applicant must be informed that he or she may be subjected to such examinations at his or her own initiative and expenses. Any results and reports of such examinations must be taken into consideration by the Asylum Service (see [Use of Medical Reports](#)).<sup>379</sup>

Currently, there are no public health structures specialised in identifying or assisting torture survivors in their rehabilitation process. As a result, it is for the NGOs running relative specialised programmes to handle the identification and rehabilitation of victims of torture. This is rather problematic for reasons that concern the sustainability of the system, given the fact that NGOs' relevant funding is often interrupted.

In **Athens**, torture survivors may be referred for identification purposes to [Metadrasi](#), whose service had stopped for a substantial period of time due to lack of funding before restarting. However, the duration of the project is uncertain and dependent on funding. Rehabilitation of victims of torture is also provided by GCR and [Day Centre Babel](#) ("Prometheus" project – Rehabilitation Unit for Victims of Torture) in cooperation with MSF. Funding of the Rehabilitation Unit also depends on availability of funds by other organisations and is scarce.

## 1.2. Age assessment of unaccompanied children

Ministerial Decision 92490/2013 lays down the age assessment procedure in the context of reception and identification procedures. Moreover, Joint Ministerial Decision 1982/2016 provides for an age assessment procedure for persons seeking international protection before the Asylum Service,<sup>380</sup> as well as persons whose case is still pending before the authorities of the "old procedure".<sup>381</sup> However, the scope of these decisions does not extend to age assessment of unaccompanied children under the responsibility of the Hellenic Police (see [Detention of Vulnerable Applicants](#)).

### 1.2.1. Age assessment by the RIS

Ministerial Decision 92490/2013 of the Minister of Health established for the first time in Greece an age assessment procedure applicable within the context of the (then) First Reception Service (FRS).<sup>382</sup>

According to MD 92490/2013, in case where there is specifically justified doubt as to the age of the third-country national, and the person may possibly be a minor, then the person is referred to the medical control and psychosocial support team for an age assessment.

1. Initially, the age assessment will be based on macroscopic features (i.e. physical appearance) such as height, weight, body mass index, voice and hair growth, following a clinical examination from a paediatrician, who will consider body-metric data. The paediatrician will justify his or her final estimation based on the aforementioned examination data and observations.
2. In case the person's age cannot be adequately determined through the examination of macroscopic features, an assessment by the psychologist and the social worker of the division will follow in order to evaluate the cognitive, behavioural and psychological development of the

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<sup>378</sup> Article 52 L 4375/2016.

<sup>379</sup> Article 53 L 4375/2016.

<sup>380</sup> Joint Ministerial Decision 1982/2016, Gov. Gazette B'335/16-2-2016.

<sup>381</sup> Article 22(A)11 JMD 1982/2016, citing Article 34(1) PD 113/2013 and Article 12(4) PD 114/2010.

<sup>382</sup> Ministerial Decision n. Υ1.Γ.Π.οικ. 92490/2013 "Programme for medical examination, psychosocial diagnosis and support and referral of entering without legal documentation third country nationals, in first reception facilities".

individual. The psychosocial divisions' evaluation report will be submitted in writing. Wherever a paediatrician is not available or when the interdisciplinary staff cannot reach any firm conclusions, and only as a measure of last resort, the person will be referred to a public hospital for specialised medical examinations such as dental or wrist X-rays, which will be clearly explained to him or her as far as their aims and means are concerned.

The estimations and the assessment results are delivered to the Head of the medical and psychosocial unit, who recommends to the Head of the RIC the official registration of age, noting also the reasons and the evidence supporting the relevant conclusion. After the age assessment procedure is completed, the individual should be informed in a language he or she understands about the content of the age assessment decision, against which he or she has the right to appeal in accordance with the Code of Administrative Procedure, submitting the appeal to the Secretariat of the RIC within 10 days from the notification of the decision on age assessment. In practice, the 10-day period may pose an unsurmountable obstacle to receiving identification documents proving their age, given the fact that in many cases persons under an age assessment procedure remain restricted in the RIC. These appeals are in practice examined by the Central RIS. No data are available regarding the number of such decisions challenged before the RIS and their outcome.

According to GCR 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.

**Lesvos:** Until mid-2018, due to a lack of qualified staff, the age assessment procedure as a rule took place on the basis of a dental examination, thus bypassing the procedure prescribed by law.

**Kos:** No paediatrician is present on the island. As a rule, persons who claim to be minors are subject to X-ray examinations at the local hospital. Only if they are considered as minors on the basis of the X-ray findings are they referred to a paediatrician located in the public hospital of the island of **Kalymnos**.

**Samos:** RIC is not in a position to implement age assessment procedures and cases are referred to the local hospital. Although this is one of the most overcrowded islands, only once per month are appointments for age assessment scheduled at the local hospital, as far as GCR is aware.

**Leros:** RIC is not in a position to implement age assessment procedures and cases are referred to the local hospital.

The Council of Europe Commissioner for Human Rights recently deplored “that the laws’ prescriptions are not fully implemented in practice” in this context.<sup>383</sup> FRA also noted that issues “still remain with age assessment in Greece. Limited resources.. may lead to protracted age assessment procedures. In addition, difficulties emerge when the age of a child needs to be rectified in a database. As these procedures might also determine the outcome of an asylum claim or a family reunification procedure, assistance by guardians or persons assigned with guardianship tasks should be provided to children upon arrival.”<sup>384</sup> The report further documents the significant lack of paediatricians on the islands.

The age assessment procedure in the RIC of **Fylakio** is highly problematic. In October 2018, Arsis and MSF addressed a letter to the Greek Ombudsman, noting that due to the lack of qualified medical and psychosocial unit in Fylakio RIC newly arrived persons are referred to the Public Hospital of Didimoticho

<sup>383</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>, 30.

<sup>384</sup> FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 4 March 2019, 40.

for age assessment procedures.<sup>385</sup> As a rule, age assessment is only based on X-ray examinations and no psychosocial assessment is conducted. As reported, decisions referring the newly arrived person to the hospital are not specifically motivated. The outcome of said examination is not properly communicated to the person in question and this results in cases where due to lack of information the person has not met the 10-day deadline for lodging an appeal. Moreover, even where the newly arrived person has lodged an appeal against a finding considering him or her as an adult, he or she is immediately transferred from the RIC to the pre-removal detention centre of Fylakio and detained with adults, contrary to the obligation to treat the alleged minor as a minor during the age assessment procedure.

According to the organisations, between June and October 2018, there have been 35 referrals for age assessment at the public hospital of Didimoticho. Out of these, in 23 cases persons have been considered as adults and 12 persons have been considered as minors. In all cases, the child protection agent, temporary guardian etc. has not been informed prior to the referral, while in most cases the persons subject to age assessment have not been informed about the procedure and the purpose of the medical examinations. All persons considered as adults have been transferred to Fylakio pre-removal centre and have not had the opportunity to appeal against the findings of the age assessment.

### 1.2.2. Age assessment in the asylum procedure

L 4375/2016 includes procedural safeguards and refers explicitly to the JMD 1982/2016 regarding the age assessment procedure. More specifically, Article 45(4) L 4375/2016 provides that “The competent Receiving Authorities may, when in doubt, refer unaccompanied minors for age determination examinations according to the provisions of the Joint Ministerial Decision 1982/16.2.2016 (O.G. B’ 335). When such a referral for age determination examinations is considered necessary and throughout this procedure, attention shall be given to the respect of gender-related special characteristics and of cultural particularities.”

The provision also sets out guarantees during the procedure:

- (a) A guardian for the child is appointed who shall undertake all necessary action in order to protect the rights and the best interests of the child, throughout the age determination procedure;
- (b) Unaccompanied children are informed prior to the examination of their application and in a language which they understand, of the possibility and the procedures to determine their age, of the methods used therefore, the possible consequences of the results of the above mentioned age determination procedures for the examination of the application for international protection, as well as the consequences of their refusal to undergo this examination;
- (c) Unaccompanied children or their guardians consent to carry out the procedure for the determination of the age of the children concerned;
- (d) The decision to reject an application of an unaccompanied child who refused to undergo this age determination procedure shall not be based solely on that refusal; and
- (e) Until the completion of the age determination procedure, the person who claims to be a minor shall be treated as such.”

The law also states that “the date of birth can be modified after the age determination procedure under Article 45, unless during the interview it appears that the applicant who is registered as an adult is manifestly a minor; in such cases, a decision of the Head of the competent Receiving Authority, following a recommendation by the case-handler, shall suffice.”<sup>386</sup>

Regarding the age assessment procedure *per se*, the JMD 1982/2016 provides that:

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<sup>385</sup> Arsis and MSF, Letter to the Ombudsman, 22 October 2018, on file with the author.

<sup>386</sup> Article 43(4) L 4375/2016.

- ❖ In case of doubt during the asylum procedure, the competent officer informs the Head of the RAO, who shall issue a decision specifically justifying such doubt in order to refer the applicant to a public health institution or an entity regulated by the Ministry of Health, where a paediatrician and psychologist are employed and a social service operates;<sup>387</sup>
- ❖ The age assessment is conducted with the following successive methods: based on the macroscopic characteristics, such as height, weight, body mass index, voice and hair growth, following a clinical examination from a paediatrician, who will consider body-metric data. The clinical examination must be carried out with due respect of the person's dignity, and take into account deviations and variations relating to cultural and racial elements and living conditions that may affect the individual's development. The paediatrician shall justify his or her final estimation based on the aforementioned examination data;<sup>388</sup>
- ❖ In case the person's age cannot be adequately determined through the examination of macroscopic features, following certification by the paediatrician, an assessment by the psychologist and the social worker of the structure of the entity will follow in order to evaluate the cognitive, behavioural and psychological development of the individual and a relevant report will be drafted by them. This procedure will take place in a language understood by the applicant, with the assistance of an interpreter, if needed.<sup>389</sup> If no psychologist is employed or there is no functioning social service in the public health institution, this assessment may be conducted by a psychologist and a social worker available from civil society organisations;<sup>390</sup>
- ❖ Wherever a conclusion cannot be reached after the conduct of the above procedure, the following medical examinations will be conducted: left wrist and hand X-rays for the assessment of the skeletal mass, dental examination and panoramic dental X- rays.<sup>391</sup> The opinions and evaluation results are delivered to the Head of the RAO, who issues a relevant act to adopt their conclusions.<sup>392</sup>

The JMD was an anticipated legal instrument, filling the gap of dedicated age assessment procedures within the context of the Asylum Service and limiting the use of medical examinations to a last resort while prioritising alternative means of assessment. Multiple safeguards prescribed in both L 4375/2016 and JMD 1982/2016 regulate the context of the procedure sufficiently, while explicitly providing the possibility of remaining doubts and thus providing the applicant with the benefit of the doubt even after the conclusion of the procedure. However, 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 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 regarding 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.<sup>393</sup> In February 2018, a Decision of the Director of the Asylum Service included birth certificate or family status in the document on which the modification of personal data can be requested.

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<sup>387</sup> Article 2 JMD 1982/2016.

<sup>388</sup> Article 3 JMD 1982/2016.

<sup>389</sup> Article 4 JMD 1982/2016.

<sup>390</sup> Article 5 JMD 1982/2016.

<sup>391</sup> Article 6 JMD 1982/2016.

<sup>392</sup> Article 7 JMD 1982/2016.

<sup>393</sup> Article 43(4) L 4375/2016.

However, these documents require an “apostille” stamp,<sup>394</sup> which in practice is not always possible for an asylum seeker to obtain. 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>395</sup> In this case, referral to the age assessment procedure largely lies at the discretion of the Asylum Service caseworker.

The number of age assessments conducted within the framework of the asylum procedure in 2018 is not known.

In light of the persisting gaps on the child protection in Greece, including the lack of effective guardianship, lack of qualified staff for age assessment procedures, inconsistencies in the procedure followed and the lack of any legal framework governing the age assessments conducted by the Police (see [Detention of Vulnerable Applicants](#)) the 2017 findings of the Ombudsman are still valid: “The verification of age appears to still be based mainly on the medical assessment carried out at the hospitals, according to a standard method that includes x-ray and dental examination, while the clinical assessment of the anthropometric figures and the psychosocial assessment is either absent or limited. This makes more difficult the further verification of the scientific correctness of the assessment.”<sup>396</sup>

Moreover, the Ombudsman expressed serious doubts as to the proper and systematic implementation of the age assessment procedures provided by both ministerial decisions and the implementation of a reliable system.<sup>397</sup>

## 2. Special procedural guarantees

### Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

Yes     For certain categories     No

❖ If for certain categories, specify which:

### 2.1. Adequate support during the interview

Applicants in need of special procedural guarantees should be provided with adequate support in order to be in the position to benefit from the rights and comply with the obligations in the framework of the asylum procedure.

National legislation 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>398</sup>

As stated in [Number of Staff of the First Instance Authority](#), specific training for handling vulnerable cases is provided to a number of Asylum Service caseworkers. In 2018, 10 more caseworkers of the Asylum Service have been certified by EASO as trained in “Interviewing Vulnerable Persons”.<sup>399</sup> In addition, EASO deployed 42 vulnerability experts in the context of the [Fast-Track Border Procedure](#). However, all Asylum Service caseworkers can conduct interviews with any category of vulnerable persons.<sup>400</sup>

<sup>394</sup> Decision of the Director of the Asylum Service No 3153, Gov. Gazette B’ 310/02.02.2018.

<sup>395</sup> Article 45(4) L 4375/2016.

<sup>396</sup> Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, Special Report 2017, 25-25 and 75.

<sup>397</sup> *Ibid*, 25.

<sup>398</sup> Article 52(13)(a) L 4375/2016.

<sup>399</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>400</sup> *Ibid*.



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>401</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 and second instance. Examples include the following:

**Victims of torture and other forms of violence:** In a case supported by GCR, the applicant alleged that he has been arrested and tortured brutally for political reasons in his country of origin, due to which he is suffering from medical symptoms even today. The applicant provided medical certificates by the MSF and a psychological report by Babel Day Centre supporting his claims. Although, during the interview he had answered all the questions and no questions of clarification had been posed to him he was not considered credible and his descriptions of torture were considered insufficiently detailed, while the medical and psychological report was not taken into account. The decision concluded that the medical symptoms cannot be considered as related with the alleged ill-treatment as, according to Google, 30%-50% of men can suffer from said symptoms. The case is pending before the Appeals Committee.<sup>402</sup>

In two cases of Ethiopian women, the first a victim of human trafficking and the second a victim of rape by a relative, after which she gave birth to a child. Both applicants were rejected at second instance by different Appeals Committees which failed to detect that the violence they were subjected to amounted to persecution, given the overall situation in their country of origin.<sup>403</sup> Both cases are pending before the Administrative Court of Appeal.

In a case of a female applicant from Pakistan who alleged that she left her country of origin due to severe domestic violence, rape and ill-treatment by her husband and lack of effective protection by domestic authorities, the Appeals Committee, despite accepting the credibility of her allegations by taking into consideration a number of sources regarding the country of origin, rejected the appeal by concluding that “the family reasons invoked by the appellant – ill-treatment and threats by her ex-husband- cannot be considered as grounds for refugee status under the Geneva Convention as they do not fall under the concept of ‘persecution’ in accordance with said Convention.”<sup>404</sup> The case is pending before the Administrative Court of Appeals with the support of GCR.

**Best interests of the child evaluation in asylum claims:** In the case of a 16 year old unaccompanied minor, the Appeals Committee mentioned that following the lodging of the asylum application, since the applicant was an unaccompanied minor, the Athens Public Prosecutor for minors had been informed in order to act for the appointment of a guardian pursuant to the law. Moreover, the Committee noted that “no further actions have been place and no Guardian has been appointed to the minor”. However, despite the fact that fundamental procedural guarantees had not been met, the Committee examined and rejected the application on the merits.

In another case, the applicant was an unaccompanied boy from Pakistan who had only attended school for about 5 years in his home country and then had to leave school in order to work from a very young age under severe conditions. Moreover, indications of forced labour appeared in this case. The Appeals Committee rejected the application on the basis that his allegations referred to “economic problems” which were irrelevant with refugee. The Committee failed to examine whether “the deprivation of economic, social and cultural rights may be as relevant to the assessment of a child’s claim as that of

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<sup>401</sup> Article 52(6) L 4375/2016. See also 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>402</sup> Decision on file with the author.

<sup>403</sup> *Ibid.*

<sup>404</sup> *Ibid.*



civil and political rights” by taking into consideration the particular vulnerability of children as such and the fact that “children’s socio-economic needs are often more compelling than those of adults”.<sup>405</sup> Both cases are pending before the Administrative Court of Appeals.<sup>406</sup>

Furthermore, as stated by the Network for the Rights of Children on the Move, in a number of cases the assessment of applications by unaccompanied children is determined by negative preconceptions regarding the well-foundedness of the claim linked to the child’s country of origin.<sup>407</sup> In this respect, even if the first instance recognition rate has increased to 38% in 2018 compared to 27.5% in 2017, a discrepancy between the recognition rate of unaccompanied children and the overall rate (49.4%) persists. No official data on the recognition rate of vulnerable groups, including unaccompanied children, at second instance are available. However as set out in [Regular Procedure: Appeal](#), from the launch of the operation of Independent Appeals Committees on 21 June 2016 and until 31 May 2018, recognition rate of unaccompanied children in second instance procedures was 6.7%.<sup>408</sup>

## 2.2. Exemption from special procedures

National legislation expressly foresees that applicants in need of special procedural guarantees shall always be examined under the regular procedure.<sup>409</sup>

Newly arrived applicants who fall within the family provisions of the Dublin Regulation or who are considered vulnerable, according to the definition in Article 14(8) L 4375 (see [Identification](#)) are exempted from the [Fast-Track Border Procedure](#) and their claims are considered admissible. In 2018, 22,963 applications were exempted from the fast-track border and channelled into the regular procedure for reasons of vulnerability. These include 1,185 applications by unaccompanied children, while the specific vulnerabilities presented by the rest of the cases are not available.<sup>410</sup> In 5,286 cases, EASO recommended the referral of the applicant to the regular procedure on grounds of vulnerability.<sup>411</sup>

In two cases in 2018, the Administrative Court of Appeals has annulled decisions issued under the fast-track border procedure on the ground that the applicant should have been exempted therefrom and referred to the regular procedure for reasons of vulnerability.<sup>412</sup> The Court stressed that the applicant is under no obligation to prove “procedural damage” (*δικονομική βλάβη*) stemming from the failure to exempt him or her from the fast-track border procedure.<sup>413</sup>

Moreover, GCR is aware of cases where although the applicant was referred to the regular procedure on vulnerability grounds, the rest of the guarantees of the regular procedure were not applied. This was the case of a Kashmiri stateless asylum seeker, supported by GCR, who was referred to the regular procedure on vulnerability grounds after an interview with an EASO officer on the island. Following his transfer to the mainland, he received negative decisions at first and second instance in 2017, without a prior interview with an Asylum Service caseworker as provided by law. The Administrative Court of Appeals of Piraeus annulled the decision of the Appeals Authority and returned the case in order for it to be handled according to the regular procedure guarantees prescribed by law. Respectively, the Court

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<sup>405</sup> UNHCR, *Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, available at: <https://bit.ly/2WjFMnc>.

<sup>406</sup> The cases are supported by Arsis; Decisions on file with the author.

<sup>407</sup> Network for the Rights of Children on the Move, *Annual Report: January 2017 – January 2018*, available at: <http://bit.ly/2p9hmNu>, 2.

<sup>408</sup> Immigration.gr, ‘Η διαδικασία εξέτασης αιτημάτων διεθνούς προστασίας σε 2ο βαθμό για τους ασυνόδευτους ανηλίκους’, 13 June 2018, available in Greek at: <https://bit.ly/2CBwEIM>.

<sup>409</sup> Article 50(2) L 4375/2016.

<sup>410</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>411</sup> Information provided by EASO, 13 February 2019.

<sup>412</sup> See e.g. Administrative Court of Appeal of Piraeus, Decision 558/2018, available in Greek at: <https://bit.ly/2WbqvDY>.

<sup>413</sup> Administrative Court of Appeal of Piraeus, Decision 519/2018, available in Greek at: <https://bit.ly/2JiaUB0>; Decision 563/2018, available in Greek at: <https://bit.ly/2FgXcdR>.

noted that there is no obligation to prove “procedural damage” (δικονομική βλάβη) stemming from the failure to conduct the interview within the framework of the regular procedure.<sup>414</sup>

On 8 December 2016 a Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey statement recommended Greek authorities to amend the legal basis of this exemption in order to channel Dublin family reunification cases and vulnerable groups under the fast-track border procedure, with a view to subjecting these cases to the admissibility procedure and to their possible return to Turkey.<sup>415</sup> Pressure on the Greek authorities to abolish the existing exemptions from the fast-track border procedure and to “reduce the number of asylum seekers identified as vulnerable” continued to be reported in 2017.<sup>416</sup> However, a report published by Médecins Sans Frontières in July 2017 stressed that “far from being over-identified, vulnerable people are falling through the cracks and are not being adequately identified and cared for.”<sup>417</sup> These findings were confirmed one and a half year later by Oxfam, which reported in January 2019 that the Greek reception and identification system has “broken down” and is systematically failing to identify and therefore provide the protection much needed to the most vulnerable asylum seekers on **Lesvos**.<sup>418</sup>

Furthermore, the General Commission of Regular Administrative Courts, the branch of senior judges responsible for monitoring and assisting the operation of the Administrative Courts and to formulate opinions of points of administrative law of general interests, has proposed a more rigid definition of vulnerable groups, which would remove persons suffering from post-traumatic stress disorder (PTSD) from the list of vulnerable persons and would no longer guarantee them an exemption from the fast-track border procedure.<sup>419</sup> The category of persons suffering from PTSD has not been deleted by Article 14(8) L 4375/2016 but Article 20(1) L 4540/2018, transposing the recast Reception Conditions Directive, has omitted persons suffering from PTSD from the list of vulnerable applicants. That said, the list is indicative and not exclusive.

### 2.3. Prioritisation

Both definitions (“vulnerable group” and “applicant in need of special procedural guarantees”) are used in relation to other procedural guarantees such as the examination of applications by way of priority.<sup>420</sup> For example Article 51(6) L 4375/2016 provides that applications lodged by applicants belonging to vulnerable groups within the meaning of Article 14(8) L 4375/2016 or are in need of special procedural guarantees “may [be] register[ed] and examine[d] by priority”.

The number of applications by vulnerable persons which were examined by priority is not available. However, as stated in [Regular Procedure: Personal Interview](#), GCR is aware of applications by persons officially recognised as vulnerable whose interview has been scheduled over one year after registration.

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<sup>414</sup> Administrative Court of Appeal of Piraeus, Decision 519/2018, available in Greek at: <https://bit.ly/2JiaUB0>. See also Administrative Court of Appeal of Piraeus, Decision 231/2018, available in Greek at: <https://bit.ly/2TXVHcG>.

<sup>415</sup> European Commission, *Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey Statement*, Annex 1 to COM(2016) 792, 8 December 2016, paras 2 and 3.

<sup>416</sup> 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>417</sup> MSF, *A dramatic deterioration for asylum seekers on Lesvos*, July 2017, 3.

<sup>418</sup> Oxfam, *Vulnerable and abandoned*, January 2019.

<sup>419</sup> General Commission of Regular Administrative Courts, *Προτάσεις για την επιτάχυνση των διαδικασιών στις αποθέσεις αιτημάτων χορήγησης διεθνούς προστασίας*, No 3089, 14 November 2017, available in Greek at: <http://bit.ly/2E6CFst>. See also ECRE, ‘Greek judges recommend legal restrictions to accelerate procedure on the islands’, 24 November 2017, available at: <http://bit.ly/2hRbIC3>.

<sup>420</sup> Article 51(6) L 4375/2016.

### 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 expenses. Any results and reports of such examinations must be taken into consideration by the Asylum Service.<sup>421</sup>

Specifically as regards persons who have been subjected to torture, rape or other serious acts of violence, a contested provision was introduced in 2018,<sup>422</sup> according to which, such persons should be certified by medical certificate issued by a public hospital or by an adequately trained doctor of a public sector health care service provider.<sup>423</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 hospital and public health care providers would not be admissible in the asylum procedure and in judicial review before courts. A recent case from the Administrative Court of Appeal of Piraeus confirms those fears. The Court upheld the second instance negative decision by mentioning that “following the entry into force of L. 4540/2018, Article 23, victims of torture are certified by medical certificate issued by public hospital, army hospital or qualified doctors of public medical entities.”<sup>424</sup>

Few such cases of best practice, where Asylum Service officers referred applicants for such reports, were recorded by GCR in 2018. However, several cases have been reported to GCR where the Asylum Service officer did not take into account the medical reports provided (see [Special Procedural Guarantees](#)).

### 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 office and the competent authority for the protection of unaccompanied and/or separated children, which is the General Directorate of Social Solidarity of the Ministry of Labour, Social Security and Social Solidarity

<sup>421</sup> Article 53 L 4375/2016.

<sup>422</sup> Article 23 L 4540/2018.

<sup>423</sup> Immigration.gr, ‘Η πιστοποίηση θυμάτων βασανιστηρίων αποκλειστικό «προνόμιο» του κράτους’, May 2018, available in Greek at: <https://bit.ly/2TVAMXv>.

<sup>424</sup> Administrative Court of Appeal of Piraeus, Decision 20/2019, available in Greek at: <https://bit.ly/2CrNiE6>.

and which is 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>425</sup>

L 4554/2018 introduced for the first time a regulatory framework for the guardianship of unaccompanied children in Greek law. According to the new law, a guardian will be appointed to a foreign or stateless person under the age of 18 who arrives in Greece without being accompanied by a relative or non-relative exercising parental guardianship or custody. The Public Prosecutor for Minors or the local competent Public Prosecutor, if no Public Prosecutor for minors exists, is considered as the temporary guardian of the unaccompanied minor. This responsibility includes, among others, the appointment of a permanent guardian of the minor.<sup>426</sup> The guardian of the minor is selected from a Registry of Guardians created under the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, EKKA).<sup>427</sup> In addition, the law provides a best interest of the child determination procedure following the issuance of standard operational procedure to be issued.<sup>428</sup> The law also creates the Supervisory Guardianship Board, which will be responsible for ensuring legal protection for unaccompanied children with respect to disabilities, religious beliefs and custody issues.<sup>429</sup> Additionally, the law establishes the Department for the Protection of Unaccompanied Minors at EKKA, which will have the responsibility of guaranteeing safe accommodation for unaccompanied children and evaluating the quality of services provided in such accommodation.<sup>430</sup>

Under Article 18 L 4554/2018, the guardian has responsibilities relevant to the integration of unaccompanied children, which include:

- ensuring decent accommodation in special reception structures for unaccompanied children;
- representing and assisting the child in all judicial and administrative procedures;
- accompanying the child to clinics or hospitals;
- guaranteeing that the child is safe during their stay in the country;
- ensuring that legal assistance and interpretation services are provided to the child;
- providing access to psychological support and health care when needed;
- taking care of enrolling the child in formal or non-formal education;
- taking necessary steps to assign custody of the child to an appropriate family (foster family), in accordance with the applicable legal provisions;
- ensuring that the child's political, philosophical and religious beliefs are respected and freely expressed and developed; and
- behaving with sympathy and respect to the unaccompanied child.

In practice, the system of guardianship is still not operating. Secondary legislation such as Ministerial Decisions and standard operating procedures required by law in order to further regulate *inter alia* the functioning of the Registry of Guardians and the best interests of the child determination procedure, has not been issued as of March 2019.

NGOs active in the field also highlight the gap and possible halt of the services that were up until now provided by NGOs until the state system becomes fully operational,<sup>431</sup> and the severe shortage of accommodation places that continue to force hundreds of unaccompanied children to homelessness or protective custody (see [Detention of Vulnerable Applicants](#)) several months after the entry into force of the new guardianship system.<sup>432</sup> Furthermore, concerns have been expressed regarding the increase of

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<sup>425</sup> Article 22 L 4540/2018.

<sup>426</sup> Article 16 L 4554/2018.

<sup>427</sup> *Ibid.*

<sup>428</sup> Article 21 L 4554/2018.

<sup>429</sup> Article 19 L 4540/2018.

<sup>430</sup> Article 27 L 4540/2018.

<sup>431</sup> Metadrasi, 'Call for the immediate assumption of Guardianship for unaccompanied minors by the Ministry of Labour', 11 September 2018, available at: <https://bit.ly/2Th03Hh>.

<sup>432</sup> Refugee Support Aegean, 'Greece: Hundreds of vulnerable refugees children left unprotected and homeless', 21 December 2018, available at: <https://bit.ly/2CMnXV9>.

powers on the understaffed and inadequately trained prosecutor offices, the lack of strict time frame in almost all stages of the procedure and the lack of specific provisions regarding unaccompanied minors that will still be homeless or in unsafe housing despite the operation of the new guardianship system.<sup>433</sup>

Despite the welcome development of a new legal framework under L 4554/2018, the proper implementation of the guardianship system should be further monitored.

The Asylum Service received 2,639 applications from unaccompanied children in 2018, of which 2,445 from boys and 194 from girls.<sup>434</sup>

## E. Subsequent applications

### Indicators: Subsequent Applications

2. Does the law provide for a specific procedure for subsequent applications?  Yes  No
2. Is a removal order suspended during the examination of a first subsequent application?
- ❖ At first instance  Yes  No
  - ❖ At the appeal stage  Yes  No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
- ❖ At first instance  Yes  No
  - ❖ At the appeal stage  Yes  No

The law sets out no time limit for lodging a subsequent application, as the purpose of Article 59 L 4375/2016 is to allow for another examination of the case whenever new elements arise.

A subsequent application can also be lodged by a member of a family who had previously lodged an application. In this case the preliminary examination regards the eventual existence of evidence that justify the submission of a separate application by the depending person.<sup>435</sup>

1,984 subsequent asylum applications were submitted to the Asylum Service in 2018:

Subsequent applicants: 2018	
Country of origin	
Pakistan	559
Syria	245
Albania	196
Egypt	129
Georgia	122
Others	733
<b>Total</b>	<b>1,984</b>

Source: Asylum Service, 26 March 2019.

The definition of “final decision” was amended in 2018. According to the new definition, a “final decision” is a decision granting or refusing international protection (a) taken [by the Appeals Committees] following an administrative appeal, or (b) which is no longer amenable to an administrative appeal due

<sup>433</sup> Network for Children’s Rights, *Τα παιδιά που δεν πάνε διακοπές*, July 2018, available in Greek at: <https://bit.ly/2Wa3Dvr>.

<sup>434</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>435</sup> Article 59(5) L 4375/2016.



to the expiry of the time limit to appeal. An application for annulment can be lodged against the final decision before the Administrative Court of Appeal.<sup>436</sup>

Despite this amendment, however, the registration of a subsequent application in practice is suspended for as long as the 60-day deadline for the submission of an application for the annulment of the second instance negative decision before the Administrative Court of Appeal is still pending, unless the applicant proceeds to waive his or her right to legal remedies. The applicant can only waive this right in person or through a proxy before the competent Administrative Court of Appeal. This procedure poses serious obstacles to applicants subject to the [Fast-Track Border Procedure](#) who intend to submit a subsequent application.

This is in particular the case for applicants whose application has been examined without having being processed by the RIS due to the shortcomings in the [Identification](#) procedure and their vulnerability having been identified, or cases regarding vulnerabilities appeared or identified on a later stage. Cases where vulnerability has been identified by the RIS or medical actors operating on the islands, e.g. public hospitals, and relevant certificates were issued after the second instance examination or even after the issuance of the second instance decision have been encountered by GCR. Therefore, the identification of vulnerability is a “new, substantial element” as prescribed by law.

However, according to the practice followed, applicants whose application has been rejected within the framework of the fast-track border procedure are immediately arrested and detained upon receiving of a second instance negative decision in order to be swiftly readmitted to Turkey. As they remain detained there is no way for them to present themselves before the competent Administrative Court, located in **Piraeus**, Attica region, in order to waive the right to submit an onward appeal and respectively to lodge a subsequent application. It is also extremely difficult to locate a notary on the island willing to proceed to the detention facility and prepare a proxy form that will be sent to a lawyer on the mainland who will waive the right on behalf of the applicant. Even if this is the case, the fact that readmission procedures may be completed within a number of days from notification of the second instance decision means that the time required for this procedure is not usually available and the right to submit a subsequent application is hindered for applicants under the fast-track border procedure.

### **Preliminary examination procedure**

According to L 4375/2016, when a subsequent application is lodged, the relevant authorities examine the application in conjunction with the information provided in previous applications.<sup>437</sup>

Subsequent applications are subject to a preliminary examination, during which the authorities examine whether new substantial elements have arisen or are submitted by the applicant. The preliminary examination of subsequent applications is conducted within 5 days to assess whether new substantial elements have arisen or been submitted by the applicant.<sup>438</sup> During that preliminary stage, according to the law all information is provided in writing by the applicant,<sup>439</sup> however in practice subsequent applications have been registered with all information provided orally.

If the preliminary examination concludes on the existence of new elements “which affect the assessment of the application for international protection”, the subsequent application is considered admissible and examined on the merits. The applicant is issued a new “asylum seeker’s card” in that case. If no such elements are identified, the subsequent application is deemed inadmissible.<sup>440</sup>

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<sup>436</sup> Article 34(e) L 4375/2016, as amended by Article 28(5) L 4540/2018.

<sup>437</sup> Article 59(1) L 4375/2016.

<sup>438</sup> Article 59(2) L 4375/2016, as amended by Article 28(13) L 4540/2018.

<sup>439</sup> Article 59(2) L 4375/2016.

<sup>440</sup> Article 59(4) L 4375/2016.



Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal if applicants who have lodged a subsequent asylum application are suspended.<sup>441</sup> However, the 2018 reform provides that “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>442</sup>

Any new submission of an identical subsequent application shall be filed, in accordance with the provisions of Article 4 of the Code of Administrative Procedure.<sup>443</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.

A total of 602 subsequent applications were considered admissible and referred to be examined on the merits, while 1,158 subsequent applications were dismissed as inadmissible in 2018.<sup>444</sup>

## F. The safe country concepts

### Indicators: Safe Country Concepts

- |  |   |  |
|--|---|--|
| 1. Does national legislation allow for the use of “safe country of origin” concept?  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Is there a national list of safe countries of origin?                              | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice?                            | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept?      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Is the safe third country concept used in practice?                                | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |

Following the EU-Turkey statement of 18 March 2016, the provisions concerning the “first country of asylum” and the “safe third country” concepts were applied for the first time in Greece vis-à-vis Turkey. Serious concerns about the compatibility of the EU-Turkey statement with international and European law, and more precisely the application of the “safe third country” concept, have been raised since the publication of the statement.<sup>445</sup>

On 28 February 2017, the General Court of the European Union gave an order with regard to an action for annulment brought by two Pakistani nationals and one Afghan national against the EU-Turkey statement. The order stated that “the EU-Turkey statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure.”<sup>446</sup> Therefore “the Court does not have jurisdiction

<sup>441</sup> Article 59(3) L 4375/2016.

<sup>442</sup> Article 59(9) L 4375/2016, inserted by Article 28(13) L 4540/2018.

<sup>443</sup> Article 59(7) L 4375/2016.

<sup>444</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>445</sup> See e.g. NCHR, *Έκθεση για τη συμφωνία ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 για το προσφυγικό/μεταναστευτικό ζήτημα υπό το πρίσμα του Ν. 4375/2016*, 25 April 2016, available in Greek at: <http://bit.ly/2mxAncu>; Parliamentary Assembly of the Council of Europe (PACE), Resolution 2109 (2016) “The situation of refugees and migrants under the EU-Turkey Agreement of 18 March 2016”, available at: <http://bit.ly/2fISx1Y>; 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>446</sup> General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: <http://bit.ly/2iWZPrr>.

to rule on the lawfulness of an international agreement concluded by the Member States.”<sup>447</sup> The decision became final on 12 September 2018, as an appeal against it before the CJEU was rejected.<sup>448</sup>

## 1. Safe third country

The “safe third country” concept is a ground for inadmissibility (see [Admissibility Procedure](#)).

According to Article 56(1) L 4375/2016, a country shall be considered as a “safe third country” for a specific applicant when all the following criteria are fulfilled:

- (a) The applicant's life and liberty are not threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion;
- (b) This country respects the principle of *non-refoulement*, in accordance with the Refugee Convention’
- (c) The applicant faces no risk of suffering serious harm according to Article 15 PD 141/2013, transposing the recast Qualification Directive;
- (d) The country prohibits the removal of an applicant to a country where he or she risks to be subject to torture or cruel, inhuman or degrading treatment or punishment, as defined in international law;
- (e) The possibility to apply for refugee status exists and, if the applicant is recognised as a refugee, to receive protection in accordance with the Refugee Convention; and
- (f) The applicant has a connection with that country, under which it would be reasonable for the applicant to move to it.

There is no list of safe third countries in Greece. The concept is only applied in the context of the [Fast-Track Border Procedure](#) under Article 60(4) L 4375/2016 on the islands for those arrived after 20 March 2016 and subject to the EU-Turkey statement, and in particular vis-à-vis nationalities with a recognition rate over 25%, thereby including Syrians, Afghans and Iraqis. Since applications of persons identified as vulnerable or falling within the scope of the Dublin Regulation family provisions are exempt from this procedure, they are not subject to the safe third country concept.

### 1.1. Safety criteria

#### 1.1.1. Applications lodged by Syrian nationals

In 2018, the Asylum Service received 8,773 applications submitted by Syrian applicants initially subject to the fast-track border procedure, and issued 3,882 first instance decisions:

First instance decisions to Syrians based on the “safe third country” concept: 2018		
Decision	Number	Percentage
Inadmissible	393	77.3%
Admissible	116	22.7%
Total	509	-

Source: Asylum Service, 26 March 2019.

As a rule, first instance decisions dismissing the applications of Syrian nationals as inadmissible on the basis that Turkey is a safe third country in the [Fast-Track Border Procedure](#) are based on a pre-defined

<sup>447</sup> *Ibid.*

<sup>448</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.

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>449</sup>

As highlighted by the United Nations Special Rapporteur on the human rights of migrants, “admissibility decisions issued are consistently short, qualify Turkey as a safe third country and reject the application as inadmissible: this makes them practically unreviewable.”<sup>450</sup>

Since mid-2016, the same template decision issued to dismiss claims of Syrians applicants as inadmissible on the basis that Turkey is a safe third country for Syrian asylum seekers. Accordingly, negative first instance decisions qualifying Turkey as a safe third country for Syrians are not only identical and repetitive – failing to provide an individualised assessment – but also outdated insofar as they do not take into account developments after that period.

In particular, first instance decisions do not take into consideration or assess the current legal framework in Turkish, including the derogation from the principle of *non-refoulement*.<sup>451</sup> Although a number of sources made public in 2018 have been added to the endnotes of some decisions issued in late 2018,<sup>452</sup> their content is not at all assessed or taken into account. An indicative example of a first instance inadmissibility decision can be found in the 2017 update of the AIDA report on Greece.

Respectively, as far as GCR is aware, second instance decisions issued by the Independent Appeals Committees for Syrian applicants systematically uphold the first instance inadmissibility decisions, if no vulnerability is identified.

In this regard, it should be recalled that in 2016, the overwhelming majority of second instance decisions issued by the [Backlog Appeals Committees](#) rebutted the safety presumption.<sup>453</sup> However, following reported pressure by the EU with regard to the implementation of the EU-Turkey statement,<sup>454</sup> the composition of the Appeals Committees was – again – amended two months after the publication of L 4375/2016.

In 2017, contrary to the outcome of second instance decisions issued by the Backlog Appeals Committees in 2016, 98.2% of the decisions issued by the new Independent Appeals Committees upheld the inadmissibility decisions on the basis of the safe third country concept.

In 2018, the Independent Appeals Committees issued 78 decisions dismissing applications as inadmissible on the basis that Turkey can be considered as a safe third country for Syrian applicants. As far as GCR is aware, there have been only two cases of Syrian families of Kurdish origin, originating

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<sup>449</sup> 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>450</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>451</sup> AIDA, *Country Report Turkey, 2018 Update*, March 2019, available at: <https://bit.ly/2WomBrT>; Amnesty International, ‘Public Statement - Refugees at heightened risk of refoulement under Turkey’s state of emergency’, 22 September 2017, available at: <https://bit.ly/2sE5sgL>.

<sup>452</sup> Sources made public in 2018 and mentioned in the first instance decision are: “AIDA Report on Turkey, Update 2017; United States Department of State, *Turkey 2017, Human Rights Report*; European Commission, *Turkey 2018 Report*, SWD(2018) 153 final, 17 April 2018; European Commission, *ECHO Factsheet – Turkey Refugee Crisis – June 2018*.”

<sup>453</sup> The United Nations Special Rapporteur on the human rights of migrants commended their independence against “enormous pressure from the European Commission”: *Report on the visit to Greece*, 24 April 2017, para 85.

<sup>454</sup> New Europe, ‘EU Council: Why Greece should consider Turkey safe for Syrian refugees’, 9 June 2016, available at: <http://bit.ly/2lWDYOa>; Keep Talking Greece, ‘EU presses Greece to change asylum appeal committees that consider “Turkey is not a safe country”’, 11 June 2016, available at: <http://bit.ly/2kNWR5D>.

from Afrin area, in which the Appeals Committee ruled that Turkey cannot be considered as a safe third country for said Syrian applicants due to the non-fulfilment of the connection criteria.<sup>455</sup>

In 579 cases, the first instance decision was revoked and thus the second instance procedure was not continued (224 cases) or the case was referred back to the first instance (355 cases). In both types of cases, that was due to the fact that vulnerability was identified after the issuance of the first instance decision. The high number of such cases reflects the shortcomings of the **Identification** procedure and the failure to identify vulnerabilities in a timely manner. The possibility for the Appeals Committee to refer back the case to the first instance in case of vulnerability has been erased by a legislative reform in May 2018. The new Article 62(9) L 4375/2016 provides that the Appeals Committee can refer back a case to the first instance procedure only in case of a first instance decision rejecting the request to reopen the asylum procedure following discontinuation.<sup>456</sup> Thus and as far as GCR is aware in case of vulnerable Syrian appellants whose vulnerability has not taken into consideration in the first instance procedure, the Appeals Committees examine the case in the merits and grant international protection status, without referring the case back to the first instance. In 2018, refugee status has been granted in 32 cases of Syrian appellants.<sup>457</sup> Respectively, subsidiary protection has been granted in 3 Syrian appellants.

In total, 749 second instance decisions regarding Syrian appellants were issued in 2018. Moreover, 129 appeals had been examined but the decision was pending by the end of 2018 and 58 appeals had not been examined by the end of the year.<sup>458</sup>

An application lodged before the ECtHR on 9 September 2016 concerning a Syrian facing return to Turkey on the basis of an inadmissibility decision is still pending at the time of writing.<sup>459</sup>

The application of the safe third country concept by the Asylum Service and Appeals Committees raise particular concerns relating to the assessment followed. First instance decisions declaring asylum applications inadmissible mention a number of sources in order to substantiate the safe third country concept vis-à-vis Syrians, mainly based on (i) the provisions of Turkish legislation, without referring to the derogation from *non-refoulement*; (ii) correspondence between the Commission and Greek authorities; and (iii) correspondence between the Commission and Turkish authorities.

Research published in 2018 based on qualitative analysis of 40 files of Syrian asylum seekers whose claims were examined under the safe third country concept highlights that:<sup>460</sup>

- The Asylum Service fails to assess and verify whether the content of the letters is reliable and/or up-to-date, contrary to Greece's obligations under Article 3 ECHR;<sup>461</sup>
- First instance decisions are largely limited to a mere repetition of the provisions of the recast Asylum Procedures Directive and Greek law, without assessing individual circumstances;

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<sup>455</sup> 9<sup>th</sup> Independent Appeals Committee, Decisions 20802/25.9.2018 and 20898/26.9.2018, 25 September 2018, available at: <https://bit.ly/2Cjbmcd>.

<sup>456</sup> Article 62(9) L 4375/2016, inserted by Article 28(21) L 4540/2018.

<sup>457</sup> These include the 2 cases mentioned above which considered admissible due to the non-fulfilment of the connection criteria and where refugee protection has been granted.

<sup>458</sup> Information provided by the Appeals Authority, 7 March 2019.

<sup>459</sup> ECtHR, *J.B. v. Greece*, Application No 54796/16, Communicated on 18 May 2017. See also AIRE Centre, ECRE, ICJ and Dutch Council for Refugees, *Third party intervention in J.B. v. Greece*, 4 October 2017, available at: <http://bit.ly/2qSRxoU>; Gisti and International Federation for Human Rights (FIDH), *Third part intervention in J.B. v. Greece*, 20 September 2017, available at: <http://bit.ly/2DFZ0h8>. The case is supported by Refugee Support Aegean: <https://bit.ly/2sdZC6O>.

<sup>460</sup> Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, available at: <https://bit.ly/2sJM2H4>, 23-29.

<sup>461</sup> See e.g. ECtHR, *Saadi v. United Kingdom*, Application No 13229/03, Judgment of 29 January 2008, para 147; *Othman v. United Kingdom*, Application No 8139/09, Judgment of 17 January 2012, para 189. See also AIRE Centre et al., *Third party intervention in J.B. v. Greece*, 4 October 2017, 3-5.

- In all cases, the same 15 general endnotes are included, without being properly reflected or assessed in the body of the text. These mostly refer to outdated governmental sources. Applicable Turkish law is not taken into account;
- The legal status of Syrians in Turkey is misunderstood, with EASO and the Asylum Service systematically confusing temporary protection granted to Syrians in Turkey with international protection.<sup>462</sup>

As mentioned above, in 2018 a number of first instance decisions issued for Syrian applicants declared the application admissible. As far as GCR is aware, such decisions include: cases of Syrian single women whose application has been considered admissible on the basis that the rights of a single refugee woman are not effectively protected in practice in Turkey; Syrian applicants of Kurdish origin; and applicants of Palestinian origin with former habitual residence in Syria who cannot access temporary protection status as they have not arrived in Turkey directly from Syria.<sup>463</sup> However, this line of reasoning is not always consistently applied and contradictions between the reasoning and the outcome of similar cases occur. Thus, for 2018, GCR is aware of substantially similar cases being rejected as inadmissible based on the safe third country concept.

Appeals Committees follow the line of reasoning of the Asylum Service to a great extent. Second instance decisions rely on the information provided by the letters of the Turkish authorities, considered as diplomatic assurances “of particular evidentiary value”, so as to conclude that the safety criteria are fulfilled, without assessing and verifying the credibility of their content.

The aforementioned qualitative analysis published in 2018 reviewed 30 second instance decisions and found that:

- In all decisions, the EU-Turkey statement is invoked in its full text, systematically cited *verbatim*. In 11 cases, the Appeals Committees consider the EU-Turkey statement as a legally binding international agreement. In 4 cases the statement is considered as “an agreement with political commitment”. In 10 cases the EU-Turkey statement is considered as a return measure. In 5 cases no assessment is made in this regard, even though the EU-Turkey statement is mentioned as an element of the file taken into consideration;
- Decisions are often and in many parts identical and repetitive;
- The currently applicable legal framework in Turkey is not assessed;
- Decisions are largely based on governmental and outdated sources or on sources that are irrelevant to the case at hand. Some reliable sources are cited but are erroneously assessed, leading to conclusions on the situation in Turkey that run contrary to the substance of the cited sources. The most illustrative example is the misinterpretation of the findings of the report of the Special Representative of the Secretary General on Migration and Refugees following a fact-finding mission to Turkey in May-June 2016. In some cases, the Committees refer to the report to conclude that Syrian returnees are not detained in Turkey, despite the fact that said report specifically refers to a practice of “de facto detention” of Syrians returned to Turkey from Greece (p. 18). In other cases, said report is cited to conclude that there is no risk of violation of the principle of non-refoulement, despite the fact that the Special Representative explicitly raises concerns with regards to the breach of said principle on behalf of the Turkish authorities (p. 19-20);
- Effective enjoyment of the right to work for Syrians in Turkey, i.e. one of the rights guaranteed for refugees “in accordance with the Geneva Convention” is not examined. In 28 out of the 30 second instance decisions, despite a long analysis and citation of the Turkish general legal

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<sup>462</sup> See for example AIDA Report on Greece, Update 2017, March 2018, Annex II. An example of first instance inadmissibility decision mentions under part IV.d that “In Turkey there is a possibility to request refugee status and, in the case of Syrian nationals a temporary protection status is granted, which ensures their protection in accordance with the Geneva Convention.”

<sup>463</sup> Decisions on file with the author.

framework, which in principle grants the right to work, the implementation of relevant provisions in practice is not assessed.

For a detailed analysis of sources consulted, the content of letters exchanged and the assessment of the criteria in practice by the Asylum Service, the Appeals Committees and the Council of State, see the 2017 update of the AIDA report on Greece.

### 1.1.2. Applications lodged by non-Syrian nationalities with a recognition rate over 25%

As mentioned above, the examination of admissibility of applications by non-Syrians is applied only for applications lodged by persons belonging to nationalities with a recognition rate over 25%.

In 2018, a total of 19,033 asylum applications have been submitted on the islands by non-Syrian nationals from countries with a recognition rate over 25% and 22,080 first instance decisions have been issued.<sup>464</sup>

As far as GCR is aware, decisions on these applications generally conclude that the criterion set out in Article 56(1)(e) L 4375/2016 (“the possibility to apply for refugee status exists and, if the applicant is recognised as a refugee, to receive protection in accordance with the Geneva Convention”) is not fulfilled. In 2018, only 6 first instance decisions declared the application inadmissible based on the “safe third country” or “first country of asylum” concept.<sup>465</sup>

More precisely, decisions accepting the admissibility of the application, largely based on the same correspondence between EU institutions, Turkish and Greek authorities and UNHCR, as is the case of decisions for Syrian applicants, concluded that:

“In Turkey, despite the fact that the country has signed the Geneva Convention with a geographical limitation, and limits its application to refugees coming from Europe, for the rest of the refugees there is the possibility international protection to be requested (conditional refugee status/subsidiary protection), as foreseen by the relevant legislation. However, it is not clear from the sources available to the Asylum Service that there will be a direct access (*άμεση πρόσβαση*) to the asylum procedure, while assurances have not been provided by the Turkish authorities as to such direct access for those returned from Greece. In addition, there is no sufficient evidence to show that ‘conditional refugee status’ is granted to all of those who are eligible for it (in particular statistical data on recognition rates and the average duration of the asylum procedure).

Moreover, data available to the Asylum Service for the time being show that in case international protection would be granted to the applicant, this will not be in accordance with the Geneva Convention. According to the data available to the Asylum Service, conditional refugee status beneficiaries do not have the right to family reunification, contrary to those granted with subsidiary or temporary protection. Furthermore, the regime granted to [beneficiaries of conditional refugee status] lasts only until their resettlement by the UNHCR.”<sup>466</sup>

It should be noted, however, that even though the Asylum Service has not considered Turkey as a safe third country for non-Syrian applicants, EASO caseworkers systematically issue opinions recommending that these cases be dismissed inadmissible on the basis of the “safe third country”

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<sup>464</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>465</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>466</sup> Decision on file with the author.



concept. These could be evidence of the pressure Greece is under to accept Turkey as a safe third country for Syrians and non-Syrians like.”<sup>467</sup>

## 1.2. Connection criteria

Article 56(1)(f) L 4375/2016 requires there to be a connection between the applicant and the “safe third country”, which would make return thereto reasonable. No further guidance is laid down in national legislation as to the connections considered “reasonable” between an applicant and a third country.<sup>468</sup>

As it appears from first instance inadmissibility decisions issued to Syrian nationals, to the knowledge of GCR, the Asylum Service holds that the fact that an applicant would be subject to a temporary protection status upon return is sufficient in itself to establish a connection between the applicant and Turkey, even in cases of very short stays and in the absence of other links.<sup>469</sup>

Respectively, the Appeals Committees find that the connection criteria can be considered established by taking into consideration *inter alia* the “large number of persons of the same ethnicity” living in Turkey, the “free will and choice” of the applicants to leave Turkey and “not organize their lives in Turkey”, “ethnic and/or cultural bonds” without further specification, the proximity of Turkey to Syria, and the presence of relatives or friends in Turkey without effective examination of their status and situation there. Additionally, in line with the 2017 rulings of the Council of State,<sup>470</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 Turkey for periods of one month and two weeks respectively.

In 2018, GCR is aware of only two Appeals Committee decisions where the connection criteria were considered not to be fulfilled.<sup>471</sup> In particular, the cases concern two families of Syrian nationals of Kurdish origin, originating from Afrin, Syria. One family claimed that they had left Syria for Turkey at the end of 2013, while the other left in 2015 and entered Greece in 2018. During their stay in Turkey they had employment and benefitted from temporary protection status. In both cases, the Appeals Committee ruled that Turkey could not be considered a safe third country for a Syrian asylum-seeking family of Kurdish origin from Afrin. Turkey had become a party to the conflict that had contributed to the applicants’ need for protection by virtue of its offensive into Afrin in January 2018 and of its position as a *de facto* occupying force in the region. Based on the above, the Committee concluded that, since the connection requirement was not satisfied, the examination of the safety criteria was not necessary. The Committee declared the asylum applications admissible, proceeded to the examination of the merits of

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<sup>467</sup> Amnesty International, *Greece: Lives on hold – Update on situation of refugees and migrants on the Greek islands*, EUR25/6745/2017, 14 July 2017, available at: <http://bit.ly/2wuiiSx>, 4.

<sup>468</sup> Article 38(2)(a) recast Asylum Procedures Directive requires the establishment of rules for such a connection: UNHCR, *Legal considerations on the return of asylum-seekers and refugees from Greece to Turkey*, 23 March 2016, available at: <http://bit.ly/1Mrxmnc>, 6.

<sup>469</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: AIDA, *Country Report Turkey, 2017 Update*, March 2018.

<sup>470</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>471</sup> 9<sup>th</sup> Independent Appeals Committee, Decision 15602/2017; 11<sup>th</sup> Independent Appeals Committee, Decision 14011/2017. See also AIDA, ‘Greece: Further interpretation of the safe third country concept’, 22 October 2017, available at: <http://bit.ly/2gwgzSS>; GCR, ‘Πρώτη θετική απόφαση για εξυπηρευόμενο του ΕΣΠ μετά τις αποφάσεις του Συμβουλίου της Επικρατείας που έκριναν την Τουρκία «ασφαλή χώρα»’, 20 October 2017, available in Greek at: <http://bit.ly/2BCiH3y>.

the cases and recognised the applicants as refugees. The decisions were issued in September 2018, following a hearing of the applicants by the Appeals Committee.<sup>472</sup>

### 1.3. Procedural safeguards

Where an application is dismissed as inadmissible on the basis of the “safe third country” concept, the asylum seeker must be provided with a document informing the authorities of that country that his or her application has not been examined on the merits.<sup>473</sup> This guarantee is complied with in practice.

## 2. First country of asylum

The “first country of asylum” concept is a ground for inadmissibility (see [Admissibility Procedure](#) and [Fast-Track Border Procedure](#)).

According to Article 55 L 4375/2016, a country shall be considered to be a “first country of asylum” for an applicant provided that he or she will be readmitted to that country, if the applicant has been recognised as a refugee in that country and can still enjoy of that protection or enjoys other effective protection in that country, including benefiting from the principle of *non-refoulement*.

The guarantees applicable to the “first country of asylum” concept have been lowered by L 4375/2016 compared to the previous legal framework, in force prior to April 2016. While Article 19(2) PD 113/2013 required the Asylum Service to take into account the safety criteria of the “safe third country” notion when examining whether a country qualifies as a “first country of asylum”, this requirement has been dropped in Article 55 L 4375/2016. This means, for instance, that application can be dismissed as inadmissible on the ground of first country of asylum even if said country, in the current context Turkey, does not satisfy the criteria of a “safe third country”.

The “first country of asylum” concept is not applied as a stand-alone inadmissibility ground in practice. No application was rejected solely on this ground in 2018.<sup>474</sup>

## 3. Safe country of origin

According to Article 57(1) L 4375/2016, safe countries of origin are:

- (a) Those included in the common list of safe countries of origin by the Council of the EU; and
- (b) Third countries, in addition to those foreseen in the common list, which are included in the national list of safe countries of origin and which shall be established and apply for the examination of applications for international protection and published, issued by a Joint Ministerial Decision by the Ministers of Interior and Administrative Reconstruction and Foreign Affairs.

A country shall be considered as a “safe country of origin” if, on the basis of legislation in force and of its application within the framework of a democratic system and the general political circumstances, it can be clearly demonstrated that persons in these countries do not suffer persecution, generally and permanently, nor torture or inhuman or degrading treatment or punishment, nor a threat resulting from the use of generalised violence in situations of international or internal armed conflict.<sup>475</sup>

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<sup>472</sup> 9<sup>th</sup> Independent Appeals Committee, Decisions 20802/25.9.2018 and 20898/26.9.2018, 25 September 2018, available at: <https://bit.ly/2CjbmcD>.

<sup>473</sup> Article 56(2) L 4375/2016.

<sup>474</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>475</sup> Article 57(3) L 4375/2016.

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>476</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>477</sup> The “safe country of origin” concept is a ground for applying the [Accelerated Procedure](#).

To date, there is no national or EU common list of safe countries. Therefore the rules relating to safe countries of origin in Greek law have not been applied in practice and there has been no reference or interpretation of the abovementioned provisions in decision-making practice. The adoption of such a list does not seem to be envisaged in the future.

## G. 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

Article 41 L 4375/2016 provides *inter alia* that applicants should be informed, in a language which they understand, on the procedure to be followed, their rights and obligations.

Since 2013, the Asylum Service has produced an informational leaflet for asylum seekers, entitled “Basic Information for People Seeking International Protection in Greece”, available in 20 languages.<sup>478</sup>

Moreover, the Asylum Service provides:

- Information in 18 languages on its website;<sup>479</sup>
- A telephone helpline with recorded information for asylum seekers in 10 languages;
- A telephone helpline by which applicants can receive individual information, accessible for some hours daily;
- Information on the asylum procedure through 10 videos in 7 languages;<sup>480</sup>
- A mobile application called “[Asylum Service Application](#)” with information on the procedure;<sup>481</sup> and

<sup>476</sup> Article 57(4) L 4375/2016.

<sup>477</sup> Article 57(2) L 4375/2016.

<sup>478</sup> Asylum Service, *Basic Information for People Seeking International Protection in Greece*, June 2013, available at: <http://bit.ly/1Wuhzb7>.

<sup>479</sup> Asylum Service, Information in 18 languages, available at: [http://asylo.gov.gr/?page\\_id=159](http://asylo.gov.gr/?page_id=159).

<sup>480</sup> Asylum Service, Audiovisual information material on the Asylum Procedure, available at: <https://bit.ly/2O9CxeV>.

- An illustrated booklet with information tailored to asylum-seeking children, available in 6 languages.<sup>482</sup>

Additionally, a number of actors are engaged in information provision concerning the asylum procedure.

However, due to the complexity of the procedure and constantly changing legislation and practice, as well as bureaucratic hurdles, access to comprehensible information remains a matter of concern.<sup>483</sup> Given that legal aid is provided by law only for appeal procedures and only remains limited in practice (see [Regular Procedure: Legal Assistance](#)), applicants often have to navigate the complex asylum system on their own, without sufficient information.<sup>484</sup>

These challenges are corroborated by findings on the ground. A 2018 cross-sectional survey of Syrian nationals conducted in eight locations found that “a very low proportion of participants reported having had access to information on legal assistance, between 9.6% (**Samos**) and 30.1% (**Katsikas**). Information on asylum procedures was also generally limited, with only 11.0% (Samos) to 31.6% (Katsikas) of the population considering that they had received the necessary information... Participants interviewed in the qualitative study said that the lack of guidance and information on asylum procedures increased their feelings of uncertainty about the future, which was taking a toll on their mental and psychosocial well-being.”<sup>485</sup>

Moreover, as found by a UNHCR inter-agency participatory assessment in 2018, based on a sample of 1,436 persons:

“The majority of participants were frustrated with what they consider a lack of sufficient information on asylum procedures and the legal framework. A particular source of anxiety is the lack of clarity on procedures or feedback on the status of their asylum claim, particularly on the islands. This has severe implications on psycho-social wellbeing, irrespective of age and gender ... Participants in most Focus Group Discussions noted difficulties accessing information. This included a lack of interpreters for certain languages (e.g. Somali, Farsi, Kurmanji, Panjabi, Bangla, Urdu, Sorani, Amharic, Tigrinya, etc.), lack of consistent and simplified information on services and procedures. This applies to sites, RICs and urban locations and to information provision upon arrival ... Communication materials are often too difficult to understand or not translated in all relevant languages. Almost no participants were aware of UNHCR’s [HELP](#) website.”<sup>486</sup>

For those detained and due to the almost total lack of interpretation services provided in detention facilities, access to information is even more limited. As observed in the most recent CPT Report, following the Committee’s April 2018 visit, “the delegation met again a large number of foreign nationals in the pre-removal centres visited who complained that the information provided was insufficient – particularly concerning their (legal) situation and length of detention – or that they were unable to

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<sup>481</sup> Government, ‘Η Υπηρεσία Ασύλου και το Χαροκόπειο Πανεπιστήμιο ανακοινώνουν τη δοκιμαστική λειτουργία της εφαρμογής Asylum Service Application’, 3 April 2017, available in Greek at: <http://bit.ly/2Gse9Rv>.

<sup>482</sup> Asylum Service, *I am under 18 and I am seeking asylum in Greece*, available at: [http://asylo.gov.gr/?page\\_id=6210](http://asylo.gov.gr/?page_id=6210).

<sup>483</sup> See e.g. the Asylum Service flowchart on the asylum procedure following the EU-Turkey statement at: <http://bit.ly/2DpZms5>.

<sup>484</sup> ActionAid et al., *Legal Aid (Individual Legal Representation in Asylum/Refugee Context) for Migrants, Asylum Seekers and Refugees in Greece: Challenges and Barriers*, January 2018, available at: <http://bit.ly/2FyEjRW>.

<sup>485</sup> Jihane Ben Farhat et al., *Syrian refugees in Greece: Experience with violence, mental health status, and access to information during the journey and while in Greece*, BMC Medicine, 13 March 2018, available at: <http://bit.ly/2FUOhj6>.

<sup>486</sup> UNHCR, *Inter-agency participatory assessment report*, October 2018, available at: <https://bit.ly/2BPP3LI>.

understand this information. This was partly due to the complex legal framework which allowed for their detention on numerous grounds.”

The Committee further called upon the Greek authorities to “ensure that detained foreign nationals are systematically and fully informed of their rights, their legal situation (including the grounds for their detention) and the procedure applicable to them as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police), if necessary, with the assistance of a qualified interpreter” and underlines that “all detained persons should be systematically provided with a copy of the leaflet setting out this information in a language they can understand.”<sup>487</sup>

## 2. Access to NGOs and UNHCR

### Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No

Access of NGOs to Reception and Identification Centres, camps on the mainland and pre-removal detention facilities is subject to prior permission by the competent authorities. UNHCR is present in **Athens, Lesvos, Chios, Samos, Kos, Leros, Kalymnos, Rhodes, Thessaloniki, Ioannina, Larissa** and **Kavala**, and UNHCR teams cover through physical presence, field missions and *ad hoc* visits the sites in their area of responsibility.<sup>488</sup> Moreover, a UNHCR team present at the RIC of Fylakio (**Evros**) at the Greek-Turkish land border helps asylum seekers who have recently arrived at the RIC. They ensure asylum seekers are identified properly and that unaccompanied children and people with specific needs are directed to appropriate services.<sup>489</sup>

Access of asylum seekers to NGOs and other actors depends on the situation prevailing on each site, for instance overcrowding, in conjunction with the availability of human resources.

<sup>487</sup> CPT, *Report to the Greek Government on the visit to Greece carried out from 10 to 19 April 2018*, CPT/Inf (2019)4, 19 February 2019, available at: <https://rm.coe.int/1680930c9a>, paras 79-80.

<sup>488</sup> UNHCR, *About UNHCR in Greece*, available at: <https://help.unhcr.org/greece/about-unhcr-in-greece/>.

<sup>489</sup> UNHCR, *Factsheet: Greece*, December 2018, available at: <https://bit.ly/2t6YKQD>.

## 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>490</sup>  Yes  No  
❖ If yes, specify which:

### 1. Syria fast-track

Fast-track processing under the regular procedure has been applied since 23 September 2014 for Syrian nationals and stateless persons with former habitual residence in Syria (see section on [Regular Procedure: Fast-Track Processing](#)). In 2018, a total of 3,532 positive decisions were issued under this procedure.<sup>491</sup> The Syria fast-track procedure is available only for Syrian nationals and stateless persons with former habitual residence in Syria who enter the Greek territory before the entry into force of the EU-Turkey Statement or entering the Greek territory through the Greek Turkish land borders. *A contrario* applications of those arrived on the islands after 20 March 2016 are examined under the [Fast-Track Border Procedure](#).

### 2. Fast-track border procedure on the islands

As mentioned in [Fast-Track Border Procedure](#), the implementation of the EU-Turkey statement pursuant to Article 60(4) L 4375/2016 has varied depending on the nationality of the applicants concerned. In particular:

- Applications by **Syrian** asylum seekers are examined on admissibility on the basis of the [Safe Third Country](#) concept, with the exception of Dublin cases and vulnerable applicants who are referred to the regular procedure;
- Applications by non-Syrian asylum seekers from countries with a recognition rate **below 25%** are examined only on the merits;
- Applications by non-Syrian asylum seekers from countries with a recognition rate **over 25%** are examined on both admissibility and merits (“merged procedure”).

<sup>490</sup> Whether under the “safe country of origin” concept or otherwise.

<sup>491</sup> Information provided by the Asylum Service, 26 March 2019.



## Reception Conditions

L 4540/2018 transposed the recast Reception Conditions Directive into national law in May 2018, almost three years after the transposition deadline set by the Directive.

L 4540/2018 has reformed the authorities responsible for the reception of asylum seekers. The Reception and Identification Service and the Directorate for the Protection of Asylum Seekers within the Secretariat General of Migration Policy under the Ministry for Migration Policy, where relevant, are appointed as the responsible authorities for reception.<sup>492</sup> The Directorate General for Social Solidarity of the Ministry for Employment, Social Security and Social Solidarity is appointed as the responsible authority for the protection, including the provision of reception conditions, of unaccompanied and separate minors.<sup>493</sup> More precisely, the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, ΕΚΚΑ) under the Ministry of Labour receives and processes referrals for the accommodation of unaccompanied and separated children.

Moreover, the UNHCR accommodation scheme as part of the “ESTIA” programme also received and processed relevant referrals for vulnerable asylum seekers eligible to be hosted under the scheme in 2018.

### A. Access and forms of reception conditions

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

##### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?

- |                               |   |   |                             |
|-------------------------------|---|---|-----------------------------|
| ❖ Regular procedure           | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Dublin procedure            | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Admissibility procedure     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Border procedure            | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Fast-track border procedure | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Accelerated procedure       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Appeal                      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Onward appeal               | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |
| ❖ Subsequent application      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions            | <input type="checkbox"/> No |

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?  Yes  No

Article 17 L 4540/2018 provides that the responsible authority for the reception of asylum seekers in cooperation with the where appropriate competent government agencies, international organisations and certified social actors shall ensure the provision of reception conditions. These conditions “must provide asylum seekers with an adequate standard of living that, ensure their subsistence and promotes their physical and mental health, based on the respect of human dignity”. The same standard of living should be guaranteed for the asylum seekers in detention. Special care should be provided for those with special reception needs.

The law foresees that the provision of all or part of the material reception conditions depends on asylum seekers’ lack of employment or lack of sufficient resources to maintain an adequate standard of living.<sup>494</sup> The latter is examined in connection with the financial criteria set for eligibility for the Social Solidarity

<sup>492</sup> Article 3(b) L 4540/2018.

<sup>493</sup> Article 22(3) L 4540/2018.

<sup>494</sup> Article 17(3) L 4540/2018.

Benefit (*Κοινωνικό Επίδομα Αλληλεγγύης*, ΚΕΑ).<sup>495</sup> The law also provides that reception conditions can be reduced or withdrawn if it is established that the applicant has concealed his or her financial means, in line with Article 20(3) of the Directive.<sup>496</sup>

In practice, asylum seekers on the islands are excluded from some forms of reception conditions. This is also the case of asylum seekers remaining in detention facilities, given the [Conditions in Detention Facilities](#).

## 2. Forms and levels of material reception conditions

### Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to single adult asylum seekers as of 31 December 2018 (in original currency and in €): 90 €

Material reception conditions may be provided in kind or in the form of financial allowances.<sup>497</sup> According to Article 18(1) L 4540/2018, 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 under the management of public or private non-profit entities or international organisations;
- c. Private houses, flats and hotels, rented for the purposes of accommodation programs 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. The law provides that the specific situation of vulnerable persons should be taken into account in the provision of reception conditions.<sup>498</sup>

In practice, a variety of accommodation schemes remain in place as of the end of 2018. These include large-scale camps, initially designed as emergency accommodation facilities, hotels, apartments and NGO-run facilities (see [Types of Accommodation](#)).

UNHCR provides cash assistance in Greece as part of the “ESTIA” programme. The cash card assistance programme is being implemented throughout Greece. In December 2018, UNHCR for the implementation of the cash assistance programme was in collaboration with the International Federation of Red Cross and Red Crescent Societies (IFRC) and Catholic Relief Services (CRS).

Eligibility is assessed on the basis of a person's date of arrival, legal status and current location. Persons should:<sup>499</sup>

- Have arrived after 1 January 2015;
- Have been registered by the Greek authorities; and
- Continue to reside in the country;
- Hold either a pre-registration or full registration document or any other valid official document issued by the Greek authorities;
- Be above the age of 18;
- Live in designated sites or in rented accommodation, thereby excluding refugees living in informal settlements;

<sup>495</sup> Article 235 L 4389/2016.

<sup>496</sup> Article 19(3) L 4540/2018.

<sup>497</sup> Article 17(1) L 4540/2018.

<sup>498</sup> Article 20(1) L 4540/2018.

<sup>499</sup> UNHCR, *The Greece Cash Alliance*, 24 November 2017, available at: <http://bit.ly/2oi4Bkd>.

- Not be employed by an NGO or UN agency; and
- Not be employed and receiving remuneration.

In December 2018, 63,051 eligible refugees and asylum seekers (30,341 families) received cash assistance in Greece, in 108 locations. Since April 2017, 99,945 eligible individuals have received cash assistance in Greece at least once.

Of the 63,051 individuals who received cash assistance in December 2018, 11,100 have international protection in Greece. Out of 30,341 families, 23% were women, 38% men and 39% children. 32% of all who received cash assistance this month were families of five members or more and a further 30% were single adults. 33% were Syrian applicants followed by 21% of Afgans and 21% of Iraquis applicants.

Asylum seekers and refugees receiving cash assistance reside in 108 locations in Greece. 39% of those receiving cash assistance are located in **Attica**, 22% on the **islands**, and a further 20% in **Central Macedonia**.

The amount distributed to each household is proportionate to the size of the family and ranges between 90 € for single adults in catered accommodation and 550 € for a family of seven in self-catering accommodation.<sup>500</sup>

In addition to the fact that cash assistance preserves refugees' dignity and allows them to choose what they need most, the programme has also had a positive impact on local communities, as this assistance is re-injected into the local economy, family shops and service providers. In December 2018, nearly 6.3 million € in cash assistance have been re-injected into the local economy.<sup>501</sup>

### 3. Reduction or withdrawal of reception conditions

#### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?  Yes  No
2. Does the legislation provide for the possibility to withdraw material reception conditions?  Yes  No

Reception conditions may be reduced or withdrawn where the applicant:<sup>502</sup>

- a. Abandons the place of residence determined by the competent authority without informing it or, if requested, without permission; or
- b. Does not comply with reporting duties or with requests to provide information or to appear for personal interviews concerning the asylum procedure during a reasonable period laid down in national law; or
- c. Has lodged a [Subsequent Application](#);
- d. Has concealed his or her resources and illegitimately takes advantage of material reception conditions; or
- e. Violates the house rules of the reception centre.

Moreover, material reception conditions may be reduced, in case that the competent reception authority can establish that the applicant, for no justifiable reason, has not lodged an application for international protection as soon as reasonably practicable after arrival on the Greek territory.<sup>503</sup>

<sup>500</sup> UNHCR, *Greece cash assistance*, December 2018, available at: <https://bit.ly/2X78Vm6>.

<sup>501</sup> UNHCR, *Factsheet: Greece*, December 2018, available at: <https://bit.ly/2t6YKQD>.

<sup>502</sup> Article 19(1), (3) and (4) L 4540/2018.

<sup>503</sup> Article 19(2) L 4540/2018.

The RIS takes a decision following an individualised assessment and taking into account the applicant's vulnerability.<sup>504</sup> The procedure is laid down in the General Regulation of Reception Facilities under the responsibility of the RIS (*Γενικός Κανονισμός Λειτουργίας Δομών Φιλοξενίας υπηκόων τρίτων χωρών που λειτουργούν με μέριμνα της Υπηρεσίας Πρώτης Υποδοχής*) and foresees: (a) an oral recommendation; followed by (b) a written warning; followed by (c) a withdrawal decision.<sup>505</sup>

The RIS does not collect statistics on decisions reducing or withdrawing material reception conditions. In mid-2018, the RIS indicated that there had been no more than 10 decisions terminating accommodation in reception centres countrywide, and that such measures are only taken following severe violations of the Reception Facilities Regulation.<sup>506</sup>

GCR is aware of a decision of the Head of the Open Accommodation Facility in **Diavata**, Northern Greece, operating under the Reception and Identification Service, issued in November 2017, which interrupted the accommodation of a Syrian asylum seeker, identified as a person belonging to a vulnerable group due to with mental health disorder, due to alleged violation of the house rules of the centre. Following this decision, said applicant was denied access to any other reception facility.

An application for annulment and an application for suspension together with a request for interim order was lodged against this Decision before the Administrative Court of Thessaloniki in early 2018, with support of GCR. The Administrative Court granted a suspension order on the decision interrupting the accommodation of the applicant, on the condition that the applicant would conform to the house rules of the centre and follow his weekly appointments with a psychiatrist, until the final decision on the annulment application. The Court also noted that documents in the file of the applicant do not show that a written warning has been communicated to the applicant prior of the decision of the deputy Head of the facility. Finally, the Court mentioned that the decision withdrawing the reception conditions should be temporarily suspended, otherwise the applicant would be at risk of irreparable damage, consisting in further deterioration of his health condition, due to the deprivation of housing and of medical and social services.<sup>507</sup> Following the order of the Court, the RIS revoked its decision withdrawing the reception conditions.

#### 4. Freedom of movement

##### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  
 Yes  No
2. Does the law provide for restrictions on freedom of movement?  
 Yes  No

Asylum seekers may move freely within the territory of Greece or the area assigned by a regulatory (*κανονιστική*) decision of the Director of the Asylum Service. Restriction of freedom movement within a particular geographical area should not affect the inalienable sphere of private life and should not hinder the exercise of rights provided by the law.<sup>508</sup>

The decision restricting freedom of movement is taken, when necessary, for the swift processing and effective monitoring of the applications for international protection or for duly justified reasons of public interest or reasons of public order. The limitation shall be mentioned on the asylum seekers' cards.<sup>509</sup>

<sup>504</sup> Article 19(5) L 4540/2018.

<sup>505</sup> Article 18B(2) Ministerial Decision 11.1/6343/25-11-2014, Gov. Gazette, 3295/B/09.12.2014.

<sup>506</sup> Information provided by the RIS, June 2018.

<sup>507</sup> Administrative Court of Thessaloniki, Decision 128/2018.

<sup>508</sup> Article 7(1) L 4540/2018.

<sup>509</sup> Article 7(2) L 4540/2018.

Applicants should also notify the competent authorities of any change of their address, as long as the examination of their asylum application is pending.<sup>510</sup>

Finally, following an amendment in December 2018, Article 24 L 4540/2018 provides that applicants have the right to lodge an appeal (*προσφυγή*) before the Administrative Court against decisions taken pursuant to Article 7.<sup>511</sup> However, as explained below, the remedy provided by this provision is not available in practice.

#### 4.1. The geographical restriction on the Eastern Aegean islands

In practice, the imposition of a restriction on freedom of movement is particularly applied to persons subject to the EU-Turkey statement and the *Fast-Track Border Procedure*, whose movement is systematically restricted within the island where they have arrived, under a “geographical restriction”. As mentioned in *Reception and Identification Procedure*, the geographical restriction on the given island is imposed both by the Police Authorities and the Asylum Service.

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>512</sup> by which the person in question is ordered not to leave the island and to reside in the respective RIC “until the issuance of a second instance negative decision on the asylum application”. The automatic issuance of a deportation decision upon arrival against every newly arrived person on the Greek islands is highly problematic, given that the majority of newly arrived persons have already expressed the intention to seek asylum upon arrival, thus prior to the issuance of a deportation decision.<sup>513</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>514</sup>

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>515</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>516</sup>

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<sup>510</sup> Article 7(6) L 4540/2018.

<sup>511</sup> Article 24 L 4540/2018, as amended by Article 5 L 4587/2018, referring to the Code of Administrative Procedure (L 2717/1999).

<sup>512</sup> Pursuant to Article 78 L 3386/2005.

<sup>513</sup> Article 36(3) L 4375/2016 clarifies that a “person who expresses his/her intention to submit an application for international protection is an asylum applicant”.

<sup>514</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>515</sup> Asylum Service Director Decision 10464, Gov. Gazette B 1977/7.06.2017.

<sup>516</sup> Council of State, Decision 805/2018, 17 April 2018, EDAL, available at: <https://bit.ly/2GmnbTI>.

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>517</sup> This Decision was replaced in October 2018.<sup>518</sup> A new application for annulment has been filed by GCR before the Council of State against both Decisions of the Directive of the Asylum Service. The hearing is scheduled for April 2019.

According to the Decision currently in force:

- “1. A restriction on movement within the island from which they entered the Greek territory is imposed on applicants of international protection who enter the Greek territory through the islands of Lesbos, Rhodes, Samos, Kos, Leros and Chios.
2. The restriction on movement shall not be imposed or lifted for persons subject to the provisions of Articles 8 to 11 of Regulation (EU) No 604/2013 as well as persons belonging to vulnerable groups, according to paragraph 8 of article 14 of Law 4375/2016.”

Thus and in line with said Decision, the geographical restriction on each asylum seeker who entered the Greek territory through the Eastern Aegean Islands, with the exception of the Dublin cases and applicant who have been identified as vulnerable, is imposed automatically when the asylum application is lodged before the RAO of **Lesbos, 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 [...]” The Decision of the Director of the Asylum Service is a regulatory decision as provided in Article 7(1) L 4540/2018. No individual decision is issued for each asylum seeker.

The geographical restriction is lifted in the following cases:

- Persons granted international protection have their restriction lifted at the time they receive the positive decision;
- Applicants exempted due to the applicability of the family provisions of the Dublin Regulation have their restriction lifted following the full registration of the application;
- Since September 2018, as far as GCR is aware, applicants exempted due to vulnerability have their restriction lifted following the full registration of their application or at the time that their vulnerability is identified. To this end, the Council of Europe Commissioner for Human Rights, in her latest report, “noted with concern that the vulnerability assessment procedure, which plays a major role in the transfers to the mainland since vulnerable persons are among the few asylum seekers eligible for transfers, is reportedly excessively lengthy and often fails”.<sup>519</sup> Prior to September 2018, and according to a practice launched in May 2017, it was only Syrian applicants exempted due to vulnerability who had their restriction lifted immediately following the full registration of the international protection applications, while non-Syrian applicants exempted due to vulnerability did not have their restriction lifted until they had undergone the personal interview.<sup>520</sup>

The lawfulness of the aforementioned practice is questionable, *inter alia* for the following reasons:

- No prior individual decision of the Asylum Service is issued, as the limitation is imposed on the basis of a regulatory (‘κανονιστική’) Decision of the Asylum Service and no proper justification

<sup>517</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/2NORwqv>.

<sup>518</sup> Asylum Service Director Decision 18984, Gov. Gazette B 4427/05.10.2018.

<sup>519</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>, 1.

<sup>520</sup> MSF, *A dramatic deterioration for asylum seekers on Lesbos*, July 2017, available at: <http://bit.ly/2vCJzAF>, 3.



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>521</sup> According to the latest Decision of the Director of the Asylum Service,<sup>522</sup> any asylum seeker who enters the Greek territory from **Lesvos, Rhodes, Samos, Leros, Chios and Kos** is subject to a geographical restriction on said island, with the exception of applicants falling within the family provisions of the Dublin Regulation or applicants identified as vulnerable.<sup>523</sup> Consequently, the geographical restriction in the asylum procedure is applied indiscriminately, *en masse* and without any individual assessment. The impact of the geographical restriction on applicants' "subsistence and... their physical and mental health",<sup>524</sup> on the ability of applicants to fully exercise their rights and to receive reception conditions, by taking into consideration reception conditions prevailing on the islands is not assessed.

- No time limit or any re-examination at regular intervals is provided for the geographical limitation imposed by the Asylum Service;
- No effective legal remedy is provided in order to challenge the geographical limitation imposed by the Asylum Service, contrary to Article 26 of the recast Reception Conditions Directive. The remedy 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](#)).

The practice of indiscriminate imposition of the geographical restriction since the launch of the EU-Turkey Statement has led to a significant overcrowding. People are obliged to reside for prolonged periods in overcrowded facilities, where food and water supply is reported insufficient, sanitation is poor and security highly problematic (see [Conditions in Reception Facilities](#)). In October 2018, the National Commission for Human Rights reiterated "its firm and consistently expressed position about the immediate termination of the entrapment of the applicants for international protection in the Eastern Aegean islands and the lifting of geographical limitations imposed on them".<sup>525</sup> The Council of Europe Commissioner for Human Rights has also urged to the Greek authorities to reconsider the geographical limitation practice.<sup>526</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>521</sup> Article 7 recast Reception Conditions Directive.

<sup>522</sup> Asylum Service Director Decision No 8269, Gov. Gazette B' 1366/20.04.2018, replaced by Decision No 18984, Gov. Gazette B' 4427/05.10.2018.

<sup>523</sup> Article 14(8) L 4375/2016.

<sup>524</sup> Article 17(2) recast Reception Conditions Directive.

<sup>525</sup> National Commission for Human Rights, *The GNCHR expresses its deep concerns about the situation in the Reception Centers of the Eastern Aegean islands and, especially, of Moria in Lesvos*, 15 October 2018 December 2017, available at: <https://bit.ly/2l6tTy7>.

<sup>526</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.

## B. Housing

### 1. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of temporary accommodation centres: 27
2. Total number of places in UNHCR accommodation: 17,037
3. Type of accommodation most frequently used in a regular procedure:  
 Reception centre  Hotel or hostel  Emergency shelter  Private housing  Other
4. Type of accommodation most frequently used in an accelerated procedure:  
 Reception centre  Hotel or hostel  Emergency shelter  Private housing  Other

The Greek reception system has been long criticised as inadequate, not least in the *M.S.S. v. Belgium and Greece* ruling of the ECtHR. Subsequent jurisprudence of the ECtHR has also found violations of Article 3 ECHR due to the failure of national authorities to provide asylum seekers with adequate living conditions.<sup>527</sup>

Since mid-2015, when Greece was facing large-scale arrivals of refugees, those shortcomings have become increasingly apparent. The imposition of border restrictions and the subsequent closure of the Western Balkan route in March 2016, resulting in trapping a number of about 50,000 third-country nationals in Greece, created *inter alia* an unprecedented burden on the Greek reception system.<sup>528</sup>

Since then, the number of reception places has increased mainly through temporary camps and the UNHCR accommodation scheme. Despite this increase, destitution and homelessness remain a risk. As mentioned by UNHCR in January 2019, “with steady new arrivals reaching the sea and land borders and limited legal pathways out of the country, there is an ever increasing need for more reception places for asylum-seekers and refugees, especially children who are unaccompanied and other people with specific needs.”<sup>529</sup> The situation on the islands also remains dire due to the overcrowding of RIC.

L 4540/2018 reformed the authorities responsible for reception of the asylum seekers, including the provision of housing. Thus, the Reception and Identification Service (RIS) and the Directorate for the Protection of Asylum Seekers within the Secretariat General of Migration Policy under Ministry for Migration Policy, where relevant, are appointed as the responsible authorities for the reception of the asylum seekers.<sup>530</sup> Additionally, the UNHCR accommodation scheme as part of the “ESTIA” programme receives and processes relevant referrals for vulnerable asylum seekers eligible to be hosted under the scheme in 2018.

The Directorate General for Social Solidarity of the Ministry for Labour, Social Security and Social Solidarity is appointed as the responsible authority for the protection, including provision of reception conditions, of unaccompanied and separated children.<sup>531</sup> EKKA, under the Ministry of Labour, receives and processes referrals for the accommodation of unaccompanied and separated children (see [Special Reception Needs](#)).

<sup>527</sup> ECtHR, *F.H. v. Greece*, Application No 78456/11, Judgment of 31 July 2014; *Al.K. v. Greece*, Application No 63542/11, Judgment of 11 March 2015; *Amadou v. Greece*, Application No 37991/11, Judgment of 4 February 2016; *S.G. v. Greece*, Application No 46558/12, Judgment of 18 May 2017.

<sup>528</sup> See also AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, 7-8.

<sup>529</sup> UNHCR, *Factsheet: Greece*, January 2019, available at: <https://bit.ly/2SYh3qr>.

<sup>530</sup> Article 3(b) L 4540/2018.

<sup>531</sup> Article 22(3) L 4540/2018.

## 1.1. Temporary accommodation centres

As mentioned above, 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 has been created in the mainland in order to increase accommodation capacity.

The law provides a legal basis for the establishment of different accommodation facilities. In addition to **Reception and Identification Centres**,<sup>532</sup> the Ministry of Economy and Ministry of Migration Policy may, by joint decision, establish open Temporary Reception Facilities for Asylum Seekers (*Δομές Προσωρινής Υποδοχής Αιτούντων Διεθνή Προστασία*),<sup>533</sup> as well as open Temporary Accommodation Facilities (*Δομές Προσωρινής Φιλοξενίας*) for persons subject to return procedures or whose return has been suspended.<sup>534</sup>

Notwithstanding these provisions, most temporary accommodation centres and emergency facilities operate without a prior Ministerial Decision and the requisite legal basis. The only three facilities officially established on the mainland are **Elaionas**,<sup>535</sup> **Schisto** and **Diavata**.<sup>536</sup> Due to this, the responsible authorities and referral pathways for placement in these camps remains unclear. There is no clear referral pathway or official body receiving and coordinating the requests for placement in these camps; by the end of 2018 these were to a great extent coordinated unofficially by the office of the Minister of Migration Policy until February 2018.

Furthermore, there are no available official data on the capacity and occupancy of these accommodation places, with the exception of the three officially established facilities:

Temporary Reception Facilities for Asylum Seekers: 31 December 2018			
Name of facility	Location	Capacity	Occupancy
Elaionas	Attica	2,200	1,502
Schisto	Attica	970	798
Diavata	Thessaloniki	936	761
<b>Total</b>		<b>4,106</b>	<b>3,061</b>

Source: RIS, 25 January 2019.

For the total number of mainland camps, the latest available estimation according to a Protection Monitoring Tool, issued by UNHCR, IOM, the Danish Refugee Council and Arbeiter-Samariter-Bund dates from 7 September 2018:

Estimated occupancy of temporary accommodation centres: 7 September 2018								
Facility	Number	Nationality				Age / Gender		
		Syria	Iraq	Afg.	Other	Men	Women	Children
Alexandreia	712	41%	28%	-	31%	43%	25%	32%
Andravidas	235	99%	1%	-	0%	28%	23%	49%

<sup>532</sup> Article 10(1)-(2) L 4375/2016.

<sup>533</sup> Article 10(3) L 4375/2016.

<sup>534</sup> Article 10(4) L 4375/2016.

<sup>535</sup> JMD 3/5262, "Establishment of the Open Facility for the hospitality of asylum seekers and persons belonging to vulnerable groups in Eleonas Attica Region", 18 September 2015, Gov. Gazette B2065/18.09.2015; JMD 3.2/6008 "Establishment of the Open Facility for the temporary reception of applicant of international protection", 18 September 2015, Gov. Gazette B' 1940/6.06.2017.

<sup>536</sup> JMD 3/14762, "Establishment of Open Facilities for the Temporary Hospitality of applicant for international protection", Gov. Gazette B' 3720/16.11.2016.

Diavata	816	28%	39%	19%	14%	32%	20%	48%
Doliana	115	57%	37%	-	6%	24%	24%	52%
Drama	328	50%	45%	-	5%	28%	20%	52%
Elefsina	127	91%	7%	-	2%	32%	26%	42%
Elaionas	1,470	31%	-	37%	32%	43%	23%	34%
Filipiada	487	51%	22%	21%	6%	28%	19%	53%
Kato Milia (Pieria)	302	63%	20%	8%	9%	45%	20%	35%
Katsikas (Ioannina)	437	46%	22%	16%	16%	33%	21%	46%
Koutsochero (Larisa)	1,423	49%	21%	14%	16%	53%	34%	13%
Lagadikia	368	54%	35%	-	11%	43%	21%	36%
Lavrio	248	53%	13%	10%	24%	44%	23%	33%
Malakasa	1,276	26%	17%	50%	7%	48%	16%	36%
Nea Kavala	765	46%	33%	5%	16%	42%	21%	37%
Oinofyta	596	73%	11%	13%	3%	40%	23%	37%
Perigiali (Kavala)	390	44%	33%	14%	9%	31%	21%	48%
Ritsona	853	69%	15%	-	16%	42%	20%	38%
Schisto	819	21%	-	69%	10%	40%	21%	39%
Serres (KEGE)	649	1%	99%	-	0%	28%	27%	45%
Skaramagas	1,918	57%	24%	10%	9%	41%	22%	37%
Thermopiles	518	72%	19%	-	9%	28%	22%	50%
Thiva (Sakiroglou)	804	33%	28%	27%	12%	47%	17%	36%
Veria (Armatolou Kokkinou)	311	68%	24%	-	8%	35%	26%	39%
Volos	143	53%	40%	-	7%	28%	20%	52%
<b>Grand total</b>	<b>16,110</b>							

Source: UNHCR et al., Protection Monitoring Tool: <https://bit.ly/2BHVNe2>. Nominal capacity is not included. The table includes the three official sites managed by RIS.

## 1.2. UNHCR accommodation scheme

UNHCR started implementing an accommodation scheme dedicated to relocation candidates (“Accommodation for Relocation”) through its own funds in November 2015.<sup>537</sup> Following a Delegation Agreement signed between the European Commission and UNHCR in December 2015,<sup>538</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, aiming at hosting up to 30,000 people by the end of 2017. As stated by the UNHCR Representative in Greece in February 2018, the European Commission has provided assurances that funding for the accommodation programme of asylum

<sup>537</sup> UNHCR, *Greece: Accommodation for Relocation Project Factsheet*, 1 July 2016, available at: <http://bit.ly/2INOmLG>.

<sup>538</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.

seekers in apartments will also continue in 2019, probably by DG HOME.<sup>539</sup> The takeover of activities by AMIF, managed by DG HOME, was confirmed in February 2019.<sup>540</sup>

By the end of December 2018, a number of 27,088 places were created in the accommodation scheme as part of the ESTIA programme, compared to a total number of 22,595 places as of 28 December 2017. These were in 4,554 apartments and 22 buildings, in 14 cities and 7 islands across Greece:

UNHCR accommodation scheme: 2 January 2019	
Type of accommodation	Capacity
Total number of places in Greece	27,116
Actual capacity	23,156
Current population	22,699
Occupancy rate	98%

Source: UNHCR, Weekly accommodation update, 2 December 2019: <https://bit.ly/2TXBFeS>.

Out of a total of 23,156 places as of 2 January 2019, 1,510 places were located on the islands.

In total, since November 2015, 55,755 individuals have benefitted from the accommodation scheme. By the end of December 2018, 22,686 people were accommodated under the scheme, 5,649 of whom were recognised refugees and 17,037 were asylum seekers.

48% of the residents are children. The clear majority of those accommodated are families, with an average family size of five people. More than one in four residents have at least one of the vulnerabilities that make them eligible for the accommodation scheme. Moreover, a 89% of individuals in the accommodation scheme are Syrians, Iraqis, Afghans, Iranians or from DRC.<sup>541</sup>

### 1.3. The islands and accommodation in the hotspots

Immediately after the launch of the EU-Turkey Statement on 20 March 2016, Reception and Identification Centres (RIC), the so-called “hotspot” facilities, have been transformed into closed detention facilities due to a practice of blanket detention of all newly arrived persons.<sup>542</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>543</sup> this practice has largely been abandoned. As a result, RIC on the islands are used mainly as open reception centres.

However, it should be mentioned that people residing in the RIC are subject to a “geographical restriction” as they are under an obligation not to leave the island and to reside in the RIC facility (see [Freedom of Movement](#)). Beyond the hotspots, each island has a number of facilities, most of them operating under the UNHCR accommodation scheme or NGOs for the temporary accommodation of vulnerable groups, including unaccompanied children.

As of 31 December 2018, a total 14,615 newly arrived remained on the Eastern Aegean islands, of which 154 detained. The nominal capacity of reception facilities, including RIC and other facilities, was

<sup>539</sup> UNHCR, ‘Interview with UNHCR Representative in Greece on housing programme for asylum-seekers’, 19 February 2018, available at: <http://bit.ly/2sJf6lh>.

<sup>540</sup> European Commission, ‘Greece – End of activation of the Emergency Support Instrument (DG ECHO)’, 13 February 2019, available at: <https://bit.ly/2SII5UV>.

<sup>541</sup> UNHCR, *Greece accommodation update*, December 2018, available at: <https://bit.ly/2ScL3Ke>.

<sup>542</sup> AIDA, Country Report Greece, 2016 Update, March 2017, 100 et seq.

<sup>543</sup> UNHCR, *Explanatory Memorandum to UNHCR’s Submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, 10.

at 8,245 places. The nominal capacity of the RIC facilities (hotspots) was of 6,438 while 11,683 were residing there, under a geographical restriction.

More precisely, the figures reported by the National Coordination Centre for Border Control, Immigration and Asylum are as follows:

Accommodation on the Eastern Aegean islands: 31 December 2018								
Island	RIC		UNHCR scheme		EKKA		Other facilities	
	Nominal capacity	Occupancy	Nominal capacity	Occupancy	Nominal capacity	Occupancy	Nominal capacity	Occupancy
Lesvos	3,100	5,010	718	545	171	146	:	1,115
Chios	1,014	1,252	271	240	18	12	-	-
Samos	648	3,723	252	192	18	12	-	-
Leros	860	936	116	104	-	-	120	117
Kos	816	762	189	168	-	-	-	-
Others	-	-	54	42	-	-	-	-
<b>Total</b>	<b>6,438</b>	<b>11,683</b>	<b>1,600</b>	<b>1,291</b>	<b>207</b>	<b>170</b>	<b>120</b>	<b>1,232</b>

Source: National Coordination Centre for Border Control, Immigration and Asylum, Situation as of 31 December 2018: <https://bit.ly/2SfPG62>. The term “other facilities” refers to Kara Tepe on Lesvos (capacity not mentioned) and PIKPA on Leros.

## 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 17(1) L 4540/2018 provides that material reception conditions must provide asylum seekers with an adequate standard of living that ensures their subsistence and promotes their physical and mental health, based on the respect of human dignity.

However, no mechanism for the monitoring and oversight of the level of the reception conditions, including the possibility to lodge a complaint regarding conditions in reception facilities, has been established by L 4540/2018, 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>544</sup>

### 2.1. Conditions in temporary accommodation facilities on the mainland

A total of 27 camps, most of which created in 2016 as temporary accommodation facilities in order to address urgent reception needs on the mainland following the imposition of border restrictions, are still in use. 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

<sup>544</sup> See for example: FRA, *Current migration situation in the EU: Oversight of reception facilities*, September 2017, available at: <http://bit.ly/2xObtYA>, 2.



engender dependency and weaken the ability of refugees to manage their own lives, which perpetuates the trauma of displacement and creates barriers to solutions, whatever form they take... In some contexts, camps may increase critical protection risks, including sexual and gender-based violence (SGBV) and child protection concerns.”<sup>545</sup>

Conditions vary across facilities on the mainland, as different types of accommodation and services are offered at each site. Compliance of reception conditions with the standards of the recast Reception Conditions Directive should be assessed against the situation prevailing in each camp.

A significant number of camps consist of prefabricated units or are located in existing buildings or military barracks. Tents have also been placed in some mainland camps in order to address the increased accommodation demand in 2018.

In a number of facilities on the mainland, conditions still remain poor, as overcrowding, lack of or insufficient provision of services, violence, lack of security and lack of requisite legal base are reported. Detailed tables as of the services and the shortcomings in each mainland camp are available in a Protection Monitoring Tool issued in September 2018.<sup>546</sup>

As illustrated by a recent report of the Council of Europe Commissioner of Human Rights with regard to conditions in the camps at the mainland, “the Commissioner’s attention was drawn to the fact that the living conditions prevailing in reception camps were not appropriate for long-term accommodation. Many of her interlocutors pointed out that most of these camps are made up of overcrowded containers and/or tents, do not cover the basic needs of their residents and are located in remote areas. In addition, a number of these sites reportedly operate without the required legal basis, a circumstance which raises serious issues regarding both their functioning and their oversight.”<sup>547</sup>

More precisely, despite the fact that the capacity of mainland camps has been increased in 2018, due to *inter alia* the increase of arrivals through the land borders in 2018, overcrowding occurred and even worsened in a number of mainland camps in 2018. As reported by UNHCR in December 2018, “the Government has increased the capacity in mainland sites and preparing additional ones. Nevertheless, the shortage of accommodation country-wide is increasingly leading to the overcrowding of many mainland camps, creating tension and increasing protection risks for the residents.”<sup>548</sup>

Moreover, since the majority of the camps are located outside urban areas and away from services, including the Asylum Service and its RAO / AAU and access to public transport, they generate a feeling of exclusion and isolation among the residents.<sup>549</sup> The “remoteness of some sites from cities” has also been noted as one of the difficulties the applicants face in order to access the labour market and as “as notable obstacles to self-reliance, integration and co-existence”.<sup>550</sup>

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<sup>545</sup> UNHCR, *Policy on Alternatives to Camps*, 22 July 2014, UNHCR/HCP/2014/9, available at: <http://bit.ly/1DAf2kz>, 4.

<sup>546</sup> UNHCR et al., *Protection Monitoring Tool, Open Reception Facilities (sites) in the Mainland*, September 2018, available at: <https://bit.ly/2TdBoHA>.

<sup>547</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, 5.

<sup>548</sup> UNHCR, *Factsheet: Greece*, December 2018, available at: <https://bit.ly/2t6YKQD>.

<sup>549</sup> Refugee Support Aegean, ‘Reception Crisis in Greece: The malignancy of Attica’s refugee camps’, 13 August 2018, available at: <https://bit.ly/2sE5sgL>. See also SolidarityNow, ‘To SolidarityNow ζητά την άμεση λήψη μέτρων για την βελτίωση των συνθηκών διαβίωσης των προσφύγων που διαμένουν στο ανοιχτό κέντρο φιλοξενίας προσφύγων στη Θήβα’, 27 June 2018, available in Greek at: <https://bit.ly/2EhGwRD>.

<sup>550</sup> UNHCR, *Inter-agency Participatory Assessment Report*, October 2018, available at: <https://bit.ly/2BPP3LI>, 9.

Limited services, including a low number of doctors and cultural mediators, are also reported, depriving residents from adequate care for their medical and psychological needs.<sup>551</sup> Violence incidents, including SGBV and lack of security in a number of camps is also aggravating the situation. As highlighted by UNHCR during 2018, “sexual harassment and violence, including against men and boys, constitutes a major risk in ... some mainland sites.”<sup>552</sup>

In a number of cases, asylum seekers residing in the mainland camps protested against the deteriorating living conditions there. For example, in October 2018, asylum seekers residing in **Malakasa** camp in Attica protested in front of the Ministry of Migration Policy in Athens, demanding safer and better accommodation and living conditions. The protest took place following the death of a Syrian refugee during a fight that took place in the camp.<sup>553</sup> In May 2018, a protest took place in **Oinofyta** camp in Voiotia region due to lack of medical services.<sup>554</sup> In August 2018, refugees residing in **Elefsina** camp in Attica blocked the national road in order to demonstrate against “dire living conditions”.<sup>555</sup> In January 2019, residents of **Diavata** also blocked the road to protest against living conditions.<sup>556</sup> A timeline of protests in mainland camps around Athens is made available by Refugee Support Aegean.<sup>557</sup>

Finally, it should be noted that as discussed in [Types of Accommodation: Temporary Accommodation Centres](#), the legal status of the vast majority of temporary camps, i.e. with the exception of **Elaionas**, **Schisto** and **Diavata**, remains unclear, as they operate without the requisite prior Joint Ministerial Decisions. Due to the lack of a legal basis for the establishment of the vast majority of the camps, no minimum standards and house rules are in force and there is no competent authority for the monitoring or evaluation of these facilities or any competent body in place for oversight. The referral pathway for accommodation in these camps remains unclear and difficult to access. Moreover, most sites operate without official – under the Greek authorities – site management, which is substituted by site management support.<sup>558</sup>

## 2.2. Conditions on the Eastern Aegean islands

The situation on the islands, has been widely documented and remains extremely alarming. Reception conditions prevailing in particular in the hotspot facilities may reach the level of inhuman or degrading treatment in certain cases.

The imposition of the “geographical restriction” on the islands since the launch of the EU-Turkey Statement (see [Freedom of Movement](#)) has led to a significant overcrowding of the reception facilities on the islands. In 2018, the number of persons remaining on the islands has steadily during the year exceeding by far the total RIC capacity on the islands. On 31 December 2018, 11,683 persons were remaining at RIC facilities on the islands with a nominal capacity of 6,438 places.<sup>559</sup> Overcrowding has been more severe at times throughout the year, particularly on **Lesvos** and **Samos**. This has resulted in asylum seekers remaining there, including many pregnant women, elderly and children living in squalid,

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<sup>551</sup> Refugee Support Aegean, ‘Reception Crisis in Greece: The malignancy of Attica’s refugee camps’, 13 August 2018, available at: <https://bit.ly/2sE5sgL>.

<sup>552</sup> See e.g. UNHCR, Factsheet: Greece, August 2018, available at: <https://bit.ly/2OgwzuD>; *Factsheet: Greece*, December 2018.

<sup>553</sup> Efsyn, ‘Αναβάθμιση του καμπ Μαλακάσας’, 9 October 2018, available in Greek at: <https://bit.ly/2VhIN7B>.

<sup>554</sup> ERT, ‘Οινόφυτα: Μεταφορά και καλύτερες συνθήκες διαβίωσης ζήτησαν οι πρόσφυγες’, 29 May 2018, available in Greek at: <https://bit.ly/2XexHR8>.

<sup>555</sup> Evia 365, ‘Νέα διαμαρτυρία προσφύγων: Έκλεισαν την Εθνική Οδό Θηβών-Ελευσίνας’, 9 August 2018, available in Greek at: <https://bit.ly/2tuuvmS>.

<sup>556</sup> CNN Greece, ‘Ένταση στη διάρκεια διαμαρτυρίας προσφύγων στα Διαβατά’, 7 January 2019, available in Greek at: <https://bit.ly/2SA1QHn>.

<sup>557</sup> Refugee Support Aegean, ‘Timeline of protests’, 6 November 2018, available at: <https://bit.ly/2SRfMI9>.

<sup>558</sup> Refugee Support Aegean, ‘Reception Crisis in Greece: The malignancy of Attica’s refugee camps’, 13 August 2018, available at: <https://bit.ly/2sE5sgL>.

<sup>559</sup> National Coordination Centre for Border Control, Immigration and Asylum, *Situation as of 31 December 2018*, available at: <https://bit.ly/2SfPG62>.

inadequate and rapidly deteriorating conditions and to be deprived from basic services, including access to doctors, hygienic items etc. for prolonged periods.

During the last trimester of 2018, transfers to mainland have been accelerated in order to address the situation on the islands, which in some cases has reached a boiling point. However, despite the transfers, by the end of 2018, 5,100 applicants were remaining in the RIC of **Lesvos**, with a nominal capacity of 3,100 places. The population in the RIC of **Samos** remained five times over the centre's capacity.

As illustrated by UNHCR in November 2018:

“Conditions at the RICs have to be seen to be properly comprehended. At the Vathy RIC on **Samos**, the situation has been worsening. Despite having capacity for 650 people, the centre and its surrounding area are currently hosting around 4,000 people – six times its design. By any measure, things are in crisis.

New arrivals are left having to buy flimsy tents from local stores, which they are pitching on a steep slope in adjacent fields. This offers little protection from the cold weather, without electricity, running water or toilets. There are snakes in the area, and rats are thriving in the uncollected waste.

Many of the asylum-seekers arrive in Greece in a vulnerable state, but even those who turn up at the RIC in good condition soon find themselves suffering from health problems. A single doctor per shift provides medical care to the entire population and often only the most urgent cases get seen. Doctors at the local hospital are also overwhelmed.

Many of the toilets and showers are broken, resulting in open sewage close to people's tents. Others are using nearby bushes as a toilet.

Vulnerable asylum-seekers – including some 200 unaccompanied children, over 60 pregnant women, the disabled and survivors of sexual violence – are left at risk in the RIC as alternative accommodation places on the island are taken. A container with broken windows and doors for unaccompanied children is hosting three times its intended capacity of six [...]

Tension and frustration is rising, particularly over administrative delays. The Moria RIC has become a tinderbox, with any further delays or deterioration in conditions posing a serious threat to the safety of those living and working inside”.<sup>560</sup>

Even in the other facilities where overcrowding is not reaching such levels, the situation is only marginally better. On 31 December 2018, the population in the RIC of **Chios**, with a capacity of 1,014 places, was 1,252 persons. Respectively in the RIC of **Leros** with a capacity of 860, occupancy was at 936 and on **Kos**, with a capacity of 816, at 762.<sup>561</sup>

Overall, overcrowding on the Greek islands has severe consequences on the availability of shelter, sanitary facilities, food and medical resources for inhabitants and poses significant protection risks. People living on the overcrowded RIC facilities are exposed to weather conditions, while food and water

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<sup>560</sup> UNHCR, 'UNHCR urges Greece to accelerate emergency measures to address conditions on Samos and Lesvos', 6 November 2018, available at: <https://bit.ly/2Sfjjoc>.

<sup>561</sup> National Coordination Centre for Border Control, Immigration and Asylum, *Situation as of 31 December 2018*.

supply is reportedly insufficient, sanitation is poor and security highly problematic. As reported, in Moria, **Lesvos** they have to queue for about three hours to collect food.<sup>562</sup>

Squalid living conditions fuel tension between asylum seekers and the police and amongst frustrated communities,<sup>563</sup> while levels of violence are reportedly increasing. Sexual harassment and violence, including against men and boys, is a major risk in the RIC. As noted in the report of the Council of Europe Commissioner for Human Rights, in Moria RIC (**Lesvos**) and Vathy RIC (**Samos**), “bathrooms and latrines are no-go zones after dark for women and children, unless they are accompanied. Even bathing during day time can be dangerous”.<sup>564</sup>

The limited number of specialised services, interpreters and police officers hinders the management of cases and perpetuates feelings of insecurity among the refugee population. Limited access to toilets and showers, and the uncoordinated allocation of shelter are of particular concern, especially for single parents and women.<sup>565</sup>

In addition, the number of medical staff working in the RIC is clearly insufficient to meet the needs. As reported, across the islands, the low number of staff under the Ministry of Health, in particular doctors and cultural mediators, is not sufficient to help refugees with medical and psychosocial needs.<sup>566</sup> Medical staff on the islands does not only have to address pre-existing health problems of the population on the islands, many of whom having lived through extreme violence and traumatic events. Health professionals also have to deal with increasing physical and mental health issues, provoked by the living conditions prevailing in the RICs.<sup>567</sup> “A direct consequence of the camp based accommodation is the cross-cutting deterioration of the health status & psychological condition of all different groups of population.” According to data gathered by the organisation and their field assessment activities, “there is a significant deterioration in mental health for refugees and migrants due to the harsh living conditions and their restriction of movement on the islands”.<sup>568</sup> As a result of the living conditions on the islands, MSF reports “multiple cases each week of teenagers who have attempted to commit suicide or have self-harmed, in Moria RIC (Lesvos).<sup>569</sup>

A number of videos published in 2018 demonstrate the unacceptable conditions prevailing in the RIC of **Lesvos**,<sup>570</sup> **Samos**<sup>571</sup> and **Chios**.<sup>572</sup>

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<sup>562</sup> Oxfam, *Vulnerable and abandoned*, 9 January 2019, available at: <https://bit.ly/2BJ9ppd>; Medium, ‘The end of Moria?’, 11 September 2018, available at: <https://bit.ly/2ty8Av2>.

<sup>563</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, para 18.

<sup>564</sup> *Ibid*, para 36.

<sup>565</sup> UNHCR, *Factsheet: Greece*, December 2018.

<sup>566</sup> UNHCR, *Factsheet: Greece*, January 2019, available at: <https://bit.ly/2E717It>.

<sup>567</sup> Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 42-43.

<sup>568</sup> Médecins du Monde, *Snap Shot, Greek Islands*, June 2018, available at: <https://bit.ly/2EhMBO6>.

<sup>569</sup> MSF, ‘Self-harm and attempted suicides increasing for child refugees in Lesbos Children in Moria camp’, 17 September 2018, available at: <https://bit.ly/2D7KGY5>.

<sup>570</sup> See e.g. Al Jazeera, ‘Rare look at life inside Lesbos’ Moria refugee camp’, 19 January 2018, available at: <http://bit.ly/2HQzleG>; ‘Life In Moria Refugee Camp’, available at: <https://bit.ly/2T8AIZD>; BBC, ‘The worst refugee camp on earth’, 28 August 2018, available at: <https://bit.ly/2LU5ubu>; National Geographic, ‘Reshaping the Trauma of Refugee Children in Lesbos’, 24 June 2018, available at: <https://bit.ly/2E6bdce>; MSF, ‘Stuck in Moria’, 18 July 2018, available at: <https://bit.ly/2BJ5Xef>.

<sup>571</sup> See e.g. UNHCR, ‘Syrian family transfers to mainland after Samos ordeal’, 8 March 2018, available at: <https://bit.ly/2uqrWWc>; Al Jazeera, ‘Greece: Thousands of asylum seekers enduring winter in tents’, 25 December 2018, available at: <https://bit.ly/2rWiSV7>; CGTN, ‘Samos refugee camp in Greece: Rodents, snakes and rotting food’, 19 September 2018, available at: <https://bit.ly/2GHhkHK>.

<sup>572</sup> See e.g. Jacob Warn, *VialCamp on Chios (Autumn 2018)*, October 2018, available at: <https://bit.ly/2lr23wu>.

In November 2018, the family of the one of the three men who died in January 2017 in Moria, **Lesvos** lodged an action for damages against the Greek authorities.<sup>573</sup> The deaths were suspected to be linked to carbon monoxide poisoning from makeshift heating devices that refugees have been using to warm their freezing tents.<sup>574</sup> According to Lesvos' forensic doctor his death was caused by carbon monoxide poisoning by inhalation.<sup>575</sup>

Greek courts have also found that the conditions on the islands directly affect individuals' integrity and health. Following a decision of the Misdemeanour Court of Thessaloniki in February 2017,<sup>576</sup> in February 2018, in a case supported by GCR concerning an infringement of the geographical restriction on **Lesvos** and the obligation to reside in the RIC of Moria, the Administrative Court of Piraeus ruled that the infringement of the geographical restriction was due to a threat against the physical integrity of the applicant given the conditions prevailing at the time of his stay in the hotspot.<sup>577</sup>

Following a number of recommendations to the Greek authorities regards the living conditions on the islands issued in previous years,<sup>578</sup> similar recommendations have been addressed in 2018 *inter alia* by the Council of Europe Commissioner for Human Rights,<sup>579</sup> UNHCR,<sup>580</sup> and UNICEF.<sup>581</sup>

### 2.3. Destitution

Destitution and homelessness still remain matters of concern, despite the efforts made in order to increase reception capacity in Greece (see [Types of Accommodation](#)).

The number of applicants who face homelessness is not known. However, due to lack of sufficient accommodation capacity on the mainland in 2018, newly arrived persons, including vulnerable groups, resort to makeshift accommodation or remain homeless in urban areas of **Athens**, **Thessaloniki** and **Patra**.<sup>582</sup> Homelessness is a serious risk for persons who have not been identified as vulnerable and are thus are not eligible for accommodation under the UNHCR scheme, bearing in mind the lack of a clear referral pathway for mainland camps and the reported lack of capacity.

Moreover, as mentioned above, living conditions on the Eastern Aegean islands do not meet the minimum standards of the recast Reception Conditions Directive and thus asylum seekers living there

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<sup>573</sup> AIDA, Country Report Greece, 2017 Update, March 2018, 130.

<sup>574</sup> Amnesty International, *Report 2017/2018*, available at: <http://bit.ly/2Cd5aEu>, 178.

<sup>575</sup> Kathimerini, 'Ζητούν δικαίωση για το θάνατο στη Μόρια', 25 November 2018, available in Greek at: <https://bit.ly/2DY9XrC>.

<sup>576</sup> Misdemeanour Court of Thessaloniki, Decision 2627/2017. See AIDA, Country Report Greece, 2017 Update, March 2018, 131.

<sup>577</sup> Administrative Court of Piraeus, Decision AP94/22.

<sup>578</sup> AIDA, Country Report Greece, 2017 Update, March 2018, 131-133.

<sup>579</sup> Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras. 56-57 and 59.

<sup>580</sup> UNHCR, 'Refugee women and children face heightened risk of sexual violence amid tensions and overcrowding at reception facilities on Greek islands', 9 February 2018, available at: <http://bit.ly/2F97IEG>; 'Top UNHCR Official urges action to tackle overcrowding on Greek islands', 28 June 2018, available at: <https://bit.ly/2tyNCMP>; 'UNHCR urges Greece to address overcrowded reception centres on Aegean islands', 31 August 2018, available at: <https://bit.ly/2BNKQHY>; 'UNHCR urges Greece to accelerate emergency measures to address conditions on Samos and Lesvos', 6 November 2018, available at: <https://bit.ly/2lxLBKX>.

<sup>581</sup> UNICEF, 'Refugee and migrant children arriving on Greek Islands up by one-third in 2018', 21 September 2018, available at: <https://uni.cf/2xAOH99>.

<sup>582</sup> AIDA, 'Greece: Destitution and makeshift accommodation continues in Thessaloniki', 6 February 2019, available at: <https://bit.ly/2lttbLm>; AIDA, 'Greece: Increase in arrivals and continuing strain in reception', 9 October 2018, available at: <https://bit.ly/2lvZj15>; Refugee Support Aegean, 'Reception Crisis in Greece: The malignancy of Attica's refugee camps', 13 August 2018, available at: <https://bit.ly/2sE5sGL>; I Efimerida, 'Στην κόλαση του λιμανιού της Πάτρας – Κάτω από άθλιες συνθήκες ζούσαν 142 ανήλικοι πρόσφυγες', 16 May 2018, available in Greek at: <https://bit.ly/2VdADvC>.



are exposed to deplorable conditions, without access to decent housing or basic services. Overcrowding also occurs in mainland sites. Given the poor conditions and the protection risks present in some of these sites, destitution cannot be excluded by the sole fact that an accommodation place is offered in one of these sites.

Persons identified as vulnerable also face destitution risks. As of 31 December 2018, there were 3,741 unaccompanied and separated children in Greece but only 1,064 places in long-term dedicated accommodation facilities, and 895 places in temporary accommodation.<sup>583</sup> Given the high occupancy rate of the UNHCR scheme places, 98% as of 2 January 2019,<sup>584</sup> and the length of the asylum procedure, the possibility for newly arriving vulnerable families and persons to benefit from accommodation under that scheme should be further assessed.

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. 58,793 applications pending at first instance and about 17,300 appeals pending before different Appeals Committees, at the end of 2018.

## 2.4. Racist violence

Despite the solidarity with refugees generally exhibited by local communities, incidents of racist violence and tension have been recorded through 2018 both on the islands and the mainland.<sup>585</sup> As recently noted by the coordinator of the Racist Violence Recording Network there is an alarming expansion of racism and a continuation of the culture of violence at neighbourhoods.<sup>586</sup> Attacks took place against refugees, members of solidarity groups and civil society organisations, and in one case against Asylum Service staff. A number of examples from 2018 are recounted below:

In April 2018, many Afghan refugees including families with children on **Lesvos** were targeted a violent and organised attack by a large group of persons led by figures of the far right. The refugees were protesting in the island's main square for delays against delays in the examination of their asylum claims and their confinement on the island as a result of the EU-Turkey Statement. Activists trying to protect the refugees were also attacked. At least 28 refugees were transferred to the local hospital to receive first aid for conditions such as head injuries and breathing problems.

In December 2018, a 45 year old Bangladeshi migrant, living on Lesvos with a resident permit since 2013, has been severely attacked by a local. The victim was hospitalised in Mytilene Hospital, where he was subject to an operation, while the perpetrator has been arrested by the Police and criminal proceedings have been initiated against him.<sup>587</sup>

In June 2018, locals verbally and physically attacked verbally and physically female staff of the RAO in the RIC of **Chios**.<sup>588</sup> In the summer of 2018, parents' associations of various villages on Chios voted against refugee children attending afternoon reception classes at the island's schools. In October 2018,

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<sup>583</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2018, available at: <https://bit.ly/2txoQfH>.

<sup>584</sup> UNHCR, *Weekly accommodation update*, 2 January 2019, available at: <https://bit.ly/2TXBFES>.

<sup>585</sup> A timeline of indicative incidents of hate crimes on the islands in 2016-2017 is made available by Refugee Support Aegean at: <http://bit.ly/2FDXXPI>.

<sup>586</sup> News.gr, 'Διευρύνεται η βάση του ρατσισμού και η κουλτούρα της βίας στις γειτονιές', 14 March 2019, available in Greek at: <https://bit.ly/2usL2rQ>.

<sup>587</sup> Lesvos News, 'Μαρτυρία - σοκ από το θύμα ρατσιστικής βίας στη Μυτιλήνη: 'Ήθελε να με σκοτώσει'', 11 December 2018, available in Greek at: <https://bit.ly/2tBxQ3N>.

<sup>588</sup> Astrapari.gr, 'Προπηλακισμοί κατά υπαλλήλων του ασύλου από τους «φρουρούς» του Χαλκειούς', 28 June 2018, available in Greek at: <https://bit.ly/2GJs1JT>.



with a document bearing the signatures of at least 1,130 parents of pupils, the associations asked that refugee children do not attend mainstream school on Chios.

As highlighted by Refugee Support Aegean, “the past six months (April 2018-October 2018) have seen more xenophobic and racist reactions by parts of the local societies against the presence of refugees and the creation of new hotspots on the islands of Lesbos and Samos. These reactions ranged from extreme and violent language used by local politicians and police to self-patrol groups checking houses for the presence of refugees on Lesbos”. The organisation reported 16 incidents from April to October 2018 on the Eastern Aegean islands.<sup>589</sup>

In March 2019, in **Samos**, the parents’ association has kept their children out of a primary school in order to protest against the participation of refugee children in classes. The Minister of Migration Policy and Minister of Education have firmly condemned these incidents. The Supreme Court Prosecutor has ordered an investigation into potential racist motivation.<sup>590</sup>

Racist incidents are also reported on the mainland. Among others, in March 2018, an arson attack took place against the Afghan Migrant and Refugee Community Centre in central **Athens**, responsibility for which was claimed by a far-right extremist group.<sup>591</sup> Racist attacks have been reported against migrants in **Athens** area (Nikea, Rentis, Peristeri and Sepolia) in January and May 2018 by groups of 5 to 10 persons.<sup>592</sup> In June 2018, members of the parents’ association in a school in Athens have been verbally and physically attacked, due to the fact that the members of the Pakistani community participated at the school’s closing celebration.<sup>593</sup>

In September 2018, two unaccompanied children living in a shelter in **Oreokastro**, Thessaloniki were attacked by a group of ten people. Before attacking the children the group asked the boys “where they came from”. One of the unaccompanied children has been hospitalised following the attack. A parliamentary question was submitted by 47 Members of Parliament with regard to this incident. The parliamentarians refer to a recent increase in racist attacks against migrants and refugees.<sup>594</sup>

In February 2019, migrant workers in **Larissa** were severely beaten by their employers, due to the fact that they complained of not having been payed.<sup>595</sup> An attack with a petrol bomb took place in February 2019 against the apartment of a ten-member Iraqi family in **Thessaloniki**.<sup>596</sup>

In March 2019, unaccompanied minors residing in a shelter in **Konitsa**, Ioannina were attacked while they were playing basketball. One of the minors, severely beaten, sustained a fracture and was transferred to the hospital. The perpetrator was arrested some days after the attack and has been identified as person related to far right groups.<sup>597</sup> In **Vilia**, Attica, a hotel where dozens of refugees are

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<sup>589</sup> Refugee Support Aegean, ‘Rise of xenophobic and racist incidents in the past 6 months: A timeline’, 31 October 2018, available at: <https://bit.ly/2S5clk0>.

<sup>590</sup> Εφsyn, ‘Στον εισαγγελέα για την αποχή μαθητών στη Σάμο’, 13 March 2019, available in Greek at: <https://bit.ly/2U1BnYz>.

<sup>591</sup> UNHCR, ‘UNHCR condemns attack on Afghan community centre in Athens’, 23 March 2018, available at: <https://bit.ly/2l6vcYL>.

<sup>592</sup> Left.gr, ‘Ρατσιστικές επιθέσεις κατά μεταναστών σε Περιστερί και Σεπόλια’, 15 May 2018, available in Greek at: <https://bit.ly/2H0VYhu>; ‘Όργανωμένες ρατσιστικές επιθέσεις κατά μεταναστών σε Νίκαια και Ρέννη καταγγέλλει η ΚΕΕΡΦΑ’, 4 January 2018, available in Greek at: <https://bit.ly/2Sr2S8c>.

<sup>593</sup> Left.gr, ‘Καταδικάζει το υπ. Παιδείας τον ρατσιστικό τραμπουκισμό και ξυλοδαρμό γονέων στο 144ο Δημοτικό Σχολείο’, 16 June 2018, available in Greek at: <https://bit.ly/2TfEXgx>.

<sup>594</sup> Parliament, Question No 1426, 11 September 2018 available in Greek at: <https://bit.ly/2E6lDrq>.

<sup>595</sup> CNN Greece, ‘Ρατσιστική βία στη Λάρισσα: Καταγγελία για ξυλοδαρμό μεταναστών που ζήτησαν δεδουλευμένα’, 19 February 2019, available at: <https://bit.ly/2E7QyVy>.

<sup>596</sup> In.gr, ‘Ρατσιστική επίθεση στη Θεσσαλονίκη: Πέταξαν μολότοφ σε μπαλκόνι διαμερίσματος προσφύγων’, 19 February 2019, available at: <https://bit.ly/2GH8dHI>.

<sup>597</sup> Ethnos, ‘“Υπαρχηγός” πυρήνα χρυσαυγίτων ο νταής της Κόνιτσας’, 26 March 2019, available in Greek at: <https://bit.ly/2CHh0oV>.

being housed was attacked with stones after local residents voiced opposition to their arrival.<sup>598</sup> The Supreme Court Prosecutor has also ordered an investigation into potential racist motivation for this case.<sup>599</sup>

An interpreter of GCR, a recognised refugee, together with another refugee, was also attacked in the centre of **Athens** by a group of eight persons wearing masks in March 2019. Both persons were severely beaten. The GCR interpreter suffered a serious injury in his hand from a sharp object. An application has been filed before the Police Office against Racist Violence.<sup>600</sup>

In a positive development, the Public Prosecutor of the Supreme Court issued a circular in July 2018, requesting that the term “illegal migrant” be avoided in judicial documents as this may be insulting and not in line with Greek legislation.<sup>601</sup>

## C. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers?  Yes  No  
❖ If yes, when do asylum seekers have access the labour market? Upon lodging
2. Does the law allow access to employment only following a labour market test?  Yes  No
3. Does the law only allow asylum seekers to work in specific sectors?  Yes  No  
❖ If yes, specify which sectors:
4. Does the law limit asylum seekers’ employment to a maximum working time?  Yes  No  
❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice?  Yes  No

According to the law, asylum seekers have access to the labour market as employees or service or work providers from the moment an asylum application has been formally lodged and they have obtained an asylum seeker’s card.<sup>602</sup>

Applicants who have not yet completed the full registration and lodged their application i.e. applicants who are pre-registered, do not have access to the labour market. As noted in [Registration](#), the average time period between pre-registration and full registration across the country was 42.3 days in 2018, while the average time period between pre-registration through Skype and full registration is potentially longer.

However, and as also observed 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

<sup>598</sup> In.gr, ‘Ρατσιστική επίθεση σε πρόσφυγες στα Βίλια – Χτύπησαν μικρά παιδιά’, 18 March 2019, available in Greek at: <https://bit.ly/2JJKLjE>.

<sup>599</sup> Εfsyn, ‘Στον εισαγγελέα για την αποχή μαθητών στη Σάμο’, 13 March 2019, available in Greek at: <https://bit.ly/2U1BnYz>.

<sup>600</sup> GCR, ‘Το ΕΣΠ καταδικάζει επίθεση κατά διερμηνέα του και ζητεί την άμεση διερεύνηση του περιστατικού’, 21 March 2019, available in Greek at: <https://bit.ly/2HQ5rz0>.

<sup>601</sup> Supreme Court Prosecutor, Document No 8191, 26 July 2018, available in Greek at: <https://bit.ly/2VgXoyY>.

<sup>602</sup> Article 71 L 4375/2016; Article 15 L 4540/2018.

administrative obstacle in order to obtain necessary document, which may lead to undeclared employment with severe repercussions on the enjoyment of basic social rights.<sup>603</sup> Even though the unemployment rate dropped in 2018, it remained at 18.1% in November 2018 (down from 21.1% in 2017) while higher rates were reported for persons aged up to 34 years old: 23.8% for age group 25-34 and 39.1% for age group 15-24.<sup>604</sup>

In 2017, in order to reduce administrative obstacles to the access of asylum seekers to the labour market, and more precisely obstacles with regards the provision of the Tax Registration Number (*Αριθμός Φορολογικού Μητρώου*, AFM), without which one cannot legally work, the General Secretary of Migration Policy addressed a letter to the competent authorities, giving instructions for a proper implementation of the law. Moreover, in February 2018, following a decision of the Hellenic Manpower Employment Organisation, (*Οργανισμός Απασχόλησης Εργατικού Δυναμικού*, OAED) the possibility to provide a certification from the reception facility has been added for asylum seekers willing to register themselves at the OAED registry.<sup>605</sup>

Despite these positive developments, difficulties in obtaining an AFM number and unemployment cards from OAED are still reported. In October 2018, UNHCR issued the findings of a participatory assessment in which a sample of 1,436 asylum seekers and refugees participated. According to this survey:

“Most participants reported difficulties in accessing the labour market. They attributed this to a lack of information, high unemployment rates, lack of required documentation (e.g. residency permits, passport), language barriers, the remoteness of some sites from cities, and lack of job advise and placement support... Participants found the programmes on self-reliance and employment limited and unstructured... The remote location of some sites and RICs from cities were noted as notable obstacles to self-reliance, integration and co-existence... The lack of Greek language classes, which most perceive to be required for integration, was a commonly referenced issue. While most participants have social security numbers (AMKA), they have difficulty obtaining other documents such as AFM and unemployment cards from OAED.”<sup>606</sup>

In addition, asylum seekers face further obstacles to opening bank accounts, including those dedicated for the payment of the salary, which are a precondition for payment in the private sector.<sup>607</sup> The four major banks in Greece have repeatedly refused to open bank accounts to asylum seekers, even in cases where a certification of recruitment is submitted by the employer. “In fact, this policy offends against the spirit and the letter of the law, excluding thus the asylum seekers from the labour market. At the same time, employers willing to recruit asylum seekers are discouraged because of this significant barrier or, even when hiring them, face the risk of penalties”, as highlighted by the civil society organisation Generation 2.0.<sup>608</sup>

As regards vocational training, Article 17(1) L 4540/2018 provides that applicants can have access to vocational training programmes under the same conditions and prerequisites as foreseen for Greek nationals. 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

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<sup>603</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>604</sup> Hellenic Statistical Authority, *Έρευνα εργατικού δυναμικού: Νοέμβριος 2018*, 7 February 2019, available in Greek at: <https://bit.ly/2GZtLOK>.

<sup>605</sup> OAED, ‘Δυνατότητα εγγραφής στο Μητρώο του ΟΑΕΔ, ανέργων χωρίς μόνιμη κατοικία’, 28 February 2018, available in Greek at: <http://bit.ly/2CU9WCK>.

<sup>606</sup> UNHCR, *Inter-agency Participatory Assessment Report*, October 2018, available at: <https://bit.ly/2BPP3LI>, 9.

<sup>607</sup> JMD 22528/430/2017, Gov. Gazette B' 1721/18.5.2017.

<sup>608</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>.

asylum seekers, and in particular the fact that they may not be in a position to provide the necessary documentation.<sup>609</sup> Article 17(2) L 4540/2018, provides that the conditions for the assessment of applicants' skills who do not have the necessary documentation will be set by a Joint Ministerial Decision. Such a decision had not been issued by the end of February 2019.

## 2. Access to education

### Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children?  Yes  No
2. Are children able to access education in practice? Depending on location

According to Article 13 L 4540/2018, asylum-seeking children have access to the education system under similar conditions as Greek nationals, and facilitation is provided in case of incomplete documentation, as long as no removal measure against them or their parents is actually enforced. Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity. Registration may not take longer than 3 months from the identification of the child.

A Ministerial Decision issued in August 2016 established a programme of afternoon preparatory classes (*Δομές Υποδοχής και Εκπαίδευσης Προσφύγων*, DYEP) for all school-age children aged 4 to 15.<sup>610</sup> The programme is implemented in public schools neighbouring camps or places of residence.

Children aged between 6-15 years, living in dispersed urban settings (such as UNHCR accommodation, squats, apartments, hotels, and reception centres for asylum seekers and unaccompanied children), may go to schools near their place of residence, to enrol in the morning classes alongside Greek children, at schools that will be identified by the Ministry. This is done with the aim of ensuring balanced distribution of children across selected schools, as well as across preparatory classes for migrant and refugee children where Greek is taught as a second language.<sup>611</sup>

Although the refugee education programme implemented by the Ministry of Education is highly welcome, the school attendance rate should be reinforced, while special action should be taken in order for children remaining on the islands to be guaranteed access to education.

In January 2019 the estimated number of refugee and migrant children in Greece was 27,000, among them 3,464 unaccompanied children. Out of this number of children present in Greece, it is estimated that 11,700 refugee and migrant children of school age (4-17 years old) are enrolled in formal education. The rate of school attendance is higher for those children living in apartments and for unaccompanied children benefitting reception conditions (66%).<sup>612</sup>

Access to education remains problematic for children on the **Eastern Aegean islands**, where they have to remain for prolonged periods under a geographical restriction together with their parents or until an accommodation place is found in the case of unaccompanied children. This has been repeatedly highlighted by a number of human rights bodies, including the Council of Europe Commissioner for Human Rights, who has expressed her particular concern "about the lack of access to education

<sup>609</sup> GCR, *Observations on the Draft Law transposing the Reception Directive*, 31 October 2016, available in Greek at: <https://goo.gl/MBRqno>.

<sup>610</sup> Ministerial Decision 152360/ΓΔ4/2016, GG 3049/B/23-09-2016, available in Greek at: <http://bit.ly/2IbVkGP>.

<sup>611</sup> Ministry of Education, *Q&A for access to education for refugee children*, 1 February 2017, available at: <http://bit.ly/2malzAv>.

<sup>612</sup> UNICEF, *Refugee and migrant children in Greece as of 31 January 2019*, available at: <https://uni.cf/2SH2pz4>.

available in the Aegean islands RICs” and has urged the Greek authorities to guarantee the effective enjoyment of the right to education.<sup>613</sup>

Despite the establishment of a number of afternoon preparatory classes on the islands in 2018 and early 2019, access to formal education is still not guaranteed for many children on the islands.<sup>614</sup> Thus, while by February 2018 there were no afternoon preparatory classes (DYEP) operating in the Northern Aegean,<sup>615</sup> a number of preparatory afternoon classes started on **Lesvos** and **Chios** on 15 October 2018,<sup>616</sup> and on **Samos** and **Kos** in January-February 2019.<sup>617</sup>

Contrary to mainland Greece, official data relating to the schooling rate on the Eastern Aegean islands are not available. In July 2018, research undertaken by Human Rights Watch on access to education on the Greek islands found that fewer than 15% of migrant children on the Greek islands were enrolled in formal education at the end of the 2017-2018 school year.<sup>618</sup> In September 2018, according to a document prepared with the support of NGOs, UNHCR and IOM, aiming to provide detailed information for better planning regarding accommodation sites in Greece, migrant children in RIC on **Lesvos**, **Chios** and **Samos** did not have access to formal education, while less than 25% of the children remaining in the RIC of **Leros** and **Kos** had access to formal education.<sup>619</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. The complaint refers *inter alia* to the lack of access to education for migrant children on the North Eastern Aegean islands.<sup>620</sup>

A number of Greek language classes are provided by universities, civil society organisations and centres for vocational training. However, as noted by UNHCR, “the lack of Greek language classes, which most perceive to be required for integration, was a commonly referenced issue”.<sup>621</sup> A pilot programme of Greek language courses funded by the Asylum, Migration and Integration Fund (AMIF) announced in January 2018 had not been implemented by the end of the year.<sup>622</sup>

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<sup>613</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, paras 52 and 62.

<sup>614</sup> UNHCR, *Factsheet: Greece*, January 2019, available at: <https://bit.ly/2E717lt>.

<sup>615</sup> Refugee Support Aegean, ‘Majority of refugee children in the Aegean Islands Hot Spots are excluded from education’, 18 February 2018, available at: <http://bit.ly/2oD3FHj>.

<sup>616</sup> UNHCR, *Factsheet: Greece*, October 2018, available at: <https://bit.ly/2BR5tTS>.

<sup>617</sup> I Paideia, ‘Τα προσφυγόπουλα από τα ΚΥΤ Κω και Σάμου πάνε σχολείο’, 8 February 2019, available in Greek at: <https://bit.ly/2C0AQva>.

<sup>618</sup> Human Rights Watch, *“Without Education They Lose Their Future”: Denial of Education to Child Asylum Seekers on the Greek Islands*, July 2018, available at: <https://bit.ly/2LsDZq7>, 21.

<sup>619</sup> UNHCR et al., *Greece – SMS WG-Site Profiles*, August-September 2018, available at: <https://bit.ly/2UiXMNj>, 43-46, 48.

<sup>620</sup> Council of Europe, ‘New complaint registered concerning Greece’, 21 December 2018, available at: <https://bit.ly/2SG0FpF>.

<sup>621</sup> UNHCR, *Inter-agency Participatory Assessment Report*, October 2018.

<sup>622</sup> Ministry of Migration Policy and Ministry of Education, ‘Πρόγραμμα “Μαθήματα Γλώσσας και Πολιτισμού για Πρόσφυγες και Μετανάστες 15+”’, 23 January 2018, available in Greek at: <http://bit.ly/2Fid9SI>.



## D. Health care

### Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?  
 Yes  No
2. Do asylum seekers have adequate access to health care in practice?  
 Yes  Limited  No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?  
 Yes  Limited  No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?  
 Yes  Limited  No

According to national legislation, asylum seekers are entitled free of charge access to necessary health, pharmaceutical and hospital care, including necessary psychiatric care where appropriate. L 4368/2016, which provides free access to public health services and pharmaceutical treatment for persons without social insurance and vulnerable,<sup>623</sup> is also applicable for asylum seekers and members of their families.

In spite 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>624</sup>

On the Eastern Aegean islands, access to health remains particularly restricted due to lack of staff, coupled with persisting overcrowding. For example, in the RIC of **Samos** there was only one doctor present throughout 2018 cover medical needs, while the population in the RIC exceeded five times the centre’s capacity. Since the doctor resigned in February 2019, health needs are now only covered by the understaffed hospital of the island.<sup>625</sup>

As noted by UNHCR, “across the islands and on some camps in the mainland the low number of staff under the Ministry of Health, in particular doctors and cultural mediators, is not sufficient to help refugees with medical and psychosocial needs. The limited public mental health institutions in Greece are a particular concern.”<sup>626</sup>

## E. Special reception needs of vulnerable groups

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?  
 Yes  In some cases  No

The law provides that, when applying the provisions on reception conditions, competent authorities shall take into account the specific situation of vulnerable persons such as minors, unaccompanied or not, disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, victims of female genital mutilation

<sup>623</sup> Article 33 L 4368/2016.

<sup>624</sup> Council of Europe, *Report by Commissioner for Human Rights Dunja Mijatovic following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, para 40.

<sup>625</sup> Refugee Support Aegean, ‘Situation on Samos has reached the edge’, 18 February 2019, available at: <https://bit.ly/2XzRGdj>.

<sup>626</sup> UNHCR, *Factsheet: Greece*, January 2019.



and victims of human trafficking.<sup>627</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 is not connected to the assessment of the asylum application.<sup>628</sup>

Under the reception and identification procedure, upon arrival, the Head of the RIC “shall refer persons belonging to vulnerable groups to the competent social support and protection institution.”<sup>629</sup>

However, shortages in the [Identification](#) of vulnerabilities, together with a critical lack of reception places on the islands (see [Types of Accommodation](#)) prevents vulnerable persons from enjoying special reception conditions. This could be also the case on the mainland, due to the limited capacity of facilities under the National Centre for Social Solidarity (EKKA), the lack of a clear referral pathway to access temporary camps and the poor reception conditions reported in many of those. Moreover, the high occupancy rate of reception places under UNHCR scheme may deprive newly arriving vulnerable families and individuals from access this type of accommodation.

## 1. Reception of unaccompanied children

As mentioned in the [Introduction](#) to the Reception Conditions chapter, L 4540/2018 brought modifications to the competent authorities for reception of asylum seekers. The Directorate-General for Social Solidarity of the Ministry for Labour, Social Security and Social Solidarity has been appointed as the responsible authority for the protection, including reception, of unaccompanied and separated children,<sup>630</sup> and the National Centre for Social Solidarity (EKKA) under the Ministry of Labour receives and further processes referrals for accommodation of unaccompanied and separated children.

### 1.1. Persisting lack of reception capacity for unaccompanied children

As of 31 December 2018, there are 3,741 unaccompanied and separated children in Greece but only 1,064 places in long-term dedicated accommodation facilities, and 895 places in temporary accommodation.<sup>631</sup> UNHCR notes that “as a result, many children spend lengthy periods in protective custody or in the RICs on the islands and Evros waiting for a place in age-appropriate shelters or other facilities. Others stay in informal housing or risk homelessness.”<sup>632</sup>

The total number of referrals of unaccompanied children received by EKKA 2018 was 6,972. This concerned 6,605 boys and 367 girls.

According to data provided by EKKA, the average waiting period for placement in an accommodation place in 2018 was 65.17 days. In cases of unaccompanied children under protective custody in pre-removal facilities and police stations (see [Detention of Vulnerable Applicants](#)), the average waiting period was 14.52 days. In cases of unaccompanied children remaining in RIC facilities, the general average waiting period was 57.42 days, and 55.92 days specifically for RIC located on the Eastern Aegean islands.<sup>633</sup>

It should be noted that the abovementioned time periods refer to an average waiting period. There have been many documented cases where delays were much longer. In 2018, for example, GCR and other civil society organisations documented unaccompanied children remain in police stations, pre-removal

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<sup>627</sup> Article 20(1) L 4540/2018.

<sup>628</sup> Article 20(2) L 4540/2018.

<sup>629</sup> Article 14(8) L 4375/2016.

<sup>630</sup> Article 22(3) L 4540/2018.

<sup>631</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2018, available at: <https://bit.ly/2txoQfH>.

<sup>632</sup> UNHCR, *Factsheet: Greece*, December 2018.

<sup>633</sup> Information provided by EKKA, February 2019.

detention facilities or the RIC of **Evros**, for periods between 1 to 3 months before being transferred to shelters.<sup>634</sup>

The lack of appropriate care, including accommodation for unaccompanied children, in Greece has been repeatedly criticised by human rights bodies. Among others in 2018, the Council of Europe Commissioner for Human Rights expressed her deep concern regarding the situation of the majority of unaccompanied migrant children in Greece and noted that “much more needs to be done to cover the integration needs of most migrants, which are reportedly not met, especially those of the many unaccompanied minor migrants kept in protective custody, living in hotels or reported homeless.”<sup>635</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>636</sup>

## 1.2. Types of accommodation for unaccompanied children

Out of the total number of available places for unaccompanied children in Greece at the end of 2018:

- 1,040 were in 48 shelters for unaccompanied children;
- 24 places were in 6 Supported Independent Living apartments for unaccompanied children over the age of 16;
- 300 places were in 10 Safe Zones for unaccompanied children in temporary accommodation centres; and
- 595 places were in 15 hotels for unaccompanied children.<sup>637</sup>

### Shelters for unaccompanied children

With the exception of one shelter, operating by a non-profit, public institution established as a legal person governed by private law and supervised by the Ministry of Education, Research and Religious Affairs, the Youth and Lifelong Learning Foundation (INEDIVIM), long-term and short-term facilities for unaccompanied children are managed by civil society entities and charities.

Shelters for unaccompanied children: 31 December 2018	
Name of Shelter	Operating Organisation
Apostoli	Apostoli
Arsis Athens	Arsis
Arsis Alexandroupoli Elli	Arsis
Arsis Alexandroupoli Frixos	Arsis
Arsis Thessaloniki Tagarades	Arsis
Arsis Thessaloniki Oreokastro	Arsis
Arsis Makrinitisa	Arsis
Arsis Pylaia	Arsis
Arsis Exarchia	Arsis
Red Cross Athens	Hellenic Red Cross

<sup>634</sup> See e.g. Arsis, ‘Η πρακτική της προστατευτικής φύλαξης ασυνόδευτων ανηλίκων και η έννοια της προστασίας του ανηλίκου’, 31 October 2018, available in Greek at: <https://bit.ly/2ISuG5W>.

<sup>635</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 paras. 60 and 78.

<sup>636</sup> Council of Europe, ‘New complaint registered concerning Greece’, 21 December 2018, available at: <https://bit.ly/2SG0FpF>.

<sup>637</sup> EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2018, available at: <https://bit.ly/2txoQfH>.

Red Cross Volos	Hellenic Red Cross
Red Cross Kalavryta	Hellenic Red Cross
INEDIVIM Crete	INEDIVIM
MdM Athens	Médecins du Monde
Home Project Socratis	Home Project
Home Project Girls	Home Project
Home Project Orion	Home Project
Melissa Girls Athens	Melissa
Melissa Little Prince	Melissa
Xenia Teens Piraeus	Nostos
Xenia Teens Vyronas	Nostos
Praksis Glyfada	Praksis
Praksis Thessaloniki	Praksis
Praksis Ilion	Praksis
Praksis Kypseli 1	Praksis
Praksis Kypseli 2	Praksis
Praksis Patra	Praksis
Praksis Penteli	Praksis
Praksis Petralona	Praksis
Praksis Tositsa	Praksis
Praksis Chalandri	Praksis
Society for the Care of Minors	Society for the Care of Minors
Smile of the Child	Smile of the Child
Faros	Faros
Iliaktida 1	Iliaktida
Iliaktida 2	Iliaktida
Iliaktida 3	Iliaktida
Iliaktida 4	Iliaktida
Iliaktida 5	Iliaktida
Iliaktida 6	Iliaktida
Iliaktida 7	Iliaktida
Iliaktida 8	Iliaktida
Iliaktida 9	Iliaktida
Iliaktida Kallithea	Iliaktida
Metadrasi Athens	Metadrasi
Metadrasi Samos	Metadrasi
Metadrasi Chios	Metadrasi
SOS Athens Girls	SOS Children's Villages
Estina MedIn	Medical Intervention
Irida MedIn	Medical Intervention
Oikos	Medical Intervention – Zefxis
International Centre for Sustainable Development	International Centre for Sustainable Development

## Supported Independent Living

“Supported Independent Living for unaccompanied minors” is an alternative house 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>638</sup>

## Safe zones in temporary accommodation centres

Safe zones are designated supervised spaces within temporary open accommodation sites dedicated to unaccompanied children. They should be used as short-term measure to care for unaccompanied in light of the insufficient number of available shelter places, for a maximum of 3 months. Safe zone priority is given to unaccompanied children in detention as well as other vulnerable children, in line with their best interests:

Safe zones for unaccompanied children: 31 December 2018	
Name of Safe Zone	Operating Organisation
Safe Zone Drama	Arsis
Safe Zone Schisto	Arsis
Safe Zone Diavata	Arsis
Safe Zone Langadikia	Arsis
Safe Zone Ritsona	Arsis
Safe Zone Agia Eleni – Ioannina	Arsis
Safe Zone Kavala	Arsis
Safe Zone Thiva	Arsis
Safe Zone Elaionas	GCR
Safe Zone Alexandria	GCR

## Hotels for unaccompanied children

Hotels are emergency accommodation spaces being used as a measure to care for unaccompanied children in light of the insufficient number of available shelter places. Priority is given to children in RIC:

Hotels for unaccompanied children: 31 December 2018	
Name of hotel	Operating Organisation
Elite Hotel	IOM
Stalis Hotel	IOM
Afanos Hotel	IOM
Istron Kornilios Hotel	IOM
Hotel Silia	IOM
Marathon Hotel Beach	IOM
Alma Hotel	IOM
Glavas Hotel	IOM
Amfithea Hotel	Arsis
Elimeia Hotel	Arsis
Four Seasons Hotel	Arsis

<sup>638</sup> Metadrasi, *Supported Independent Living for unaccompanied minors*, available at: <https://bit.ly/2tPEIjv>.

Grand Hotel Dentro	Arsis
Hotel Assembly	Arsis
Lakkas Hotel	Iliaktida
Dedis Hotel	Iliaktida

## F. Information for asylum seekers and access to reception centres

### 1. Provision of information on reception

According to Article 5 L 4540/2018, 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 legal and psychological assistance to asylum seekers.<sup>639</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>640</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.

In any event, information on reception should take into account with the actual available reception capacity, the availability and the accessibility of referral paths to reception facilities and other services and the legal obligations imposed on the applicants, i.e. mainly the obligation to remain on a given island for those subject to EU-Turkey statement.

The need to strengthen information sessions *inter alia* on reception procedures and access to services is also highlighted by UNHCR in a 2018 inter-agency participatory assessment report.<sup>641</sup>

### 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 18(2)(b) L 4540/2018, asylum seekers in reception facilities have the right to be in contact with relatives, legal advisors, representatives of UNHCR and other certified organisations. These shall have unlimited access to reception centres and other housing facilities in order to assist applicants. The Director of the Centre may extend access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the premises and of the applicants.

Access of NGOs to temporary accommodation centres and Reception and Identification Centres is subject to prior official authorisation.

<sup>639</sup> Article 5(2) L 4540/2018.

<sup>640</sup> Article 5(3) L 4540/2018.

<sup>641</sup> UNHCR, *Inter-agency Participatory Assessment Report*, October 2018.

## **G. Differential treatment of specific nationalities in reception**

No differential treatment on the basis of nationality has been reported in 2018.



## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of asylum seekers detained in pre-removal centres in 2018: <sup>642</sup>	18,204
2. Number of asylum seekers in pre-removal detention at the end of 2018:	1,619
3. Number of pre-removal detention centres:	8
4. Total capacity of pre-removal detention centres:	6,417

According to the law, a person applying for asylum at liberty cannot be placed in detention. An asylum seeker may only remain detained if he or she is already detained for the purpose of removal when he or she applies for international protection, and subject to a new detention order, following an individualised assessment to establish whether detention can be ordered on asylum grounds.<sup>643</sup>

#### 1. Statistics on detention

The total number of third-country nationals detained at the end of 2018 was 2,933. Of these, 835 persons (28.4%) were detained in police stations.<sup>644</sup> Furthermore, at the end of 2018, there were 42 unaccompanied children in detention (“protective custody”) in the pre-removal detention centre of **Amygdaleza**,<sup>645</sup> 44 in police stations around Greece and 701 in Reception and Identification Centres on the islands and Evros.<sup>646</sup>

##### 1.1. Detention in pre-removal centres

The number of asylum seekers and other third-country nationals detained in pre-removal detention facilities in Greece increased considerably in 2018:

Administrative detention: 2016-2018			
	2016	2017	2018
Number of asylum seekers detained	4,072	9,534	18,204
Total number of persons detained	14,864	25,810	31,126

Source: Directorate of the Hellenic Police, 21 January 2017; 29 January 2018; 23 January 2019.

The number of persons who remained in pre-removal detention facilities was 2,098 at the end of 2018. Of those, 1,619 were asylum seekers.<sup>647</sup> The breakdown of detained asylum seekers and the total population of detainees per pre-removal centre is as follows:

Breakdown of asylum seekers detained by pre-removal centre: 2018				
	Detentions throughout 2018		In detention at the end of 2018	
	Asylum seekers	Total population	Asylum seekers	Total population
Amygdaleza	2,029	4,779	404	572
Tavros (Petrou Ralli)	724	2,819	114	201

<sup>642</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019. This figure only includes pre-removal centres.

<sup>643</sup> Article 46(2) L 4375/2016.

<sup>644</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>645</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>646</sup> EKKA, *Situation update: Unaccompanied children in Greece*, 31 December 2018, available at: <https://bit.ly/2GzqiWR>.

<sup>647</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

Corinth	2,631	2,714	432	461
Paranesti, Drama	2,096	2,284	330	339
Xanthi	1,424	2,105	165	179
Fylakio, Orestiada	8,411	14,784	76	234
Lesvos	522	987	46	48
Kos	367	663	52	64
Samos	0	0	0	0
<b>Total</b>	<b>18,204</b>	<b>31,126</b>	<b>1,619</b>	<b>2,098</b>

Source: Directorate of the Hellenic Police, 23 January 2019.

Although the number of persons detained the past years has significantly increased, this has not mirrored by a corresponding increase in the number of forced returns. 32,718 detention orders were issued in 2018, compared to 25,810 in 2017. However, the number of forced returns decreased to 7,776 in 2018 from 13,437 in 2017.<sup>648</sup> These findings corroborate that immigration detention is not only linked with human rights violations but also fails to effectively contribute to return.

There were 8 active pre-removal detention centres in Greece at the end of 2018. This includes six centres on the mainland (**Amygdaleza, Tavros, Corinth, Xanthi, Paranesti, Fylakio**) and two on the islands (**Lesvos, Kos**). The total pre-removal detention capacity is 6,417 places. A new pre-removal detention centre established in **Samos** in 2017 is not yet operational.

The number of persons lodging an asylum application from detention in 2018 was 7,200 up from 5,424 in 2017:

<b>Asylum seekers applying from detention: 2018</b>	
<b>Nationality</b>	<b>2018</b>
Pakistan	3,493
Afghanistan	1,006
Bangladesh	652
Iraq	407
Algeria	266
Others	1,376
<b>Total</b>	<b>7,200</b>

Source: Asylum Service, 26 March 2019.

The Asylum Service took 4,345 first instance decisions on applications submitted from detention, of which 3,913 were negative (90.1%), 357 granted refugee status and 75 granted subsidiary protection.<sup>649</sup>

The Asylum Service also received 570 subsequent applications from detention in 2018. 104 of those were deemed admissible and 352 inadmissible.<sup>650</sup>

<sup>648</sup> Ombudsman, *Return of third-country nationals*, Special Report 2017, available at: <https://bit.ly/2WSdhxb>; Information provided by the Directorate of the Hellenic Police, 29 January 2018 and 23 January 2019.

<sup>649</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>650</sup> *Ibid.*

## 1.2. Detention in police stations and holding facilities

In addition to the above figures, at the end of 2018, there were 835 persons, of whom 196 were asylum seekers, detained in several other detention facilities countrywide such as police stations, border guard stations etc.<sup>651</sup> A breakdown of persons in detention in the police stations is only available for the Eastern Aegean islands, however. According to these statistics, as of the end of 2018 there were 41 persons detained in police stations on the islands, of whom 15 on **Chios**, 9 on **Samos**, 8 on **Leros** and 9 on **Rhodes**.<sup>652</sup>

As stated above, according to EKKA there were 86 unaccompanied children in protective custody in detention facilities at the end of 2018, 42 of whom in a pre-detention centre in Attica – Amygdaleza according to the Hellenic Police –and 44 in other detention facilities.<sup>653</sup>

## 2. Detention policy following the EU-Turkey statement

The launch of the implementation of the EU-Turkey statement has had an important impact on detention on the Eastern Aegean islands but also on the mainland, resulting in a significant toughening of the practices applied in the field. In 2018, a total of 58,627 removal decisions were issued, 32,718 (56%) of which also contained a detention order. The number of third-country nationals detained in pre-removal centres under detention order throughout 2018 was 31,126, a significant increase from 25,810 in 2017 and 14,864 in 2016. The increase has been much higher for asylum seekers: 18,204 in 2018, compared to 9,534 in 2017 and 4,072 in 2016.<sup>654</sup>

In line with the Joint Action Plan on the implementation of the EU-Turkey statement, which recommended an increase in detention capacity on the islands,<sup>655</sup> the pre-removal detention centre of Moria in **Lesvos**, initially established in 2015,<sup>656</sup> was reopened in mid-2017. In addition, a new pre-removal detention facility was opened in **Kos** in March 2017,<sup>657</sup> and another one was established in **Samos** in June 2017 but has not yet become operational.<sup>658</sup>

### 2.1. Pilot project

As of the end of 2018, the “pilot project” is still implemented on **Lesvos**, **Kos** and partly **Leros**. This consists in newly arrived persons belonging to particular nationalities with low recognition rates immediately being placed in detention upon arrival and remaining there for the entire asylum procedure.<sup>659</sup> While the project initially focused on nationals of Pakistan, Bangladesh, Egypt, Tunisia, Algeria and Morocco, the list of countries was expanded to 28 in March 2017 and the pilot project was rebranded as “low-profile scheme”.<sup>660</sup>

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<sup>651</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>652</sup> National Coordination Centre for Border Control, Immigration and Asylum, *National situational picture regarding the Eastern Aegean islands*, 31 December 2018, available at: <https://bit.ly/2tiE6gB>.

<sup>653</sup> EKKA, *Situation update: Unaccompanied children in Greece*, 31 December 2018, available at: <https://bit.ly/2GzqiWR>.

<sup>654</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>655</sup> European Commission, *Joint Action Plan on the implementation of the EU-Turkey statement*, Annex to COM(2016) 792, 8 December 2016, para 18.

<sup>656</sup> Joint Ministerial Decision 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; Joint Ministerial Decision 8038/23/22-νδ', Gov. Gazette B' 2952/31.12.2015.

<sup>657</sup> Joint Ministerial Decision 8038/23/22-ξε, Gov. Gazette B' 332/7.2.2017.

<sup>658</sup> Joint Ministerial Decision 3406/2017, Gov. Gazette B' 2190/27.6.2017.

<sup>659</sup> GCR, *Borderline of Despair: First-line reception of asylum seekers at the Greek borders*, May 2018, available at: <https://bit.ly/2OuXoeG>, 18-19.

<sup>660</sup> ECRE, 'Asylum procedure based on nationality rather than on merit – the situation of Pakistani asylum applicants under the EU Turkey Deal', 8 December 2017, available at: <http://bit.ly/2kEjTk1>.

Moreover, as regards **Lesvos**, the “pilot project” was also implemented until May 2018 subject to available detention capacity in cases of Syrian, Iraqi and Afghan nationals upon arrival, despite their explicit wish to apply for asylum and without prior application of reception and identification procedures as provided by the law.<sup>661</sup> As of May 2018, however, the “pilot project” is only implemented to nationals of countries with a recognition rate lower than 25% on **Lesvos**, whereas the recognition rate threshold for the implementation of the “pilot project” is 33% on **Kos**.<sup>662</sup>

The implementation of this practise raises concerns vis-à-vis the non-discrimination principle and the obligation to apply detention measures only as last resort, following an individual assessment of the circumstances of each case and to abstain from detention of *bona fide* asylum seekers.

In a case supported by GCR in 2018, a Cameroonian national was immediately detained upon arrival on Lesvos in March 2018, without undergoing reception and identification procedures or an examination by medical staff. He remained detained for 3 months – the maximum detention period for asylum seekers – and even had his asylum interview while detained. In August 2018, following his release, his case was eventually referred to the **Regular Procedure** as he had been identified as a vulnerable person, and in October 2018 he was recognised as a refugee.<sup>663</sup>

## 2.2. Detention following second-instance negative decision

Furthermore, in response to EU pressure to increase returns under the EU-Turkey statement,<sup>664</sup> the Greek authorities have adopted another controversial practice. All applicants on the islands whose asylum application is rejected at second instance under the **Fast-Track Border Procedure** are immediately detained upon notification of the second-instance negative decision. This practice directly violates national and European legislation, according to which less coercive alternative measures should be examined and applied before detention.

Furthermore, while in detention, rejected asylum seekers face great difficulties in accessing legal assistance and challenging the negative asylum decision before a competent court.<sup>665</sup> In a case supported by GCR, a Syrian national detained immediately after receiving the second-instance negative decision remained in the pre-removal centre of **Kos** for 12 months, despite the fact that he had submitted an application for annulment and suspension in time, and was only released after the Administrative Court of Rhodes ruled that the prolongation of his detention was not legally justified.<sup>666</sup>

## 2.3. Detention due to non-compliance with geographical restriction

As set out in a Police Circular of 18 June 2016, where a person is detected on the mainland in violation of his or her obligation to remain on the islands, “detention measures will be set again in force and the person will be transferred back to the islands for detention – further management (readmission to Turkey).”<sup>667</sup>

<sup>661</sup> Refugee Support Aegean, ‘Detention as a deterrent’, 15 March 2018, available at: <http://bit.ly/2ptTHbz>.

<sup>662</sup> GCR, *2018 Detention report*, forthcoming.

<sup>663</sup> GCR, *2018 Detention report*, forthcoming.

<sup>664</sup> European Commission, *EU-Turkey statement: Two years on*, April 2018, available at: <https://bit.ly/2Nvb212>: “More progress on returns to Turkey needed: The pace of returns from the Greek islands under the Statement remains very slow, with only 2,164 migrants returned since March 2016. Significant additional efforts are still needed to reduce the backlog of asylum applications, address the insufficient pre-return processing and detention capacity in Greece to improve returns.”

<sup>665</sup> GCR, *2018 Detention report*, forthcoming.

<sup>666</sup> Administrative Court of Rhodes, Decision AP 164/2018.

<sup>667</sup> Directorate of the Hellenic Police, “Εγκύκλιος ΕΛΑΣ 1604/16/1195968/18-6-2016 Διαχείριση παράτυπων αλλοδαπών στα Κέντρα Υποδοχής και Ταυτοποίησης, διαδικασίες Ασύλου, υλοποίηση Κοινής Δήλωσης ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 (πραγματοποίηση επανεισδοχών στην Τουρκία)”, available in Greek at: <http://bit.ly/2ngIEj6>. See also *inter alia* Kathimerini, ‘Islands “suffocating” due to the refugee issue’, 23 August 2016, available in Greek at: <http://bit.ly/2jBL7Fd>.

Following this Circular, all newly arrived persons who have left an Eastern Aegean island in breach of the geographical restriction (see [Freedom of Movement](#)), if arrested, are immediately detained in order to be returned to that island. This detention is applied without any individual assessment and without the person's legal status and any potential vulnerabilities being taken into consideration. Detention in view of transfer from mainland Greece to the given Eastern Aegean island can last for a disproportionate period of time, in a number of cases exceeding one month, thereby raising issues with regard to the state's due diligence obligations. Despite the fact that a number of persons allege that they left the islands due to unacceptable reception conditions and/or security issues, no assessment of the reception capacity is made before returning these persons to the islands.

In February 2018, the Administrative Court of Piraeus found that the violation of the geographical restriction was justified due to a threat against the physical integrity of the applicant given the conditions prevailing in the RIC of Moria on **Lesvos**.<sup>668</sup> In September 2018, the same Court ordered the immediate release of a Syrian national who had suffered torture in his country and has suffered from PTSD since then, who was detained in view of his return to **Leros**, claiming that his fragile health would further deteriorate due to his prolonged detention.<sup>669</sup>

In practice, persons returned to the islands either remain detained – this is in particular the case of single men or women – or they are released without any particular care being taken to offer them an accommodation place. Detention on the islands is of particular concern as a high number of third-country nationals, including asylum seekers, continue to be held in detention facilities operated by the police directorates and in police stations, which are completely inappropriate for immigration detention.<sup>670</sup> As a rule this is the case in **Chios, Samos, Leros and Rhodes** where police stations were the only available facility for immigration detention in 2018. For those released upon return to the islands, destitution is a considerable risk, as reception facilities on the islands are often overcrowded and exceed their nominal capacity, whereas in Rhodes there is no RIC at all.

In 2018, a total of 514 persons were returned to the Eastern Aegean islands after being apprehended outside their assigned island, down from 1,197 in 2017:

Returns to the islands due to non-compliance with a geographical restriction: 2018						
Lesvos	Chios	Samos	Kos	Leros	Rhodes	Total
207	74	66	154	13	0	<b>514</b>

Source: Directorate of the Hellenic Police, 29 January 2018.

<sup>668</sup> Administrative Court of Piraeus, Decision AP 94/2018.

<sup>669</sup> Administrative Court of Piraeus, Decision AP 483/2018.

<sup>670</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: <http://bit.ly/2BbSrAA>, 11.

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
  - ❖ on the territory:  Yes  No
  - ❖ at the border:  Yes  No
2. Are asylum seekers detained in practice during the Dublin procedure?<sup>671</sup>
  - Frequently  Rarely  Never
3. Are asylum seekers detained during a regular procedure in practice?
  - Frequently  Rarely  Never

#### 1.1. Asylum detention

Article 46 L 4376/2016 regulates the detention of asylum seekers. According to this provision, an asylum seeker shall not be detained on the sole reason of seeking international protection or having entered and/or stayed in the country irregularly.<sup>672</sup>

The law prohibits the detention of asylum seekers who apply at liberty. An asylum seeker may only remain in detention if he or she is already detained for the purpose of removal when he or she makes an application for international protection, and subject to a new detention order following an individualised assessment to establish whether detention can be ordered on asylum grounds.<sup>673</sup>

In this case, an asylum seeker may be kept in detention for one of the following 5 grounds:<sup>674</sup>

- (a) in order to determine his or her identity or nationality;
- (b) in order to determine those elements on which the application for international protection is based which could not be obtained otherwise, in particular when there is a risk of absconding of the applicant;
- (c) when it is ascertained on the basis of objective criteria, including that he or she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of a return decision, if it is probable that the enforcement of such a measure can be effected;
- (d) when he or she constitutes a danger for national security or public order;
- (e) when there is a serious risk of absconding of the applicant, in order to ensure the enforcement of a transfer decision according to the Dublin III Regulation.

For the establishment of a risk of absconding for the purposes of detaining asylum seekers on grounds (b) and (e), the law makes reference to the definition of “risk of absconding” in pre-removal detention.<sup>675</sup> This provision includes a non-exhaustive list of objective criteria which may be used as a basis for determining the existence of such a risk, namely where a person:<sup>676</sup>

<sup>671</sup> This is the case where a person has asked for asylum while already in detention (and is then subject to Dublin III Regulation usually because a family member has been residing as an asylum seeker in another member-state). On the contrary, this does not mean that if a person submits an asylum application for which another Member State is responsible under Dublin III Regulation will then be detained in order for the transfer to successfully take place.

<sup>672</sup> Article 46(1) L 4375/2016.

<sup>673</sup> Article 46(2) L 4375/2016.

<sup>674</sup> Article 46(2) L 4375/2016.

<sup>675</sup> Article 18(g) L 3907/2011, cited by Article 46(2)(b) and (e) L 4375/2016.

<sup>676</sup> Article 18(g)(a)-(h) L 3907/2011.



- ❖ Does not comply with an obligation of voluntary departure;
- ❖ Has explicitly declared that he or she will not comply with the return decision;
- ❖ Is in possession of forged documents;
- ❖ Has provided false information to the authorities;
- ❖ Has been convicted of a criminal offence or is undergoing prosecution, or there are serious indications that he or she has or will commit a criminal offence;
- ❖ Does not possess travel documents or other identity documents;
- ❖ Has previously absconded; and
- ❖ Does not comply with an entry ban.

Article 46(2) L 4375/2016 also provides that such a detention measure should be applied exceptionally, after an individual assessment and only as a measure of last resort where no alternative measures can be applied. A new detention order should be also issued by the competent police authority,<sup>677</sup> which must be fully and duly motivated.<sup>678</sup> With the exception of the “public order” ground, the detention order is issued following a recommendation (*εισήγηση*) by the Head of the Asylum Service. However, the final decision on the detention lies with the Police.

The Asylum Service made 21,492 recommendations in 2018, of which 8,355 recommended the prolongation of detention and 13,587 advised against detention.<sup>679</sup>

### 1.1.1. Detention of asylum seekers applying at liberty

As mentioned above, pursuant to the provisions of Article 46(2) L 4375/2016, Greek law allows the detention of an asylum seeker only where the person in question submits an asylum application while already in detention in view of removal, i.e. based on a deportation or a return decision. Moreover, the detention of an asylum seeker cannot be ordered based on L 3907/2011 transposing the Returns Directive or L 3386/2005 which refers to the deportation of irregularly staying third-country nationals to their country of origin, as these legal frameworks are not applied to asylum seekers.

However, asylum seekers who have applied for asylum at liberty in one of the Eastern Aegean islands and are subject to a geographical restriction are detained as a rule if arrested outside the assigned island in order to be transferred back in that island. In these cases, a detention order is 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 is unlawfully issued based on L 3907/2011 and/or L 3386/2005. In a case supported by GCR, the Administrative Court of Piraeus confirmed that the detention of a Syrian asylum seeker in **Tavros** for the purpose of transfer back to **Chios** on the basis of Article 30 L 3907/2011 was “not lawful” as long as his application was still pending, and ordered the release of the applicant.<sup>680</sup>

The discrepancy between the data on asylum seekers detained in 2018 provided by the Hellenic Police (18,204) and those provided by the Asylum Service (7,200) may also indicate a misinterpretation of said provision.

### 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

<sup>677</sup> That is the Aliens Division Police Director of Attica or Thessaloniki in cases falling under the competence of the two General Police Directorates, or the relevant Police Director in other cases: Article 46(3) L 4375/2016.

<sup>678</sup> Article 46(3) L 4375/2016.

<sup>679</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>680</sup> Administrative Court of Piraeus, Decision AP 59/2018.

relevant legal obligation imposed by the law.<sup>681</sup> The 2017 findings the Greek Ombudsman remain valid:

“Administrative detention is not imposed as an exceptional measure, but as the norm, without examining alternative, less onerous, measures... It is in fact imposed as a general measure, without always being preceded by individual assessment.”<sup>682</sup>

This is of particular concern with regard to the proper application of the lawful detention grounds provided by national legislation, as the particular circumstances of each case 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 on numerous occasions unjustified manner, both in the framework of pre-removal detention and detention of asylum seekers.<sup>683</sup> This continues to be the case. Beyond the fact that detention on public order grounds is not covered by the Return Directive,<sup>684</sup> and thus the relevant Greek provision on pre-removal detention – Article 30(1)(c) L 3907/2011 – is an incorrect transposition of the EU law in this respect, for both detainees subject to removal and asylum seekers, detention on public order grounds is usually not properly justified.

The authorities issue detention orders without prior examination of whether the “applicant’s individual conduct represents a genuine, present and sufficiently serious threat”, in line with the case of law of the Council of State and the CJEU.<sup>685</sup> This is particularly the case where these grounds are based solely on a prior prosecution for a minor offence, even if no conviction has ensued, or in cases where the person has been released by the competent Criminal Court after the suspension of custodial sentences. The Ombudsman has once again criticised this practice.<sup>686</sup>

In addition, detention on national security or public order grounds has been also ordered for reasons of irregular entry into the territory, contrary to Article 31 of the Refugee Convention and the prohibition on detaining asylum seekers on account of their irregular entry or presence under Article 46(1) L 4375/2016.<sup>687</sup> In the same vein, in a case supported by GCR, the Administrative Court of Corinth accepted objections against the detention of an Iranian citizen who was administratively detained on public order grounds after his 7-month conviction with a suspension of 3 years ordered by the competent Criminal Court, for his attempt to exit Greece illegally by making use of forged passport. The Administrative Court of Corinth ordered release and ruled that “the public order grounds of his administrative detention are not considered imperative, given the nature and the gravity of the offences in respect of which the above conviction was issued”.<sup>688</sup>

Moreover, as the Ombudsman has highlighted on the practice of imposing detention on public order grounds solely based on a prior conviction by which custodial measures have been suspended, the mere suspensive effect of the sentence granted by the competent Criminal Court proves that the person

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<sup>681</sup> GCR, *The implementation of Alternatives to Detention in Greece*, December 2015, available at: <https://goo.gl/bynXlh>.

<sup>682</sup> Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, April 2017, 57.

<sup>683</sup> Ombudsman, *Return of third-country nationals*, Special Report 2017, available at: <https://bit.ly/2WSdhxb>, 17.

<sup>684</sup> European Commission, *Return Handbook*, 27 September 2017, available at: <http://bit.ly/2nITCQ>, 78-79.

<sup>685</sup> CJEU, Case C-601/15 PPU *J.N.*, Judgment of 15 February 2016, paras 65-67. See e.g. Council of State, Decisions 427/2009, 1127/2009 and 2414/2008, which highlight that a mere reference to a criminal conviction does not suffice for the determination of a threat to national security or public order.

<sup>686</sup> Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, April 2017, 59.

<sup>687</sup> See e.g. Administrative Court of Athens, Decision 71/2018.

<sup>688</sup> Administrative Court of Corinth, Decision Π2265/2018.

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>689</sup>

### **Detention of applicants considered to apply merely in order to delay or frustrate return**

The June 2016 Police Circular on the implementation of the EU-Turkey Statement provides that, for applicants subject to the EU-Turkey statement who lodge their application while already in detention,

“[T]he Regional Asylum Offices will recommend the continuation of detention on the ground that: ‘there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision, in accordance with art. 46(2)(c) L. 4375/2016 in view of his or her likely immediate readmission to Turkey.’”<sup>690</sup>

In practice, this exact wording is invoked in a significant number of detention orders to applicants subject to the EU-Turkey statement, following a relevant recommendation of the Asylum Service, despite the fact that Article 46(2)(c) L 4375/2016 requires the authorities to “substantiate on the basis of objective criteria... that there are reasonable grounds to believe” that the application is submitted “merely in order to delay or frustrate the enforcement of the return decision”. Neither the detention order nor the Asylum Service recommendation are properly justified, as they merely repeat part of the relevant legal provision, while no objective criteria or reasonable grounds are invoked or at least deduced from individual circumstances.

It should be also noted that, as stated in [General](#), since a number of persons are immediately detained upon arrival under the “pilot project” / “low-profile scheme”, it is clear that these asylum seekers have not “already had the opportunity to access the asylum procedure” while at liberty, as required by the law.

## **1.2. Detention without legal basis or *de facto* detention**

Apart from detention of asylum seekers under L 4375/2016 and pre-removal detention under L 3386/2005 and L 3907/2011, detention without legal basis in national law or *de facto* detention measures may be applied for immigration purposes. These cases include the following:

### **1.2.1. Detention pending transfer to RIC**

According to Article 14(1) L 4375/2016, newly arrived persons “shall be directly led, under the responsibility of the police or port authorities ... to a Reception and Identification Centre.” However as already noted in 2016,<sup>691</sup> due to an increase in the arrivals at the Greek-Turkish land border in **Evros**, delays occur in the transfer of the newly arrived to the RIC of Fylakio, ranging from a few days to periods exceeding one month depending on the flows. During this waiting period, prior to their referral to the RIC of Fylakio, newly arrived persons remain detained in a pre-removal detention centre under a decision issued by the police, despite the lack of legal basis for such detention. Their detention is imposed “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 stated in the relevant detention order.<sup>692</sup>

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<sup>689</sup> GCR, *2018 Detention Report*, forthcoming.

<sup>690</sup> Directorate of the Hellenic Police no 1604/16/1195968/18-6-2016, “Διαχείριση παράτυπων αλλοδαπών στα Κέντρα Υποδοχής και Ταυτοποίησης, διαδικασίες Ασύλου, υλοποίηση Κοινής Δήλωσης ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 (πραγματοποίηση επανεισδοχών στην Τουρκία)”, available in Greek at: <http://bit.ly/2ngIEj6>.

<sup>691</sup> UNHCR, *Greece Factsheet 1 – 31 December 2016*, available at: <http://bit.ly/2lqUI6z>.

<sup>692</sup> GCR, *Borderline of Despair: First-line reception of asylum seekers at the Greek borders*, May 2018, 10.

In October 2017, following a number of cases referred by GCR, the Greek Ombudsman mentioned that pursuant to national legislation detention measures can only be ordered after and not prior to the [Reception and Identification Procedure](#) and request the competent authorities to clarify on which legal basis they order detention before transfer to the RIC.<sup>693</sup>

However, this practice continued throughout 2018, coupled with the rise (15,154) in arrests for undocumented entry on the northern land border with Turkey.<sup>694</sup> In two relevant cases supported by GCR in 2018, concerning an Iraqi and a Palestinian asylum seeker respectively, the Administrative Court of Komotini ordered the transfer of the detainees from the pre-removal detention centre of Xanthi to the RIC of Fylakio within 5 days, to undergo the reception and identification procedure; failing this, the asylum seekers should immediately be released.<sup>695</sup>

### 1.2.2. *De facto* detention in RIC

Newly arrived persons transferred to a RIC are subject to a 3-day “restriction of liberty within the premises of the Reception and Identification Centres” (*περιορισμός της ελευθερίας εντός του κέντρου*), which can be further extended by a maximum of 25 days if reception and identification procedures have not been completed.<sup>696</sup> This restriction of freedom entails “the prohibition to leave the Centre and the obligation to remain in it.”<sup>697</sup> Taking into consideration the fact that according to the law the persons should remain restricted within the premises of the RIC and are not allowed to leave, the measure provided by Article 14 L 4375/2016 is a *de facto* detention measure, even if it is not classified as such under Greek law.<sup>698</sup> No legal remedy is provided in national law to challenge this “restriction of freedom” measure during the initial 3-day period.<sup>699</sup> Furthermore, the initial measure is imposed automatically, as the law does not foresee an obligation to carry out an individual assessment.<sup>700</sup> This measure is also applied to asylum seekers who may remain in the premises of RIC for a total period of 25 days even after lodging an application.<sup>701</sup>

In practice, following criticism by national and international organisations and bodies, as well as due to the limited capacity to maintain and run closed facilities on the islands with high numbers of people,<sup>702</sup> the “restriction of freedom” within the RIC premises is not applied as a *de facto* detention measure in RIC facilities on the islands. There, newly arrived persons are allowed to exit the RIC facility. However, according to GCR’s experience, for those subject to a “restriction of freedom” in the RIC of **Fylakio**, the measure is applied as *de facto* detention for the maximum period of 25 days. No official data are available on the capacity and occupancy of Fylakio in 2018. As far as GCR is aware, the capacity of the facility is 240 places. In August 2018, 264 persons were reported to be in the RIC of Fylakio.<sup>703</sup> This is also the case to a certain extent for newly arrived persons in Lesvos and Leros RIC (see [Reception and Identification Procedure](#)).

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<sup>693</sup> Ombudsman, Document No 235580/46773/2017, 25 October 2017 “Detention in Pre-Removals Centers of Eastern Macedonia-Thrace before referral to RIC”.

<sup>694</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>695</sup> Administrative Court of Komotini, Decisions 240/2018 and 241/2018.

<sup>696</sup> Article 14(2) L 4375/2016.

<sup>697</sup> Article 14(3) L 4375/2016.

<sup>698</sup> See to that effect ECtHR, *Ilias and Ahmed v. Hungary*, Application No 47287/15, Judgment of 14 March 2017, para 66.

<sup>699</sup> Article 14(4) L 4375/2016.

<sup>700</sup> Article 14(2) L 4375/2016.

<sup>701</sup> Article 14(7) L 4375/2016. See also The Greens/EFA, *The EU-Turkey statement and the Greek hotspots: A failed European pilot project in refugee policy*, June 2018, available at: <https://bit.ly/2sJM2H4>, 16.

<sup>702</sup> UNHCR, *Explanatory Memorandum to UNHCR’s Submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, 10.

<sup>703</sup> UNHCR et al., *Greece – SMS WG-Site Profiles*, August-September 2018, available at: <https://bit.ly/2UixMNj>, 31.

Moreover, unaccompanied children may remain in the RIC for a period exceeding the maximum period of 25 days under the pretext of “protective custody”, while waiting for a place in a reception facility to be made available. In two cases followed by GCR in 2018, two unaccompanied children from Pakistan remained in “protective custody” for 5 months in the RIC of Fylakio, reached adulthood while in “protective custody” and were later transferred as adults to the pre-removal detention centre of **Paranesti** for further detention.<sup>704</sup>

### 1.2.3. *De facto* detention in transit zones

A regime of *de facto* detention also applies in the case of persons entering the Greek territory from the **Athens International Airport** – usually through a transit flight – without a valid entry authorisation. These persons receive an entry ban to the Greek territory and are then arrested and held in order to be returned on the next available flight. Persons temporarily held while waiting for their departure are not systematically recorded in a register.<sup>705</sup> In case the person express the intention to apply for asylum, then the person is detained at the holding facility of the Police Directorate of the Athens Airport, next to the airport building, and after the full registration the application is examined under the **Border Procedure**. As provided by the law, where no decision is taken within 28 days, the person is allowed to enter the Greek territory for the application to be examined according to the **Regular Procedure**.<sup>706</sup>

However, despite the fact that national legislation provides that rights and guarantees provided by national legislation *inter alia* on the detention of asylum seekers should also be enjoyed by applicants who submit an application in a transit zone or at an airport,<sup>707</sup> no detention decision is issued for those applicants who submit an application after entering the country from the Athens International Airport without a valid entry authorisation. These persons remain *de facto* detained at the Athens Airport Police Directorate for a period up to 28 days from the full registration of the application. According to the police authorities the persons held there are considered under “supervision” and not detention.<sup>708</sup>

### 1.2.4. Detention in the case of alleged push backs

As mentioned in **Access to the Territory**, throughout 2018, cases of alleged push backs at the Greek-Turkish land border have continued to be systematically reported. As it emerges from these allegations, there is a pattern of *de facto* detention of third-country nationals entering the Evros land border before allegedly being pushed back to Turkey. In particular, as reported, newly arrived persons are arbitrarily arrested without being formally registered and then *de facto* detained in police stations close to the borders. Similar incidents are reported in more recent reports by UNHCR and the Council of Europe.<sup>709</sup>

In February 2018, GCR published a report with dozens of testimonies of persons who claimed to have been pushed back to Turkey, after crossing into the Greek territory and being detained in unknown facilities for several hours.<sup>710</sup> NGOs continued receiving complaints and reports of constant and systematic push backs. In December 2018, GCR, Arsis and HumanRights360 published another report containing 39 testimonies of people who attempted to enter Greece from the Evros border with Turkey and were subjected to illegal detention and push backs:

<sup>704</sup> GCR, *2018 Detention Report*, forthcoming.

<sup>705</sup> CPT, *Report to the Greek Government on the visits to Greece carried out by CPT*, CPT/Inf (2017) 25, 26 September 2017, available at: <http://bit.ly/2Fktu5U>, para 59.

<sup>706</sup> Article 60(2) L 4375/2016.

<sup>707</sup> Article 60(1) L 4375/2016.

<sup>708</sup> Athens Airport Police Directorate, Doc. No 4888/3/581/350, 20 March 2017.

<sup>709</sup> ECRE, *Access to protection in Europe: Border controls and entry into the territory*, October 2018, available at: <https://www.asylumineurope.org/2018-ii>, 16; UNHCR, *Desperate Journeys: Refugees and migrants arriving in Europe and at Europe's borders*, January-August 2018, available at: <https://bit.ly/2O1NSj8>, 17-18; CPT, *Preliminary observations made by the CPT which visited Greece from 10 to 19 April 2018*, CPT/Inf (2018) 20, 1 June 2018, available at: <https://rm.coe.int/16808afaf6>, para 24.

<sup>710</sup> GCR, *Reports of systematic push-backs in the Evros region*, February 2018, available at: <https://bit.ly/2WVZyFR>.



“H.A., 17 years old, unaccompanied minor, Afghani citizen. ‘The first time I crossed into Greece, around 19.00 in the evening, I was in a group of 20-30 people. We were caught by the police in Didimoticho and they took everything we had, clothes, bags, mobile phones. They were wearing police uniforms. They transferred us to a police station and when it got dark they put us at the back of a truck, drove us to the border, put us in an inflatable boat and pushed us back to Turkey.’

M.S. 19 years old, Afghani citizen: ‘On the night I entered Greece, along with 15 more Afghani and Pakistani citizens, I was arrested by men in green clothes, of military resemblance, with concealed insignia. During the arrest we were beaten up and moved to a remote, abandoned detention space. We spent a few hours there and then we were pushed back to Turkey crossing the river in inflatable boats. A few hours after arriving in Turkey we were arrested by the Turkish police.’

A.K., 29 years old, Syrian citizen: ‘We were 70 people when we crossed into Greece. We spent a long time on the road next to a village. The police caught us. 6 of them were wearing blue uniforms like the ones worn by at the RIC, but there were 20 more people with their faces covered, and 2 people in civilian clothing. Some people were nice to us, and when we asked for help they told us they can’t help us and that they were following orders. One of them said to us that it was Merkel’s orders. They kept us hidden from 11.00 when we entered Greece, until 19.00. They didn’t take us to a police station. They didn’t give us any food. They didn’t even let us go to the toilet in the woods. They refused to call a doctor when we asked for one, as there were people in the group who were ill. There was some rubbish lying around, and some of the policemen took used bottles, and filled them with water to give to us. I tried to help an elderly woman that had a problem with her foot, but a policeman hit us both. When it got dark they put us in a van and drove us to the river. They took all of our clothes, it was terrible. The men were left with our underwear, the women with underwear and t-shirts. It was degrading. They took all of our belongings except for our passports and IDs. They burned our things once we were sent back, we could see it from a distance, electronics, clothes, food. A few days later I called my phone and it rang. I don’t know what they did with it. They pushed us back on boats they were driving themselves.’<sup>711</sup>

No proper official investigation has been launched following these allegations; the authorities deny the allegations.<sup>712</sup> An *ex officio* investigation with regard to the cases of alleged push backs was launched by the Greek Ombudsman in June 2017, but has not yet delivered its results.<sup>713</sup>

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<sup>711</sup> GCR, Arsis and HumanRights360, *The new normality: Continuous push-backs of third country nationals on the Evros river*, December 2018, available at: <https://bit.ly/2DsFj9S>.

<sup>712</sup> See e.g. Directorate of the Hellenic Police, Reply to parliamentary question No 6274, No 7017/4/ 20967-γ’, 2 July 2017, available in Greek at: <http://bit.ly/2EHVp2l>.

<sup>713</sup> Ombudsman, Decision No 105, 9 June 2017, available in Greek at: <http://bit.ly/2ofLt6p>.



## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?  
 Reporting duties  
 Surrendering documents  
 Financial guarantee  
 Residence restrictions
2. Are alternatives to detention used in practice?  
 Yes  No

Article 46(2) L 4375/2016 requires authorities to examine and apply alternatives to detention before resorting to detention of an asylum seeker. A non-exhaustive list of alternatives to detention provided by national legislation, both for third-country nationals under removal procedures and asylum seekers, is mentioned in Article 22(3) L 3907/2011. Regular reporting to the authorities and an obligation to reside at a specific area are included on this list. The possibility of a financial guarantee as an alternative to detention is also foreseen in the law, provided that a Joint Decision of the Minister of Finance and the Minister of Public Order will be issued with regard to the determination of the amount of such financial guarantee.<sup>714</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.<sup>715</sup>

When issuing recommendations on the continuation or termination of detention of an asylum seeker,<sup>716</sup> the Asylum Service tends to use standardised recommendations, stating that detention should be prolonged “if it is judged that alternative measures may not apply”. Thus, the Asylum Service does not proceed to any assessment and it is for the Police to decide on the implementation of alternatives to detention.

The implementation of alternatives to detention in line with national law “in order to render detention the exception, as stipulated in the law” has also been one of the key recommendation of the Ombudsman, who found in 2017 that administrative detention “is not imposed as an exceptional measure, but as the norm, without examining alternative, less onerous, measures.”<sup>717</sup>

### The geographical restriction on the islands

As regards the “geographical restriction” on the islands, i.e. the obligation to remain on the island of arrival, imposed systematically to newly arrived persons subject to the EU-Turkey statement (see [General](#)), after the initial issuance of a detention order, the legal nature of the measure has to be assessed by taking into account the “concrete situation” of the persons and “a whole range of criteria such as the type, duration, effects and manner of implementation of the measure.”<sup>718</sup> In any event, it should be mentioned that the measure is:

- (a) Not examined and applied before ordering detention;<sup>719</sup>
- (b) Not limited to cases where a detention ground exists;<sup>720</sup>

<sup>714</sup> Article 22(3) L 3907/2011.

<sup>715</sup> Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, 24 April 2017, para 48.

<sup>716</sup> Article 46(3) L 4375/2016.

<sup>717</sup> Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, April 2017, 59.

<sup>718</sup> See *inter alia* ECtHR, *Guzzardi v. Italy*, Application No 7367/76, Judgment of 6 November 1980, para 92-93.  
<sup>719</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”.

- (c) Applied indiscriminately, without a proportionality test, for an indefinite period (without a maximum time limit to be provided by law) and without an effective legal remedy to be in place.

As it has been observed, a national practice systematically imposing an alternative to detention “would suggest that the system is arbitrary and not tailored to the individual circumstances” of the persons concerned.<sup>721</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. The lawfulness of this practice is dubious given the prohibition on detaining asylum seekers who are at liberty. Furthermore, 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 46 L 4375/2016, as amended in 2018, women should be detained separately from men, the privacy of families in detention should be duly respected,<sup>722</sup> and the detention of minors should be a last resort measure and be carried out separately from adults and guaranteeing access to leisure activities. Moreover, according to the law, “the vulnerability of applicants... shall be taken into account when deciding to detain or to prolong detention.”<sup>723</sup>

More generally, Greek authorities have the positive obligation to provide special care to applicants belonging to vulnerable groups (see [Special Reception Needs](#)).<sup>724</sup> However, persons belonging to vulnerable groups are detained in practice, without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order. In 2018, GCR has supported various cases of vulnerable persons in detention whose vulnerability had not been taken into account. These include:<sup>725</sup>

- An Afghan citizen suffering from psychosis, who was detained in a police station immediately after his release from a psychiatric hospital without being given access to his medicine during the first two days due to administrative shortcomings. He was released after a two-month detention period following an order of the Administrative Court of Athens;<sup>726</sup>
- A woman from Pakistan suffering from PTSD who was detained for one month in a pre-removal centre;

<sup>720</sup> FRA, *Fundamental rights: challenges and achievements in 2012*, available at: <http://bit.ly/2EHr0k7>, 52.

<sup>721</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>722</sup> Article 46(10)(b) L 4375/2016, as amended by Article 10 L 4540/2018.

<sup>723</sup> Article 46(8) L 4375/2016, as amended by Article 10 L 4540/2018.

<sup>724</sup> Article 20 L 4540/2018.

<sup>725</sup> GCR, *2018 Detention report*, forthcoming.

<sup>726</sup> Administrative Court of Athens, Decision 1401/2018.

- An asylum seeker applying for protection on the basis of his sexual orientation, who was detained for 3.5 months in a pre-removal centre together with male adults, constantly expressing fears for his physical integrity;
- A female detainee with HIV who was held in a pre-removal centre for 5 months;
- An Iranian asylum seeker victim of torture who was detained for 1.5 month in a pre-removal centre, without his asylum application being registered, until he was released upon the order of the Administrative Court of Kavala.<sup>727</sup>

### 3.1. Detention of unaccompanied children

Unaccompanied or separated children “as a rule should not be detained”, and their detention is permitted “only in very exceptional cases... as a last resort solution, only to ensure that they are safely referred to appropriate accommodation facilities for minors.”<sup>728</sup> Nevertheless, national legislation does not explicitly prohibit detention of unaccompanied children and the latter is applied in practice. As no best interests determination procedure is provided by Greek law, no assessment of the best interests of the child takes place before or during detention, in contravention of the Convention on the Rights of the Child.<sup>729</sup>

Due to the lack of accommodation facilities or transit facilities for children, detention of unaccompanied children is systematically imposed and may be prolonged for periods ranging from a few days to more than two months, pending their transfer to an accommodation facility.<sup>730</sup> Unaccompanied children are detained in police stations and pre-removal facilities on the mainland (“protective custody”) or in Reception and Identification Centres on the islands in unacceptable conditions.

Despite the announcement by the Minister for Migration Policy that “not a single child would be kept in protective custody” by the end of 2017,<sup>731</sup> the detention of unaccompanied children continues to occur. At the end of 2018, 42 unaccompanied children were held in detention (“protective custody”) in the pre-removal centre of **Amygdaleza**,<sup>732</sup> 44 were detained in police stations and other facilities around Greece, while 701 were in Reception and Identification Centres on the islands.<sup>733</sup> Unaccompanied children are detained either on the basis of the pre-removal or asylum detention provisions, or on the basis of the provisions concerning “protective custody”.<sup>734</sup> The latter is subject to no maximum time limit.

Out of a total 3,741 unaccompanied children estimated in Greece at the end of the year, as many as 1,983 were on a waiting list for long term or temporary accommodation.<sup>735</sup>

The number of unaccompanied children detained on the mainland (“protective custody”) and on the islands (Reception and Identification Centres) between April 2018 and January 2019 has evolved as follows:

<sup>727</sup> Administrative Court of Kavala, Decision 96/2018.

<sup>728</sup> Article 46(10A) L 4375/2016, inserted by Article 10 L 4540/2018.

<sup>729</sup> L 2101/1992, Gov. Gazette A' 192/2-12-1992 has ratified the Convention on the Rights of the Child.

<sup>730</sup> Εφsyn, ‘Πρωτοχρονιά πίσω από τα κάγκελα’, 30 December 2017, available in Greek at: <http://bit.ly/2EQqM83>.

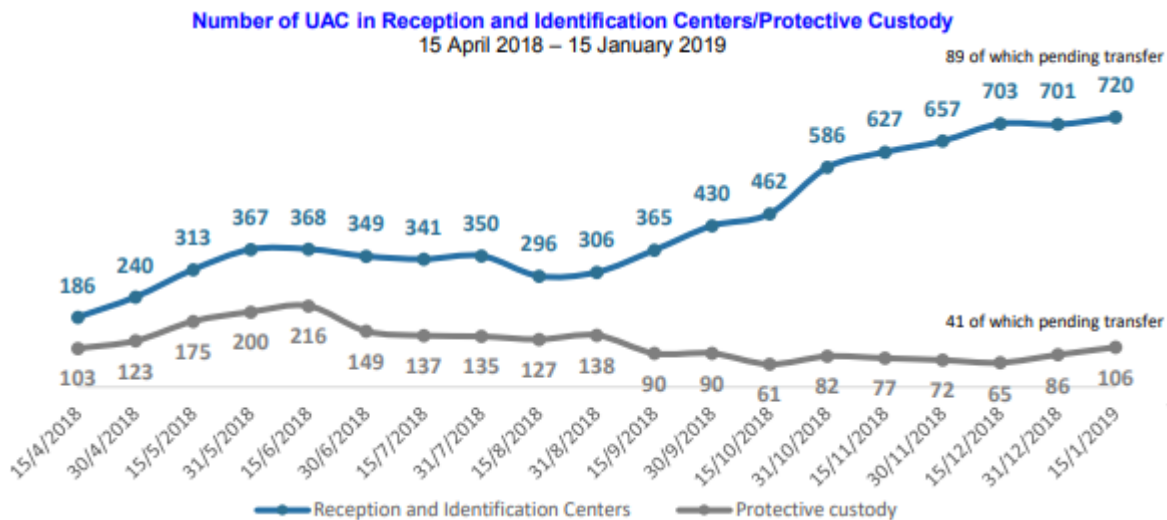
<sup>731</sup> ΑΜΝΑ, ‘Υπ. Μεταναστευτικής Πολιτικής: Ως το τέλος του έτους όλα τα ασυνόδευτα παιδιά σε κατάλληλες δομές’, 2 August 2017, available in Greek at: <http://bit.ly/2wo3hO5>.

<sup>732</sup> Information provided the Directorate of the Hellenic Police, 23 January 2019.

<sup>733</sup> ΕΚΚΑ, *Situation Update: Unaccompanied Children in Greece*, 31 December 2018.

<sup>734</sup> Article 118 PD 141/1991.

<sup>735</sup> ΕΚΚΑ, *Situation update: Unaccompanied children in Greece*, 31 December 2018, available at: <https://bit.ly/2GzqiWR>.



Source: EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 15 January 2019: <https://uni.cf/2GBV69k>.

The UN Special Rapporteur on the human rights of migrants criticised the detention of unaccompanied children following his latest visit to Greece.<sup>736</sup> Similar critiques were levelled in 2018 by the Council of Europe Commissioner for Human Rights and the CPT.<sup>737</sup> More specifically, the CPT’s latest report on Greece contains serious allegations of mistreatment by a minor:

“At Fylakio RIC, an unaccompanied minor held under protective custody in Wing A, alleged that, the night prior to the delegation’s visit, he had been punched and kicked by several police officers as well as being subjected to verbal abuse after he had loudly protested against his confinement inside one of the accommodation containers. His mobile phone had also been confiscated on this occasion. He claimed that this treatment was in retaliation for his escape attempt two days earlier. The review of his records confirmed that he had escaped on 9 April and that he had been brought back to the centre on 10 April 2018. All the other detained persons who were accommodated in the same room had observed the incident. Further, they stated that they had themselves been intimidated and threatened by the police officers that they would all be deprived of food if the minor left his room.”<sup>738</sup>

In February 2019, the ECtHR found the automatic placement of unaccompanied asylum-seeking children under protective custody in police facilities, without taking into consideration the best interests of the child, violated Article 5(1) ECHR.<sup>739</sup>

The ECtHR also ordered Rule 39 interim measures in March 2019 in the GCR-supported case of two unaccompanied girls placed in protective custody in the pre-removal centre of **Tavros** while waiting to be transferred to a shelter, and requested the authorities to immediately transfer the girls to an

<sup>736</sup> Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, 24 April 2017, paras 103-104.

<sup>737</sup> Council of Europe Commissioner for Human Rights, *Report following the visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, available at: <https://bit.ly/2OtLH3R>, paras 29-33; CPT, *Preliminary observations made by the CPT which visited Greece from 10 to 19 April 2018*, CPT/Inf (2018) 20, 1 June 2018, available at: <https://rm.coe.int/16808afaf6>, para 23.

<sup>738</sup> *Ibid*, para 75.

<sup>739</sup> ECtHR, *H.A. and others v. Greece*, Application No 19951/16, Judgment of 28 February 2019, EDAL, available at: <https://bit.ly/2FCoVFP>.

accommodation facility for minors and ensure that their living conditions are in line with Article 3 ECHR.<sup>740</sup>

### Detention following wrong age assessment

Despite the fact that there are currently two Ministerial Decisions outlining age assessment procedures for unaccompanied children (see [Identification](#)), within the scope of the reception and identification procedures,<sup>741</sup> and that of the asylum procedure,<sup>742</sup> no age assessment procedure is provided by the national framework to be applied by the Hellenic Police for minors held in detention. In practice, children under the responsibility of police authorities are 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.<sup>743</sup> 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.

These shortcomings with regard to the age assessment procedure result in a number of children being wrongfully identified and registered as adults, and placed in detention together with adults. The Ombudsman stressed the fact that “unfortunately minors continue to be discovered among the population of adult detainees.”<sup>744</sup> This is corroborated by the findings of GCR, as one case an unaccompanied child from Bangladesh was wrongfully identified as an adult, despite the fact that he held an original birth certificate. He even underwent a chest X-ray which resulted in his being considered as an adult, and was only registered as a minor after GCR’s intervention in favour of the original birth certificate.<sup>745</sup>

On the same topic, following her latest visit in Greece, the Council of Europe Commissioner for Human Rights found that “...the registration of children as adults... is a routine practice in the RICs. She recalls the principles set out in PACE Resolution 1810 (2011), according to which age assessment should be carried out only if there are reasonable doubts about whether a person is a minor. As also stated by the UN Committee on the Rights of the Child in General Comment No. 6 (2005), such assessments should be based on a presumption that the person is a minor, and not based solely on a medical opinion. Furthermore, if a person’s minor status is still uncertain, he or she should be given the benefit of the doubt.”<sup>746</sup>

## 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>747</sup> in particular after the launch of the EU-Turkey statement, families are detained. This is especially the case for families who due to the unacceptable living conditions prevailing on the islands (see [Conditions in Reception Facilities](#)) have left the latter without prior authorisation and are then detained on the mainland, with a view to be transferred back to the islands.

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<sup>740</sup> GCR, ‘Το ΕΔΔΑ χορηγεί ασφαλιστικά μέτρα σε κρατούμενα ασυνόδευτα ανήλικα’, 26 March 2019, available in Greek at: <https://bit.ly/2FADnOT>.

<sup>741</sup> Joint Ministerial Decision 92490/2013 on the Programme for medical examination, psychosocial diagnosis and support and referral of third-country nationals entering without documentation to first reception facilities, Gov. Gazette 2745/B/29-10-2013, available in Greek at: <http://bit.ly/1FI5OVT>.

<sup>742</sup> Joint Ministerial Decision 1982/2016, Verification of minority of applicants for international protection, Gov. Gazette 335/B/16-12-2016, available in Greek at: <http://bit.ly/2kS49Jf>.

<sup>743</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>744</sup> Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, April 2017, 75.

<sup>745</sup> GCR, *2018 Detention Report*, forthcoming.

<sup>746</sup> Council of Europe Commissioner for Human Rights, *Report following the visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, para 30.

<sup>747</sup> See for example ECtHR, *Mahmundi and Others v. Greece*, Application No 14902/10, Judgment of 31 July 2012.

Among others, throughout 2018, GCR has supported cases of single-parent families, families with minor children or families where the one member remained detained.<sup>748</sup>

#### 4. Duration of detention

Indicators: Duration of Detention		
1. What is the maximum detention period set in the law (incl. extensions):		
❖ Asylum detention		3 months
❖ Pre-removal detention		18 months
❖ "Protective custody"		None
2. In practice, how long in average are asylum seekers detained?		3 months

##### 4.1. Duration of asylum detention

According to Greek legislation, the maximum period allowed for detention of an asylum seeker applying from detention varies according to the applicable detention ground, while special rules govern the detention of unaccompanied children:

- ❖ Applicants detained for (a) verification of identity or nationality; (b) establishment of elements of the claim, where there is a risk of absconding; or (c) for applying for asylum merely to frustrate or delay return proceedings, are initially kept in detention for a maximum period of 45 days. This can be extended by another 45 days if the Asylum Service recommendation on detention is not withdrawn (see [Grounds for Detention](#));<sup>749</sup>
- ❖ Applicants detained for (d) public order reasons or (e) pending a Dublin transfer can remain in detention for a maximum period of 3 months;<sup>750</sup>
- ❖ Unaccompanied asylum seeking children can be detained "for the safe referral to appropriate accommodation facilities" for a period not exceeding 25 days. According to the provision in case of "to exceptional circumstances, such as the significant increase in arrivals of unaccompanied minors, and despite the reasonable efforts by competent authorities, it is not possible to provide for their safe referral to appropriate accommodation facilities", detention may be prolonged for a further 20 days.<sup>751</sup>

In practice, however, 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 spend in detention is *de facto* longer and may exceed 3 months.<sup>752</sup>

GCR has documented detention cases where the asylum application was registered with substantial delay, exceeding two months on certain occasions, such as that of a Pakistani national whose asylum claim was registered after four months or the case of an Afghan national held in a pre-removal centre since the beginning of March 2018, whose asylum application was registered with a two-month delay

<sup>748</sup> GCR, *2018 Detention Report*, forthcoming.

<sup>749</sup> Article 46(4)(b) L 4375/2016, citing Article 46(2)(a), (b) and (c).

<sup>750</sup> Article 46(4)(c) L 4375/2016, citing Article 46(2)(d) and (e).

<sup>751</sup> Article 46(10A) L 4375/2016, inserted by Article 10 L 4540/2018.

<sup>752</sup> UNHCR, *Explanatory Memorandum to UNHCR's Submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, 10.



and who was then detained for another three months as an asylum seeker. When he was released in mid-August 2018, he had been in detention for five consecutive months.<sup>753</sup>

Beyond setting out maximum time limits, the law has provided further guarantees with regard to the detention period. Thus detention “shall be imposed for the minimum necessary period of time” and “delays in administrative procedures that cannot be attributed to the applicant shall not justify the prolongation of detention.”<sup>754</sup> Moreover, as the law provides “the detention of an applicant constitutes a reason for the acceleration of the asylum procedure, taking into account possible shortages in adequate premises and the difficulties in ensuring decent living conditions for detainees”. However, GCR has documented cases where the procedure is not carried out with due diligence and detention is prolonged precisely because of the delays of the administration. This is also the case where the examination of the appeal is scheduled on a date after the expiry of the maximum time limit. In a case supported by GCR, the date of examination of the appeal of a detainee was scheduled almost one month after the expiry of the three-month time limit of detention. The Administrative Court of Kavala ordered his immediate release, stating that the prolongation of detention was unlawful.<sup>755</sup>

Finally, it should be mentioned that time limits governing the detention of asylum seekers differ from those provided for the detention of third-country nationals in view of removal. In relation to pre-removal detention, national legislation transposing the Returns Directive provides a maximum detention period that cannot exceed 6 months,<sup>756</sup> with the possibility of an exceptional extension not exceeding twelve 12 months, in cases of lack of cooperation by the third-country national concerned, or delays in obtaining the necessary documentation from third countries.<sup>757</sup>

## 4.2. Duration of protective custody

Unaccompanied children are detained either on the basis of the pre-removal or asylum detention provisions, or on the basis of the provisions concerning “protective custody”.<sup>758</sup> The latter is subject to no maximum time limit.

According to data provided by EKKKA, the average waiting period of unaccompanied children under protective custody in pre-removal facilities and police stations in 2018 was 14.52 days. In cases of unaccompanied children remaining in RIC facilities, the general average waiting period was 57.42 days, and 55.92 days specifically for RIC located on the Eastern Aegean islands.<sup>759</sup>

However, it should be mentioned that the aforementioned figures refer to an average detention period. In a number of cases reported in 2018, unaccompanied children remained in detention for significantly longer periods while waiting their transfer. GCR and other civil society organisations have found unaccompanied minors detained in police facilities for periods between 1 and 3 months.<sup>760</sup> Moreover, unaccompanied children in RIC remain there under “protective custody” for extended periods.<sup>761</sup>

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<sup>753</sup> GCR, *2018 Detention Report*, forthcoming.

<sup>754</sup> Article 46(4)(a) L 4375/2016.

<sup>755</sup> Administrative Court of Kavala, Decision 407/2018.

<sup>756</sup> Article 30(5) L 3907/2011.

<sup>757</sup> Article 30(6) L 3907/2011.

<sup>758</sup> Article 118 PD 141/1991.

<sup>759</sup> Information provided by EKKKA, February 2019.

<sup>760</sup> Efsyn, ‘«Μας είναι οδυνηρό να στέλνουμε 30-90 μέρες στη φυλακή τα ασυνόδευτα προσφυγόπουλα»’, 1 November 2018, available in Greek at: <https://bit.ly/2Osmys7>.

<sup>761</sup> UNHCR, *Factsheet: Greece*, December 2018, available at: <https://bit.ly/2t6YKQD>.

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?  Yes  No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?  Yes  No

#### 1.1. Pre-removal detention centres

According to Article 46(9) L 4375/2016, asylum seekers are detained in detention areas as provided in Article 31 L 3907/2011, which refers to pre-removal detention centres established in accordance with the provisions of the Returns Directive. Therefore asylum seekers are also detained in pre-removal detention centres together with third-country nationals under removal procedures. Despite the fact that pre-removal detention centres have been operating since 2012, they were officially established through Joint Ministerial Decisions in January 2015.<sup>762</sup>

Eight pre-removal detention centres were active at the end of 2018. The total pre-removal detention capacity is 6,417 places. A ninth pre-removal centre has been legally established on **Samos** but is not operational as of March 2019. 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			
Centre	Region	Establishing act	Capacity
Amygdaleza	Attica	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	2,000
Tavros (Petrou Ralli)	Attica	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	340
Corinth	Peloponnese	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	1,536
Paranesti, Drama	Thrace	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	977
Xanthi	Thrace	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	480
Fylakio, Orestiada	Thrace	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	374
Lesvos	Eastern Aegean	JMD 8038/23/22-ιγ', Gov. Gazette B' 118/21.1.2015; JMD 8038/23/22-να', Gov. Gazette B' 2952/31.12.2015	210
Kos	Dodecanese	JMD 8038/23/22-ξε, Gov. Gazette B' 332/7.2.2017; JMD 8038/23/22-οε', Gov. Gazette B' 4617/28.12.2017	500
Samos	Eastern Aegean	JMD 3406/2017, Gov. Gazette B' 2190/27.6.2017 (not yet operational)	300
<b>Total</b>			<b>6,417</b>

Source: Directorate of the Hellenic Police, 23 January 2019.

The functioning of these pre-removal facilities has been prolonged until 31 December 2022 under a

<sup>762</sup> Joint Ministerial Decision 8038/23/22-ιγ on the creation and functioning of Pre-removal Centres of Detention of Foreigners, and their regulations, Gov. Gazette 118/B/21-1-2015, available at: <http://bit.ly/2kTWzKX>.

Joint Ministerial Decision issued at the end of 2018.<sup>763</sup> According to this Decision, the estimated budgeted for the functioning of the pre-removal detention centres is 80,799,488 €.

## 1.2. Police stations

Apart from the aforementioned pre-removal facilities, and despite commitments from the Greek authorities to phase out such practices, third-country nationals including asylum seekers and unaccompanied children are also detained in police stations and special holding facilities during 2018. As confirmed by the Directorate of the Hellenic Police, there were 835 persons in administrative detention in at the end of 2018 in facilities other than pre-removal centres, of whom 196 were asylum seekers.<sup>764</sup>

As mentioned in [General](#), a breakdown of persons in detention in the police stations is only available for the Eastern Aegean islands. According to these statistics, as of the end of 2018 there were 41 persons detained in police stations on the islands, of whom 15 on **Chios**, 9 on **Samos**, 8 on **Leros** and 9 on **Rhodes**.<sup>765</sup>

As stated in [Grounds for Detention](#), detention is also *de facto* applied in the RIC of **Fylakio**.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

1. Do detainees have access to health care in practice?  Yes  Limited  No  
❖ If yes, is it limited to emergency health care?<sup>766</sup>  Yes  No

The law sets out certain special guarantees on detention conditions for asylum seekers. Notably, detainees must be provided with necessary medical care, and their right to legal representation should be guaranteed.<sup>767</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>768</sup>

However, as it has been consistently reported by a range of actors, detention conditions for third-country nationals, including asylum seekers, do not meet the basic standards in Greece.

The Decision adopted by the Council of Europe Committee of Ministers in June 2017 within the framework of the execution of the *M.S.S. v. Belgium and Greece* judgment invited the Greek authorities “to improve conditions of detention in *all* detention facilities where irregular migrants and asylum seekers are detained, including by providing adequate health-care services.”<sup>769</sup>

In February 2019, the latest CPT report on Greece was released, stating that “[c]onditions of detention in most police and border guard stations visited remain unsuitable for holding persons for periods exceeding 24 hours, and yet they were still being used to detain irregular migrants for prolonged periods.” Moreover, CPT was particularly critical of detention conditions in **Lesvos** and **Fylakio** and the

<sup>763</sup> Joint Ministerial Decision 8038/23/22-πζ/, Gov. Gazette B' 5906/31.12.2018.

<sup>764</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>765</sup> National Coordination Centre for Border Control, Immigration and Asylum, *National situational picture regarding the Eastern Aegean islands*, 31 December 2018, available at: <https://bit.ly/2tiE6gB>.

<sup>766</sup> Medical doctors, when available, are not daily present in all centres. However, in case of emergency, detainees are transferred to public hospitals.

<sup>767</sup> Article 46(10)(d) and (e), and (10A) L 4375/2016.

<sup>768</sup> Article 46(8) L 4375/2016.

<sup>769</sup> Council of Europe Committee of Ministers, *1288<sup>th</sup> meeting – H46-15 M.S.S. and Rahimi groups v. Greece (Application No. 30696/09)*, CM/Del/Dec(2017)1288/H46-15, 7 June 2017, available at: <http://bit.ly/2Etw8Fv>.

inadequate health care services in most of the detention facilities visited.<sup>770</sup> These findings demonstrate the fact that recommendations made by monitoring bodies and international organisations are not properly implemented.

## 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>771</sup> Women and men shall be detained separately,<sup>772</sup> unaccompanied children shall be held separately from adults,<sup>773</sup> and families shall be held together to ensure family unity.<sup>774</sup> Moreover, the possibility to engage in leisure activities shall be granted to children.<sup>775</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.<sup>776</sup>

In **Fylakio** and **Lesvos** (Moria) and to a lesser extent also at the centres in **Amygdaleza** and **Kos** (Pyli), the CPT gained the impression that the design of the establishments was far too carceral. In **Lesvos** and **Kos**, rolls of razor blade wire were omnipresent, as were high wire-mesh fences which sometimes ran in several lines. Further, the cells in the centre in **Fylakio** gave a prison-like atmosphere.<sup>777</sup>

**Tavros (Petrou Ralli):** The CPT has long held that this facility is not suitable for extended detention due to its “totally inappropriate carceral design”,<sup>778</sup> and that “the conditions of detention in Petrou Ralli... were totally inadequate for holding irregular migrants for short periods of time, let alone for weeks or months. The findings of the July 2016 visit indicate that the situation has not improved”.<sup>779</sup> The situation has not improved in 2018 and Tavros remains in use.

**Amygdaleza:** Detainees can have prolonged access to yarding. However, the 2017 recommendation of the Ombudsman for the reduction of the number of detainees per container from eight to four, due to poor hygiene conditions,<sup>780</sup> has not implemented. No leisure or education activities are offered, while detainees usually complain about shortages in hygiene and non-food items. Moreover, despite the fact that a playground exists in Amygdaleza, as far as GCR is aware, families with children and unaccompanied children do not have access to it.<sup>781</sup>

**Corinth:** People are detained in communal dormitories, each measuring about 33-35m<sup>2</sup>, and equipped with six sets of bunk beds and a sanitary annex. 12 persons are detained in each dormitory so sufficient living space is not provided. The 2015 CPT recommendation for “the dormitories [to] accommodate no

<sup>770</sup> CPT, *Report on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, available at: <https://rm.coe.int/1680930c9a>, 4.

<sup>771</sup> Article 46(10)(b) L 4375/2016, as amended by Article 9 L 4540/2018.

<sup>772</sup> Article 46(10A)(e) L 4375/2016, inserted by Article 10 L 4540/2018.

<sup>773</sup> Article 46(10A)(b) L 4375/2016, inserted by Article 10 L 4540/2018.

<sup>774</sup> Article 46(10A)(d) L 4375/2016, inserted by Article 10 L 4540/2018.

<sup>775</sup> Article 46(10A)(c) L 4375/2016, inserted by Article 10 L 4540/2018.

<sup>776</sup> GCR, *2018 Detention report*, forthcoming.

<sup>777</sup> CPT, *Report on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, para 108.

<sup>778</sup> CPT, *Report on the visit to Greece from 4 to 16 April 2013*, CPT/Inf (2014) 26, 16 October 2014, available at: <https://bit.ly/2EwefrJ>, para 61.

<sup>779</sup> CPT, *Report on the visit to Greece from 14 to 23 April 2015*, CPT/Inf (2016) 4, 1 March 2016, available at: <https://bit.ly/210JTjc>, para 56.

<sup>780</sup> Ombudsman, *Εθνικός Μηχανισμός Πρόληψης των Βασανιστηρίων & της Κακομεταχείρισης - Ετήσια Ειδική Έκθεση OPCAT 2017*, available in Greek at: <https://bit.ly/2DsZMew>, 56.

<sup>781</sup> See also GCR, *2018 Detention report*, forthcoming.

more than four persons and [to be] equipped with tables and chairs and that each person is provided with personal lockable space<sup>782</sup> has not yet been implemented.

**Xanthi:** The state of repair is a matter of concern. Out of twelve toilets in Xanthi, only two were functional as of March 2018.<sup>783</sup> Detainees often complaint about the lack of sufficient hygiene and non-food items, including clothes and shoes, clean mattresses and clean blankets. Similar complaints are expressed in **Paranesti**.

**Fylakio:** The CPT found in 2018 that “[a]t Fylakio Pre-departure Centre, material conditions are unacceptable. In one of the cells, the delegation met 95 foreign nationals, including families with young children, unaccompanied minors, pregnant women and single adult men, who were detained in about 1m<sup>2</sup> of living-space per person. The cell was severely overcrowded (many persons were required to share mattresses), filthy and malodorous. Hygiene was extremely poor, hygiene items were not distributed, and the provisions for children were insufficient. The other cells showed similar poor material conditions. Access to outdoor exercise was only granted for 10 to 20 minutes per day. In the view of the delegation, holding persons for up to months under such appalling conditions might easily amount to inhuman and degrading treatment. These conditions are particularly unsuitable for families with young children, unaccompanied minors and pregnant women, due to their particular vulnerability, and present a risk for their security and safety. On 17 April 2018, shortly after the delegation’s visit, a total of 640 persons were detained at the centre for an over inflated capacity of 374 beds.”<sup>784</sup>

**Lesvos (Moria):** In its preliminary observations following a 2018 visit, the CPT noted that “conditions of detention remain very poor at the centre in Moria; repair works are required and persons are locked in their rooms for around 22 hours per day.”<sup>785</sup>

As far as **Lesvos** and **Fylakio** are concerned, in 2018 the CPT “invoke[d] Article 8, paragraph 5, of the Convention and request[ed] that immediate steps be taken to radically reduce the occupancy level at Fylakio Pre-departure Centre. In addition, all persons held at the establishment should have their own bed; vulnerable persons should immediately be transferred to appropriate open reception facilities. Further, persons held at the pre-departure centres in Fylakio and Moria should benefit from decent material conditions and from an open-door-regime similar to the one observed at the centres in Amygdaleza and Pyli.”<sup>786</sup>

### 2.1.2. Health care in detention

The law states that the authorities shall guarantee access to health care for detained asylum seekers.<sup>787</sup>

In 2017, responsibility for the provision of medical services in pre-removal detention centres was transferred to the Ministry of Health, and in particular the Health Unit SA (*Ανώνυμη Εταιρεία Μονάδων Υγείας*, AEMY), a public limited company under the supervision of Ministry of Health.<sup>788</sup> A vacancy notice was issued in November 2017 *inter alia* for 20 doctors, 9 psychiatrists and 45 nurses to be

<sup>782</sup> CPT, *Report on the visit to Greece from from 14 to 23 April 2015*, CPT/Inf (2016) 4, 1 March 2016, para 113.

<sup>783</sup> See also GCR, *2018 Detention report*, forthcoming.

<sup>784</sup> CPT, *Preliminary observations made by the CPT which visited Greece from 10 to 19 April 2018*, CPT/Inf (2018) 20, 1 June 2018, para 16.

<sup>785</sup> *Ibid.*

<sup>786</sup> *Ibid.*

<sup>787</sup> Article 46(10)(f) L 4375/2016, as amended by Article 9 L 4540/2018.

<sup>788</sup> Article 47(1) L 4461/2017.

hired.<sup>789</sup> As mentioned by the Directorate of the Hellenic Police, the provision of medical services under this scheme has started since mid-January 2018.<sup>790</sup>

However, as the CPT noted in 2018, regarding the provision of health care in pre-removal centres, “the available resources are totally inadequate compared to the needs observed. The number of health-care staff in each of the centres is insufficient. In some centres, there is no doctor and even the most basic medical equipment is lacking. There is also a total lack of effective routine medical screening of new arrivals, including screening for contagious diseases or vulnerabilities. In short, even the most basic health-care needs of detained persons are not being met.”<sup>791</sup>

Official statistics demonstrate that the situation has not evolved in the course of 2018 and that pre-removal centres continue to face substantial medical staff shortage. At the end of 2018, out of the total 20 advertised positions for doctors in pre-removal centres, only 9 were actually present. There was no doctor present in **Paranesti**, **Lesvos** and **Kos** and no psychiatrist in any of the pre-removal detention centres at the end of 2018. Psychologists were not present in **Paranesti** and **Xanthi**.

The interpreters operating in the pre-removal centres under the AEMY scheme for the provision of medical services at the end of 2018 consisted of 7 interpreters for Arabic (1 in Amygdaleza, 1 in Tavros, 1 in Corinth, 1 in Drama, 1 in Xanthi, 1 in Fylakio, and 1 in Lesvos), 1 Farsi interpreter (Amygdaleza), 1 Pashto interpreter (Xanthi) and 1 Dari interpreter (Fylakio).<sup>792</sup> Therefore, interpretation for languages spoken by a significant number of detainees in the pre-removal centres is not available. This further hinders the effective provision of medical services, even if medical staff is present in the centre.

In 2018, the number of AEMY staff announced for pre-removal detention centres was as follows:

AEMY staff positions advertised: 2018										
Category	Amygdaleza	Tavros	Corinth	Paranesti	Xanthi	Fylakio	Lesvos	Kos	Samos	Total
Doctors	4	2	2	2	2	2	2	2	2	20
Psychiatrists	1	1	1	1	1	1	1	1	1	9
Nurses	5	5	5	5	5	5	5	5	5	45
Interpreters	4	3	4	3	3	3	3	3	3	29
Psychologists	2	1	2	1	1	1	1	1	1	11
Social workers	2	1	2	1	1	1	1	1	1	11
Health visitors	1	1	1	1	1	1	1	1	1	9
Administrators	1	1	1	1	1	1	1	1	1	9
<b>Total</b>	<b>20</b>	<b>15</b>	<b>18</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>143</b>

Source: AEMY, 18 January 2019.

AEMY provided the following medical and supporting staff in pre-removal detention centres:

AEMY staff active in pre-removal centres: 31 December 2018									
Category	Amygdaleza	Tavros	Corinth	Paranesti	Xanthi	Fylakio	Lesvos	Kos	Total
Doctors	3	2	1	0	1	2	0	0	9
Psychiatrists	0	0	0	0	0	0	0	0	0

<sup>789</sup> AEMY, *Πρόσκληση εκδήλωση ενδιαφέροντος*, No 5892, 10 October 2017, available in Greek at: <http://bit.ly/2sywuc3>.

<sup>790</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>791</sup> CPT, *Preliminary observations made by the CPT which visited Greece from 10 to 19 April 2018*, CPT/Inf (2018) 20, 1 June 2018, para 21.

<sup>792</sup> Information provided by AEMY, January 2019.



Nurses	3	3	5	5	5	5	0	3	29
Interpreters	2	1	1	1	2	2	1	1	11
Psychologists	2	1	2	0	0	1	1	1	8
Social workers	2	1	2	0	1	1	1	1	9
Health visitors	1	1	0	0	0	0	0	0	2
Administrators	0	1	1	1	1	1	1	0	6
<b>Total</b>	<b>13</b>	<b>10</b>	<b>12</b>	<b>7</b>	<b>10</b>	<b>12</b>	<b>4</b>	<b>6</b>	<b>74</b>

Source: AEMY, 18 January 2019.

## 2.2. Conditions in police stations and other facilities

In 2018, GCR visited more than 25 police stations and special holding facilities where third-country nationals were detained:

- **Attica:** police stations *inter alia* in Athens International Airport, Agios Panteleimonas, Patisia, Achrnes, Elefsina, Pagrati, Ilioupoli, Cholargos, Neo Irakleio, Nikaia, Kipseli, Syntagma, Chaidari, Kallithea, Piraeus, Renti;
- **Northern Greece:** police stations *inter alia* in Transfer Directorate (*Μεταγωγών*), Thermi, Agiou Athanasiou, Raidestou;
- **Western Greece:** Kato Achaia police station;
- **Eastern Aegean islands:** police stations *inter alia* on Rhodes, Lesbos, Chios and Samos.

Police stations are by nature “totally unsuitable” for detaining persons for longer than 24 hours.<sup>793</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, the preliminary observations made by the CPT following its latest visit in Greece in 2018 repeated that “all other police stations visited are not suitable places to hold irregular migrants and conditions of detention remain totally inadequate for stays exceeding 24 hours. Despite this, police stations throughout Greece are still being used for holding irregular migrants for prolonged periods. In **Kolonos** Police Station, the delegation met three persons who had been held there for more than a month without having benefited from any outdoor exercise. The Greek authorities should redouble their efforts to end this practice.”<sup>794</sup>

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>795</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>796</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>797</sup> In

<sup>793</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>794</sup> CPT, *Preliminary observations made by the CPT which visited Greece from 10 to 19 April 2018*, CPT/Inf (2018) 20, 1 June 2018, para 17.

<sup>795</sup> Ombudsman, *Συνηγορος του Πολίτη, Εθνικός Μηχανισμός Πρόληψης των Βασανιστηρίων & της Κακομεταχείρισης - Ετήσια Ειδική Έκθεση OPCAT 2017*, 46.

<sup>796</sup> ECtHR, *Ahmade v. Greece*, Application No 50520/09, Judgment of 25 September 2012, para 101.

<sup>797</sup> ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, para 40.

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>798</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>799</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>800</sup>

In practice, NGOs’ capacity to access detainees in practice is limited due to human and financial resource constraints. 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 telephone 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 good practice in allowing people to use their mobile phones,<sup>801</sup> others such as **Tavros** and all police stations prohibit the use of mobile phones.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

- |   |   |                             |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed?    | Not specified                           |                             |

#### 1.1. Automatic judicial review

L 4375/2016 has introduced a procedure of automatic judicial review of the decisions ordering or prolonging the detention of an asylum seeker. The procedure is largely based on the procedure already in place for the automatic judicial review of the extension of detention of third-country nationals in view of return under L 3907/2011.<sup>802</sup>

Article 46(5) L 4375/2016 reads as follows:

<sup>798</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>799</sup> Article 46(10)(c) L 4375/2016, as amended by Article 9 L 4540/2018.

<sup>800</sup> Article 46(10)(d) L 4375/2016, as amended by Article 9 L 4540/2018.

<sup>801</sup> GCR, *2018 Detention report*, forthcoming.

<sup>802</sup> Article 30(3) L 3907/2011.

“The initial detention order and the order for the prolongation of detention shall be transmitted to the President of the Administrative Court of First Instance, or the judge appointed thereby, who is territorially competent for the applicant’s place of detention and who decides on the legality of the detention measure and issues immediately his decision, in a brief record... In case this is requested, the applicant or his/her legal representative must mandatorily be heard in court by the judge. This can also be ordered, in all cases, by the judge.”

Moreover in addition to concerns expressed in previous years as to the effectiveness of this procedure,<sup>803</sup> statistics on the outcome of *ex officio* judicial scrutiny confirm that the procedure highly problematic and illustrate the rudimentary and ineffective way in which this judicial review takes place. According to the available data regarding detention orders for asylum seekers examined by the Administrative Court of Athens, there have been just four cases where the *ex officio* review did not approve the detention measure imposed:

<b>Ex officio review of detention by the Administrative Court of Athens: 2018</b>		
	under asylum provisions (Article 46 L 4375/2016)	under pre-removal provisions (Article 30 L 3907/2011)
Detention orders transmitted	1,192	167
Approval of detention order	1,188	112
No approval of detention order	4	0
Abstention from decision	0	55

Source: Administrative Court of Athens, 24 January 2019.

“Abstention from decision” in L 4375/2016 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>804</sup> which is the only legal remedy provided by national legislation to this end. Objections against detention are not examined by a court composition but solely by the President of the Administrative Court, whose decision is non-appealable.

However, in practice the ability of detained persons to challenge their detention is severely restricted by the fact that “migrants in pre-removal detention centres are often unaware of their legal status and do not know about the possibility of challenging their detention”,<sup>805</sup> which remains the case in 2018,<sup>806</sup> the lack of interpreters and translation of the administrative decisions in a language they understand and the lack of free [Legal Assistance for Review of Detention](#).

The ECtHR has found that the objections remedy is not accessible in practice. In 2017, the ECtHR rejected the preliminary objection of the Government regarding the non-exhaustion of domestic remedies and ruled that the applicant did not have access to a legal remedy.<sup>807</sup> The Court took into consideration *inter alia* the fact that detention orders were written in Greek even though the applicants

<sup>803</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>804</sup> Article 46(6) L 4375/2016, citing Article 76(3)-(4) L 3386/2005.

<sup>805</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 49.

<sup>806</sup> GCR, *2018 Detention report*, forthcoming.

<sup>807</sup> ECtHR, *J.R. and Others v. Greece*, Application No 22696/16, Judgment of 25 January 2018, para 99.

were Farsi speakers;<sup>808</sup> that the information brochure provided to them did not mention which was the competent court to which the remedy should be submitted; that the competent court was located on another island (Lesvos);<sup>809</sup> and that there was no legal assistance.<sup>810</sup>

In a recent judgment, the Court found a violation of Article 5(4) ECHR, emphasising that the detention orders were only written in Greek and included general and vague references regarding the legal avenues available to the applicants to challenge their detention. Furthermore, the applicants were not in a position to understand the legal aspects of their case and they did not appear to have access to lawyers on the island. In this connection, the Court noted that the Greek government had also not specified which refugee-assisting NGOs were available.<sup>811</sup>

Moreover, the ECtHR has found on various occasions the objections procedure to be an ineffective remedy, contrary to Article 5(4) ECHR,<sup>812</sup> as the lawfulness *per se* of the detention, including detention conditions, was not examined in that framework.

In order to bring national law in line with ECHR standards, legislation was amended in 2010. However, the ECtHR has found in a number of cases that, despite the amendment of the Greek law, the lawfulness of applicants' detention had not been examined in a manner equivalent to the standards required by Article 5(4) ECHR,<sup>813</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>814</sup> This case law of the ECtHR illustrates that the amendment of national legislation cannot itself guarantee an effective legal remedy in order to challenge immigration detention, including the detention of asylum seekers.

As far as the judicial review of detention conditions is concerned, based on the cases supported by GCR, it seems that courts tend either not to take complaints into consideration or to reject them as unfounded, even against the backdrop of numerous reports on substandard conditions of detention in Greece, brought to their attention. This was done in the case of a Syrian citizen detained in a police station for two months, whose complaints regarding detention conditions were rejected as "not proven" by the Administrative Court of Rhodes.<sup>815</sup>

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.<sup>816</sup> This has occurred for example in cases asylum seekers who received a first-instance negative asylum decision while in detention and whose detention was prolonged to the maximum of 3 months, although the examination of their appeal would take place after the expiry of that time limit. The main argument raised in objections was that the

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<sup>808</sup> *Ibid*, para 100.

<sup>809</sup> *Ibid*, paras 100-101.

<sup>810</sup> *Ibid*, para 102.

<sup>811</sup> ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019.

<sup>812</sup> See e.g. ECtHR, *Rahimi v. Greece* Application No 8687/08, Judgment of 5 April 2011; *R.U. v. Greece* Application No 2237/08, Judgment of 7 June 2011; *C.D. v. Greece*, Application No 33468/10, Judgment of 19 March 2014.

<sup>813</sup> ECtHR, *R.T. v. Greece*, Application no 5124/11, Judgment of 11 February 2016; *Mahammad and others v. Greece*, Application No 48352/12, January 15 January 2015; *MD v. Greece*, Application No 60622/11, Judgment of 13 November 2014; *Houssein v. Greece*, Application No 71825/11, Judgment of 24 October 2013. In the case *F.H. v. Greece*, Application No 78456/11, Judgment of 31 July 2014, the Court found a violation of Article 3 combined with Article 13, due to lack of an effective remedy in the Greek context in order to control detention conditions.

<sup>814</sup> ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, para 72.

<sup>815</sup> Administrative Court of Rhodes, Decision 170/2018.

<sup>816</sup> GCR, *2018 Detention report*, forthcoming.

prolongation of detention no longer meets the legal grounds. The Administrative Court of Kavala issued two contradictory decisions on the issue in 2018, one upholding the argument and releasing the detainee and another one rejecting it.<sup>817</sup>

Finally, as regards “protective custody” of unaccompanied children (see [Detention of Vulnerable Applicants](#)), the ECtHR found in February 2019 that the objections procedure was inaccessible since the applicants were not officially classified as detainees, and since they would not be able to seize the Administrative Court without a legal representative even though Greek law does not guarantee access to legal representation for unaccompanied asylum-seeking children.<sup>818</sup>

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?  
 Yes  No
2. Do asylum seekers have effective access to free legal assistance in practice?  
 Yes  No

Article 46(7) L 4375/2016 provides that “detainees who are applicants for international protection shall be entitled to free legal assistance and representation to challenge the detention order...”

In practice, no free legal aid system has been set up in order an asylum seeker to challenge his or her detention. Free legal assistance for detained asylum seekers provided by NGOs cannot sufficiently address the needs and in any event cannot exempt the Greek authorities from their obligation to provide free legal assistance and representation to asylum seekers in detention, as foreseen by the recast Reception Conditions Directive.<sup>819</sup> As stated by the United Nations Special Rapporteur on the human rights of migrants, “legal aid in immigration detention facilities provided by non-governmental organizations (NGOs) is scarce due to funding shortages.”<sup>820</sup>

This continued to be the case in 2018, where only two to three NGOs were providing free legal assistance to detainees with limited resources and less than 10 lawyers in total focusing on detention countrywide.

CPT findings from 2018 confirm that “the information provided was insufficient – particularly concerning their (legal) situation... there was an almost total lack of available interpretation services in all the establishments visited... access to a lawyer often remained theoretical and illusory for those who did not have the financial means to pay for the services of a lawyer... As a result, detainees’ ability to raise objections against their detention or deportation decisions or to lodge an appeal against their deportation was conditional on them being able to access a lawyer.”<sup>821</sup>

<sup>817</sup> Administrative Court of Kavala, Decision 119/2018 (negative); Decision 407/2018 (positive).

<sup>818</sup> ECtHR, *H.A. v. Greece*, Application No 19951/16, Judgment of 28 February 2019, para 212.

<sup>819</sup> Article 9(6) recast Reception Conditions Directive.

<sup>820</sup> Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, 24 April 2017, para 49.

<sup>821</sup> CPT, *Report on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, paras 78-80.

## E. Differential treatment of specific nationalities in detention

As mentioned in the [General](#) section, a so-called “pilot project” / “low rate scheme” is implemented on Lesvos, Kos and partly Leros, under which newly arrived persons belonging to particular nationalities with low recognition rates, are immediately placed in detention upon arrival and remain there for the entire asylum procedure.<sup>822</sup>

Moreover, as regards Lesvos, the “pilot project” was also implemented on cases of Syrian, Iraqi and Afghan nationals upon arrival. This practice ceased in May 2018 according to GCR’s experience.

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<sup>822</sup> ECRE, ‘Asylum procedure based on nationality rather than on merit – the situation of Pakistani asylum applicants under the EU Turkey Deal’, 8 December 2017, available at: <http://bit.ly/2kEjTk1>; ActionAid et al., *Transitioning to a government-run refugee and migrant response in Greece*, December 2017, available at: <http://bit.ly/2DsdwCC>, 5; Independent, ‘gees held at Lesvos detention centre resorting to self-harm to escape “poor living conditions”’, 23 September 2017, available at: <https://ind.pn/2E7ZuNm>.



## A. Status and residence

### 1. Residence permit

#### Indicators: Residence Permit

- |  |         |
|--|---------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? |         |
| ❖ Refugee status   | 3 years |
| ❖ Subsidiary protection  | 3 years |
| ❖ Humanitarian protection  | 2 years |

Individuals recognised as refugees or beneficiaries of international protection are granted with a 3-year residence permit, which can be renewed, after a decision of the Head of the Regional Asylum Office.<sup>823</sup> In practice, residence permits are usually delivered 1-2 months after the notification of the positive decision. Until then, applicants hold the asylum seeker card, stamped with the mention “Pending Residence Permit”.<sup>824</sup>

An application for renewal should be submitted no later than 30 calendar days before the expiry of the residence permit. The mere delay in the application for renewal, without any justification, cannot lead to the rejection of the application. Since 2017, the application for renewal is submitted via email to the Asylum Service.<sup>825</sup> The renewal decision is notified to the applicant only 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.

The renewal procedure lasts approximately 2 months on average.<sup>826</sup> However, as far as GCR is aware, longer delays are observed in a number of cases, which can reach 6 months in practice due to high number of applicants. During this procedure the Legal Unit of the Asylum Service processes criminal record checks on the beneficiaries of international protection, which may lead to the **Withdrawal** of their protection status. Pending the issuance of a new residence permit, beneficiaries of international protection are granted a certificate of application (*βεβαίωση κατάστασης αιτήματος*) which is valid for two months. In practice, beneficiaries whose residence permit has expired and who hold this document while awaiting the renewal of their residence permit have faced obstacles in accessing services such as social welfare.<sup>827</sup> The Asylum Service sent a letter to the Ministry of Labour on 11 December 2017 to clarify that the certificate of application constitutes valid documentation to certify a person’s international protection status.<sup>828</sup>

In 2018, the Asylum Service received 1,573 applications for renewal and issued 1,371 positive renewal decisions.<sup>829</sup>

For those granted international protection under the “old procedure” prescribed by PD 114/2010, the renewal procedure is conducted by the Aliens Police Directorate of Attica (*Διεύθυνση Αλλοδαπών Αττικής*). Within the framework of this procedure, the drafting of a legal document for the renewal

<sup>823</sup> Article 24 PD 141/2013.

<sup>824</sup> Asylum Service, *Frequently asked questions on the rights of asylum seekers and beneficiaries of international protection*, 18 February 2015, available in Greek at: <http://bit.ly/2jGtlw0>.

<sup>825</sup> Asylum Service, *Residence permit – Renewal*, available at: <http://bit.ly/2xlzUXb>.

<sup>826</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>827</sup> Generation 2.0, ‘Ανανέωση αδειών διαμονής δικαιούχων διεθνούς προστασίας: Επιστολή στο Υπουργείο Εργασίας’, 20 December 2017, available in Greek at: <http://bit.ly/2BoghdB>.

<sup>828</sup> Asylum Service, Letter to the Ministry of Labour and the Ministry of Administrative Reconstruction, No 20864, 11 December 2017, available in Greek at: <http://bit.ly/2D5CsS1>.

<sup>829</sup> Information provided by the Asylum Service, 26 March 2019.

application is required. The decision is issued after a period of approximately 3-6 months, as delays are also reported in practice.<sup>830</sup>

In 2018 there were 1,055 renewal applications submitted before the Aliens Police Directorate. 933 positive decisions and 45 negative decisions were issued.<sup>831</sup>

## 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>832</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>833</sup>

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>834</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>835</sup> For recognised **refugees**, due to the disruption of ties with their country of origin, the Ministry of Interior has issued general orders to the municipalities to substitute the abovementioned documents with an affidavit of the interested party.<sup>836</sup> However, asylum seekers and beneficiaries of **subsidiary protection** are still required to present such documentation which is extremely difficult to obtain, and face obstacles which undermine the effective enjoyment of the right to marriage and the right to family life.

Civil registration affects the enjoyment of certain rights of beneficiaries of international protection. For instance, a birth certificate or a marriage certificate are required to prove family ties in order to be recognised as a family member of a beneficiary of international protection and to be granted a similar residence permit according to Article 24 PD 141/2013 (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 2018: Not available

According to Article 89 of the Immigration Code, third-country nationals are eligible for long-term residence if they have resided in Greece lawfully for 5 consecutive years before the application is filed. For beneficiaries of international protection, the calculation of the 5-year residence period includes half of the period between the lodging of the asylum application and the grant of protection, or the full period if the asylum procedure exceeded 18 months.<sup>837</sup> Absence periods are not taken into account for the

<sup>830</sup> Generation 2.0, 'Καθυστερήσεις στις Άδειες Διαμονής | Δελτίο Τύπου', 3 January 2018, available in Greek at: <http://bit.ly/2l96pEc>.

<sup>831</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>832</sup> L 344/1976 on Civil Registration Acts, Official Gazette 143/A/11.6.1976.

<sup>833</sup> Article 49 L 344/1976.

<sup>834</sup> Article 29 L 344/1976.

<sup>835</sup> Article 1(3) PD 391/1982.

<sup>836</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>837</sup> Article 89(2) L 4251/2014 (Immigration Code).

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>838</sup> A fee of €150 is also required.<sup>839</sup>

To be granted long-term resident status, beneficiaries of international protection must also fulfil the following conditions:<sup>840</sup>

- (a) Sufficient income to cover their needs and the needs of their family and is earned without recourse to the country's social assistance system. This income cannot be lower than the annual income of an employee on minimum wage, pursuant to national laws, increased by 10% for all the sponsored family members, also taking into account any amounts from regular unemployment benefits. The contributions of family members are also taken into account for the calculation of the income;
- (b) Full health insurance, providing all the benefits provided for the equivalent category of insured nationals, which also covers their family members;
- (c) Fulfilment of the conditions indicating integration into Greek society, *inter alia* "good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation".<sup>841</sup>

The Council of Europe Commissioner of Human Rights noted that, as far as it provides foreign citizens with five years or more of legal residence with the possibility to secure a long-term residence permit, Greek law complies with relevant recommendations. However, the Commissioner recommended that the entire asylum procedure period be taken into account, as opposed to half of the period between the lodging of the asylum application and the granting of protection as provided in legislation.

In addition, the Commissioner highlighted "that access to long-term residence is complicated by additional requirements, including sufficient income to cover the applicants' needs and those of their family, full health insurance covering all family members, and good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation". Moreover, contrary to the Commissioner's recommendations, Greek law does not provide clear legal exemptions to enable a variety of vulnerable groups to meet the requirements".<sup>842</sup>

## 4. Naturalisation

### Indicators: Naturalisation

- |  |         |
|--|---------|
| 1. What is the waiting period for obtaining citizenship? |         |
| ❖ Refugee status   | 3 years |
| ❖ Subsidiary protection                                  | 7 years |
| 2. Number of citizenship grants in 2018:                 | 2,528   |

### 4.1. Conditions for citizenship

According to the Citizenship Code,<sup>843</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.

<sup>838</sup> Article 89(3) Immigration Code.

<sup>839</sup> Article 132(2) Immigration Code, as amended by Article 38 L 4546/2018.

<sup>840</sup> Article 89(1) Immigration Code.

<sup>841</sup> Article 90(2)(a) Immigration Code.

<sup>842</sup> Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 72-73.

<sup>843</sup> Article 5 L 3284/2004 (Citizenship Code).

- (c) Has no pending deportation procedure or any other issues with regards to his or her status of residence;
- (d) Has lawfully resided in Greece for 7 continuous years before the submission of the application. A period of 3 years of lawful residence is sufficient in case of recognised **refugees**. This is not the case for **subsidiary protection beneficiaries**, who should prove a 7-year lawful residence as per the general provisions;
- (e) Hold one of the categories of residence permits foreseen in the Citizenship Code, *inter alia* long-term residence permit, residence permit granted to recognised refugees or subsidiary protection beneficiaries, or second-generation residence permit. More categories of permits have been in 2018.<sup>844</sup>

Applicants should also have: (1) sufficient knowledge of the Greek language; (2) be normally integrated in the economic and social life of the country; and (3) be able to actively participate in political life.<sup>845</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>846</sup> Simplified instructions on the acquisition of Greek citizenship have also been released by the Ministry of Interior.<sup>847</sup>

While a refugee can apply for the acquisition of citizenship 3 years after recognition, its acquisition 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>848</sup>

In 2018, several changes were brought to the Citizenship Code, according to which the examination procedure is no longer oral. Candidates have to answer correctly 20 out of 30 written questions from a pool of 300 questions.<sup>849</sup> This pool of questions is yet to be published.

## 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 is €700. A €200 fee is required for the re-examination of the case.

The naturalisation procedure requires a statement to be submitted before the Municipal Authority of the place of permanent residence, and an application for naturalisation to the authorities of the Prefecture.<sup>850</sup> The statement for naturalisation is submitted to the Mayor of the city of permanent residence, in the presence of two Greek citizens acting as witnesses. After having collected all the required documents, the applicant must submit an application before the Decentralised Administration competent Prefecture.

Where the requisite formal conditions of Article 5 of the Immigration Code, such as age or minimum prior residence, are not met, the Secretary-General of the Decentralised Administration issues a negative decision. An appeal can be lodged before the Minister of Interior, within 30 days of the notification of the rejection decision.

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<sup>844</sup> Article 5(1)(e) Citizenship Code, as amended by Ministerial Decision 130181/6353/2018, Gov. Gazette B/3142/02.04.2018.

<sup>845</sup> Article 5A Citizenship Code.

<sup>846</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/2UUf4A0>.

<sup>847</sup> Ministry of Interior, *Simplified instructions on the acquisition of Greek citizenship*, available at: <https://bit.ly/2TCz35h>.

<sup>848</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>849</sup> Ministry of Interior, Circular No 38788/2018, 26 July 2018, available in Greek at: <https://bit.ly/2utnJye>.

<sup>850</sup> Article 6 Citizenship Code.

In case the required conditions are met, the case file will be forwarded to the Naturalisation Committee. The applicant is invited for an interview, or to undergo a written test under the new procedure (yet to be finalised), in order for the Committee to examine whether the substantive conditions of Article 5A of the Immigration code i.e. general knowledge of Greek history, geography, and civilisation are met. In case of a positive recommendation by the Naturalisation Committee, the Minister of Interior will issue a decision granting the applicant Greek citizenship, which will be also published in the Government Gazette.

Greek citizenship is acquired following the oath of the person, within a year from the publication of the decision. If the oath is not given while this period, the decision is revoked.

In case of a negative recommendation of the Naturalisation Committee, an appeal can be lodged within 15 days. A Decision of the Minister of Interior will be issued, in case that the appeal is accepted. In case of rejection of the appeal, an application for annulment (*αίτηση ακύρωσης*) can be lodged before the Administrative Court of Appeals within 60 days of the notification of that decision.

The procedure remains extremely slow. As recently noted by the Council of Europe 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>851</sup>

In 2018 a total of 2,528 foreigners were granted citizenship by way of naturalisation, compared to 3,483 in 2017. The acceptance rate in 2018 was 66.5%, compared to 79.5% in 2017. This number is not limited to beneficiaries of international protection: the majority of naturalised persons are originated from Albania (1,640), followed by Ukraine (116), Russia (92), Moldova (78), and Romania (74), while only 528 come from other countries. Bearing in mind the main nationalities of beneficiaries of international protection in Greece, it appears therefore that the number of beneficiaries of international protection acquiring citizenship in 2018 is quite low.<sup>852</sup>

Apart from naturalisation of foreign nationals (*αλλογενείς*), Greece also granted citizenship to 2,875 non-nationals of Greek origin (*ομογενείς*), 21,294 second-generation children i.e. foreign children born in Greece or successfully completing school in Greece, and 483 unmarried minor children of parents recently acquiring Greek citizenship.<sup>853</sup>

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<sup>851</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>852</sup> Ministry of Interior, *Naturalisation statistics 2018*, available in Greek at: <https://bit.ly/2IRVUtk>.

<sup>853</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 11 and 16 PD 141/2013.

**Refugee status** cases where the person:<sup>854</sup>

- (a) Voluntarily re-avails him or herself of the protection of the country of origin;
- (b) Voluntarily re-acquires the nationality he or she has previously lost;
- (c) Has obtained a new nationality and benefits from that country's protection;
- (d) Has voluntarily re-established him or herself in the country he or she fled or outside which he or she has resided for fear of persecution;
- (e) May no longer deny the protection of the country of origin or habitual residence where the conditions leading to his or her recognition as a refugee have ceased to exist. The change of circumstances must be substantial and durable,<sup>855</sup> and cessation is without prejudice to compelling reasons arising from past persecution for denying the protection of that country.<sup>856</sup>

Cessation on the basis of changed circumstances also applies to **subsidiary protection** beneficiaries under the same conditions.<sup>857</sup>

Where cessation proceedings are initiated, the beneficiary is informed at least 15 days before the review of the criteria for international protection and may submit his or her views on why protection should not be withdrawn.<sup>858</sup>

Where the person appeals the decision, contrary to the [Asylum Procedure](#), the Appeals Committee is required to hold an oral hearing of the beneficiary in cessation cases.<sup>859</sup>

## 6. Withdrawal of protection status

### Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure?  Yes  No
2. Does the law provide for an appeal against the withdrawal decision?  Yes  No
3. Do beneficiaries have access to free legal assistance at first instance in practice?  
 Yes  With difficulty  No

Withdrawal of **refugee status** is provided under Article 14 PD 141/2013 where the person:

- (a) Should have been excluded from refugee status;

<sup>854</sup> Article 11(1) PD 141/2013.

<sup>855</sup> Article 11(2) PD 141/2013.

<sup>856</sup> Article 11(3) PD 141/2013.

<sup>857</sup> Article 16 PD 141/2013.

<sup>858</sup> Article 63(2) L 4375/2016.

<sup>859</sup> Article 62(1)(a) L 4375/2016, as amended by L 4399/2016.



- (b) The use of false or withheld information, including the use of false documents, was decisive in the grant of refugee status;
- (c) Is reasonably considered to represent a threat to national security; or
- (d) Constitutes a threat to society following a final conviction for a particularly serious crime.

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>860</sup>

Under Article 19 PD 141/2013, **subsidiary protection** may be withdrawn where it is established that the person should have been excluded or has provided false information, or omitted information, decisive to the grant of protection.

The procedure described in **Cessation** is applicable to withdrawal cases.

The Aliens Directorate of the Hellenic Police withdrew international protection in 10 cases where status had been granted under the “old procedure”. Appeals have been filed in all 10 cases.<sup>861</sup>

## 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

For preferential treatment regarding material conditions 3 months

❖ If yes, what is the time limit?

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.

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.

<sup>860</sup> Asylum Service, Circular 1/2018 of 26 January 2018, available in Greek at: <http://bit.ly/2rPEkhh>.

<sup>861</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

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>862</sup>

- (a) A recent family status certificate, birth certificate or other document officially translated into Greek and certified by a competent Greek authority, proving the family bond and/or the age of family members; and
- (b) A certified copy of the travel documents of the family members.

However, if the applicant cannot provide these certificates, the authorities take into consideration other appropriate evidence.

On the other hand, if the refugee is an adult and the application refers to his or her parents and/or the application is not filed within 3 months from recognition, apart from the documents mentioned above, further documentation is needed:<sup>863</sup>

- (c) Full Social Security Certificate, i.e. certificate from a public social security institution, proving the applicant's full social security coverage;
- (d) Tax declaration proving the applicant's fixed, regular and adequate annual personal income, which is not provided by the Greek social welfare system, and which amounts to no less than the annual income of an unskilled worker – in practice about €8,500 – plus 20% for the spouse and 15% for each parent and child with which he or she wishes to be reunited;
- (e) A certified contract for the purchase of a residence, or a residence lease contract attested by the tax office, or other certified document proving that the applicant has sufficient accommodation to meet the accommodation needs of his or her family.

The abovementioned additional documents are not required in case of an unaccompanied child recognised as refugee, applying for family reunification after the 3-month period after recognition.<sup>864</sup>

Refugees who apply for family reunification face serious obstacles which render the effective exercise of the right to family reunification impossible in practice. Lengthy procedures, administrative obstacles as regards the issuance of visas even in cases where the application for family reunification has been accepted, the requirement of documents which are difficult to obtain by refugees, and lack of information on the possibility of family reunification, the three-month deadline and the available remedies are reported among others.<sup>865</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>866</sup>

In 2018, 346 applications for family reunification were submitted before the Asylum Service. The Asylum Service took 19 positive decisions, 6 partially positive decisions and 16 negative decisions.<sup>867</sup> Respectively, 10 applications for family reunification were submitted in 2018 before the Aliens Police

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<sup>862</sup> Article 14(1) PD 131/2006.

<sup>863</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

<sup>864</sup> Article 14(3) PD 131/2006, citing Article 14(1)(d).

<sup>865</sup> See e.g. Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, available at: <http://bit.ly/2FkN0i9>, 26-27.

<sup>866</sup> Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 68-69.

<sup>867</sup> Information provided by the Asylum Service, 26 March 2019.

Directorate of Attica (*Διεύθυνση Αλλοδαπών Αττικής*) by applicants recognised as refugees under the “old procedure”. Of those, only 2 applications were accepted.<sup>868</sup>

In February 2018, in a case supported by GCR, the Administrative Court of Athens annulled a decision rejecting the application for family reunification submitted by a refugee before the Aliens Police Directorate of Attica. The Court found that the rejection of the application had been issued in breach of the relevant legal framework.<sup>869</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>870</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>871</sup>

Since the issuance of the abovementioned Decision, the applications for visa following a positive family reunification decision submitted before Greek Consulates, as follows:<sup>872</sup>

- **Beirut, Lebanon** has received 16 applications for visas following a positive decision on family reunification applications. Out of these, 11 cases are followed up. On the basis of these 11 cases, 14 visas for family reunification of refugees (“H.3”) have been issued. 4 visas are pending, following an interview conducted by the Embassy in 2018. In one case, the receipt of criminal record is pending. As for the remaining 5 cases, contact with the applicants has not been possible;
- **Jeddah, Saudi Arabia** has issued one visa for family reunification for a Syrian recognised refugee. The application for the visa has been submitted on 3 December 2018 and the visa was issued on 10 December 2018;
- **Cairo, Egypt** has 3 pending applications for family reunification visas. Two of those refer to Palestinian refugees and the delays occur because of the difficulty of the members who reside in Palestine to move to Cairo in order to complete the procedure in person. The other pending application refers to a Sudanese recognised refugee.

## 2. Status and rights of family members

According to Article 23 PD 141/2013, as amended by Article 21 L 4375/2016, family members of the beneficiary of international protection who do not individually qualify for such protection are entitled to a renewable residence permit which must have the same duration as that of the beneficiary.

However, in case the family has been formed after entry into Greece, the law requires the spouse to hold a valid residence permit at the time of entry into marriage in order to obtain a family member residence permit.<sup>873</sup> This requirement is difficult to meet in practice and may undermine the right to family life, since one must already have a residence permit in order to qualify for a residence permit as a family member of a refugee.

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<sup>868</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>869</sup> Administrative Court of Athens, Decision 59/2018; GCR, ‘Πρώτη απόφαση διοικητικών δικαστηρίων για οικογενειακή επανένωση πρόσφυγα’, 8 February 2018, available in Greek at: <http://bit.ly/2FhY5EE>.

<sup>870</sup> JMD 47094/2018, Gov. Gazette B/3678/28.08.2018.

<sup>871</sup> Ministry of Foreign Affairs, *Immigration Code Handbook*, 2019, available in Greek at: <https://bit.ly/2BYHS3p>, 123-127.

<sup>872</sup> Information provided by the Ministry of Foreign Affairs, 28 February 2019.

<sup>873</sup> Article 21(4) L 4375/2016.

## C. Movement and mobility

### 1. Freedom of movement

According to Article 34 PD 141/2013, beneficiaries of international protection enjoy the right to free movement under the same conditions as other legally residing third-country nationals. No difference in treatment is reported between different international protection beneficiaries.

### 2. Travel documents

Recognised **refugees**, upon request submitted to the competent authority, are entitled to a travel document (*titre de voyage*), regardless of the country in which they have been recognised as refugees in accordance with the model set out in Annex to the 1951 Refugee Convention.<sup>874</sup> This travel document allows beneficiaries of refugee status to travel abroad, unless compelling reasons of national security or public order exist. The abovementioned travel document is issued from the Passport Directorate of the Hellenic Police Headquarters,<sup>875</sup> subject to a fee of €85.<sup>876</sup> These travel documents are valid for 5 years for adults and can be renewed.<sup>877</sup>

The same applies to beneficiaries of **subsidiary protection**, if they are unable to obtain a national passport, unless compelling reasons of national security or public order exist.<sup>878</sup> In practice, beneficiaries of subsidiary protection must present to the Greek authorities a 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.

It is also worth noting that according to Joint Ministerial Decision 10566/2014, travel documents should not be issued to refugees convicted for falsification and use of false travel documents. Furthermore, PD 25/2004 also applies to refugees convicted for the abovementioned crimes. This means that if a recognised refugee has been previously convicted for the abovementioned offences, travel documents cannot be issued for five years following the conviction, or for ten years in case of a felony.<sup>879</sup>

The waiting period for the issuance of travel documents can prove lengthy and may exceed 8 months in some cases, as far as GCR is aware. In 2018, a total of 10,392 positive decisions were issued on travel document applications.<sup>880</sup>

Persons recognised as beneficiaries of international protection under the “old procedure” under PD 114/2010 apply for travel documents before Aliens Police Directorate of Attica (*Διεύθυνση Αλλοδαπών Αττικής*). The waiting period for these cases is reported to be much shorter, around 20 days.<sup>881</sup> In 2018 there were 383 applications for travel documents to the Police and 382 were accepted.<sup>882</sup>

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<sup>874</sup> Article 25(1) PD 141/2013.

<sup>875</sup> Article 25(2) PD 141/2013.

<sup>876</sup> Asylum Service, *Frequently asked questions on the rights of asylum seekers and beneficiaries of international protection*, 18 February 2015, available in Greek at: <http://bit.ly/2jGtlw0>.

<sup>877</sup> Joint Ministerial Decision 10566/2014, Gov. Gazette B/3223/02.12.2014, available at: <http://bit.ly/2ImEMwy>.

<sup>878</sup> Article 25(4) PD 141/2013.

<sup>879</sup> Article 1 PD 25/2004.

<sup>880</sup> Information provided by the Asylum Service, 26 March 2019.

<sup>881</sup> Information provided by the Directorate of the Hellenic Police, 23 January 2019.

<sup>882</sup> *Ibid.*

## D. Housing

### Indicators: Housing

1. For how long are beneficiaries entitled to stay in ESTIA accommodation?	6 months
2. Number of beneficiaries staying in ESTIA as of 31 December 2018	5,649

According to Article 30 PD 141/2013, beneficiaries of international protection should enjoy the same rights as Greek citizens and receive the necessary social assistance, according to the terms applicable to Greek citizens. However, administrative and bureaucratic barriers, lack of state-organised actions in order to address their particular situation, non-effective implementation of the law, and the impact of economic crisis prevent international protection holders from the enjoyment of their rights, which in some cases may also constitute a violation of the principle of equal treatment enshrined in L 3304/2005, transposing Directives 2000/43/EU and 2000/78/EU.

15,192 people were granted international protection in 2018, up from 10,351 in 2017 and only 2,700 in 2016.<sup>883</sup> The increasing number of beneficiaries in the past years raises a pressing need to support their transition from the assistance they received as asylum seekers to the national programmes they are eligible for in Greece on the same terms and conditions as Greek nationals.<sup>884</sup> Moreover, the impact of the financial crisis on the welfare system in Greece and the overall integration strategy should be also taken into consideration when assessing the ability of beneficiaries to live a dignified life in Greece. As stressed by UNHCR, “provision of basic social rights is currently a challenge for both asylum seekers and beneficiaries of international protection in Greece. The country lacks an overall integration strategy, as well as specific measures targeting the refugee population. Moreover, refugees are not always efficiently included in national social protection measures that aim to address the needs of the homeless and unemployed Greek population.”<sup>885</sup> In a more recent report, Pro Asyl and Refugee Support Aegean highlighted that “living conditions for refugees in Greece have not improved. There are still widespread deficits in the reception, care and integration of beneficiaries of protections.”<sup>886</sup>

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>887</sup>

There are generally limited accommodation places for homeless people in Greece and no shelters are dedicated to recognised refugees or beneficiaries of subsidiary protection. There is also no provision for financial support for living costs. In **Athens**, for example, there are only four shelters for homeless people, including Greek citizens and third-country nationals lawfully on the territory. At these shelters, beneficiaries of international protection can apply for accommodation, but it is extremely difficult to be admitted 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. Pro Asyl and Refugee Support Aegean also document cases of recognised

<sup>883</sup> Asylum Service, *Statistical data*, December 2018.

<sup>884</sup> UNHCR, *Greece Fact Sheet*, 1-31 January 2018, available at: <http://bit.ly/2oAeQzB>.

<sup>885</sup> Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, available at: <http://bit.ly/2FkN0i9>, 24, citing correspondence with UNHCR on 10 February 2017.

<sup>886</sup> Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, 14-16; *Update: Legal Note on the living conditions of beneficiaries of international protection in Greece*, 30 August 2018, available at: <https://bit.ly/2GNuIQp>.

<sup>887</sup> Article 33 PD 141/2013.

beneficiaries of international protection living under deplorable conditions, including persons returned from other EU countries.<sup>888</sup>

In mid-2017, a transitional period of some months was agreed, during which beneficiaries of international protection could be accommodated under the UNHCR accommodation scheme and receive cash assistance. At the end of 2018, 5,649 beneficiaries of international protection were provided accommodation in apartments through the UNHCR scheme and 11,000 received cash assistance.<sup>889</sup> As mentioned in [Reception Conditions: UNHCR Accommodation Scheme](#), the UNHCR accommodation scheme (ESTIA) is dedicated to vulnerable applicants and thus cannot address the needs of recognised refugees who do not meet vulnerability criteria, or beneficiaries who have not already participated in the programme as applicants. Accommodation is provided for a limited transitional period.

In early March 2019, a Ministerial Decision was issued by the Ministry of Migration Policy,<sup>890</sup> to regulate the ESTIA scheme and provide details on the preconditions and the deadlines regarding the accommodation of asylum seekers and beneficiaries of international protection therein. According to the Decision, those already benefitting from the ESTIA scheme as asylum seekers would be allowed to be accommodated for another 6 months after the receipt of the decision granting them protection, while in cases of families with children this period could be extended until the end of the current school year.<sup>891</sup> In cases of extremely vulnerable recognised refugees, such as pregnant women and up to two months after giving birth or people suffering from very serious health conditions, their accommodation could be extended beyond 6 months after recognition.<sup>892</sup>

According to the Ministry of Migration Policy, the “HELIOS 2” programme, to be launched on 1 June 2019, will include a number of integration actions and the provision of a rental allowance for 5,000 recently recognised refugees for a period of 6 months. Recognised refugees benefitting from 6 months of accommodation in the ESTIA scheme and 6 months of rental allowance will have access to the [Social Welfare](#) system if they remain unemployed.<sup>893</sup>

A total of 204 recognised refugees, who have been granted protection before 20 months and accommodated under the ESTIA scheme, have been requested to leave their apartments by the end of March 2019. According to the Ministry of Migration Policy, beneficiaries of international protection who will leave the ESTIA scheme will continue to receive cash assistance for another 3 months and will be prioritised for the vocational training programme that will be implemented in collaboration with the Ministry of Labour.<sup>894</sup>

Taking into consideration obstacles faced by beneficiaries of international protection to integration and [Access to the Labour Market](#), coupled with the weak social assistance system and the fact that additional actions under “HELIOS 2” programme will start after June 2019 and will cover only 5,000 beneficiaries, the situation that beneficiaries of international protection will face following their departure

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<sup>888</sup> Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, 14-16; *Update: Legal Note on the living conditions of beneficiaries of international protection in Greece*, 30 August 2018, available at: <https://bit.ly/2GNuIqP>.

<sup>889</sup> UNHCR, *Greece Factsheet*, December 2018.

<sup>890</sup> Ministry of Migration Policy Decision 6382/2019, Gov. Gazette 853/B/12.03.2019, available in Greek at: <https://bit.ly/2HJeiU8>.

<sup>891</sup> Article 6(1) MD 6382/2019.

<sup>892</sup> Article 6(2) MD 6382/2019.

<sup>893</sup> Ministry of Migration Policy, ‘Το ΥΜΕΠΟ στοχεύει στην χειραφέτηση και αυτονόμηση των αναγνωρισμένων προσφύγων’, 13 March 2019, available in Greek at: <https://bit.ly/2TD06gL>.

<sup>894</sup> *Ibid.*



form the ESTIA accommodation scheme should be closely monitored, in particular vis-à-vis risks of destitution and homelessness.

Following the UN Human Rights Committee, which ruled in 2017 that the potential return of an unaccompanied Syrian child granted international protection in Greece would be contrary to the ICCPR provision, by taking into account *inter alia* the “conditions of reception of migrant minors in Greece”,<sup>895</sup> in 2018, in a number of cases the return of recognised beneficiaries of international protection to Greece from other Member States has been prevented by domestic courts.<sup>896</sup> On 31 July 2018, the German Federal Constitutional Court held that beneficiaries of international protection may not be returned to Greece without assurances from the relevant Greek authorities. The Federal Constitutional Court concluded that returns have to be examined on a case-by-case basis, to assess in particular whether the livelihood of the persons concerned is guaranteed and whether they have access to the labour market, housing and health care.<sup>897</sup>

In this respect, Pro Asyl and Refugee Support Aegean have documented homelessness or stay in precarious conditions in squats in Athens without access to electricity or water. An illustrative case is that of a vulnerable four-member family of refugees returned from Switzerland at the end of August 2018.<sup>898</sup> Upon their return to Greece, the family ended up homeless, was denied crucial benefits and the two parents could not find employment. According to the findings of the organisations, “refugees still have no secure and effective access to shelter, food, the labour market and healthcare including mental health care. International protection status in Greece cannot guarantee a dignified life for beneficiaries of protection and is no more than protection ‘on paper’.”<sup>899</sup>

## E. Employment and education

### 1. Access to the labour market

Articles 69 and 71 L 4375/2016, provide for full and automatic access to the labour market for recognised refugees and subsidiary protection beneficiaries without any obligation to obtain a work permit.

However, as mentioned in [Reception Conditions: Access to the Labour Market](#), 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. The Hellenic Foundation for European and Foreign Policy (ELIAMEP) noted in March 2018 that:

“Those few who manage to find a job are usually employed in the informal economy, which deprives them of access to social security, and subjects them to further precariousness and vulnerability. Henceforth, the vast majority of international protection beneficiaries and applicants rely on food, non-food item and financial assistance distributions to meet their basic needs. This often forces them into dangerous income generating activities, and extends the

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<sup>895</sup> Human Rights Committee, *O.Y.K.A. v. Denmark*, Communication No 2770/2016, 30 November 2017.

<sup>896</sup> See e.g. German Administrative Court of Bremen, Decision 5 V 837/18, 12 July 2018. Contrast German Administrative Court of Ansbach, Decision AN 14 K 18.50495, 20 September 2018; AN 14 S 18.50697, 26 September 2018; Dutch Regional Court of Gravenhage, Decision NL18.8338, 18 June 2018; Dutch Regional Court of Amsterdam, Decision NL18.13530, 15 August 2018; Dutch Regional Court of Arnhem, Decision NL17.12258, 29 November 2018.

<sup>897</sup> German Federal Constitutional Court, 2 BvR 714/18, 31 July 2018.

<sup>898</sup> Pro Asyl and Refugee Support Aegean, *Returned recognized refugees face a dead-end in Greece – a case study*, 4 January 2019, available at: <https://bit.ly/2QrdIKw>.

<sup>899</sup> Refugee Support Aegean, ‘Returned recognized refugees face a dead-end in Greece’, 9 January 2019, available at: <https://bit.ly/2GRnfKC>.

need for emergency services, increases the risk of exploitation, and hinders their integration prospects.”<sup>900</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. Refugee Support Aegean and Pro Asyl highlight that: “[o]nly in 2018 the Government Employment Agency (OAED) accepted the registration of those who live in camps or are homeless. But until today refugees face many problems, as either they cannot obtain tax clearances or they cannot obtain a certificate of homelessness or there is no competent authority to provide them with certificates of accommodation in a site.”<sup>901</sup>

Furthermore, 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.

## 2. Access to education

Children beneficiaries of international protection have the same right to education as nationals.<sup>902</sup> Adult beneficiaries are entitled to access the education system and training programmes under the same conditions as legally residing third-country nationals.<sup>903</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>904</sup>

A number of Greek language classes are provided by universities, civil society organisations and centres for vocational training. However, as noted by UNHCR, “the lack of Greek language classes, which most perceive to be required for integration, was a commonly referenced issue”.<sup>905</sup> A pilot programme of Greek language courses funded by the Asylum, Migration and Integration Fund (AMIF) announced in January 2018 had not been implemented by the end of the year.<sup>906</sup>

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<sup>900</sup> ELIAMEP, *Refugee Integration in Mainland Greece: Prospects and Challenges*, March 2018, available at: <https://bit.ly/2T5untb>, 3

<sup>901</sup> Pro Asyl and Refugee Support Aegean, *Update: Legal Note on the living conditions of beneficiaries of international protection in Greece*, 30 August 2018, available at: <https://bit.ly/2GNuIQp>.

<sup>902</sup> Article 28(1) PD 141/2013.

<sup>903</sup> Article 28(2) PD 141/2013.

<sup>904</sup> UNICEF, *Refugee and migrant children in Greece as of 31 January 2019*, available at: <https://uni.cf/2SH2pz4>.

<sup>905</sup> UNHCR, *Inter-agency Participatory Assessment Report*, October 2018.

<sup>906</sup> Ministry of Migration Policy and Ministry of Education, ‘Πρόγραμμα “Μαθήματα Γλώσσας και Πολιτισμού για Πρόσφυγες και Μετανάστες 15+”’, 23 January 2018, available in Greek at: <http://bit.ly/2Fid9SI>.

## 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>907</sup>

### 1. 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>908</sup>

**Family allowance:** The family allowance is provided to families that can demonstrate 10 years of permanent and uninterrupted stay in Greece. As a result, the majority of beneficiaries of international protection are excluded from this benefit.

**Single mother allowance:** Allowance to single mothers is provided to those who can provide proof of their family situation e.g. divorce, death certificate, birth certificate. With no access to the authorities of their country, many mothers are excluded because they cannot provide the necessary documents.

**Single child allowance:** The single child support allowance has replaced the existing family allowances.<sup>909</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>910</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>911</sup> Even if this is successfully done, there are often significant delays in the procedure.

**KEA:** Since February 2017, the Social Solidarity Income (*Κοινωνικό Επίδομα Αλληλεγγύης*, KEA) is established as a new welfare programme regulated by Law 4389/2016.<sup>912</sup> This income of €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.

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<sup>907</sup> Articles 29 and 30 PD 141/2013.

<sup>908</sup> Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, 22-24; ELIAMEP, *Refugee Integration in Mainland Greece: Prospects and Challenges*, March 2018, 4-5.

<sup>909</sup> Article 1(IA)(2) L 4093/2012, as amended by Article 6 L 4472/2017.

<sup>910</sup> Article 10 L 3220/2004.

<sup>911</sup> JMD Γ4α/Φ. 225/161, Official Gazette 108/B/15.2.1989.

<sup>912</sup> Article 235 L 4389/2016. See KEA, 'Πληροφορίες για το KEA', available in Greek at: <http://bit.ly/2HcB6XT>.

KEA is granted based on the following criteria: family status and family members; income; and assets. It is described as a solidarity programme connected to supplementary services, such as access to social services that may provide cheaper electricity or water.

However, the preconditions are difficult to meet. In order to receive KEA:

- Each member of the household must obtain a Tax Registration Number (AFM), a Social Security Number (AMKA) and a bank account;
- Each household must legally and permanently reside in Greece;
- The following documents are required to prove their residence: (a) for residence in owner-occupied property, a contract certifying ownership and utility bills for state-owned enterprises; (b) for residence in rented property, a copy of the electronic lease agreement, plus utility bills; (c) for residence in a property based on free concession, the concession agreement and bills for state-owned enterprises. In case of homelessness, homeless applicants are required to submit a homelessness certificate issued by the municipality or by shelter or a day-centre. It is obviously almost impossible for homeless beneficiaries to provide all of these documents, meaning that they cannot apply for the allowance.

Unfortunately, except for KEA, 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>913</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 L 4368/2016. As mentioned in [Reception Conditions: Health Care](#), in spite 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>914</sup> Moreover, access to health is also impeded by obstacles with regard to the issuance of a Social Security Number (AMKA).

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<sup>913</sup> Article 93 L 4387/2016.

<sup>914</sup> Council of Europe, *Report by Commissioner for Human Rights Dunja Mijatovic following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, para 40.

## ANNEX I – Transposition of the CEAS in national legislation

### Directives and other measures transposed into national legislation

Directive / Regulation	Deadline for transposition	Date of transposition	Official title of corresponding act (GR)	Web Link
<b>Directive 2011/95/EU</b> Recast Qualification Directive	21 December 2013	21 October 2013	Presidential Decree 141/2013 “on the transposition of Directive 2011/95/EU into Greek legislation”	<a href="http://bit.ly/1FWWVGX">http://bit.ly/1FWWVGX</a> (GR)
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	3 April 2016	Law 4375/2016 “Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive 2013/32/EU of the European Parliament and of the Council ‘on common procedures for granting and withdrawing international protection (recast)’ (L 180/29.6.2013), provisions on employment of beneficiaries of international protection” and other provisions.	<a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="http://bit.ly/234vUhP">http://bit.ly/234vUhP</a> (GR)
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20 July 2015	3 April 2016  22 May 2018	Law 4375/2016 (Article 46, transposing Articles 8-11)  Law 4540/2018 “Transposition of Directive 2013/33/EU of the European Parliament and of the council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast, L 180/96/29.6.2013) and other provisions... Amendment of asylum procedures and other provisions”	<a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="http://bit.ly/234vUhP">http://bit.ly/234vUhP</a> (GR)  <a href="https://bit.ly/2KCbDx6">https://bit.ly/2KCbDx6</a> (GR)
<b>Regulation (EU) No 604/2013</b> Dublin III Regulation	Directly applicable 20 July 2013	3 April 2016	Law 4375/2016 (Article 46, transposing Article 28)	<a href="http://bit.ly/2kKm2cu">http://bit.ly/2kKm2cu</a> (EN) <a href="http://bit.ly/234vUhP">http://bit.ly/234vUhP</a> (GR)






# The new normality:

Continuous push-backs  
of third country nationals  
on the Evros river



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## The new normality:

### Continuous push-backs of third country nationals on the Evros river

The undersigned organisations publish this report containing 39 testimonies of people who attempted to enter Greece from the Evros border with Turkey, in order to draw the attention of the responsible authorities and public bodies to the frequent practice of push-backs that take place in violation of national, EU law and international law.

The frequency and repeated nature of the testimonies that come to our attention by people in detention centres, under protective custody, and in reception and identification centres, constitutes evidence of the practice of pushbacks being used extensively and not decreasing, regardless of the silence and denial by the responsible public bodies and authorities, and despite reports and complaints denouncements that have come to light in the recent past.

The testimonies that follow substantiate a continuous and uninterrupted use of the illegal practice of push-backs. They also reveal an even more alarming array of practices and patterns calling for further investigation; it is particularly alarming that the persons involved in implementing the practice of push-backs speak Greek, as well as other languages, while reportedly wearing either police or military clothing. In short, we observe that the practice of push-backs constitutes a particularly widespread practice, often employing violence in the process, leaving the State exposed and posing a threat for the rule of law in the country.



# Evros

PROKEKA IN FYLAKIO  
& FYLAKIO RIC

The people giving the following testimonies were detained in PROKEKA in Fylakio. They state:

1. A.A., 18 years old, Algerian citizen: "I've been pushed back once. On 20.04.2018, at 21.00 we went to Ipsala with a friend from Istanbul. We crossed the river, and continued on foot. The police arrested us and requested to see our documents. Having nothing to show them, they beat us up gravely. They were 4 people, in an unmarked car, and they were armed with guns and batons. My friend was beaten up so badly that when they returned us to Turkey he had to be hospitalised. They were wearing hoods and I believe they spoke Greek to each other. They called a truck, carrying an inflatable boat they used to push us back. They took all our belongings, including our clothes. We were left with our underwear only. We waited to see if they'd give us our belongings back, but they didn't. The place they arrested us was 10 minutes walking distance from the river. It's an uninhabited area, there were fields and dirt roads, I believe it was between Feres and Didimoticho. Once back in Turkey we were stopped by the mafia. We had nothing to give them."
2. N.Y., 36 years old, Algerian citizen. "I'm aware of pushbacks being conducted by the authorities. I've heard of a lot of incidents where people drowned in the river. We were 3 people travelling together. We crossed the river at night, around 22.00. We were arrested by people wearing masks. They beat us up and took all our belongings, including our clothes. When they pushed us back to Turkey, I stayed there for about 17 days and then attempted to cross again. The pushback was conducted by Greeks and Germans. In Turkey we were stopped by the mafia, who beat us too. I know that lots of people pay them money so as to leave unharmed."
3. M.B., 31 years old, Turkish citizen. "I've been pushed back. Fearing deportation back to Turkey, I initially told the police I'm from Syria. I crossed the river with two more people, about a month ago (July 2018). I encountered two soldiers and two people in civilian clothing. They asked for our IDs, wanting to see where we're from. We didn't have any ID on us. They called for a van, and put us on board. There were two people from Syria already inside. They drove us to the river where they made us cross to the other side on a boat."

4. A.C., 32 years old, Turkish citizen. "I've been pushed back once, on 22.07.2018 to be precise. I was with a group of predominantly Arabic speakers (Egyptian, Syrian). We crossed the river to the Greek side at midnight. We waited for the smugglers truck. It arrived and we got on it. After about an hour on the road the police stopped us. I managed to escape, but saw that the rest of the group was heavily beaten up by the police. They didn't find me. The following day, I handed myself in to a police car I came across. I tried to explain the situation to them but they wouldn't listen. I was placed in the trunk of the car. They took me to the police station, I could see lots of policemen coming and going. They put me in the back of another car. Later in the day, they brought in eight men from Syria and they drove us all back to the river. The pushback was conducted by others, not the same policemen, in uniform too. They spoke Greek. I know as I speak a little Greek. They didn't wear masks. At 10.00 in the morning they put us on a boat and took us back to Turkey. They were armed."

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5. A.E., 18 years old, Algerian citizen. "I crossed into Greece at around 21.00 together with 4-5 people. We walked for about 10 minutes and then the police stopped us. We were on a dirt road close to Feres, close to Didimoticho. They asked what kind of documents we had and started beating us up. They had a black civilian car, wore civilian clothes, and had their faces covered. They beat us up with plastic batons, they spoke Greek, and some of them German. A while later a truck arrived, with an inflatable boat inside. They took all of our belongings and didn't give any of it back. They put us in the inflatable boat and forced us to cross back. The moment we crossed back we were caught by the Turkish police."

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6. H.A., 17 years old, unaccompanied minor, Afghani citizen. "The first time I crossed into Greece, around 19.00 in the evening, I was in a group of 20-30 people. We were caught by the police in Didimoticho and took everything we had, clothes, bags, mobile phones. They were wearing police uniforms. They transferred us to a police station and when it got dark they put us at the back of a truck, drove us to the border, put us in an inflatable boat and pushed us back to Turkey".

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7. M.S. 19 years old, Afghani citizen. "On the night I entered Greece, along with 15 more Afghani and Pakistani citizens, I was arrested by men in green clothes, of military resemblance, with concealed insignia. During the arrest we were beaten up and moved to a remote, abandoned detention space. We spent a few hours there and then we were pushed back to Turkey crossing the river in inflatable boats. A few hours after arriving in Turkey we were arrested by the Turkish police".

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8. S.A., 19 years old, A.M., 27 years old, and M.S. 19 years old, Afghani citizens: "We arrived around the 24th of July, we were 15-16 people, Afghans and Pakistanis, we walked in the woods for a bit and the smuggler told us we'll arrive in 5 minutes, but was lying. They arrived and arrested us. One of the policemen had his face covered, they asked us not to look at them in the eyes and every time we looked they beat up someone randomly, a person they chose each time. It was raining, we were soaked wet. They took us to a cell, they didn't give us any water or food. They beat up two men while asking them why they came to Greece. They were just looking at them, and the policemen were telling them to stop looking at them and beating them up with a baton. Early the following morning they put us in a boat and sent us back to Turkey. I had €50 in my bag, and when they gave it back to me the money was missing, as was the case with everyone's money. They also took our shoes and mobile phones. The people who caught us had a blue van. They were wearing green clothes, resembling military wear, I'm not sure if they were soldiers. They put us in a little boat and sent us back, a policeman was driving it. He returned to Greece afterwards. We walked in a forest for three hours barefoot, and then locals called the Turkish police to arrest us. They held us for four days, and then we paid for a taxi to drive us back to Istanbul".

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9. M.B., 31 years old, Kurdish from Turkey, according to his testimony he was imprisoned and tortured in his country of origin. "They caught us and put us in a military facility. They all wore military clothes except for two who were in civilian clothing. Then they took us to a police holding cell along with people from Syria. I had a smartphone, which they took along with my bag containing all my clothes. I was travelling in a group and I said I'm Syrian, so that they don't send me back. They gathered us, put us in a boat and sent us back to Turkey. I didn't say I was from Turkey as I left from a Turkish prison and was afraid they'd send me back there. I was told to say I'm from Syria and was escaping the war, and that they'd accept me that way. In the end they gathered us all up and sent us back. Thankfully I was not caught by the Turkish police, if that was the case I'd be dead or in prison".

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10. A.A., 21 years old, Egyptian citizen. "I was travelling with five more people from Egypt. We crossed river Evros to the Greek side with the smuggler at night. It was in an area with dense bushes and upwards-sloping terrain. We entered the forest, having lost our orientation. We walked without knowing where we're heading and after 1-2 hours we heard voices and saw a group of people coming towards us. When they came close, we could see they were well built and of a fair complexion. They didn't speak Greek, but a language that sounded like German. They were wearing dark uniforms; different from the ones the Greek police was wearing at PROKEKA in Fylakio later on. They asked us to stand in a line and performed a



body search. At random moments, without provocation, they started punching and kicking us. When an Egyptian man from our group tried calling a human rights organization from his mobile phone, one of the uniformed men took his phone and started beating him. Following that, they put us in a dark-colored van, resembling a civilian car and drove us to a warehouse. It took about 20-30 minutes to get there, and the road was rocky. At the warehouse, they conducted another body search, took our money and mobile phones, and asked us to strip down. They forced the whole group to knee down facing the wall. They kept us there without food or water. We must have stayed there for a long time as it was dark outside when we got out again. They put us in a white bus, with blue signs insignia on it. They drove us to the river, forced us to board on boats and returned us back to Turkey. There was no one on the opposite riverbank. After a few hours the Turkish police arrested us. They drove us to a detention center, possibly close to Edirne (Andrianoupoli), as it didn't take too long to drive from the location we were arrested".

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11. S.H., 35 years old, B.B., 18 years old, Egyptian citizens: "We were travelling with 4 more people from Egypt. We crossed river Evros to the Greek side at night with a boat. On the riverbank on the Greek side there was thick vegetation and in front of us a forest with tall trees. We hid in the bushes, having lost our bearings. About an hour later, not having moved around much and not knowing where we were, we heard some people shouting at us. One of them was holding a gun and stayed further back from the 3 people that approached us. We heard more steps behind us, I believe there were more people we couldn't see, as it was dark. Their faces weren't covered. Hearing them shouting and speaking, we understood that some of them were Greek, and some were speaking another language, possibly German. We were asked to stand in a line, and they body searched us. B.B. took his phone out in order to call a human rights organization. They spotted it, and one of the people from those who were well built and with a fair complexion came close, started beating him in the head, threw him on the floor, and kicked him, before taking his phone away. They led us to a dark van, put us at the back and started driving. It was a quick drive, on a rocky road full of potholes. They took us to a small room with bars on the windows, gathered our phones and money, and stripped us down. They ordered us to kneel down with our backs against the wall. B.B. didn't comply immediately, so they beat him on the head and at the back of his neck. They kept us there for almost a full day. The following night, they put us in a white bus and returned us to the river, possibly from the same road, as the ride was brief and the road was rocky. There were more people in the bus, and from hearing them speak I could tell that some of them were Greek. They then put us back on boats and sent us back to Turkey. There was no one waiting on the other side. We walked for a little while, and before dawn the Turkish authorities arrested us and they transferred us to a detention center close by. We were then released after 1-2 days."
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12. M.M.I., 24 years old, Afghani citizen, states that 'he was lucky' and crossed the border on his first attempt: "... I'm aware of what happens in the border. Friends of mine have been pushed back. They had bought a bus ticket when the police stopped them. There were men, women and children. They beat them up, and pushed them back to Turkey on the same day. The women and the children were crying. They took their belongings and mobile phones, throwing them in the river in front of their eyes. They then pushed them back to Turkey. In Turkey they were detained for 3 days. Some were released and went to Istanbul, others were deported back to Afghanistan. I knew where they were caught so I crossed from a different road. You have to do something, Afghans in Turkey have big problems, it's not safe for them to be there".

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13. S.B. 17 years old, unaccompanied minor from Afghanistan. After arresting me, the drove me to a police station that looked like a holding cell. I was travelling with family, my uncle and my cousins. The first time, we crossed from a place with thick vegetation with a smuggler and reached the banks of river Evros on the Turkish side. There, where we boarded on inflatable boats. We were 15-17 people on the boat. We crossed the river without any problem arising, and made it to Greek soil. We split in smaller groups and entered a bushy forest. Slouching, we moved until we reached the train tracks close by. We continued south, parallel to the train tracks. About 5 hours later, we heard noise and lied down on the ground. A group of people with torches approached us and shouted at us to stand up. Some of the people travelling with us obeyed and stood up. One of the men shouting at us pointed a gun at us and ordered us to stand. They handcuffed us and asked to see our documents. They put us in a dark coloured van, without windows, and drove us to a small holding cell where they kept us. They body searched us and took our mobile phones, our clothes and some peoples' backpacks. We stayed there that night, and the following day. They didn't give us any food or water. At night, I could hear the train passing by. The following night they led us to a dark green truck, possibly a military vehicle. It was taller than the van they used when they arrested us the other day and had a window at the back. A civilian car followed the truck. We were about 20 people in the truck. They drove us back to the river where the made us pump the inflatable boats that were there. They spoke Greek to each other. They wore dark uniforms with no insignia, their faces weren't covered but we couldn't see them clearly as it was dark. They ordered us into the boats we had just inflated, along with two men had driven us there, who drove the boat. There was no-one waiting for us on the Turkish riverbank. We headed east, towards the Turkish side, and we were arrested by Turkish police the next morning. The Turkish police drove us to a detention centre close to Edirne, where they kept us for 3 days. They gave us little food and water. We were released 3 days later and returned to Istanbul. In all of my following attempts to cross into Greece, I was pushed back to Turkey in the same way. The only difference was that the 3

last times, we were driven back to the river on dark coloured buses, and once on civilian vans. In one of my attempts, one of the men slapped me when hiding in the forest because I didn't surrender myself early enough."

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## The people giving the following testimonies were under restriction of freedom or under protective custody in the Fylakio RIC. They state:

1. M.H. 27 years old, Syrian citizen, states that he was pushed back to Turkey twice, in mid-August: "The first time I tried to cross into Greece, 28 of us left Edirne (Andrianoupoli) at 20.00. The group consisted of families with children and infants, single men and women. There were 7 minors. We reached the river by car, where the smuggler divided us into groups and put us in 2 boats. We crossed the river into Greece. The smuggler divided us into smaller groups and sent us to the bus station at Orestiada on foot to buy tickets. He gave us documents, saying we'll be able to purchase tickets without a problem. At the till they asked to see my passport, and I gave them the document he had given me. I believe that the bus company employees informed the police, as after waiting for 15 minutes for the bus to leave, once on the road for 10 minutes the bus stopped in front of the police station. Police officers entered and asked to see our documents. We showed them the documents we had, and the police tore them in pieces. They arrested us and led us to a holding cell. We were 7 people by that point, 3 women, 3 children, my brother and I. They performed a body search on everyone. Male officers searched the men, while female officers searched the women. They threw away all the things we had in our bags, and asked for our mobile phones and money. They gave us the money back, but broke our phones in front of our eyes. Throughout the process we were given no food or water. They even confiscated the baby formula we had. There were more people in the cell, without provisions for keeping women and children in separate cells. There were 8 beds and one toilet. We were drinking water from that toilet, as they didn't give us any. We were kept there for only 2 hours, with more people arriving in that time. Then a van came and took 25 of us back to the border, leaving us in front of the river. 5 hunky, tall men were waiting for us there. They were dressed in black uniforms and their faces were covered. They had weapons on their belts and legs. They put us on boats, and 2 more people navigated us across the river. They didn't hit anyone. They told us to look down, and every time someone looked up they hit them - lightly so as to look back down. In general they didn't touch the families, but I saw that they took the clothes of some single men travelling on their own. When they pushed us back to the Turkish side, we walked and called for help. The Turkish police came and we told them that the Greek police pushed us back. They arrested us and drove us to a detention center in Edirne (Andrianoupoli). We spent a week there; they gave us food, water and juice. Afterwards, they transferred us to a camp 20 hours from Edirne, in Urfa, where they only housed families. They sent the single men from Iraq and Syria back. They took

us to Istanbul, where we immediately met our smuggler. In two days we were back at the border. We drove to Edirne, and then crossed the border by boat.

The second time around we arrived in Greece at around 19.30. This time we were about 65 people, women, children, men, and families, from various countries. We spent a day by the river, and the next day we left at about 23.00. The smuggler took us all at a village in order to wait for more people to arrive. We waited in the forest and the police came. They showed us their credentials. We told them we've been on the road for a long time. They told us not to be afraid. 2 vehicles arrived, a large military one and a smaller one with 4 policemen. They didn't give us any food or water. I speak English, so I asked them where they'd take us. They told us they'd take us to a holding cell for a day, and then to a camp where they'd issue documents for us. They just said this so that we remain quiet and not protest. They didn't take us anywhere; they drove us back to the river. There again, men with covered faces were waiting for us. They wore black uniforms and were armed. When the policemen dropped us off at the river, they gave us back our bag, but the men in black uniforms took them, put us on boats, and pushed us back to Turkey. In Turkey, it was the same process as the last time. The third time we tried to cross, we succeeded as the smuggler took us from a different road. We passed Alexandroupoli, and 100km further we were stopped by the traffic police. (I speak English and could read the plates). They took us to a holding cell, and after to the Fylakio. I know that some of the families were sent back to Turkey."

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2. H.A. 22 years old, Iraqi citizen, tried to enter Greece accompanying his 11-year-old nephew, on the 27<sup>th</sup> of September 2018. "We crossed with a smuggler and arrived to the river by road. It was 35 of us, men, women, children, families, including some people with disabilities. After 5 hours driving the smuggler dropped us off and we walked for 2 hours to the river. He had given us an inflatable boat and a pump to cross. By the river, 2 people met us who helped us cross in groups of 8. We all made it across at around 22.00 and we walked for 15-20 minutes. We crossed a road and entered a forest to rest. At around 03.00, we heard a dog barking. A tall man with a dog approached us. He had his face covered and was wearing a head torch. He was wearing a blue uniform, like the ones worn by the policemen in the detention centre and had a gun. He was speaking Greek and called someone, who arrived a little later. He was wearing the same uniform, but his face was uncovered. He spoke English. The tall man with the dog run into the forest to catch a child that escaped. The other man led us to the road, close to the train tracks. 10 policemen were waiting for us there, wearing the same clothes. There were 3 vans without windows. There were no women police officers. The body searched the men, and used a handheld scanner to search the women. They split us into groups of men and women, and took our bags before putting us in the van. There were about 12 people in each van. After driving for half an hour, the van stopped for 20 minutes but we didn't get off. Half an hour later we reached the river. We were taken off the vans by 5 people with their

faces visible, holding batons and guns. They gave us our bags back, but threw our mobile phones in the river. A little later another car arrived, with an inflatable boat attached to its roof. They split us up in groups of 8, and a policeman navigated the boat across the river. One person resisted, and they hit him in the head.

When we crossed back to Turkey we weren't arrested by the Turkish police, as they don't patrol that area. The smugglers collaborator who was with us had managed to keep his phone hidden, so we used the GPS to find our way back to Istanbul. We walked for 5 hours and found a room in the forest, where we hid for 2 days. The smugglers car picked us up from there, and took us back to the river. We crossed back to Greece in the same way on October 1st. We walked through the forest from a different spot. We reached a road, and sat by the road. By that point we were 180 people. An army vehicle arrived. As I speak English, I asked to speak to someone from UNHCR. The police arrived in 3 vehicles, I recognised two of the vehicles, as they was the same ones they used to drive us back to the river the first time around. Again, I asked to speak to someone from UNHCR. A tall man came, showed us his card, but we refused to leave the road as we were scared that they'd push us back. A while later a bus arrived, and drove us to the police station in Orestiada. We were then transferred to Fylakio detention centre."

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3. A.A., 21 years old, Syrian citizen. He stated that he was pushed back to Turkey 4 times. All of the 4 pushbacks were performed by people wearing blue uniforms and carrying guns. He said that they shouted and cursed them, and employed violent tactics. They took away their belts and shoelaces, any electronic device they had, and all belongings. They took them to a detention centre with people of many nationalities (Afghan, Pakistani, Iraqi) and when it got dark at around 19.00-20.00, they drove them back to the river in a van. There they put them on boats in smaller groups and pushed them back to Turkey. The last time he crossed the border, he was arrested and went through the reception and identification procedure, on October 10 2018.
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4. M.A., 16 years old, unaccompanied minor from Iraq. He states that he was pushed back once, in early October 2018. "We were about 20 people, (5-6 were young children). We crossed the river on a boat late in the afternoon, and started walking on a busy road. We were stopped by two policemen in a van, they had guns. They told us that they're from the police and that we shouldn't be scared. An Iranian man that spoke English was translating for us. They made some calls, and 10 minutes later a military vehicle arrived with two policemen on board arrived. It didn't have number plates. They put us on the truck and drove us to the police station. It was close to the place they caught us. On the way they gave us 3 bottles of water to be shared by the whole group. The truck had equipment for taking fingerprints, like the ones they used when they brought us here. They performed a body search on the men and put us in a cell without water and food. The cells were large rooms



with beds and a toilet. Before entering the cell, they asked us to put all our things on a table, including our money. They didn't search the women, as they didn't want to touch them and didn't have a handheld scanner. They asked them to put their belongings on the table. The following day they put us on the same van and drove us to an empty house next to the riverbank. There was a boat there. They quietly put us on the boat and we crossed back to Turkey. When boarding the boat, they threw our phones in the river."

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5. R.A., 17,5 years old, unaccompanied minor from Pakistan. He tried to cross into Greece in the first 10 days of October 2018, but was pushed back to Turkey. "We were 25 people when we crossed into Greece. We got on boats in groups of 7. A smuggler was waiting for us on the other side and told us to follow him. We got to some train tracks, wanting to reach Alexandroupoli; 3 men in blue uniforms stopped us. 10 people started running, and they didn't stop them. They didn't tell us anything else. A large blue vehicle, like a bus, arrived 15 minutes later. They took the 15 remaining people in the group to a police station, 20 minutes away. There were a lot of rooms and offices, and people there wore clothes with 'Police' written on them. They body searched us and only took our mobile phones. They put us in a room with 5 more people. It was relatively clean, but didn't have a toilet. They didn't give us any food or water. We had some food on us, and they let us eat it. They were nice to us in general, and let us go to the toilet when we asked. They brought in more people, twice. In the end, we were about 100 people, only men, from various countries. At around 23.00 they put us on the same bus and drove us to the river. There was a boat, they put us in in smaller groups and a policeman drove it across the river. They threw our phone in the river."
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6. A.W., 17,5 years old, unaccompanied minor from Pakistan. He tried to cross into Greece in mid August 2018. "We were about 23 people. We crossed river Evros on a boat. The two smugglers led us to a forest to sleep. While asleep, 4 men wearing military uniforms found us. They had two dogs. They called the police to come to that spot. When they arrived they asked us to put our hands up and body searched us. They separated the people they understood to be smugglers. The police took over at that point. There were 4-5 policemen in 2 vans. They took our phones before putting us in the vans. They put the smugglers in another car. We drove for 15 minutes to a place that looked like a prison, with a large gate. We didn't go in, but waited in the van for 2 hours. The policemen were nice to us they gave us water but no food. They drove us back to the river 10 minutes away, at around 03.00-04.00. There was a boat there. A policeman put us in the boat, and a person from the military drove the boat across. They didn't give us our phones back."
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7. A.K., 29 years old, Syrian citizen. "We were 70 people when we crossed into Greece. We spent a long time on the road next to a village. The police caught us. 6 of them were wearing blue uniforms like the ones worn by at the RIC, but there were 20 more people with their faces covered, and 2 people in civilian clothing. Some people were nice to us, and when we asked for help they told us they can't help us and that they were following orders. One of them said to us that it was Merkel's orders. They kept us hidden from 11.00 when we entered Greece, until 19.00. They didn't take us to a police station. They didn't give us any food. They didn't even let us go to the toilet in the woods. They refused to call a doctor when we asked for one, as there were people in the group who were ill. There was some rubbish lying around, and some of the policemen took used bottles, and filled them with water to give to us. I tried to help an elderly woman that had a problem with her foot, but a policeman hit us both. When it got dark they put us in a van and drove us to the river. They took all of our clothes, it was terrible. The men were left with our underwear, the women with underwear and t-shirts. It was degrading. They took all of our belongings except for our passports and IDs. They burned our things once we were sent back, we could see it from a distance, electronics, clothes, food. A few days later I called my phone and it rang. I don't know what they did with it. They pushed us back on boats they were driving themselves".

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8. A.D. 32 years old, Palestinian citizen she was pushed back to Turkey 3 times. She talks about the first pushback. "We crossed the border via the river and stayed hidden in the forest for 3-4 days. At some point we ran out of food and water. I had filled a bottle with dirty water, and was using a handkerchief to filter in order to give it to my children. We were 90 people, 30 were children. Some found some beehives in the area and tried to get some honey to eat. When the beekeeper found out, he started shooting in the aid. The police heard it and they found us. 20 people from the group ran to the forest to hide, they didn't find them. The about 70 of us remaining were mainly women and children. The people that caught us were wearing blue uniforms and had guns. They treated us very badly, swearing at us in English. Some of them even hit the children. They drove us to an old room close to the river. It was a stable. It didn't have a proper floor, but dirt. It didn't have a lock, and only one window with bars. All 70 of us were in that space, some people fainted as the space was extremely confined. They took our clothes, our shoes, and our mobile phones. They left us our passports and IDs. At 19.00 the pushback started. 20 people in military uniforms and covered faces took us to the river on foot. Once there, they put us on boats in smaller groups, and we crossed the river. A policeman was looking across the river to see if it was clear to cross, and signalled to the boats to start. It was terrible, a baby was crying. A policeman asked it to stop, naturally the baby didn't stop and the policeman hit it in the face twice! The mother started to cry, and he hit her too. It's well known that if the Turkish police doesn't arrest you when crossing back, you get charged 4-5 times over the normal price by taxi drivers to drive you somewhere."

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9. Q.M., 37 years old, Iraqi citizen. He was pushed back to Turkey on the 15th of October 2018. "We were 11 people in total, 5 got away. The police found us in the forest. They didn't beat me, but I saw them severely beating up a kid from Afrika. They drove us to a holding cell in a van. It was a large old room with a filthy toilet. Some of us chose to clean it. We were about 150 people in that room, from various countries. Men, women, children, and families. The space was 5 minutes away from the river, directly next to some train tracks. They body searched us. The men were searched by male police officers, the women by female. They kept us there for a few hours, until about 19.00. They took our personal belongings, our electronics, mobile phones, and anything of value. They gave us back our documents after checking them. They kept our other belongings. They drove us back to the river in vans, where they put us in boats in groups of 12, and sent us back to Turkey. The people who drove us to the river were policemen, with their faces covered. The people driving the boats wore blue uniforms too. Only one of them was wearing a green uniform. These people weren't wearing masks."

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10. H.M., 16 years old, unaccompanied minor from Pakistan. "I tried to cross into Greece twice. My first attempt, in August 2018 failed, as I was arrested and pushed back to Turkey. I was travelling with 10-12 other people from Pakistan, and the smuggler. We reached the banks of river Evros on the Turkish side at night-time, and crossed at a point with thick vegetation and trees. We crossed on a boat. At some point the boat rocked heavily to the side and some people fell in the river. We panicked and tried to keep the boat from capsizing. I heard the people who fell in the water swimming. I don't know whether they made it back to the riverbank safe. When we reached the Greek side, we kept walking until daylight, trying to stay hidden in the bushes. Some people in the group were wet from when crossing the river earlier. Around sunset, a shepherd spotted us and called the police. A little further down, about half an hour later, we were arrested by men with police insignia. They asked for our travel documents, which none of us had. They put us in a dark coloured van, without windows, and drove us to a police station. We were kept outside initially, in a caged terrace. I could see the train tracks close by from where I was sitting, with my back on the Turkish side. At night, I saw the train passing by. When they took us in the police station, they took my mobile phone and my shoelaces. When they finished searching everyone, they put us in a van similar to the one they used to drive us to the police station earlier. The van had space for 10-15 people, but they piled 25-30 of us in there. During the transfer, 3 young men fainted. We started banging our hands on the walls of the van, until they stopped and opened the doors at the back. They took out the men who had fainted and started slapping them in their face and throwing water at them. When they woke up, they violently pushed them back in the van and continued driving. They drove us back to the river, probably on a dirt road. (The road was rocky and the van bounced around a lot). We made it back to the river, where we saw boats waiting for us. They put us on the boat and we started crossing back to the Turkish side. I looked back and I

saw them taking the batteries off our phones, which they had confiscated earlier, and throwing the phones in the river. When we landed on Turkish soil, we started walking towards Turkey, and after a little while the Turkish police arrested us and drove us to a detention centre where they kept us for 3-4 days. We were then transported to Istanbul, in a police vehicle, where they released us.”

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- 11.** O.A. 17 years old, unaccompanied minor from Syria. “I was travelling in a group of people of various nationalities. We were about 20 in total. We crossed river Evros into Greece on a boat once it got dark. When we reached the Greek side, we were arrested by a group of man dressed in black. They were well built, and wore full-face masks. They put us in a van and kept us there for a long time without food or water. When it got dark again, they drove us back to the river and put us in a boat. One of the masked men came in the boat and forced us to lie on the floor with our faces facing down. He left us on the Turkish riverbank and returned to the other side.”
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- 12.** M.A. 15 years old, unaccompanied minor from Afghanistan. “I tried to cross into Greece 3 times, succeeding the last time. I was pushed back to Turkey the first two times, when travelling with a group of people from various countries. On my first attempt, I tried to cross with a smuggler and 12 more people. We crossed from a swampy area with thick vegetation on the Turkish side, and made it to the banks of river Evros. Once there, we boarded an inflatable boat in order to cross the river. When reaching the Greek side we entered a forest. The ground was wet as it had rained earlier that day. We started walking with 6 more men for about 4 hours between the trees, along the riverbank. Suddenly, we heard voices and fell on the ground, hiding in the bushes. The police approached us, they were wearing uniforms like the ones worn by the police men in the RIC. They shouted at us to stand up. We stood up and we boarded a dark coloured van without windows. The road was rocky and I was so terrified that I didn’t understand how long we drove for. They led us to a little room that looked more like a warehouse than a police station, comparing it to PROKEKA. We got there at about 06.00 in the morning. They asked us to hand over any documents we had, and our mobile phones. I had my original birth certificate with me, which would be essential to get reunified with my brother in Germany. The police tore it to pieces in front of my eyes. They also took my phone, and never returned it. They kept us in that warehouse for about a day, in that time, they brought more people in. After 6 hours, at around 12.00, the warehouse had filled up with people. It was people from various countries, and I recognised some Pakistani nationals among them. At about 22.00 at night, they put us in the same van that they used to drive us to the warehouse. The route we followed might have been the same, as the road was rocky and the van was bouncing around. We reached the riverbank and they put us in boats. Two policemen came with us on the boat, who made sure we got off at the Turkish side.

They then returned back to continue transferring the rest. On the Turkish side of the river, there were no Turkish policemen waiting. The second time I attempted to cross, we reached the Turkish side of the river at night, boarded on boats and crossed to the Greek side without a problem. There was thick vegetation around us and the ground was soft and muddy. We walked for a long time and reached a village. We got on a bus and travelled for about 1.5 hours. The bus was stopped by the police and they arrested us. They took us off the bus and we waited on the side of the road for the police vans to arrive. Once the vans arrived, they drove us to a police station, we stayed there briefly and they put us in the van again almost immediately. When they let us out again, 1.5 hours later, I realised that they had brought us to the same warehouse as the last time (or a very similar looking one). They body searched us and they kept us there for about half a day. The rest of the pushback was done in the same way as last time. They put us on dark coloured vans, drove us to the riverbank and the policemen took us on the other side on boats.”

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- 13.** R.N., 15 years old, unaccompanied minor from Afghanistan. “I was travelling with my brother. We managed to get into Greece from Evros the second time we tried. On our first attempt we were pushed back by the Greek police. More specifically, in our first attempt we crossed the river with a smuggler in a group of 18 people. As we were walking in the forest during the night a man with a dog approached us. He made a call to some people, and in a few minutes two men in a blue van arrived, they were shouting ‘police’. They were wearing black uniforms and their faces where covered. They beat us up, the men, all over our bodies, with clubs and fists. The violently took our bags away and burned them in a bonfire they lit on the spot. Our bags contained all of our original official documents, our Afghani IDs as well as medical exams I did in Istanbul concerning a serious medical issue with my lower back. The only copies of documents I managed to save were photos I had on my phone, which I had on my and wasn’t confiscated by the police. They then led us to a warehouse/garage where they kept us until the early morning hours. From there, two other police officers transported us to the riverbank. They swore at us and beat us, using verbal and physical violence. On the riverbank, we boarded on boats and they pushed us back to Turkey.”
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- 14.** K.F, 15 years old unaccompanied minor from Afghanistan. “I tried to cross into Greece 7 times. I was pushed back to Turkey illegally 6 times. We left Edirne at noon and eventually reached the river. There were 12 of us. We waited until it was nighttime and boarded a boat to cross the river. We did so unobstructed and arrived at the riverbank on the Greek side. The trafficker told us that the town of Didymoteicho was not far from where we had disembarked. We intended to orient ourselves by using GPS on our mobile phones, but the trafficker advised us against

doing so, lest someone should notice the light of the screen, which could have resulted in our being detected. We walked through dense vegetation, as if it were a forest, and 9 of us reached a number of residences, where we were informed that we could purchase bus tickets at a small local store. The scene was most probably a village, at the entrance of which was the aforementioned store, one of the first buildings we came across upon approaching. All of us bought tickets to Athens, and I paid the woman selling them a sum of 100 euro. I saw her making a phone call, and moments later policemen arrived to the spot and arrested us. We were body-searched and stripped of our mobile phones and personal belongings. They were policemen, dressed in blue uniforms (he related them to those worn by police guards at RIC). They put us in a police van that had no windows, and for about an hour we were on a rather uneven road, as if covered in potholes and bumps. We experienced turbulence on the ride, until we eventually reached a small room, resembling some sort of warehouse or storage area, which was by no means a police station. There were other people inside that room. We were body-searched once again. We waited there for about 6 to 7 hours. During this period, the number of people in the room rose to approximately 200-300. At dawn, I believe it must have been around 4 am., we were put in large military trucks (he described a dark green colour). The road was once again quite bumpy. It took us around an hour to reach the river. We crossed a bridge and waited inside the trucks for another hour. There, we saw military officers and about 10 to 15 policemen with hidden faces, wearing masks. They physically abused many of us, commanding us in English "do not come back to Greece ever again". They took off our clothes, leaving us in just our underwear. They put us in boats, manned with two mask-wearing military members each, and transported us to the Turkish side of the river. They took off our clothes, leaving us in just our underwear. They put us in boats, manned with two mask-wearing military members each, and transported us to the Turkish side of the river. Then, they went back and used the boat to repeat the same procedure with the remaining ones of us. The policemen were present but rather than participating, they only watched and threw our personal belongings in the river. On our second attempted river-crossing, the trafficker told us that he had arranged for a taxi to wait for us on the Greek side. We remained hidden in the vegetation and tall trees for about 5 to 6 days. On the final day we were all exhausted and could not wait any longer, so we decided to leave, but we were spotted and got arrested by military members. Similarly to the previous occasion, we were taken to a warehouse-like building, but it was not the self-same one. A body search ensued, following which they kept any personal belongings we held, yet again. I saw them setting mobile phones on fire. Almost immediately, they put us in large military trucks and took us to the river. They transported us to the other side in the same fashion as the last time. In total, out of my 6 unsuccessful attempts to enter Greece, 4 were intercepted by the military, and 2 by the police."

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# Xanthi

PROKEKA IN XANTHI

## The following testimonies were given by people detained in the PROKEKA in Xanthi.

1. A.M., 21 years old, Pakistani citizen: "I entered Greece at the Evros region in March 2018, along with 10 more people. 10 minutes after landing on Greek soil we were stopped by men wearing black hoods and covered faces. They were wearing blue uniforms like the ones worn the policemen. I couldn't understand the language they spoke. they probably spoke Greek, as I can understand now. They arrested us and held us in a small space, in a little house close to the border. At around 02.00 the put us in a van and drove us back to the river. They didn't hit us, but they were holding batons and guns. We were in a group of single men, without women or children. They put us in a boat, and 3 policemen came with us. When we got close to the riverbank on the Turkish side, they violently threw us in the water and returned back."
2. W.H., 20 years old, Pakistani citizen: "I arrived in Turkey 3 years ago and have tried to cross to Greece to apply for asylum multiple times. I can't remember exactly how many times, but in those 3 years I must have tried about 40-50 times. They always push me back. Some of these times, the people that caught us treated us violently and inhumanely. They have broken my mobile phone, taken my personal belongings and beat me up multiple times. The Turkish authorities arrested me for trying to cross the border and I was sent to prison. I spent about 1 year in prison in Turkey. The conditions were terrible. They treated us like animals."
3. B.G., 38 years old, Afghani citizen: "I was pushed back in early June 2018, trying to cross the border into Greece. They took everything from us, even our shoes. I returned to Istanbul, and with help from a smuggler I tried to cross the border again, but I was pushed back. We had boarded a train, when the police charged in, asking for our passports. We didn't have any to show them. They took our mobile phones and led us to an underground location under a bridge. They kept more people there. At some point the drove us back to the river. These people were wearing masks. The others who first arrested us were police officers who took us from the trains to the river in a white van. Eventually, I entered Greece from the sea, entering at Alexandroupoli where we were arrested by the police and we were sent at Filakio and then to PROKEKA Xanthi."
4. S.A.B., 23 years old, Algerian citizen told us that he was pushed back to Turkey twice in August 2018: "I was arrested in Orestiada. They took me to a space that

looked like a garage, where 60 people were held. This place is in Didimoticho, close to the river. It's a ground floor room close to the train tracks probably below a bridge. A military vehicle came and they took us back to the river at around 19.00-20.00 in the evening. They put us in boats in groups of 8, after taking all of our belongings and clothes. They were violent on several occasions. The group consisted of men from Pakistan, Bangladesh, Morocco, Algeria, Syria, and Turkey, and a woman from Afrika. The military personnel wore masks. There are three spots where they push people back. Orestiada, Didimoticho, and Alexandroupoli. They never took our fingerprints. It is usual to arrest people in buses and trains."

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5. M.B., 19 years old, Egyptian citizen: "I tried to cross the border with the help of a smuggler. I managed to cross into Greece a few times, but I was pushed back 4 or 5 times. A little while after entering Greece they arrested us and kept us in custody for a short period of time. Some of the times they didn't give us water or food. They then drove us back to the river. Back in Turkey the police arrested me after some of the pushbacks. They kept me for a couple of days, and then released me. I tried to cross again. I remember that in one of the attempts to cross, when we were being pushed back, they were shooting in the air to intimidate us so as to not come back."
- 





# Drama

PROKEKA IN PARANESTI

## The following testimonies were given by people detained in the PROKEKA in Paranesti.

1. E.R., 20 years old, Afghani citizen: "About two months ago, we crossed the river at night and walked for 3 hours until reaching the train tracks. The police was there and they arrested us. We were a group of 18 Afghans. They put us in a car, and 20 minutes later drove us to a detention centre. At around 23.00, about two hours later, they took us back to the river. Their behaviour was relatively decent, but they didn't give us any food. Some people were eating food they had brought with them. People with babies were giving food to them. They body searched us when we arrived at the detention room. They took our belongings and put them in a bag. We were kept there for 28 hours, without giving us any food. They only gave us water. They gave us back our belonging, the bags with our clothes, except for our phones, which they threw in the water in front of our eyes. They were all wearing military uniforms, both the people that arrested us, as well as the people who pushed us back. Their faces were visible. They put us in the boats in groups of 10-20 people, and they were fast at returning us back. By the end, we were about 150-160 people. People arrested before and after us."
2. M.U.A. 22 years old, and N.S. 20 years old. Afghani citizens. They told us that they've been pushed back to Turkey twice: "The first time we crossed, it was about 1-1.5 months ago. They arrested us and took us in a space with lots of people. We stayed there for 6 hours, and then they pushed us back. They only let us take our clothes and money. They left us barefoot and took the rest of our belongings (mobile phones and other electronics). We were pushed back barefoot. We stayed in Istanbul for 4 days, and then crossed again. They arrested us again, and kept us in a space for 8 hours. They arrested us and pushed us back during daytime. They took all our belongings except for the clothes we were wearing, and pushed us back barefoot. In both occasions they were wearing military uniforms, and their faces were visible."
3. W.U.S., 18 years old, Afghani citizen: "When we crossed the river, we walked for some time on the road until we got arrested. It was night-time. At around midnight, they led us to a space where they held more people from various countries. They kept us there until 19.00-20.00 the next day, when they took us back to the river and pushed us back to Turkey. They were wearing military uniforms and their faces were uncovered. They immediately took our shoelaces and belts. Later on, they body-searched us. They gave us nothing to protect us from the cold, they didn't let us speak, and they took all our belongings".



4. M.M., 21 years old, and S.M. 18 years old, siblings from Afghanistan: "We crossed in a little boat, us and a couple. The woman was pregnant. We were on the boat for about 6 hours. The women felt unwell and we stopped at a riverbank for her to get off. We wanted to continue, but couldn't as the boat was damaged, so we had to get off. The police caught us in a forest, put us in a vehicle, and drove us to a space with 70-80 people inside. They body searched us and took all of our belongings except for our money. They kept us there until it got dark, then the put us in a vehicle resembling a refrigerator truck and drove us back to the river. The drive from the point the police arrested us to the detention centre was about 3 hours. Their behaviour was terrible. They tazed anyone that protested. They were holding batons. The people who arrested us put us in a van with 6 more people inside, and drove us to the detention centre. There they didn't let you move or speak. The truck they put us in at night had a tiny window. We complained that there isn't enough oxygen. They hit anyone that spoke, and threw hot water at us to stop shouting. One person had breathing problems and kept changing places in order to be able to breath. They were wearing military uniforms and had their faces covered. When we arrived at the river, they started putting groups of 10-15 people on boats and pushed them back to Turkey. There was a guy with sunglasses and a moustache that was particularly severe. He was there the second time they pushed us back, and he treated us differently. The people that arrested us the first time were in civilian clothing, short trousers and shoes. The people that drove us to the detention centre were wearing clothes like the people here (in Paranești PROKEKA). The people who put us in the truck were wearing military t-shirts and green trousers."

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5. F.A. 21 years old, Pakistani citizen: "I've been pushed back once in the process of attempting to come to Greece. It was in early June 2018. We were a group of 6-7 people when we crossed the border. The smuggler got lost on the way. We run out of supplies and decided to hand ourselves over to the police. We passed the bridge and arrived at a gas station where they were policemen. They made a phone call and a van arrived. They put us in the van and drove us to a police station. They held us there for one day. The following night Greek military personnel arrived at about 22.00 and drove us back to the river. There were 60-70 more people with us. The majority was people from Pakistan and Afghanistan. There was a family in the group too. 2 people tried to escape and they beat them up. When we got back to Turkey we went to the bus station and took a taxi back to Istanbul".

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## Additionally to the testimonies laid above:

- the I.A.E. family contacted us. M.N, Z.M., Z.A., S.R., Syrian citizens. They tried to cross the border into Greece on the 9<sup>th</sup> of September 2019, in order to apply for international protection: "We are refugees and we have no other way of getting to Europe. We crossed the border at around 8-9. The smugglers left us at a village at the border. We walked for a bit and asked a Greek person where we have to go to apply for international protection. 10 minutes later a police van arrived. They arrested us and drove us to a detention center about 10-15 minutes away from where they caught us. We thought they'd take us to a camp and that we'd be safe. They started looking through our things, their behavior was terrible and insulting. They then told us that we'd be able to continue towards Athens. They threw us out of the van like animals, and told us to throw our stuff on the side. They started searching our things by force, kept our mobile phones, searched our bags, and then put us in a cell in the police station. At 09.00 in the morning we asked them to let an old man from Syria to open the bag in order to take some medication but they refused. We hadn't eaten since they arrested us. At some point in the morning they let me open my bag, and I took some food that we had. I gave some to the old man. We weren't given any water during the many hours we were held in the cell. When we woke up in the morning there were more people in the cell, young people mainly. We asked them where they're from but they didn't answer. We saw them taking their fingerprints. They didn't take fingerprints from us. There were couples, families and single men from Turkey. One of them spoke very good English, and was speaking to the policemen. A while later, they transferred them elsewhere. They beat up most of the men, but didn't touch us women, and children, even though they did push us around when getting on and off the van and when getting on the boat. They beat up a lot of people, mainly from Syria. They stripped the men down and left them only with their underwear and a t-shirt. They didn't touch the women. I'm (I.A.E) 50 years old, another woman who was 60 years old was with her husband, who was 75 years old and couldn't walk. There was another woman with serious health issues. There was also another gentleman with his wife and 4 children. Their behavior towards the elderly man was terrible. When we reached the boats, they threw him in violently. When he tried to complain, they hit him with a paddle on the legs and lower back in order to be over with the whole process quickly so as to not alarm the authorities on the other side of the border. They treated us like animals. They hit some people with the paddle, others with batons, others with pieces of wood, in order to make us go faster. The people who arrested us were wearing blue uniforms. Later on, the people who took over were wearing military clothes and had their faces covered. We stayed there for one night and the following day they took our belongings. They burned our clothes, our documents, and our mobile phones. At around 01.00 at night they put us in a white van, drove us to the river, put us on boats and sent us back to Turkey. Throughout the drive, a police car at the front and a military truck at the back accompanied us. When we reached the river,

there were two boats waiting for us. One fit 6 people and the other one 5. One of the masked men was driving the boats back and forth. He threw us in the mud and left. We reached the Turkish side having nothing on us, not even our phones. They kept them at the police station. We walked towards Turkey, and half an hour later the army captured us. They held us for for 3 days.”

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- Finally, M.F.A, a Syrian citizen, told us that he has been pushed back to Turkey 6 times, in the period from December 2017 to June 2018: «I crossed with a group of people, usually 10-15. We were looking for the Reception Identification Centre or a police station, in order to seek help and register officially, but we got caught every time and were pushed back to Turkey. They were using a white truck with benches inside. It was the same truck every time. When we were captured during the night, we were usually pushed back immediately. If we were captured during the day, they kept us in a detention room and were sending us back on boats at night. Once, in Soufli, we were captured by the military, and they pushed us back. The first 5 pushbacks were performed by the military and the last one by the police. The boat had space for 6-7 people and 2 people from the military that were driving it. They took us to the other side of the river, and shot in the air so as to alert the Turkish authorities to come to arrest us. Most of the times no-one showed up. The first 5 times, in the detention room, the police body searched us and kept our personal belongings (mobile phones, documents). They gave us back our documents when putting us on the boats throwing our mobile phones at the river. The last time, in June, we weren't pushed back by the military but by people wearing black-grey uniforms. Their faces were covered with masks and they spoke Greek and good English. They treated us very badly and even mocked a woman who asked for some milk for her child. They beat up a man from Morocco for saying he was from Syria. On my last attempt, I was arrested by the Turkish police after the pushback, and was transferred to a military detention centre along with other people. They separated Syrians from non-Syrians. They let the families go, and asked the rest to sign a document stating that we'll voluntarily return to Syria. The others signed, but I refused. They threatened me that they'd force me to sign it and that they'd torture me until I did. In this way I was forced to sign it. They put us in a truck two days later and drove us to Bab Al Hawa, at the Turkish-Syrian border where we were captured by islamist forces of Jabhat Al Nusra. Thankfully we were released. I returned to Turkey, and managed to enter Greece.”
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**The practice of push-backs** is prohibited both by Greek and EU law, as well as by international treaties and agreements signed and ratified by Greece. Pushbacks constitute an unofficial practice, going against official processes and protection mechanisms concerning the irregular entry and stay in Greece, as well as official return and deportation procedures. The practice takes place in violation of the Greek constitution (article 2, on the protection of human dignity), the Geneva Convention on Refugees (denying people the fundamental right to seek international protection), the European Convention of Human Rights (article 3, on the prohibition of torture and any kind of inhuman or degrading treatment or punishment) as well as the Charter of Fundamental Rights of the European Union (specifically, article 4, on the prohibition of torture and inhumane or degrading treatment or punishment, article 18, on the right to seek asylum, and article 19 paragraph 1, on the prohibition of collective deportations, and paragraph 2, on the prohibition of deportation, removal, or extradition from the state of persons that face grave danger of death penalty, torture or other cruel, inhuman and degrading treatment or punishment).

The principle of non-refoulement, is considered as a core principle of international customary law and takes effect from the moment a person is under the jurisdiction of a state, regardless of the stage of the official processes. On top of the explicit provisions of article 33, paragraph 1 of the Geneva convention, it is present in most international treaties and conventions protecting human rights, such as article 3 of the United Nations Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, article 16 of the The International Convention for the Protection of All Persons from Enforced Disappearance, as well as regional human rights protection mechanisms. In addition, the United Nations Committee on Human Rights considers the principle of non-refoulement as an inseparable element of protection against torture and other cruel, inhuman or degrading treatment or punishment, as well as protection from arbitrary loss of life. The European Court of Human Rights has expressed a similar judgement in *Soering vs United Kingdom* ruling (paragraph 88).

According to preliminary observations of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment


or Punishment (CPT) published following a visit in Greece in April 2018<sup>1</sup> «The delegation received several consistent and credible allegations of informal forcible removals (push-backs) of foreign nationals by boat from Greece to Turkey at the Evros River border by masked Greek police and border guards or (para-)military commandos. In a number of these cases, the persons concerned alleged that they had been ill-treated and, in particular, subjected to baton blows after they had been made to kneel face-down on the boat during the push-back operations. These allegations...displayed a similar pattern...». In the report, the Committee urges the Greek authorities to prevent any type of push-back.

Furthermore, in a report by the Commissioner for Human Rights of the Council of Europe, published in 6/11/2018 following a visit to Greece in the period 25-29/6/2018, on page 3 point (7), and page 12 point (64) there is reference to push-backs and the fact that the practice has not been investigated or answered for by the competent Greek authorities, regardless of the repeated inclusion of the subject in reports by international and human rights organisations.<sup>2</sup>

According to some of the testimonies above, Syrian and Iraqi single men are repeatedly pushed-back to their countries of origin by the Turkish authorities. In effect, this leads to the potential arrest, interrogation, and prosecution in general, which constitute the reasons they fled their countries for and tried to enter to Greece in order to seek protection.

When referring to persons that are exposed to further danger and harm caused by push-back operations, we have to make a particular mention to the treatment of vulnerable groups, and especially unaccompanied minors, who are exposed to illegal violence against their best interest. This practice not only fails to prioritize unaccompanied minors, single-parent families, victims of torture and sexual violence during the reception process, but excludes and ostracizes vulnerable groups from the process itself against any notion of their best interest and the Greek, EU law,

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1. <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-preliminary-observations-after-its-visit-to-immigration-detention-and-psychiatric-establishments-1>
  2. [https://reliefweb.int/sites/reliefweb.int/files/resources/CommDH%282018%2924%20-%20Greece%20report\\_EN.docx.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/CommDH%282018%2924%20-%20Greece%20report_EN.docx.pdf)




and International law, Specifically, unaccompanied minors describe the experience of push-backs as a moment of great confusion and distress, as their journey to seek safe international protection is prolonged in a painful and incomprehensible way. Often, they become victims of human trafficking through being exposed to networks of exploitation, as well as being forced into taking part in illegal activities, in order to be able to pay smugglers so as to cross the border again.

It is particularly alarming, that despite publications related to deaths of refugees, by drowning in the Evros river, push-back operations are continuing at a steady pace, exposing said people to grave danger in case they will reattempt to enter Greece. This is in violation of article 2 of the European Convention of Human Rights, on the protection of human life. It is also particularly alarming that in a lot of the testimonies, there is clear mention of the participation of persons wearing insignia that belong neither to police forces, or the military.

In addition, according to the testimonies laid above, people who are pushed-back are being detained, in violation of article 5 of the ECHR, as said the detention is not based on an official process, but is enforced irregularly, and with absolute secrecy. Furthermore, we see a multitude of cases of persons who try to enter Greece in order to seek international protection, and contact our organizations due to fear of being pushed-back to Turkey. The competent authorities though, deny that they have arrested the said individuals who in sequence are being pushed-back. We become aware of this when they get in touch again from Turkey, to report their forced removal from Greece. We observe that the employment of push-back practices is a fact that has become known among refugees and migrants, as seen from the events of the 16/10/18 with the road block of the Kavali-Orestiada regional road. The purpose of this action was to make themselves visible, through their self-provoked arrest and prosecution for obstructing public transportation (Testimony No. 2, Fylakio RIC).

Finally, further to the violation of regulations that completely prohibit the push-back operations in themselves, the employment of these practices brings to light a wide array of actions violating disciplinary and criminal law by the persons conducting the push-backs. People are detained in



degrading and inhuman conditions, without separation of men and women detainees. There is no provision of food, and in a vast majority of cases, no provision of water, in violation of article 3 of the ECHR. In addition, there are testimonials describing the use of violence, as well as the irregular confiscation of personal belongings of refugees (documents, mobile phones, and clothes). In a great number of the testimonies we observe inhuman and degrading treatment of men, women, and children, by people conducting the push-backs (stripping down by force, forcible removal of headscarves).

**Taking the information laid above into account, the undersigned organizations, urge the competent authorities to investigate the incidents described, and to refrain from engaging in any similar action that violates Greek, EU law, and International law.**

ARSIS-Association for the Social Support of Youth  
Greek Council for Refugees  
HumanRights360





25/5/2018

# Borderlines of Despair:

First-line reception of asylum seekers  
at the Greek borders



*This report was funded by the Social Change Initiative and  
implemented by the Greek Council for Refugees*

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## Contents

ACKNOWLEDGEMENTS .....	1
Introduction.....	3
<b>The project</b> .....	<b>3</b>
<b>Preliminary Findings</b> .....	<b>5</b>
Access to the Territory and Reception .....	7
<b>Push-backs/Refoulement</b> .....	<b>8</b>
<b>Pre-RIC Detention</b> .....	<b>10</b>
Detention and other means of restriction .....	15
<b>Excessive use of detention in Evros</b> .....	<b>16</b>
<b>Discriminatory detention on the islands</b> .....	<b>17</b>
<b>Conditions of Detention</b> .....	<b>18</b>
<b>Geographical restriction</b> .....	<b>20</b>
Gaps in Reception.....	24
<b>Context of Reception</b> .....	<b>24</b>
<b>Registration</b> .....	<b>25</b>
<b>Provision of Information</b> .....	<b>25</b>
<b>Vulnerability Screening/Assessment</b> .....	<b>28</b>
Conditions at the RICs .....	32
<b>RIC of Moria: Inhumanity at its lowest</b> .....	<b>32</b>
<b>RIC of Kos: improved but still inadequate</b> .....	<b>34</b>
<b>RIC at Fylakio, Evros: nothing can beautify detention</b> .....	<b>36</b>
<b>Effects of Reception</b> .....	<b>38</b>
<b>Alone and Unattended</b> .....	<b>38</b>
<b>Alone and Criminalized</b> .....	<b>42</b>
<b>Escape as the last solution</b> .....	<b>44</b>
<b>The case of Patra: the re-emergence of an exit-point to Europe</b> .....	<b>47</b>
Concluding remarks .....	52
Recommendations.....	58
Access to (first-line) Reception and Asylum .....	59
Detention and other types of restrictions .....	60
First reception and living conditions .....	61
Reference List .....	63
Annex I (list of interviews/region) .....	74
Annex II (List of Abbreviations) .....	76

## Introduction

The implementation of the EU-Turkey Statement on March 20, 2016 (henceforth the “Statement”),<sup>1</sup> coupled with the closure of the so-called “Balkan Route”, led to a drastic decrease of the unprecedented refugee flows experienced throughout 2015 in the Eastern Mediterranean. It also led to the entrapment of more than 50,000 refugees and asylum seekers in Greece, and especially on the five main island points of entry: Lesbos, Chios, Samos, Leros and Kos.

Shortly afterwards, on April 3, 2016, the Greek Parliament adopted Law 4375/2016 (henceforth L.4375/2016),<sup>2</sup> introducing the “fast-track border procedure”, which though providing less safeguards for asylum seekers and applicable only under exceptional circumstances, has been since used with a view to the Statement’s implementation.<sup>3</sup> In the same context, the “first country of asylum” and “safe third country” clauses, which formed part of previous legislation, were now used to implement the Statement, by making it possible to return (“readmission”) to Turkey not only newly arrived (at the islands) “irregular migrants,” but also asylum seekers and refugees whose asylum applications would thereafter be found “inadmissible”, as per a clause that had never before been previously enforced.

Cumulatively, these events marked a new chapter in the Greek/European management of Migration, with one of its defining characteristics being the gradual (re)institutionalization of the overall management of Greek-bound mixed migration flows.<sup>4</sup> In the meanwhile, and within this state-led re-appropriation of border management, the newly established island Reception and Identification Centers (RICs), as well as the land border RIC of Evros (RIC at Fylakio, Evros), became the frontline structures for the reception and accommodation of foreign nationals/non-nationals fleeing persecution and/or destitution.

## The project

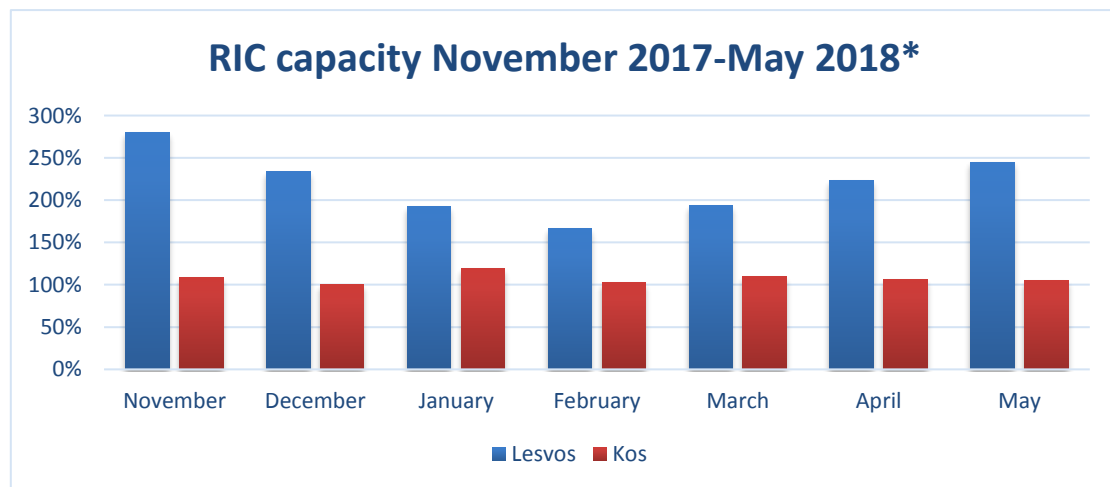
In this context, the current project was aimed at assessing how (and if) some aspects of the reception of third-country nationals/non-nationals at the Greek borders evolved since the Statement’s implementation in March 2016, and up to the research’s conclusion in April 2018.

The point of reference for this was the recast European Directive on the reception of applicants for international protection (Reception Directive),<sup>5</sup> which though belatedly transposed into Greek legislation on the 15<sup>th</sup> of May 2018, still provides/provided for the absolute minimum standards for the reception of third country nationals/non-nationals applying for asylum in Europe, and therefore in Greece as well. The primary analytical lens, however, was that of the experiences to which asylum seekers have been subjected throughout their initial reception at the Greek borders, in the context of their

RIC-based reception and accommodation. Therefore, the main underlying questions revolved around what happens when asylum seekers arrive in Greece, to what extent are their reception and accommodation (living conditions) in line with the imperative to respect and protect their decency and rights, and what are the effects of reception towards both their short and long-term wellbeing, as well as their relation with their new host society.

In terms of methodology, the project was based on interviews with officials and/or other professionals engaged in the field of refugee protection, field research and desk-based research. Interviews and discussions were primarily carried out with GCR personnel at the borders and in Athens and Thessaloniki, and were complemented by some 38 additional interviews with state and other officials and employees working in the field.<sup>6</sup> Desk research consisted primarily of reviewing GCR’s internal and published reports, legal documents, as well as reports and articles published by intergovernmental, non-governmental and other organizations and professionals. Field research, lastly, consisted of visiting a number of refugee reception sites (RICs) and Pre-Removal Centers, of which those found at the island border regions of Lesvos and Kos, the Greek-Turkish land border of Evros, as well as two makeshift accommodation sites/squats at the city-port of Patra will be examined in the current report.

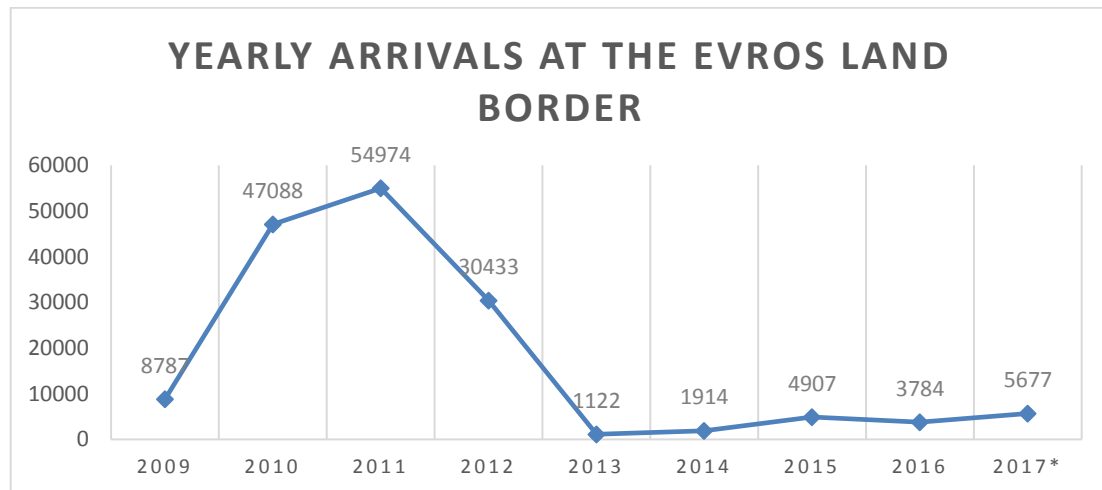
Reasons for choosing the specific regions were quite straightforward. Notwithstanding diverging levels of publicity which the islands of **Lesvos** and **Kos** have taken throughout the past two years, they presented an interesting testing ground for assessing whether the up to date highly criticized conditions on the Greek islands are solely pertinent on the numbers of irregular arrivals. Indeed, the two islands represent quite diverging cases in terms of the population of third-country nationals/non-nationals they have each received, as in stark contrast to the ever over-congested RIC of Moria, **Lesvos**, the RIC at Pyli, **Kos**, has historically –so to speak– found itself at “manageable” levels of congestion.



Source: Ministry of Digital, Telecommunications and Information Policy<sup>7</sup>. \*Up to the 20<sup>th</sup> of May, as per the last available data at the time of publication.



The Greek-Turkish land border of **Evros**, on the other hand, had for years constituted the main entry-point for third-country nationals/non-nationals fleeing persecution or destitution towards Europe. That is, until 2013, when increased security controls and a border fence built in 2012 led, on the one hand, to drastically reducing the number of arrivals and, on the other, to “displacing” them towards the well-known, by now, Aegean islands. Yet despite its “low profile” in terms of media and political attention, as the latter have for three years now been predominantly focused on the situation in the Aegean, Evros remained and is once more gradually becoming a significant entry-point for mixed migration flows, with reception-related problems of its own.<sup>8</sup>



Source: Hellenic Police.<sup>9</sup> \*To be noted, as per a Press Release issued by the Ministry of Citizen Protection on 30.01.18,<sup>10</sup> Evros-based arrivals well exceeded the numbers provided by the police (7,544).

The city-port of **Patra**, lastly, though not a border point of entry has traditionally been a border point of exit from Greece to Italy, and from there to the rest of Europe. Significantly, since the summer of 2017, Patra saw a renewed surge in (secondary movement) arrivals of asylum seekers who, tired of their forced entrapment in Greece, once more reached the city in a last, desperate attempt at continuing their journey onwards into Europe via “other” means. Throughout this process, they resided in two of the city’s derelict factories, becoming virtually invisible and forgotten by the official system of protection (i.e. the state), while exposed to daily living conditions that only served to further aggravate their health. That is, up to mid-May 2018, when following a series of incidents between the port’s authorities and refugees, a belated transfer of the latter was undertaken by the state. In this context, Patra represented a devastating example of the effects that the overall policy pursued following the Statement’s implementation in both Greece and Europe has had on vulnerable persons’ lives, and accordingly its selection as a destination was deemed mandatory.

## Preliminary Findings

More than two years have passed since the much debated and controversial implementation of the EU-Turkey Statement. That is, more than two years during which the Greek

system of border reception has largely remained inadequate and ever-bound by the aspirations set forth in the Statement (i.e. obstructing journeys and externalizing international responsibilities), adversely affecting the lives of third-country nationals and stateless persons seeking protection in Europe.

At times, asylum seekers are denied access to the very mechanisms charged with ensuring their first steps towards protection (i.e. reception procedures), through clear-cut arbitrary and illegal means aimed at their “off-the-grid” deportation (**push-backs**). At others, this denial takes the form of significant delays, highly pertinent on individual characteristics (e.g. nationality) and manifesting in the form of an initial, yet once more highly arbitrary, detention. Indeed, detention has been routinely used at the **Evros** land border as a means of “crowd control,” with Pre-Removal Centers –that is closed, detention facilities in theory reserved for the expulsion of “illegal aliens”– having transformed into waiting zones where the desperate patiently –albeit, perhaps, fruitlessly– await for their salvation (**pre-RIC detention**).

Yet even upon their reception and incorporation into the mechanics of protection (reception and asylum), asylum seekers are once more faced with denial. A denial, amounting to the only constant is their lives being their ongoing exclusion from the right to be free and equal human beings. Forced to remain at the fringes of society (**detention** and **restriction of liberty**), in living conditions that strip them of their dignity and at times very humanity, they await in limbo for their acceptance in a continent that has largely been treating their lives as numbers. All the while, they lack both effective knowledge of the reasons for their exposure to such diverse and punitive-like measures, as well as access to crucial, for their wellbeing services, such as healthcare or education.

As a result, many find themselves in an increasingly deteriorating state of mind, with some choosing to further risk their lives by once more placing their trust in smugglers. Indeed, as this situation has increasingly become an established reality of the Greek/European system of reception of asylum seekers at the (Greek) borders, what began as a so-called “Refugee Crisis” is perhaps becoming more of a phenomenon; a phenomenon whereby persons fleeing persecution and/or destitution are “welcomed” in conditions that only serve to further devastate their already traumatized lives.<sup>11</sup>

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<sup>1</sup> European Council, *EU-Turkey statement, 18 March 2016* [media release], 18 March 2016, <<http://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>>, last accessed 15 March 2018.

<sup>2</sup> Hellenic Republic, *Law No. 4375 of 2016 on the organization 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/EC* [Greece], 3 April 2016, <<http://www.refworld.org/docid/573ad4cb4.html>>, last accessed 15 March 2018.

<sup>3</sup> Greek Council for Refugees, ‘Country Report: Greece’, *asylum information database (aida)* [website], March 2018 update, pp.66-72, <<http://www.asylumineurope.org/reports/country/greece>>, last accessed 30 March 2018.

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<sup>4</sup> At the start of the “crisis”, new arrivals were for the most part “managed” through the massive solidarity movement that erupted in the of 2015 throughout Greece. For more, see D. Avgeri, et. al., ‘Balkan Refugee Trail: a Pathway for Solidarity’, Greek Council for Refugees [website], July 2017, <<https://drive.google.com/file/d/0B8TP-HAgPft-ejl1akxGS0d0Vvk0/view>>, last accessed 29 March 2018, pp.13-25.

<sup>5</sup> European Union: Council of the European Union, *Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)*, 29 June 2013, OJ L. 180/96 -105/32; 29.6.2013, 2013/33/EU, <<http://www.ref-world.org/docid/51d29db54.html>>, last accessed 15 March 2018.

<sup>6</sup> For a complete list of interviews with third parties see Annex I (list of interviews/region).

<sup>7</sup> A daily breakdown of arrivals per island, as well as numbers of residents per accommodation place and RIC can be found on the Hellenic Republic’s Ministry of Digital Policy, Telecommunications, and Information Policy Website at: <http://mindigital.gr/index.php/%CF%80%CF%81%CE%BF%CF%83%CF%86%CF%85%CE%B3%CE%B9%CE%BA%CF%8C-%CE%B6%CE%AE%CF%84%CE%B7%CE%BC%CE%B1-refugee-crisis>.

<sup>8</sup> To be noted, the routes renewed importance can more accurately be understood not so much by the number of those being recorded as having crossed the borders, as much as by the number of those not managing to do so due to being apprehended at the Turkish side. This is highlighted by the fact that, although in 2016 Turkish authorities had reportedly apprehended an estimated 7,500 persons while trying to (irregularly) cross the Evros border, throughout 2017 the same number had nearly tripled (**20,700**). UN High Commissioner for Refugees (UNHCR), ‘Desperate Journeys (January-September 2017 update)’, *UNHCR operational portal* [online database], 23 November 2017, p.2., <<https://data2.unhcr.org/en/documents/download/60865>>, last accessed 15 March 2018.

<sup>9</sup> Data are based on arrests made at the Greek-Turkish land borders by the Hellenic Police, on charges of illegal/undocumented entry. A breakdown per year (and per region) can be found at: [http://www.astynomia.gr/index.php?option=ozo\\_content&lang=%27..%27&per-form=view&id=70776&Itemid=1240&lang=](http://www.astynomia.gr/index.php?option=ozo_content&lang=%27..%27&per-form=view&id=70776&Itemid=1240&lang=).

<sup>10</sup> Hellenic Republic, Greek Ministry of Citizen Protection, *Δελτίο Τύπου σχετικά με δημοσίευμα ιστοσελίδας, που αναφέρεται σε επαναπροωθήσεις προσφύγων/μεταναστών στον Έβρο* [Press Release regarding a website publication, which referred to refoulements of refugees/migrants at Evros], 30 January 2018, <[http://www.mopocp.gov.gr/index.php?option=ozo\\_content&lang=&per-form=view&id=6306&Itemid=653](http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=&per-form=view&id=6306&Itemid=653)>, last accessed 15 March 2018. To be noted, there is a significant divergence between the data provided in this press release, and the relevant data provided by the Hellenic Police (5,677 arrests on charges of illegal entry at the Evros land border for 2017).

<sup>11</sup> Characteristically, as per personnel of the Hellenic Center for Disease Control (KEELPNO), which undertook the provision of medical services in most RICs during the summer of 2017, between August and up to the time of our respective visits, some 60-70% of the beneficiaries they had seen in **Lesvos**, and 90%, in **Kos**, exhibited some sort of vulnerability or another. These included substance addictions, physical disabilities, chronic diseases, psychological issues, maltreatment, broken bones, skin conditions, and many psychological (e.g. post-traumatic stress disorders) and neurologic issues (e.g. epilepsies). Information acquired through interviews with KEELPNO staff in Lesvos and Kos on 15 December 2017 and 12 January 2018, respectively, as well as the RIC sub-Director in Moria, Lesvos, on 15 December 2017.

## Access to the Territory and Reception

The law dictates that upon irregular entry to the Greek territory, all newcomers are to be ‘*immediately transferred under the responsibility of the police or port authorities...to a Reception and Identification Center*’ (article 14(1) of L. 4375/2016).<sup>12</sup>

This, to be noted, is a pre-requisite for the proper reception of newcomers and thus for ensuring their access to a set of services and rights (e.g. asylum). These include medical examinations and the provision of healthcare and psychosocial support, the provision

of proper information on rights and obligations (e.g. right to asylum), referrals of asylum seekers to the competent Regional Asylum Office (RAO), and the referral of vulnerable persons to proper accommodation and support.<sup>13</sup> All, in turn, form the basis for the first-line reception of third-country nationals and stateless persons and are to be performed under the competence of the Reception and Identification Service (RIS),<sup>14</sup> which is also responsible for the management of the RICs.

Despite the importance of the aforementioned procedure, however, throughout the research it became apparent that asylum seekers, who undergo highly perilous journeys in hopes of reaching a safe (European) haven, have been systematically excluded from accessing reception. This exclusion has at times taken the form of administrative delays, on account of which asylum seekers have been unjustifiably stripped of their liberty, while at others it has manifested through much more blatant illegalities, leading to their arbitrary deportation; a practice, furthermore, from which even recognized refugees and/or registered asylum seekers have not been spared.<sup>15</sup>

### **Push-backs/Refoulement**

On the 20<sup>th</sup> of December 2017 we visited the Greek-Turkish land borders of **Evros**, with the aim of assessing reception conditions at the local RIC (RIC at Fylakio, Evros). On the very same day, a man (national of Pakistan) was reported dead after allegedly having been forcefully returned to Turkey.

As per the newspaper article, the man, alongside an unspecified number of other third-country nationals (citizens of Pakistan and Afghanistan) was forced to cross the freezing (**Evros**) river in the context of an arbitrary deportation enacted by the Greek security forces. Following their (re)entry into Turkey, the group was apprehended by the Turkish authorities and the man was transferred at a nearby hospital, as he had been suffering from symptoms of hypothermia. He passed away soon afterwards.<sup>16</sup>

Incidents such as these raise serious legal concerns as to not only the conduct of law enforcement authorities, but also their ultimate consequences with respect to the protection of the very lives of vulnerable individuals and groups – lives, that is, which law enforcement authorities are ultimately responsible to protect. Crucially, however, this was not an isolated incident.

On the contrary, push-backs and/or other types of arbitrary deportations, potentially amounting to refoulement and inter alia enacted against families with children that had requested asylum upon arrival in Greece, have on multiple occasions come to light in the region of **Evros**.<sup>17</sup> They have also consistently come to the attention of both GCR and other organizations, including the Hellenic League for Human Rights (HLHR) and Amnesty International,<sup>18</sup> and consequently raised to the authorities. To this day, however, the latter have failed to attribute the matter its proper importance, with the competent Ministry of Citizen Protection more recently (June 2017 and again in January 2018) avoiding to reply with anything more than generic answers to the allegations.<sup>19</sup>

This, to be noted, was despite affirmations on the incidents' occurrence coming from a current MP and former Minister of the ruling government.<sup>20</sup>

That being said, push-backs have seemingly not only been enacted on a systematic basis, but also on an escalating one during the past two years.<sup>21</sup> Indicatively, between March and October 2016, and as part of the EVI-MED programme,<sup>22</sup> GCR conducted a research during which some 300 in-depth surveys were completed by a similar number of participants in the region of Attiki (Athens and surrounding areas) and Thessaloniki. One of the survey's questions, which were not utilized in the final report, related to the number of attempts participants had made at crossing the borders towards Greece, before being allowed to stay/request asylum. Though the survey was not Evros-specific, 89 participants had at the time replied having attempted to enter more than once (average of 2-3 times).

Throughout 2017 and the beginning of 2018, on the other hand, and in the context of an October 2017-January 2018 mission to **Evros** and the broader region of Eastern Macedonia and Thrace, GCR documented 31 such cases, amounting to a total of 47 asylum seekers who had fallen victims of arbitrary deportation upon entry in Greece. As per their statements, at first and following their arrest (for illegal entry), they had been stripped of their belongings (phones, IDs etc.) and transferred to detention facilities where, following a short stay (hours-days), they had been once more transferred – by uniformed, armed and hooded personnel (police and military-type/resembling outfits)– to the Evros river banks. From there, they, alongside an as of yet unspecified, yet as per their accounts well exceeding the 200 mark, number of asylum seekers –including vulnerable ones and families– had been boarded in small vessels and sent back to Turkey. To be noted, several of the victims had to engage in these desperate attempts on multiple occasions (average of 3 attempts at entering Greece), with some having to enter Greece no less than 7 and even 10 times, before being granted access to asylum.<sup>23</sup> Lastly, a large majority of them were nationals of so-called “top refugee producing countries” (Syria and Afghanistan) or of countries where forced displacement is an increasingly concerning reality (i.e. Yemen).<sup>24</sup>

### *Arbitrary returns of registered asylum seekers at the Evros border*

Between August 2016 and December 2017, out of 113 cases undertaken by GCR's Evros-based lawyer, two reported having previously fallen victims of arbitrary expulsion at the hands of the Greek police. The cases concerned a Syrian male, and a highly vulnerable, pregnant, Algerian female, both of who –at the time of the reported deportation– were registered asylum seekers in Greece.

In the former's case, the man had entered Greece in February 2016 and, after three months of detention at the Fylakio Pre-Removal Center, finally succeeded in having his asylum request registered. As part of the (at the time) ongoing relocation scheme, he was accepted for relocation by another MS, and was preparing to begin his new life. Soon afterwards, he was apprehended in Alexandroupoli by the Greek police, without his documents (asylum seeker's card), which he had lost.

In the latter's case, the woman had entered Greece alongside her mother and minor sister, all of whom had applied for asylum at the Thessaloniki RAO. For reasons unknown, a few days before her scheduled interview at said RAO, she was found in Alexandroupoli, where she was apprehended by the Greek police.

As per their statements, both applicants were, following their apprehension, forcefully returned to Turkey, alongside an unspecified number of mostly Syrian applicants, following which they both managed to re-enter Greece (again, via Evros).

The first applicant in November 2016, alongside four other vulnerable persons, all of whom passed away during the journey. Upon (re)entry, and despite his still being a registered asylum seeker in Greece, he was once more apprehended and detained; albeit, this time, at the Pre-Removal Center in Xanthi. In the meantime, his relocation was indefinitely postponed.

The second applicant was found sleeping in the streets of Istanbul/Constantinople a short time after her deportation. Upon (re)entry, she was once more apprehended and detained at the local RIC (Fylakio). Following GCR's intervention, she was released and the Prosecutor was notified of her case by the Asylum Service.

### **Pre-RIC Detention**

Notwithstanding the gravity of the aforementioned incidents, which have for years necessitated a full-scale, state-led investigation, increasing arrivals at the **Evros** land border have further added to the highly arbitrary and highly concerning set of practices observed in the region.



Specifically, the RIC (Reception and Identification Center) at Fylakio, Evros, is the sole such facility in the region and one, furthermore, whose jurisdiction extends well beyond the Evros municipality to cover the totality of the Geographical District of Eastern Macedonia and Thrace. The RIC, however, has a designated capacity of only 240 places. Accordingly, it has been consistently struggling to cope with the timely registration and accommodation of increasingly numerous arrivals during the past year; an issue which was further exacerbated at the beginning of 2018, as suffice to consider that, within the context of a continued upward trend of Evros-based arrivals since the beginning of the new year, April, alone, saw nearly 3,000 asylum seekers entering Greece's northern borders. As a result, upon arrival and instead of being transferred to the RIC –as per the law– newcomers have, at first, been detained in one of the local Pre-Removal Centers, police precincts and/or border police outposts, while awaiting for a place to become available in the RIC, so as for the latter to become able to process them.

Timeframes of this “Pre-RIC detention,” as this practice has been aptly termed, range widely, with general periods seemingly revolving around a day's to a month's detention.<sup>25</sup> As per GCR's observations in the region, however, these (pre)detention times may very well extend to two and at times even three months. That is months during which newcomers are not properly registered nor examined for any potential (and especially less visible) vulnerabilities. They are instead simply detained and left to wait in limbo, while exposed to inadequate and degrading living conditions.

This, to be noted, is a practice with no grounding in law, whatsoever, and in itself constitutes a violation of the rights and dignity of all newcomers, irrelevantly of status and reasons for undertaking the perilous journey towards Europe. It is more so problematic, however, considering that the vast majority of Evros-based arrivals, as we were *inter alia* informed during our visit (20-22 December, 2017), are either *prima facie* refugees (Syrians, Iraqis) or asylum seekers.<sup>26</sup> Lastly, it is a practice ripe with elements of discrimination, based, amongst others, on persons' visible vulnerabilities and/or their nationalities.

As per information provided by the RIS, for instance, and confirmed by both GCR's and UNHCR's observations in the region,<sup>27</sup> when (pre)detained, Syrian, Iraqi nationals and more broadly “high recognition rate nationalities”, as well as families, single-headed households and unaccompanied minors (regardless of nationality), have in general and *de facto* been prioritized for transfer to the RIC, in order to undergo reception.<sup>28</sup> Thus in their cases Pre-RIC detention times have tended to end anywhere from within a couple of days to a month at most. For the remainder of third-country nationals/non-nationals, however, –including those whose vulnerabilities have not been properly assessed due to ongoing gaps in specialized, medical, personnel– Pre-RIC detention times have often exceeded two, at times reaching even three months, without their ultimate transfer to the RIC necessarily leading to the desired outcome (i.e. access to asylum).

### *Sample case of Pre-RIC detention in Evros*

Case of male asylum seeker (national of Pakistan), suffering from acute psychological problems. The applicant was held in detention at a regional Pre-Removal Center for three months, prior to his being registered (nationality screening) at the Fylakio RIC. He's registration was hastily conducted in less than a day, leading to an improper medical assessment and a complete lack of any psychological assessment whatsoever. This was despite his having clear marks of self-harm (suicide attempts) and his being, as per his statements, a victim of torture. After this rudimentary registration, he was once more detained, first, at the Fylakio Pre-Removal Center, and then, at that of Xanthi. Throughout this time, he was never provided nor referred to appropriate medical-psychological assistance, nor was he given the chance to register his asylum request before the competent asylum office.

To be noted, a similar practice has been observed on the island of **Kos** as well, with respect to asylum seekers who have been transferred there from other islands. Namely, following the RIC's operationalization in June 2016, **Kos** has in principle functioned as a central hub for the reception of asylum seekers arriving in a number of other islands of the Southern Aegean (Crete, Anafi, Karpathos, Kastelorizo, Simi and Kalimnos), where such a facility (i.e. RIC) is not available. Accordingly, procedure dictates that following their arrival and apprehension at one of these islands, newcomers are to be transferred to Kos, where their reception and overall asylum procedures are to commence.

Despite this, however, following the Kos Pre-Removal Center's operationalization in late March-early April 2017, there have been cases of new arrivals that have been immediately transferred to and detained there, without previously having undergone registration and identification procedures at the RIC.<sup>29</sup> This has been especially the case for applicants arriving in other islands (e.g. Symi and Kastolorizo), who upon being transferred to Kos have been arbitrarily sent to the Pre-Removal Center, seemingly for deportation. One such case regarded an unspecified number of persons transferred from Symi (after a 15-days period of detention), amongst whom a vulnerable, unaccompanied, minor. Following their transfer to Kos, and despite not being registered nor assessed for any potential vulnerability, instead of the RIC they were sent to the island's (**Kos**) Pre-Removal Center. Similar was the case with another such transfer, albeit this time from Kastelorizo. The transfer regarded a group of 20 persons, 16 of whom (1 Syrian, the rest Iraqi-Kurds) had expressed their will to apply for asylum at Kastelorizo –a will that was not properly recorded. For reasons unknown, upon their transfer to Kos they were divided into two groups, with the first being transferred to the RIC to undergo reception, and the second to the Pre-Removal Center.

*“If the application for international protection is submitted before a non-competent authority [i.e. police, coast guard and RIS], that authority is obliged to notify promptly the competent Receiving Authority [i.e. Asylum Service] using the most appropriate way and to refer the applicant to it”. (Article 36 (4) of Greek L. 4375/2016)*

Lastly, albeit in a different context (non-availability of official structure), up to June 2016, when the **Kos** RIC entered into function and could thus start accommodating newcomers, many refugees, asylum seekers and migrants alike were inter alia kept detained in cells found at the 2<sup>nd</sup> Regional Police Directorate of Dodekanisa (Β' Αστυνομική Διεύθυνση Δωδεκανήσου). Detention, as is most often the case in such facilities, took place under inhumane living conditions (e.g. 58 persons in 22 person capacity cells),<sup>30</sup> usually without or with very problematic access to a lawyer (e.g. no access to a phone), and for periods which at times reached and/or even exceeded the legally allowed period of three months.

Furthermore, and even though after the RIC's operationalization formerly detained asylum seekers started gradually being transferred to the latter, this practice did not end. Rather, it continued well into the first months of 2017,<sup>31</sup> only to start scaling down in February, and, as per information acquired during our visit,<sup>32</sup> ultimately come to an end at some point in April of the same year (2017). Despite this, its effects have had far reaching repercussions for those unfortunate enough to arrive in **Kos** at the time.

#### *Sample case in Kos*

Case of male (Syrian), who was a victim of torture. He arrived in Kos in April 2016 and declared his will to apply for asylum. At the time the RIC was not yet operational, therefore the authorities seemingly deemed it necessary to initially keep him detained in the cells of the 2<sup>nd</sup> police Directorate of Dodekanisa. His asylum request was ultimately registered 6 months later, in November 2016, but for reasons unknown it was to be examined by the Regional Asylum Office (RAO) of Rhodes, instead of the one found in Kos. Throughout this time he was kept solely in detention, without undergoing any vulnerability assessment, as it was considered that his arrival prior to the local RIC's operationalization, made the latter (RIC of Kos) non-competent for his case. More than 2 years following his arrival, in May 2018, and after two negative decisions on the admissibility of his claim, he has yet to undergo a vulnerability assessment, while the examination of his case (currently before the Administrative Court of Appeal) has been postponed for 2019.

<sup>12</sup> Something which can be further performed by the RIS, if the latter (i.e. police and port authorities) are unable to conduct the transfer and/or in order to ensure the ‘prompt and timely transfer of persons belonging to vulnerable groups...’ (article 14(1) of L. 4375/2016).

<sup>13</sup> As per article 14(8) of L.4375/2016, persons belonging to vulnerable groups include: a) Unaccompanied minors, b) Persons who have a disability or suffering from an incurable or serious illness, c) The elderly, d) Women in pregnancy or having recently given birth, e) Single parents with minor children, f) Victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation, persons with a post-traumatic disorder, in particular survivors and relatives of victims of shipwrecks, g) Victims of trafficking in human beings.

<sup>14</sup> For an exact set of the RIS’s responsibilities, see Hellenic Republic, Ministry of Migration Policy, General Secretariat of Reception, ‘Procedures’, Reception and Identification Service [website], <<http://www.firstreception.gov.gr/content.php?lang=en&id=4>>, last accessed 15 March 2018.

<sup>15</sup> Indicatively, in November 2016, a Syrian male, who had been recognized as a refugee in Germany, had come to Greece’s north-eastern borders (Evros region) in search of his little brother; a brother whom he had lost track of. Upon contact with the Hellenic police, as per a newspaper article published in *efsyn* (“editors’ newspaper”/«Εφημερίδα των Συντακτών»), he was stripped of his belongings (refugee card, German residence permit, refugee passport and cell phone), and after being detained for an unspecified amount of time with another 50 persons (at least one, of whom, reportedly a recognized refugee as well), they were all boarded in small vessels by men of the Greek police and returned to Turkey. See D. Aggelidis, ‘Μου πήραν τα χαρτιά, με πήγαν στο ποτάμι και με πέρασαν απέναντι...’ [They took my papers, they took me to the river and they took me to the other side...], *efsyn*, 12 February 2018, <<https://www.efsyn.gr/arthro/moy-piran-ta-hartia-me-pigan-sto-potami-kai-me-perasan-apenanti>>, last accessed 15 March 2018.

<sup>16</sup> TRT, ‘Πακιστανός πάγωσε μέχρι θανάτου μετά την απέλαση του από την Ελλάδα’ [Pakistani froze to death following his expulsion from Greece], *TRT (Turkish Radio and Television)*, 20 December 2017, <<http://www.trt.net.tr/greek/balkania-kupros/2017/12/20/pakistanos-pagose-mekhri-thanatou-meta-ten-apelase-tou-apo-ten-ellada-871975>>, last accessed 15 March 2018.

<sup>17</sup> Indicatively, see D. Aggelidis, ‘Ντοκουμέντο βίαιης επαναπροώθησης’ [Record of forcible return], *efsyn*, 23 June 2017, <<http://www.efsyn.gr/arthro/ntokoymento-viais-epanaproothisis>> and ‘«Εξπρές του μεσονυκτίου» στο Διδυμότειχο’ [“Midnight Express” at Didymoticho], *efsyn*, 7 June 2017, <<http://www.efsyn.gr/arthro/expres-toy-mesonyktiou-sto-didymoteiho>>, (both) last accessed 15 March 2018; M., Mylonas, ‘Δεύτερη σοβαρή καταγγελία για παράνομη επαναπροώθηση Τούρκων στον Έβρο’ [Second serious complaint on illegal refoulement of Turks in Evros], *Athens Voice*, 5 June 2017, <[http://www.athensvoice.gr/politics/357512\\_deyteri-sovari-kataggelia-gia-paranomi-epanaproothisi-toyrkon-ston-evro](http://www.athensvoice.gr/politics/357512_deyteri-sovari-kataggelia-gia-paranomi-epanaproothisi-toyrkon-ston-evro)>, last accessed 15 March 2018.

<sup>18</sup> Hellenic League for Human Rights, *Coordinated refoulements to Turkey?* [press release], 29 May 2017, <<http://www.hlhr.gr/en/coordinated-refoulements-turkey/>>, last accessed 20 March 2018, and Amnesty International, ‘Amnesty International Report 2015/16: The State of the World’s Human Rights’, *Amnesty International* [website], 23 February 2016, p.168, <<https://www.amnesty.org/download/Documents/POL1025522016ENGLISH.PDF>>, last accessed 20 March 2018.

<sup>19</sup> D., Aggelidis, ‘Ο κ. Τόσκας και η διαπίστωση του αυτονόητου’ [Mr. Toskas and the ascertainment of the self-evident], *efsyn*, 24 July 2017, <<http://www.efsyn.gr/arthro/o-k-toskas-kai-i-diapistosi-toy-aytonoitoy>>, accessed last accessed 15 March 2018; F., Labridi, ‘Απάντηση Τόσκα για τις αποκαλύψεις του Tvxs.gr’ [Toskas’s reply on the revelations made by Tvxs.gr], *tvxs*, 30 January 2018, <<http://tvxs.gr/news/ellada/apantisi-toska-gia-tis-apokalypseis-toy-tvxs>>, last accessed 15 March 2018.

<sup>20</sup> Proto Thema, ‘Καταγγελία από Φίλη: Έχουν γίνει επαναπροωθήσεις Τούρκων στον Έβρο από μασκοφόρους’ [Denouncement by Filis: There have been forced returns of Turks at Evros [made] by masked men], *Proto Thema*, 20 June 2017, <<https://www.protothema.gr/politics/article/689967/nikos-filis-ta-pleonasmata-35-simainoun-skliiri-litotita/>>, last accessed 15 March 2018; CNN Greece, ‘Απάντηση Θεοδωράκη σε Φίλη για τις επαναπροωθήσεις στρατιωτικών στην Τουρκία’ [Theodorakis’s reply to Filis on the refoulement of military men to Turkey], *CNN Greece*, 20 January 2017, <<http://www.cnn.gr/news/politiki/story/85665/apantisi-theodoraki-se-fili-gia-tis-epanaproothiseis-stratiotikon-stin-toyrkia>> last accessed 15 March 2018.

<sup>21</sup> Athens 9.84 newsroom, ‘Β. Παπαδόπουλος στον Αθήνα 9.84: Φόβοι για νέο Φαρμακονήσι από τις παράνομες επαναπροωθήσεις’ [V. Papadopoulos on Athens 9.84: Fears for a new Farmakonisi due to illegal returns at Evros], *Athens 9.84*, 9 February 2018, <<http://www.athina984.gr/2018/02/09/v->

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[papadopoulos-ston-athina-9-84-fovi-gia-neo-farmakonisi-apo-tis-paranomes-epanaproothisis/](#)), last accessed 29 March 2018.

<sup>22</sup> A., d'Angelo et. al., *Mapping Refugee Reception In the Mediterranean: First Report of the Evi-Med Project*, 16 June 2017, <<https://evimedresearch.files.wordpress.com/2017/04/evi-med-first-report-final-16-june-2017.pdf>>, last accessed 29 March 2018.

<sup>23</sup> Greek Council for Refugees, *Reports of systematic pushbacks in the Evros region* [press release], 20 February 2018, <<http://gcr.gr/index.php/en/news/press-releases-announcements/item/790-anafores-gia-systimatikes-epanaproothiseis-ston-evro-apo-eksypiretoyomenous-tou-esp>>, last accessed 15 March 2018.

<sup>24</sup> UN High Commissioner for Refugees (UNHCR), 'Global Trends: Forced Displacement in 2016', *UNHCR* [website], 19 June 2017, pp.16-17, <<http://www.unhcr.org/5943e8a34.pdf>>, last accessed 29 March 2018 and UN High Commissioner for Refugees (UNHCR), 'Yemen UNHCR Update, 15 - 31 January 2018', *reliefweb* [website], 31 January 2018, <[https://reliefweb.int/sites/reliefweb.int/files/resources/Yemen%20Update%2015\\_31%20Jan%202018%20%28Final%29.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Yemen%20Update%2015_31%20Jan%202018%20%28Final%29.pdf)>, last accessed 15 March 2018.

<sup>25</sup> Information acquired via interview with police representatives at the Pre-Removal Center at Fylakio, Evros, on 22 December 2017.

<sup>26</sup> As per information provided both by the Evros RIS and GAS (Directors of RIC and RAO, respectively), during our interviews (21 and 22 December 2017), 99% of non-Syrian and non-Iraqi nationals, when ultimately registered at the RIC, apply for asylum. Therefore, they are de facto asylum seekers who are forced in detention until their request can be heard.

<sup>27</sup> Interview with the Director of the RIC at Fylakio, Evros, on 21 December 2017, and interview with UNHCR staff at the Fylakio RIC, in Evros, on 22 December 2017.

<sup>28</sup> In the case of families and minors, to be noted, this prioritization takes place even if the RIC is beyond its capacity, which is the usual case.

<sup>29</sup> Interview with UNHCR staff at Kos Field Office on 11 January 2018.

<sup>30</sup> Others make references to even 62 detainees crammed in the cells, during the same time. See Fourla, D., M., 'Ασφυξία στα κρατητήρια του Α.Τ. Κω-Α.Κυδωνάκης: Δεν έχουν γίνει απελάσεις εδώ και 6 μήνες' [Suffocating conditions at the cells of the police precinct of Kos – A. Kidonakis: there have been no expulsions for 6 months], *Dimokratiki*, 16 March 2017, <<http://www.dimokratiki.gr/16-03-2017/asfixia-sta-kratitiria-tou-t-ko-kidonakis-den-echoun-gini-apelasis-edo-ke-6-mines/>>, last accessed 20 March 2018.

<sup>31</sup> In January 2017, for instance, GCR undertook 8 such cases, all of whom were subsequently released, following GCR's intervention. Information acquired through GCR internal report on Kos, for January 2017.

<sup>32</sup> Interview with Director of the 2<sup>nd</sup> Police Directorate of Dodekanisa, on January 12, 2018.

## Detention and other means of restriction

As per UNHCR's Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, the "[...] *detention of asylum-seekers should be a measure of last resort, with **liberty being the default position***".<sup>33</sup> Similarly, as per the Reception Directive, detention of asylum seekers can only be enforced as a measure of last resort, and **only** "*if other less coercive alternative measures cannot be applied effectively*".<sup>34</sup>

In spite of this, however, and notwithstanding the cases already mentioned in the preceding section, detention forms an integral and systemic aspect of the reception of asylum seekers at the Greek borders, and is enforced in a way that largely circumvents any safeguards dictated by law,<sup>35</sup> including the duty to examine less coercive alternatives.<sup>36</sup> If anything, detention seems to at times constitute the default position for applicants of international protection who, much in the spirit of the overall European deterrent policy

currently pursued, are usually detained in facilities aimed at processing the removal of “illegal aliens” (Pre-Removal detention Centers/Camps), instead of welcoming forcefully displaced –and not only by war– populations.

### **Excessive use of detention in Evros**

As already mentioned, upon arrival at the Evros land borders with Turkey, refugees and asylum seekers are, at first and prior to undergoing any kind of reception procedures, forced in detention. For most, however, this detainee status goes well beyond the initial waiting period for accessing (first-line) reception.<sup>37</sup>

Specifically, upon their ultimate transfer to the RIC beneficiaries are once more faced with detention, both as part of their official registration and identification, and in the context of the examination of their asylum application. This is for a number of reasons, inter alia including the overall scarcity of alternative (open) temporary accommodation facilities in mainland Greece and a similar scarcity in appropriate shelters for unaccompanied minors. More importantly, however, the RIC at Fylakio, Evros remains, up to this day, the sole RIC throughout Greece functioning under a closed doors policy. Thus, throughout their Evros-based “reception” and accommodation, applicants are either forced to remain within a closed Registration and Identification camp, or at the various police precincts and Pre-Removal Centers scattered through the region which, themselves, are closed detention facilities reserved (in theory) for those to-be-deported.

In this context, timeframes of this prolonged detention, as well as the detention facility ultimately used, are both subject to issues pertaining to an applicant’s (mostly visible) vulnerabilities and their nationalities. Thus as a rule and up to the point of our visit in December 2017, the RIC at Fylakio Evros had been reserved for the detention of primarily vulnerable applicants and groups, as well as for “high recognition rate” nationalities (mainly Syrians and Iraqis). The Pre-Removal Centers, on the other hand, were used for the detention of asylum seekers belonging to so-called “low-recognition rate” nationalities (especially Pakistan) and/or for those asylum seekers whose less visible vulnerabilities had not been (properly) assessed.

Based on this “allocation of spaces”, adult, vulnerable applicants and Syrian and Iraqi nationals were as a rule detained for up to the legally allowed period, in the context of their registration (maximum of 25 days). A period, following which they would either be transferred to appropriate accommodation sites (families and single-headed households) or, faced with the prospects of seemingly indefinite detention, would abstain from applying for asylum (Syrians and Iraqis), instead choosing to try their chances at protection elsewhere (usually, Thessaloniki). Unaccompanied minors, on the other hand, from an initial 3-months period of detention would, at the time of our visit (20-22 December 2017), be detained for average periods of 5 to 6 months, due to ongoing Greek-wide deficiencies in the availability of suitable shelters.

For the rest, –including applicants who may have been improperly assessed as non-vulnerable due to ongoing gaps in specialized, medical, personnel– the only thing changing between their registration and the completion of their asylum procedure (i.e. on average



6 months, on top of any Pre-RIC detention time) was their in-between transfer to and from the RIC (for registration and asylum-examination purposes) and back to their pre-removal holding cells.<sup>38</sup>

### *Sample case in Evros*

Case of female applicant (Tunisian) who was a victim of domestic violence and was suffering from Diabetes (I). She was apprehended at Evros in the summer of 2016 (August) and was registered as an asylum seeker in September of the same year. Despite her vulnerability, which led to her constantly being transferred to the Didimoticho hospital and to a short-term hospitalization at the general public hospital of Alexandroupoli, she remained in detention at the Pre-Removal Center at Fylakio, Evros, for three months.

## **Discriminatory detention on the islands**

Leaving aside any systemic deficiencies (e.g. lack of accommodation spaces) which, in themselves, still provide no justification for the detention of persons fleeing acts of persecution (amongst which, detention itself), a highly systematized and arbitrary practice of detention has been similarly and seemingly regularly enforced at the island borders, as well. Based on this practice (so-called “pilot project”), which was reportedly launched and enforced by the Greek police as far back as October 2016,<sup>39</sup> island newcomers consisting of single, non-vulnerable, men of so-called “low-recognition rate” nationalities have, upon arrival, been as a rule immediately detained.<sup>40</sup>

Based on GCR’s field-based experience, as well as interviews/discussions held during our visits in both **Kos** and **Lesvos**, by early January 2018 this was a very much an ongoing and established practice,<sup>41</sup> seemingly exceptionally not enforced only when conditions of congestion would also be reflected in the non-availability of detention spaces. What is more, as of October 2017 the same discriminatory principle also started applying to Syrian asylum seekers, while at some unspecified point in time and up to our visit in **Lesvos** (11-15<sup>th</sup> December 2017), Iraqi nationals had further been added to its victims.

As for the justification, allegedly this discriminatory type of detention has been enforced on the basis that some applicants merely apply for asylum in order to “*delay or frustrate the enforcement of a return decision*”, and thus within the premises of the Law.<sup>42</sup> As it has been on multiple occasions observed, however, “*this reasoning is being used to detain individuals immediately upon arrival in Greece, before they have even completed their initial registration*”.<sup>43</sup> Therefore, in practice, it amounts to a prejudiced treatment of asylum seekers on the basis of their nationality and/or gender, and

on an unsubstantiated preconception of some, as “economic migrants”, others (e.g. Syrians), as inextricably bound by the clauses of the Statement, and both deemed returnable (or “bogus asylum seekers”) before any individualized examination of their cases can even take place.<sup>44</sup>

Furthermore, and though this “pilot project” has been allegedly enforced only against single, healthy, men, in both islands (**Kos** and **Lesvos**) a lack of proper vulnerability screening for these individuals was observed.<sup>45</sup> As a result, there have been cases of highly vulnerable persons, suffering from acute psychological issues (e.g. suicidal tendencies) either prior to their arrival in Greece or, most worryingly, following their detention, that have been treated in this way.<sup>46</sup> Lastly, and on top of that, in both **Kos** and **Lesvos** these arbitrarily detained asylum seekers would at first, when called before the asylum service for their interviews, be treated as less than criminals, as the police would transfer them at the competent RAO without even removing their handcuffs.<sup>47</sup>

It is to be stressed that this highly arbitrary and discriminatory treatment, which inter alia also contravenes the very foundations of the Geneva Convention,<sup>48</sup> amounts to a highly degrading and humiliating treatment enacted against applicants of international protection.

“The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.” *Article 3 (non-discrimination) of convention and protocol relating to the status of refugees*

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## Conditions of Detention

On the 22<sup>nd</sup> of December 2017 and the 10<sup>th</sup> of January 2018, respectively, we visited the Pre-Removal detention Center at Fylakio, **Evros**, and the Pre-Removal detention Center at Pyli, **Kos**. That is, two of the main border facilities where third country nationals and stateless persons are detained as part of both their asylum procedures and of the Pre-RIC detention practice examined in the preceding chapter.

Arguably, the Pre-Removal detention Center of **Kos**, which at the time housed some 82 persons from (primarily) Pakistan, Syria and Iraq,<sup>49</sup> was relatively to the rest of the border (and broader) detention facilities in somewhat adequate condition.<sup>50</sup> Nevertheless, significant issues still persisted, inter alia regarding the facility’s infrastructure (electric coverage and plumping issues) and its ongoing non-separation between different categories of applicants (e.g. gender-based separation of single applicants or families). The latter, especially, had been an issue observed by both the Committee on Civil Liberties, Justice and Home Affairs in its May 2017 visit,<sup>51</sup> as well as a parallel GCR mission conducted in December 2017,<sup>52</sup> during which it was observed that the scarce female applicants detained in the facility were kept in the same space with single men, leading to their exposure to the risk of SGBV.<sup>53</sup>

Further adding to the problem, the facility lacked both medical personnel and interpreters,<sup>54</sup> thus creating important risks to detainees who, not only did not benefit from effective access to healthcare, but were ultimately unable to make their needs adequately known to the mainly Greek-speaking personnel. It goes without saying that, in terms of access to services, the situation was the same at the **Evros** Pre-Removal detention Center, which similarly had no doctors and/or interpreters. In contrast to the **Kos** Pre-Removal Center, however, the Pre-Removal Center at Fylakio, **Evros**, is much more characteristic of detention conditions throughout Greece.

The Pre-Removal Center at Fylakio, **Evros**, –a gloomy facility formerly used as a factory– is composed of a desolated yard and a main building accommodating personnel and detainees. The detention wing has a designated capacity of 374 places, divided alongside five medium sized cells, and a sixth cell which was designated as the Center’s infirmary. Overall, the Center was clean but amenities were clearly inadequate to cover even the most basic of hygiene needs (e.g. 4 showers and toilets/ 50+ capacity cells). This was further aggravated by the scarce –if existent– provision of sanitary kits (e.g. toothbrushes), which, as is the case with most material provisions for asylum seekers and refugees throughout Greece, is ever dependent on private donations.

The detention wing was dimly lit, and no visibility existed towards applicants, as both inadequate lighting, and the thick blankets covering-surrounding their two-story beds from top to bottom, made any refugee inmate virtually hidden out of sight.<sup>55</sup> The building, in general, was in clear need of renovation, though this necessity was nowhere near more evident than in the so-called “infirmary”; a cell whose marked walls (inconsequential drawings, amongst others), exhumed a highly concerning atmosphere of despair, making what was supposed to function as a healing/resting place resemble more of an unsupervised asylum for the mentally troubled.

As per the officers we interviewed,<sup>56</sup> applicants were regularly provided access to fresh air. Based on GCR’s observations on the matter, however (e.g. frequent applicant complaints on the contrary), this was, at best, debatable. The fact that during our three-day visit we saw no one (not even the gate guards, who were entrenched inside the gate’s guard post to avoid the chilling cold) even remotely strolling through its yard –the facility’s sole open space, lying just in front of its ever **open** gates<sup>57</sup>– further raises questions on the matter.

*“Detained applicants shall have access to open-air spaces” (article 10(2) of Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast))*

This, –as well as the Pre-Removal Center of **Kos**– to be reminded, is a facility where newcomers are detained both prior to and during the examination of their asylum claims for periods which, as we were informed by the local officers, may extend up to six

months;<sup>58</sup> six months on top of any Pre-RIC detention time they might have been forced to endure.

## Geographical restriction

Notwithstanding the clear-cut detention cases underlined above, in terms of freedom of movement, the major issue for most “irregular” newcomers arriving at the Greek borders still remains their geographical restriction on the islands; a restriction inextricably tied to the Statement’s implementation that led to the radical alteration of the RICs’ “physiology”.

RICs (or “hotspots”), specifically, were first envisioned as far back as May 2015 and the European Agenda on Migration as a means ‘*to swiftly identify, register and fingerprint incoming migrants*’.<sup>59</sup> Therefore at the level of their conceptualization they were never meant to be anything more than short-term, transit facilities, aimed at filtering between persons in need of international protection and those arriving in Europe for other reasons (e.g. “*survival migrants*”).<sup>60</sup> Indeed, this was further reflected at the level of their implementation, –at least, in Greece– as suffice to say that on the 20<sup>th</sup> of March 2016 none of the five “hotspots” were fully operational, with that of **Kos** being the furthest away from its full operationalization (June 2016).<sup>61</sup> Accordingly, when the Statement was brought into force, the RICs were barely able to fulfill their original aim, let alone undertake the accommodation of the thousands of asylum seekers that got trapped on the islands in its direct aftermath, or the thousands more that would thereafter arrive –even if in much diminished numbers.<sup>62</sup>

Despite this, in the aftermath of the EU-Turkey Statement, and following a short period (up to the end of April-beginning of May 2016) during which they functioned as closed detention centers, the island RICs were transformed into a type of hybrid, open-for-some, closed-for-others, facilities, charged simultaneously with the reception, accommodation, and detention of inbound refugees and asylum seekers.<sup>63</sup> More so, since the Statement’s implementation the “restriction curb” has only spiraled upwards, leading to the consolidation of a trend (less liberty, more deterrence) which has only negatively impacted the lives of refugees and asylum seekers –not least, since it created the conditions of overcrowding on the islands, with results that will be examined in subsequent chapters.

In terms of consequences, for most newcomers this has meant the imposition of an initial period of detention/restriction of freedom within the RIC (up to 25 days), which is then followed by the imposition of a limitation of their freedom of movement on the islands throughout the duration of the examination of their (asylum) claim. Furthermore, and though vulnerable asylum seekers would at first, following assessment of their vulnerability, be exempted from this indefinite confinement, in December 2016 and reportedly following external pressures, they were also added to the list of stranded persons, not being allowed to leave the islands up to the completion of their asylum interview.<sup>64</sup> Since then, and as a rule, on top of the already indiscriminate restriction of freedom inside the RIC (up to 25 days) to which asylum seekers have been subjected, all –reportedly with the exception of vulnerable Syrian applicants<sup>65</sup>– have similarly and

indiscriminately been further subjected to an ever prolonged restriction of freedom on the islands (after the 25 days).

To be noted, in the context of this limitation of their freedom, asylum seekers are, in theory, freely allowed to enter-exit their respective RICs' premises.<sup>66</sup> During our visits in both **Lesvos** and **Kos**, however, the following issue came to our attention. Namely, despite applicants' alleged freedom to move within the islands following their initial detention, this "freedom" is practically unattainable for the vast majority of them. For starters, public transportation on both islands was only available for limited hours and never available during afternoon and/or night hours. Transportation, furthermore, was for all intents and purposes unaffordable on a consistent basis, as the financial allowance provided to applicants remains marginally sufficient to cater even to some of their most basic needs (e.g. private healthcare, which forms a necessity due to ongoing gaps in the publicly-provided one, or clothes). Lastly, the number of available buses and the number of routes performed throughout their limited daily schedule between the RICs and other locations, were in no way sufficient to cover the hundreds (in Kos) and thousands (in Lesvos) of trapped asylum seekers, who were thus ultimately, albeit indirectly, forced to "enjoy" their freedom within the premises and/or surrounding areas of the respective RICs.<sup>67</sup>

Therefore, it needs to be emphasized that despite their nominal non-detention on the islands, the vast majority of asylum seekers are still trapped under conditions highly similar to those of detention. It is not to wonder, then, why the Greek "hotspot" islands have been characterized as "*open prisons*".<sup>68</sup>

*"[The] Distinction between deprivation of liberty (detention) and lesser restrictions on movement is one of "degree or intensity and not one of nature or substance".<sup>69</sup>*

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<sup>33</sup> UN High Commissioner for Refugees (UNHCR), 'Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention', *refworld* [website], 2012, <<http://www.refworld.org/docid/503489533b8.html>>, last accessed 20 March 2018.

<sup>34</sup> Article 8(2), Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

<sup>35</sup> Indicatively, see Council of Europe: Committee for the Prevention of Torture (CPT), *Report to the Greek Government on the visits to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 18 April and 19 to 25 July 2016* [website], 26 September 2017, pp.16-17, <<https://rm.coe.int/pdf/168074f85d>>, last accessed 20 March 2018 and Walter-Franke, M., 'Asylum Detention in Europe: State of Play and Ways Forward', *Jacques Delors Institut, Policy Paper 195*, 18 May 2017, p.14, <<http://www.institutdelors.eu/wp-content/uploads/2018/01/asylumdetentionineurope-walter-jdib-may2017.pdf?pdf=ok>>, last accessed 20 March 2018.

<sup>36</sup> As aptly stated by the Global Detention Project, "*Greece's immigration detention practices more generally raise several concerns, including: the country's resistance to using alternatives to detention; its systematic detention of children; the issuing of detention orders that lack individual assessments; inadequate conditions of detention; and the use of police stations for immigration detention purposes*". Global Detention Project, 'Greece Immigration Detention' [online], *Global Detention Project* [website], January 2018 (updated), <[https://www.globaldetentionproject.org/countries/europe/greece#\\_ftn8](https://www.globaldetentionproject.org/countries/europe/greece#_ftn8)>, last accessed 20 March 2018.

<sup>37</sup> Also see, European Council on Refugees and Exiles (ECRE), 'What's in a name? The reality of

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First "Reception" at Evros', *asylum information database (aida)* [website], February 2015, <<http://www.asylumineurope.org/sites/default/files/resources/eu-greece-ecre-evros.pdf>>, last accessed 20 March 2018.

<sup>38</sup> As per the time of publication (23 May 2018), the situation has largely remained unchanged, further aggravating due to the increase in Evros-based arrivals in 2018.

<sup>39</sup> Danish Refugee Council (DRC), 'Fundamental Rights and the EU Hotspot Approach', *Danish Refugee Council* [website], October 2017, p.21, <<http://www.statewatch.org/news/2017/nov/danish-refugee-council-fundamental-rights.pdf>>, last accessed 20 March 2018.

<sup>40</sup> Perhaps reflecting this trend, out of 5,424 asylum applications made in Greece throughout 2017 from asylum seekers found under administrative detention, top nationalities included citizens of Pakistan (3,247), Bangladesh (306), and Algeria (217). For more, see Greek Asylum Service (GAS), reply to a relevant request made by the Greek Council of Refugees on 3 January 2018 [online], February 2018, p.16, <<http://asylo.gov.gr/wp-content/uploads/2018/02/AIDA-Report-2018.pdf>>; 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', *reliefweb* [website], December 2017, pp.5-6, <[https://reliefweb.int/sites/reliefweb.int/files/resources/greece\\_roadmap\\_oxfam\\_final.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/greece_roadmap_oxfam_final.pdf)>, last accessed 20 March 2018; European Council on Refugees and Exiles (ECRE), 'Interview: Asylum procedure based on nationality rather than on merit – the situation of Pakistani asylum applicants under the EU Turkey Deal', *European Council on Refugees and Exiles* [website], 8 December 2017, <<https://www.ecre.org/interview-asylum-procedure-based-on-nationality-rather-than-on-merit-the-situation-of-pakistani-asylum-applicants-under-the-eu-turkey-deal/>>, last accessed 20 March 2018.

<sup>41</sup> Information acquired cumulatively through interviews with Caritas Hellas (13 December 2017), members of the Lesvos Municipality (12 December 2017), representatives of PIKPA (13 December 2017) and HIAS (14 December 2017) in **Lesvos**, and with UNHCR staff at the Kos Field Office (11 January 2018) and the staff of the Regional Asylum Office in **Kos** (12 January 2018).

<sup>42</sup> Namely, in accordance with article 46 of L.4376/2016. For more on the grounds of detention and the deficiencies in their practical implementation, see Greek Council for Refugees, 'Country Report: Greece', *asylum information database (aida)* [website], March 2018 update, pp.148-153, <<http://www.asylumineurope.org/reports/country/greece>>, last accessed 30 March 2018.

<sup>43</sup> In January 2018 this "pilot project" allegedly ended. However, this seemingly pertained solely to its justification, as the practice, as such, has reportedly remained very much ongoing. Leete, L., 'January 2018 Report on Rights Violations and Resistance in Lesvos', *Legal Center Lesvos* [website], 10 February 2018, <<http://www.legalcentrelesvos.org/2018/02/10/january-2018-report-on-rights-violations-and-resistance-in-lesvos/>>, last accessed 20 March 2018.

<sup>44</sup> Also see Amnesty International, 'Amnesty International Report 2017/18: The State of the World's Human Rights', *Amnesty International* [website], 22 February 2018, <<https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>>, last accessed 20 March 2018.

<sup>45</sup> Interview with PIKPA representative, in **Lesvos**, and UNHCR staff at **Kos** Field Office on 13 December 2017, and 11 January 2018, respectively.

<sup>46</sup> Interview with PIKPA representative, in Lesvos, on 13 December 2017.

<sup>47</sup> Also see Thomas-Davis, M., 'On Lesvos, police violence crushes refugees' peaceful resistance: justice for the Moria 35', *openDemocracy*, 15 January 2018, <<https://www.opendemocracy.net/can-europe-make-it/maya-thomas-davis/on-lesvos-police-violence-crushes-refugees-resistance-justice-f>>, last accessed 21 March 2018.

<sup>48</sup> UN High Commissioner for Refugees, 'Convention Relating and Protocol relating to the Status of Refugees', *UNHCR* [website], December 2010, <<http://www.unhcr.org/3b66c2aa10.pdf>>, last accessed 26 March 2018.

<sup>49</sup> Since its date of operationalization, in March-April 2017, and up to the time of our visit, the Center had housed 772 persons, of whom 467 were nationals of Pakistan, 118 of Iraq, 56 of Syria, and the rest of other, mostly African, nationalities. Information acquired through interview with police representative at the Pre-Removal Center at Pyli, in Kos, on 10 January 2018.

<sup>50</sup> In itself, not an accomplishment, as overall detention conditions in Greece have consistently been characterized as inhumane and degrading, not least by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Indicatively, see Council of Europe: Committee for the Prevention of Torture (CPT), *op.cit.*, p.14.

<sup>51</sup> See European Parliament: Committee on Civil Liberties, Justice and Home Affairs,



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*Mission Report following the LIBE Mission to Greece hotspots and Athens, 22 – 25 May 2017, European Parliament* [website], 30 June 2017, p.17, <<http://www.europarl.europa.eu/cmsdata/136120/mission-report-greece.pdf>>, last accessed 26 March 2018.

<sup>52</sup> In December 2017, GCR conducted a field mission at the Pre-Removal Center in Kos, consisting of 5 staff (lawyers and interpreters).

<sup>53</sup> At the time of our visit (December 10, 2017), the case was seemingly the same with the 2 families that were detained in the facility.

<sup>54</sup> As we were informed, interpretation would take place either through interpreters based at the nearby **Kos** RIC or via detainees themselves. Information acquired through interview with police representative at the Pre-Removal Center at Pyli, Kos, on 10 January 2018. In either case, this service was clearly insufficient, as it relied either on the ever scarce availability of RIC interpreters –who during our visit to the RIC (10-12 December 2017) could literally not catch their breath– or on the randomness of detainees’ knowledge of Greek.

<sup>55</sup> A frequently-encountered practice in prison facilities, where surrounding one’s bed with blankets *inter alia* provides a rudimentary sentiment of privacy.

<sup>56</sup> Interview with police representatives at the Pre-Removal Center at Fylakio, Evros, on 22 December 2017.

<sup>57</sup> It seems doubtful that the facility’s officers would leave the gates open, if detainees were provided access to fresh air, as the latter’s potential of “escaping”, under such circumstances, is a risk that can have severe repercussions against the former.

<sup>58</sup> Interview with police representatives at the Pre-Removal Center at Fylakio, Evros, on 22 December 2017.

<sup>59</sup> European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A European Agenda on Migration*, 13 May 2015, COM(2015) 240 final, p.6, <[https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf)>, last accessed 29 March 2018.

<sup>60</sup> The term is borrowed from a Guardian article written by Alexander Betts. See A., Betts, ‘Human migration will be a defining issue of this century. How best to cope?’, *The Guardian International edition*, 20 September 2015, <<https://www.theguardian.com/commentisfree/2015/sep/20/migrants-refugees-asylum-seekers-21st-century-trend>>, last accessed 27 March 2018.

<sup>61</sup> Greek Council for Refugees, *op.cit.* p. 22; European Commission, Communication From The Commission To The European Parliament The European Council And The Council: Third Report on the Progress made in the implementation of the EU-Turkey Statement, 28 September 2017, <[https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news\\_corner/migration/com\\_2016\\_634\\_f1\\_other\\_act\\_863309.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/migration/com_2016_634_f1_other_act_863309.pdf)>, last accessed 27 March 2018.

<sup>62</sup> As per UNHCR data, by the end of May 2016, some 8,456 persons remained on the islands subject to the post-Statement new status quo. On the other hand, from 56,723, in 2015, arrivals on the Greek islands diminished to 173,450, in 2016, and 29,718, in 2017. UN High Commissioner for Refugees, ‘UNHCR Greece Factsheet January-May 2016’, *UNHCR* [website], 6 June 2016, p.2, <<http://donors.unhcr.gr/en/unhcr-greece-factsheet-january-may-2016/>>, last accessed 20 March 2018 and <<https://data2.unhcr.org/en/situations/mediterranean/location/5179>>.

<sup>63</sup> Greek Council for Refugees, ‘Country Report: Greece’, *asylum information database (aida)* [website], March 2017 update, p.100, <<http://www.asylumineurope.org/reports/country/greece>>, last accessed 30 March 2018.

<sup>64</sup> See Human Rights Watch (HRW), ‘World Report 2018 - European Union’, *refworld* [website], 18 January 2018, <<http://www.refworld.org/docid/5a61ee75a.html>>, last accessed 28 March 2018.

<sup>65</sup> UN High Commissioner for Refugees (UNHCR), *Aegean Islands Factsheet*, May 2017, p.3, <<https://refugeeobservatory.aegean.gr/sites/default/files/Aegean%20Islands%20Factsheet%20May%202017.pdf>>, last accessed 28 March 2018.

<sup>66</sup> Albeit there have been cases where the initial 25-day detention was extended due to administrative delays in providing applicants with legal documentation (e.g. police notes)

<sup>67</sup> Indeed, throughout our visits to **Kos** and **Lesvos**, and considering the number of asylum seekers stranded at each RIC, their presence in the islands’ inhabited areas was barely observable.

<sup>68</sup> Amnesty International, *Δηλώση Γαβριηλ Σακελλαριδη Μετά την Επίσκεψη σε Καταυλισμούς στη Χίο και Λέσβο* [Statement of Gabriel Sakellariadis following visit to camps in Chios and Lesvos] [press

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release], 6 February 2018, <<https://www.amnesty.gr/news/press/article/21262/dilosi-gavriil-sakellar-idi-meta-tin-episkepsi-se-kataylismoys-sti-hio-kai>>, last accessed 28 March 2018.

<sup>69</sup> UN High Commissioner for Refugees, 'Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention', op. cit., p.9, also cites, <http://www.unhcr.org/505b10ee9.html> p.9, also cites *Guzzardi v. Italy*, Application no. 7367/76, Council of Europe: European Court of Human Rights, 6 November 1980, p.30. para.93, <<http://www.refworld.org/cases,ECHR,502d42952.html>>.

## Gaps in Reception

Up to this point, what has been examined are some of the more blatant, yet systematic, violations of the rights of refugees and asylum seekers, in the context of practices that function in parallel to or at the expense of their “reception”. In the following sections, what will be examined is what the situation is for those asylum seekers whom, as per the law, undergo regular reception procedures at the Greek borders (Evros and the five “hotspot islands”).

## Context of Reception

Much in line with the rationale and the overall “spirit” of the “hotspot approach” and the recast European Directive on the Reception of applicants for international protection, Articles 8(2) and 9 of the Greek L. 4375/2016 define the context of the initial reception of third country-nationals and stateless persons arriving –or residing– in the Greek territory without proper documentation.<sup>70</sup> Namely, said persons are upon arrival (or apprehension) to be submitted to Reception and Identification procedures, which are in principle to be performed under the responsibility of the RIS and amount to:

- a) *The registration of their personal data and the receiving and registering of fingerprints for those who have reached the age of 14,*
- b) *The verification of their identity and nationality,*
- c) *Their medical screening and the provision of any necessary care and psycho-social support,*
- d) *Informing them about their rights and obligations, in particular the procedure for international protection or the procedure for entering a voluntary return program,*
- e) *Attention to those belonging to vulnerable groups, in order to guide them to the appropriate, in each case, procedure and to provide them with specialized care and protection,*
- f) *Referring those who wish to submit an application for international protection to start the procedure for such an application,*
- g) *Referring those who do not submit an application for international protection or whose application is rejected while they remain in the RIC to the competent authorities for readmission, removal or return procedures.*

Based on these factors, it becomes evident that, at its core, this is an initial step aimed at not only identifying who is inside the country's territory (national security aspect), but primarily at ensuring that all persons who so wish to request international protection can do so effectively and in an equal-for-all manner (protection of persons fleeing persecution, and especially those in need of more specialized treatment).

That being said, element *g* pertains to persons in principle not wishing to apply for asylum, and therefore was not examined as part of the current research. Element *f*, on the other hand, is implemented by the book upon newcomers' arrival to the RICs which, as highlighted in previous sections, is marked by significant delays and arbitrariness. In terms of the remainder of elements *a* to *e*, throughout the research only those related to the security aspects of reception (i.e. identification and registration of personal data) were consistently performed in a timely manner (average of 2-3 days following arrival), with elements *c* to *e* (vulnerability screening and information) remaining highly problematic, despite some relative improvements on the matter.

## Registration

Considering how prior to March 2016 many newcomers would leave the islands without being registered, –let alone assessed for potential vulnerabilities– this aspect of reception has since been the most consistently improved and upheld. Thus, to GCR's knowledge, as a rule following the Statement's implementation and **upon arrival at the RICs** (islands and Evros), newcomers have systematically been registered within periods not usually exceeding 2-3 days.<sup>71</sup>

Despite this, it needs to be pointed that, at least, at the Moria RIC, in **Lesvos**, the conditions under which newcomers were registered during our visit were in themselves verging towards the limit of degradation. Within the Moria RIC's internal fenced section, which is reserved for the registration, identification, fingerprinting and medical assessment of newcomers and residents alike, the small area reserved as a waiting zone for those waiting to undergo data verification procedures (conducted by Frontex), was more reminiscent of a paddock (short bars all around), rather than a dignified space for the initial reception of persons just previously rescued at sea. Perhaps, this was ultimately the reason why just outside the office/container, where identification was conducted, there was a “no pictures allowed” sign hanging by the door.

## Provision of Information

Throughout 2016-2017, the provision of information to newcomers similarly became a consolidated practice of the Greek system of reception –in itself a marked improvement, considering the critical gaps characteristic of the immediate post-Statement period.<sup>72</sup>

As a rule, and upon newcomers' transfer to the RICs, the RIS undertakes their initial briefing on rights and obligations, which is then followed-up by a second information session conducted by UNHCR's field-based teams (usually 10-15 minutes group sessions). A gap still persists during weekdays, since the unavailability of interpreters means that information can only be provided on Mondays, yet in itself this did not reportedly create any significant issues.<sup>73</sup> Despite this standardization of practices, however, information provision at the borders still remains highly problematic throughout all process and procedures that asylum seekers undergo for the duration of their RIC-based accommodation.

For starters, and especially **on the islands**, the timing under which information provision takes place has been reported as posing a direct impediment to effective understanding and assimilation.<sup>74</sup> That is, newcomers are frequently provided with information at too short intervals following their arrival (which, it should be reminded, was preceded by their previously having been literally rescued at sea), at a time when they are usually too confused and/or distressed to understand what is being said.

Secondly, conditions of overpopulation –especially in **Lesvos**– further impede effective communication. Thus at the Moria, RIC, which provides an indication for the situation in Chios and Samos, environmental parameters (overcrowding, constant shouts etc.), coupled with the RIS's ever overstretched capacity, adversely affect the quality of information. As such, and as per GCR's observations at the point of our visit in **Lesvos** (11-15 December 2017), the information provided to newcomers seemed to revolve around the provision of directions as to where (i.e. in which container) they would have to go in order to be identified, fingerprinted and registered, with the added "touch" of their being advised to be honest throughout the process.

Thirdly, based on GCR's observations in **Evros**, the language employed to inform beneficiaries about (especially) their rights, has at times been too fast-paced, specialized and/or technical in nature, seemingly not taking into account beneficiaries' levels of education, ages or broader sociopolitical backgrounds. More importantly, the information provided has tended to be solely factual (e.g. "your application has been rejected"), instead of explanatory, thus failing to accomplish the desired outcome, with adverse effects on the most vulnerable.

*"They don't explain to them [i.e. minor applicants] why their [asylum] application was rejected...[they just] give them a document written in Greek...stating their rights and obligations...it is the same with adults...but at least adults can ask questions...minors are generally more reserved [to do so]."*<sup>75</sup>

Frequent changes in administrative procedures further complicate the matter as, indeed, "depending on when [someone arrives, they] undergo a different procedure".<sup>76</sup> And the list could go on, including the lack and/or scarcity of interpretation in some languages (mostly African-based), the overstretched capacity of available interpreters and significant gaps in the availability of intercultural mediators. Most crucially, however,

information was as a rule provided as a one-time commodity during arrival, and rarely with respect to what was to come following beneficiaries' eventual departure from the RICs (e.g. integration); in itself, a further factor exacerbating the feeling of unease felt at not knowing what the future might hold in store for them.

*"Information [provision] is highly incomplete. They arrive [on the island]...they undergo their [asylum] interviews, they await their decisions, and they are still not aware of what said decision might mean [for them]...for what reason, to begin with, they are accommodated here [at the RIC] ... [they are not informed] that this is just a [temporary] station [after which] they will then have to go elsewhere, where something new awaits them. The result is to have their [hopes and] expectations shattered"*<sup>77</sup>

The issue, to be noted, is not one solely attributable to the reception system, as such, even if the latter's ongoing deficiencies in terms of the lack of ongoing provision of quality information further serves to exacerbate what is a highly sensitive matter.

Throughout their journey, asylum seekers and foreign nationals more broadly are exposed to a continuous stream of (mis)information, inter alia acquired through their contact with smugglers and smuggling networks, which offer them depictions of a "promised land" waiting for them just beyond the borders.<sup>78</sup> Thus many arrive with usually misguided pre-conceptions as to what awaits them upon arrival in Greece.<sup>79</sup> In other cases, misinformation presents itself in the face of seemingly local "do-gooders", as was the case with a beneficiary in **Kos**, who following his arrival went and bought an airplane ticket, after being led to believe that he could freely leave the island following his registration.<sup>80</sup> The result, of course, was his disillusionment after being informed that he had to return to the RIC, and that he had accordingly spent, perhaps, his last money, to buy a useless commodity. Lastly, refugees and asylum seekers have and/or create their own networks of information, which extend from their (container) roommates to friends, family member and/or fellow travelers that are found at different sections of the Greek borders and may be experiencing different facets of the reception and asylum procedures. Networks, that is, which may inter alia serve to enrich their understanding of the Greek system of reception and asylum, albeit subjectively (i.e. based on individual, and thus disparate experiences) and thus with the risk of further spreading inaccurate information.

An indicative example, provided to us in **Kos**,<sup>81</sup> was that of two single women, friends and roommates, both of who vulnerable, one of which, however, also a documented victim of gender-based violence. With her increased vulnerability constituting RIC-based accommodation an even more unsafe place for her wellbeing, the latter was prioritized for transfer out of the RIC. The former, on the other hand, kept residing in the RIC, albeit now feeling not only that she had been left behind, but that somehow, and beyond her understanding, she had been discriminated against. As to the reason, this was because from what the two women could tell, in lack of adequate information (in

this case, on aspects of vulnerability), they were both women, they were both single, and, perhaps more importantly, they were both of the same nationality. They could therefore –in an arguably far wiser manner than the multi-divisional system of reception and asylum currently allows– see no distinguishing factors amongst them.

Crucially, in their cases, this disillusionment, emanating from the ongoing deficiencies in the systematic provision of qualitative information, may have manifested in the form of complaints and/or some level of frustration; in itself, an issue of concern, when considering the already overburdened psyche with which asylum seekers arrive at the borders. However, it becomes more so concerning when considering that, as has been observed by the European Fundamental Rights Agency (FRA),<sup>82</sup> the usual outcome of inadequate information, especially in light of “*perceived unfair criteria for prioritisation of asylum claims together with overcrowding and long stays*”<sup>83</sup> –all of which are to this day characteristic of the Greek system of border reception– is the creation of tensions and/or violence (interethnic or otherwise). Similarly, it results in applicants’ losing their trust in the “official” system of reception-protection and, in turn, once more turning for “help” to smugglers.

As aptly put by the **Kos**, RIC Director, “*that is the bet...to make them understand that legal procedures are also the best procedures*”.<sup>84</sup> A bet, however, which as shall be exemplified in the final chapter of this project, is on many occasions –and perhaps increasingly– lost.

## Vulnerability Screening/Assessment

The importance of vulnerability assessment (i.e. medical and psychosocial screening) lies in its not only being of foremost importance for ensuring that persons in need of more specialized assistance are detected at an early stage, following their arrival, but in its also being the sole means to ensure their full rights are respected. As per both national legislation and the Reception Directive, vulnerable persons are entitled to an expanded set of provisions, so as to ensure that throughout both their reception and asylum procedures they can enjoy their rights on an equal footing with non-vulnerable beneficiaries. For this reason, and not least due to the impossibility of guaranteeing the respect of said rights on the islands –as also acknowledged by the GAS<sup>85</sup>– vulnerable persons are in principle exempted from the island-based geographical restriction, which in turn constitutes their early detection all the more important.

That being said, vulnerability screening has consistently been amongst the major –if not the foremost– issues faced by the Greek system of reception.<sup>86</sup> Up to the spring-summer of 2017, for instance, as a rule only persons displaying visible vulnerabilities (e.g. physically disabled, pregnant women) would be referred by the RIS to a medical assessment. Persons with less visible vulnerabilities (e.g. mental health problems), on the other hand, would be largely left on their own or, for the most part, referred to a



vulnerability assessment only following UNHCR's or other organizations' intervention.<sup>87</sup> Yet instead of improving, in the summer of 2017 (June) the situation further deteriorated.

Up to that point (end of May 2017), primary healthcare services in the RICs were provided by NGOs (e.g. MDM), which, following the non-renewal of their contracts gradually started handing-over this activity to the state. As a result of this transition, which even at the time lacked sufficient planning, a huge gap was created in terms of both vulnerability assessment and the overall provision of healthcare services in the RICs.<sup>88</sup> To illustrate the extent of the problem, in July 2017, the RIC at Moria, **Lesvos**, was left with 2 doctors (one full-time, the other, part-time), 1 psychologist and 1 social worker, competent for conducting vulnerability assessments for a population at the time amounting to some 4,000 asylum seekers.<sup>89</sup> The RIC of **Kos**, on the other hand, throughout most of August was left with no official medical personnel, whatsoever,<sup>90</sup> meaning that no vulnerability assessment could take place. In turn, this led to a quasi-landslide effect, by not only actively endangering persons in need of immediate assistance, but also creating significant delays in the examination of their asylum applications, as the GAS –and rightly so– would not register their asylum claims if they had not previously undergone a medical assessment. In this context, prevalent gaps in the reception of asylum seekers only served to detrimentally affect what best practices may have been in place, as their cumulative, ultimate, effect, was the further entrapment of vulnerable persons on the islands.

The situation started somewhat ameliorating towards the end of August 2017, when personnel employed through KEELPNO (Hellenic Center for Disease Control & Prevention) was gradually deployed on the islands, thus inaugurating the state's belated takeover of healthcare provisions in the RICs. Since then, as we were informed at the island RICs of **Kos** and **Lesvos**, vulnerability screening (medical) has become a regular aspect of the reception process. Nevertheless, ongoing deficiencies in personnel (in **Kos**, for instance, only 1 KEELPNO doctor and 4 nurses were deployed in January 2018, for a population consisting of nearly 700 vulnerable asylum seekers),<sup>91</sup> availability of space (in **Lesvos**, in December 2017, social workers in the RIC lacked any type of working space), backlogs created throughout the period of transition from NGO-led to state-led medical provisions, as well as matters of over-congestion, still prohibited (and do so to this day) the system from functioning in an effective manner.

Thus, at the time of our respective visits in both **Lesvos** and **Kos** (11-15 December 2017 and 10-12 January 2018, respectively), medical screening would as a rule take place a month following a person's arrival at the RIC. Psychosocial assessment, on the other hand, which is ever more important for the recognition of less visible, but potentially more severe, vulnerabilities (e.g. victims of torture), when conducted, would as a rule take place in up to three times as much (3 months following arrival).

In **Evros**, on the other hand, up to the 20<sup>th</sup> of December 2017 and not least due to the RIC's small capacity (240 places accommodating slightly more than 300 applicants at

the time), vulnerability screening had been more consistently conducted. The Hellenic Red Cross, which had undertaken medical activities from Praksis in June 2017 and for a transitional period until the state could undertake medical provisions there, as well, had assessed a total of 4,944 cases. Of these, 68 had been assessed as medically vulnerable and 230 referred for further assessment at a public hospital. Some 30 cases, furthermore, were referred for psychosocial assessment and/or psychiatric evaluation at the Mental Health Hospital of Orestiada (Κέντρο Ψυχικής Υγείας Ορεστιάδας) and the Psychiatric Department for Children at Alexandroupoli (Παιδοψυχιατρικό Τμήμα Υγείας Αλεξανδρούπολης), while primary healthcare and sessions with a psychologist were available within the RIC.<sup>92</sup>

As of the 21<sup>st</sup> of December 2017, however, HRC's contract in the RIC ended, and the facility was left without stable medical presence. As we were informed by the RIS,<sup>93</sup> the gap, up to the point at which KEELPNO personnel could be deployed to **Evros**, was to be covered on a voluntary basis by a local doctor. Regarding the timeframe when the RIC would once more have permanent and adequate medical professionals, however, we were provided with no answer. The sole quasi-answer we were able to obtain came from the police officers at the neighboring Pre-Removal Center at Fylakio, **Evros**, based on whose estimates such a deployment could occur (for both facilities) around February 2018. Five months on (May 2018), such personnel have yet to be deployed

Lastly, it needs to be stressed that an ongoing deficiency of the Greek system of reception is the complete absence of RIC-based psychiatrists, which coupled with the ongoing deficiencies characteristic of island-based public hospitals, equates to some asylum seekers' needs (especially) in medication not being covered, as there is no suitable professional to prescribe them.

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<sup>70</sup> L.4375/2016, articles 8(2a) and 9.

<sup>71</sup> Greek Council for Refugees, op.cit., p.24.

<sup>72</sup> Indicatively, see Amnesty International, *Trapped In Greece: An Avoidable Refugee Crisis* [website], 18 April 2016, pp.25-29, <<https://www.amnesty.org/download/Documents/EUR2537782016ENG-LISH.PDF>>, last accessed 29 March 2018.

<sup>73</sup> On an exceptional basis and when requested by the authorities (RIS, Hellenic Police at the Pre-Removal Center), UNHCR protection staff are also stand-by to cover any urgent need in information provision. Information acquired through interview with UNHCR staff at Kos Field Office on 11 January 2018.

<sup>74</sup> Interview with HIAS in Lesvos, on 14 December 2017.

<sup>75</sup> Former GCR lawyer in Evros.

<sup>76</sup> Representative of Caritas Hellas, in Lesvos. Interview conducted on 13 December 2017.

<sup>77</sup> Representative of Arsis, in Kos. Interview held on 11 January 2018.

<sup>78</sup> Interview with Director of 2<sup>nd</sup> Police Directorate of Dodekanisa, in Kos, on 12 January 2018.

<sup>79</sup> For instance, as we were informed in **Lesvos**, there was a common belief that if an asylum seeker had family members in another Member State (MS) then they would be swiftly allowed to move to said MS. This was especially the case with Arab nationals, for whom the tendency was to consider that following a short stay on the islands, they would similarly be able to continue their journeys further into Europe (especially Germany). Interview with Caritas Hellas in Lesvos, on 13 December 2017.

<sup>80</sup> Interview with RIC Director at Pyli, Kos, on 10 January 2017.

<sup>81</sup> Interview with representatives of Arsis, in Kos, on 11 January 2018.

<sup>82</sup> European Union Agency for Fundamental Rights (FRA), 'FRA Opinion on fundamental rights in the 'hotspots' set up in Greece and Italy', FRA [website], 29 November 2016, pp.41-42, <<http://fra.europa.eu/en/opinion/2016/fra-opinion-hotspots-approach>>, last accessed 29 March 2018.

<sup>83</sup> Ibid., p.41.

<sup>84</sup> Interview with RIC Director at Pyli, Kos, on 10 January 2017.

<sup>85</sup> "The Greek Asylum Service considers that vulnerable groups should be exempted from the border procedure, so as to ensure sufficient special procedural guarantees (e.g. **objective inadequacy of medical and psychiatric services**) for the vulnerable groups". Meaning, lack of adequate support to vulnerable asylum seekers on the Greek islands. European Commission, *ANNEX to the Report from the Commission to the European Parliament, the European Council and The Council: Seventh report on the progress made in the implementation of the EU-Turkey Statement* [website], 6 September 2017, <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170906\\_seventh\\_report\\_on\\_the\\_progress\\_in\\_the\\_implementation\\_of\\_the\\_eu-tur-key\\_statement\\_annex\\_1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170906_seventh_report_on_the_progress_in_the_implementation_of_the_eu-tur-key_statement_annex_1_en.pdf)> last accessed 29 March 2018.

<sup>86</sup> Also, Médecins Sans Frontières (MSF), 'Δραματική επιδείνωση των συνθηκών για τους αιτούντες άσυλο στη Λέσβο' [Dramatic deterioration of conditions for asylum seekers in Lesvos], MSF [website], 13 July 2017, <[https://msf.gr/sites/default/files/msfpublications//msf\\_report\\_vulnerable\\_lesvos\\_el.pdf](https://msf.gr/sites/default/files/msfpublications//msf_report_vulnerable_lesvos_el.pdf)>, last accessed 29 March 2018.

<sup>87</sup> Some asylum seekers, to be noted, would be referred to assessment following their own request. This, however, was and remains a highly problematic "safety valve," ever subject to ongoing gaps in effective information, as well as to the pre-existing expectations and fears with which asylum seekers arrive in Europe. In Lesvos, for instance, we were informed of the case of a Syrian family, whose thirteen year old daughter had an acute psychiatric condition. They had arrived in Greece at an unspecified time prior to the closure of the relocation scheme (the scheme ended in S... 2017), for which they wished to apply in order to go to Germany. The daughter, however, was not properly assessed as vulnerable, thus creating the risk of their being returned (i.e. "readmission") to Turkey. Inter alia, this was because her father was afraid that her condition would lead to their exclusion from the relocation scheme, and was consequently hesitant to declare his daughter's condition. Interview with Caritas Hellas in Lesvos, on 12 December 2017. On the deficiencies of vulnerability screening also see Greek Council for Refugees, op.cit., pp.68-70, and European Council on Refugees and Exiles, 'Greece: Strengthening NGO involvement and capacities around EU 'hotspots' developments: Update on the implementation of the hotspots in Greece and Italy', *asylum information database (aida)* [website], April 2017, pp.2-3, <[http://www.asylumineurope.org/sites/default/files/update\\_report\\_gcr.pdf](http://www.asylumineurope.org/sites/default/files/update_report_gcr.pdf)>, last accessed 29 March 2018.

<sup>88</sup> For instance, Healthview, 'Κενά στην υγειονομική φροντίδα των προσφύγων λόγω μη ανανέωσης των συμβάσεων με τις ΜΚΟ' [Gaps in health care for refugees due to non-renewal of NGO contracts], *healthview* [website], 2 June 2017, <<http://www.healthview.gr/34013/kena-stin-ygionomiki-frontidaton-prosfygon-logo-mi-ananeosis-ton-symvaseon-mko/>>, last accessed 30 March 2018, and Joint NGO letter, *Lack of handover plans for the response in Greece puts asylum seekers at risk, NGOs warn* [press release], 11 July 2017, <<http://reliefweb.int/report/greece/lack-handover-plans-response-greece-puts-asylum-seekers-risk-ngos-warn>>, last accessed 30 March 2018.

<sup>89</sup> Refugee Support Aegean (RSA), 'Σημαντικά κενά στην περίθαλψη προσφύγων στα Hot Spot, καταρρέει το σύστημα εκτίμησης της ευαλωτότητας' [Significant gaps in refugee care at the Hot Spots, the vulnerability assessment system is collapsing], RSA [website], 7 July 2017, <<https://bit.ly/2JizBEV>>, last accessed 30 March 2018.

<sup>90</sup> Interview with staff of the Kos RAO, on 12 January 2018.

<sup>91</sup> As per the KEELPNO personnel we interviewed on the 12<sup>th</sup> of January 2018, approximately 90% of the persons they had seen since their deployment, in late August, already had some medical issue prior to their arrival in Greece, with many suffering from psychological (post-traumatic stress disorders) and/or neurologic conditions (e.g. epilepsies).

<sup>92</sup> Information acquired through interview with staff of the Hellenic Red Cross at Fylakio, Evros, on 20 December 2017.

<sup>93</sup> Interview with Director of RIC at Fylakio, Evros, on 21 December 2017.

## Conditions at the RICs

The Reception Directive states clearly that “*Member States shall ensure that material reception conditions provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health*”.<sup>94</sup> Despite this, throughout their RIC-based confinement, refugees and asylum seekers are exposed to various degrees of –usually– substandard conditions, which negatively impact on both aspects of their health.

### RIC of Moria: Inhumanity at its lowest

On the 11<sup>th</sup> and 15<sup>th</sup> of December 2017 we visited the RIC at Moria, **Lesvos**. The first image we saw was that of a child, exiting his family’s tent, which was found directly next to the overflowing garbage bins. This was just one of many families forced to live under inhumane and degrading conditions in a RIC that has on many occasions been characterized as a “concentration camp”.<sup>95</sup>

Much like in the winter of 2016, so too in 2017 and especially since October, the renewed surge in arrivals, coupled with the ongoing policy of containment, had made it virtually impossible to accommodate the more than 5,000 (at the time of our visit) of the RIC’s inhabitants (the RIC’s capacity the still lied at 2330 palces)<sup>96</sup> in even the most rudimentary type of decent accommodation. As a result, the RIC had been over-flooded by small tents (some on the road), usually shared by more than one inhabitant and/or family, and even those lucky enough to be placed in so-called “pre-fabricated accommodation” (i.e. containers), were crammed by the 20s (20-25 persons/container). Simply put, the atmosphere was suffocating, with no place to breathe or secure even a minute’s privacy.

Overcrowding, furthermore, had led to some 500 asylum seekers being exceptionally accommodated outside the RIC’s premises, in an area originally reserved for the creation of recreational spaces (“olive grove”). Accommodation there was offered only in tents, and despite many of the “grove’s” inhabitants consisting of families with children, the area was largely left unsupervised.

Things were further aggravated by the RIC’s ever present smell of garbage and sewage waste. Despite efforts –hourly, as we were informed by the cleaning personnel– to maintain even the most rudimentary type of cleanliness to the place, the level of overcrowding constituted this a virtual impossibility. The RIC’s garbage bins where constantly overflowing, as was its sewage system which was on average clogging 20 times per week.

*“the infrastructure cannot take it...it is not so much an issue of electricity, as much as the rest...storage spaces, spaces for the personnel and for the accommodation of beneficiaries...”<sup>97</sup>*

Water—ever cold and non-drinkable—was only available for a couple of hours per day.<sup>98</sup> As a result, beneficiaries were provided with daily rations of bottled water, as a means to counterbalance this gap. Each, however, was only entitled to a 1.5 liters bottle, which was evidently inadequate to cover their needs, let alone the needs of more vulnerable asylum seekers, whose conditions (e.g. diabetes) necessitate a constant source of hydration.

Food was provided. Food ratios, however, were inadequate to cover beneficiaries' basic needs, as despite the surge in arrivals since the summer of 2017, food quantities had reportedly remained the same, thus not reflecting increased needs.<sup>99</sup>

In terms of materials scarcity, the same was the case with winter clothing, with many beneficiaries wearing worn-out jackets and shoes (if they had any), and at times summer sandals, despite it being winter. Other crucial gaps we were informed of, regarded powder milk for newborns and babies, as well as sanitary napkins for women. While, lastly, and amongst many others, a final and highly concerning gap concerned the facility's supervision.

The RIC is in principle divided into an external and an internal section.<sup>100</sup> The first, which was accessible through the RIC's main gates, was the designated accommodation section for the vast majority of beneficiaries, which, however, due to over-congestion also housed (in tents and containers) a significant number of families with children, which were running all around. Despite this, however, no security checks were actually conducted at either of the RIC's main gates, and anyone could freely enter and exit without officials taking notice of their presence.<sup>101</sup>

The situation was slightly better in the RIC's internal section, where personnel offices, an area for the initial detention of newcomers, and 3 different wings for the accommodation of the most vulnerable (families, single women, UAM) were found. Notwithstanding the fact that said wings had security checks during the day, however, there have been frequent reports on the unavailability of adequate night patrols and dimly lit areas,<sup>102</sup> with some reporting a lack of security personnel after 16:00-17:00 at the UAM and single women sections.<sup>103</sup> If true, this meant that said sections, which were open from 12:00-00:00, were largely left unguarded even during their open time.

Within this context, the ever degrading living conditions of Moria, coupled with peoples' de facto restriction within and around its premises, have consistently created a state of insecurity, adversely affecting the most vulnerable.

*"There is an environment of tension in Moria...there are people who cannot sleep for even one night...they live in a constant insecurity...day-by-day they become sicker...physically, mentally..."<sup>104</sup>*

Drug selling, riots, interethnic, and interpersonal fights have become commonplace, with one such fight occurring in broad daylight, during our second visit (15<sup>th</sup> of December 2017). The fight was amongst two women, one of which, a pregnant minor whom, as per the employees that sped to resolve the fight, had some unknown suitor within the RIC. Whether, in her case, the pregnancy was the result of willing consent, was something we could not verify. This, however, further highlights the constant SGBV risk to which women are exposed within the RIC, not least due to the de facto unavailability

of gender-based toilets and showers. Coupled with the aforementioned lack of the facility's adequate supervision, women were (and are) at an ever present risk of falling victims of SGBV, with such incidents reportedly being on the rise.<sup>105</sup>

### *Documented cases of SGBV*

In 2017, GCR undertook the case of two women who had fallen victims of such violence, while accommodated at the Moria RIC, in Lesvos. Both were in their early twenties, and previously residing in Moria for an unspecified amount of time. They had fallen victims of group rape, as inter alia attested by the medical documents they had been provided with, following their examination by a doctor. Their physical well-being had suffered unrecoverable damage, with their mental state being in such a devastated and traumatized condition, that it had become highly difficult for them to remain in the same space alongside persons of the opposite gender.

### **RIC of Kos: improved but still inadequate**

Between the 10<sup>th</sup> and 12<sup>th</sup> of January 2018 we visited the RIC of **Kos**, at Pyli.

The first thing noted was that, comparatively to the rest of the islands, the situation in Kos was distinctly more manageable, with the RIC, whose capacity stands at 772 places, accommodating some 670 residents on those days.<sup>106</sup> Amongst them, 24 were unaccompanied minors and the rest primarily Syrian and Iraqi families.<sup>107</sup> Accordingly, overpopulation was not a problem, with asylum seekers being accommodated in pre-fabricated housing units (containers), instead of tents.

In itself, this marked a clear improvement, when compared to the prevalent situation up to the summer of 2017. Namely, the RIC of Kos, was the last one to start its operations on the Greek islands in June 2016 –not least due to consistent local protests, on the basis that its creation would ruin tourism.<sup>108</sup> As a result and up to that point, newcomers would at first be mainly “accommodated” in police detention cells and/or UNHCR apartments. Following the RIC's operationalization in June, furthermore, and though asylum seekers started gradually being transferred to the RIC, some, as already mentioned, remained in detention, while a large number of others were, due to the RIC's inadequate capacity, forced to remain under unacceptable conditions, outside its premises.

Indicatively, between September 2016 and March 2017, and due to the RIC' inability to house the totality of asylum seekers found on the island,<sup>109</sup> some hundreds (200-300, and at times even more) were left outside the RIC, in the so-called “Annex;” a makeshift



camp, found bellow the RIC, where today's Pre-Removal Center stands.<sup>110</sup> This make-shift camp was characterized by an acute lack in medical provisions, with residents, who were left to survive '*totally unattended and fully exposed to all kinds of risks*',<sup>111</sup> not being screened for any potential vulnerabilities, as the RIC would not recognize them as falling under its competence.

The "Annex" was ultimately closed in March 2017, but not least due to these living conditions, tensions were commonplace throughout this period and up to the summer of 2017.<sup>112</sup> In December 2016, for instance, some of the Annex's frustrated inhabitants began protesting, with some tensions arising on the 19<sup>th</sup> (small fires, broken windows etc.).<sup>113</sup> Furthermore, during the first months of the RIC's functioning, only asylum application made by Syrian nationals would be registered (a common issue on the islands, at the time), leading to further exacerbating tensions as, inter alia, asylum seekers of Pakistan at the time constituted roughly 90% of the local population.<sup>114</sup>

Other issues observed throughout 2016-2017 and at least up to March 2017, concerned matters pertaining to the bad quality of food, constant light and water shortages, and especially poor sanitary conditions, with the RIC's sewage system being regularly overflowed and leading to the creation of small ponds throughout the RIC.<sup>115</sup>

Security was also a major issue of concern, especially at night. At the time, sections were not properly divided (e.g. minors living in containers with adults), and several SGBV incidents were reported.<sup>116</sup> Most worryingly, some cases of sexual harassment were reported with respect to unaccompanied minors, whom despite being accommodated in a separate and allegedly guarded section, were not properly protected.<sup>117</sup>

From what we could tell during our visit, this was no longer an issue at the RIC. It needs to be pointed, nevertheless, that whether this was the result of successful efforts to accommodate beneficiaries in a safety first manner (e.g. families with families, single women with single women), was not possible to confirm. The very fact that the RIC's inhabitants largely composed of families, as well as the fact that conditions in the RIC were highly pertinent on lower, and thus more manageable, numbers of arrivals, in themselves, facilitated the creation of a safer environment. Both, however, are matters highly pertinent on chance, and there is an ever present risk of deterioration, if the composition and/or number of arrivals change, while asylum seekers are forced to remain on the islands; an aspect which was affirmed throughout October-November 2017, when increased arrivals led to the RIC's surpassing its capacity by some 200 persons (920 at the end of November), with many newcomers being sent for "accommodation" at the Pre-Removal Center instead.

*"we live with a constant agony... every moment may bring something new".<sup>118</sup>*

In terms of security, furthermore, regular police presence clearly provided for at least a semblance of security. Nevertheless, much like in Moria, Lesbos, the main gate to the RIC remained scarcely unsupervised, and anyone could freely enter-exit without official's taking notice. Indeed, from what we could tell, the only section where security checks were regularly conducted was the RIC's small, barbed-wire fenced, sub-section, where the GAS's offices were found.

Similarly, and despite improvements, a small pond seemingly created by ongoing infrastructural problems pertinent to the RIC's sewage system, still remained. Overall, as we were informed,<sup>119</sup> the RIC's level of cleanliness was an ongoing issue for residents –who frequently complained on the matter– as was the issue of material scarcity and especially with respect to winter clothing and sanitary products, such as pampers. Indeed, material scarcity was perhaps one of the few issues which had seen a deterioration in the RIC, without, nevertheless, this meaning that living conditions, as such, were adequate.

*“Conditions are not the best...you certainly don't want to find yourself in their place...but still, it is better when compared to other islands”.*<sup>120</sup>

### **RIC at Fylakio, Evros: nothing can beautify detention**

We visited the RIC at Fylakio, Evros, between the 20<sup>th</sup> and 22<sup>nd</sup> of December 2017. The situation at the RIC was clearly more in tune with the provisions asylum seekers are legally entitled to. The RIC was clean and quite with no observable tensions, no shouts, no tents and no overflowing garbage dumps “decorating” applicants' temporal residences.

As is by now the case with all such facilities we visited, so too at the RIC at Fylakio, Evros, meals were regularly provided (thrice daily). Importantly, however, applicants' customs and cultural celebrations were also taken into consideration when designing the “menu” (in principle, the RIC Director would, either voluntarily or following requests from applicants make the relevant request to the company responsible for catering the facility). This interpersonal respect, in turn, was clearly evident in the seemingly cordial relations manifest between the RIS and police personnel –the RIC is overseen by officers on a 24/hour basis– and applicants themselves.

Educational and recreational activities were provided in the RIC, albeit –as is the case with all RICs– these were provided through NGOs (METAdrasi) and volunteer-led initiatives from the surrounding area, with the RIC's minor inhabitants(/detainees) having no access to official education.

The RIC was overpopulated, but nowhere near the levels observed on the islands. During our visit, its 240-places capacity was exceeded by approximately 60 applicants, with all applicants, nevertheless, being accommodated in autonomously heated containers, each with showers and toilets of its own, and divided alongside the RIC's four different wings. Thus, overpopulation, in itself, did not represent a significant problem. What did, on the other hand, was the scarcity of proper clothing (mostly shoes).

That being said, at the time of our visit, more than a third of the RIC's population (112 out of slightly more than 300) was composed of unaccompanied minors (UAM). Despite the freezing, windy weather of those days, some of them (10-12), would remain hanging by the fences encompassing each of the RIC's “accommodation” wings, so as to ask the RIS employee, who guided us throughout the RIC, for shoes that could fit

them, or jackets that would be better suited for the chilling winter conditions characteristic of Evros. The employee would do his best to facilitate their needs with what he could find in the RIC's warehouse (if available, usually a smaller pair of shoes), never forgetting to ask them about their day and how they felt. A question, to which the minors would unanimously, each on their turn, reply: *"I am not well, Mr. X....how can I be? I am not free."*

And indeed, despite the RIC's unquestionable –at least compared to similar facilities on the islands– provision of some standards, the overgeneralized used of detention in **Evros** ever serves to detrimentally affect the psychology of all its inhabitants, creating new vulnerabilities (e.g. depressions), and re-opening "old wounds" in the process (re-traumatization). Especially in the case of minors, who are the primary victims of this policy, and whom, as we were informed,<sup>121</sup> were by order of the local prosecutor not even allowed to exit the RIC for even a daily excursion at a local museum and/or other site. The result: a gradual yet ongoing loss of their identity, and ultimately the very spark of life. As one METADRASI<sup>122</sup> employee aptly put it:

*"Most children just tell you they want to go to school...they want to move forward...do something better with their life...why do you keep me here? [they ask]...I haven't done anything bad...[And] you see a disappointment in their face, an anxiety...[ultimately they become] accustomed with the whole situation...an indefinite wait...You see children...fourteen, fifteen, sixteen year olds from Syria being surrounded by futility...a constant agony...[waiting] to leave...[to be] transferred to a hosting facility...go to school...[waiting] to recover that lost childhood they [once] had" <sup>123</sup>*

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<sup>94</sup> Article 17(2), Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

<sup>95</sup> Indicatively, see H., Smith, H., "Welcome to prison": winter hits in one of Greece's worst refugee camps', *The Guardian*, 22 December 2017, <<https://www.theguardian.com/world/2017/dec/22/this-isnt-europe-life-greece-worst-refugee-camps>>, last accessed 30 March 2018, and Chardalia, N., 'Human Rights Watch: Η Μόρια είναι σαν στρατόπεδο συγκέντρωσης' [Human Rights Watch: Moria is like a concentration camp], *SKAI*, 5 October 2017, <<http://www.skai.gr/news/greece/article/356821/human-rights-watch-i-moria-einai-san-stratopedo-sugedrosis/>>, last accessed 30 March 2018.

<sup>96</sup> As of January 2018, the RIC's capacity has been increased to 3,000 places.

<sup>97</sup> Moria RIC sub-Director. Brief meeting held on 15 December 2017.

<sup>98</sup> Interview with HIAS, in Lesvos, on 14 December 2017.

<sup>99</sup> Interview with representative of Bashira, in Lesvos, on 14 December 2017.

<sup>100</sup> And a third section where the asylum service was found, which was enclosed in tall, barbed-wired fences.

<sup>101</sup> Indicatively, during both our visit at the Moria RIC, no one ever asked us who we were, and if not for a personal initiative to declare ourselves at the entry gate, after mistakenly strolling by it and entering the RIC's inhabited section, probably no one would have known up to this day.

<sup>102</sup> Interview with UNHCR representatives in Lesvos, on 15 December 2017.

<sup>103</sup> Information acquired via Interviews with representative of Bashira (14 December 2017), in Lesvos, and RIS employees at the single women and UAM sections (both 15 December 2017) in Moria, Lesvos.

<sup>104</sup> Representative of PIKPA, Lesvos. Interview held on 13 December 2017.

<sup>105</sup> Interview with representatives of UNHCR in Lesvos on 15 December 2017. Also see UN High Commissioner for Refugees (UNHCR), *Refugee women and children face heightened risk of sexual vio-*

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lence amid tensions and overcrowding at reception facilities on Greek islands [briefing note], 9 February 2018, <http://www.unhcr.org/news/briefing/2018/2/5a7d67c4b/refugee-women-children-face-heightened-risk-sexual-violence-amid-tensions.html>, last accessed 30 March 2018.

<sup>106</sup> Specifically, 667 on the 10<sup>th</sup>, 668 on the 11<sup>th</sup>, and 664 on the 12<sup>th</sup> of December 2018, as per the data uploaded by the Hellenic Ministry of Digital Policy, Telecommunications and Information at <http://mindigital.gr/index.php/%CF%80%CF%81%CE%BF%CF%83%CF%86%CF%85%CE%B3%CE%B9%CE%BA%CF%8C-%CE%B6%CE%AE%CF%84%CE%B7%CE%BC%CE%B1-refugee-crisis/1860-apatyposi-tis-ethnikis-eikonas-ka-tastasis-gia-to-prosfygiko-metanasteftiko-zitima-tis-9-1-2018>.

<sup>107</sup> Brief meeting with representative of Frontex, in Kos, held on 10 January 2018.

<sup>108</sup> B., Wesel, 'In Greece, protests against EU refugee hot spot on Kos', *Deutsche Welle*, 15 February 2016, <<http://www.dw.com/en/about-dw/profile/s-30688>>, last accessed 30 March 2018.

<sup>109</sup> As per the local Kos news, for instance, in September 2016 the RIC housed more than 1,500 applicants. Kosnews, '1531 μετανάστες στο HOT SPOT της Κω!!! 72 αφίξεις το πρωί' [1531 migrants at the HOT SPOT in Kos!!! 72 arrivals in the morning], *Kosnews*, 5 September 2016, <<https://www.kosnews24.gr/politika/item/230874-1531-metanastes-sto-hot-spot-tis-ko-72-afikseis-to-proi>>, last accessed 28 March 2018.

<sup>110</sup> Interview with member of the local (Kos) solidarity group, Solidarity Kos, held on 12 January 2018.

<sup>111</sup> Quoted from GCR internal monthly report on the situation in Kos in November 2016.

<sup>112</sup> Brief meeting with representative of IOM, in Kos, on 10 January 2018.

<sup>113</sup> GCR internal report on the situation in Kos of January 2017.

<sup>114</sup> Interview with staff of the RAO, in Kos, on 12 January 2018.

<sup>115</sup> GCR internal report on the situation in Kos of March 2017.

<sup>116</sup> Information acquired through interview with UNHCR staff at Kos Field Office, on 11 January 2018.

<sup>117</sup> As per observations made by GCR's lawyer at the time (March 2017), adults would frequently enter the UAM section, by jumping over the fence separating the latter's section from the rest of the RIC.

<sup>118</sup> Director of RIC at Pyli, Kos. Interview held on 10 January 2018.

<sup>119</sup> Interviews with UNHCR staff at Kos Field Office, on January 11, 2018 and representatives of Arsis, in Kos, on 11 January 2018.

<sup>120</sup> Employee of Kos RAO. Interview held on 12 January 2018.

<sup>121</sup> Interview with Director of RIC at Fylakio, Evros, on 21 December 2017.

<sup>122</sup> METADRASI is the NGO inter alia responsible for the supervision of unaccompanied minors in the RIC at Fylakio, Evros. Interview conducted on 21 December 2017.

<sup>123</sup> METAdrasi staff at the Fylakio RIC, in Evros. Interview held on 21 December 2017.

## Effects of Reception

The preceding section closed with one example of the detrimental effects that living (amongst others) conditions have on asylum seekers' –in the specific case, children's– (mental) health. It goes without saying that it is neither the sole, nor the gravest. This final section will provide an overview of some of the direct and indirect effects which the policy of entrapping asylum seekers at the borders has created.

## Alone and Unattended

In **Lesvos** and **Kos**, two islands exhibiting quite dissimilar paths in terms of the reception of asylum seekers ("stagnation" and relative improvement, respectively), effects have been highly similar to those of **Evros**, albeit with a distinct touch of added severity. Thus in both islands, when interviewees were asked about the mental state of the

beneficiaries accommodated in the RICs, the usual reply would revolve around words such as “deterioration”, “depression” and “suicide attempts”. This to be noted, is not a new situation.

For nearly two years and with increasing severity following the Statement’s implementation, asylum seekers’ mental and physical health has been continuously deteriorating in direct proportion to their time of stay at the (island) RICs.<sup>124</sup> A time which, from many, has extended well beyond 6 months, with some having been forced to reside in this originally envisioned “transit zones” for periods extending to 15, 16 and at times even more months (cases of 2 years at the time of publication). A time, furthermore, during which previous vulnerabilities and traumas have been re-opened, and new ones created (e.g. hepatitis, cardiological issues, diabetes); amongst others, due to poor eating habits (food quality in most RICs), the high levels of insecurity characteristic of not knowing what one’s futures might bring, increasing tensions and, not least, increasing instances of SGBV incidents.<sup>125</sup>

*The more they stay here, the more they lose their identity...their roles  
[e.g. father, mother, employee, teacher, student, child]<sup>126</sup>*

In this context, suicidal tendencies seem to have critically increased in both (and all) islands,<sup>127</sup> with some of the more shocking everyday realities of Moria, **Lesvos** (and to a lesser extent **Kos**) revolving around children engaging in acts of self-harm and suicide attempts through the ingestion of pills –a situation which seemingly led to their being prohibited from having unsupervised access to medication,<sup>128</sup> instead of their immediately being transferred out of the RIC– or single women’s desperate attempts at becoming pregnant, so as to prove their vulnerability in the eyes of their jailors; an act which, in turn, further exposes them to risks (e.g. miscarriages).

In the meantime, gaps in healthcare provisions remain as critical as ever in both islands and the **Evros** land border.<sup>129</sup> Gaps, that is, which, to an extent and as already mentioned are intrinsic to the RICs’ still understaffed (medical-psychosocial) capacities, but which also manifest in the form of chronic deficiencies characteristic of the system of public health (especially) at the borders.

To give some examples, as per our interviews in **Kos**, at the time of our visit the island’s public hospital still faced severe gaps in medical professions, including a lack of pediatricians, gynecologist, endocrinologists, neurologists, cardiologists, psychologists and psychiatrists.<sup>130</sup> In **Lesvos**, similarly, up to the time of our visit in December 2017 (and most probably up to this day), only one psychiatrist was available for covering the needs of the entire island (refugees and locals).

In both islands, furthermore, there were insufficient means of transportation to and from the hospital and the RICs,<sup>131</sup> insufficient means of interpretation between beneficiaries and public doctors, and insufficient spaces of hospitalization.

*“We’ve had cases of women needing to give birth in the afternoon or on weekends and [no one –including doctors–] knew what to do with them, as there were no interpreters...[similarly] we’ve had cases [of*

*women] that had to leave [the gynecological clinic] shortly after giving birth, because there weren't enough beds [for everyone] ...that's how huge the needs are''<sup>132</sup>*

On the other hand, even subject to the availability of, at least, the means of transportation, which in light of the aforementioned gaps have been complemented through assistance provided by the army (in **Kos**) or through transfers enacted by the police, this still does not guarantee beneficiaries timely access to healthcare. In **Evros**, where it should be reminded that as of the 21<sup>st</sup> of December 2017 neither of the facilities examined (RIC and Pre-Removal Center at Fylakio) has permanent doctors, transfers to public hospitals have traditionally been carried out by the police –and to that extent, with positive effects.<sup>133</sup> The two closest, to the small village of Fylakio, hospitals, however, are found at approximately 25 (Orestiada) and 40 (Didimoticho) minutes distance. Both, furthermore, are at an ever present risk of inaccessibility, as the poor state of the infrastructure (roads) connecting the Fylakio facilities and the hospitals is ever susceptible to being blockaded, during the winter, due to heavy snowfall. Accordingly, and especially considering the aforementioned lack of doctors in the RIC and Pre-Removal Center, it is perhaps only a matter of time until an “accident” occurs.

In sum, not only have border conditions directly and negatively impacted asylum seekers' wellbeing, but throughout their increasing vulnerabilization they have been forced to remain restricted in regions (borders) and facilities which can scarcely guarantee their support, and ultimately their right to life. All of this, in the name of maintaining geographical restrictions at all costs, over and beyond individual wellbeing.



### *Sample cases*

Case of Pakistani national with severe back problems (spine). He was in severe risk of becoming paralyzed. Despite this, and despite the fact that the local (Lesvos) hospital was in no position to assist him, the lifting of his geographical restrictions was denied.

Case of male of unspecified nationality. He underwent two heart attacks while on the island of Lesvos. Even so his geographical restriction was lifted only following continuous pressure exerted by volunteers and NGOs.

Case of single woman of unspecified nationality. She had severe kidney problems, which led to her crying continuously for 5 days out of pain. On the 5<sup>th</sup> day she was finally transferred to the hospital, yet she was afterwards returned to the RIC, where no medical follow-up assistance was provided to her.

Case of single man from Syria. He fled the island due to both the fact that he had health issues and that he could not stand staying in the camp anymore. He had medical documents from the island, stating that he was in need of restoration surgery in a specialized tertiary medical center (such center does not exist on the islands). The Asylum Service requested yet another medical document, signed by a public doctor, before agreeing to lift the restriction. It also requested that the document state clearly that his surgery could only take place in Athens and that he needed frequent follow-ups with the same doctor that would perform the surgery.

Case of Syrian couple with a newborn. The man is blind, but they proceeded in examining his request without taking into consideration his vulnerability. The woman and the child were granted refugee status, whereas her husband received a negative decision on the island. He appealed against the decision and the committee issued a second instance decision, stating that his vulnerability had not been taken into consideration and therefore an additional interview was required

## Alone and Criminalized

Leaving aside the detrimental effects that reception directly has on asylum seekers' lives, another, scarcely touched upon side-effect pertains to the multiplicity of impediments it places towards their eventual integration. First Reception is not only a filtering tool between the "desired" and the "undesired" of a deterrence policy based highly on statistics of asylum chances tied to persons' nationalities,<sup>134</sup> but also and primarily a channel towards newcomers' eventual integration into their new host society.<sup>135</sup> Yet the very conditions under which this first reception takes place at the borders, creates a priori impediments to any such prospects.

For starters, excluding some degree of informal education in the RICs (mainly NGO-led with the support of UNHCR), formal education, which is ever more important for (not least) the potential of socialization it offers between refugee and local children, is virtually non-existent at the borders. In **Evros**, as already mentioned, the status of detainees means that minors (unaccompanied and otherwise) have no access to the world outside of the RIC, and thus to schools and formal education as well. On the **islands**, on the other hand, despite some slight differences,<sup>136</sup> the situation is very much the same, with children "accommodated" in the RICs similarly having virtually no access to the official system of education.<sup>137</sup> This, to be noted, is yet another reason for tensions and complaints, with questions such as "*why does my child not go to school?*" seemingly being constantly on the minds of many worried parents.<sup>138</sup>

Similarly, the constant state of transit and uncertainty in which asylum seekers find themselves while forced to remain at the borders, coupled with ongoing deficiencies in terms of long-term, state-led, integration planning, further impede this process. Despite slow improvements on the mainland,<sup>139</sup> especially on the islands the idea of integration still very much functions under a logic of temporariness, seemingly not yet accustomed to the fact that refugees "are here to stay", as common beliefs seem to still be informed by the idea that, since they (i.e. asylum seekers) do not ultimately wish to remain in Greece, at some point they will leave.<sup>140</sup>

*"Integration is very difficult in this context...integration needs a life-long plan and some sort of stability... [even] a temporary [sort of] integration is in need of a plan"<sup>141</sup>*

Most importantly, however, reception, as currently implemented through an array of detention and restriction means, is the foremost barrier to integration. The very fact that most asylum seekers are "received" by means of detention and/or restriction of their liberty within the RICs and/or surrounding areas, a priori serves to create barriers between a community of "Them" (refugees and asylum seekers) and "Us" (the locals), whereby the aim –willingly or not– becomes keeping the two communities segregated at all costs, usually (on the islands) in the name of "protecting tourism".<sup>142</sup>

Indeed, it is not by chance that within these past two years' increasingly state-led response to the management of arrivals (through RICs/"hotspots" and Pre-Removal Centers), a similar decrease in the participation of volunteer groups and/or activists from local societies has been the case at the borders.<sup>143</sup> This has primarily been the result of

the increased difficulty of gaining access to the population of asylum seekers, stemming from the latter's residing in mostly closed, detention-type accommodation facilities (especially, Pre-Removal Centers).<sup>144</sup>

Similarly, islanders' fatigue on the matter should not be underestimated. Notwithstanding some small, ephemeral, improvements,<sup>145</sup> the situation at the borders has largely remained the same for the past two years and, simply put, persons who might have previously been wholeheartedly engaged in the mass solidarity movement of 2015, have become tired with what has become an established and unchanging situation of mistreatment of asylum seekers, with no essential signs of changing in site.

*"I see people who are very friendly towards [refugees] changing because they cannot take it anymore...they cannot handle [the situation]."*<sup>146</sup>

Most worryingly, and in this context, the very foundations for changing attitudes towards refugees and asylum seekers, ever reinforced by inter alia the changing media and political discourse following the Statement's implementation (terms such as "migrants" gradually replacing those of "refugees", with the usual negative effects that such replacement has in terms of considerations of persons' legitimate right to arrive in Europe),<sup>147</sup> result in a cocktail of rising xenophobia and enmity. Or in any case, perhaps not so much rising xenophobia, as much as an increasing opening of the space for such sentiments and acts to manifest themselves in the public sphere.

*"You have a society in a state of fatigue...at least in terms of solidarity... [thereby] it is easy for this fatigue to become something else... [it is in this context that various] others start penetrating [the public sphere]."*<sup>148</sup>

This becomes especially the case in light of the tensions, riots, and sporadic acts of delinquency (e.g. stealing) exhibited by small proportions of the RICs' population, whom though largely attributable to their ongoing state of confinement, still increasingly become the primary means through which locals at the borders and Greece, more broadly, become aware of asylum seekers' presence. Put simply, when the primary means for getting to know this "Other" diminish from daily interactions to frequent news on tensions, riots and more broadly violence –even in islands where such tensions have been relatively few, such as **Kos**, they still constitute sporadic emanations of persons' frustrations<sup>149</sup>– then seeing said "Other" as a danger, becomes an ever-present, even if not actually representative of the population of asylum seekers, risk.

*"The problem is that through this [situation], the far-right presents itself as vindicated ... i.e. "we told you so"...and as long as people [on the island] are pressured, on the one hand they gradually lose the arguments to counter them [i.e. far right groups], and on the other, some become [convinced by them]."*<sup>150</sup>

## Escape as the last solution

In this context inter alia consisting of asylum seekers' ever deteriorating mental health, effective exclusion from a set of basic services (e.g. healthcare), lack of information, detention and restriction of liberty within ever inadequate or inhumane conditions, while increasingly estranged from the local society, it is not to wonder why an increasing number of asylum seekers<sup>151</sup> –especially from the islands– choose to once more expose themselves to smugglers. It is similarly no wonder why, throughout the past two years the “smuggling business” has largely started flourishing in Greece as well,<sup>152</sup> as desperate asylum seekers strive to flee the islands.

### *Cases of applicants being absolved-justified for having transgressed their imposed restriction of freedom to the islands*

- 1) Decision 94/2018 of the Administrative Court of Piraeus of the 16<sup>th</sup> of February 2018. The case, which was handled by GCR, regarded a Syrian previously residing at the Lesvos “hotspot”, who had violated his geographical restriction. The Court inter alia accepted that his decision to transgress the restriction was justifiable on the basis of the *“threat towards his physical integrity due to prevailing conditions during his stay at the camp”*, and subsequently the beneficiary was released.
- 2) Decision 2617/2017 of the sole-judge District Court of Thessaloniki («Αυτόφωρο Μονομελές Πλημμελειοδικείο Θεσσαλονίκης») of the 6<sup>th</sup> of February 2017. The case regarded two nationals of Pakistan, who were geographically restricted at the Leros hotspot. Both, and despite their having similarly transgressed their geographical restriction on the island of Leros, were absolved and judged innocent because it was deemed that this transgression was *“significantly less severe [both] by type and importance than the threatened damage [towards] their personal health and integrity”*, as a result of conditions at the RIC.

And indeed, based on GCR's experience, most frequent cases of bypassing the imposed geographical restriction pertain to medical issues (e.g. physical and mental health issues), the poor quality of living conditions at the RICs (e.g. lack of heating, bed bugs, lack of doctors), verbal, physical and sexual victimization, and lack of information (literally, in some cases they hadn't been informed that they could not leave the island and, accordingly, just “followed the crowd” and ended up in Athens).

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<sup>124</sup> Interview with representative of PIKPA, in Lesvos, on 13 December 2017. To be noted, even a year following the Statement's implementation, in March 2017, the rise in suicidal tendencies, post-traumatic stress disorders and severe psychological-psychiatric conditions, all of which directly connected to asylum seekers' living conditions in the RICs and their constant state of fear and uncertainty for the future, had already been documented, inter alia, by the NGO Medecins du Monde (MSF). Zotou, E., 'Κατάθλιψη, έντονες αυτοκτονικές τάσεις και μη καταγεγραμμένα θύματα βασανιστηρίων' [Depression, intense suicidal tendencies and non-registered victims of torture], *I Avgi*, 18 March 2017, <<http://www.avgi.gr/article/10811/7989422/1-katathlipse-entones-autoktonikes-taseis-kai-me-kat-agegrammena-thymata-basanisterion>>, last accessed 29 March 2018.

<sup>125</sup> Also see UN High Commissioner for Refugees (UNHCR), *Aegean Islands Fact Sheet*, UNHCR [website], 31 January 2018, <<https://data2.unhcr.org/en/documents/details/62215>>, last accessed 29 March 2018.

<sup>126</sup> Caritas Hellas employee, in Lesvos. Interview held on 13 December 2017.

<sup>127</sup> Indicatively, in December 2017, an alleged 9 year old, living in the RIC of Vial, in **Chios**, tried to hang himself with his shirt. Georgoulis, N., 'Αποπειράθηκε να κρεμαστεί με το μανίκι του ανήλικος Σύριος στη ΒΙΑΑ' [Minor Syrian attempted to hang himself by his sleeve in Vial], *politis chios*, 2 December 2017, <<http://www.politischios.gr/horia/apopeirathike-na-kremastei-me-maniki-toy-anilikos-syrios-sti-bial>>, last accessed 29 March 2018.

<sup>128</sup> Interview with RIS employees at the UAM section in Moria, Lesvos, on 15 December 2017.

<sup>129</sup> Also see Médecins Sans Frontières (MSF), 'Confronting the mental health emergency on Samos and Lesvos: Why the containment of asylum seekers on the Greek islands must end', *MSF* [website], October 2017, <[http://www.msf.org/sites/msf.org/files/2017\\_10\\_mental\\_health\\_greece\\_report\\_final\\_low.pdf](http://www.msf.org/sites/msf.org/files/2017_10_mental_health_greece_report_final_low.pdf)>, last accessed 30 March 2018.

<sup>130</sup> Interviews with staff of Arsis and KEELPNO in Kos, on 11 and 12 January 2018, respectively.

<sup>131</sup> As of the time of our respective visits (January 2018 and December 2017) in both **Kos** and **Lesvos** there was only one ambulance and/or transportation means available for the transfer of beneficiaries from the RICs and to the respective, island, public hospitals. Information acquired via Interviews with RIS employees at the single women section in Moria, Lesvos (15 December 2017), and with the RIC Director at Pyli, Kos (10 January 2018).

<sup>132</sup> Representative of PIKPA in Lesvos. Interview held on 13 December 2017.

<sup>133</sup> As we were informed by the Hellenic Red Cross (HRC) in **Evros** on the 20th of December 2017 – a day before its leaving the RIC – throughout the duration of their deployment in the RIC (June 2017–20 December 2017), some 3-4 cases of cancer patient, which were in need of immediate treatment had been transferred and subjected to surgery at the hospitals within 10 days, after which their chemotherapy had begun. Information acquired through interview with the Hellenic Red Cross at the RIC at Fylakio, Evros, on 20 December 2017.

<sup>134</sup> Indeed, throughout all the regions visited, officials would make clear distinctions between refugees and economic migrants, largely based on their being citizens of so-called "high" and "low recognitions rate nationalities". These, in turn, to an extent (albeit not always, as at times even Afghan citizens who have a refugee status recognition rate of 68.3% in Greece, would be perceived as to-be-expulsed "economic migrants") relied on the Greek Asylum Service's statistics on "rates" of refugee recognition per nationality. These "rates" (available in English), can be found at <http://asylo.gov.gr/en/wp-content/uploads/2018/02/Greek-Asylum-Service-Statistical-Data-EN.pdf>. Nevertheless, it needs to be pointed that, despite their offering an overview of the evolution of applications for international protection, in themselves, are not and cannot provide a solid basis for a priori, as was the case during our research, considering some nationals as non-beneficiaries of international protection, as such perceptions would inter alia also contravene article 3 of the Geneva Convention, with respect to the non-discrimination of international protection applicants on the basis of "race, religion or country of origin". UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, <<http://www.refworld.org/docid/3be01b964.html>>, last accessed 26 March 2018.

<sup>135</sup> Lodovici, M., S., et. al., 'Integration of refugees in Greece, Hungary and Italy: Comparative Analysis', *European Parliament* [website], 20 December 2017, p.86, <[http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_STU%282017%29614194](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU%282017%29614194)>, last accessed 28 March 2018.

<sup>136</sup> On the islands, some vulnerable asylum seekers have benefited from the possibility of residing in UNHCR apartments, the management of which is outsourced to local NGOs, subject, however, to UNHCR's capacity to create such places of accommodation. This, to be noted, is amongst some of the scarce, best-practices observed at the island borders, however since it constitutes a (temporary) measure of assistance, and not one that reflects the state's engagement in the management of arrivals, it has not been discussed throughout the current research. Nevertheless, it needs to be pointed that some few of the children residing in such apartments do have access to schools in both **Kos** and **Lesvos**.

<sup>137</sup> Information acquired through interview with Caritas Hellas, in Lesvos (13 December 2017) and representatives of Arsis, in Kos (11 January 2018). Education gaps on the islands had similarly been observed by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) following its May 2017 visit to Greece. European Parliament: Committee on Civil Liberties, Justice and Home Affairs, op.cit., pp.7-8.

<sup>138</sup> Interview with Caritas Hellas, in Lesvos, on 13 December 2017.

<sup>139</sup> Indicatively, in February 2018 a pilot project was announced, aimed at placing the foundation for refugees' full-scale integration in two Greek, mainland, Municipalities (Livadia and Thiva). This, however, will only run for 6 months, with an additional 6-month potential of renewal. Hellenic Republic: Ministry of Migration Policy, 'Παρουσίαση προγράμματος HELIOS για την κοινωνική ένταξη προσφύγων και μεταναστών: Επίσημη παρουσίαση από τον Υπουργό Μεταναστευτικής Πολιτικής Γιάννη Μουζάλα, τον Διεθνή Οργανισμό Μετανάστευσης (ΔΟΜ) και τους Δήμους Λεβαδέων και Θηβαίων' [Presentation of the HELIOS programme for the social inclusion of refugees and migrants: official presentation by the Minister of Migration Policy Giannis Mouzalas, the International Organization for Migration (IOM) and the Municipalities of Livadia and Thebes], *Government of the Hellenic Republic* [website], 14 February 2018, <<https://government.gov.gr/parousiasi-programmatos-helios-gia-tin-kinoniki-entaxi-prosfigon-ke-metanaston/>>, last accessed 30 March 2018.

<sup>140</sup> Also see D., Howden, 'Greece: Between Deterrence and Integration', *News Deeply*, May 2017, available at: <<http://issues.newsdeeply.com/greece-between-deterrence-and-integration>>, last accessed 30 March 2018.

<sup>141</sup> Representative of PIKPA, Lesvos. Interview held on 13 December 2017.

<sup>142</sup> Also attested during our interview with the Director of 2<sup>nd</sup> Police Directorate of Dodekanisa, in **Kos**, whereby emphasis was placed on the successes in terms of managing to restrict asylum seekers' presence near the RIC and its small, neighboring, village of Pyli. Information acquired through interview with police representative at the Pyli (Kos) Pre-Removal Center on January 10, 2018.

<sup>143</sup> Interview with representative of Bashira, in Lesvos, on 14 December 2017.

<sup>144</sup> Interview with member of the local solidarity group, Solidarity Kos, on 12 January 2018.

<sup>145</sup> For instance, the increase of the Moria RIC's capacity in **Lesvos**, from 2,330 to 3,000 places by 18 January 2018 via the placement of additional containers (replacing tents), or the transfer of some 6,000 asylum seekers to the mainland between October and December 2017, which as reported by UNHCR did not significantly change the situation. See the relevant data for 17 January 2018 on the Ministry Digital Policy, Telecommunications and Information, available at <https://bit.ly/2Ez6MoA>, and UN High Commissioner for Refugees (UNHCR), *Situation on Greek islands still grim despite speeded transfers* [briefing note], 22 December 2017, <<http://www.unhcr.org/news/briefing/2017/12/5a3ccd394/situation-greek-islands-still-grim-despite-speeded-transfers.html>>, last accessed 30 March 2018, respectively.

<sup>146</sup> Representative of PIKPA, Lesvos. Interview held on 13 December 2017.

<sup>147</sup> M., S., Lodovici et. al., op.cit, p. 80.

<sup>148</sup> Member of the Lesvos Municipality. Interview held on 12 December 2017.

<sup>149</sup> Vimatisko, 'Συμβαινει Τωρα: Φωτια στο Hot Spot στο Πυλί' [Happening Now: Fire at the Hot Spot at Pyli], *Vimatisko*, 13 December 2017, <[http://www.vimatisko.gr/?page=news&records=details&\\_p.id=51293](http://www.vimatisko.gr/?page=news&records=details&_p.id=51293)>, last accessed 30 March 2018.

<sup>150</sup> Member of the Lesvos Municipality. Interview held on 12 December 2017.

<sup>151</sup> Reportedly 5,000 to 6,000 by May 2017. European Parliament: Committee on Civil Liberties, Justice and Home Affairs, *Mission Report following the LIBE Mission to Greece hotspots and Athens, 22 – 25 May 2017*, op.cit., p.14. In **Kos**, alone, since the RIC's operationalisation in June 2016, and up to the time of our visit in January 2018, some 400 asylum seekers of Pakistani origin, alone, had fled the island, based on the asylum cases archived by the RAO. Information acquired via interview with representatives of the Kos RAO, on 12 January 2018.



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<sup>152</sup> Indicatively, from 751 in the first ten months of 2016, in 2017 (Greek) police apprehensions on charges of people smuggling had significantly increased, reaching 1,156. Data available at the Hellenic Police website at [http://www.astynomia.gr/images/stories//2017/statistics17/allodapwn/10\\_statistics\\_all\\_2017\\_dia.png](http://www.astynomia.gr/images/stories//2017/statistics17/allodapwn/10_statistics_all_2017_dia.png).

## The case of Patra: the re-emergence of an exit-point to Europe

Between the 29<sup>th</sup> and 30<sup>th</sup> of November 2017, we visited the city-port of **Patra**.<sup>153</sup> Patra, as already mentioned in the project's introduction, is not a border entry point for mixed migration flows. Thus with the exception of a Praksis-run shelter for unaccompanied minors, it has neither a RIC nor any other type of hospitality center, as the city is not officially designated as a hosting place for newcomers. Patra is, on the other hand, a transit zone, with its close proximity to Italy (via sea routes) having for years constituted it an "irregular exit" (from Greece to Italy and then central/northern Europe) for refugees, asylum seekers and vulnerable migrants, alike; a trend which was brought to a halt during 2015 and the first months of 2016, when the small village of Idomeni near Greece's northern borders served as a gathering point for those wishing to venture further into Europe.<sup>154</sup>

That being said, as a direct effect of the closure of the "Balkan Route" and the implementation of the EU-Turkey Statement, Patra has been once more experiencing a steady increase in (secondary movement) arrivals throughout the past year. Arrivals, specifically, of post-March 2016 newcomers who, largely being/becoming disillusioned with their prospects in Greece (e.g. long periods of confinement and a still struggling Greek economy), have been reaching Patra with the aim of (irregularly) boarding on one of the ferries leaving from the city's port to Italy.

Once in Patra, they gather at two of the city's derelict factories (Avex and Ladopoulos) –found across the city's port (literally, across the road)– which, in lack of alternative housing sites, serve as their temporary accommodation. Living conditions at the factories are inhumane and hazardous, with the crumbling walls and shattered windows, amassing piles of garbage and lack of toilets, leaving the factories' inhabitants –many of who are forced to sleep on the ground– without protection from the weather and exposed to a series of hygiene risks.<sup>155</sup>

*"you have to be hardened to be able to survive there...in the summer [for instance] the heat was insufferable...[yet] they were just standing there; without food, without bathrooms, without water...and with garbage [all over the place]...that's why [you won't see] any elderly persons [living there]...an elderly person wouldn't be able to [survive] there."<sup>156</sup>*

At the time of our visit (November 29-30, 2017), more than 400 third-country nationals/stateless persons were living in these conditions, with many having fled the islands, and some having arrived via the Evros land border. As we were informed,<sup>157</sup> most had asylum seekers' cards,<sup>158</sup> with the vast majority being nationals of Pakistan (approximately 60%), Afghanistan, and to a lesser extent Iraq, Iran, Morocco and Algeria. Amongst them, some 60 were unaccompanied minors of 8 to 18 years of age, with average ages for the factories' exclusively single men inhabitants ranging between 17

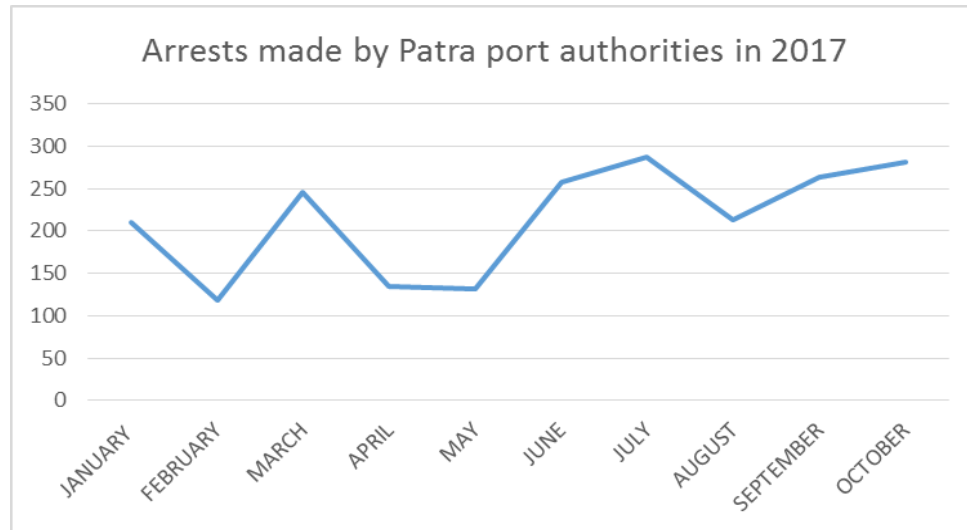
and 25 years.<sup>159</sup> All were suffering from at least a symptom of cold, many from additional medical conditions (e.g. scabies or heart conditions),<sup>160</sup> and some from injuries acquired during or following their attempts at entering the port.<sup>161</sup> Despite this, however, they still persisted in their endeavor, seemingly determined to either succeed or succumb while trying to undertake a journey that would, in the end, only further expose their lives to risks.<sup>162</sup>

The process, specifically, which begins in the morning (around 10:00-10:30am), as soon as the first ferries bound for Italy reach the city's port, is highly straightforward and involves two stages. During the first, would-be stowaways –either alone, in groups or with the “help” of smugglers– try to pinpoint and hide in any of the Italy-bound vehicles (usually lorries) parked in the port's main area, before the latter can undergo pre-embarkation security checks and enter the ferries. This entails jumping over the ports short, external fence and rushing towards the vehicles of choice, while avoiding being detected by both police and port security personnel, as well as the vehicles' drivers who, faced with severe penal repercussions if found knowingly hiding someone in their cargo, have been known to employ force, in order to avert them.<sup>163</sup> Following this, those that manage to make it through this “game of cat and mouse”, –as this daily occurrence has been aptly termed<sup>164</sup>– then have to remain undetected while their selected means of transportation goes through the port's second, and much more heavily guarded, fence, during which vehicles are thoroughly scanned for “irregular” passengers. The few “lucky” ones that manage to make it through this second stage, as well, can then commence their journey towards Italy and, perhaps, beyond.

At its core, however, this is a highly dangerous and hopeless process, which, as mentioned, only serves to further expose already vulnerable persons to a range of additional, life-threatening risks. First is the constant risk of getting trampled or severely injured by the heavy machinery (including trucks and lorries) roaming through the port, as the rush to find and reach that “ideal hiding place”, while simultaneously trying to avoid detection, by necessity diverts attention from the broader surrounding environment. Second is the threat presented by the hiding spot itself, which including such diverse spaces as unventilated truck containers, engine compartments and spots near to the vehicle' (at times, spinning) wheels, is but a tragedy in the making. Lastly, even upon successful embarkation on a ship, third-country nationals/stateless persons still have to remain undetected up to the point of their eventual debarkation, or face the prospect of their swift return to Greece; in which case the whole endeavor –which they undertake with nothing but a bottle of sugared water to help them make it through– proves to have been for naught.<sup>165</sup>

Indeed, on more than a few occasions the “lucky ones” have managed to arrive in Italy only to be faced with another wall, another barrier, and ultimately be returned to the place they so desperately tried to flee. Albeit, exposing the full stakes at play in this tragedy, this return has at times taken the form of their lifeless body –having succumbed during the arduous journey– being sent back to Greece. Such was the case of an unaccompanied minor –one of several– whom having to remain for two days hidden in a truck's still functioning fridge (in sub-zero temperatures), was returned to Greece for identification.<sup>166</sup>

It is for this reason that the case of Patra provides a flagrant reminder of the side-effects that deterrence, either at the EU or local levels, has had and continues to have on vulnerable persons' lives. Yet, in spite of this, deterrence and repression remain the sole facets of the Greek state and Europe, with which those reaching Patra are once more faced.



Source: Patra port authorities<sup>167</sup>

It is indicative that as arrivals in Patra started increasing, so did the measures to prevent them from exiting the country; something inter alia reflected in the increased number of arrests, which in January 2018 alone reached the 350 mark,<sup>168</sup> and the increasing emphasis placed on guarding the port, as highlighted through such measures as the deployment of additional security personnel and the gradual construction of yet another, high-security, fence.<sup>169</sup> Yet this increased efficiency in guarding the port, in pinning down the hopeless –whom much like Fanon’s “wretched of the earth” have been transformed into second-class humans in a system that has largely treated them as such<sup>170</sup>– and obstructing them from further venturing into “the land of promise”, is nowhere to be found when it comes to assisting them in their time of need.

Thus even upon their arrest, the majority of would-be stowaways have simply been left once more on their own; left to return to their squalid “accommodation”, where if not for the assistance provided by civil society groups and organizations, and to a lesser extent the local Municipality, perhaps a worse fate would have expected them.

*“We have made calls to the state [to intervene and assist these people]...but the Ministry of Health has replied through the Municipality [that those living in the factories] are “irregular” [migrants]...[therefore] we can’t do anything [for them].”<sup>171</sup>*

Meanwhile, as if to further exacerbate the situation, allegations on beatings and abuses suffered by third-country nationals and stateless persons in the process of their being deterred from entering the port have been on the rise,<sup>172</sup> with escalating tensions between the former and police and port authorities increasingly monopolizing the local

news.<sup>173</sup> Tensions, in turn, which as they become noticed by some segments of society at both local and national levels, contribute to the further legitimization of intolerant, racist and xenophobic views, in turn once more devastatingly impacting asylum seekers' prospects of integration.

It is to be noted that at the time of publication (24 May 2018), and perhaps largely as the situation could not have been disregarded any longer –not least following the death of a 17 year old Afghan refugee on the 4<sup>th</sup> of May<sup>174</sup>– on the 15<sup>th</sup> of May a large operation was conducted at the city's derelict factories. The operation, which had been planned for more than a month with the aim of transferring the people to “*suitable hosting facilities*”, as per the Minister of Migration Policy,<sup>175</sup> was reportedly carried out by no less than 450 police officers and led to the peaceful evacuation of the factories' more than 600 inhabitants, amongst whom many minors (103).<sup>176</sup> On the very same day, GCR was informed of their transfer at the Pre-Removal detention Center of Korinthos (found at close proximity to Patra),<sup>177</sup> with further information claiming the subsequent transfer of most of the minors to a “safe zone” in the Pre-Removal detention Center of Amygdaleza (Athens). It seems that in their cases –as in so many others’– “suitability” meant submitting them to, at least, an initial period of detention.

Despite this, not a week later (22 May 2018), some of the factories' former inhabitants and aspiring new ones have been reportedly returning to Patra,<sup>178</sup> highlighting once more the futility of what in principle could have been a welcome action, when people in search of a (better) life are left with no alternatives other than those of further risking their lives to reach their destination. This is why, –notwithstanding the necessity to monitor the situation for upcoming developments– this belated transfer changes little, when considered in the context of the overall, Greek-wide situation for refugees and asylum seekers, and ultimately why –if a writer's comment is allowed– despite recent developments, the decision taken was to not remove, re-edit or otherwise change this chapter. Because as long as deterrence, confinement and victimization form the rule of the day, when it comes to the treatment of asylum seekers, the conditions described will always be relevant; there will always be another Patra.

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<sup>153</sup> In the context of another of GCR's projects, a follow-up visit was also conducted on the 30<sup>th</sup> of March 2018.

<sup>154</sup> During the crisis of 2015 and up to the first months of 2016 when intra-European borders were still open for refugees, Idomeni functioned as the entry point to the so-called “Balkan Route”, providing for a relatively safe(r) passage for those wishing to reach (primarily) Germany from Greece. During that time, attempts at (irregularly) exiting Greece via the port of Patra were virtually non-existent, with Patra's derelict factories (see further below), which have today transformed into de facto makeshift camps for refugees, asylum seekers and vulnerable migrants, at the time housed a single man. Information acquired during interview with MdM in Patra, on 29 November 2017.

<sup>155</sup> To be noted, some initiatives to address the matter have been undertaken by inter alia the local Municipality, which has supplied one of the factories (Ladopoulos) with showers and has been assisting in maintaining a rudimentary cleanliness to the place. Yet, no matter how important, local initiatives cannot make up for the lack of central planning and intervention. See Sto kokkino, ‘Πάτρα: Επιχείρηση καθαριότητας από το Δήμο του Λαδόπουλου όπου διαμένουν πρόσφυγες’ [Patra: Cleaning operation by the Municipality at Ladopoulos, where refugees reside], *sto kokkino*, 28 July 2017,

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<<http://www.stokokino.gr/article/100000000060656/Patra-Epixeirisi-kathariotita-apo-to-Dimo-stou-Ladopoulos-opou-diamenoun-prosfuges-rn>>, last accessed 29 March 2018, and The best, 'Ντουζιέρες και στο μέλλον χημικές τουαλέτες για τους μετανάστες στον Λαδόπουλο' [Shower and in the future chemical toilets for migrants at Ladopoulos], *the best*, 2 December 2017, <<http://www.thebest.gr/news/index/viewStory/466275>>, last accessed 29 March 2018.

<sup>156</sup> CNN reporter. Interview held on 27 November 2017.

<sup>157</sup> Information acquired via interviews with representatives of the port authorities (29 November 2017) and Praksis, in Patra (30 November 2017).

<sup>158</sup> Approximately 80%, as per information acquired during our interviews with the Director and representatives of the Police Directorate of Patra. Meeting held on 29 November 2017.

<sup>159</sup> To be noted based on observations made during the follow-up visit of 30 March 2018, this trend had seemingly been reverted. The visit was joined by a Pashto-, Urdu- and Farsi-speaking interpreter and, as per discussions held with the desolated factories' inhabitants, it proved that most where nationals of Afghanistan. Furthermore, as per their statements, most had arrived in Greece via the Evros land border –many, without being registered– while some 80-90 were unaccompanied minors.

<sup>160</sup> Indeed, if not for initiatives undertaken by the local civil society (Motion for the support of Refugees' and Migrants' Rights), the Municipality, NGOs (MdM, Praksis) and intergovernmental organisations (IOM), that have on more than one occasion engaged with treatment campaigns, the situation could have grown largely out of proportions.

<sup>161</sup> Information acquired through meeting with volunteer doctors of Doc Mobile, in Patra, on November 30, 2017. Doc Mobile is one of few organizations that try to assist asylum seekers under these conditions. At the time of both our visits (29-30 November 2017 and 30 March 2018) they were providing primary health services in the desolated factories on a daily basis.

<sup>162</sup> Also, Kontrafouris, F., 'Refugees in Patras a fence and ferry away from a better life in Europe', *CGTN America*, 24 December 2017, <<https://america.cgtn.com/2017/12/24/patras-greece-refugees-migrants-fence-ferry-europe>>, last accessed 26 March 2018.

<sup>163</sup> Information inter alia acquired during interview with CNN Greece reporter on 27 November 2017.

<sup>164</sup> BBC, *Cat and mouse: Migrants and police in Greece* [video], BBC News, 16 May 2017, <<http://www.bbc.com/news/av/world-europe-39931365/migrant-in-greece-it-is-very-dangerous-here>>, last accessed 29 March 2018.

<sup>165</sup> For more, Pliakos, K., 'Η «Ειδομένη της Πάτρας» (Μέρος 1ο)' [The "Idomeni of Patra" (Part 1)], 15 October 2017, *CNN Greece*, <<http://www.cnn.gr/focus/story/101631/h-eidomeni-tis-patras-meros-1o>>, last accessed 30 March 2018, and 'Πάτρα: Το λιμάνι της αγωνίας για εκατοντάδες πρόσφυγες και μετανάστες (Μέρος 2ο)' [Patra: the port of despair for hundreds of refugees and migrants], 16 October 2017, *CNN Greece*, <<http://www.cnn.gr/focus/story/101645/patra-to-limani-tis-agonias-gia-ekaton-tades-prosfyges-kai-metanastes-meros-2o>>, last accessed 30 March 2018.

<sup>166</sup> Information acquired during interview with Praksis representative in Patra on 30 November 2017.

<sup>167</sup> Data acquired following the interview-meeting held with representatives of Patra's port authorities on 29 November 2017.

<sup>168</sup> See Limenika nea, 'ΠΑΤΡΑ Ρεκόρ συλλήψεων αλλοδαπών στο Λιμάνι της Πάτρας' [Record arrests of third-country nationals/non-nationals at the port of Patra], *limenika nea*, 26 January 2018, <[http://www.limenikanea.gr/2018/01/blog-post\\_747.html#.Ws30li5uZdg](http://www.limenikanea.gr/2018/01/blog-post_747.html#.Ws30li5uZdg)>, last accessed 26 March 2018, and Pelop, 'Πάτρα: Τριπλασιασμός των συλλήψεων στο λιμάνι μέσα στο 2017' [Threefold increase in the number of arrests at the port in 2017], *pelop*, 17 January 2018, <<http://pelop.gr/?page=article&DocID=431565&srv=9>>, last accessed 26 March 2018.

<sup>169</sup> See The Best News, 'Νέα μέτρα στο λιμάνι της Πάτρας για το μεταναστευτικό - Στον ISPS οι πλάστιγγες, ξεκινά η κατασκευή της ζώνης περιπολίας' [New measures at the Patras port for the migration issue – at ISPS the scales, construction of the patrol zone begins], *The Best News*, 25 December 2017, <<http://www.thebest.gr/news/index/viewStory/467916>>, last accessed 30 March 2018 and The Best News, 'Με 20 Λιμενικούς ενισχύεται το Λιμάνι της Πάτρας- Επιτέλους μπαίνει φράχτης στον αγώνα για το μεταναστευτικό' [The Patras port is reinforced with 20 port guards – a fence is finally placed in the struggle on migration], *The Best News*, 21 August 2017, <<http://www.thebest.gr/news/index/viewStory/453830>>, last accessed 30 March 2018.

<sup>170</sup> Fannon, F., *The Wretched of the Earth*, Penguin Books, London, 2001.

<sup>171</sup> Member of the local solidarity group: Movement for the support of the rights of Refugees and Migrants. Interview held on 30 November 2017.

<sup>172</sup> Information acquired during interviews with members of the Motion for the support of Refugees' and Migrants' Rights and with Doc Mobile, on 30 November 2017. Furthermore, during our follow-up visit on the 30<sup>th</sup> of March 2018, many of the foreign nationals/stateless persons, with whom we discussed –the visit was joined by one of GCR's interpreters, therefore communication was possible– reported being increasingly abused by port and private security personnel guarding the port. ***Some reported being electrocuted with stun guns***, while one of the minors we met had a broken arm, after being beaten.

<sup>173</sup> Indicatively, see Iefimerida, 'Πάτρα: Άγρια επεισόδια με μετανάστες -Αστυνομικοί & λιμενικοί απειλούν με κινητοποιήσεις [Patra: Wild incidents with migrants – police and port authorities threaten with mobilizations], *iefimerida*, 5 March 2018, <<http://www.iefimerida.gr/news/400607/patra-agria-episodesia-me-metanastes-astynomikoi-limenikoi-apeiloun-me-kinitopoiiseis>>, last accessed 29 March 2018; Newsbomb, 'Εμπόλεμη ζώνη το λιμάνι της Πάτρας: Μετανάστες επιτέθηκαν σε Λιμενικό και τον τραυμάτισαν!' [The warzone port of Patra: Migrants attacked and injured a port official!], *newbomb*, 4 February 2018, <<http://www.newsbomb.gr/ellada/news/story/858154/empolemi-zoni-to-limani-tis-patras-metanastes-epitethikan-se-limeniko-kai-ton-traymatisan>>, last accessed 29 March 2018.

<sup>174</sup> Proto Thema, 'Πάτρα: Ένας νεκρός από άγριες συμπλοκές μεταναστών με ρόπαλα στο λιμάνι', [Patra: One dead following fierce clashes with bats between migrants at the port], *Proto Thema*, 4 May 2018, <<https://www.protothema.gr/greece/article/784652/agries-sublokes-metanaston-me-ropala-sto-limani-tis-patras/>>, last accessed 24 May 2018.

<sup>175</sup> Left, 'Δ. Βίτσας: Σε έτοιμες δομές φιλοξενίας θα μεταφερθούν οι 500 μετανάστες της Πάτρας' [D. Vitsas: The 500 migrants of Patra shall be moved to ready-made hosting structures], *left*, 16 March 2018, <<https://left.gr/news/d-vitsas-se-etoimes-domes-filoxenias-tha-metaferthoyn-oi-500-metanastes-tis-patras>> last accessed 26 March 2018.

<sup>176</sup> HuffPost Greece, 'Ολοκληρώθηκε επιχείρηση της αστυνομίας στο λιμάνι της Πάτρας για την απομάκρυνση εκατοντάδων μεταναστών' [Police operation for the removal of hundreds of migrants at Patra's port, completed], *HuffPost Greece*, 15 May 2018, <[https://www.huffingtonpost.gr/entry/se-exelixe-epicheirese-tes-astnomias-sto-limani-tes-patras-via-ten-apomakrense-ekatontadon-metanaston-gr\\_5afa6422e4b09a94524b7cf7](https://www.huffingtonpost.gr/entry/se-exelixe-epicheirese-tes-astnomias-sto-limani-tes-patras-via-ten-apomakrense-ekatontadon-metanaston-gr_5afa6422e4b09a94524b7cf7)>, last accessed 24 May 2018; I Efimerida, '450 αστυνομικοί απομακρύνουν τους μετανάστες από το λιμάνι της Πάτρας -Τεράστια επιχείρηση' [450 policemen remove migrants from Patra's port – Huge operation], *I efimerida*, 15 May 2018, <[http://www.iefimerida.gr/news/416379/450-astynomikoi-apomakrynoyn-toys-metanastes-apo-limani-tis-patras-terastia-epiheirisi?utm\\_source=iefimerida.gr&utm\\_medium=os&utm\\_campaign=os\\_notification](http://www.iefimerida.gr/news/416379/450-astynomikoi-apomakrynoyn-toys-metanastes-apo-limani-tis-patras-terastia-epiheirisi?utm_source=iefimerida.gr&utm_medium=os&utm_campaign=os_notification)>, last accessed 24 May 2018.

<sup>177</sup> Also confirmed in media articles. Indicatively, The best news, 'Στην Κόρινθο οι μετανάστες και οι πρόσφυγες από την Πάτρα - Νέες ΦΩΤΟ από την πρωινή επιχείρηση "σκούπα"' [At Korinthos the migrants and refugees from Patra – New PHOTO from the morning "crackdown" operation], *the best news*, 15 May 2018, <<http://www.thebest.gr/news/index/viewStory/486782>>, last accessed 24 May 2018.

<sup>178</sup> Patras Times, 'Πάτρα: Επιστρέφουν οι μετανάστες – Γυρίζουν με τα πόδια μέσω παλαιάς Εθνικής' [Patra: Migrants return – They return by foot via the old national road], 22 May 2018, <<https://bit.ly/2KMUGM8>>, last accessed 23 May 2018.

## Concluding remarks

“Push-backs, deterrence, detention, victimization, marginalization, criminalization and despair”; two years on, these are some of the primary, cumulative, effects that the EU-Turkey Statement and the resultant Greek system of first-line/border reception established to implement it, have brought on asylum seekers' lives. More precisely, these are some of the direct effects experienced by people –forcefully displaced or not– when ambiguous security concerns trample human rights and humanitarian values, transforming human beings into nothing more than numbers in a statistical equation (i.e. “flows”).



Yet two years on is a long time for this ongoing policy of dehumanization to keep drawing its legitimacy by reference to a “Crisis”,<sup>179</sup> as the very meaning of the word suggests a temporariness and exceptionality which has by now been far exceeded. Instead, this is for all means and purposes an increasingly consolidated phenomenon, whose primary effect is “*the creation of a pool of humans...left with no alternatives*”;<sup>180</sup> no alternatives for either regaining their lives or even a minimum standard of safety and sense of normality.

Indeed, though (first reception) conditions differ between the regions examined in this report, with each displaying specificities and shortcomings of its own (e.g. more/less use of detention), they all converge in that they not only fail to provide adequate protection to de facto vulnerable individuals and groups, but also end up further victimizing them with a similar degree of banality. It is not that the situation has remained fixed during past years or that some ad hoc solutions have not been sought or at least attempted. It is rather that, at its core, the very nature of the EU/Greek response to the Refugee Issue is one that a priori excludes any possibility of providing humane reception and living conditions to those arriving at the Greek borders. Simply put, there is an intrinsic incompatibility between the primacy placed on a policy/Statement (the response) whose declared purpose is to “*end the irregular migration from Turkey to the EU*”,<sup>181</sup> and any and all attempts at respecting asylum seekers’ –themselves, “irregular” newcomers– rights. A case that becomes all the more evident considering the means by which this policy has been pursued on the European side of the borders: that is, through the entrapment of newcomers in secluded, prison-type facilities, so as to both expedite/facilitate their deportation in a country (Turkey) with a worrying human rights record,<sup>182</sup> and have their dehumanization serve as a warning to anyone else even remotely considering Europe as a friendly destination.

*“If you want to learn what fear, hunger and cold is, [just] come here”.*<sup>183</sup>

It is indicative that in the years following the Statement’s implementation and the concomitant containment of newcomers on the islands, the situation has been steamrolling on a self-perpetuating downward spiral, whose inevitable instances of critical deterioration are followed by sporadic, last-minute attempts at bringing the situation to “manageable”, yet never humane, levels. Between mid-October and the 22<sup>nd</sup> of December 2017, for instance, a state initiative was undertaken with the aim of improving conditions in the highly overcrowded and unsuitable island RICs, in what was arguably a last-minute attempt at preventing the further loss of life during yet another winter (as was the case in 2016). Though results were significant, in that some 6,000 asylum seekers were rapidly transferred to mainland Greece,<sup>184</sup> at its core the action was characterized by a crisis-management approach, rather than one aimed at creating long-term sustainability either on the islands or with respect to the Refugee Issue as a whole –something that could have feasibly been pursued through shifting the reception locus from the islands to the mainland and increasing the latter’s capacity to accommodate asylum seekers in decent conditions for the duration of their stay.

Thus even at the time (22 December 2017) thousands of asylum seekers (10,916, specifically) remained trapped in island RICs meant to accommodate a maximum of 5,576,<sup>185</sup> as further island decongestion stumbled upon the mainland's dwindling capacity to accommodate both previous residents and those increasingly amassing on the islands.<sup>186</sup> Five months on (21<sup>st</sup> of May 2018), and highlighting the ever-present deadlock, with which the ongoing policy of deterrence is intertwined, conditions at the borders are once more back to critical levels, with the islands "accommodating" 17,029 asylum seekers, of whom 13,828 in RICs under horrid conditions.<sup>187</sup> Yet this time around, and for the first time in years, April 2018 also saw the Greek-Turkish land borders of Evros becoming the major point of entry for asylum seekers, with arrivals nearly reaching –and, per some, exceeding<sup>188</sup>– the combined respective numbers on the islands (2,900 as opposed to 3,032),<sup>189</sup> and in turn further inflating an explosive situation.

The results? At the end of April (24 April 2018, specifically), some 1,000 Evros-based asylum seekers –amongst whom many unaccompanied children and families– remained detained in police precincts and pre-Removal Centers, under conditions similar to or worse than those described in preceding chapters, while awaiting for their initial registration to take place at the over-congested Fylakio RIC (pre-RIC detention); an increasing, yet still unknown, number of asylum seekers living fully unprotected in conditions of homelessness throughout Greece (and especially Thessaloniki), and more than 1,500 island-based asylum seekers, whose geographical restriction had already been lifted (due to their being vulnerable, for instance), all hopelessly awaiting to be transferred to proper accommodation in the mainland, where spaces have been virtually exhausted.<sup>190</sup> In the meantime, with no indications of decreasing arrivals in the near future, as some 1,000 newcomers have arrived on the islands only within the first 10 days of May,<sup>191</sup> it is becoming increasingly safe to argue that the first-line system of reception will, for yet another time, be unable to provide (decent) shelter to inbound refugees and asylum seekers.

Could this have been averted? Arguably the matter is multifaceted, and perhaps the "wisdom" concomitant to examining an event in retrospect, to an extent diverts from the day-to-day conundrums arising in the management of such a volatile situation, some of which pertain to internal parameters (e.g. seeming resistance of some municipalities towards additional camps being built within their jurisdiction), others to external (e.g. a previously failed and currently non-existent EU relocation mechanism, amidst increasing barriers placed to family reunification in other MS), and all of which would necessitate a detailed examination that by far exceeds the scope of this report. Yet notwithstanding the multiple loci of accountability (local, national, international) for this situation, it remains a fact that no preparations for these eventualities were made, despite it being a relative certainty –as always– that irregular arrivals would increase during the spring-summer months. Instead, the excessive insistence on maintaining the island-based policy of deterrence and confinement largely guaranteed the system's un-

preparedness to cope with the ever-evolving situation, as it prohibited any considerations or actions towards establishing an alternative system of (mainland-based) reception.

It is primarily in this context that the response's very foundation, structured as it is around the EU's increasing tendency to externalize and avoid its common responsibilities (EU-Turkey Statement), Turkey's denial of accepting back any asylum seekers that have been transferred off the islands (as per to-day practice),<sup>192</sup> and Greece's willingness to oblige, a priori conditions the response's potential results to a spectrum of diverging degrees of "discounts", but never the respect of human rights. Indeed, the latter has perhaps become nowhere near more evident than in the events that followed the recent ruling of the Greek Council of State (CoS) –Greece's highest administrative court– on the geographical restriction of asylum seekers to the island hotspots.

On the 17th of April 2018, and following legal actions undertaken by GCR, the Greek CoS ruled in favor of annulling the restriction on liberty imposed on newly-arrived asylum seekers on the islands. An imposition, to be noted, which only became accessible to public scrutiny and legal action more than a year following the Statement's implementation, through a decision belatedly issued by the former Head of the GAS, on May 31, 2017.<sup>193</sup> That being said, the CoS judged that said decision did not contain the necessary-legal justification for limiting newcomers' freedom to the islands (indeed, said decision contained no justification, at all),<sup>194</sup> thus calling for its withdrawal. Furthermore, and though the ruling focused near exclusively on the decision's technical aspects, without so much as a reference to the restriction's effects on refugees' and asylum seekers' lives, the CoS still did recognize the actual and "*serious danger of arising social tensions*",<sup>195</sup> posed by the unequal distribution/concentration of large numbers of persons in a limited array of geographical regions (i.e. the hotspot islands), instead of the wider territory.

This could have been an opportunity to redress the ongoing abasement of human rights and values within the EU. Instead, just three days later, on the 20<sup>th</sup> of April 2018 and in what has become a highly criticized move,<sup>196</sup> the newly appointed Director of the GAS went forward with reinstating the geographical limitation. Albeit, this time, the imposition was accompanied by an official justification, invoking grounds of "*public order and especially...the implementation of the Joint EU-Turkey Statement of 18-3-2016*".<sup>197</sup>

Fast-forward to the 23<sup>rd</sup> of April (six days following the ruling), in an incident that arguably echoed the CoS's recognition of the risk of social tensions, a group of Afghan refugees were brutally attacked at the Sappho square, in Lesbos. The refugees, who had for six days been protesting at the square against delays in the examination of their (asylum) claims and living conditions at the Moria RIC, were thrown at with stones and various other objects (Molotov cocktails and tear gas grenades, amongst others), while far-right segments of the gathered crowd were calling for their extermination ("burn them alive").<sup>198</sup>

It is by reference to this incident, reminiscent of Europe's darker, yet creepingly re-emerging, times that this report concludes, in hopes that yet another warning call may at long last be heard and acted upon. To this end, what follows is a list of non-exhaustive, core recommendations aimed at facilitating the transition from a deficient system of reception, to one that will ensure the respect of newcomers' rights. As a preliminary comment, however, it needs to be stressed that in order for any effective "reformation" of the current reception system to take place, the a priori condition is to recognize the matter in its proper context. This means not only reverting the current paradigm from that of politics and deterrence (or the politics of deterrence) to that of legal rights and (state) obligations, but also recognizing the instrumental role played jointly by Greece, the EU and EU member states in assisting in its consolidation, by near exclusively focusing on diminishing arrivals at the expense of human rights and values. Besides, as aptly recognized by the Council of Europe in Resolution 2118 (2016),<sup>179</sup> "*Much of the responsibility for the current situation falls to the European Union, which has tacitly supported the closure of borders along the western Balkans route and concluded the agreement of 18 March 2016 with Turkey*". The solution, therefore, needs similarly be a collective one, encompassing the actual sharing of responsibility and the effective display of solidarity towards both forcefully displaced populations, and amongst EU member states themselves. It is in this spirit that the following recommendations have been drafted, and in this context that they should be read.

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<sup>179</sup> Or "a temporary and extraordinary measure which is necessary to end the human suffering and restore public order", as the Statement's wording would have it. See European Council, op.cit.

<sup>180</sup> Representative of Praxis. Interview conducted on 30 November 2017. To be noted, the quote is taken slightly out of context, though it applies in this one as well.

<sup>181</sup> European Council, op.cit.

<sup>182</sup> There is no shortage of reports on the matter. Indicatively: Office of the United Nations High Commissioner for Human Rights (OHCHR), *Turkey: UN report details extensive human rights violations during protracted state of emergency* [media release], 20 March 2018, <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853>>, last accessed 20 May 2018; Muižnieks, N., 'Human rights in Turkey – the urgent need for a new beginning', *euronews*, 10 March 2017, <<https://www.coe.int/en/web/commissioner/-/human-rights-in-turkey-the-urgent-need-for-a-new-beginning?desktop=false>>, last accessed 20 May 2018, and Erkoyun, E., 'As Turkey's emergency rule continues, so will rights abuses, Amnesty says', *Reuters*, 22 February 2018, <<https://www.reuters.com/article/us-turkey-security-rights/as-turkeys-emergency-rule-continues-so-will-rights-abuses-amnesty-says-idUSKCN1G61VU>>, last accessed 20 May 2018.

<sup>183</sup> Female Syrian-Palestinian refugee on conditions at the Moria RIC, in Lesbos. Y., B., Tonella, "Αυ θέλετε να μάθετε τι εστί φόβος, πεινά και κρύο, ελάτε εδώ" [If you want to know what cold, hunger and cold is, come here], *Amnesty International*, 19 March 2018, <<https://www.amnesty.gr/blog/21328/thelete-na-mathete-ti-esti-fovos-peina-kai-kryo-elate-edo>>, last accessed 21 May 2018.

<sup>184</sup> UN High Commissioner for Refugees (UNHCR), *Situation on Greek islands still grim despite speeded transfers* [briefing note], 22 December 2017, <<http://www.unhcr.org/news/briefing/2017/12/5a3ccd394/situation-greek-islands-still-grim-despite-speeded-transfers.html>>, last accessed 30 March 2018.

<sup>185</sup> Hellenic Republic, Ministry of Digital Policy, Telecommunications and Information, National Situational Picture regarding the Islands at Eastern Aegean Sea (22/12/2017), 23 December 2017, <<https://bit.ly/2Lm66rA>>, last accessed 21 May 2018.

<sup>186</sup> This, to be noted, was despite joint UNHCR and IOM efforts to assist through the creation of temporary accommodation spaces in hotels, which in itself being an exceptional measure that cannot

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be counted perpetually upon, in the context of a state-centric management of Migration, further serves to highlight the policy's long-term non-sustainability.

<sup>187</sup> Hellenic Republic, Ministry of Digital Policy, Telecommunications and Information, National Situational Picture regarding the Islands at Eastern Aegean Sea (21/05/2018), 7 May 2018, <<https://bit.ly/2lFOvc5>>, last accessed 23 May 2018.

<sup>188</sup> A series of articles have been claiming nearly 4,000 new arrivals via Evros during April. Albeit the information seem to be based on relevant data on illegal entry provided by the police for the totality of the Eastern Macedonia and Thrace region (of which Evros is a part), and therefore it cannot be safely concluded that they pertain solely to Evros-based arrivals from Turkey. Indicatively, T. Georgiopolou, '4.000 πρόσφυγες πέρασαν τον Απρίλιο από τον Έβρο' [4,000 refugees crossed Evros in April], *I Kathimerini*, 9 May 2018, <<http://www.kathimerini.gr/963220/article/epikairothta/ellada/4000-prosfyges-perasan-ton-aprilio-apo-ton-evro>>, last accessed 21 May 2018 and Proto Thema, 'Αύξηση σοκ στον Έβρο: 4.000 μετανάστες διέσχισαν τα σύνορα σ' ένα μήνα' [Shocking increase at Evros: 4,000 migrants crossed the borders in a month], *Proto Thema*, 8 May 2018, <<https://www.protothema.gr/greece/article/785594/auxisi-sok-ston-evro-4000-metanastes-dieshisan-ta-sunora-s-ena-mina>>, last accessed 21 May 2018.

<sup>189</sup> See UN High Commissioner for Refugees (UNHCR), *UNHCR appeals to Greece over situation at Evros* [briefing note], 27 April 2018, <<http://www.unhcr.org/news/briefing/2018/4/5ae2dd764/unhcr-appeals-greece-situation-evros.html>>, last accessed 21 May 2018 and UN High Commissioner for Refugees (UNHCR), *Greece Sea Arrivals Dashboard (April 2018)*, 5 May 2018, <<https://data2.unhcr.org/es/documents/download/63494>>, last accessed 21 May 2018.

<sup>190</sup> Information acquired during the Protection Working Group (PWG) of 22 April 2018. The PWG is a nation-wide, information-focused, meeting held and hosted by UNHCR on a monthly basis in Athens.

<sup>191</sup> As per data acquired through UNHCR's operation portal for Greece, on 11 May 2018. The data are updated regularly and can be found at <<https://data2.unhcr.org/en/situations/mediterranean/location/5179>>.

<sup>192</sup> As inter alia stated in the new Asylum Service's Director decision (8269/2018) re-imposing the geographical restriction of asylum seekers on the islands, as well as in the CoS decision (805/2018) that had previously annulled said restriction. The first, and parts of the latter can be found, in Greek, at <https://www.e-nomothesia.gr/kat-allodapoi/prosfyges-politiko-asulo/apophase-oik-8269-2018-phek-1366b-20-4-2018.html> and <http://www.immigration.gr/2018/04/8052018.html>, respectively.

<sup>193</sup> Previously, the restriction was enforced de jure, via a police circular and on the basis of the EU-Turkey Statement, without, however, any publicly available administrative decision on the matter.

<sup>194</sup> The Decision can be found in Greek, at <<https://drive.google.com/file/d/0B7hvGv7tFH2QaC1STIR4dE05S2c/view>>.

<sup>195</sup> Council of State decision 805/2018, para. 15, p.20.

<sup>196</sup> Indicatively, Greek Council for Refugees, *GCR Press Release on the reinstatement of CoS's annulled decision* [media release], 23 April 2018, <<https://www.gcr.gr/index.php/en/news/press-releases-announcements/item/872-pligma-sto-kratos-dikaou>>, last accessed 23 May 2018; Greek Council for Refugees, *21 rights organizations condemn the government's attempt to overturn the court de-*

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<sup>197</sup> Decision 8269/2018, Gov. Gazzete 1366/B/20-4-2018, Περιορισμός κυκλοφορίας των αιτούντων διεθνή προστασία. ΑΠΟΦΑΣΗ ΤΟΥ ΔΙΕΥΘΥΝΤΗ ΤΗΣ ΥΠΗΡΕΣΙΑΣ ΑΣΥΛΟΥ [Restriction of movement of international protection applicants. DECISION OF THE DIRECTOR OF THE ASYLUM SERVICE], 20 April 2018, <<http://www.et.gr/index.php/anazitisi-fek>>, last accessed 23 May 2018.

<sup>198</sup> G., Pagoudis, ‘Τους περικύκλωσαν, τους άνοιξαν τα κεφάλια και έφυγαν ανενόχλητοι’ [They surrounded them, cracked their heads and left undisturbed], *efsyn*, 24 April 2018, <<http://www.efsyn.gr/arthro/toys-perikyklusan-toys-anoixan-ta-kefalia-kai-efygan-anenohlitoi>>, last accessed 21 May 2018; V., Paikos, ‘Κάψτε τους ζωντανούς!’ [Burn them alive!], *I Avgi*, 29 April 2018, <<http://www.avgi.gr/article/10811/8863545/kapste-tous-zontanous->>, last accessed 21 May 2018.

<sup>199</sup> Council of Europe: Parliamentary Assembly, *Resolution 2118 - Refugees in Greece: challenges and risks – A European responsibility*, 21 June 2016, <<http://www.refworld.org/docid/583734f54.html>>, last accessed 21 May 2018]

## Recommendations

### General Recommendations

The EU, alongside Greece, should as a matter of priority reconsider the alleged “benefits” of the EU-Turkey Statement which, though leading to diminished Greek-bound irregular arrivals, has adversely affected the lives of forcefully displaced populations. Two years on, it is becoming more evident by the day that, at its core, the Statement is a recipe for (humanitarian) disaster, as its constitutive elements (deterrence and externalization of international responsibilities) and mode of implementation (transformation of hotspot islands into “open prisons”) a priori deny international protection applicants effective access to the full set (and at times any) of their rights. This, to be noted, is the case at the same time as the Statement’s declared *raison d’être* –i.e. “to break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk”<sup>200</sup>– has proven an illusion, as not only have third-country nationals/stateless persons not stopped risking their lives in search of a safe haven, but by being left with few to no alternatives to safely reaching their destination, the Statement has all but guaranteed their further victimization at the hands of smugglers.

Therefore:

1. The EU-Turkey Statement should be reconsidered and ultimately abolished in favor of a policy that would reposition human rights at the forefront of its agenda.
2. In the same vein, compliance with the imperative to respect the (human) rights of all people on the move, irrelevantly of actual and/or potential international protection status, should form the core principle guiding the management of migration. Ongoing discriminations of newcomers’ on the basis of predetermined, biased, views on their “chances” and motives for applying for asylum inter alia contravene article 3 of the Geneva Convention and article 14 of the EU Convention on Human Rights, and should therefore be immediately brought to a halt.



3. EU member states alongside Greece should provide asylum seekers with appropriate and effective, safe legal channels for reaching the EU, while facilitating, instead of obstructing, the reunification of families, as has increasingly been the case throughout past months.
4. In this context, upcoming discussions on the reconsideration of the Dublin Regulation should focus on finding ways for sharing, rather than outsourcing responsibilities at the fringes of (or beyond) the EU. In doing so, the views and wishes of asylum seekers, as well as their wider family links should also be taken into consideration, in harmonization with both the realities of forced displacement (uniting remaining, rather than exclusively “nuclear”, family members), and beneficiaries’ cultural norms and customs.

### Access to (first-line) Reception and Asylum

Granting third-country nationals/stateless persons access to asylum and reception is a positive (legal) obligation of the Greek and EU member states, as enshrined in article 18 of the Charter of Fundamental Rights of the European Union.<sup>201</sup> Despite this, an increasing number of reports and allegations on push-backs being enforced at the Greek-Turkish land borders of Evros have come into the limelight during recent years, with the Greek state as of yet showing no indications of any intentions to give the matter its proper gravity and address it.

It is to be reminded that, aside from directly exposing third-country nationals/stateless persons to a series of life-threatening risks, as well as to exposing them to inhumane and degrading treatment, collective expulsions are strictly prohibited under Article 19 (1 and 2) of the Charter of Fundamental Rights of the European Union, as well as article 33(1) of the Geneva Convention on the status of refugees.<sup>202</sup>

Therefore, the Greek Government should:

5. Order the long-due investigation of the multiple reports and allegations on push-backs enacted at the Evros land borders and ensure that all perpetrators are found and brought to justice. This investigation should be conducted in an in-depth and transparent manner, with all stakeholders informed of its evolution and outcomes, and victims provided remedy for the injustice.
6. Establish an independent body that will be responsible for monitoring the situation at Greece’s northeastern borders, at least until such time as it can be safely and unambiguously argued that no newcomer is arbitrarily stripped of their right to seek asylum and/or exposed to the risk of *refoulement*.
7. Undertake all necessary actions to ensure that upon arrival in Greece, all third-country nationals and stateless persons are swiftly transferred to an open RIC or other competent, short-term, transit facility, where they can be registered, provided with the necessary primary care, informed on their rights and obligations and granted access international protection. Inter alia, this also necessitates

providing adequate training to police and border guard personnel, whom in many cases serving as the first point of contact between newcomers and the EU/Greek state, are also the first officials/representatives of the state responsible for safeguarding these rights.

### Detention and other types of restrictions

It is highly worrying that following the Statement's implementation, blanket detention and limits to the freedom of third-country nationals/stateless persons have once more been increasingly employed as de facto means for managing migration, either throughout the asylum process (detention and geographical restriction of liberty), or in preparation for its delayed commencement (pre-RIC detention).

In this context it is to be reminded that measures leading to or aimed at curbing asylum seekers' liberty are to be strictly and only ever be used as measures of last resort, following consideration and exhaustion of all possible, less coercive, alternatives, on a case-by-case basis, in accordance with national and international law and legislation, and subject to the provision of the necessary mechanisms for the remedy of the injured party (i.e. asylum seekers).

Accordingly, the Greek state should:

8. Immediately and without delay end the so-called pre-RIC detention of asylum seekers in Evros, which aside from having no grounding in law, also serves to further victimize vulnerable persons and groups.
9. Similarly and in line with the principle of non-discrimination, the "pilot/low-recognition nationality" detention project on the islands and in every other location where such discriminatory treatment applies should be brought to a halt. Biased treatment of asylum seekers on the basis of individual/protected characteristics (e.g. nationality or gender) not only contravenes the non-discrimination principle, but also highlights an intrinsically predisposed and thus malfunctioning system of asylum and reception.
10. Immediately transfer all asylum seekers out of detention cells and Pre-Removal Centers and into suitable accommodation, and put an end to the use of such facilities in the future. It is unacceptable for any person to be exposed to the kind of inhumane and degrading conditions characteristic of cells and Pre-Removal Centers, let alone persons fleeing persecution.
11. Ensure that vulnerable asylum seekers and especially children are never detained. Vulnerable asylum seekers should be treated in accordance with, at least, the minimum standards set forth by the Reception Directive, and as a rule provided with appropriate shelter, where their specific needs can be met.
12. Abolish and/or minimize the use of geographical restriction to only the absolute necessary, for the identification and registration processes to take place, time. As it stands, the policy of island-confinement not only serves to leave newcomers without proper access to crucial services (e.g. healthcare), but also adversely

affects local communities, giving rise to xenophobic tensions which, prior to the Statement's implementation, were virtually non-existent or invisible.

### First reception and living conditions

While recognizing efforts made on some aspects of the (first-line) reception of third-country nationals/stateless persons in Greece, there is still much more that needs to be done if the rights of newcomers are to be fully respected throughout their stay in Greece. It remains a fact that two years on, a series of deficiencies (in both facilities and personnel) keep dragging down the system as a whole, leading to the ever-exposure of asylum seekers to a series of risks (to their life, security, and well-being).

Therefore the Greek Government, alongside and with the support of the EC and EU member states should:

13. Work towards creating and implementing a model reception-accommodation scheme that will be structured around rapidly filtering registered asylum seekers from border RICs to suitable accommodation in mainland Greece, and from there to either more integration-friendly accommodation places (apartments) in Greece or, depending on the needs arising on the filed in terms of the ever-fluctuating number of arrivals, in other MSs. Expecting a single (or a few) country(/ies) to fulfill the humanitarian obligations of a continent, means not only underestimating the extent of the (volatile) Refugee Issue, but also minimizing chances of addressing it in a humane manner by “sweeping it under the carpet”.
14. Significantly enhance RIC capacity to assist and process arrivals, by deploying additional personnel (especially doctors, interpreters and cultural mediators) and enhancing its effectiveness through continuous training. Perpetually re-cycling personnel (e.g. of the GAS) through fixed-term contracts, means failing to establish a skilled and specialized workforce, by not investing in already available expertise.
15. Ensure the sufficient presence of specialized medical professionals at the borders, taking into account the increased needs arising from the cohabitation of asylum seekers and local populations. As things stand, the ongoing gaps characteristic of the overburdened public healthcare system at the borders, not only fail to guarantee adequate assistance to both communities (locals and asylum seekers), but also serve to increase tensions by at times giving the impression of a preferential system, whereby asylum seekers' needs are prioritized over and above those of locals.
16. As a minimum, ensure the presence of at least one working doctor on a 24hr basis in each RIC and large-scale accommodation facility for refugees and asylum seekers.

17. Drastically improve conditions at the RICs, by primarily expanding mainland accommodation capacity and transferring registered (especially, vulnerable) asylum seekers there. As per their original purpose, island hotspots, as well as the Evros RIC, should function as short-term, transit facilities, for the filtering of newcomers, instead of as quasi-detention/accommodation grounds.
18. Ensure that all newcomers are assessed for potential (medical and/or psychosocial) vulnerabilities as a priority following their arrival, and prior to their asylum interview.
19. Tend to the safety of asylum seekers by ensuring that all RICs and accommodation sites have, as a minimum, gate-supervision throughout all days and hours.
20. Similarly take all necessary steps to minimize the risk of SGBV (e.g. gender-based showers in all RICs, adequate lighting throughout the night), and provide for facilities' adequate supervision.

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<sup>200</sup> European Council, *EU-Turkey statement, 18 March 2016* [media release], op.cit.

<sup>201</sup> "The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community". See European Union, *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 326/02, <<http://www.refworld.org/docid/3ae6b3b70.html>>, last accessed 4 May 2018.

<sup>202</sup> UN High Commissioner for Refugees (UNHCR), *Convention and Protocol relating to the Status of Refugees*, UNHCR [website], December 2010, <<http://www.unhcr.org/3b66c2aa10.pdf>>, last accessed 26 March 2018.

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## **Annex I (list of interviews/region)**

### Evros

1. Hellenic Red Cross, 20 December 2017
2. RIC Director, 21 December 2017
3. METAdrasi: Action for Migration & Development, 21 December 2017
4. Director of Regional Asylum Office (RAO), 22 December 2017
5. UNHCR field office staff at the RIC at Fylakio, Evros, 22 December 2017

6. Police representatives at the Pre-Removal Center at Fylakio, Evros, 22 December 2017

### Kos

1. RIC Director, 10 January 2018
2. Police representative at the Pre-Removal Center at Pyli, Kos, 10 January 2018
3. International Organization for Migration (IOM), 10 January 2018
4. Arsis: Association for the Social Support of Youth, 11 January 2018
5. UNHCR staff at Kos Field Office, 11 January 2018
6. Regional Asylum Office, 12 January 2018
7. Hellenic Center for Disease Control & Prevention (KEELPNO), 12 January 2018
8. METAdrasi: Action for Migration & Development, 12 January 2018
9. Director of 2<sup>nd</sup> Police Directorate of Dodekanisa, 12 January 2018
10. Solidarity Kos, 12 January 2018
11. Frontex, 10 January 2018

### Lesvos

1. Members of the Lesvos Municipality, 12 December 2017
2. Director of the (open) Kara Tepe camp, 12 December 2017
3. Caritas Hellas, 13 December 2017
4. PIKPA, Lesvos, 13 December 2017
5. HIAS, 14 December 2017
6. Bashira Community and Empowerment Centre, 14 December 2017
7. Former Coordinator of the Education Sub-working Group, 14 December 2017
8. RIC sub-Director, 15 December 2017
9. Hellenic Center for Disease Control & Prevention (KEELPNO), 15 December 2017
10. RIS employees at the single women section (15.12.17)
11. RIS employees at the UAM section (15.12.17)
12. Representatives of UNHCR, 15 December 2017

### Patra

1. CNN reporter, 27 November 2017
2. Patra port authorities, 29 November 2017
3. Director and representatives of the Police Directorate of Patra, 29 November 2017
4. Director of Regional Asylum Office (RAO), 29 November 2017
5. Médecins du Monde (Mdm), 29 November 2017
6. Praxis, 30 November 2017
7. Doc Mobile, 30 November 2017
8. Motion for the support of Refugees' and Migrants' Rights, 30 November 2017
9. International Organisation for Migration (IOM), 30 November 2017

## **Annex II (List of Abbreviations)**

CoS: Council of State

CSO: Civil Society Organisation

EC: European Commission

EU: European Union



GAS: Greek Asylum Service

GCR: Greek Council for Refugees

HRC: Hellenic Red Cross

MS: Member State

RAO: Regional Asylum Office

RIS: Reception and Identification Service

RIC: Reception and Identification Center

SGBV: Sexual and Gender-Based Violence

UAM: Unaccompanied Minors

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KEELPNO: Hellenic Center for Disease Control & Prevention (HCDCP)



“We are not here because we are hungry...we have problems in our countries...that is why we are here.” [Interview with asylum seekers on Samos]

## Limits of Indignation:

the EU-Turkey Statement and its implementation in the Samos ‘hotspot’



**GREEK  
COUNCIL  
FOR  
REFUGEES**

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April 10, 2019

## Contents

List of abbreviations.....	1
Limits of indignation: thoughts from a recent visit to Samos .....	2
The Case of Samos.....	3
In search of a shelter.....	4
Living conditions .....	6
General issues of hygiene and sanitation .....	8
Meals and water .....	10
Lack of provisions for the (physically) vulnerable .....	11
Dehumanising the children.....	12
Post-visit developments.....	13
An approach doomed to fail: enter the Statement.....	15
On the non-implementation of the EU-Turkey Statement .....	16
Recommendations.....	21
ANNEX I.....	22

## List of abbreviations

EC: European Commission

EASO: European Asylum Support Office

GAS: Greek Asylum Service

IOM: International Organization for Migration

KEELPNO: Greek acronym for Hellenic Center for Disease Control & Prevention (HCDCP)

MSF: Médecins Sans Frontières

RAO: Regional Asylum Office

RIC: Reception and Identification Center (commonly known as “hotspot”)

RIS: Reception and Identification Service

UAM: Unaccompanied Minors

UNHCR: United Nations High Commissioner for Refugees

## Limits of indignation: thoughts from a recent visit to Samos

“We are here. They are treating us like animals. We are not animals”<sup>1</sup>

Spoken by a young, male, asylum seeker, this straightforward and disarming reply echoed the replies we got from the other 16 asylum seekers with whom we discussed during our November 12-14 monitoring visit to Samos. The question? What they would have wished to say to the authorities responsible for their forced entrapment on the island, if they were ever given the chance.

There is, perhaps, nothing that can more vividly attest to Europe’s failure –in every humane way possible– to create and provide the conditions of safety to forcibly displaced populations, then the overwhelming hopelessness and futility underlying such replies. A hopelessness, crucially, felt not as a result of past persecution, nor as a result of the grave perils undergone in the desperate effort to reach safety, but rather a hopelessness produced by the very act of having finally reached that sought for safe haven, only to realise it wasn’t quite what you expected; that the place you tried to escape to, proved to be worryingly similar to the place you had tried to escape from.

“If you are sleeping here...They don’t care about us. It’s like we are living in our country”<sup>2</sup>

What follows is a brief report aimed at highlighting some of the major effects that the March 18, 2016, EU-Turkey Statement (henceforth, the “Statement”), coupled with the ongoing failure of the Greek authorities to address the situation in a humane manner, have brought on the lives of refugees and asylum seekers reaching Greece’s Eastern Aegean islands. The report draws primarily from our November 12-14, 2018, monitoring visit to Samos, which was focused on the island’s Reception and Identification Center (RIC), at Vathy, and is complemented by a range of other, internal and external, sources, including interview-discussions with beneficiaries, organisations and officials on the ground.<sup>3</sup> It aims to provide a brief, yet concrete contextualization of the subject matter, followed by a number of relevant conclusions and recommendations.

Though published in a period when terms such as EU-wide solidarity and responsibility-sharing seem to have largely lost their meaning in the context of the Refugee response, and with the Statement having by now become a normalized reality, on account of the ongoing political unwillingness to reconsider its human and rights’ costs, it aims to further document its effects, as a reminder of the stark realities underlying frequently used “catch phrases”, such as “success” and “game-changer”,

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<sup>1</sup> Interview-discussion with 8 asylum seekers of sub-Saharan nationalities on 13.11.18.

<sup>2</sup> Interview-discussion with 8 asylum seekers of sub-Saharan nationalities on 14.11.18.

<sup>3</sup> We would especially like to thank the Greek Asylum Service (GAS), the Greek Reception and Identification Service (RIS), the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) for accepting to meet with us and for the information provided during our meetings.

which are so hastily employed when discussing the Statement. It aims to remind, even if for posterity, the other side of the picture; not of “flows”, but of human beings.



### The Case of Samos

The Samos Reception and identification Center (RIC) –a former shooting range, previously (since 2008) used as a closed reception center that expanded and transformed into an operational RIC in March 2016 in the context of the EU’s “hotspot” approach to Migration<sup>4</sup>– has during the course of 2018 gradually become the foremost amongst the five, island-based, open prisons, where forcefully displaced populations have been forced to live under what have consistently been characterized as unsuitable, inhumane and degrading conditions.<sup>5</sup>

*“Nous sommes comme en prison [we are like in a prison]. We are not living good [sic]...they do not treat us good [sic]”<sup>6</sup>*

With the primary reason for this being the steadily increasing (severe) levels of overcrowding, and the concomitant dehumanisation of refugees and asylum seekers, by the time of our November 12-14, 2018, visit, the downward spiral had reached a new low point, with the RIC, whose capacity remains limited to **648** places, “hosting” close

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<sup>4</sup> See AIDA, *Country Report: Greece (2017 update)*, March 2018, available at: <https://www.asylumineurope.org/reports/country/greece>, p.25, and European Commission, *Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions: A European Agenda On Migration*, 13 May 2015, available at: <https://bit.ly/2ktwjtE>.

<sup>5</sup> Indicatively Council of Europe, *Report to the Greek Government on the visits to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 April to 18 April and 19 to 25 July 2016*, 26 September 2017, available at: <https://rm.coe.int/pdf/168074f85d>; MsF, *EU-Turkey deal continues cycle of containment and despair*, 18 March 2019, available at: <https://www.msf.org/eu-turkey-deal-continues-cycle-containment-and-despair-greece-refugees>; The Guardian, *Oxfam condemns EU over 'inhumane' Lesbos refugee camp*, 9 January 2019, available at: <https://www.theguardian.com/world/2019/jan/09/oxfam-criticises-eu-inhumane-lesbos-refugee-camp-moria>.

<sup>6</sup> Interview-discussion with group of 8 asylum seekers from sub-Saharan African countries on 14.11.18.



to 5,000 asylum seekers –that is, sevenfold or roughly **754%** over its capacity.<sup>7</sup> As a result, unsuitable summer tents had for months sprang up throughout the RIC and its surrounding area, culminating in the formation of a quasi-shanty town, divided amongst three categories of increasingly underprivileged asylum seekers: those living in overcrowded temporary housing units (i.e. containers) in the RIC, those living inside the RIC’s premises, albeit in tents, and those living outside the RIC, in what had virtually become a “no man’s land”, where asylum seekers of all ages, genders, and physical/mental conditions had been largely left to their own devices.

### In search of a shelter

“When I arrived, the only thing they told me was ‘go find your brothers from Cameroon’”<sup>8</sup>

With the Reception and Identification Service (RIS) –the competent authority responsible for the reception and accommodation of newcomers– having by far exhausted its capacity, for the six months preceding our visit it had fully stopped providing any type of accommodation support to all but the most visibly vulnerable asylum seekers. Since May 2018, that is, with relevant stockpiles having been reportedly depleted,<sup>9</sup> newcomers had been left to arrange for the means of their accommodation exclusively by themselves, with the situation further aggravating around a week prior to our arrival when, for similar reasons, the RIS had reportedly stopped providing them even with blankets.<sup>10</sup>

In practice, this meant that upon arrival the vast majority of asylum seekers would be called to either manage with what little they were provided with (e.g. creating a roof with a piece of cloth/blanket) or find alternatives on their own. Most would thus strive to collect the funds necessary to collectively buy a tent, which they would then place either within the RIC’s premises or, once spaces there became exhausted, outside the facility, where some reportedly had to sleep on the ground and/or on fallen trees and branches.<sup>11</sup> For the latter, that is those left to live outside of the fully congested RIC, while stripped of any and all alternatives to finding a decent shelter, the RIS would reportedly also inform them that this would take place *at their own responsibility*,<sup>12</sup> as

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<sup>7</sup> Specifically, 4,969 on the 12<sup>th</sup>, 4,858 on the 13<sup>th</sup> and 4,844 on the 14<sup>th</sup> of November 2018. Data are regularly provided on the website of the [Greek Ministry of Digital Policy, Telecommunications and Media](#). For the specific time period, see <https://bit.ly/2LsohvV>, <https://bit.ly/2A7yj1h> and <https://bit.ly/2R7htZV>, respectively.

<sup>8</sup> Interview-discussion with group of 8 asylum seekers from sub-Saharan African countries on 14.11.18.

<sup>9</sup> Information provided by the RIS during our meeting on 14.11.18.

<sup>10</sup> Interview-discussion with group of 8 asylum seekers from sub-Saharan African countries on 14.11.18.

<sup>11</sup> Others would reportedly resort to sleeping outside the Regional Asylum Office (RAO), hoping that by being there when the latter would open in the morning, they would manage to speed-up the process of acquiring an asylum seekers card, thus increasing their chances of leaving the island (if found vulnerable). Information acquired during interview-discussion with group of 8 asylum seekers from sub-Saharan African countries on 13.11.18.

<sup>12</sup> Information provided by the RIS during our meeting on 14.11.18.

the area surrounding the facility was and is officially considered as outside the Service's jurisdiction.

Thus for all intents and purposes, for the thousands of asylum seekers living in tents, and especially for those forced to live outside the RIC's premises, the situation in Samos signaled the virtual abolition of reception provisions, and their replacement by what had seemingly become a practice of **shifting the State's legal obligation to provide reception conditions to asylum seekers, to beneficiaries themselves.**

#### **A short chronicle of (non-)reception at the Samos RIC**

At the time of our interview-discussion on November 13, 2018, Mr Ali<sup>13</sup> –a young, Syrian refugee, who had finally had his *vulnerability* recognized by the competent authorities– had already stayed on the island of Samos for **14 months since** his arrival. The reason? His being subjected to the measure of geographical restriction imposed for the purposes of implementing the EU-Turkey Statement.

As per his statements, upon his arrival –which was followed by a brief period of detention for the purposes of registration– both him and his fellow newcomers were provided by the RIS with only *one blanket* and left on their own to find “shelter” in the surrounding woods.

- During the first month of his stay, with the assistance of some of his fellow newcomers he managed to buy a **tent** (3 meters width, 6 meters length), where he lived alongside another **11 persons** for a period of **3 months**.
- On the **4<sup>th</sup> month** of his stay, having become desperate with living conditions in the woods, he made a deal with one of the camp's residents, from whom he “rented” a place in one of the RIC's crammed containers, where he lived for the subsequent 3 months.
- During the **8<sup>th</sup> month** of his stay, he was found by the facility's authorities living in the container without official authorization and was summarily evicted.
- Thus for the remainder of his stay he was once more forced to live in the exact same conditions of his initial “reception” (3x6m<sup>2</sup> tent with another 10-11 persons). This remained the case until, following GCR's intervention, his vulnerability was recognized and he was finally allowed to leave the island.

Throughout this period, the only interaction he had with the facility's authorities was when he was provided with that initial blanket, and when he was forced to exit the facility in order to once more tend to his accommodation on his own.

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<sup>13</sup> The name has been changed in the context of safeguarding personal data.

## Living conditions

“It’s the worst thing living without electricity. How are we to survive?”<sup>14</sup>

To provide some further context to the situation, it should be pointed that though in close proximity to the city of Vathy, Samos,<sup>15</sup> the RIC is located on a very steep and rocky hill/mountain, towering over the city’s ring road. Its surrounding area –known as the “olive grove”, to the east, and the “extended area”, to the west (henceforth, both “extended”)– is covered with olive trees and bushes, which in turn serve as a habitat for insects, rodents, and various other types of wildlife (e.g. snakes and scorpions). It has no access to running or clean water, – an issue also occasionally encountered in the facility itself– no access to electricity and lighting, and no protection from the weather. Notwithstanding everything else, it is thus susceptible to rains and strong winds, which are known to create from ponds and muddy grounds, to an increased risk of landslides.

“Someone fell down because he was sick [yet] the ambulance never came. They call the taxi and you pay yourself”<sup>16</sup>

Despite this, as observed during our visit the area remains evidently unsupervised even during the day, thus a priori excluding any possibility of intervening and providing assistance to its inhabitants in a timely manner, if an emergency arises. It is therefore not only uninhabitable, but dangerous to live in; especially for longer periods of time, and especially for persons that have already been exposed to harm and persecution, either in their countries of origin, or while in transit towards their destination.

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*“Member States shall ensure that material reception conditions provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health”.*<sup>17</sup>

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That being said, at the time of our visit a third (approx. 1,500) and perhaps more of the island’s asylum seekers –the majority of whom single men and the rest families (including single-headed ones) with children and single women– had been left to live in these squalid conditions; some for weeks, the majority for (several) months, and some for years, as was the reported case of an asylum seeker who had to remain there

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<sup>14</sup> Interview with young Syrian refugee on Samos, on 13.11.18

<sup>15</sup> In itself, perhaps the sole factor why Samos has not been characterized by the frequent tensions and riots observed in other “hotspot” islands and especially Lesbos, as asylum seekers, at least, have constant access to the “outside world” and thus a means of escaping what would have otherwise been life in an open prison.

<sup>16</sup> Interview-discussion with group of 8 asylum seekers from sub-Saharan African countries on 13.11.18.

<sup>17</sup> Article 17(2), *Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)*.

for **more than 2 years**, before he was finally granted an “open” asylum seeker’s card (i.e. without geographical restriction).<sup>18</sup>

Expectedly, all of the extended facility’s inhabitants were suffering from dermal conditions, due to both their long-term exposure to poor sanitary conditions and the lack of access to healthcare services, as the RIC’s sole doctor and scarce supporting personnel had their hands full with the (medical) vulnerability assessments needed in the context of the asylum procedure.

“We have mental problems and if we go to the doctor they say ‘go away’. They think we are lying. One thing I know: everybody here is sick”<sup>19</sup>

Completing the picture, the area was filled with plastic bags, bottles and other types of garbage (including rotting food), which were scattered around the place and at times covered parts of the tents/makeshift shelters where beneficiaries would sleep. Indeed, we got the chance to observe in detail one of these makeshift shelters, which at the time accommodated three single men –the first two had bought and placed the tent, the latter was a relative newcomer, whom they were hosting/assisting due to the lack of alternatives. The space consisted of a small, two person tent, covered and surrounded by plastic bags, as a means of protecting its inhabitants from the weather. The tent, furthermore, was placed on top of wooden pallets of questionable stability, which the beneficiaries –much like the rest of the extended RIC’s inhabitants– had bought from local sellers, with the aim of creating a semblance of foundation upon the otherwise steep and rocky mountain surface. Beneath (between the pallets) and around the tent, which enclosed as it was in plastic also created a feeling of claustrophobia, were some empty and some half-full bottles of water, which they had presumably preserved, while on the sole sunny spot of the “residence”, upon a rock, was something remotely resembling a ration of food, which presumably they had placed there so as to heat before eating. The décor was completed with a short plastic table and three half-destroyed and dirty chairs which the beneficiaries had gathered so as to create a semblance of “home”, for which they evidently felt ashamed when we politely asked them if we could use, so as to be able to keep notes during our discussion.

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<sup>18</sup> Interview with young Syrian refugee in Samos, on 13.11.18. and interviews-discussions with 8 asylum seekers of sub-Saharan nationalities on 13.11.18 and 14.11.18.

<sup>19</sup> Interview-discussion with group of 8 asylum seekers from sub-Saharan African countries on 13.11.18.



*Samos, RIC*

Much like their “home”, the extended area was generally reeking, as the lack of sufficient communal latrines (see further below) meant it also had to serve as an outdoors toilet. This, in turn, and in conjunction with the piles of garbage, the de facto substandard sanitation levels, and the extended facility’s very location in the forest, further served to attract various species of bugs, spiders and other types of wildlife, which entered and occupied beneficiaries’ tents, resulting in many –if not all– also displaying distinct marks of bug and bed-bug bites.<sup>20</sup>

‘Bed bugs go to your back and leave you blisters [*sic.*]. The mattresses are full of them. [But] snakes and scorpions are more dangerous; we have had to kill several of those [while living here]’<sup>21</sup>

That being said, conditions inside the RIC, though relatively better, were similarly nowhere near adequate or humane. Severe overcrowding meant that even amongst those “lucky” enough to live within the facility’s enclosed premises, many would have to procure and/or create the means of their self-accommodation. The facility was thus filled with unsuitable summer tents, which had been virtually placed in all of its available spots, culminating in a large sort of shed, made of closely-placed tents, covered with plastic bags, which beneficiaries had “built” in an opening at the facility’s northern end. Those who were accommodated in containers, on the other hand, would have to live in highly crammed spaces in the facility’s insufficient containers, where it should, nevertheless, be acknowledged that efforts were made to accommodate as many of the outmost vulnerable asylum seekers, at least, under a roof.

#### [General issues of hygiene and sanitation](#)

Notwithstanding the deplorable conditions characteristic of the RIC’s extended area, it needs to be pointed out that the overall conditions of hygiene and sanitation to which

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<sup>20</sup> Based on GCR field team observations in Samos in November 2018.

<sup>21</sup> Interview with young Syrian refugee in Samos, on 13.11.18.

asylum seekers were exposed were ranging from highly substandard to clear-cut inhumane.

It suffices to note that for a population at the time consisting of nearly 5,000 asylum seekers, a large proportion of whom lived in tents and thus, irrespectively of whether “accommodated” inside or outside the RIC, lacked access to container-based amenities (i.e. showers and toilets), the extended facility’s total number of communal latrines (i.e. chemical toilets) – some of which found inside and others outside the RIC– was limited to **20**. That is a wide divergence from the recommended 20 persons per latrine, which as per relevant UNHCR guidelines is the necessary analogy for the promotion of camp-based sanitation and for avoiding the risk of disease transmission;<sup>22</sup> both of which seemed to be concepts void of meaning in the facility’s daily operations.

Furthermore, as observed and as shown to us by a number of beneficiaries, who had documented the issue on their mobile phones, the toilet’s degree of maintenance was practically non-existent. Toilets were overflowing with excrements and other waste, while exhibiting a distinct odour. All of which made their usability, at best, highly questionable, at worst, a further risk factor for beneficiaries’ health. Yet despite this, as we were informed on more than one occasion, nothing seemed to be actually done to redress the situation.

“They don’t even give us [cleaning products]; we clean the toilets on our own means”<sup>23</sup>

In a similar vein, garbage dumps were overflowing and though throughout our three-day visit we did witness small garbage trucks and cleaning personnel trying to tend to their collection, the result was a drop in the water; an issue which can, perhaps, be better contextualised by considering that, at the time of our visit, the facility was reportedly “producing” 6 tons of garbage/month.<sup>24</sup> Thus notwithstanding the rubbish that were scattered throughout the RIC’s extended area, or the ones gradually piling up at its eastern external fence, next to another row of tents, garbage piles even in the designated collection area found outside the RIC’s northeastern entrance, only ever seemed to be increasing in mass, further exposing asylum seekers –and especially those living in tents near and around the dumps– to health risks.

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<sup>22</sup> UNHCR (Division of Operational Services), *A Guidance For UNHCR Field Operations On Water And Sanitation Services*, January 2008, p.16, available at: <https://www.unhcr.org/en-my/49d080df2.pdf>

<sup>23</sup> Discussion with 8 asylum seekers of sub-Saharan nationalities on 13.11.18

<sup>24</sup> Information provided by the RIS during our meeting on 14.11.18.





Lastly, problems with the sewage system –especially during the summer<sup>25</sup>– meant that sewage/drainage waste was steadily overflowing. An issue which was especially accentuated at the RIC’s western external side, where a small pond and stream of sewage water, steadily flowing from the few chemical toilets placed in the vicinity, crossed the muddy ground, reaching some of the area’s makeshift shelters (tents), where a number of primarily sub-Saharan African nationals were residing and sleeping.

#### Meals and water

Perhaps the sole exception to the overall image of abandonment was that pertaining to the distribution of food and water, to which all asylum seekers seemingly had access. As we were informed,<sup>26</sup> specifically, meals were provided 3 times per day to all of the area’s inhabitants which, considering the RIC’s overexerted capacity and the significant degree of understaffing, was in itself an accomplishment which needs to be acknowledged.

That being said, significant problems still remained even in this aspect of reception. The first, regarding waiting lines, which as we were informed during our “guided tour”,<sup>27</sup> would on average last from anywhere between 2 and 3 hours for each meal. The second, which was mentioned by several of the beneficiaries with whom we discussed –who, this time, showed us pictures of the plastic-packaged meals that they were usually provided– was that the food quality was very poor, with many of the camp’s inhabitants seemingly preferring to throw it away.

“You have to close your eyes to eat the food”<sup>28</sup>

As such, they would patiently wait at the food distribution lines for one, two and three hours at a time, only to get some bread and the 1.5 liters of bottled water,<sup>29</sup> which

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<sup>25</sup> Based on GCR field team observations in Samos between January and December 2018

<sup>26</sup> Meeting with KEELPNO on 13.11.18

<sup>27</sup> Information provided by the RIS during our meeting on 14.11.18.

<sup>28</sup> Discussion with 8 asylum seekers of sub-Saharan nationalities on 13.11.18.

<sup>29</sup> Information acquired through Interview with young Syrian refugee in Samos, on 13.11.18.

though clearly insufficient to cover not only hydration, but also the increased needs arising from the facility's deficiencies (e.g. washing, cooking), was still the only quantity to which each was entitled every day.<sup>30</sup>

#### Lack of provisions for the (physically) vulnerable

As last remark, it needs to be pointed out that though the overall situation was undeniably amongst the worse, if not the worst experienced since the implementation of the EU-Turkey Statement, highlighting not only the steadily declining quality of island-based reception conditions, but also the continued disregard of the needs and rights of asylum seekers in their very capacity as humans, the facility's very location and design served as a further aggravating factor, which, in itself, makes it nigh impossible to tend to the needs of the more vulnerable of its inhabitants.

Case in point, a middle-aged asylum seeker who, for the (approximately) half an hour we waited for one of our meetings with the local authorities to commence (on 12.11.18), was struggling to traverse the very steep, congested pathway traversing the small RIC –which incidentally also consisted of a very poorly built concrete road– while walking *on crutches*. Evidently tired by the physically demanding task, he had to take frequent breaks which, in lack of any alternative sitting place, amounted to his striving to rest upon a minuscule section of concrete, overhanging from the foundation upon which the facility's external fence was built.

His case, to be noted, was only one of many other such cases of physically-challenged asylum seekers, amongst whom victims of bombings with injuries, atrophies, and amputated (or mutilated) body parts, whom alongside pregnant women –85% of which reportedly as a result of rape in their countries of origin<sup>31</sup>– reportedly accounted for some of the more frequent vulnerabilities observed by the competent authorities in the RIC.<sup>32</sup>

In this context, a child, sitting next to us as we observed the surroundings, blissfully playing with a short wooden stick/branch, which he would rhythmically tap on the facility's barbed wire fence while lisping/signing numbers in Arabic, English and French, served as a stark reminder of the stakes at play in this ongoing situation.

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<sup>30</sup> Information provided by KEELPNO during our meeting on 13.11.18

<sup>31</sup> Information provided by the RIS during our meeting on 14.11.18..

<sup>32</sup> Information provided by the RAO and the RIS during our meetings on 13.11.18 and 14.11.18, respectively.



### Dehumanising the children

On the 14<sup>th</sup> of November 2018 –the day we were allowed access to the facility – the RIC reportedly hosted a total of **250** unaccompanied minors (UAM). Of those, 14 were girls that had been accommodated in a section alongside single women and families, and the rest boys, the vast majority of whom were crammed within the limited confines of the section designated for the accommodation of UAM.<sup>33</sup>

The UAM section, specifically, consisted of a small, fenced section (connected to the rest of the RIC via an open door), encompassing a total of 7 temporary accommodation units (i.e. containers), each with the capacity to house a maximum of **8** children (thus a *total designated capacity of 56*). Accordingly, each container was overflowing with an average of **30** minors, some of whom we could clearly see through the containers’ partially open/cracked doors sleeping on the floor –an “activity” in which they have been reportedly known to engage in shifts,<sup>34</sup> due to the lack of sufficient spaces, beds and leisure time activities. The remainder, were living and sleeping under a makeshift “shelter”, which in practice consisted of a semblance of a roof made of blankets the children had themselves tied at the section’s far end (i.e. a portion of the RIC’s external wall), between the containers’ roofs and the barbed-wire fence separating them from the outside world.

Containers were in evidently poor condition –reportedly the poorest in the RIC<sup>35</sup> – having sustained various types of damage which had been left unrepaired for months;<sup>36</sup> an issue which highlighted both the RIC’s inability to properly accommodate and tend to the needs of the hosted population and, perhaps, the central authorities’ indifference on the matter. The latter, especially, remains a question to this day, considering how, despite the exponential increase in the number of stranded refugees of all ages and

<sup>33</sup> Information provided by the RIS during our meeting on 14.11.18.

<sup>34</sup> UNHCR, *Fact Sheet: Greece*, 1-31 January 2019, p. 3, available at: <https://data2.unhcr.org/en/documents/details/68057>

<sup>35</sup> Information provided by the RIS during our meeting on 14.11.18.

<sup>36</sup> Based on GCR field team observations in Samos between January and December 2018. Throughout this time, no official action was undertaken to repair the damage. Also see UNHCR, *Fact Sheet: Greece*, 1-31 January 2019, p. 3, available at: <https://data2.unhcr.org/en/documents/details/68057>

genders that came as a result of the closure of the “Balkan route” and the EU-Turkey Statement, combined with the lack of a realistic and functional EU responsibility-sharing mechanism, the number of specialised shelters aimed at the accommodation of UAM have largely remained stagnant for the past years (around 1,000 places). This, in turn, has de facto served to exclude the possibility of providing a decent living space to the more than 3,000 unaccompanied children present in Greece (specifically, 3,708 as of the 15<sup>th</sup> of February 2019).<sup>37</sup>

Lastly, as if to further add to the feeling of exasperation and neglect, the section’s standard of hygiene was at its absolute lowest, further highlighting the inhumane and degrading treatment to which minors –much like the remainders of the RIC’s population– were exposed. The insufficient number of section-specific communal latrines, which were found at the section’s far right end and in close proximity to the aforementioned open-air makeshift “shelter”, were practically unusable, as they were overflowing with excrements and other types of waste, whose odour could be felt throughout the section.

#### Post-visit developments

It is undeniable that the major issue at the RIC of Samos was and remains the severe degree of overcrowding, which de facto makes it impossible to provide anything even remotely resembling the barest minimum of decent living conditions. It is therefore surprising that so little has been done to decongest the island since the time of our visit back in November, especially considering how, at the time, the competent Minister of Migration Policy had pledged the imminent transfer of no less than 2,000 Samos-based asylum seekers to the mainland; a transfer, to be noted, that would have been completed by the 15<sup>th</sup> of December (2018).<sup>38</sup>

**Overcrowding at the Samos RIC**

End of year	2016	2017	2018	March 31 <sup>st</sup> , 2019*
Designated Capacity	850	700	648	648
Population	1,870	2,368	3,723	3,805
Overcrowding	220%	338%	574%	587%

Source: Website of Ministry of Digital Policy, Telecommunications and Media.<sup>39</sup> \* **Last available data as of the time of writing**

<sup>37</sup> National Center of Social Solidarity (E.K.K.A.), *Situation Update: Unaccompanied Children (UAC) in Greece*, 15 February 2019, available at: <https://data2.unhcr.org/en/documents/download/68044>

<sup>38</sup> Samos Today, “Dimitris Vitsas: Immediate transfer of 2,000 refugees-migrants until 15/12, outside the city the new RIC until the end of February 2019 (Update)” [«Δημήτρης Βίτσας: Άμεση μεταφορά 2.000 προσφύγων – μεταναστών μέχρι 15/12, εκτός πόλης το νέο ΚΥΤ μέχρι τέλος Φλεβάρη 2019 (Ανανέωση)»], 4 December 2018, available at (in Greek): <https://bit.ly/2ThXTHq> and SAT, “Commitment to decongest and relocate the RIC outside the city by the Minister D. Vitsas” [«Δέσμευση για αποσυμφόρηση και μετεγκατάσταση του ΚΥΤ εκτός πόλης από τον Υπουργό Δ. Βίτσα»], 4 December 2018, available at: <https://samiaki.tv/desmeysh-gia-aposymforhsh-toy-kyt-ektos-polhs-apo-ton-poyrgo-metanastefikh-s-politikh-s/>

<sup>39</sup> Provides regular statistical updates on the situation on the islands (arrival numbers, RIC capacities etc.). Can be accessed at the following link: <https://bit.ly/2CuW0l6>



Instead, as of the first months of 2019, overcrowding at the RIC of Samos has very much continued the upward, even if fluctuating, trend displayed during previous years. Meanwhile, other such pledges, this time in the form of an official decision to move the RIC to a new location with double the capacity (1,200), which saw the light of day as far back as October 2018,<sup>40</sup> have similarly proved to be outrunning the Greek Administration's capacity to resolve the situation, with estimates now being that said re-location will take place at some point in April 2019 (at best, 6 months later than initially announced).<sup>41</sup>

As a side note, it should however be added that even if or when the facility is ultimately relocated, it will still not serve to guarantee a humane resolution to the issues at hand, either in the near or long future. For starters, even with its enhanced capacity, as things currently stand, the new facility would still be insufficient to host the totality of the island's population of asylum seekers. Secondly, its location, which will seemingly be in a less inhabited zone (7 km from the city of Vathy),<sup>42</sup> would only serve to further ghettoize newcomers. Thus, thirdly, aside from negatively impacting on their integration prospects, it would also and potentially serve to provide the space for tensions to arise; tensions which, up to now, have to a large degree been solely avoided precisely due to the current RIC's proximity to the city of Vathy, which provides beneficiaries with, at least, some way to (temporarily) escape from what would otherwise have been life in a secluded –even if open– prison.

To conclude, nevertheless, with ongoing levels of overcrowding not seeming to subside and with the Greek Administration remaining focused on a counter-productive doctrine of enhancing island-based reception and accommodation, rather than addressing the root causes of the problem, it remains highly questionable whether a humane solution is anywhere near in site, either for asylum seekers on Samos, or the rest of the “hotspot” islands.

However, and without diminishing the Greek State's legal and moral responsibility to protect the refugees and asylum seekers found on its territory, it should be acknowledged that, throughout the period discussed (November 2018-March 2019), there have also been significant –even if insufficient– efforts to decongest the island RIC (it is reminded that in November, the population verged towards 5,000), while further such efforts have by necessity stumbled upon the capacity of mainland sites, which has similarly become exhausted. This, in turn, necessarily brings us to the impasses created by the EU-Turkey Statement.

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<sup>40</sup> Naftemporiki, “Samos: Under immediate relocation the RIC for refugees and migrants at Vathy” [«Σάμος: Υπό άμεση μετεγκατάσταση το ΚΥΤ προσφύγων και μεταναστών στο Βαθύ»], 9 October 2018, available at: <https://www.naftemporiki.gr/documents/1400380/samos-y-po-amesi-metegkatastasi-to-kyt-prosfugon-kai-metanaston-sto-bathu>

<sup>41</sup> Naftemporiki, “Samos: In April the new RIC for refugees-migrants” [«Σάμος: Τον Απρίλιο νέο ΚΥΤ προσφύγων-μεταναστών»], 1 February 2019, available at: <https://www.naftemporiki.gr/story/1440524/samos-ton-aprilio-neo-kyt-prosfugon-metanaston>

<sup>42</sup> Samos24, “Vitsas: in the area of “Sfageia” the new RIC” [«Βίτσας: Στη περιοχή «Σφαγεία» το νέο ΚΥΤ»], 15 March 2019, available at: <https://www.samos24.gr/neo-kyt-samoy-sfageia/>.

## An approach doomed to fail: enter the Statement

Why the Statement? Because, at its core, it remains the reason why, upon arrival, forcibly displaced populations are forced to remain on the islands, in facilities which were never envisioned or designed to serve this purpose. The Statement, thus, remains the de facto condition of possibility of the well-known, by now, squalid conditions characteristic of the islands.<sup>43</sup>

*“Numbers speak for themselves...everything [was] designed for 700 persons”<sup>44</sup>*

As was the case with the rest of the “hotspots”, so too the RIC at Vathy, Samos, was never meant to serve as anything but a short-term transit Center,<sup>45</sup> aimed at facilitating the initial and orderly processing of (at the time) high numbers of undocumented arrivals. Specifically, it would have made it possible for Greek authorities –with the support of EU agencies, such as Frontex and EASO– ‘to swiftly identify, register and fingerprint incoming migrants’, while ensuring that ‘those claiming asylum [would have been] **immediately channeled** into an asylum procedure [...]’.<sup>46</sup>

At the time, however, nowhere was it specified or mandated that said “channeling” (or referral) was to be made within the premises of the initial arrival/reception facility (i.e. the RICs or “hotspots”), as has been the case for the past 3 years. It’s worth to notice that trying to avoid the overcrowded conditions characteristic of today’s island-based RICs,<sup>47</sup> the initial Greek response to the “hotspot approach” referred to ‘[a] headquarter Hotspot **in Piraeus** [...] where asylum seekers [would have been] received from different arrival points’.<sup>48</sup> This was in itself a mechanism which, again at the time and especially considering the sheer proportion (close to 1 million) of arrivals, could have served as a significant building block towards establishing a functional system of reception.

Instead, with the Statement and its implementation leading to the practical “reframing” of the EU’s “hotspot approach” as regards its implementation in Greece, and

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<sup>43</sup> ECRE, *The implementation of the hotspots in Italy and Greece*, 9 December 2016, available at: <https://www.ecre.org/ecre-the-implementation-of-the-hotspots-in-italy-and-greece/> and GCR, *Borderlines of Despair: First-line reception of asylum seekers at the Greek borders*, 25 May 2018, available at: <https://www.gcr.gr/media/k2/attachments/SCIZReportZfinalZPDF.pdf>

<sup>44</sup> Interview-discussion with KEELPNO on 13.11.18.

<sup>45</sup> Something, after all, which is explicitly stated in the January 8, 2016, Joint Ministerial Decision for the establishment of both the Samos and Chios island RICs, where reference is made to the establishment of “*First Reception Centers and Temporary Accommodation facilities*”. See Government Gazette, Number 6634/1–147524 –Issue B 10, 8 January 2016, available (in Greek) at: <http://www.odigostoupoliti.eu/sistasi-kentron-protis-ipodochis-ke-prosorinon-domon-filoxenias-politon-triton-choron/>.

<sup>46</sup> European Commission, *Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions: A European Agenda on Migration*, 13 May 2015, p.6, available at: <https://bit.ly/2ktwjtE>.

<sup>47</sup> Or for ensuring compliance with ‘obligations under EU law’, which, after all, take primacy over population management policies, as also highlighted in the EC’s definition of the hotspot approach. See [https://ec.europa.eu/home-affairs/content/hotspot-approach\\_en](https://ec.europa.eu/home-affairs/content/hotspot-approach_en).

<sup>48</sup> European Commission: Migration and Home Affairs, *The Hotspot approach to managing exceptional migratory flows*, 11 September 2015, available at: [https://ec.europa.eu/home-affairs/e-library/multimedia/publications/the-hotspot-approach-to-managing-exceptional-migratory-flows\\_en](https://ec.europa.eu/home-affairs/e-library/multimedia/publications/the-hotspot-approach-to-managing-exceptional-migratory-flows_en)



transforming the RICs into reception *and* long-term accommodation facilities, the conditions for the creation of ‘*some of the most appalling, mismanaged, and dangerous refugee camps in the world*’,<sup>49</sup> also came to be. As for the means? This materialised through the immediate imposition of a geographical restriction on the freedom of movement of post-Statement newcomers, which was normalized through multiple like-spirited decisions issued by consecutive Directors of the Greek Asylum Service,<sup>50</sup> by recourse to the need ‘*to implement the 18-3-2016 Joint EU-Turkey Statement*’.<sup>51</sup> Since then and with the exception of the most vulnerable who, when and if recognized, as such, –considering ongoing gaps and inconsistencies in terms of the primarily psychosocial assessment of newcomers– are exempted from this geographical limitation, undocumented newcomers have been forced to undergo their asylum procedure on the Eastern Aegean islands.

The result has been the well-known by now situation of severe overcrowding characteristic of the islands, which, in itself, has in practice excluded any possibility of “welcoming” forcefully displaced populations under anything but the most deplorable conditions. This, to be noted, despite the exponential decrease in the post-March 2016 number of Greek-bound arrivals, which, jointly considering how the Statement was envisioned as ‘*a temporary and extraordinary measure which [was] necessary to end the human suffering and restore public order*’,<sup>52</sup> and the human suffering and tensions to which it has ultimately resulted, should, in principle, have also led to its abolition.

#### On the non-implementation of the EU-Turkey Statement

It has frequently been argued that overcrowding, and thus the resulting problems on the Eastern Aegean islands, including Samos, stem not from the Statement, as such, but rather from the way in which it has been implemented by the Greek Administration. Namely, that despite the undoubtedly diminished number of arrivals, the Greek state has failed to quickly process and return –let alone “swiftly”– those not eligible for international protection (i.e. “economic migrants”) to Turkey.<sup>53</sup>

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<sup>49</sup> Human Rights Watch, *Déjà vu on the Greek-Turkey Border*, 20 December 2018, available at: <https://www.hrw.org/news/2018/12/20/deja-vu-greek-turkey-border>.

<sup>50</sup> The GAS Director is, as per article 41 (δ,γγ.) of L. 4375/2016, competent for deciding on introducing a limitation of freedom on the movement of asylum seekers, which is to be displayed on their respective asylum seeker cards.

<sup>51</sup> Indicatively, as per article 8 (γ) of the latest (3<sup>rd</sup>) relevant decision, the imposition of the geographical restriction on the freedom of movement of newcomers is justified on the basis of the necessity “*to implement the 18-3-2016 Joint EU-Turkey Statement*”, while also referring (article 7) to up to date practice, based on which Turkey does not accept back asylum seekers whose applications have been rejected, if the latter are not on the islands (i.e. transferred to mainland Greece). See <https://bit.ly/2QDDmkn>.

<sup>52</sup> European Council (press release), *EU-Turkey statement, 18 March 2016*, available at: <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>.

<sup>53</sup> Indicatively, European Commission, *EU-Turkey Statement: 2 years on*, April 2018, available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20180314\\_eu-turkey-two-years-on\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20180314_eu-turkey-two-years-on_en.pdf); Kathimerini, *Refugee situation in Samos worse than Moria, says top EU official*, 2 December 2018, available at: <http://www.ekathimerini.com/235274/article/ekathimerini/news/refugee-situation-in-samos-worse-than-moria-says-top-eu-official> and Kathimerini, “Berlin: the Hot spots contributed significantly to

Though slow processing times, especially with respect to asylum procedures and/or the medical and psychosocial screening of newcomers have been undoubtedly responsible for conditions of congestion in the island RICs (vulnerable asylum seekers are excluded from the island-based restriction), and consequently for the further exposure of already traumatised persons to a series of factors that detrimentally affect their health, sanity and safety,<sup>54</sup> this is only partially accurate.

To start with, and without undermining the Greek State's responsibility and accountability for failing to duly implement its obligations under national, EU and international law, there are limits to the expediency with which asylum applications can be examined. Already the timeframes of the "fast-track border procedure", which – though *exceptionally* introduced in 2016<sup>55</sup> – has been used for the purposes of examining 1<sup>st</sup> and 2<sup>nd</sup> instance (i.e. appeals) asylum applications on the islands and for implementing the Statement, have raised multiple concerns as to the (truncated) asylum procedure's fairness.<sup>56</sup> These have inter alia related to the expedited timeframes detrimentally impacting on the level of procedural safeguards guaranteed to asylum seekers,<sup>57</sup> including on their right to an effective remedy,<sup>58</sup> or the examination focusing on the admissibility rather than the merits of an (asylum) application.<sup>59</sup> All of these, in turn, are factors that increase the risks of returning asylum seekers to countries where they are unsafe, thus risking a violation of the principle of *non-refoulement*.<sup>60</sup> It should

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improving the management of migration in Greece" [«Βερολίνο: Τα hot spots συνέβαλαν σημαντικά στη βελτίωση της διαχείρισης της μετανάστευσης στην Ελλάδα»], 3 January 2019, available at: <https://bit.ly/2Ct3wx0>

<sup>54</sup> Indicatively, see MSF, *Samos: Dangers for the deterioration of the state of health of asylum seekers* [Σάμος: Κίνδυνοι για την επιδείνωση της υγείας των αιτούντων άσυλο], 19 September 2017, available (in Greek) at: <https://msf.gr/magazine/samos-kindynoi-gia-tin-epideinosis-tis-ygeias-ton-aitoynton-asylo> and MSF, *Overcrowded, dangerous and insufficient access to healthcare in Moria*, 4 May 2018, available at: <https://www.msf.org/greece-overcrowded-dangerous-and-insufficient-access-healthcare-moria>.

<sup>55</sup> By means of article 60(4) of Law 4375/2016.

<sup>56</sup> An issue also seemingly raised by the previous Director of the Greek Asylum Service, whom in the period after the Statement's implementation and immediately preceding the publication of L. 4375/2016, had crucially stated that: "*Insufferable pressure is being put on us to reduce our standards and minimise the guarantees of the asylum process... to change our laws, to change our standards to the lowest possible under the EU [Asylum Procedures] directive.*" See John Psaropoulos, "Greek asylum system reaches breaking point", *The New Humanitarian*, 31 March 2016, available at: <https://www.irinnews.org/news/2016/03/31/greek-asylum-system-reaches-breaking-point>.

<sup>57</sup> See OHCHR, *UN Special Rapporteur on the human rights of migrants concludes his follow up country visit to Greece*, 16 May 2016, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19972&LangID=E#sthash.U%20tAn6Vjd.dpuf>.

<sup>58</sup> Indicatively, see European Court of Human Rights, *I.M. v France*, Application No 9152/09, 2/5/2012, available at: <https://www.asylumlawdatabase.eu/en/content/ecthr-im-v-france-application-no-915209-0>; *Jabari v. Turkey*, Application No. 40035/98, 11/7/2000, par. 40, available at: <https://www.asylumlawdatabase.eu/en/content/ecthr-jabari-v-turkey-application-no-4003598-11-july-2000>

<sup>59</sup> For more see AIDA, *Country Report Greece (2017 update)*, March 2018, pp.66-74, available at: <https://www.asylumineurope.org/reports/country/greece>

<sup>60</sup> Indicatively, see UN Committee against Torture (CAT), *Conclusions and Recommendations, Finland*, 21 June 2005, CAT/C/CR/34/FIN, available at: <http://www.refworld.org/docid/42cd73424.html>, p.3; *Consideration of reports submitted by States parties under article 19 of the Convention - Finland*, 29 June 2011, CAT/C/FIN/CO/5-6, available at: <http://www.refworld.org/docid/4ef048ff2.html>, p.3;

therefore be reminded that the act of focusing on slow-processing times with an exclusive view to enhancing the rate of returns and readmissions, both underestimates and undermines the complexity of the asylum procedure, while ultimately risking to (re)expose asylum seekers to danger and/or the forms of inhumane and degrading treatment, which they tried to escape from in the first place.

Secondly, the same view overlooks and/or undermines the impact that the ongoing levels of understaffing have had with respect to the delays exhibited in relevant procedures on the islands. In the case of Samos, for instance, as we were informed during our meeting with the representative of the Regional Asylum Office (RAO),<sup>61</sup> it was estimated that the Asylum Service would have needed more than double the staff –and an expanded facility to place it– in order to be able to cope with the level of needs in a relatively timely manner. Instead, with shortages remaining unresolved, by the end of 2018 the timeframes for the completion of the 1<sup>st</sup> instance asylum procedure had been increasingly pushed towards the future, reaching up to **15 months** between the time of registration of an (asylum) application and the interview,<sup>62</sup> and **up to an additional year** for the finalization of 2<sup>nd</sup> instance procedures,<sup>63</sup> for those appealing against negative first instance decisions.

Yet understaffing, which largely remains characteristic of all public services, is inter alia also attributable to the type of international dynamics, –namely austerity measures even in the “post-bailout” period– which have impacted the State’s ability to adequately staff its services with both temporary and primarily permanent staff.<sup>64</sup> Greece, namely, is still subject to a limitation cap with respect to the number of public sector employees it can have at any given moment,<sup>65</sup> with aspects of this having been also acknowledged by the Commissioner for Human Rights of the Council of Europe, who recently observed that *‘large-scale austerity measures have [...] crippled the health-care*

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*Consideration of reports submitted by States parties under article 19 of the Convention - France*, 20 May 2010, CAT/C/FRA/CO/4–6, available at: <https://bit.ly/2FOq3q2>, pp.3-4; *Concluding observations on the combined 5th and 6th periodic reports of the Netherlands, adopted by the Committee at its 50th session (6-31 May 2013)*, Committee Against Torture, 20 June 2013, CAT/C/NLD/CO/5-6, available at: <https://www.refworld.org/docid/51dff1c84.html>, p.4; *Consideration of reports submitted by States parties under article 19 of the Convention - the Netherlands*, 3 August 2007, CAT/C/NET/CO/4, available at: <https://bit.ly/2OAcRrw>, p.3; UN Human Rights Committee (HRC), *Concluding observations of the Human Rights Committee : Netherlands*, 25 August 2009, CCPR/C/NLD/CO/4, available at <https://www.refworld.org/docid/4aa7aa642.html>, p.3 and CJEU - C-175/11 HID and BA v Refugee Applications Commissioner and Others, 31/1/2013, par. 75, available at: <http://curia.europa.eu/juris/document/document.jsf?docid=133247&doclang=EN>.

<sup>61</sup> Information provided by the Samos RAO during our meeting on 13.11.18.

<sup>62</sup> Based on GCR field team observations in Samos in December 2018.

<sup>63</sup> Information provided by the Samos RAO during our meeting on 13.11.18

<sup>64</sup> Indicatively, the public healthcare sector is reportedly functioning with a deficiency of some 6,500 permanent medical staff. See 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, p. 19, available at <https://rm.coe.int/report-on-the-visit-to-greece-from-25-to-29-june-2018-by-dunja-mijatov/16808ea5bd>

<sup>65</sup> For more, see European Commission, Enhanced Surveillance Report: Greece, November 2018, pp.61-62 and 64-65 available at [https://ec.europa.eu/info/sites/info/files/economy-finance/ip090\\_en.pdf](https://ec.europa.eu/info/sites/info/files/economy-finance/ip090_en.pdf) and Eurofound, *Greece: Reducing the number of public servants – latest developments*, 23 June 2016, available at: <https://www.eurofound.europa.eu/el/publications/article/2016/greece-reducing-the-number-of-public-servants-latest-developments>

*system's capacity to respond to the medical needs of the general population [...]*'.<sup>66</sup> This "population", of course, also includes refugees and asylum seekers whom, aside from having limited and at times no access to healthcare services, also have to cope with the shortages inter alia characteristic of the Greek Asylum Service (GAS) and KEELPNO –the state actor responsible for both the provision of healthcare in the RICs and for conducting medical and psychosocial screenings and assessments; shortages, that is, which are instrumental in the delays observed on most aspects of island-based procedures, thus also contributing to prolonging the entrapment of asylum seekers there.<sup>67</sup>

Lastly, this seemingly dominant view overlooks the relative incompatibility between the Statement's aims and the complicated reality to which it was applied. The Statement, specifically, was and remains a non-legally binding agreement between Heads of States or governments of the EU and Turkey, announced for the purposes of legitimizing the returns of '[m]igrants not applying for asylum or whose application ha[ve] been found unfounded or inadmissible [...]' back to Turkey.<sup>68</sup>

With respect to the latter ("inadmissible decisions"), it suffices to note the very low number of inadmissibility decisions that have been issued by the GAS in the post-Statement era, based on the third safe country clause. Namely, between 2016 and 2018, the number of such decisions has been steadily declining, from 4.85% of the total number of decision issued in 2016, to 1.76% in 2017 and 0.86% in 2018.<sup>69</sup>

Yet, more importantly, from the start of the ongoing political crisis back in the summer of 2015, the majority of those arriving "irregularly" at Greece's sea (and land) borders have been either prima facie refugees (e.g. Syrians) or more broadly persons fleeing well-known environments of war, conflict and persecution (e.g. Afghanistan, Iraq), 'with many', as noted,<sup>70</sup> 'likely to be in need of international protection'.

"We are not here because we are hungry...we have problems in our countries...that is why we are here."<sup>71</sup>

It is indicative, for instance, that out of an estimated total of 235,668 *sea-based* arrivals in Greece between 2016 and 2018, the vast majority (204,415 or roughly **86.7%**), consisted of asylum seekers primarily originating from countries that have consistently

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<sup>66</sup> 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, p. 18, available at <https://rm.coe.int/report-on-the-visit-to-greece-from-25-to-29-june-2018-by-dunja-mijatov/16808ea5bd>

<sup>67</sup> Indicatively, see Kathimerini, "Shortage of doctors delaying refugee transfers to mainland", 18 January 2019, available at: <http://www.ekathimerini.com/236416/article/ekathimerini/news/shortage-of-doctors-delaying-refugee-transfers-to-mainland>

<sup>68</sup> European Council (press release), *EU-Turkey statement, 18 March 2016*, available at: <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>.

<sup>69</sup> As per the relevant statistics provided by the Greek Asylum Service (GAS). The last update up to 28 February 2019 can be found at the following link: [http://asylo.gov.gr/wp-content/uploads/2019/03/Greek\\_Asylum\\_Service\\_Statistical\\_Data\\_GR.pdf](http://asylo.gov.gr/wp-content/uploads/2019/03/Greek_Asylum_Service_Statistical_Data_GR.pdf).

<sup>70</sup> UNHCR, *Desperate Journeys: Refugees and Migrants arriving in Europe and at Europe's borders (January-December 2018)*, January 2019, p.9, available at: <https://data2.unhcr.org/en/documents/download/67712>

<sup>71</sup> Interview-discussion with group of 8 asylum seekers from sub-Saharan African countries on 13.11.18.

exhibited both the highest refugee status recognition rates in Greece,<sup>72</sup> and/or are included in UNHCR’s last available (2017) list of top “refugee-producing” countries.<sup>73</sup> These include nationals of Syria, Afghanistan, Iraq, Iran, Palestine, stateless asylum seekers, as well as asylum seekers from the Democratic Republic of Congo (DRC), for which, however, refugee recognition rates are not provided.

<b>Year</b> (estimated total sea arrivals)	<b>Top 3 Nationalities of sea arrivals</b>	<b>Estimated Number of sea arrivals</b>	<b>Approx. % of total</b>	<b>Known recognition rates (as of February 2019)</b>
<b>2016</b> (173,450)	Syria	80,749	46.6%	99.6%
	Afghanistan	41,825	24.1%	71.3%
	Iraq	26,138	15%	69.0%
<b>2017</b> (29,718)	Syria	12,300	41.4%	99.6%
	Iraq	5,800	19.5%	69.0%
	Afghanistan	3,400	11.4%	71.3%
<b>2018</b> (32,500)	Afghanistan	9,000	27.7%	71.3%
	Syria	7,900	24.3%	99.6%
	Iraq	5,900	18.2%	69.0%

Source: Greek Asylum Service (GAS) and UNHCR.<sup>74</sup>

It becomes evident thus that, for the statistical purposes ultimately underlying the Statement’s implementation (e.g. diminishing the number of arrivals and speeding-up returns), even to this day irregular migration to Greece has kept consisting of, primarily, “refugee-profile” populations, with high chances to be in need of international protection. And though the refugee determination procedure remains –and rightly so– a process to be fulfilled on a case-by-case basis without prejudice towards beneficiaries’ nationalities, this further serves to question not only the Statement’s applicability in the case of Greece, but also its ultimate relevance.

<sup>72</sup> As per the relevant statistics provided by the Greek Asylum Service (GAS). The last update up to 28 February 2019 can be found at the following link: [http://asylo.gov.gr/wp-content/uploads/2019/03/Greek\\_Asylum\\_Service\\_Statistical\\_Data\\_GR.pdf](http://asylo.gov.gr/wp-content/uploads/2019/03/Greek_Asylum_Service_Statistical_Data_GR.pdf)

<sup>73</sup> UNHCR, *Global Trends: Forced Displacement in 2017*, 25 June 2018, pp. 14-15, available at: <https://www.unhcr.org/5b27be547.pdf>

<sup>74</sup> For an extended breakdown see ANNEX I. For the data for 2016, 2017 and 2018, see UNHCR, *Refugees & Migrants Sea Arrivals in Europe: Monthly Data Update, (December 2016)*, 31 December 2016, p.4, available at: <https://data2.unhcr.org/ar/documents/download/53447>, UNHCR, *Refugees & Migrants Arrivals to Europe in 2017 (January-December 2017)*, 31 December 2017, available at: <https://data2.unhcr.org/es/documents/download/62023> and UNHCR, *Desperate Journeys: Refugees and Migrants arriving in Europe and at Europe’s borders (January-December 2018)*, January 2019, p.8, available at: <https://data2.unhcr.org/en/documents/download/67712>, respectively.



## Recommendations

As briefly illustrated by the case of Samos, three years on, following the implementation of the EU-Turkey Statement, the situation for asylum seekers on the Greek islands remains largely the same, proving for yet another time not only the Statement's human and human rights costs, but also the impasses and ultimately contradictions created in its aftermath. In this context and with a view to re-positioning human rights at the forefront of the agenda, Greece, with the support of EU member states, should consider and ultimately move forward with implementing the following non-exhaustive list of recommendations:

1. Reconsider the “benefits” of the EU-Turkey Statement and immediately cease the imposition of a geographical restriction to the freedom of movement of asylum seekers on the eastern Aegean islands. Asylum seekers should be quickly registered and transferred to the Greek mainland, so as to avoid the ongoing vicious circle of despair and suffering.
2. Reconsider the safe-third country clause, which by distinguishing between admissible and inadmissible asylum applications inserts a flawed interpretation of the Geneva Convention, ultimately diverting the responsibility to protect persons in need of international protection while further consolidating a practice of responsibility-denial.
3. Create appropriate and effective, safe legal channels for asylum seekers to reach the EU. The current system of voluntary relocations, though commendable in spirit, is nowhere near sufficient, nor does it rescind the legal and moral obligation to respect international, EU and national human rights law.
4. As part of ongoing discussions on the Common European Asylum System (CEAS), the Dublin Regulation should be reconsidered so as to allow for the possibility for sharing, rather than outsourcing responsibilities at the fringes of the EU (or beyond). This is the only way forward towards a truly common system that would not expect from a few countries to fulfill the human rights responsibilities of a continent.
5. Drastically improve conditions at the RICs, by primarily ensuring the timely registration of newcomers and their subsequent transfer to appropriate accommodation in the mainland, where asylum seekers will be able to live in humane and decent conditions for as long as their asylum applications are examined. To the extent possible, accommodation should be provided in suitable spaces (e.g. apartments) within residential areas, so as to also facilitate applicants' first steps towards integration.
6. Towards this aim, the capacity of the RIS and all island-based Services should also be properly staffed, so as to facilitate the timely processing of arrivals.
7. Take all necessary steps to speed-up the asylum procedures, while ensuring that all asylum seekers have access to proper information and legal support, both during registration and prior to their interview.



## ANNEX I

<b>Year</b> (estimated total sea arrivals)	<b>Most common Nationalities of sea arrivals</b>	<b>Estimated Number of sea arrivals</b>	<b>Approx. % of total</b>	<b>Known recognition rates (as of February 2019)</b>
<b>2016</b> (173,450)	Syria	80,749	46.6%	99.6%
	Afghanistan	41,825	24.1%	71.3%
	Iraq	26,138	15%	69.0%
	Pakistan	8,793	5%	2.4%
	Iran	5,203	3%	60.1%
	Other	10,407	6%	-
<b>2017</b> (29,718)	Syria	12,300	41.4%	99.6%
	Iraq	5,800	19.5%	69.0%
	Afghanistan	3,400	11.4%	71.3%
	DRC	900	3%	Not provided
	Algeria	800	2.7%	3.6%
	Palestine	700	2.4%	97.1%
	Iran	700	2.4%	60.1%
	Stateless	500	1.7%	89.9%
	Cameroon	500	1.7%	Not provided
	Pakistan	500	1.7%	2.4%
	Kuwait	400	1.3%	Not provided
Morocco	300	1%	13.4%	
<b>2018</b> (32,500)	Afghanistan	9,000	27.7%	71.3%
	Syria	7,900	24.3%	99.6%
	Iraq	5,900	18.2%	69.0%
	DRC	1,800	5.5%	Not provided
	Palestine	1,600	4.9%	97.1%

Source: Greek Asylum Service (GAS) and UNHCR.





Administrative detention in Greece:  
Findings from the field (2018)

EXECUTIVE SUMMARY

The implementation of measures of administrative detention in Greece constitutes a widespread practice within the framework of asylum and immigration management, which affects a significant number of third-country nationals, including those seeking international protection. The number of persons on whom such measures are imposed is one of the highest among all EU Member States. Especially following the implementation of the EU-Turkey Statement and due to the continuous pressure to increase the detention capacity and the number of returns, the use of deprivation of liberty measures has increased significantly. , At the end of 2017, the number of persons in administrative detention in Greece was increased by 60% compared to 2016. This trend was also confirmed in 2018 (32,718 detention decisions compared to 25,810 in 2017).

In 2018, the Greek Council for Refugees (GCR), provided legal aid services to more than 1,200 third-country nationals who remained in administrative detention in the 8 pre-removal detention centres (PRDC/PROKEKA) across the country, as well as in police stations. Legal assistance to third country nationals in administrative detention has been provided within the context of the implementation of programmes supported by the UNHCR, as well as the Dutch Council for Refugees, Médecins Sans Frontières, Oxfam, UK Mercy Mission and the International Committee of the Red Cross (ICRC).

The Report “Administrative detention in Greece. Findings from the field (2018)” details the basic findings of GCR concerning the practice of administrative detention in Greece in the year 2018, , as those arise from the experience of GCR and presents indicative cases supported in 2018. Such findings include structural and longstanding problems related to the imposition of detention measures in Greece, as well as new practices which raise issues as to their legality. *Inter alia*, GCR findings include:

**1. Lack of unhindered access to the asylum procedure; as a result, third-country nationals who do not manage to apply for international protection remain exposed to the risk of arrest and detention.** As it was also the case during previous years, in 2018 GCR met with third-country nationals who, following repeated unsuccessful attempts to make an appointment (via Skype) with the Asylum Service, in order to apply for international protection, were eventually arrested because of the lack of legal documentation and were detained for implementing the return procedure, although they

previously did not have the opportunity in practice to apply for international protection.

**2. Delays in the full registration of asylum applications lodged by detainees, resulting in the deprivation of basic procedural guarantees and in delays as regards the asylum procedure in detention.** GCR has observed delays in the full registration of applications for international protection for a period ranging from one to four months, during which the detainees are deprived of the procedural guarantees provided to asylum applicants. Furthermore, since the time between the expression of intention of the detainee to apply for asylum and the full registration of the application is not counted in the duration of detention of an asylum seeker, applicants for international protection may be detained for a period exceeding the maximum time limits of 3 months. Delays are also observed with regards to the conduct of the asylum procedure *per se* in detention. This is for example, the case of a detainee in the Corinth PRDC whose personal interview has been scheduled after the expiry of the initial 45-day detention period. Following a relevant GCR intervention, the Greek Ombudsman underlined that “where the observed delays in the asylum procedure cannot be attributed to the applicant, they do not justify the extension of detention beyond the initially determined 45-day period”. Respectively, in another case where the examination of the detainee’s appeal was scheduled on a date after the maximum detention period, the competent Court ruled that “detention is not necessary, as it does not serve any of the purposes as restrictively indicated in the law”, Judgment No 407/2018 of the First Instance Administrative Court of Kavala.

solely on a prior prosecution for a minor offence, even if no conviction has ensued, or in cases where the person has been released by the competent Criminal Court after the suspension of custodial sentences. The Ombudsman has once again criticised this practice.<sup>15</sup>

**3. Detention of third-country nationals on public order grounds, which are not duly justified as required by law.** The invoked public order grounds are often based solely on minor offences and apply even where the competent Criminal Courts have imposed small or very small (few-day) sentences with suspension, which demonstrates that the competent Criminal Courts have already ruled that no public order grounds apply. For example, a woman, of Iranian nationality, was detained on public order grounds on the basis of a conviction imposing 40-day sentence with a three-years suspension by the Single-Member Misdemeanors Court of Athens, for the offences of illegal exit from the country and use of false travel documents. According to the Greek Ombudsman, such practices create “issues of misuse of power, undermining of the law and infringement of the principle of separation of powers”.

**4. The imposition of the measure of detention against persons who belong to vulnerable groups, including families with minors and unaccompanied children, has not stop during 2018.** Moreover, persons belonging to vulnerable groups were often detained in completely inappropriate conditions and were not provided with the appropriate medical care. The deprivation of freedom of vulnerable persons constitutes, by definition, an extremely burdensome and disproportionate measure, which does not comply with the guarantees prescribed by law. During the previous year, GCR handled cases of single-

### 3 | Administrative detention in Greece: Field findings (2018)

parent families, as well as cases of people, who, among others, were victims of tortured or had serious health, including mental health, problems. Due to the absence of sufficient places in accommodation facilities, unaccompanied children remain detained in completely inappropriate places for periods ranging from a few days to many months, depending on the circumstances, under the pretext of “protective custody”, which is a *de facto* detention measure. In some cases, unaccompanied children remain under protective custody for prolonged periods during which they reach adulthood. Subsequently, instead of being transferred to an accommodation facility, they remain detained in the context of removal procedures. This is for example the case of a minor, citizen of Pakistan, who reached adulthood during his five-month stay under protective custody in the Reception and Identification Centre (RIC) of Evros and he was transferred to the PRDC of Paranesti, where he was placed in detention in order to be returned. Moreover, unaccompanied minors in detention are deprived of any procedural guarantees with regards the age assessment procedure due to the lack of a legislative framework regulating the age assessment procedure for persons under the responsibility of the police. This is for example the case of an unaccompanied minor, citizen of Bangladesh, who was wrongfully registered as an adult and was placed in detention, together with adults, in the Tavros PRDC. Due to the lack of an age assessment procedure, and despite the fact that he had in his possession the original birth certificate, he was subjected to medical examinations, which have a significant margin of error by their nature. On the basis of these examinations he was considered as an adult. Following an intervention by GCR, the authenticity of the original document was confirmed, he was registered as a minor and the procedure for finding the appropriate accommodation facility began. In November 2018, the European Council on Refugees and Exiles (ECRE) and the International Commission of Jurists (ICJ), with the support of the Greek Council for Refugees, lodged a Collective Complaint before the European Committee of Social Rights of the Council of Europe. The complainant organisations requested *inter alia*, the practice of detention / “protective custody” of unaccompanied minors to be considered as a violation of the right to accommodation and of the right of children and young people to protection, as enshrined in the Revised European Social Charter.

5. In the context of the implementation of the EU-Turkey Statement, third-country nationals, arrested on the mainland, in breach of the imposed geographical limitation, are automatically detained in order to be returned to the Northeast Aegean islands, where in many cases they remain detained. The detention measure is imposed systematically and indiscriminately, without taking into account the legal status of **the person concerned** (e.g. the status of asylum applicant) or examining the reasons for which they left the island, the living conditions there or any possible vulnerabilities, which would in any case lead to the **lift** of the **geographical limitation**. **This is for example the case of** a Syrian citizen **who** left the island of Lesbos in mid-January 2018 because of the living conditions in the **RIC** of Moria. **He** was arrested on the mainland a few days later, and was placed automatically in detention in the pre-removal detention centre of Tavros in order to be returned to Lesbos. The First Instance Administrative Court of Piraeus upheld the Objections **against** detention lodged with the support of GCR, **and underlined** that “...The applicant was under a geographical limitation not to leave Lesbos island and to remain at

#### 4 | Administrative detention in Greece: Field findings (2018)

the RIC of Moria. However, the violation of the geographical restriction was justified due to a threat against the physical integrity of the applicant given the conditions prevailing in the RIC of Moria on **Lesvos**

”, Judgment No 94/2018 of the First Instance Administrative Court of Piraeus.

**6. Arbitrary detention in cases of alleged push-backs.** Repeated testimonies indicate that newly arrived persons at the Evros region are arrested, arbitrarily detained in appalling conditions and summarily returned to Turkey without being given the opportunity to apply for international protection in Greece. As recorded in a relevant testimony, “[w]e were in a totally unsuitable space for about 24 hours, we couldn’t breathe [...] The police officers had their faces covered to obscure their identity, they held clubs, and they spoke in loud and threatening voices for most of our stay there [...] we boarded a military vehicle where we could hardly breathe; [...] there were also families brought from another detention facility [...] some of them told us in English that this was the third time that they failed to enter the country and they were being returned to Turkey, while for one of them it was the seventh attempt”. Up to now, such practices have not been promptly and effectively investigated by the Greek authorities, despite the recommendations of international and national institutions for the protection of human rights.

**7. (Pre-RIC) detention of newly arrived third-country nationals from Evros, in order for them to be subjected to the procedures of reception and identification in the RIC of Fylakio (Evros),** despite the lack of a relevant legal basis in Greek legislation. This is for example the case of a citizen of Iraq who entered Greece from Evros. He was arrested and detained at the PRDC of Xanthi, waiting to be transferred to the RIC of Fylakio (Evros) and to be subjected to reception and identification procedures, for a period longer than one month. The competent Court, *inter alia* noted that “any delays as of the conduct of the administrative procedures which cannot be attributed to the detainee, do not constitute legal grounds for the continuation of their detention for a period exceeding the reasonable time limits, [even] by taking into consideration the significant difficulties in handling the increased number of people entering the country irregularly” and ordered the person either to be transferred immediately to the RIC of Fylakio or released, Judgment 240/2018 of the First Instance Administrative Court of Komotini.

**8. Extremely problematic practices are applied in the Northeastern Aegean islands as regards the obligation to impose a detention measure following an individual assessment, the right of access to judicial protection and the obligation to respect the principle of non-discrimination, due to the pressure to implement the EU-Turkey Statement and to increase the number of readmissions.** Therefore, a so-called “pilot project” to manage newly arrived third-country nationals implemented already since 2017 and continued throughout 2018, in Lesvos and Kos and to a certain extent in Leros,. Pursuant to the project, single men who are third-country nationals and belong to a low recognition rate nationality as regards international protection, are automatically placed in detention upon their arrival, in order for the entire asylum procedure to take place in detention, and to be returned to Turkey in case of rejection of the asylum application / non-exercise or rejection of legal remedies. This is for example the case of a Cameroon



## 5 | Administrative detention in Greece: Field findings (2018)

citizen who was placed in detention immediately after his arrival in Lesbos, lodged an asylum application from detention and remained detained for the maximum three-month period. After his release, he was finally recognised as a refugee.

**9. Furthermore and according to the practice, asylum applicants who** remain on the Northeastern Aegean islands, are arrested and automatically placed in detention, following the service of the second-instance rejection decision, in order to be readmitted to Turkey, with no individual assessment or examination of the necessity of the imposed measure. This is for example the case of a Syrian citizen who was arrested in Chios immediately after the service of the second-instance rejection decision on his application for international protection. The competent Court noted *inter alia* that “it was not found that the objecting person violated the restrictive conditions imposed on him while the examination of his asylum application was pending” and ordered his release, Judgment No 333/2018 of the First Instance Administrative Court of Mytilene,

**10. Detention conditions continue to violate fundamental rights and in many cases amount to inhuman and degrading treatment.** . Police cells in police stations and police headquarters, which are by their nature inappropriate for prolonged detention were still used throughout 2018. According to GCR findings, these detention places have no access to a yard, and detainees never have the opportunity of outdoor exercise or access to an outdoor area, third-country nationals (administrative) detainees are detained together with persons facing criminal proceedings, there is lack of sufficient natural light and ventilation, sanitation conditions are poor, the use of mobile phones is not allowed, there is no recreational activity whatsoever, no medical services are provided, and there is no appropriate space for visits or cooperation with a lawyer. At the end of 2018, almost 1/3 of the administrative detained third-country nationals in Greece remained detained in police stations (835 detainees out of a total of 2,933). Respectively, in many cases, detention conditions prevailing in pre-removal detention centres (PRDC) do not meet basic standards, despite the fact that these facilities were established specifically for the detention of third-country nationals.. This is for example the case of Tavros (Petrou Ralli) PRDC, which, according to the European Committee for the Prevention of Torture (CPT), due to its “carceral design [...] [is] totally inadequate for holding irregular immigrants for short periods of time, let alone weeks or months” and the PRDC of Fylakio where, during 2018, detainees remained in overcrowded dorms (of about 60-70 people) with extremely limited access to the outdoor area. Access to medical services is also extremely limited in pre-removal detention centres. At the end of December 2018, out of the total 20 advertised positions for doctors, only 9 were filled.

**11. Effective judicial protection of third-country nationals under detention,** including asylum seekers, is seriously undermined by systemic problems and practices, observed also in 2018, such as the lack of free legal aid scheme to challenge detention and the ineffectiveness of the legal remedy provided by national **law to challenge detention (Objections against detention)**. Main issues related to the effectiveness of the legal remedy of objections against detention include *inter alia*:

» the absence, in practice, of a contradictory procedure within the context of the

## 6 | Administrative detention in Greece: Field findings (2018)

Objections, as the Administration as a rule does not appear before the Court

- » the lack of a second instance examination and the possibility to appeal against a first instance negative decision,
- » the lack of thorough examination of the detention conditions. This is for example the case of a Syrian citizen, who was detained for a period of two months in a police station, which is *per se* not suitable for prolonged detention. The allegation regarding detention conditions was rejected on the ground that “his allegations that the conditions of detention at the police station were inappropriate [...] are not proven”, Judgment 170/2018 of the First Instance Administrative Court of Rhodes.
- » The prioritisation of the examination of the “risk of absconding” over other allegations related to the lawfulness of detention, which results in the non-examination of crucial allegations. This is for example the case of a vulnerable detainee who was hospitalised in the Psychiatric Hospital of Athens and submitted before the Court a medical opinion indicating that he showed self-destructive behaviour. The Objections against detention were rejected on the grounds that there was a risk of absconding, without taking into account the vulnerability of the detainee and the effect of detention on his health, Judgment 1952/2018 of the First Instance Administrative Court of Piraeus.
- » Systematic imposition of restrictive conditions/ alternative measures, where the Objections are upheld.

Finally, the control of detention within the context of *ex officio* judicial examination remains stereotypical and automated. In 2018, out of a total of 1,359 detention decisions (return and asylum) referred to the First Instance Administrative Court of Athens in order to be examined under the *ex officio* judicial examination procedure, it was only in 4 cases (0.2%) where the continuation of detention was not approved

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The increased number of detainees over the last years, as a consequence, *inter alia*, of the implementation of the EU-Turkey Statement, a trend which was also confirmed in 2018, constitutes an alarming phenomenon, connected to fundamental rights violations of the persons against whom this measure is imposed. In a number of cases, these are related to administrative shortcomings, such as the problematic access to the asylum and delays in the asylum procedure while in detention. In addition, the insistence on using the measure of detention, as also demonstrated in the findings of GCR for the year 2018, often in breach of the guarantees prescribed by law and the international framework, raises concerns regarding the respect of basic fair State guarantees in the imposition of the measure and, at the same time, indicates that the measure is used in a punitive manner, contrary to its administrative nature. *A fortiori*, the insistence on using substandard detention facilities, including the absolutely inappropriate police cells, exposes third-country nationals subjected to the measure to a real risk of inhuman and degrading treatment, in breach of the guarantees of Article 3 of the ECHR and, at the same

time it exposes Greece to the risk of new convictions before international jurisdiction.

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