SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE OF MINISTERS
COMITÉ DES MINISTRES

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Contact: John Darcy
Tel: 03 88 41 31 56

Date: 09/05/2019

DH-DD(2019)515

Meeting: 1348th meeting (June 2019) (DH)

Communication from a NGO (Greek Council for Refugees (GCR)) (24/04/2019) in the M.S.S. group of cases v. Belgium and Greece (Application No. 30696/09)

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

* * * * * * * * * * * *

Réunion : 1348e réunion (juin 2019) (DH)

Communication d'une ONG (Greek Council for Refugees (GCR)) (24/04/2019) dans le groupe d'affaires M.S.S. c. Belgique et Grèce (requête n° 30696/09) **(*anglais uniquement*)**.

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

GREEK COUNCIL FOR REFUGEES

SUBMISSION OF THE GREEK COUNCIL FOR REFUGEES
TO THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE
IN THE CASE OF M.S.S. v. BELGIUM & GREECE
(Appl. No 30696/09) AND RELATED CASES

1348th (Human Rights) meeting (June 2019) (DH)

The Greek Council for Refugees (GCR) is a Greek Non-Governmental Organization, founded in 1989, which provides legal assistance and social support to persons in need of international protection in Greece. *Inter alia*, the Greek Council for Refugees has a consultative status in the UN Economic and Social Council (ECOSOC) since 2001 and participates in the Greek National Commission for Human Rights (GNCHR) since 1999.

During the previous years, GCR has communicated to the Committee of Ministers of the Council of Europe a series on selected issues, within the framework of the execution of the ECtHR judgment M.S.S. v. Belgium and Greece (appl. no. 30696/09) according to art. 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

Without underestimating the progress made since the issuance of the M.S.S. judgment in 2011, the Greek asylum and reception system faces new challenges, while a number of systemic and endemic shortcomings persist. In particular, the impact of the closure of the so-called Balkan route in 2016, which resulted in an important number of applicants remaining and applying for asylum in Greece, and the impact of the implementation of the EU-Turkey Statement on the asylum procedure and the reception conditions in Greece, should be assessed.

In March 2019, the latest update of the AIDA Country Report on Greece – drafted by the Greek Council for Refugees- has been published under the Asylum Information Database platform, managed by the European Council for Refugees and Exiles (ECRE). Said Report tracks numerous legislative, policy and practice developments relating to the asylum procedure, reception conditions, detention of asylum seekers and protection of minors in Greece.

Pursuant to Art 9(2) of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, GCR would like to submit to the Committee of Minister the recent updated AIDA Country Report on Greece-

GREEK COUNCIL FOR REFUGEES

annexed to the present document, with a view to assisting the latter in its evaluation of the execution of the *M.S.S. v. Belgium and Greece*, the measures taken to date and the situation that applicants face in practice.

Inter alia the updated AIDA Report on Greece, documents and further analyses the following issues:[1]

Access to the Asylum Procedure:[2] Without underestimating the number of applications lodged in 2018 (66,969), access to asylum on the mainland continued to be problematic throughout 2018. Access to the asylum procedure for persons detained in pre-removal facilities is also a matter of concern. 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.

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 does not have the possibility of seeing his application registered for a long time".[3]

Push backs:[4] 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 as well. The persistent allegations of summary returns (push backs) 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

[1] All data mentioned below are based on the official data provided by the Greek Authorities or other actors as mentioned. The exact sources and more detailed analysis can be found in the respective chapters of the AIDA Report on Greece, Update 2018, annexed to the present document. Information are updated as of 31 December 2018, unless otherwise stated.
[2] AIDA Report on Greece, Update 2018, pp. 39-42.
[3] ECtHR, *A.E.A. v. Greece*, application no 39034/12, 15 March 2018, para 85.
[4] AIDA Report on Greece, Update 2018, pp. 27-29.

GREEK COUNCIL FOR REFUGEES

boat from Greece to Turkey at the Evros River border by 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.[5]

Capacity of the Asylum Service and duration of the procedure:[6] 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. Moreover, 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. Following a reform introduced in May 2018, in case of urgent need, Greek-speaking EASO personnel can carry out any administrative procedure needed for processing applications. i.e. including in the regular procedure.

The capacity of the Asylum Service should be assessed by taking into consideration the fact that while the number of EU-wide asylum applications dropped by 10% compared to 2017, the number of applications with the Greek Asylum Service rose by 14%; 66,969 applications in 2018 compared to 58,642 in 2017. Greece received 11% of the total number of applications submitted in the EU, meaning that it was the Member State with the third largest number of applications, following Germany (28%) and France (19%). In 2018, Syrians continued being 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.

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 prolonged periods is likely to increase in the future, as well as the processing time. More precisely, out of the total of 58,793

[5] CBC, Greek prosecutor investigating allegations of 'systematic' violence against migrants at Evros River, 6 March 2019, available at: https://bit.ly/2UqzaGr.
[6] AIDA Report on Greece, Update 2018, pp. 22-25 and 42-46.

GREEK COUNCIL FOR REFUGEES

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.

Indicative examples include the case of an Afghan minor asylum seeker whose registration took place on December 2018 and his interview was scheduled for February 2023 before the Thessaloniki RAO, the case of a Syrian family that was registered on Samos, in September 2018 and scheduled for interview in February 2021 before the Attica RAO, the case of a Palestinian six-member family registered on Leros on March 2019 whose interviews were scheduled for July 2021 before the RAO of Attica and several cases of Turkish asylum seekers whose interviews have been scheduled between 2022 and 2025 at the RAO of Attica. 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.

Appeal:[7] 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 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.

In additon, no operating "backlog" Appeals Committes, 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 appelants have to wait for years in order the examination of their asylum application to be finalised.

Fast-track border procedure:[8] 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, 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

[7] AIDA Report on Greece, Update 2018, pp. 47-55
[8] AIDA Report on Greece, Update 2018, pp. 73-83.

GREEK COUNCIL FOR REFUGEES

applying for asylum at the border raise "serious concerns over due process guarantees".[9] 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."[10] 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 unsurmountable."[11]

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 outdated insofar as they do not take into account developments after that period, such as the current legal framework in Turkey, including the derogation from the principle of *non-refoulement*. Second instance decisions issued by the Independent Appeals Committees for Syrian applicants systematically uphold the first instance inadmissibility decision, if no vulnerability is identified. Thus, the risk of chain-refoulment remains high.

Legal assistance:[12] No state-funded free legal aid is provided at first instance, nor is there an obligation to provide it in law. Thus free legal assistance and counselling to asylum seekers at first instance is only provided by a number of civil society organisations. 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 wellcome development, a state-funded legal aid scheme in the appeals procedure, on the basis of a list managed by the Asylum Service, exists for the first time in Greece as of September 2017. However, 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

---

[9] 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.

[10] 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.

[11] 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.

[12] AIDA Report on Greece, Update 2018, pp. 56-58.

GREEK COUNCIL FOR REFUGEES

Memorandum of Cooperation with the Ministry of Migration Policy in 2018. This scheme was concluded by the first trimester of 2018.

Judicial Review:[13] 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 have an automatic suspensive effect. Therefore, and contrary to the case law of the ECtHR, between the application of suspension and the decision of the Court, there is no guarantee that the applicant will not be removed from the territory. The Administrative Court can only examine the legality of the decision and not the merits of the case, while the overall procedure is reported lengthy.

Reception Capacity:[14] The number of reception places for asylum applicants in Greece has increased since 2016, mainly through temporary camps and the UNHCR accommodation scheme. Despite this increase, destitution and homelessness remain a risk. The capacity of the reception system in Greece, and compliance with the obligations under the EU Reception Directive, should be assessed by taking into consideration the total number of asylum applicants remaining in Greece, i.e. 58,793 first instance asylum applicants and about 17,300 appellants,[15] with pending cases by the end of 2018.

Official data as of the capacity and occupancy of the mainland sites, initially created as emergency accommodation facilities, are not available, however, as reported, a number of 16,110 persons were accommodated as of September 2018. Moreover, in December 2018, 22,686 people were accommodated under the UNHCR accommodation scheme (ESTIA), dedicated in principle to vulnerable applicants, 17,037 of whom 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 alone

[13] AIDA Report on Greece, Update 2018, pp. 54-55.
[14] AIDA Report on Greece, Update 2018, pp. 121-126.
[15] 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.

GREEK COUNCIL FOR REFUGEES

(hotspots) was of 6,438 places, while 11,683 persons were residing there under a geographical restriction.

Reception conditions:[16] As widely documented, conditions in Reception and Identification Centers ('hotspots') on the islands remain substandard and may reach the threshold of inhuman and degrading treatment in a number of cases. Overcrowding, lack of basic services, including medical care, limited sanitary facilities, violence and lack of security, pose significant protection risks. The mental health of the applicants on the islands is reported to be aggravating. Sexual harassment and violence, including against men and boys, is a major risk in the RICs. 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". The practice of geographical limitation imposed to newly arrived persons to the Greek islands has led to a significant overcrowding of 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. Throughout the year the situation in Samos and Lesvos and to a certain extend Chios has reached a boiling point. As a means of addressing the situation, in the course of the last trimester of 2018 transfers to mainland have been accelerated. However, despite the accelerated transfers, by the end of 2018 5,100 applicants were remaining in the RIC of Lesvos, which has a nominal capacity of 3,100 places. The population in the RIC of Samos remained five times over the centre's capacity. Even in the other facilities where overcrowding has not reached such levels, the situation is 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, the occupancy was at 936 and on the RIC of Kos, with a capacity of 816, the occupancy was at 762.

On the mainland, even if the capacity of the camps has been increased, the shortage of accommodation on a country-wide level is leading to the overcrowding of many mainland camps, creating tensions and increasing protection risks for the residents. SGBV violence is also a major risk in some mainland sites. In any event it should be mentioned that camps *per se* are not suitable for long term accommodation.

Due to shortages in special accommodation for minors, many unaccompanied and separated 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 (see below).

[16] AIDA Report on Greece, Update 2018, pp. 127-132.

GREEK COUNCIL FOR REFUGEES

Detention of asylum seekers:[17] The total number of asylum seekers detained throughout the year 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.

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 detetnion are examined or applied in practise. A practice of automatic, upon arrival, detention of certain categories of asylum seekers is reported on Lesvos, Kos and to a certain extend on Leros island.

Detention conditions:[18] Despite the fact that good practices, such as allowing detainees to use their mobile phones, have been adopted in some pre-removal detention facilities, 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.

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".[19] However, in April 2018 regarding the provision of health care in pre-removal centers, the CPT has found that "the available resources are totally inadequate compared to the needs observed. The number of health-care staff in each of the centers 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".[20] 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.

[17] AIDA Report on Greece, Update 2018, pp. 145-163.
[18] AIDA Report on Greece, Update 2018, pp. 164-170.
[19] Council of Europe Committee of Ministers, *1288th 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.
[20] 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.

GREEK COUNCIL FOR REFUGEES

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 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:[21] The ability of detainees to challenge their detention before domestic Courts by submitting "Objections against Detention" 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.

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".[22] 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 in another island.[23]

Additionally, to a large extend, 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. In 2010, national legislation was amended, in order for domestic remedy to be brought in line with ECHR standards. However, 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,[24] and that "the applicant did not have the benefit of an examination of the lawfulness of his detention to an extent

[21] AIDA Report on Greece, Update 2018, pp. 170-173.-42

[22] CPT, *Report on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, paras 78-80.

[23] 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.

[24] 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.

GREEK COUNCIL FOR REFUGEES

sufficient to reflect the possibilities offered by the amended version" of the law.[25] 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.

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%).

Unaccompanied minors:[26] In a positive development, 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 March 2019.

Moreover, additionally to the lack of an effective guardianship system for a unaccompanied minors in Greece, major protection risks persist. These include:

- The lack of sufficient accommodation capacity, which 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-

[25] ECtHR, *S.Z. v. Greece*, application No 66702/13, 21 June 2018, para 72.
[26] AIDA Report on Greece, Update 2018, pp. 91-95, 99-101, 138-143 and 158-162.

appropriate shelters or other facilities. Others stay in informal housing or risk homelessness".

- 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.

GREEK COUNCIL FOR REFUGEES
Athens, 23 April 2019

aida
Asylum Information Database

Country Report: Greece

2018
Update

GREEK COUNCIL FOR REFUGEES

ecre
European Council on Refugees and Exiles

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. 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

Glossary

EU-Turkey statement	Statement of Heads of State or Government of 18 March 2016 on actions to address the refugee and migration crisis, including the return of all persons irregularly entering Greece after 20 March 2016 to Turkey.
Fast-track border procedure	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.
Objections	Procedure for challenging detention before the President of the Administrative Court, whose decision is non-appealable
Old Procedure	Asylum procedure governed by PD 114/2010, applicable to claims lodged before 7 June 2013
Reception and Identification Centre	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 **Fylakio**, **Lesvos**, **Chios**, **Samos**, **Leros** and **Kos**.

List of Abbreviations

AEMY	Health Unit SA | Ανώνυμη Εταιρεία Μονάδων Υγείας
AIRE	Advice on Individual Rights in Europe
AMIF	Asylum, Migration and Integration Fund
AMKA	Social Security Number | Αριθμός Μητρώου Κοινωνικής Ασφάλισης
AAU	Autonomous Asylum Unit | Αυτοτελές Κλιμάκιο Ασύλου
AVRR	Assisted Voluntary Return and Reintegration
CERD	United Nations Committee on the Elimination of Racial Discrimination
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EKKA	National Centre of Social Solidarity | Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης
ELIAMEP	Hellenic Foundation for European and Foreign Policy | Ελληνικό Ίδρυμα Ευρωπαϊκής και Εξωτερικής Πολιτικής
ESTIA	Emergency Support To Integration and Accommodation
GCR	Greek Council for Refugees
JMD	Joint Ministerial Decision
KEA	Social Solidarity Income | Κοινωνικό Επίδομα Αλληλεγγύης
KEELPNO	Hellenic Centre for Disease Control and Prevention | Κέντρο Ελέγχου και Πρόληψης Νοσημάτων
L	Law
MD	Ministerial Decision
NCHR	National Commission for Human Rights
PACE	Parliamentary Assembly of the Council of Europe
PD	Presidential Decree
RIC	Reception and Identification Centre (formerly First Reception Centre)
RIS	Reception and Identification Service (formerly First Reception Service)
RAO	Regional Asylum Office | Περιφερειακό Γραφείο Ασύλου
UNHCR	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,[1] 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
Total	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.

[1] Asylum Service, *Statistical data*, available at: http://asylo.gov.gr/en/?page_id=110.

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

	Number	Percentage
Total number of applicants	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**
Total number of decisions	30,748	-	6,178	-
Positive decisions	15,189	49.4%	271	4,3%
Refugee status	12,611	41%	176	2.8%
Subsidiary protection	2,578	8.4%	95	1.5%
Referral for humanitarian status	-	-	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
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	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/Α/3-4-2016	L 4375/2016 (Asylum Act)	http://bit.ly/2kKm2cu (EN) http://bit.ly/234vUhP (GR)
Amended by: Law 4399/2016, Gazette 117/A/22-6-2016	*Τροπ.:* Νόμος 4399/2016, ΦΕΚ 117/Α/22-6-2016		http://bit.ly/2lKABdD (GR)
Amended by: Law 4461/2017, Gazette 38/A/28-3-2017	*Τροπ.:* Νόμος 4461/2017, ΦΕΚ 38/Α/28-3-2017		http://bit.ly/2y0vNq5 (GR)
Amended by: Law 4485/2017, Gazette 114/A/4-8-2017	*Τροπ.:* Νόμος 4485/2017, ΦΕΚ 114/Α/4-8-2017		http://bit.ly/2FLLM3H (GR)
Amended by: Law 4540/2018, Gazette 91/A/22-5-2018	*Τροπ.:* Νόμος 4540/2018, ΦΕΚ 91/Α/22-5-2018		https://bit.ly/2KCbDx6 (GR)
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	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 ενδοεταιρικής μετάθεσης - Τροποποίηση διαδικασιών ασύλου και άλλες διατάξεις»	L 4540/2018 (Reception Act)	https://bit.ly/2KCbDx6 (GR)
Law 3907/2011 "on the establishment of an Asylum Service and a First Reception Service, transposition into	Νόμος 3907/2011 «Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της	L 3907/2011	http://bit.ly/1KHa9dV (EN)

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	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		
Amended by:	*Τροποποίηση από:*		
Presidential Decree 133/2013, Gazette 198/A/25-09-2013	Προεδρικό Διάταγμα 133/2013, ΦΕΚ 198/A/25-09-2013	PD 133/2013	http://bit.ly/1GfXFJ2 (GR)
Law 4058/2012, Gazette 63/A/22-03-2012	Νόμος 4058/2012, ΦΕΚ 63/A/22-03-2012	L 4058/2012	http://bit.ly/1FooiWx (GR)
Law 4375/2016, Gazette 51/A/3-4-2016	Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016	L 4375/2016	http://bit.ly/234vUhP (GR)
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	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	PD 114/2010 (Old Procedure Decree)	http://bit.ly/1LWAO3C (EN)
Amended by:	*Τροποποίηση από:*		
Presidential Decree 116/2012, Gazette 201/A/19-10-2012	Προεδρικό Διάταγμα 116/2012, ΦΕΚ 201/A/19-10-2012	PD 116/2012	http://bit.ly/1GfXCwV (EN)
Presidential Decree 113/2013, Gazette 146/A/14-06-2013	Προεδρικό Διάταγμα 113/2013, ΦΕΚ 146/A/14-06-2013	PD 113/2013	http://bit.ly/1M36apZ (EN) http://bit.ly/1ENgV9B (GR)
Presidential Decree 167/2014, Gazette 252/A/01-12-2014	Προεδρικό Διάταγμα 167/2014, ΦΕΚ 252/A/01-12-2014	PD 167/2014	http://bit.ly/1ct2sZY (GR)
Law 4375/2016, Gazette 51/A/3-4-2016	Νόμος 4375/2016, ΦΕΚ 51/A/3-4-2016	L 4375/2016	http://bit.ly/234vUhP (GR)
Presidential Decree 141/2013 “on the transposition into the Greek legislation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (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)”	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 ανα γνώριση 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	PD 141/2013 (Qualification Decree)	http://bit.ly/2lbV4aM (GR)

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/Α/13-11-2007	PD 220/2007 (Reception Decree)	http://bit.ly/2lIMseP (GR)
Law 4251/2014 "Immigration and Social Integration Code and other provisions" Gazette 80/A/01-04-2014 *Amended by:* Law 4332/2015, Gazette 76/A/09-07-2015 *Amended by:* Law 4540/2018, Gazette 91/A/22-5-2018	Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις» ΦΕΚ 80/Α/01-04-2014 *Τροπ:* Νόμος 4332/2015, ΦΕΚ 76/Α/09-07-2015 *Τροπ.:* Νόμος 4540/2018, ΦΕΚ 91/Α/22-5-2018	Immigration Code L 4332/2015	http://bit.ly/1FOuxp0 (GR) http://bit.ly/1LfUfDB (GR) https://bit.ly/2KCbDx6 (GR)
Law 3386/2005 "Entry, Residence and Social Integration of Third Country Nationals on the Greek Territory" *Abolished by:* Law 4251/2014 except for Articles 76, 77, 78, 80, 81, 82, 83, 89(1)-(3) *Amended by:* Law 4332/2015	Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια» *Καταργήθηκε από:* Νόμος 4251/2014 πλην των διατάξεων των άρθρων 76, 77, 78, 80, 81, 82, 83, 89 παρ. 1-3 *Τροπ.:* Νόμος 4332/2015	L 3386/2005	http://bit.ly/1Pps1eO (EN) http://bit.ly/1Qkzh9R (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/Α/18-7-2018	L 4554/2018	https://bit.ly/2FAeL7z (GR)
Presidential Decree 131/2006 on the transposition of Directive 2003/86/EC on the right to family reunification Gazette 143/A/13-7-2006 *Amended by:* PD 167/2008, PD 113/2013	Προεδρικό Διάταγμα 131/2006 Εναρμόνιση της ελληνικής νομοθεσίας με την Οδηγία 2003/86/ΕΚ σχετικά με το δικαίωμα οικογενειακής επανένωσης, ΦΕΚ 143/Α/13-7-2006 *Τροπ:* ΠΔ 167/2008, ΠΔ 113/2013	PD 131/2006 (Family Reunification Decree)	http://bit.ly/2nHCPOu (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	http://bit.ly/2maKUeC (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 Β/2864/9-9-2016	Legal Aid JMD	http://bit.ly/2kPSjzE (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 Β/335/16-2-2016	Age Assessment JMD	http://bit.ly/2lc8mDX (GR)
Decision οικ. 868/2018 of the Director of the Asylum Service on the duration of international protection applicants' cards Gazette B/201/30.01.2018	Απόφαση αριθμ. οικ. 868/2018 της Διευθύντριας Υπηρεσίας Ασύλου: Διάρκεια ισχύος δελτίων αιτούντων διεθνή προστασία, ΦΕΚ Β/201/30.01.2018	Asylum Seeker Card Decision	http://bit.ly/2DEDtka (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 Β/1366/20.04.2018	Restriction of Movement Decision	https://bit.ly/2NrYgO4 (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 Β/4427/05.10.2018	Restriction of Movement Decision	https://bit.ly/2QDDmkn (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 Β/3223/2-12-2014	Travel Documents JMD	http://bit.ly/2mfwqXA (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 Β/2461/16-9-2014	Residence Permits JMD	http://bit.ly/2o6rTuM (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.)		http://bit.ly/2E8Mlmr (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.[2] 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".[3] 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 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."[4]

---

2 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.

3 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.

4 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".[5] 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."[6] 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."[7]

---

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.

5 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.

6 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.

7 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 suspend 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."[8] In a positive development, in March 2019 the Greek and Portuguese authorities concluded a bilateral agreement to relocate 1,000 asylum seekers form 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.

8 *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".[9] 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.

---

9 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/2IwG4EG, 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, Lesvos 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.[10] 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.

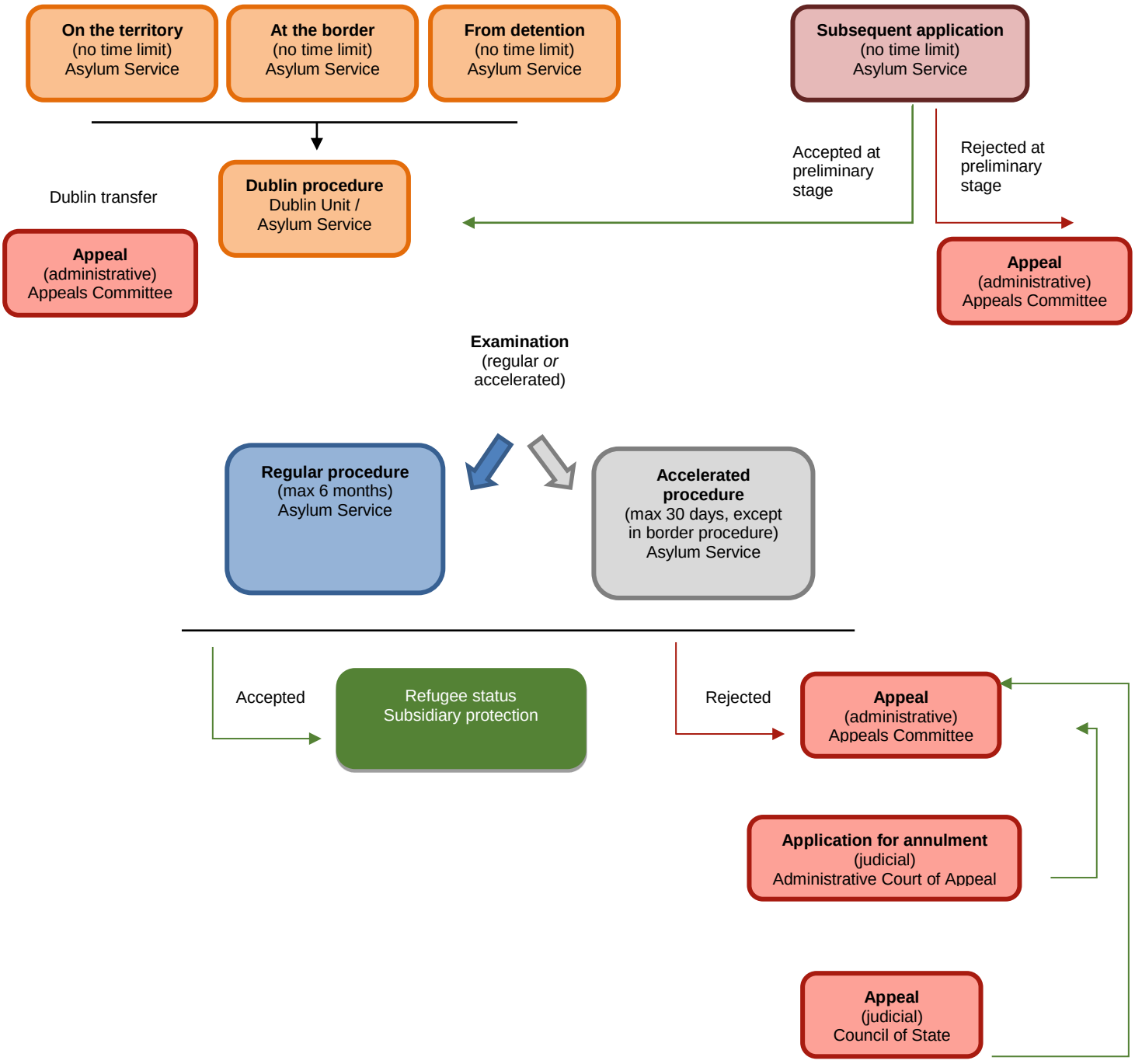
10 Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 68-69.

Asylum Procedure

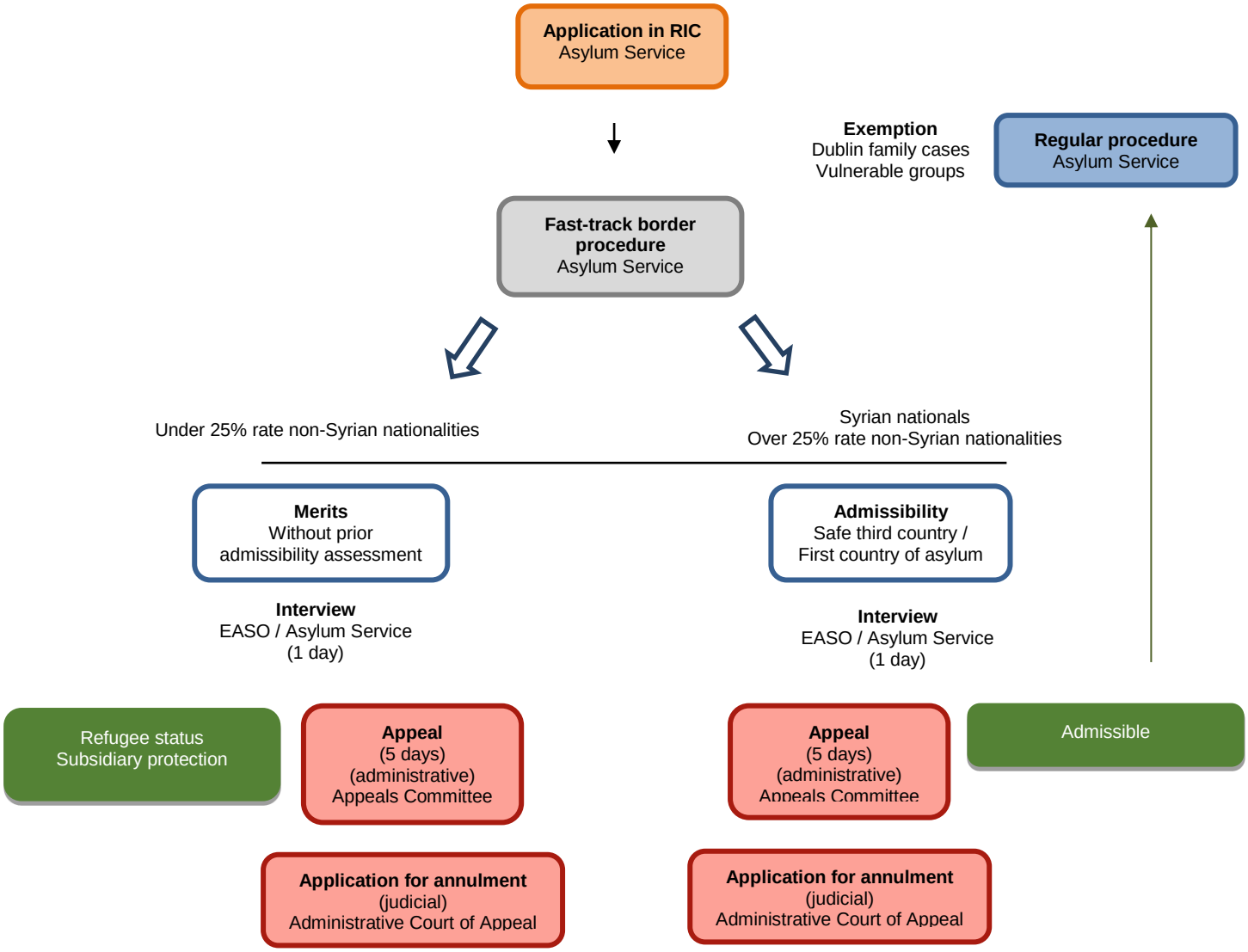
A. General

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: ☒ Yes ☐ No
  - ▪ Prioritised examination:[11] ☒ Yes ☐ No
  - ▪ Fast-track processing:[12] ☒ Yes ☐ No
- ❖ Dublin procedure: ☒ Yes ☐ No
- ❖ Admissibility procedure: ☒ Yes ☐ No
- ❖ Border procedure: ☒ Yes ☐ No
- ❖ Accelerated procedure:[13] ☒ Yes ☐ 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 ❖ On the territory	 Asylum Service Asylum Service	 Υπηρεσία Ασύλου Υπηρεσία Ασύλου
Dublin (responsibility assessment)	Asylum Service	Υπηρεσία Ασύλου
Refugee status determination	Asylum Service	Υπηρεσία Ασύλου
Appeal ❖ First appeal ❖ Second (onward) appeal	 Independent Appeals Committees (Appeals Authority) Administrative Court of Appeal	 Ανεξάρτητες Επιτροπές Προσφυγών (Αρχή Προσφυγών) Διοικητικό Εφετείο
Subsequent application (admissibility)	Asylum Service	Υπηρεσία Ασύλου

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

12 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.

13 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?[14]
Asylum Service EASO	679 Not available	Ministry of Migration Policy	☐ Yes ☒ No

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.[15]

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.[16] A new Autonomous Asylum Unit (AAU) in **Ioannina**, Western Greece started operating mid-March 2018.[17]

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

14 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.

15 Article 1(3) L 4375/2016.

16 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.

17 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.[18]

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

[18] Information provided by the Asylum Service, 26 March 2019.

RAO Samos	1	19	20
AAU Fylakio	3	8	11
RAO Chios	5	21	26
Total	**212**	**284**	**496**

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.[19] Consequently, as a number RAO such as **Lesvos** and **Samos** are mainly staffed with fixed-term employees, they have temporary 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.[20] 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.[21] 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.[22] EASO caseworkers have conducted interviews under the regular procedure since the end of August 2018.[23]

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.[24]

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'."[25]

19 The Press Project, 'Ξεκίνησαν επίσχεση εργασίας οι εργαζόμενοι της Υπηρεσίας Ασύλου', 7 March 2018, available in Greek at: http://bit.ly/2IdZYzR.
20 Article 60(4)(b) L 4375/2016.
21 Article 60(4)(b) L 4375/2016, as amended by Article 80(13) L 4399/2016.
22 Article 36(11) L 4375/2016, inserted by Article 28(7) L 4540/2018.
23 Information provided by EASO, 13 February 2019.
24 *Ibid*.
25 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.[26] 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.[27]

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%).[28] In the first nine months of 2018, the Asylum Service issued twice as many decisions as the number it took in 2016.[29] 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.

---

26 *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.

27 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.

28 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.

29 *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.[30]

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.[31]

According to Police statistics, 15,154 persons were arrested in 2018 for irregular entry on the Evros land border with Turkey,[32] compared to a total of 5,677 persons in 2017 and 3,784 persons in 2016.[33] 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.[34]

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.[35]

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.[36] 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:

---

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

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

32 Information provided by the Directorate of the Hellenic Police, 23 January 2019.

33 Hellenic Police, *Arrested irregular migrants for illegal entry or stay*, 2016-2017, available in Greek at: https://bit.ly/2Gl52oY.

34 Efsyn, 'Αλλα λέει η Γερμανία, άλλα η πραγματικότητα', 1 February 2019, available in Greek at: https://bit.ly/2N09FVj.

35 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.

36 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."[37]

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.[38]

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.[39]

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."[40]

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.[41] 24 similar incidents have also been registered by Human Rights Watch, in a report issued during the same period.[42]

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

---

37 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.

38 *Ibid*, 24- 25.

39 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.

40 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.

41 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.

42 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",[43] 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".[44]

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",[45] 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."[46]

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.[47]

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

During 2018, 174 persons have been reported dead or missing at the Aegean Sea or the Evros border.[49]

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.[50] Its adoption was part of the

43 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.
44 *Ibid.*
45 *Ibid*.
46 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.
47 To Vima, 'Ο απολογισμός για το 2018 από την Υπατη Αρμοστία του ΟΗΕ για τους Πρόσφυγες', 31 January 2018, available in Greek at: https://bit.ly/2I6JAoL.
48 Ombudsman, Decision No 105, 9 June 2017, available in Greek at: at: http://bit.ly/2ofLt6p.
49 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.[51]

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.[52] The hotspot approach was also expected to contribute to the implementation of the relocation scheme, proposed by the European Commission in September 2015.[53] 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.[54] 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
Total		**6,438**	**11,683**

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",[55] 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

50 European Commission, *European Agenda on Migration*, COM(2015) 240, 13 May 2015, 6.
51 European Commission, *The hotspot approach to managing migration flows*, available at: http://bit.ly/2kESJFK.
52 *Ibid*.
53 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.
54 European Commission, *Third Report on the Progress made in the implementation of the EU-Turkey Statement*, COM(2016) 634, 28 September 2016.
55 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. [56]

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".[57] The order became final on 12 September 2018, as an appeal lodged before the Court of Justice of the European Union (CJEU) was rejected.[58]

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.[59]

This approach was first implemented by the First Reception Centre (FRC) set up in **Evros** in 2013,[60] 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**,[61] the regulation of

56 UNHCR, *Returns from Greece to Turkey*, 31 December 2018, available at: https://bit.ly/2HM6txP.
57 General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: http://bit.ly/2lWZPrr.
58 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.
59 Article 7 L 3907/2011.
60 Joint Ministerial Decision 11.1/1076/2012, Gov. Gazette 3543/B'/31.12.2012; Reception and Identification Service, *RIC at Fylakio, Evros*.
61 Joint Ministerial Decision No 2969/2015, Gov. Gazette 2602/B/2-12-2015.

which was provided by existing legislation regarding the First Reception Service.[62] 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.[63]

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."[64]

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

62 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".
63 L 4375/2016, Gov. Gazette 51/A/3-4-2016, available at: http://bit.ly/2kKm2cu.
64 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.[65] This restriction of freedom entails "the prohibition to leave the Centre and the obligation to remain in it".[66]

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.[67] Moreover, the initial restriction is automatically imposed,[68] as national law does not foresee an obligation to conduct an individual assessment.[69] 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.[70]

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,[71] 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).[72]

---

65 Article 14(2) L 4375/2016.
66 Article 14(3) L 4375/2016.
67 Article 14(4) L 4375/2016.
68 *Ibid*.
69 Article 14(2) L 4375/2016.
70 Article 14(4) L 4375/2016.
71 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.
72 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.[73] 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.[74]

- 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.[75]

- 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.[76] According to the latest (regulatory) Decision of the Director of the Asylum Service,[77] any asylum seeker who enters the Greek territory from **Lesvos**,

73 Pursuant to Article 78 L 3386/2005.
74 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."
75 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.
76 Article 7 recast Reception Conditions Directive.
77 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.[78] 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",[79] 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.[80] 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.[81] 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.[82]

  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."[83]

78 Article 14(8) L 4375/2016.
79 Article 17(2) recast Reception Conditions Directive.
80 Council of State, Decision 805/2018, 17 April 2018, EDAL, available at: https://bit.ly/2GmvbTI.
81 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.
82 Council of State, Decision 805/2018, 17 April 2018.
83 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, available at: https://bit.ly/2I6tTy7.

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".[84]

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.[85]

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.[86]

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,[87] 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

84 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.
85 Article 14(7) L 4375/2016.
86 Article 36(11) L 4375/2016, inserted by Article 28(7) L 4540/2018.
87 Established by L 2071/92.

August 2018, 264 persons were reported to be in the RIC of Fylakio.[88]

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.[89]

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.[90] 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.[91] 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 form 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.[92] 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.[93]

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.[94] 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 2018in 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

88 UNHCR et al., *Greece – SMS WG-Site Profiles*, August-September 2018, available at: https://bit.ly/2UiXMNj, 31.
89 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.
90 Information provided by EKKA, 7 February 2019.
91 Voria.gr, 'Έβρος, επεισόδια με ανήλικες πρόσφυγες στο ΚΥΤ Ορεστιάδας', 5 February 2019, available in Greek at: https://bit.ly/2WSGfgp.
92 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.
93 GCR, *2018 Detention report*, forthcoming.
94 RIC Evros, Doc No. 3956/2018.

been present there for a period of 8 months,[95] 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.[96]

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,[97] 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.[98]

Following the "full registration" of the asylum application,[99] following which an application is considered to be lodged (*κατατεθειμένη*).[100]

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.[101]

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.[102] 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

95 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.
96 Kathimerini, 'Syrian teenager expresses anguish over conditions at Evros camp', 21 December 2018, available at: https://bit.ly/2TbftNw.
97 Articles 34(1)(id) and 36(1) L 4375/2016.
98 Article 36(11) L 4375/2016, as amended by Article 28(7) L 4540/2018.
99 Article 36(1)(a) L 4375/2016.
100 Article 36(1)(c) L 4375/2016.
101 Article 36(1)(b) L 4375/2016.
102 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.[103]

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.[104]

Lodging of applications ("*Κατάθεση*")

No time limit is set by law for lodging an asylum application.[105] 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.[106]

Applications must be submitted in person,[107] except under *force majeure* conditions.[108]

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.[109] 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.[110] 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).[111]

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

103 Article 36(3) L 4375/2016.
104 Article 36(5) L 4375/2016.
105 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."
106 Article 42(1)(a) L 4375/2016.
107 Article 36(2) L 4375/2016.
108 Article 42(1)(a) L 4375/2016.
109 Asylum Service Director Decision 868/2018 on the duration of validity of asylum seeker cards, Gov. Gazette B/201/30.1.2018.
110 Asylum Service Director Decision 14720/2017 on the duration of validity of asylum seeker cards, Gov. Gazette B/3370/27.9.2017.
111 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.[112]

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."[113]

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."[114]

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.[115] 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.[116] 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.[117]

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

112 See e.g. Greek Ombudsman, *Special Report*: *Migration flows and refugee protection*, April 2017.
113 ECtHR, *A.E.A. v. Greece*, Application No 39034/12, Judgment of 15 March 2018, EDAL, available at: https://bit.ly/2GmnFs3, para 85.
114 Ombudsman, Document No 233356/1616/2018, 12 January 2018, on file with the author.
115 Efsyn, 'Εξαιρετικά προβληματικές οι λογικές κλειστών συνόρων και αποκλεισμών', 26 June 2018, available in Greek at: https://bit.ly/2BxrarI.
116 Asylum Service, *Registration Schedule*, 28 January 2019, available at: https://bit.ly/2GnIROw.
117 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.[118]

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."[119] 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.[120]

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.[121]

According to the Asylum Service, 7,200 persons applied from pre-removal detention centres in 2018.[122]

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.[123] As far as GCR is

118 GCR, *2018 Detention report*, forthcoming.
119 Article 36(3) L 4375/2016.
120 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.
121 GCR, *2018 Detention report*, forthcoming.
122 Information provided by the Asylum Service, 26 March 2019.
123 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? ☒ Yes ☐ 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.[124]

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.[125] This time limit may be extended for a period not exceeding a further 9 months, where:[126]

(a) Complex issues of fact and/or law are involved; or
(b) 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."[127]

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."[128]

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.[129]

Duration of procedures

124 Information provided by the Asylum Service, 26 March 2019.
125 Article 51(2) L 4375/2016.
126 Article 51(3) L 4375/2016.
127 Article 51(4) L 4375/2016.
128 Article 51(5) L 4375/2016.
129 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
Total	**58,793**

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.[130]

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.[131]

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.[132] 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 and 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:

130 Information provided by the Asylum Service, 26 March 2019.
131 *Ibid*.
132 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.[133] In 2018, a total of 3,531 positive decisions were issued in the framework of the Syria fast-track procedure,[134] compared to 2,986 in 2017 and 913 in 2016.[135]

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:[136]

(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.[137] 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.[138]

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

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.[140] In a number of cases, interviews were set more than 2 years after the registration of the application, while

133 For more details, see AIDA, Country Report Greece, Fourth Update, November 2015, 36.
134 Information provided by the Asylum Service, 26 March 2019.
135 Information provided by the Asylum Service, 26 March 2019.
136 Article 52(8) L 4375/2016.
137 Article 52(9) L 4375/2016.
138 Article 52(10) L 4375/2016.
139 Article 52(5) L 4375/2016.
140 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:[141]

- 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.[142] 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.[143]

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.[144] 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,[145] while the EASO personnel providing services at the Asylum Service premises are bound by the Asylum Service Rules of Procedure.[146] EASO caseworkers have started conducting interviews under the regular procedure since the end of August 2018.[147] Until the end of the year, EASO caseworkers had conducted 841 interviews in the regular procedure, mainly covering nationals of Iraq, Afghanistan, DRC,

141 Case numbers on file with the author.
142 Information provided by the Asylum Service, 26 March 2019.
143 Administrative Court of Appeal of Piraeus, Decision 519/2018, available in Greek at: https://bit.ly/2JiaUB0.
144 Information provided by the Asylum Service, 26 March 2019.
145 Article 36(11) L 4375/2016, inserted by Article 28(7) L 4540/2018.
146 Article 1(2) Asylum Service Director Decision No 3385 of 14 February 2018.
147 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.[148]

The personal interview takes place without the presence of the applicant's family members, unless the competent Asylum Service Officer considers their presence necessary.[149] The personal interview must take place under conditions ensuring appropriate confidentiality.[150] 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.[151] 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.[152]

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,[153] 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.[154]

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.[155]

148 *Ibid*.
149 Article 52(11) L 4375/2016.
150 Article 52(12) L 4375/2016.
151 Article 52(13)(a) L 4375/2016.
152 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.
153 Information provided by the Asylum Service, 26 March 2019.
154 Decision on file with the author.
155 *Ibid*.

Interpretation

The law envisages that an interpreter of a language understood by the applicant be present in the interview.[156] 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.[157] The applicant may at any time request a copy of the transcript, a copy of the audio file or both.[158]

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure? ☒ Yes ☐ No
   - ❖ If yes, is it ☐ Judicial ☒ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No
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".[159]

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,[160] 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

156 Article 52(3) L.4375/2016.
157 Article 52(14)-(15) L 4375/2016.
158 Article 52(16) L 4375/2016.
159 Article 80(4) L 4375/2016, as amended by Article 28(22) L 4540/2018.
160 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",[161] 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,[162] 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.[163] The term of the Committee members is three years, instead of the previously foreseen five-year term.[164]

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.[165] 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.[166] 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."[167]

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 7th 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."[168] More precisely, the case concerned the 8 Turkish servicemen who fled Tukey 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 3rd 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 7th Independent Appeals Committee, which dealt with the

161 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.
162 Article 4 L 4375/2016.
163 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.
164 Article 5(3)(f) L 4375/2016, as amended by L 4399/2016.
165 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.
166 Council of State, Decisions 2347/2017 and 2348/2017, 22 September 2017, available in Greek at: http://bit.ly/2Fkxmno.
167 NCHR, *Report on the condition of Reception and Asylum system in Greece*, 22 December 2017, available at: http://bit.ly/2nkf1P0.
168 7th 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 3rd Appeals Committee. After the issuance of the judicial decision, and by invoking a number of comments on the press, the President of the 7th Appeals Committee and President of the Administrative Court had asked to be exempted from the composition of the 7th 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.[169]

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.[170] 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".[171] 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.[172]

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.[173] As noted by the Ombudsman, this provision raises concerns as of it compatibility with the quasi-judicial nature of the Appeals Committees in accordance with the aforementioned Council of State decisions of 2017.[174]

20 Independent Appeals Committees are operational as of August 2018.[175] 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.[176]

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:[177]

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

169 Administrative Court of Appeal of Athens, Decision 144/2018, 29 January 2018.
170 Article 5(6) L 4375/2016, as inserted by Article 101 L 4461/2017.
171 European Commission, *Joint action plan on the implementation of the EU-Turkey Statement*, Annex to COM (2016) 792, 8 December 2016, para 9.
172 Asylum Campaign, 'Σχετικά με την προτεινόμενη τροπολογία στο Ν. 4375/2016', 15 March 2017, available in Greek at: http://bit.ly/2EBt7DX.
173 Article 5(4) L 4375/2016, as amended by Article 28(3) L 4540/2018.
174 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, available in Greek at: https://bit.ly/2unUcpH.
175 Joint Ministerial Decision No 17403/2018, Gov. Gazette 3710/B/29-8-2018.
176 Information provided by EASO, 13 February 2019.
177 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
Total	**15,355**	**3,694**	**10,061**

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
Total: 176	**Total: 95**	**Total: 282**	**Total: 5,625**
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.[178]

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.[179] 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%

178 Information provided by the Appeals Authority, 6 March 2019.

179 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).[180]

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.[181]

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.[182] 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.[183]

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."[184]

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:[185]

(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.[186] This provision was abolished with the amendment of the law in June 2016.[187] It is disputed whether this amendment is in line with Greece's obligations under Article 47 of the EU Charter of Fundamental Rights.[188]

180 AIDA, Country Report Greece, 2016 Update, March 2017, 42-43.
181 AIDA, Country Report Greece, 2017 Update, March 2018, 47.
182 Article 61(6) L 4375/2016, as amended by Article 28(16) L 4540/2018.
183 Article 61(1)(a)-(b) L 4375/2016, as amended by L 4399/2016.
184 Article 61(4) L 4375/2016, as amended by L 4399/2016.
185 Article 62(1) L 4375/2016, as amended by L 4399/2016.
186 Article 62(1)(e) L 4375/2016, no longer in force.
187 Article 88 L 4399/2016.
188 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.[189]

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.[190] 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.[191] According to the Ombudsman, this amendment limits effective access to judicial protection in practice.[192] 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".[193]

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,[194] and about 3,000 appeals lodged before 21 July 2016 regarding applications submitted after 7 June 2013.[195] 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 municipals 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.

189 Article 62(6) L 4375/2016, as amended by L 4399/2016.
190 Article 61(4) L 4375/2016, as amended by L 4399/2016.
191 Article 62(8) L 4375/2016, as introduced by Article 28(20) L 4540/2018.
192 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.
193 Article 80(4) L 4375/2016, as amended by Article 28(22) L 4540/2018.
194 Information provided by the Directorate of the Hellenic Police, 23 January 2019. Of those, 205 appeals had been examined but the decision was pending.
195 Efsyn, '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,[196] 20 Backlog Committees were (re)established with a term up to 31 December 2016, extended until mid-2017.[197] In May 2017, 16 Backlog Committees remained active under a new Ministerial Decision.[198] As mentioned above, by the end of 2017 their term had expired and it has not been renewed at the time of writing.[199]

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

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.[201]

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.[202] For decisions declaring an application as manifestly unfounded,[203] the deadline for appeals is 15 days.[204] Appeals submitted after this deadline are examined initially on admissibility and if declared admissible they are examined on the merits.[205]

Appeals have suspensive effect until the Appeals Committee reaches a decision.[206] 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.[207]

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.[208] 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

196 Ministerial Decision 5401/3-156958, Gov. Gazette ΥΟΔΔ 424/4-8-2016.
197 Ministerial Decision 7396/30-12-2016, Gov. Gazette ΥΟΔΔ 734/30-12-2016.
198 Gazette ΥΟΔΔ 222/15-5-2017.
199 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
200 Article 80(4) L 4375/2016, as amended by Article 28(22) L 4540/2018.
201 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
202 Article 25(1)(a) PD 114/2010, as amended by Article 35(17) PD 113/2013.
203 Article 17(3) PD 114/2010.
204 Article 25(1)(b) PD 114/2010.
205 Article 25(1) PD 114/2010, as amended by Article 23 L 4375/2016.
206 Article 25(2) PD 114/2010.
207 Article 25(1)(a) PD 114/2010, as amended by Article 3(1) PD 167/2014.
208 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.[209]

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."[210]

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.[211] 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.[212] 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.[213] Accordingly, persons whose asylum application is rejected at second instance no longer have "asylum seeker" status,[214] 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,[215] 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.[216]

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

209 *Ibid.*
210 Article 23(2) L 4375/2016.
211 Article 26(6) PD 114/2010.
212 Article 29 PD 114/2010 and Article 64 L 4375/2016, citing Article 15 L 3068/2002.
213 Article 34(e) L 4375/2016, as amended by Article 28(5) L 4540/2018.
214 Article 2(b) L 4540/2018.
215 European Commission, *Joint Action Plan on Implementation of the EU-Turkey Statement*, 8 December 2016, available at: https://bit.ly/2JwpFQS.
216 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,[217] 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".[218]

- The application for annulment and application for suspension do not have automatic suspensive effect.[219] 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.[220] 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.[221] 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.[222] The Athens Bar Association made a third party intervention in the support of the applicant.[223] 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 3rd 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.[224]

217 Articles 276 and 276A Code of Administrative Procedure.
218 *Ibid*.
219 See e.g. ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.
220 Article 26(7) PD 114/2010 and Article 64 L 4375/2016.
221 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.
222 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.
223 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.
224 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[225]

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.[226]

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.[227] 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 thought out 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.[228]

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

225 This refers to state-funded legal assistance.
226 Article 44(1) L 4375/2016.
227 Information provided by the Asylum Service, 26 March 2019.
228 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.[229]

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.[230]

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.[231] 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.[232] 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.[233] The Decision also explicitly provides for the possibility of legal assistance through video conferencing in every Regional Asylum Office.[234] Following a recent amendment, the fixed fee has been raised from €80 to €120 per appeal.[235]

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**.[236] In March 2019, the Asylum Service issued a call for the list to be supplemented by 20 lawyers.[237] 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

229 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.
230 UNHCR, *Greece Fact Sheet*, December 2018, available at: https://bit.ly/2F7nBcu.
231 Ministerial Decision 12205/2016, Gov. Gazette 2864/B/9-9-2016.
232 Article 1(3) MD 12205/2016.
233 Article 1(4) MD 12205/2016.
234 Article 1(7) MD 12205/2016.
235 Article 3 MD 3651/2019, Gov. Gazette 528/B/21-2-2019.
236 Asylum Service, 'Απόφαση ένταξης δικηγόρων για τη συμπλήρωση του μητρώου', 7 August 2018, available in Greek at: http://asylo.gov.gr/?p=7087.
237 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
Total	**31**	**3,351**

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.[238] 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.[239] 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
Total	5,211	5,460	**Total**	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/2V3uylN.

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

238 Information provided by the Appeals Authority, 6 March 2019.
239 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.[240] 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,[241] 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
Total outgoing and incoming requests	**5,211**	**9,142**

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.[242]

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

240 CJEU, Case C-670/16 *Tsegezab Mengesteab v Bundesrepublik Deutschland*, Judgment of 26 July 2017, EDAL, available at: https://bit.ly/2XvMKq2.
241 Ecumenical Refugee Programme, *Dublin III: The "exception" that became the rule*, May 2018, available at: https://bit.ly/2IS1a02.
242 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.[243]

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.[244]

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."[245]

---

243 *Ibid*.

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

245 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.[246] 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.[247]

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.[248] 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.[249]

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.[250] 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.[251]

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.[252] GCR has analysed in detail the relocation procedure in previous updates of the AIDA report and highlighted shortcomings.[253]

In February 2019, the Ombudsman released a report assessing the relocation programme as a whole.[254] 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

246 Asylum Service, *Best Interest Assessment Form for the Purposes of Implementing the Dublin Regulation*, available at: https://bit.ly/2GQT8Tx.
247 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.
248 Information provided by the Asylum Service, 26 March 2019.
249 Information provided by the Asylum Service: Legal Aid Working Group / Protection Working Group, 21 November 2018, para 5.
250 Asylum Service, *Relocation statistics*, available at: https://bit.ly/2vtpoaj.
251 The Commission's reports on relocation and resettlement are available at: http://goo.gl/VkOUJX
252 UNHCR, 'UNHCR calls for the EU relocation scheme to continue', 26 September 2017, available at: http://bit.ly/2fz1OSH.
253 AIDA, Country Report Greece, 2017 Update, March 2018, 106 et seq.
254 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."[255]

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,[256] and the prevailing political dimension and lack of EU solidarity commitment on behalf of all Member States.[257]

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 form 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.[258]

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

255 *Ibid*, 49.
256 *Ibid*, 50.
257 *Ibid*, 51.
258 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.[259] 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.[260]

Individualised guarantees

The Greek Dublin Unit requests individual guarantees on the reception conditions of the applicant and the asylum procedure to be followed.[261] It 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.[262]

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	**5,460**

Source: Asylum Service, 26 March 2019.

259 Article 22(1) Dublin III Regulation.
260 Information provided by the Asylum Service, 26 March 2019.
261 *Ibid*.
262 *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	**3,466**

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.[263]

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.

263 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? ☒ Yes ☐ No
   - ❖ If yes, is it ☐ Judicial ☒ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No

Applications for international protection are declared inadmissible where the Dublin Regulation applies.[264] 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.[265] Such appeal is also directed against the transfer decision, which is incorporated in the inadmissibility decision.[266]

2.5. Legal assistance

Indicators: Dublin: Legal Assistance
☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☐ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice? ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☐ Representation in courts ☒ Legal advice

Access to free legal assistance and representation in the context of a Dublin procedure is available under the 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.

264 Article 54(1)(b) L 4375/2016.
265 Article 61(1)(b) L 4375/2016.
266 *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, [267] contrary to the case law of the European Court of Human Rights (ECtHR) and the CJEU.[268]

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.[269]

Following three Recommendations issued to Greece in the course of 2016,[270] 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.[271] Persons belonging to vulnerable groups such as unaccompanied children are to be excluded from Dublin transfers for the moment, according to the Recommendation.[272]

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

267 Administrative Court of Appeal of Athens, Decision 1141/2018, 23 October 2018.
268 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.
269 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.
270 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.
271 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, 'Επανέναρξη 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.
272 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."[273]

These findings remain valid at the time of writing, since Greece continues to receive a considerably high number of asylum applications,[274] 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
Total	**9,142**	**233**	**8,825**

Source: Asylum Service, 26 March 2019.

18 persons have been transferred back to Greece in 2018, mainly from Germany, Belgium and Norway.[275]

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.[276] 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,[277] 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

273 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.
274 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.
275 Asylum Service, *Statistical Data of the Greek Dublin Unit (7.6.2013 - 28.02.2019)*, available at: https://bit.ly/2V3uylN.
276 Information provided by the Asylum Service, 26 March 2019.
277 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.[278] 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.[279] The German Administrative Court of Hannover also ruled against the Dublin transfer of an applicant in Greece in January 2018.[280]

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,[281] and has not been officially published, though it has been leaked.[282]

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".[283]

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:[284]

- 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

278 Belgian Council of Alien Law Litigation, Decision 205 104, 8 June 2018.
279 Belgian Council of Alien Law Litigation, Decision 210 384, 1 October 2018.
280 German Administrative Court of Hannover, Decision 11 B 87/18, 11 January 2018.
281 In.gr, 'Βίτσας: Τι προβλέπει η διμερής συμφωνία Ελλάδας – Γερμανίας', 17 August 2018, available in Greek at: https://bit.ly/2HCtIJK.
282 Refugee Support Aegean, 'The Administrative Arrangement between Greece and Germany', 1 November 2018, available at: https://bit.ly/2WcOymT.
283 *Ibid*.
284 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.[285] European Commission guidance on the need to obtain individual guarantees prior to transfers to Greece is also disregarded.[286]

- 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.[287]

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

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.[290] An application before the ECtHR against Germany and Greece was submitted for this case in early 2019.

285 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.

286 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.

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

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

289 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.

290 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
Total	**4,834**

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? Depends on grounds
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

The conduct of an interview on the admissibility procedure varies depending on the admissibility ground examined. 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.[291] 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.

291 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?
   ☒ Yes ☐ No
   - ❖ If yes, is it ☐ Judicial ☒ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No

An appeal against a first instance decision of inadmissibility may be lodged within 15 days,[292] instead of 30 in the regular procedure. Under the border procedure the appeal may be lodged within 5 days.[293] 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? ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☐ Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice? ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☐ Representation in courts ☒ Legal advice

Legal Assistance in the admissibility procedure does not differ from the one granted for the regular procedure (see section on Regular Procedure: Legal Assistance).

4. Border procedure (airport and port transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. 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.

[292] Article 61(1)(b) L 4375/2016.
[293] Article 61(1)(c) L 4375/2016.

In the "normal border procedure",[294] 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.[295] 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.[296] 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.[297]

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.

294 Article 60(1) L 4375/2016.
295 Articles 41, 44, 45 and 46 L 4375/2016.
296 Article 60(2) L 4375/2016.
297 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? ☒ Yes ☐ No
   - ❖ If yes, is it ☐ Judicial ☒ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No

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? ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview ☐ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice? ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☐ Representation in courts ☒ Legal advice

The law does not contain special provisions regarding free legal assistance in the border procedure. The general provisions 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.[298] 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."[299]

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."[300]

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.[301]

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.[302]

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,[303] and following an August 2017 reform it is applicable for 24 months from the publication of the latest amendment.[304] The May 2018 reform extended the validity of the procedure until the end of 2018,[305] and a December 2018 reform further prolonged it until the end of 2019.[306] 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.

---

298 GCR, *Παρατηρήσεις επί του νόμου 4375/2016*, 8 April 2016, available in Greek at: http://bit.ly/1Sa2lmH.
299 IRIN, 'Greek asylum system reaches breaking point', 31 March 2016, available at: http://bit.ly/1RNCKja.
300 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.
301 See also European Council, *EU-Turkey statement*, 18 March 2016, para 1: "It will be a temporary and extraordinary measure."
302 Article 80(26) L 4375/2016, as initially in force.
303 Article 80(26) L 4375/2016, as amended by Article 86(20) L 4399/2016.
304 Article 80(26) L 4375/2016, as amended by Article 96(4) L 4485/2017.
305 Article 80(26) L 4375/2016, as amended by Article 28(23) L 4540/2018.
306 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.[307]

(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.[308] 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.[309]

In 2018, EASO deployed *inter alia* 175 caseworkers from other Member States and 91 locally recruited interim caseworkers.[310] EASO conducted 8,958 interviews in the fast-track border procedure during that year.[311]

(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

307 Information provided by the Asylum Service, 26 March 2019.
308 Article 80(13) L 4399/2016.
309 Ministerial Decision 3385, Gov. Gazette B' 417/14.2.2018.
310 Information provided by EASO, 13 February 2019.
311 *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;[312]

- 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.[313]

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."[314]

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".[315]

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.[316] "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."[317]

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:

---

312 Article 60(4)(e) L 4375/2016, as amended by Article 28(14) L 4540/2018.

313 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 (αναδιατύπωση 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.

314 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.

315 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.

316 Information provided by the Asylum Service, 26 March 2019.

317 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.[318]

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."[319]

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.[320] 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.[321]

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
Total decisions	**23,212**	**35,134**

Source: Asylum Service, 15 February 2018; 12 March 2019.

318 Information provided by EASO, 13 February 2019.
319 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.
320 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.
321 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%).[322]

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? ☒ 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

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.[323]

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.[324] A similar role is foreseen in the Operating Plan to Greece 2019.[325]

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.'"[326]

---

322 UNHCR, *Greece – Sea arrivals dashboard*, December 2018, available at: https://bit.ly/2BFpqNh.
323 Article 60(4)(d) L 4375/2016.
324 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.
325 EASO, *Operating Plan to Greece 2019*, December 2018, available at: https://bit.ly/2W6vJB2, 14.
326 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.[327] 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.[328] 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.[329]

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.[330]

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.[331]

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".[332]

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

327 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.

328 Article 60(4)(b) L 4375/2016 only refers to the conduct of interviews by EASO staff.

329 Information provided by EASO, 13 February 2019.

330 AIRE Centre, et al., *Third party intervention in J.B. v. Greece*, 4 October 2017, available at: http://bit.ly/2qSRxoU, 10-11.

331 See AIDA, Country Report Greece, 2017 Update, March 2018, 71-72.

332 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."[333]

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?

	☒ Yes	☐ No
❖ If yes, is it	☐ Judicial	☒ Administrative
❖ If yes, is it suspensive	☒ Yes	☐ 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,[334] 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",[335] 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,[336] 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 replace 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.[337]

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,[338] contrary to 30 days in the regular procedure. Appeals before the Appeals Committees have automatic suspensive effect.[339]

However, the right to appeal in the fast-track border procedure has been further curtailed by a Police Circular issued in April 2017.[340] In line with the recommendations of the European Commission's Joint

333 Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, 19.
334 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.
335 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.
336 European Commission, *Joint Action Plan on Implementation of the EU-Turkey Statement*, 8 December 2016, available at: https://bit.ly/2JwpFQS.
337 Article 5(4) L 4375/2016, as amended by Article 28(3) L 4540/2018.
338 Article 61(1)(d) L 4375/2016.
339 Article 61(4) L 4375/2016, as amended by L 4399/2016.
340 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",[341] 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.[342] 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,[343] 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.[344]

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."[345]

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).[346]

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.[347]

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

---

οικειοθελούς επαναπατρισμού του Διεθνούς Οργανισμού Μετανάστευσης (Δ.Ο.Μ.)', Circular 1604/17/681730, 3 April 2017, available in Greek at: http://bit.ly/2E8Mlmr.

341 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.

342 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.

343 Article 60(4)(e) L 4375/2016.

344 European Commission, *Seventh report on the progress made in the implementation of the EU-Turkey statement*, COM(2017) 470, 6 September 2017.

345 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.

346 9th Independent Appeals Committee, Decisions 20802/25.9.2018 and 20898/26.9.2018, 25 September 2018, available at: https://bit.ly/2CjbmcD.

347 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 impeding removal.[348]

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 impeding 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

[348] 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
Total	**405**

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.[349]

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.[350]

The examination of an application under the accelerated procedure must be concluded within 30 days,[351] 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:[352]

(a) The applicant comes from a Safe Country of Origin;[353]
(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;

349 GCR, 'Άνευ νομικής συνδρομής οι πρόσφυγες στα νησιά', 28 November 2018, available in Greek at: https://bit.ly/2XZuup2.
350 Article 51(1) L 4375/2016.
351 Article 51(2) L 4375/2016, as amended by Article 28(9) L 4540/2018.
352 Article 51(7) L 4375/2016.
353 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.[354]

6.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview
☒ Same as regular procedure

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

The conduct of the personal interview does not differ depending on whether the accelerated or regular procedure is applied (see section on Regular Procedure: Personal Interview).

6.3. Appeal

Indicators: Accelerated Procedure: Appeal
☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
   ☒ Yes ☐ No
   - ❖ If yes, is it ☐ Judicial ☒ Administrative
   - ❖ If yes, is it suspensive ☒ Yes ☐ No

The time limit for lodging an appeal against a decision in the accelerated procedure is 15 days,[355] 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.[356] The Appeals Committee must reach a decision on the appeal within 2 months.[357]

6.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance
☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☐ Yes ☐ With difficulty ☒ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview
     ☐ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice? ☐ Yes ☒ With difficulty ☐ No
   - ❖ Does free legal assistance cover ☐ Representation in courts
     ☒ Legal advice

354 Information provided by the Asylum Service, 26 March 2019.
355 Article 61(1)(b) L 4375/2016.
356 Article 62(2)(b) L 4375/2016.
357 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 particularly 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.[358]

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."[359]

358 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/2hRblC3.

359 Article 50(2) L 4375/2016.

The number of asylum seekers registered by the Asylum Service as vulnerable in 2018 is as follows:

Vulnerable persons registered among asylum seekers: 2018		
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
Total	**6,416**	**6,700**

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:

First instance decisions on applications by vulnerable persons: 2018			
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."[360]

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."[361]

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".[362]

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.

---

360 Article 14(8) L 4375/2016.
361 FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 4 March 2019, 46-47.
362 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/2IwG4EG, 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.[363]

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 (*Ανώνυμη 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.[364] 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.[365]

- **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

363 UNHCR, *Factsheet: Aegean Islands*, June 2018, available at: https://bit.ly/2C5hEP0.
364 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.
365 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.[366] 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.[367] Following the medical and psychosocial assessment the medical psychosocial unit of the RIC informs the competent RAO or AAU of the Asylum Service.[368]

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.[369]

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.[370]

366 Article 53 L 4375/2016, as amended by Article 28(10) L 4540/2018.
367 Oxfam, *Vulnerable and abandoned*, January 2019.
368 Article 53 L 4375/2016, as amended by Article 28(10) L 4540/2018.
369 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.
370 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,[371] but by EASO's internal Standard Operating Procedures, which as reported leave the assessment of vulnerability to the discretion of the EASO staff.[372] It is not clear whether such assessments take into consideration the relevant provisions and safeguards under national law.[373]

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.[374] As reported, in some cases "strong indications of vulnerability have been ignored" in interviews conducted by EASO.[375] 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.[376]

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 Frourarchion. In 2018, a total of 2,318 asylum applications were registered there.[377]

However, obstacles to Registration through Skype in the mainland also affects vulnerable persons. As referrals of vulnerable persons to Frourarchion 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 Frourarchion have repeatedly and unsuccessfully tried to fix an appointment to register their application through Skype. Moreover, appointments for registration in Frourachion can be delayed due to capacity reasons.

371 Article 60(4)(b) L 4375/2016 provides that EASO staff may conduct a personal interview, but does not mention vulnerability assessments.
372 Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, 19.
373 Article 14(8) L 4375/2016.
374 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.
375 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.
376 Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, 22.
377 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.[378] 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).[379]

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,[380] as well as persons whose case is still pending before the authorities of the "old procedure".[381] 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).[382]

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

378 Article 52 L 4375/2016.
379 Article 53 L 4375/2016.
380 Joint Ministerial Decision 1982/2016, Gov. Gazette B'335/16-2-2016.
381 Article 22(A)11 JMD 1982/2016, citing Article 34(1) PD 113/2013 and Article 12(4) PD 114/2010.
382 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 in 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.[383] 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."[384] 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

383 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/2IwG4EG, 30.

384 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.[385] 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."[386]

Regarding the age assessment procedure *per se*, the JMD 1982/2016 provides that:

385 Arsis and MSF, Letter to the Ombudsman, 22 October 2018, on file with the author.
386 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;[387]

- 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;[388]

- 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.[389] 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;[390]

- 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.[391] The opinions and evaluation results are delivered to the Head of the RAO, who issues a relevant act to adopt their conclusions.[392]

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.[393] 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.

387 Article 2 JMD 1982/2016.
388 Article 3 JMD 1982/2016.
389 Article 4 JMD 1982/2016.
390 Article 5 JMD 1982/2016.
391 Article 6 JMD 1982/2016.
392 Article 7 JMD 1982/2016.
393 Article 43(4) L 4375/2016.

However, these documents require an "apostille" stamp,[394] 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 drought exists as to his or her age.[395] 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."[396]

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.[397]

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."[398]

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".[399] 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.[400]

394 Decision of the Director of the Asylum Service No 3153, Gov. Gazette B' 310/02.02.2018.
395 Article 45(4) L 4375/2016.
396 Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, Special Report 2017, 25-25 and 75.
397 *Ibid*, 25.
398 Article 52(13)(a) L 4375/2016.
399 Information provided by the Asylum Service, 26 March 2019.
400 *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.[401]

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 take 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.[402]

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.[403] 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."[404] 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 meet, the Committee examined and rejected the application on the merits.

In another case, the applicant was an unaccompanied boy for 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

401 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.
402 Decision on file with the author.
403 *Ibid.*
404 *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".[405] Both cases are pending before the Administrative Court of Appeals.[406]

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.[407] 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%.[408]

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.[409]

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.[410] In 5,286 cases, EASO recommended the referral of the applicant to the regular procedure on grounds of vulnerability.[411]

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.[412] 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.[413]

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

405 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.
406 The cases are supported by Arsis; Decisions on file with the author.
407 Network for the Rights of Children on the Move, *Annual Report: January 2017 – January 2018*, available at: http://bit.ly/2p9hmNu, 2.
408 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/2CBwElM.
409 Article 50(2) L 4375/2016.
410 Information provided by the Asylum Service, 26 March 2019.
411 Information provided by EASO, 13 February 2019.
412 See e.g. Administrative Court of Appeal of Piraeus, Decision 558/2018, available in Greek at: https://bit.ly/2WbqvDY.
413 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.[414]

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.[415] 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.[416] 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."[417] 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**.[418]

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.[419] 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.[420] 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.

414 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.

415 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.

416 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.

417 MSF, *A dramatic deterioration for asylum seekers on Lesvos*, July 2017, 3.

418 Oxfam, *Vulnerable and abandoned*, January 2019.

419 General Commission of Regular Administrative Courts, *Προτάσεις για την επιτάχυνση των διαδικασιών στις υποθέσεις 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/2hRblC3.

420 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.[421]

Specifically as regards persons who have been subjected to torture, rape or other serious acts of violence, a contested provision was introduced in 2018,[422] 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.[423] 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."[424]

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

421 Article 53 L 4375/2016.
422 Article 23 L 4540/2018.
423 Immigration.gr, 'Η πιστοποίηση θυμάτων βασανιστηρίων αποκλειστικό «προνόμιο» του κράτους;', May 2018, available in Greek at: https://bit.ly/2TVAMXv.
424 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.[425]

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.[426] 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).[427] In addition, the law provides a best interest of the child determination procedure following the issuance of standard operational procedure to be issued.[428] 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.[429] 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.[430]

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,[431] 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.[432] Furthermore, concerns have been expressed regarding the increase of

425 Article 22 L 4540/2018.
426 Article 16 L 4554/2018.
427 *Ibid*.
428 Article 21 L 4554/2018.
429 Article 19 L 4540/2018.
430 Article 27 L 4540/2018.
431 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.
432 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.[433]

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.[434]

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.[435]

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
Total	**1,984**

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

433 Network for Children's Rights, *Τα παιδιά που δεν πάνε διακοπές*, July 2018, available in Greek at: https://bit.ly/2Wa3DVr.
434 Information provided by the Asylum Service, 26 March 2019.
435 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.[436]

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.[437]

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.[438] During that preliminary stage, according to the law all information is provided in writing by the applicant,[439] 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.[440]

436 Article 34(e) L 4375/2016, as amended by Article 28(5) L 4540/2018.
437 Article 59(1) L 4375/2016.
438 Article 59(2) L 4375/2016, as amended by Article 28(13) L 4540/2018.
439 Article 59(2) L 4375/2016.
440 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.[441] 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".[442]

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.[443]

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.[444]

F. The safe country concepts

Indicators: Safe Country Concepts

1.	Does national legislation allow for the use of "safe country of origin" concept?	☒ Yes ☐ No
	❖ Is there a national list of safe countries of origin?	☐ Yes ☒ No
	❖ Is the safe country of origin concept used in practice?	☐ Yes ☒ No
2.	Does national legislation allow for the use of "safe third country" concept?	☒ Yes ☐ No
	❖ Is the safe third country concept used in practice?	☒ Yes ☐ No
3.	Does national legislation allow for the use of "first country of asylum" concept?	☒ Yes ☐ No

Following the EU-Turkey statement of 18 March 2016, the provisions concerning the "first country of asylum" and the "safe third country" concepts were applied for the first time in Greece vis-à-vis Turkey. Serious concerns about the compatibility of the EU-Turkey statement with international and European law, and more precisely the application of the "safe third country" concept, have been raised since the publication of the statement.[445]

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."[446] Therefore "the Court does not have jurisdiction

441 Article 59(3) L 4375/2016.
442 Article 59(9) L 4375/2016, inserted by Article 28(13) L 4540/2018.
443 Article 59(7) L 4375/2016.
444 Information provided by the Asylum Service, 26 March 2019.
445 See e.g. NCHR, *Έκθεση για τη συμφωνία ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 για το προσφυγικό/μεταναστευτικό ζήτημα υπό το πρίσμα του Ν. 4375/2016*, 25 April 2016, available in Greek at: http://bit.ly/2mxAncu; Parliamentary Assembly of the Council of Europe (PACE), Resolution 2109 (2016) "The situation of refugees and migrants under the EU-Turkey Agreement of 18 March 2016", available at: http://bit.ly/2fISxlY; United Nations Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, available at: http://bit.ly/2rHF7kl, para 31.
446 General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: http://bit.ly/2lWZPrr.

to rule on the lawfulness of an international agreement concluded by the Member States."[447] The decision became final on 12 September 2018, as an appeal against it before the CJEU was rejected.[448]

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

447 *Ibid*.
448 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.[449]

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."[450]

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*.[451] Although a number of sources made public in 2018 have been added to the endnotes of some decisions issued in late 2018,[452] 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.[453] However, following reported pressure by the EU with regard to the implementation of the EU-Turkey statement,[454] 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

---

449 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.

450 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.

451 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.

452 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 Commision, ECHO Factsheet – Turkey Refugee Crisis – June 2018."

453 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.

454 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.[455]

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.[456] 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.[457] 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.[458]

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.[459]

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:[460]

- 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;[461]
- 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;

---

455 9th Independent Appeals Committee, Decisions 20802/25.9.2018 and 20898/26.9.2018, 25 September 2018, available at: https://bit.ly/2CjbmcD.

456 Article 62(9) L 4375/2016, inserted by Article 28(21) L 4540/2018.

457 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.

458 Information provided by the Appeals Authority, 7 March 2019.

459 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.

460 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.

461 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.[462]

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.[463] 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

462 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."

463 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.[464]

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.[465]

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."[466]

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"

464 Information provided by the Asylum Service, 26 March 2019.
465 Information provided by the Asylum Service, 26 March 2019.
466 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."[467]

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.[468]

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.[469]

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,[470] 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.[471] 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

---

467 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.

468 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.

469 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.

470 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.

471 9th Independent Appeals Committee, Decision 15602/2017; 11th 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 εξυπηρετούμενο 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.[472]

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.[473] 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.[474]

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.[475]

472 9th Independent Appeals Committee, Decisions 20802/25.9.2018 and 20898/26.9.2018, 25 September 2018, available at: https://bit.ly/2CjbmcD.
473 Article 56(2) L 4375/2016.
474 Information provided by the Asylum Service, 26 March 2019.
475 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:[476]

- 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.[477] 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.[478]

Moreover, the Asylum Service provides:

- Information in 18 languages on its website;[479]
- 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;[480]
- A mobile application called "Asylum Service Application" with information on the procedure;[481] and

476 Article 57(4) L 4375/2016.
477 Article 57(2) L 4375/2016.
478 Asylum Service, *Basic Information for People Seeking International Protection in Greece*, June 2013, available at: http://bit.ly/1Wuhzb7.
479 Asylum Service, Information in 18 languages, available at: http://asylo.gov.gr/?page_id=159.
480 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.[482]

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.[483] 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.[484]

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."[485]

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."[486]

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

---

481 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.

482 Asylum Service, *I am under 18 and I am seeking asylum in Greece*, available at: http://asylo.gov.gr/?page_id=6210.

483 See e.g. the Asylum Service flowchart on the asylum procedure following the EU-Turkey statement at: http://bit.ly/2DpZms5.

484 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.

485 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.

486 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."[487]

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.[488] 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.[489]

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.

487 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.

488 UNHCR, *About UNHCR in Greece*, available at: https://help.unhcr.org/greece/about-unhcr-in-greece/.

489 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?[490] ☐ 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.[491] 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 though 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").

490 Whether under the "safe country of origin" concept or otherwise.
491 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.[492] 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.[493] More precisely, the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, EKKA) 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	☒ Yes	☐ Reduced material conditions	☐ No
❖ Dublin procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Admissibility procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Border procedure	☐ Yes	☒ Reduced material conditions	☐ No
❖ Fast-track border procedure	☐ Yes	☒ Reduced material conditions	☐ No
❖ Accelerated procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Onward appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Subsequent application	☒ Yes	☐ Reduced material conditions	☐ 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.[494] The latter is examined in connection with the financial criteria set for eligibility for the Social Solidarity

492 Article 3(b) L 4540/2018.
493 Article 22(3) L 4540/2018.
494 Article 17(3) L 4540/2018.

Benefit (*Κοινωνικό Επίδομα Αλληλεγγύης*, KEA).[495] 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.[496]

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.[497] 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.[498]

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:[499]

- 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;

495 Article 235 L 4389/2016.
496 Article 19(3) L 4540/2018.
497 Article 17(1) L 4540/2018.
498 Article 20(1) L 4540/2018.
499 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.[500]

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.[501]

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:[502]

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.[503]

500 UNHCR, *Greece cash assistance*, December 2018, available at: https://bit.ly/2X78Vm6.
501 UNHCR, *Factsheet: Greece*, December 2018, available at: https://bit.ly/2t6YKQD.
502 Article 19(1), (3) and (4) L 4540/2018.
503 Article 19(2) L 4540/2018.

The RIS takes a decision following an individualised assessment and taking into account the applicant's vulnerability.[504] 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.[505]

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.[506]

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.[507] 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.[508]

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.[509]

504 Article 19(5) L 4540/2018.
505 Article 18B(2) Ministerial Decision 11.1/6343/25-11-2014, Gov. Gazette, 3295/B/09.12.2014.
506 Information provided by the RIS, June 2018.
507 Administrative Court of Thessaloniki, Decision 128/2018.
508 Article 7(1) L 4540/2018.
509 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.[510]

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.[511] 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,[512] 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.[513] 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.[514]

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.[515]

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.[516]

---

510 Article 7(6) L 4540/2018.
511 Article 24 L 4540/2018, as amended by Article 5 L 4587/2018, referring to the Code of Administrative Procedure (L 2717/1999).
512 Pursuant to Article 78 L 3386/2005.
513 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".
514 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.
515 Asylum Service Director Decision 10464, Gov. Gazette B 1977/7.06.2017.
516 Council of State, Decision 805/2018, 17 April 2018, EDAL, available at: https://bit.ly/2GmvbTI.

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.[517] This Decision was replaced in October 2018.[518] 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 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 Lesvos, 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 **Lesvos**, **Rhodes**, **Samos**, **Leros** and **Chios** and the AAU of **Kos**. The applicant receives an asylum seeker's card with a stamp on the card mentioning: "Restriction of movement on the island of […]" 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".[519] 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.[520]

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

---

517 Asylum Service Director Decision 8269, Gov. Gazette B 1366/20.04.2018. See GCR and Oxfam, 'GCR and Oxfam issue joint press release on CoS ruling', 24 April 2018, available at: https://bit.ly/2N0Rwqv.

518 Asylum Service Director Decision 18984, Gov. Gazette B 4427/05.10.2018.

519 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/2IwG4EG, 1.

520 MSF, *A dramatic deterioration for asylum seekers on Lesvos*, 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.[521] According to the latest Decision of the Director of the Asylum Service,[522] 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.[523] 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",[524] 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".[525] The Council of Europe Commissioner for Human Rights has also urged to the Greek authorities to reconsider the geographical limitation practice.[526]

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. The 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 comply 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.

521 Article 7 recast Reception Conditions Directive.
522 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.
523 Article 14(8) L 4375/2016.
524 Article 17(2) recast Reception Conditions Directive.
525 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/2I6tTy7.
526 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.[527]

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 to in Greece, created *inter alia* an unprecedented burden on the Greek reception system.[528]

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."[529] 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.[530] 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.[531] EKKA, under the Ministry of Labour, receives and processes referrals for the accommodation of unaccompanied and separated children (see Special Reception Needs).

527 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.
528 See also AIRE Centre and ECRE, *With Greece: Recommendations for refugee protection*, July 2016, 7-8.
529 UNHCR, *Factsheet: Greece*, January 2019, available at: https://bit.ly/2SYh3qr.
530 Article 3(b) L 4540/2018.
531 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,[532] 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*),[533] as well as open Temporary Accommodation Facilities (*Δομές Προσωρινής Φιλοξενίας*) for persons subject to return procedures or whose return has been suspended.[534]

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**,[535] **Schisto** and **Diavata**.[536] 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
Total		**4,106**	**3,061**

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%

532 Article 10(1)-(2) L 4375/2016.
533 Article 10(3) L 4375/2016.
534 Article 10(4) L 4375/2016.
535 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.
536 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%
Grand total	**16,110**							

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.[537] Following a Delegation Agreement signed between the European Commission and UNHCR in December 2015,[538] 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

537 UNHCR, *Greece: Accommodation for Relocation Project Factsheet*, 1 July 2016, available at: http://bit.ly/2lNOmLG.

538 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.[539] The takeover of activities by AMIF, managed by DG HOME, was confirmed in February 2019.[540]

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.[541]

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.[542] 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,[543] 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

539 UNHCR, ‘Interview with UNHCR Representative in Greece on housing programme for asylum-seekers’, 19 February 2018, available at: http://bit.ly/2sJf6lh.
540 European Commissoin, ‘Greece – End of activation of the Emergency Support Instrument (DG ECHO)’, 13 February 2019, available at: https://bit.ly/2Sll5UV.
541 UNHCR, *Greece accommodation update*, December 2018, available at: https://bit.ly/2ScL3Ke.
542 AIDA, Country Report Greece, 2016 Update, March 2017, 100 et seq.
543 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	-	-	-	-
Total	**6,438**	**11,683**	**1,600**	**1,291**	**207**	**170**	**120**	**1,232**

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

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☒ Yes ☐ No
2. What is the average length of stay of asylum seekers in the reception centres? Varies
3. 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.[544]

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

544 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."[545]

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.[546]

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."[547]

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."[548]

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.[549] 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".[550]

---

545 UNHCR, *Policy on Alternatives to Camps*, 22 July 2014, UNHCR/HCP/2014/9, available at: http://bit.ly/1DAf2kz, 4.

546 UNHCR et al., *Protection Monitoring Tool, Open Reception Facilities (sites) in the Mainland*, September 2018, available at: https://bit.ly/2TdBoHA.

547 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.

548 UNHCR, *Factsheet: Greece*, December 2018, available at: https://bit.ly/2t6YKQD.

549 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, 'Το 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.

550 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.[551] 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."[552]

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 if 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.[553] In May 2018, a protest took place in **Oinofyta** camp in Voiotia region due to lack of medical services.[554] In August 2018, refugees residing in **Elefsina** camp in Attica blocked the national road in order to demonstrate against "dire living conditions".[555] In January 2019, residents of **Diavata** also blocked the road to protest against living conditions.[556] A timeline of protests in mainland camps around Athens is made available by Refugee Support Aegean.[557]

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.[558]

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.[559] 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,

551 Refugee Support Aegean, 'Reception Crisis in Greece: The malignancy of Attica's refugee camps', 13 August 2018, available at: https://bit.ly/2sE5sgL.
552 See e.g. UNHCR, Factsheet: Greece, August 2018, available at: https://bit.ly/2OgwzuD; *Factsheet: Greece*, December 2018.
553 Efsyn, 'Αναβάθμιση του καμπ Μαλακάσας', 9 October 2018, available in Greek at: https://bit.ly/2VhlN7B.
554 ERT, 'Οινόφυτα: Μεταφορά και καλύτερες συνθήκες διαβίωσης ζήτησαν οι πρόσφυγες', 29 May 2018, available in Greek at: https://bit.ly/2XexHR8.
555 Evia 365, 'Νέα διαμαρτυρία προσφύγων: Έκλεισαν την Εθνική Οδό Θηβών-Ελευσίνας', 9 August 2018, available in Greek at: https://bit.ly/2tuuvmS.
556 CNN Greece, 'Ένταση στη διάρκεια διαμαρτυρίας προσφύγων στα Διαβατά', 7 January 2019, available in Greek at: https://bit.ly/2SA1QHn.
557 Refugee Support Aegean, 'Timeline of protests', 6 November 2018, available at: https://bit.ly/2SRfMl9.
558 Refugee Support Aegean, 'Reception Crisis in Greece: The malignancy of Attica's refugee camps', 13 August 2018, available at: https://bit.ly/2sE5sgL.
559 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".[560]

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.[561]

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

560 UNHCR, 'UNHCR urges Greece to accelerate emergency measures to address conditions on Samos and Lesvos', 6 November 2018, available at: https://bit.ly/2Sfjjoc.

561 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.[562]

Squalid living conditions fuel tension between asylum seekers and the police and amongst frustrated communities, [563] 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".[564]

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.[565]

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.[566] 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.[567] "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".[568] 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).[569]

A number of videos published in 2018 demonstrate the unacceptable conditions prevailing in the RIC of **Lesvos**,[570] **Samos**[571] and **Chios**.[572]

---

562 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.

563 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.

564 *Ibid*, para 36.

565 UNHCR, *Factsheet: Greece*, December 2018.

566 UNHCR, *Factsheet: Greece*, January 2019, available at: https://bit.ly/2E717It.

567 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.

568 Médecins du Monde, *Snap Shot, Greek Islands*, June 2018, available at: https://bit.ly/2EhMBO6.

569 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.

570 See e.g. Al Jazeera, 'Rare look at life inside Lesbos' Moria refugee camp', 19 January 2018, available at: http://bit.ly/2HQzIeG; 'Life In Moria Refugee Camp', available at: https://bit.ly/2T8AlZD; 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 Lesvos', 24 June 2018, available at: https://bit.ly/2E6bdce; MSF, 'Stuck in Moria', 18 July 2018, available at: https://bit.ly/2BJ5Xef.

571 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.

572 See e.g. Jacob Warn, *VialCamp on Chios (Autumn 2018)*, October 2018, available at: https://bit.ly/2Ir23wu.

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.[573] 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.[574] According to Lesvos' forensic doctor his death was caused by carbon monoxide poisoning by inhalation.[575]

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,[576] 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.[577]

Following a number of recommendations to the Greek authorities regards the living conditions on the islands issued in previous years,[578] similar recommendations have been addressed in 2018 *inter alia* by the Council of Europe Commissioner for Human Rights,[579] UNHCR,[580] and UNICEF.[581]

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**.[582] 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

573 AIDA, Country Report Greece, 2017 Update, March 2018, 130.
574 Amnesty International, *Report 2017/2018*, available at: http://bit.ly/2Cd5aEu, 178.
575 Kathimerini, 'Ζητούν δικαίωση για το θάνατο στη Μόρια', 25 November 2018, available in Greek at: https://bit.ly/2DY9XrC.
576 Misdemeanour Court of Thessaloniki, Decision 2627/2017. See AIDA, Country Report Greece, 2017 Update, March 2018, 131.
577 Administrative Court of Piraeus, Decision AP94/22.
578 AIDA, Country Report Greece, 2017 Update, March 2018, 131-133.
579 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.
580 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/2IxLBKX.
581 UNICEF, 'Refugee and migrant children arriving on Greek Islands up by one-third in 2018', 21 September 2018, available at: https://uni.cf/2xAOH99.
582 AIDA, 'Greece: Destitution and makeshift accommodation continues in Thessaloniki', 6 February 2019, available at: https://bit.ly/2IttbLm; AIDA, 'Greece: Increase in arrivals and continuing strain in reception', 9 October 2018, available at: https://bit.ly/2IvZj15; 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.[583] Given the high occupancy rate of the UNHCR scheme places, 98% as of 2 January 2019,[584] 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.[585] 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.[586] 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.[587]

In June 2018, locals verbally and physically attacked verbally and physically female staff of the RAO in the RIC of **Chios**.[588] 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,

583 EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2018, available at: https://bit.ly/2txoQfH.
584 UNHCR, *Weekly accommodation update*, 2 January 2019, available at: https://bit.ly/2TXBFeS.
585 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.
586 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.
587 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.
588 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 Lesvos 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 Lesvos". The organisation reported 16 incidents from April to October 2018 on the Eastern Aegean islands.[589]

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.[590]

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.[591] 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.[592] 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.[593]

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.[594]

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.[595] An attack with a petrol bomb took place in February 2019 against the apartment of a ten-member Iraqi family in **Thessaloniki**.[596]

In March 2019, unaccompanied minors residing in a shelter in **Konitsa**, Ioaninna 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.[597] In **Vilia**, Attica, a hotel where dozens of refugees are

589 Refugee Support Aegean, 'Rise of xenophobic and racist incidents in the past 6 months: A timeline', 31 October 2018, available at: https://bit.ly/2S5cIk0.
590 Efsyn, 'Στον εισαγγελέα για την αποχή μαθητών στη Σάμο', 13 March 2019, available in Greek at: https://bit.ly/2U1BnYz.
591 UNHCR, 'UNHCR condemns attack on Afghan community centre in Athens', 23 March 2018, available at: https://bit.ly/2I6vcYL.
592 Left.gr, 'Ρατσιστικές επιθέσεις κατά μεταναστών σε Περιστέρι και Σεπόλια', 15 May 2018, available in Greek at: https://bit.ly/2H0Vyhu; 'Οργανωμένες ρατσιστικές επιθέσεις κατά μεταναστών σε Νίκαια και Ρέντη καταγγέλλει η ΚΕΕΡΦΑ', 4 January 2018, available in Greek at: https://bit.ly/2Sr2S8c.
593 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.
594 Parliament, Question No 1426, 11 September 2018 available in Greek at: https://bit.ly/2E6IDrq.
595 CNN Greece, 'Ρατσιστική βία στη Λάρισα: Καταγγελία για ξυλοδαρμό μεταναστών που ζήτησαν δεδουλευμένα', 19 February 2019, available at: https://bit.ly/2E7QyVy.
596 In.gr, 'Ρατσιστική επίθεση στη Θεσσαλονίκη: Πέταξαν μολότοφ σε μπαλκόνι διαμερίσματος προσφύγων', 19 February 2019, available at: https://bit.ly/2GH8dHI.
597 Ethnos, '"Υπαρχηγός" πυρήνα χρυσαυγιτών 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.[598] The Supreme Court Prosecutor has also ordered an investigation into potential racist motivation for this case.[599]

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.[600]

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.[601]

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.[602]

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

598 In.gr, 'Ρατσιστική επίθεση σε πρόσφυγες στα Βίλια – Χτύπησαν μικρά παιδιά', 18 March 2019, available in Greek at: https://bit.ly/2JJkLjE.
599 Efsyn, 'Στον εισαγγελέα για την αποχή μαθητών στη Σάμο', 13 March 2019, available in Greek at: https://bit.ly/2U1BnYz.
600 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.
601 Supreme Court Prosecutor, Document No 8191, 26 July 2018, available in Greek at: https://bit.ly/2VgXoyY.
602 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.[603] 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.[604]

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.[605]

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."[606]

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.[607] 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. [608]

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

---

603 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/2IwG4EG, paras 54-55.

604 Hellenic Statistical Authority, *Έρευνα εργατικού δυναμικού: Νοέμβριος 2018*, 7 February 2019, available in Greek at: https://bit.ly/2GZtLOK.

605 OAED, 'Δυνατότητα εγγραφής στο Μητρώο του ΟΑΕΔ, ανέργων χωρίς μόνιμη κατοικία', 28 February 2018, available in Greek at: http://bit.ly/2CU9WCK.

606 UNHCR, *Inter-agency Participatory Assessment Report*, October 2018, available at: https://bit.ly/2BPP3LI, 9.

607 JMD 22528/430/2017, Gov. Gazette B' 1721/18.5.2017.

608 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.[609] 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.[610] 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.[611]

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%).[612]

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

609 GCR, *Observations on the Draft Law transposing the Reception Directive*, 31 October 2016, available in Greek at: https://goo.gl/MBRqno.
610 Ministerial Decision 152360/ΓΔ4/2016, GG 3049/B/23-09-2016, available in Greek at: http://bit.ly/2lbVkGP.
611 Ministry of Education, *Q&A for access to education for refugee children*, 1 February 2017, available at: http://bit.ly/2maIzAv.
612 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.[613]

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.[614] Thus, while by February 2018 there were no afternoon preparatory classes (DYEP) operating in the Northern Aegean,[615] a number of preparatory afternoon classes started on **Lesvos** and **Chios** on 15 October 2018,[616] and on **Samos** and **Kos** in January-February 2019.[617]

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.[618] 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.[619]

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.[620]

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".[621] 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.[622]

---

613 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.
614 UNHCR, *Factsheet: Greece*, January 2019, available at: https://bit.ly/2E717It.
615 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.
616 UNHCR, *Factsheet: Greece*, October 2018, available at: https://bit.ly/2BR5tTS.
617 I Paideia, 'Τα προσφυγόπουλα από τα ΚΥΤ Κω και Σάμου πάνε σχολείο', 8 February 2019, available in Greek at: https://bit.ly/2C0AQva.
618 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.
619 UNHCR et al., *Greece – SMS WG-Site Profiles*, August-September 2018, available at: https://bit.ly/2UiXMNj, 43-46, 48.
620 Council of Europe, 'New complaint registered concerning Greece', 21 December 2018, available at: https://bit.ly/2SG0FpF.
621 UNHCR, *Inter-agency Participatory Assessment Report*, October 2018.
622 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,[623] 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".[624]

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.[625]

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."[626]

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

623 Article 33 L 4368/2016.
624 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.
625 Refugee Support Aegean, 'Situation on Samos has reached the edge', 18 February 2019, available at: https://bit.ly/2XzRGdj.
626 UNHCR, *Factsheet: Greece*, January 2019.

and victims of human trafficking.[627] 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.[628]

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."[629]

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,[630] 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.[631] 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."[632]

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.[633]

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

627 Article 20(1) L 4540/2018.
628 Article 20(2) L 4540/2018.
629 Article 14(8) L 4375/2016.
630 Article 22(3) L 4540/2018.
631 EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2018, available at: https://bit.ly/2txoQfH.
632 UNHCR, *Factsheet: Greece*, December 2018.
633 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.[634]

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."[635]

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.[636]

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.[637]

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 Alexandroupouli Frixos	Arsis
Arsis Thessaloniki Tagarades	Arsis
Arsis Thessaloniki Oreokastro	Arsis
Arsis Makrinitsa	Arsis
Arsis Pylaia	Arsis
Arsis Exarchia	Arsis
Red Cross Athens	Hellenic Red Cross

634 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.

635 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.

636 Council of Europe, 'New complaint registered concerning Greece', 21 December 2018, available at: https://bit.ly/2SG0FpF.

637 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.[638]

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

638 Metadrasi, *Supported Independent Living for unaccompanied minors*, available at: https://bit.ly/2tPEljv.

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 phycological assistance to asylum seekers.[639] 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.[640]

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.[641]

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.

639 Article 5(2) L 4540/2018.
640 Article 5(3) L 4540/2018.
641 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:[642]	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.[643]

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.[644] Furthermore, at the end of 2018, there were 42 unaccompanied children in detention ("protective custody") in the pre-removal detention centre of **Amygdaleza**,[645] 44 in police stations around Greece and 701 in Reception and Identification Centres on the islands and Evros.[646]

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.[647] 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

642 Information provided by the Directorate of the Hellenic Police, 23 January 2019. This figure only includes pre-removal centres.
643 Article 46(2) L 4375/2016.
644 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
645 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
646 EKKA, *Situation update: Unaccompanied children in Greece*, 31 December 2018, available at: https://bit.ly/2GzqiWR.
647 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
Total	**18,204**	**31,126**	**1,619**	**2,098**

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.[648] 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:

Asylum seekers applying from detention: 2018	
Nationality	2018
Pakistan	3,493
Afghanistan	1,006
Bangladesh	652
Iraq	407
Algeria	266
Others	1,376
Total	**7,200**

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.[649]

The Asylum Service also received 570 subsequent applications from detention in 2018. 104 of those were deemed admissible and 352 inadmissible.[650]

---

648 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.

649 Information provided by the Asylum Service, 26 March 2019.

650 *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.[651] 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**.[652]

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.[653]

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.[654]

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,[655] the pre-removal detention centre of Moria in **Lesvos**, initially established in 2015,[656] was reopened in mid-2017. In addition, a new pre-removal detention facility was opened in **Kos** in March 2017,[657] and another one was established in **Samos** in June 2017 but has not yet become operational.[658]

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.[659] 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".[660]

---

651 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
652 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.
653 EKKA, *Situation update: Unaccompanied children in Greece*, 31 December 2018, available at: https://bit.ly/2GzqiWR.
654 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
655 European Commission, *Joint Action Plan on the implementation of the EU-Turkey statement*, Annex to COM(2016) 792, 8 December 2016, para 18.
656 Joint Ministerial Decision 8038/23/22−ιγ΄, Gov. Gazette B' 118/21.1.2015; Joint Ministerial Decision 8038/23/22−να΄, Gov. Gazette B' 2952/31.12.2015.
657 Joint Ministerial Decision 8038/23/22-ξε, Gov. Gazette B' 332/7.2.2017.
658 Joint Ministerial Decision 3406/2017, Gov. Gazette B' 2190/27.6.2017.
659 GCR, *Borderline of Despair: First-line reception of asylum seekers at the Greek borders*, May 2018, available at: https://bit.ly/2OuXoeG, 18-19.
660 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.[661] 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**.[662]

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.[663]

2.2. Detention following second-instance negative decision

Furthermore, in response to EU pressure to increase returns under the EU-Turkey statement,[664] 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.[665] 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.[666]

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)."[667]

---

661 Refugee Support Aegean, 'Detention as a deterrent', 15 March 2018, available at: http://bit.ly/2ptTHbz.
662 GCR, *2018 Detention report*, forthcoming.
663 GCR, *2018 Detention report*, forthcoming.
664 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 to Turkey 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."
665 GCR, *2018 Detention report*, forthcoming.
666 Administrative Court of Rhodes, Decision AP 164/2018.
667 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**.[668] 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.[669]

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.[670] 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	**514**

Source: Directorate of the Hellenic Police, 29 January 2018.

668 Administrative Court of Piraeus, Decision AP 94/2018.
669 Administrative Court of Piraeus, Decision AP 483/2018.
670 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?[671] ☐ 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.[672]

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.[673]

In this case, an asylum seeker may be kept in detention for one of the following 5 grounds:[674]

(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.[675] 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:[676]

---

671 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.
672 Article 46(1) L 4375/2016.
673 Article 46(2) L 4375/2016.
674 Article 46(2) L 4375/2016.
675 Article 18(g) L 3907/2011, cited by Article 46(2)(b) and (e) L 4375/2016.
676 Article 18(g)(a)-(h) L 3907/2011.

- Does not comply with an obligation of voluntary departure;
- Has explicit 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,[677] which must be fully and duly motivated.[678] 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.[679]

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 order 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 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.[680]

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

677 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.
678 Article 46(3) L 4375/2016.
679 Information provided by the Asylum Service, 26 March 2019.
680 Administrative Court of Piraeus, Decision AP 59/2018.

relevant legal obligation imposed by the law.[681] 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."[682]

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.[683] This continues to be the case. Beyond the fact that detention on public order grounds is not covered by the Return Directive,[684] 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.[685] 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.[686]

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.[687] 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".[688]

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

---

681 GCR, *The implementation of Alternatives to Detention in Greece*, December 2015, available at: https://goo.gl/bynXIh.
682 Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, April 2017, 57.
683 Ombudsman, *Return of third-country nationals*, Special Report 2017, available at: https://bit.ly/2WSdhxb, 17.
684 European Commission, *Return Handbook*, 27 September 2017, available at: http://bit.ly/2nITCQ, 78-79.
685 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.
686 Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, April 2017, 59.
687 See e.g. Administrative Court of Athens, Decision 71/2018.
688 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.[689]

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.'"[690]

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,[691] 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 ordered.[692]

---

689 GCR, *2018 Detention Report*, forthcoming.

690 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.

691 UNHCR, *Greece Factsheet 1 – 31 December 2016*, available at: http://bit.ly/2IqUl6z.

692 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.[693]

However, this practice continued throughout 2018, coupled with the rise (15,154) in arrests for undocumented entry on the northern land border with Turkey.[694] 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 by released.[695]

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.[696] This restriction of freedom entails "the prohibition to leave the Centre and the obligation to remain in it."[697] 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.[698] No legal remedy is provided in national law to challenge this "restriction of freedom" measure during the initial 3-day period.[699] Furthermore, the initial measure is imposed automatically, as the law does not foresee an obligation to carry out an individual assessment.[700] 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.[701]

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,[702] 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.[703] This is also the case to a certain extend for newly arrived persons in Lesvos and Leros RIC (see Reception and Identification Procedure).

693 Ombudsman, Document No 235580/46773/2017, 25 October 2017 "Detention in Pre-Removals Centers of Eastern Macedonia-Thrace before referral to RIC".
694 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
695 Administrative Court of Komotini, Decisions 240/2018 and 241/2018.
696 Article 14(2) L 4375/2016.
697 Article 14(3) L 4375/2016.
698 See to that effect ECtHR, *Ilias and Ahmed v. Hungary*, Application No 47287/15, Judgment of 14 March 2017, para 66.
699 Article 14(4) L 4375/2016.
700 Article 14(2) L 4375/2016.
701 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.
702 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.
703 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.[704]

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.[705] 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.[706]

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,[707] 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.[708]

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.[709]

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.[710] 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:

---

704 GCR, *2018 Detention Report*, forthcoming.
705 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.
706 Article 60(2) L 4375/2016.
707 Article 60(1) L 4375/2016.
708 Athens Airport Police Directorate, Doc. No 4888/3/581/350, 20 March 2017.
709 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.
710 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.'"[711]

No proper official investigation has been launched following these allegations; the authorities deny the allegations.[712] 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.[713]

---

711 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.

712 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/2EHVp2I.

713 Ombudsman, Decision No 105, 9 June 2017, available in Greek at: 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.[714] 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.[715]

When issuing recommendations on the continuation or termination of detention of an asylum seeker,[716] 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."[717]

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."[718] In any event, it should be mentioned that the measure is:

(a) Not examined and applied before ordering detention;[719]
(b) Not limited to cases where a detention ground exists;[720]

---

714 Article 22(3) L 3907/2011.
715 Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, 24 April 2017, para 48.
716 Article 46(3) L 4375/2016.
717 Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, April 2017, 59.
718 See *inter alia* ECtHR, *Guzzardi v. Italy*, Application No 7367/76, Judgment of 6 November 1980, para 92-93.
719 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.[721]

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,[722] 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."[723]

More generally, Greek authorities have the positive obligation to provide special care to applicants belonging to vulnerable groups (see Special Reception Needs).[724] 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:[725]

- 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;[726]
- A woman from Pakistan suffering from PTSD who was detained for one month in a pre-removal centre;

720 FRA, *Fundamental rights: challenges and achievements in 2012*, available at: http://bit.ly/2EHr0k7, 52.
721 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.
722 Article 46(10)(b) L 4375/2016, as amended by Article 10 L 4540/2018.
723 Article 46(8) L 4375/2016, as amended by Article 10 L 4540/2018.
724 Article 20 L 4540/2018.
725 GCR, *2018 Detention report*, forthcoming.
726 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.[727]

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."[728] 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.[729]

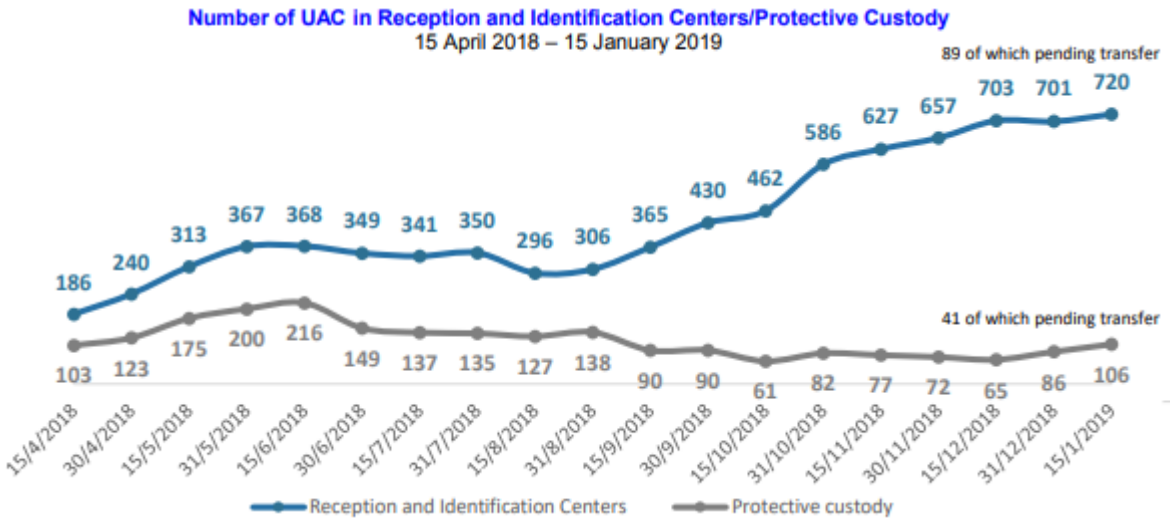
Due to the lack of accommodation facilities or transit facilities for children, detention of unaccompanied children is systematically imposed and may be prolonged for periods ranging from a few days to more than two months, pending their transfer to an accommodation facility.[730] Unaccompanied children 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,[731] 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**,[732] 44 were detained in police stations and other facilities around Greece, while 701 were in Reception and Identification Centres on the islands.[733] 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".[734] 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.[735]

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:

727 Administrative Court of Kavala, Decision 96/2018.
728 Article 46(10A) L 4375/2016, inserted by Article 10 L 4540/2018.
729 L 2101/1992, Gov. Gazette A' 192/2-12-1992 has ratified the Convention on the Rights of the Child.
730 Efsyn, 'Πρωτοχρονιά πίσω από τα κάγκελα', 30 December 2017, available in Greek at: http://bit.ly/2EQqM83.
731 AMNA, '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.
732 Information provided the Directorate of the Hellenic Police, 23 January 2019.
733 EKKA, *Situation Update: Unaccompanied Children in Greece*, 31 December 2018.
734 Article 118 PD 141/1991.
735 EKKA, *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.[736] Similar critiques were levelled in 2018 by the Council of Europe Commissioner for Human Rights and the CPT.[737] 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."[738]

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.[739]

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

736 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.

737 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.

738 *Ibid*, para 75.

739 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.[740]

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,[741] and that of the asylum procedure,[742] 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.[743] 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."[744] 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.[745]

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." [746]

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,[747] 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.

---

740 GCR, 'Το ΕΔΔΑ χορηγεί ασφαλιστικά μέτρα σε κρατούμενα ασυνόδευτα ανήλικα', 26 March 2019, available in Greek at: https://bit.ly/2FADnOT.

741 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/1Fl5OVT.

742 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.

743 Information provided by the Directorate of the Hellenic Police, 23 January 2019.

744 Ombudsman, *Migration flows and refugee protection: Administrative challenges and human rights*, April 2017, 75.

745 GCR, *2018 Detention Report*, forthcoming.

746 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.

747 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.[748]

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);[749]

- ❖ Applicants detained for (d) public order reasons or (e) pending a Dublin transfer can remain in detention for a maximum period of 3 months;[750]

- ❖ 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.[751]

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.[752]

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

748 GCR, *2018 Detention Report*, forthcoming.
749 Article 46(4)(b) L 4375/2016, citing Article 46(2)(a), (b) and (c).
750 Article 46(4)(c) L 4375/2016, citing Article 46(2)(d) and (e).
751 Article 46(10A) L 4375/2016, inserted by Article 10 L 4540/2018.
752 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.[753]

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."[754] 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.[755]

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,[756] 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.[757]

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".[758] The latter is subject to no maximum time limit.

According to data provided by EKKA, 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.[759]

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.[760] Moreover, unaccompanied children in RIC remain there under "protective custody" for extended periods.[761]

753 GCR, *2018 Detention Report*, forthcoming.
754 Article 46(4)(a) L 4375/2016.
755 Administrative Court of Kavala, Decision 407/2018.
756 Article 30(5) L 3907/2011.
757 Article 30(6) L 3907/2011.
758 Article 118 PD 141/1991.
759 Information provided by EKKA, February 2019.
760 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.
761 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.[762]

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*
Total			**6,417**

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

762 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.[763] According to this Decision, the estimated budged 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.[764]

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**.[765]

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?[766]	☒ 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.[767] 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."[768]

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."[769]

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

763 Joint Ministerial Decision 8038/23/22-πζ/, Gov. Gazette B' 5906/31.12.2018.
764 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
765 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.
766 Medical doctors, when available, are not daily present in all centres. However, in case of emergency, detainees are transferred to public hospitals.
767 Article 46(10)(d) and (e), and (10A) L 4375/2016.
768 Article 46(8) L 4375/2016.
769 Council of Europe Committee of Ministers, *1288th 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.[770] 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.[771] Women and men shall be detained separately,[772] unaccompanied children shall be held separately from adults,[773] and families shall be held together to ensure family unity.[774] Moreover, the possibility to engage in leisure activities shall be granted to children.[775]

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.[776]

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.[777]

Tavros (Petrou Ralli): The CPT has long held that this facility is not suitable for extended detention due to its "totally inappropriate carceral design",[778] 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".[779] 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,[780] 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.[781]

Corinth: People are detained in communal dormitories, each measuring about 33-35m², 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

770 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.
771 Article 46(10)(b) L 4375/2016, as amended by Article 9 L 4540/2018.
772 Article 46(10A)(e) L 4375/2016, inserted by Article 10 L 4540/2018.
773 Article 46(10A)(b) L 4375/2016, inserted by Article 10 L 4540/2018.
774 Article 46(10A)(d) L 4375/2016, inserted by Article 10 L 4540/2018.
775 Article 46(10A)(c) L 4375/2016, inserted by Article 10 L 4540/2018.
776 GCR, *2018 Detention report*, forthcoming.
777 CPT, *Report on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, para 108.
778 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.
779 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/2I0JTjc, para 56.
780 Ombudsman, *Εθνικός Μηχανισμός Πρόληψης των Βασανιστηρίων & της Κακομεταχείρισης - Ετήσια Ειδική Έκθεση OPCAT 2017*, available in Greek at: https://bit.ly/2DsZMew, 56.
781 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"[782] 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.[783] 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 1m² 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."[784]

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."[785]

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."[786]

2.1.2. Health care in detention

The law states that the authorities shall guarantee access to health care for detained asylum seekers.[787]

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.[788] A vacancy notice was issued in November 2017 *inter alia* for 20 doctors, 9 psychiatrists and 45 nurses to be

782 CPT, *Report on the visit to Greece from from 14 to 23 April 2015*, CPT/Inf (2016) 4, 1 March 2016, para 113.
783 See also GCR, *2018 Detention report*, forthcoming.
784 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.
785 *Ibid*.
786 *Ibid*.
787 Article 46(10)(f) L 4375/2016, as amended by Article 9 L 4540/2018.
788 Article 47(1) L 4461/2017.

hired.[789] As mentioned by the Directorate of the Hellenic Police, the provision of medical services under this scheme has started since mid-January 2018.[790]

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."[791]

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).[792] 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
Total	**20**	**15**	**18**	**15**	**15**	**15**	**15**	**15**	**15**	**143**

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

789 AEMY, *Πρόσκληση εκδήλωση ενδιαφέροντος*, No 5892, 10 October 2017, available in Greek at: http://bit.ly/2sywuc3.
790 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
791 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.
792 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
Total	**13**	**10**	**12**	**7**	**10**	**12**	**4**	**6**	**74**

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 were 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, Lesvos, Chios and Samos.

Police stations are by nature "totally unsuitable" for detaining persons for longer than 24 hours.[793] 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."[794]

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.[795]

The ECtHR has consistently held that prolonged detention in police stations *per se* is not in line with guarantees provided under Article 3 ECHR.[796] 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**.[797] In

793 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.
794 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.
795 Ombudsman, *Συνηγορος του Πολίτη, Εθνικός Μηχανισμός Πρόληψης των Βασανιστηρίων & της Κακομεταχείρισης - Ετήσια Ειδική Έκθεση OPCAT 2017*, 46.
796 ECtHR, *Ahmade v. Greece*, Application No 50520/09, Judgment of 25 September 2012, para 101.
797 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**.[798]

3. Access to detention facilities

Indicators: Access to Detention Facilities			
1. Is access to detention centres allowed to			
❖ Lawyers:	☒ Yes	☐ Limited	☐ No
❖ NGOs:	☒ Yes	☐ Limited	☐ No
❖ UNHCR:	☒ Yes	☐ Limited	☐ No
❖ Family members:	☐ Yes	☒ Limited	☐ No

According to the law, UNHCR and organisations working on its behalf have access to detainees.[799] 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.[800]

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,[801] others such as **Tavros** and all police stations prohibit the use of mobile phones.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention		
1. Is there an automatic review of the lawfulness of detention?	☒ Yes	☐ No
2. If yes, at what interval is the detention order reviewed?	Not specified	

1.1. Automatic judicial review

L 4375/2016 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.[802]

Article 46(5) L 4375/2016 reads as follows:

798 ECtHR, *H.A. and others v. Greece*, Application No 19951/16, Judgment of 28 February 2019, EDAL, available at: https://bit.ly/2FCoVFP.
799 Article 46(10)(c) L 4375/2016, as amended by Article 9 L 4540/2018.
800 Article 46(10)(d) L 4375/2016, as amended by Article 9 L 4540/2018.
801 GCR, *2018 Detention report*, forthcoming.
802 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,[803] 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:

***Ex officio* review of detention by the Administrative Court of Athens: 2018**		
	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,[804] 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",[805] which remains the case in 2018,[806] 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.[807] The Court took into consideration *inter alia* the fact that detention orders were written in Greek even though the applicants

803 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.
804 Article 46(6) L 4375/2016, citing Article 76(3)-(4) L 3386/2005.
805 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.
806 GCR, *2018 Detention report*, forthcoming.
807 ECtHR, *J.R. and Others v. Greece*, Application No 22696/16, Judgment of 25 January 2018, para 99.

were Farsi speakers;[808] 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);[809] and that there was no legal assistance.[810]

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.[811]

Moreover, the ECtHR has found on various occasions the objections procedure to be an ineffective remedy, contrary to Article 5(4) ECHR,[812] 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,[813] 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.[814] 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.[815]

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.[816] 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

808 *Ibid*, para 100.
809 *Ibid*, paras 100-101.
810 *Ibid*, para 102.
811 ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019.
812 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.
813 ECtHR, *R.T. v. Greece*, Application no 5124/11, Judgment of 11 February 2016; *Mahammad and others v. Greece*, Application No 48352/12, January 15 January 2015; *MD v. Greece*, Application No 60622/11, Judgment of 13 November 2014; *Housein v. Greece*, Application No 71825/11, Judgment of 24 October 2013. In the case *F.H. v. Greece*, Application No 78456/11, Judgment of 31 July 2014, the Court found a violation of Article 3 combined with Article 13, due to lack of an effective remedy in the Greek context in order to control detention conditions.
814 ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, para 72.
815 Administrative Court of Rhodes, Decision 170/2018.
816 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.[817]

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.[818]

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.[819] 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."[820]

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."[821]

817 Administrative Court of Kavala, Decision 119/2018 (negative); Decision 407/2018 (positive).
818 ECtHR, *H.A. v. Greece*, Application No 19951/16, Judgment of 28 February 2019, para 212.
819 Article 9(6) recast Reception Conditions Directive.
820 Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, 24 April 2017, para 49.
821 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.[822]

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.

[822] 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.

Content of International Protection

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.[823] 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".[824]

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.[825] 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.[826] 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.[827] 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.[828]

In 2018, the Asylum Service received 1,573 applications for renewal and issued 1,371 positive renewal decisions.[829]

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

823 Article 24 PD 141/2013.
824 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/2jGtIw0.
825 Asylum Service, *Residence permit – Renewal*, available at: http://bit.ly/2xIzUXb.
826 Information provided by the Asylum Service, 26 March 2019.
827 Generation 2.0, 'Ανανέωση αδειών διαμονής δικαιούχων διεθνούς προστασίας: Επιστολή στο Υπουργείο Εργασίας', 20 December 2017, available in Greek at: http://bit.ly/2BoghdB.
828 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.
829 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.[830]

In 2018 there were 1,055 renewal applications submitted before the Aliens Police Directorate. 933 positive decisions and 45 negative decisions were issued.[831]

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.[832] 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.[833]

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.[834] 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.[835] 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.[836] 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.[837] Absence periods are not taken into account for the

830 Generation 2.0, 'Καθυστερήσεις στις Άδειες Διαμονής | Δελτίο Τύπου', 3 January 2018, available in Greek at: http://bit.ly/2I96pEc.
831 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
832 L 344/1976 on Civil Registration Acts, Official Gazette 143/A/11.6.1976.
833 Article 49 L 344/1976.
834 Article 29 L 344/1976.
835 Article 1(3) PD 391/1982.
836 See e.g. Ministry of Interior, General Orders to municipalities 4127/13.7.81, 4953/6.10.81 and 137/15.11.82.
837 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.[838] A fee of €150 is also required.[839]

To be granted long-term resident status, beneficiaries of international protection must also fulfil the following conditions:[840]

(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".[841]

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".[842]

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,[843] 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.

838 Article 89(3) Immigration Code.
839 Article 132(2) Immigration Code, as amended by Article 38 L 4546/2018.
840 Article 89(1) Immigration Code.
841 Article 90(2)(a) Immigration Code.
842 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.
843 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.[844]

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.[845] 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.[846] Simplified instructions on the acquisition of Greek citizenship have also been released by the Ministry of Interior.[847]

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.[848]

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.[849] 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.[850] 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.

844 Article 5(1)(e) Citizenship Code, as amended by Ministerial Decision 130181/6353/2018, Gov. Gazette B/3142/02.04.2018.
845 Article 5A Citizenship Code.
846 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.
847 Ministry of Interior, *Simplified instructions on the acquisition of Greek citizenship*, available at: https://bit.ly/2TCz35h.
848 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/2FhKHjI.
849 Ministry of Interior, Circular No 38788/2018, 26 July 2018, available in Greek at: https://bit.ly/2utnJye.
850 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 been 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."[851]

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.[852]

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.[853]

851 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.

852 Ministry of Interior, *Naturalisation statistics 2018*, available in Greek at: https://bit.ly/2IRVUtk.

853 *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:[854]

(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,[855] and cessation is without prejudice to compelling reasons arising from past persecution for denying the protection of that country.[856]

Cessation on the basis of changed circumstances also applies to **subsidiary protection** beneficiaries under the same conditions.[857]

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.[858]

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.[859]

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;

854 Article 11(1) PD 141/2013.
855 Article 11(2) PD 141/2013.
856 Article 11(3) PD 141/2013.
857 Article 16 PD 141/2013.
858 Article 63(2) L 4375/2016.
859 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.[860]

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.[861]

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No
   - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application? For preferential treatment regarding material conditions ☒ Yes ☐ No
   - ❖ If yes, what is the time limit? 3 months
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.

860 Asylum Service, Circular 1/2018 of 26 January 2018, available in Greek at: http://bit.ly/2rPEkhb.
861 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:[862]

(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:[863]

(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.[864]

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.[865]

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.[866]

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.[867] Respectively, 10 applications for family reunification were submitted in 2018 before the Aliens Police

862 Article 14(1) PD 131/2006.
863 Article 14(3) PD 131/2006, citing Article 14(1)(d).
864 Article 14(3) PD 131/2006, citing Article 14(1)(d).
865 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.
866 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.
867 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.[868]

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.[869]

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.[870] 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.[871]

Since the issuance of the abovementioned Decision, the applications for visa following a positive family reunification decision submitted before Greek Consulates, as follows:[872]

- **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.[873] 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.

868 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
869 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.
870 JMD 47094/2018, Gov. Gazette B/3678/28.08.2018.
871 Ministry of Foreign Affairs, *Immigration Code Handbook*, 2019, available in Greek at: https://bit.ly/2BYHS3p, 123-127.
872 Information provided by the Ministry of Foreign Affairs, 28 February 2019.
873 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.[874] 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,[875] subject to a fee of €85.[876] These travel documents are valid for 5 years for adults and can be renewed.[877]

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.[878] 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.[879]

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.[880]

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.[881] In 2018 there were 383 applications for travel documents to the Police and 382 were accepted.[882]

874 Article 25(1) PD 141/2013.
875 Article 25(2) PD 141/2013.
876 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/2jGtIw0.
877 Joint Ministerial Decision 10566/2014, Gov. Gazette B/3223/02.12.2014, available at: http://bit.ly/2lmEMwy.
878 Article 25(4) PD 141/2013.
879 Article 1 PD 25/2004.
880 Information provided by the Asylum Service, 26 March 2019.
881 Information provided by the Directorate of the Hellenic Police, 23 January 2019.
882 *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 of 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.[883] 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.[884] 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."[885] 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."[886]

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.[887]

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

883 Asylum Service, *Statistical data*, December 2018.
884 UNHCR, *Greece Fact Sheet*, 1-31 January 2018, available at: http://bit.ly/2oAeQzB.
885 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.
886 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/2GNulQp.
887 Article 33 PD 141/2013.

beneficiaries of international protection living under deplorable conditions, including persons returned from other EU countries.[888]

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.[889] 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,[890] 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.[891] 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.[892]

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 refuges 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.[893]

A total of 204 recognised refuges, 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.[894]

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

888 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/2GNulQp.
889 UNHCR, *Greece Factsheet*, December 2018.
890 Ministry of Migration Policy Decision 6382/2019, Gov. Gazette 853/B/12.03.2019, available in Greek at: https://bit.ly/2HJeiU8.
891 Article 6(1) MD 6382/2019.
892 Article 6(2) MD 6382/2019.
893 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.
894 *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",[895] 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.[896] 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.[897]

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.[898] Upon their return to Greece, the family ended up homelessness, 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'."[899]

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

895 Human Rights Committee, *O.Y.K.A. v. Denmark*, Communication No 2770/2016, 30 November 2017.
896 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.
897 German Federal Constitutional Court, 2 BvR 714/18, 31 July 2018.
898 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.
899 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."[900]

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."[901]

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 (*εταιρικό*) 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.[902] Adult beneficiaries are entitled to access the education system and training programmes under the same conditions as legally residing third-country nationals.[903] 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).[904]

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".[905] 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.[906]

---

900 ELIAMEP, *Refugee Integration in Mainland Greece: Prospects and Challenges*, March 2018, available at: https://bit.ly/2T5untb, 3

901 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/2GNulQp.

902 Article 28(1) PD 141/2013.

903 Article 28(2) PD 141/2013.

904 UNICEF, *Refugee and migrant children in Greece as of 31 January 2019*, available at: https://uni.cf/2SH2pz4.

905 UNHCR, *Inter-agency Participatory Assessment Report*, October 2018.

906 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.[907]

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.[908]

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.[909]

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.[910]

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.[911] 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.[912] 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.

907 Articles 29 and 30 PD 141/2013.
908 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.
909 Article 1(IA)(2) L 4093/2012, as amended by Article 6 L 4472/2017.
910 Article 10 L 3220/2004.
911 JMD Γ4α/Φ. 225/161, Official Gazette 108/B/15.2.1989.
912 Article 235 L 4389/2016. See KEA, 'Πληροφορίες για το ΚΕΑ', 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.[913] 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”.[914] Moreover, access to health is also impeded by obstacles with regard to the issuance of a Social Security Number (AMKA).

913 Article 93 L 4387/2016.
914 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
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	21 October 2013	Presidential Decree 141/2013 "on the transposition of Directive 2011/95/EU into Greek legislation"	http://bit.ly/1FWWVGX (GR)
Directive 2013/32/EU 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.	http://bit.ly/2kKm2cu (EN) http://bit.ly/234vUhP (GR)
Directive 2013/33/EU 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"	http://bit.ly/2kKm2cu (EN) http://bit.ly/234vUhP (GR) https://bit.ly/2KCbDx6 (GR)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	3 April 2016	Law 4375/2016 (Article 46, transposing Article 28)	http://bit.ly/2kKm2cu (EN) http://bit.ly/234vUhP (GR)