



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

UNHCR POSITION ON IMPORTANT ASPECTS OF REFUGEE PROTECTION IN GREECE

[February 2006]

Greece is located at the external border of the European Union, at the crossroads between Asia, Africa and Europe. Considerable numbers of refugees and migrants arrive in Greece, although they do not always stay. Still, out of a population of eleven million persons, more than one million are third country nationals. A migrant-producing country until three decades ago, Greece has today become a country of reception. Greece is a State Party to the 1951 Convention on the Status of Refugees since 1960 and its Protocol since 1968. It has developed a national asylum system in cooperation with UNHCR, and it has further participated in EU efforts to harmonise asylum and migration policies and to establish a common asylum system. In support of efforts to bring the current Greek asylum policies and practice in line with international and European standards, UNHCR wishes to make a number of recommendations to the Government of the Hellenic Republic. In particular, UNHCR sees a need for action in the following four areas:

- I. Improving the national asylum system
- II. Advancing Greek asylum and migration law
- III. Facilitating durable solutions for refugees and other persons of concern to UNHCR
- IV. Supporting asylum in Greece and UNHCR's work for refugees in other parts of the world.

I. Improving the national asylum system

I.1 Access to territory and the asylum procedure

The Greek Government, in the context of EU harmonisation, and as a member of the Schengen system, has gone to great lengths to strengthen border controls in its efforts to combat illegal migration. In addition, Greek migration legislation provides for stringent visa requirements, carrier sanctions, and high fines for persons aiding and abetting irregular migration. On the other hand, migration flows often include *bona fide* asylum-seekers. While UNHCR supports measures to combat irregular migration more generally, it remains concerned that such measures do not distinguish sufficiently between economic migrants and persons in need of international protection. Moreover, UNHCR considers that all foreigners, whether detained or not, should be notified on their arrival in detail about their legal status and their rights.

Persons who enter Greece in an irregular manner, regardless of whether this occurs at the border or in Greek territory, are placed in detention pending deportation procedures. Many persons apply for asylum either while in detention or just after being released. To facilitate appropriate identification of persons in need of protection, UNHCR supports visits to immigration detention centres by health and welfare staff of the government, the Greek Council for Refugees (GCR) and other agencies, as well as continued training with the police and the Training Institute of the National Centre for Public Administration, particularly at border locations. UNHCR also welcomes the circular of the Chief of the Greek Police of 4 July

2003¹, according to which all persons who are detained due to irregular entry or presence should have access to lawyers and humanitarian organisations, and should be provided with appropriate counselling (e.g by GCR legal counselours, or local Bar Associations) with a view to determining possible protection needs, as early as possible. UNHCR has observed improvements in the conditions at some detention centres in Greece, although other centres do not meet minimum standards as prescribed in international instruments.

Recommendation 1.

In line with the “Hague Programme“, which reiterates the EU’s full commitment to the 1951 Refugee Convention, UNHCR encourages Greece, together with its EU partners, to design border control mechanisms that ensure respect for the life and physical security, as well as non-refoulement, of persons in need of international protection. In particular, UNHCR encourages the Greek authorities to ensure that police officers and border guards receive appropriate instructions and training, so that asylum-seekers are identified and referred to the appropriate authority, prior to applying the re-admission protocol or any deportation measures². UNHCR further encourages the Greek authorities to put in place procedures to identify separated children, single women, the disabled and elderly, victims of trafficking and victims of torture, to ensure that asylum-seekers are sufficiently informed about their legal status and rights, and to refer such persons to appropriate care arrangements.

Recommendation 2.

In accordance with applicable UNHCR Guidelines on the detention of asylum-seekers, UNHCR encourages the authorities, supported by local agencies, to:

- ***Separate single women from men;***
- ***Avoid the detention of children, particularly separated and unaccompanied children (i.e. persons under 18 travelling without parents or legal guardian);***
- ***Avoid the detention of women in advanced stages of pregnancy, and preferably do not detain pregnant women and nursing mothers at all;***
- ***Avoid the detention of the disabled and elderly;***
- ***Never detain victims of torture;***
- ***Provide adequate medical care to detainees;***
- ***Ensure effective legal representation for asylum-seekers in detention***

In addition, UNHCR appeals to the Greek Government to ensure effective automatic and periodic judicial review of the detention of every individual.

Recommendation 3.

UNHCR calls on the competent police authorities to ensure that registration of asylum claims is carried out without delay, and that asylum-seekers are promptly issued documentation that will ensure their immediate protection and their access to health care and other basic social services for the duration of the procedure.

¹ Protocol Reg. No: 4803/22/44, dated 4 July 2003

² This would be in accordance with Greece's commitments under the 1951 Convention on the Status of Refugees, as well as the savings clause contained in the two Protocols against smuggling of migrants and trafficking of persons, which supplement the United Nations Convention against Transnational Organized Crime.

Recommendation 4

The Greek Government is strongly encouraged to devote adequate financial and human resources required for the processing of first instance asylum-applications, including sufficient –and preferably more permanent- staff being assigned to the Asylum Office of the Ministry of Public Order and at the Aliens Sections of the Regional Police Directorates in the country, notably in Attica.

I.2 Improving reception capacity and living conditions

UNHCR has observed with satisfaction measures taken over the last few years by the Greek Government, with the support from the European Refugee Fund, to increase reception measures, including for separated children in Greece³. On the other hand, the current capacity of reception centres is limited to some 900 places in ten centres across the country. The centres are either fully or partially funded by the Ministry of Health and Social Solidarity and operated by the Hellenic Red Cross, Voluntary Work Athens, Elinas, Doctors of the World, Social Solidarity, the National Youth Foundation, and Arsis. Considering the number of asylum-seekers that enter Greece every year, there needs to be a considered attempt made to ensure adequate reception capacity and improve conditions, where required.

Recommendation 5.

UNHCR calls on the Greek Government and NGOs to ensure adequate reception capacity for asylum-seekers throughout the country. Reception conditions in all centres should meet minimum standards, notably regarding access to health care and education , as well as special measures for vulnerable individuals including victims of torture, unaccompanied children, pregnant women and the disabled. A consultancy commissioned by UNHCR contains conclusions and recommendations relevant to minimum standards and other aspects on the reception of asylum-seekers in Greece⁴.

I.3 Improving the provision of legal counseling, including a system of free legal aid

Recently adopted EU legislation stipulates that each asylum-seeker is to be provided with an information leaflet or verbal information, if necessary with the help of an interpreter, on the refugee status determination procedure and rights and obligations of the applicant. However, currently few asylum-seekers are sufficiently informed about the basic aspects of the asylum procedure, and their rights and obligations in this regard. Appropriate legal advice throughout the asylum procedure, including in the early stages, is an essential procedural safeguard to ensure a fair procedure. In UNHCR's view, providing qualified advice is as much in the interest of the State as it is beneficial to *bona fide* refugees. Through appropriate counselling, persons not in need of protection could also be informed about the futility of an asylum request and about possible alternatives open to them.

³ Twenty five children can be accommodated in the Anogia Centre in Crete, operated by the National Youth Foundation, funded by the Ministry of Health and Social Solidarity and recognised as an excellent facility and model of its kind. As of 2006, a increased number of separated children will also be accommodated in Volos, Athens and Thessaloniki, in hostels run by the NGOs Arsis, ELINAS and Social Solidarity respectively.

⁴ "Research Study on reception Conditions for Asylum-Seekers in Greece, with special emphasis on *single mothers, single women and separated children* , Dr. Theodora D. Tsovoli & Dr. Eftihia Voutira

Recommendation 6.

UNHCR urges the Greek Government to ensure that asylum applicants are duly informed on the asylum procedure and their rights and obligations.

Recommendation 7.

UNHCR further appeals to the Government to support a system of free legal counseling and representation services through an increase of public funds to finance the refugee work of non-governmental organizations, as well as counseling services by attorneys.

I.4 Refugee recognition practice in Greece

Few persons are granted asylum in Greece, in comparison to other European countries. During 2005, the Greek Government granted refugee status to 39 (or 0.84 %) out of 4,624 decisions on applications, whereas the overall recognition rate, including humanitarian status (granted to 49 persons), stood at 1,9 %. In the 15 member states of the EU (those prior to the enlargement), the average recognition rate (including humanitarian status) in the same year, according to available statistics, was 31.9 %. Between 2002 and 2004 Greece had demonstrated a dramatic change in the granting of asylum to refugees, from an average recognition rate of 22.48% for both Convention and humanitarian status in 2001, to 1.07%, 0.62% and 0.88% for the next three years respectively. Whereas UNHCR is pleased to observe an attempt for a more realistic and humanitarian approach to refugees in 2005, it remains concerned with the fact that the refugee recognition figures remain very low, in comparison to other EU countries.

Recommendation 8.

UNHCR calls on the Greek refugee status determination authorities to apply the interpretation of the term “refugee” less restrictively, including beneficiaries of complementary protection, giving due account to its own humanitarian tradition, the Conclusions adopted by UNHCR’s Executive Committee and the jurisprudence of the Council of State and the European Court of Human Rights. In particular, UNHCR encourages the Minister of Public Order to confirm the positive recommendations for the granting of refugee status made by the refugee appeals board. UNHCR is willing to strengthen its cooperation with the Greek police in order to build the expertise of its officers in interviewing techniques, the appropriate use of country of origin information, and the writing of properly reasoned decisions rejecting or accepting asylum applications.

I.5 Need for an independent appeals process

Under current Greek asylum legislation, the Ministry of Public Order decides both at first and second instance on asylum applications. There is no independent appeals body, as is best practice in other EU countries. A key procedural safeguard deriving from general administrative law and essential to the legal concept of effective remedy, is that the appeal be considered by an authority different from and independent of that making the initial decision. Currently, the composition of the Greek Appeals Board comprises two officials who are closely associated with the Ministry of Public Order, two officials from the Ministry of Foreign Affairs and two non-government members, representing UNHCR and the Athens Bar Association.⁵

Recommendation 9.

⁵ Recourse to the Council of State, which is fully independent, cannot be considered as “effective”, since suspension of deportation is not automatic on appeal, and given its very lengthy procedures, amounting to several years.

As a matter of priority, UNHCR advocates the establishment of an independent –possibly judicial - body for the adjudication of asylum claims on appeal.⁶

I.6 Implementation of the “Dublin II” Regulation

As of early 2004 some persons returned to Greece under the “Dublin II“ Regulation are informed upon arrival that their asylum procedure has been “interrupted“, because they left their declared residence without informing the police. Consequently they are detained and possibly deported, without having had a chance to have their asylum application examined in substance either by Greece or by the sending country. This often amounts to a breach of the 1951 Refugee Convention.

Recommendation 10.

UNHCR urges the Greek Government to ensure for all persons being returned under the Dublin II Regulation that their asylum claim is examined in substance, in full respect of the 1951 Convention. It further urges third country Governments to seek assurances to the same effect prior to returning asylum seekers to Greece.

I.7 Protection of Refugee Children and Women

➤ Unaccompanied and/or separated children

Among 158 unaccompanied/separated children officially registered as asylum-seekers in Greece during 2005, only a few effectively reside and are assisted at reception centres in the country. Furthermore, an increasing number of separated children are not identified as such, are placed in detention, and when released are not referred to any protective institution. The whereabouts of most are thereafter unknown. Gaps in Greek legislation remain on the identification of newly arrived persons (accompanied or unaccompanied) below the age of 18, the appointment of a legal guardian and the provision of assistance and durable solutions for separated children.

Recommendation 11.

UNHCR calls on the Greek Government to adapt its national legislation to the EU directive on reception conditions (which contains specific provisions for unaccompanied minors), in particular as regards the appointment of legal guardians.

Recommendation 12.

UNHCR encourages the Ministries of Public Order, Justice and Health and Social Solidarity, to adopt the guidelines prepared by UNHCR and the Greek Ombudsman in 2005 on the treatment of separated children seeking asylum, including the establishment of a system that will ensure their early referral to competent service providers in Greece.

➤ Women and children victims of trafficking and violence / gender based persecution

Among the women and children who arrive illegally in Greece there may be victims of trafficking and persons who have experienced violence in their country of origin, including gender-based persecution. The absence of hard data, however, makes policy decisions and

⁶ See also Recommendation 15. The UNHCR representation in Greece has recently conducted a comparative analysis of asylum structures in other EU countries.

operational responses difficult. UNHCR sees the need for specific measures for the protection and assistance to vulnerable women asylum-seekers, refugees and victims of trafficking.

Recommendation 13.

UNHCR recommends that the relevant Greek authorities, together with the International Organization for Migration (IOM), UNHCR and other organisations, improve the screening system through which women and children victims of trafficking and violence, including some potential asylum-seekers among them, will be identified and referred to specialised governmental and/or non-governmental organisations for assistance, protection, housing and medical needs.

Recommendation 14.

UNHCR encourages the Greek Government to adopt UNHCR Guidelines on Gender Related Persecution, in particular those related to the granting of refugee status, procedural safeguards and reception standards for women victims of persecution.

II. Advancing Greek asylum and migration law and institutions

UNHCR anticipates that the Greek Government will transpose into Greek legislation the adopted EU Directives, namely on the qualification of a person as a refugee, on asylum procedures, temporary protection, and on reception conditions. It also encourages the Greek Government to evaluate how the authorities responsible for asylum issues have discharged their functions over the past ten years, and to give consideration to the formation of a new authority (possibly as a general secretariat under one of the existing ministries) to handle asylum issues.

Recommendation 15.

UNHCR is willing to assist the Government in drafting national legislation, in order to maintain higher protection standards in those areas where EU directives have fallen below the standards advocated by UNHCR. In addition, Greece should review and align its national legislation where this is not fully in line with international refugee law. UNHCR is further willing to contribute to the formulation of a comprehensive institutional and legal regime for the protection of refugees in Greece.

Stateless persons represent a particular category of vulnerable persons, as they have no State to which they may return for protection.

Recommendation 16.

UNHCR encourages Greece to adopt legislation in accordance with its obligations under the 1954 Convention on the Status of Stateless Persons. It further hopes that Greece will accede to the 1961 Convention on the Reduction of Statelessness.

III. Facilitating durable solutions for refugees and other persons of concern to UNHCR

III.1 Local integration/naturalization

Most recognized refugees have the potential of integrating well in Greek society. Sometimes, however, unnecessary hurdles are placed before them in their struggle to rebuild a normal life. For instance, many provisions in Greek tax and social security laws that could be of benefit to refugees, apply only to Greek citizens. In addition, recognised refugees, like any other foreigner, must pay a very high application fee if they apply for Greek citizenship.

Recommendation 17.

UNHCR urges the Greek Government to engage in a comprehensive review of laws and regulations on social security and taxation to include in their scope refugees, and to generally promote and facilitate the local integration of refugees, including through naturalization, as also prescribed in the Geneva Convention. Furthermore, it recommends to the Greek Government to waive the application fee for Greek citizenship for recognized refugees.

III.2 Facilitating voluntary repatriation

The voluntary repatriation of persons of concern to UNHCR is another key durable solution within UNHCR's statutory responsibility. The decision to return must be based on a free and informed choice, and the return must take place in safety and dignity. Given the current situation in Afghanistan and Iraq, UNHCR deems that return to any of these two countries that is not voluntary could raise protection concerns. On the other hand, some individual asylum-seekers from Afghanistan have expressed their desire to return to their country of origin from Greece. UNHCR has signed Tripartite Agreements between a number of Western European countries, UNHCR and the Government of Afghanistan to regulate the voluntary repatriation of these persons of concern.

On Iraq, UNHCR has requested the Greek Government to observe a temporary moratorium on forced returns and to provide protection to those Iraqis with continued or new needs of protection (e.g., religious minorities). UNHCR is regularly reviewing the situation in Iraq, and provides updated positions in this regard on a regular basis.

Recommendation 18.

UNHCR calls on the Greek Government to ensure that no forcible returns take place, particularly in post conflict situations, without giving persons concerned an opportunity to raise new international protection needs or compelling humanitarian grounds that would justify their continued stay in Greece. UNHCR will continue to provide the Government with updated information on the situation in countries of origin as well as on protection needs of asylum-seekers in Greece.

Recommendation 19.

Notwithstanding continued protection needs of Afghan asylum-seekers in Greece, UNHCR suggests exploration of voluntary repatriation programmes and mechanisms to facilitate the voluntary return of Afghan nationals from Greece. UNHCR hopes that the Greek Government will take an active operational interest in supporting and providing financial support to such programmes.

III.3 Return of persons found not to be in need of international protection

The return of persons found not to be in need of international protection after due consideration of their claims in fair procedures is in the interest of every host state, and contributes significantly to the credibility of the asylum system. In this connection, UNHCR has observed an increasing trend of asylum applications being lodged in Greece by certain categories of persons whose claims are presumed to be “manifestly unfounded”. UNHCR believes that, within the context of a comprehensive immigration and asylum policy, repatriation policies should be developed and implemented regarding persons found not to be in need of international protection under the 1951 Refugee Convention

Recommendation 20.

UNHCR calls on the Greek Government to ensure the efficient and expeditious return of persons found not to be in need of international protection (following fair procedures, as suggested in chapter I above) to their countries of origin.

III.4 Establishment of a refugee resettlement quota in Greece

Resettlement is important as a tool for protection, as a durable solution and as a burden-sharing mechanism with states closer to refugee producing countries, who often host the largest number of refugees and persons in need of complementary protection.

Recommendation 21.

UNHCR encourages the Greek Government to consider the establishment –in line with the Hague Programme⁷ - of a resettlement quota for Greece. UNHCR would be pleased to work with the Greek Government in identifying criteria for persons to be resettled to Greece. Once admitted to Greece, such refugees should be granted the same status and rights accorded to refugees recognized in the asylum procedure in Greece.

IV. Supporting refugee asylum in Greece and UNHCR’s work for refugees in other parts of the world

IV.1 Practical co-operation on asylum and migration

UNHCR believes that Greece could greatly benefit by working closely and exchanging experiences and know-how with the asylum authorities of other EU member-states and UNHCR in the following areas:

- fair, efficient and effective asylum decision-making;
- meeting the needs of vulnerable people; and
- assisting States which face particular migratory pressures.

As regards the need for high quality asylum decision-making, UNHCR believes that the asylum systems in Europe must continue towards further harmonization and the gradual establishment of a single asylum system. In the meantime, Greece could benefit from the expertise available with asylum authorities of other EU countries, as well as from UNHCR. Concerning practical cooperation to meet the needs of especially vulnerable people, States and UNHCR could share best practices and expertise to assist refugees and asylum seekers who are

⁷ Paragraph 1.6.2 (Partnership with countries and regions of origin).

especially vulnerable: children, single women, the elderly and the mentally ill. Finally, addressing ‘particular migratory pressures’, i.a. requires that financial and human resources are put in place to ensure accurate, speedy identification of people with protection needs. UNHCR is working with a number of countries, including on Europe’s southern rim, to help develop practical tools for dealing with mixed migration, and is ready to collaborate further in this respect, also with the authorities and UNHCR partners in Greece.

Recommendation 22.

UNHCR appeals to the Government of Greece to support measures of practical co-operation among EU member states, with a view to ensuring high quality asylum decision-making, to meeting the needs of especially vulnerable people, as well as to alleviate migratory pressures, while upholding international protection standards. UNHCR also appeals for Greece’s effective participation in the development of regional protection programmes, as provided for in the Hague programme.

IV.2 Providing support for refugee activities in Greece

Assistance to refugees and asylum-seekers in Greece has been provided over many years by the Government, UNHCR, GCR, SWF and other important NGOs. UNHCR’s modest financial assistance programme has served as a bridge to meet some critical gaps in state and NGO provisions for reception and integration. However, UNHCR believes that countries in Western and Central Europe should take full responsibility over social welfare and legal assistance to people in need, and make the necessary funds available for that purpose. This would allow UNHCR to fully dedicate its resources to its core protection and solution interventions in Central and Western Europe through, i.a. the following priorities: to ensure effective border monitoring and capacity building to support governments; to ensure access to asylum procedures; to improve the quality of government protection and of asylum-systems, especially in the first instance; to improve reception conditions; and to promote durable solutions for refugees, especially integration and naturalization. Therefore, in accordance with existing policy priorities, as of 2007 UNHCR will phase out material assistance and social services and legal counselling activities financed by UNHCR.

Meanwhile, UNHCR will continue its support to NGOs towards of the identification of adequate resources such as from the EU (i.a. through the ERF/EQUAL) and Government. UNHCR will also continue its close operational protection co-operation with the Office of the Ombudsman and the National Human Rights Commission, as well as NGOs operating legal counseling services, reception centres, social and health care, and integration activities. UNHCR also welcomes initiatives such as EQUAL partnerships which allow for operational coordination with the Government and NGOs. Furthermore, UNHCR seeks to explore the feasibility of new projects and strategic partnerships that could benefit from European or other sources of funding, in collaboration with the government (notably the Ministry of Public Order) and operating partners (including GCR), in support of UNHCR’s policy priorities in Greece.

Recommendation 23.

UNHCR calls on the Greek Government and NGOs to assume the full financial and operational responsibility for refugee assistance programmes in Greece, and stands ready to play a catalytic role in efforts to access financial contributions from the EU and other sources. UNHCR also urges Greek authorities to expand their operational cooperation with NGOs in support of refugees and asylum-seekers (e.g., legal assistance, reception, and integration).

IV.3 Providing financial support for the work of UNHCR

UNHCR depends almost exclusively on voluntary contributions by national governments to carry out its activities as mandated by the international community. UNHCR is grateful for the Greek Government's increased core contributions (US \$ 750,000 in 2003 and US \$ 900,000 in 2004), as well as its support for UNHCR supplementary programmes. In 2005, there has been a considerable increase in Greek Government funding for UNHCR, including to UNHCR's Annual Core Budget (increased from \$ 750,000 in 2003 to \$ 900,000 in 2004 and \$ 1,088,271 in 2005). The overall government contribution in 2005, including support to UNHCR's Tsunami appeal for Indonesia (\$ 3,823,0174) , as well as an additional unearmarked contribution of \$ 50,077, amounted to \$ 4,961,522. In 2005, Greece ranked 22nd in the list of main donor countries' contributions to UNHCR's programmes. Furthermore, UNHCR highly appreciates the support received from the Greek public and corporations in relation to UNHCR's efforts to secure funds from the private sector. In 2005, UNHCR Greece raised Euros 404,671 (\$ 505,241) from the private sector. These contributions are an indication of the firm engagement of the citizens and the Government of Greece towards international refugee protection and assistance.

Recommendation 24.

UNHCR hopes that Greece will continue and hopefully further increase its financial support to its programmes, commensurate with its status and capacity to contribute.

IV.4 Providing support to public awareness efforts in Greece

According to various surveys in 2005⁸, Greece was reported to rank first in xenophobia among the EU countries. This may have been generated by a multitude of factors, including the presence of over 1 million, mostly undocumented, migrants, the latter often being held responsible for unemployment and increased criminality rates. This environment, in addition to existing protection problems for asylum-seekers and the difficulty within the public opinion to differentiate between refugees and migrants, calls for proactive public information campaigns to influence the media, government and the public, both to encourage tolerance and to support refugee protection challenges in Greece. In that connection, UNHCR is appreciative of the expressions by members of the Greek civil society in support of refugees.

Recommendation 25.

UNHCR solicits the co-operation of the Greek Government, Members of Parliament and political parties, the media, civil society and the public at large in combating xenophobia and in support of other refugee protection challenges in Greece, as described in this paper.

⁸ Including TNS- ICAP, 2005; European Monitoring Center on Racism and Xenophobia (EUMC), 2005