

# DUBLIN II Regulation National Report

European network for technical  
cooperation on the application  
of the Dublin II Regulation

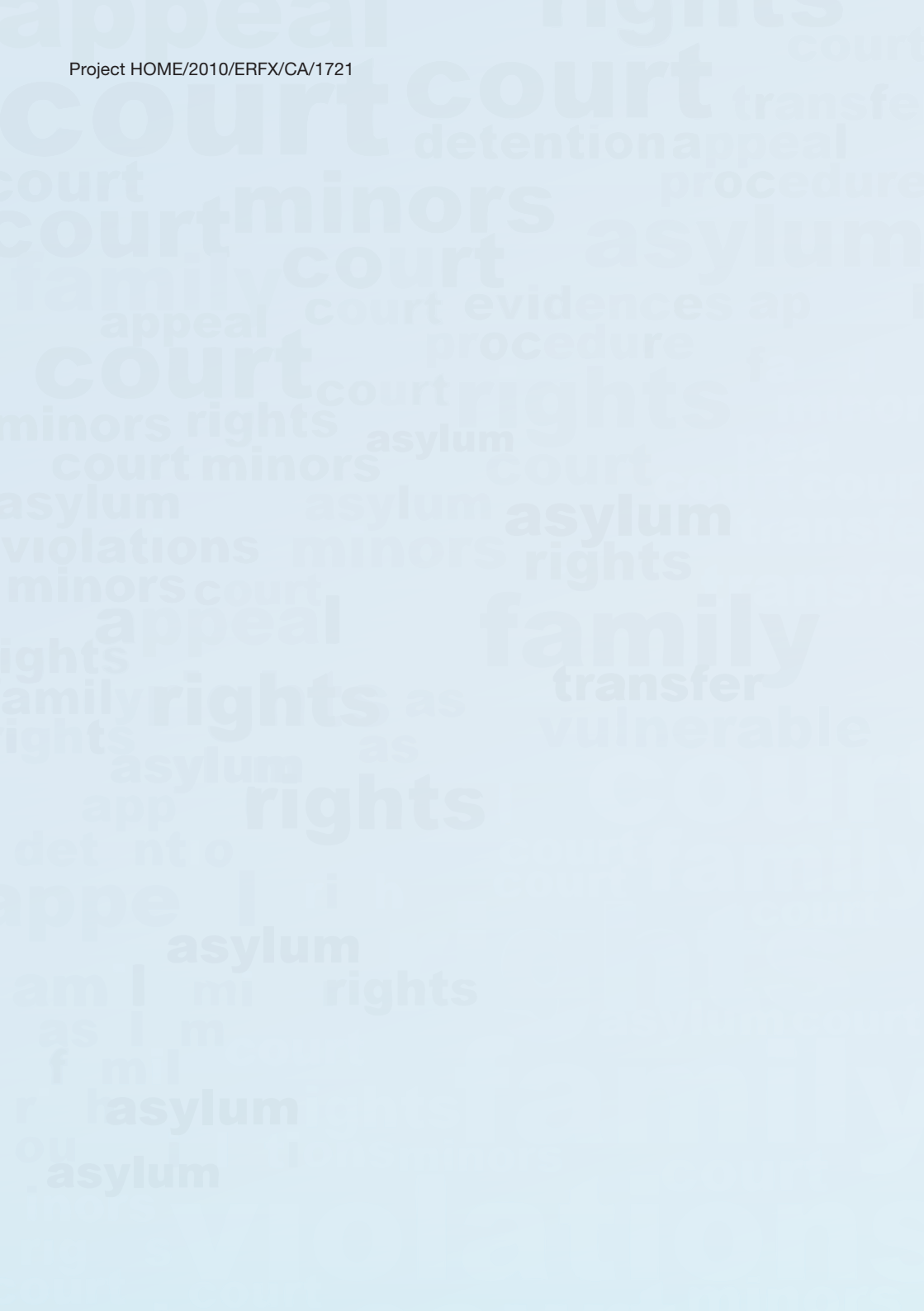


## GREECE



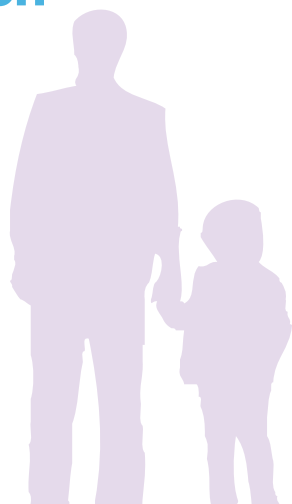
European  
Refugee Fund





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**GREECE**

30 october 2012

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## **Acronyms**

**ECtHR:** European Court of Human Rights

**ECRE:** European Council for Refugees and Exiles

## *1.1 The Dublin II System: Perspectives and Challenges at the European Level*

The Dublin Regulation,<sup>1</sup> as its predecessor the Dublin Convention, was designed to ensure that one Member State is responsible for examining the asylum application of an asylum seeker and to avoid multiple asylum claims and secondary movement. It is confined to fixing uniform grounds for the allocation of Member State responsibility on the basis of a hierarchy of criteria binding on all EU Member States as well as Iceland, Norway, Switzerland and Liechtenstein. On the ten year anniversary of its entry into force this research provides a comparative overview of national practice in selected Member States on the application of this Regulation.

Our research shows that the operation of the Dublin system continues to act to the detriment of refugees, causing families to be separated and leading to an increasing use of detention. The Dublin procedure leads to serious delays in the examination of asylum claims and by doing so, effectively places peoples' lives on hold. The hierarchy of criteria is not always respected whilst Art. 10 is the predominant criterion used in connection with Eurodac. State practice demonstrates that asylum seekers subject to this system may be deprived of their fundamental rights *inter alia* the right to be heard, the right to an effective legal remedy and the very right to asylum itself as access to an asylum procedure is not always guaranteed. Reception conditions and services may also be severely limited for asylum seekers within the Dublin system in a number of Member States. There is an increasing use of bilateral administrative arrangements under Art. 23 and most States resort to informal communication channels to resolve disputes in the

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<sup>1</sup> Council Regulation (EC) No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, L 50/1 25.2.2003.

allocation of responsibility. Evidentiary requirements are very strict in some Member States, which in turn creates difficulties for asylum seekers in substantiating family links or showing time spent outside the territories of the Dublin system. A number of Member States also apply an excessively broad interpretation of absconding thereby extending the time limits for Dublin transfers further increasing delays in the examination of asylum claims. Furthermore the problems inherent in the Dublin system are also exacerbated by varied levels of protection, respect for refugee rights, reception conditions and asylum procedures in Member States creating an 'asylum lottery'.

The national reports provide an insight into the application of this Regulation at the national level whilst the comparative report outlines the main trends and developments at the European level. This research comes at a time when the Grand Chambers of both the European Court of Human Rights and the Court of Justice of the European Union have questioned the compatibility of the Dublin system with asylum seekers fundamental rights. In addition the EU institutions have recently reached a compromise agreement upon a recast Dublin III Regulation that introduces significant reforms including the creation of a mechanism for early warning, preparedness and crisis management. Despite these significant advances, the findings of this research demonstrates the continuous need to carefully evaluate the foundational principles of the Dublin system and its impact both with respect to asylum seekers' fundamental rights and Member States. It is hoped that this research will aid the Commission's review of the Dublin system within the forthcoming launch of a 'fitness check' and for any future dialogue on the assignment of responsibility for the examination of asylum claims.<sup>2</sup>

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<sup>2</sup> European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on enhanced intra-EU solidarity in the field of asylum, An EU agenda for better responsibility-sharing and more mutual trust, COM 2011 (835), 2.11.2011 p.7.



## 1.2 Overview of The Dublin II Regulation in Greece

### 1.2.1 Methodology

This report was written by the Non-Governmental Organization AITIMA. The organization was founded in 2008 and has since been offering legal and social assistance to asylum seekers and refugees, including those who are involved in Dublin II Regulation procedures.

In order to write this report we worked from November 2011 till October 2012. During this time we conducted interviews with the Greek Dublin Unit (Ms. Panagiota Stahou) and the office of UNHCR in Greece (Ms. Daphne Capetanaki). We also did desk-based research and took advantage of our daily experience in assisting asylum seekers.

### 1.2.2 *The general situation in Greece and its impact on the implementation of the Greek Action Plan on asylum, asylum seekers and refugees*

Since 2009 Greece has been facing a deep economic crisis. Austerity measures have been imposed as a means for tackling this crisis. These measures have had a significant impact on the Public sector, since the recruitment of new civil servants has been banned. This restriction has had a direct influence on the implementation of the Action Plan that the Greek government submitted to the European Commission, which set out the establishment of a New Asylum Service and new Screening Centres.<sup>3</sup> The ban on recruitment of new civil servants has been the obstacle in realizing these reforms.

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<sup>3</sup> Joint statement by Mr Christos Papoutsis, Minister of Citizen Protection of Greece and Cecilia Malmström, European Commissioner in charge of Home Affairs: Greece and the Commission agree to enhance cooperation on reforming the Greek asylum system, MEMO/10/450, 27/09/2010, available at: [http://europa.eu/rapid/press-release\\_MEMO-10-450\\_en.htm](http://europa.eu/rapid/press-release_MEMO-10-450_en.htm)

At the same time the austerity measures have had a marked impact on the welfare system, since the funding of the system has been drastically reduced. As a result the services offered by the public hospitals have drastically deteriorated; affecting Greek citizens, asylum seekers and refugees alike.

Moreover, the rapid rise in unemployment to a rate of 24% makes it very hard for both Greek people and asylum seekers to find jobs in order to sustain themselves and their families.

The whole situation has created social tension that results in the scapegoating of immigrants, asylum seekers and refugees, who are blamed for the problems that Greek people face and are considered as a burden and a threat. Xenophobia and racism have been growing in Greece since 2010 and have led to the escalation of racist attacks against immigrants, asylum seekers and refugees. Unfortunately, the Greek authorities have not taken the necessary action to arrest the perpetrators and to protect the victims. Consequently, asylum seekers and refugees are in constant danger of being attacked.<sup>4</sup>

## *1.2.3 Greece and the Dublin II Regulation*

### *1.2.3.1 General*

It is obvious that the basic principle of the Dublin II Regulation, namely the allocation of responsibility for the examination of asylum application to the first member state from which an asylum seeker enters European territory, puts more pressure on the Member State that are located on borders of Europe. In this respect this Regulation is unfair to these Member States. This is especially the case for Greece, which has been the main gateway to Europe for the last 5 years.

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<sup>4</sup> For further information see: Human Rights Watch Hate on the Streets: Xenophobic Violence in Greece, 10/7/2012 available at: <http://www.hrw.org/reports/2012/07/10/hate-streets-0>

Thus, Greece used to be a major receiving member state under the Dublin II Regulation, due to its geographical position. However, following the decision of the ECtHR in the case of *MSS v. Belgium and Greece*<sup>5</sup>, the majority of Member and Associate States under the Dublin II Regulation have suspended the transfer of asylum seekers to Greece. According to the official 2011 Eurostat statistics Greece transferred more asylum seekers (84) to other member states under the Dublin II Regulation than those who were sent back to Greece under Dublin II Regulation transfer procedures (55). According to the statistics for the period of January-September 2012, Greece transferred 144 asylum seekers to other Member State and received 38.

Although the ECtHR has suspended transfers to Greece, the future of the Dublin system is unclear. There is still no prospect to change the basic principles of the Dublin system. Therefore, Greece, due to its geographical location, may resume its status as a major receiving Member State again.

### *1.2.3.2 The Competent Authorities*

**The Ministry of Public Order and Citizen Protection** is responsible for the submission and examination of asylum applications.

Competent Departments:

Greek Police Headquarters

- Aliens' Division
- Asylum Office
- Dublin Unit
- EURODAC
- Division of Forensic Investigations (responsible for the processing of all fingerprints collected in Greece)

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<sup>5</sup> *M.S.S. v. Belgium and Greece*, Application no. 30696/09, Council of Europe: European Court of Human Rights, 21 January 2011, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050>

Appeals Board

**Asylum applications are submitted to the following Police Departments:**

Athens Aliens Division

Athens Airport Police Division

- Asylum Office

Thessaloniki Aliens' Division

Security Departments of Provincial Police Divisions

**The Ministry of Labour** is responsible for the reception conditions

Competent Department:

Division of Social Perception and Social Solidarity

*1.2.3.3 The Impact of Structural Deficiencies on the Application of the Dublin II Regulation*

The Greek Dublin Unit is generally trying to respect the provisions of the Dublin II Regulation concerning the procedures for the determination of Member State responsibility for an asylum seeker, the hierarchy of criteria and the relevant deadlines. The Greek Dublin Unit also cooperates with the other Member States in the application of the Dublin II Regulation.

However, Greece contains certain structural problems in its asylum system and reception conditions that affect the application of the Dublin II Regulation as well as the examination of asylum applications for the individuals concerned.

More specifically, Greek implementation of the Dublin II Regulation is affected by:

- the limited human resources available for dealing with the application of the Dublin II regulation,
- the limited resources and inadequate practices of Police authorities that are responsible for dealing with asylum, and

- the poor reception conditions that leave transferred asylum seekers destitute.

### a) Limited human resources

The application of the Dublin II Regulation in Greece is strongly affected by the very limited staff of the Greek Police that are responsible for dealing with various aspects of the Dublin II regulation.

The **Dublin Unit (Monada Doublinou)** consists of only six Police officers that struggle to deal with the workload. In previous years, and especially during 2009 and 2010, the Dublin Unit was receiving thousands of requests from other Member States and was unable to deal with the workload, i.e. they were not in the position to fully investigate whether or not Greece was responsible for an asylum seeker according to the Dublin II Regulation criteria. As a result Greece failed to respond to most requests, which resulted in tacitly accepting responsibility for all cases.

Moreover, the staff of the Dublin Unit was tasked with checking the files of all transferees to Greece. The fact that the Dublin Unit was overwhelmed with requests and transfers to Greece also resulted in the Greek authorities incapacity to deal with cases where other Member States were responsible for asylum seekers who were in Greece especially as regards the submission of requests within the expected timeframes.

After the verdict of the ECtHR on the case of *MSS v. Belgium and Greece*<sup>6</sup> and the consequent change in the pattern of the application of the Dublin II regulation, namely the fact that requests and actual transfers to Greece decreased dramatically, the Dublin Unit started to deal more systematically with cases where other Member States are responsible for asylum seekers who are in Greece under Articles 7, 8 and 15 of the Dublin II regulation. Still, there are delays in the processing of the cases and the Police officers of the Unit struggle to meet deadlines. This happens even though due to shortcomings in the asylum system not all asylum seekers who

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<sup>6</sup> *Supra* note 3.

are eligible to have their cases examined by other Member States under the Dublin II Regulation are registered as Dublin cases (see below 3.1.g).

The departments responsible for the processing of fingerprints, i.e. EURODAC and the Division for Forensic Investigations (Diefthinsi Egklimatologikon Erevnon), are also understaffed. This deficiency was glaringly apparent in times when Greece was receiving 1000 transferees per year under Dublin II Regulation.

Some asylum seekers returned under the Dublin II Regulation apply for asylum in Greece for the first time. They are fingerprinted and these fingerprints are processed and checked for pending criminal offences. During the time needed for this procedure the transferees are detained at the entry point. In the past asylum seekers were detained for one to four days.

The fact that Police authorities at the Athens airport now have equipment that allows for fingerprints to be electronically sent to the headquarters of the Greek Police, coupled with the dramatic decrease of transfers, has resulted in asylum seekers being released after only a couple of hours.

However, if other Member States resume regular transfers to Greece like they did in 2009 and 2010, it is sure that the time needed for the processing and checking of fingerprints will increase and asylum seekers will once again face multiple days of detention while waiting.

The limited human resources of the Greek Police dealing with asylum, as well as the way asylum departments are organized, also result in a problematic application of the Dublin II Regulation. In the past, when Greece was receiving 1000 transferees per year, these people had to report to the Athens Asylum Department (Tmima Asyloou) in order to obtain special documentation for asylum seekers (red card), to declare their address and to get an appointment for an asylum interview. The crowded situation that could be observed daily at the Asylum Department resulted in many asylum seekers, among them Dublin II Regulation transferees, not managing to proceed with their case.<sup>7</sup>

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<sup>7</sup> Amnesty International, *The Dublin II Trap: Transfers of Asylum-Seekers to Greece*, 10 March 2010, EUR 25/001/2010, available at: <http://www.unhcr.org/refworld/docid/4c7f69362.html> page 16.

Now that transfers have decreased the problems regarding the application of the Dublin II Regulation relate mostly to access to the asylum procedure for those who are in Greece and want their case to be examined by another Member State. When an asylum seeker applies for transfer to another Member State under the Dublin II Regulation family provision he/she must first apply for asylum. This is almost impossible in Greece.<sup>8</sup> Even if someone manages to apply for asylum, the practice of the Asylum Department does not ensure that they will apply for family reunification under the Dublin II Regulation within the three-month time limit (see below 3.1.g).

## **b. The inadequacy of the Police**

The Police are inadequate to handle asylum cases. They are a mechanism dealing with the deportation of illegal aliens and they don't have the background to deal with or protect asylum seekers.<sup>9</sup>

Moreover, most of the Greek Policemen lack necessary knowledge concerning aliens and many harbor negative feelings toward them. Therefore, Police often act in a discriminatory manner against migrants. Arbitrariness is very common and there have also been cases of Police brutality against asylum seekers.<sup>10</sup>

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**8** For further information on the difficulties of accessing the asylum procedure in Greece please see: a) Campaign for the access to asylum in Attica area, *Report of the campaign for the access to asylum in Attica area*, [http://www.aitima.gr/aitima\\_files/REPORT\\_Campaign\\_on\\_access\\_to\\_asylum\\_in\\_Attica\\_ENG.pdf](http://www.aitima.gr/aitima_files/REPORT_Campaign_on_access_to_asylum_in_Attica_ENG.pdf).

b) Proasyl-Greek Council for Refugees-Infomobile, *Walls of shame. Accounts from the inside. The detention centers in Evros*, April 2012, page 56, available at: [http://www.proasyl.de/fileadmin/fm-dam/NEWS/2012/12\\_04\\_10\\_BHP\\_Evros.pdf](http://www.proasyl.de/fileadmin/fm-dam/NEWS/2012/12_04_10_BHP_Evros.pdf)

**9** "A major problem in Greece is the fact that the Police is simultaneously responsible for arrests and deportations of illegal migrants as well as being the responsible authority for the determination of their asylum claim at first instance. The role of the Greek Police as both prosecutor and protector causes confusion"

Aitima, Norwegian Helsinki Committee and Noas, *Out the back door*, October 2009, page 20, available at: [http://www.aitima.gr/aitima\\_files/Out%20the%20Back%20Door.pdf](http://www.aitima.gr/aitima_files/Out%20the%20Back%20Door.pdf)

**10** GREEK HELSINKI MONITOR, NOAS, NORWEGIAN HELSINKI COMMITTEE, *A gamble with the right to asylum in Europe*, pages 48-50, available at:

<http://noas.org/file.php?id=53>

Racist Violence Recording Network, "Pilot phase conclusions 1.1.2012-30.9.2012," <http://www.unhcr.gr/1againstracism/racist-violence-recording-network-findings/>

## 1.2.4 *The procedure for asylum seekers transferred to Greece*

### **a. Athens international airport**

Asylum seekers who arrive at Athens International Airport are received by the Police, who are the responsible authority.

Returnees under the Dublin II Regulation are taken to the Asylum Office of the airport Police where their details are registered and their photograph is taken. A Police interpreter is present during the procedure in order to provide returnees with information about the procedure.

### **b. Promahonas Border Station**

Asylum seekers transferred by Bulgaria under the Dublin II Regulation arrive at the Promahonas Border Station. The procedure is the same as the one at Athens airport. However, there is no interpretation and NGO presence. Consequently, there is no information about how the authorities handle Dublin II Regulation cases there. There are also reports of asylum seekers having been sent to Greece under a general readmission agreement at that border.<sup>11</sup>

### **c. The procedure in detail**

The way the case of returnees is treated will depend on whether they have applied for asylum in Greece before. There are a number of scenarios possible:

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<sup>11</sup> ECRE interview with Valeria Ilareva, Brussels, 14/2/2012, available at: [http://www.ecre.org/index.php?option=com\\_downloads&id=447](http://www.ecre.org/index.php?option=com_downloads&id=447)



## ***1. Asylum seekers who have applied for asylum in Greece before:***

- **If their application is pending**, then they get their red card (the special document for asylum seekers) and are immediately released. They are instructed to report to the Aliens' Police Division in order to state their address in order to continue the examination of their asylum claim.
- **If they had received a first instance rejection and they had not appealed** then the asylum process has finished. The deportation process follows and they are detained. They have the right to a subsequent application though, if they can present new evidence about their case.
- **If a second instance rejection has been issued and they receive it upon return** then the asylum process has finished. The deportation process follows and they are detained
  - they have the right to take the case to the Administrative Appeal Court within 60 days.
  - if they can present new evidence about their case then they can submit a new (subsequent) asylum application.

## ***2. Asylum seekers who haven't applied for asylum in Greece before:***

- **If they haven't applied for asylum in Greece before**, they can do that at the Asylum Office (Grafeio Asylou) of the Greek Police at the airport.
- If they don't apply for asylum, then the deportation process follows and they are detained.
- If they apply for asylum, then:
  - They are fingerprinted.
  - They fill in an asylum application.
  - They are detained until their fingerprints will be processed and examined. At present, since Greece receives few transfers this procedure is usually within a couple of hours.

- If there is no arrest warrant pending, they are given a red card and are released. They are instructed to report to the Aliens' Police Division in order to state their address and schedule an appointment for the asylum interview.

# *The National Legal Framework and Procedures*

# 2

## *2.1 Legal background*

### *2.1.1 The Dublin II Regulation in Greek legislation*

The Dublin II Regulation as an EU Regulation is directly applicable in Greece.

The Dublin II regulation is also cited in the Presidential Decree 114/2010, which transposes the Directive 2005/85/EC. According to this Decree people who are transferred to Greece under the Dublin II Regulation are considered as asylum seekers (article 2). Moreover, when another Member State has taken responsibility for an asylum seeker under the Dublin II Regulation, then his/her asylum application is considered as inadmissible (article 25). An asylum seeker can appeal such a decision (article 25). This appeal is examined by the Appeals Board (article 26).

### *2.1.2 The Greek Asylum System*

#### *2.1.2.1 Legislation related to asylum:*

Presidential decrees 220/2007, 96/2008, 114/2010.

#### *2.1.2.2 Responsible authority: Ministry of Citizen Protection*

The Greek Police are responsible for the submission of the asylum claim, the first instance interview and for issuing and renewing the special document for asylum seekers (red card).

### *2.1.2.3 Forms of protection in Greece*

**Refugee status** is granted to people who have a well-founded fear of being persecuted in their country of origin because of their race/religion/nationality/political opinion or membership in a particular social group.

“Persecution” usually means a serious violation of human rights, such as torture, inhuman or degrading treatment, slavery, physical or sexual violence or very serious discrimination.

**Subsidiary protection** is granted to people who do not qualify for refugee status but have been exposed to serious harm or are at a real risk of suffering serious harm.

The following threats are considered as serious harm:

- Death penalty;
- Torture, inhuman or degrading treatment or punishment;
- Serious, individual threat to a civilian’s life or person because of indiscriminate violence during an armed conflict.

**Humanitarian status** is granted to people who do not qualify for ‘refugee status’ or ‘subsidiary protection’ when it is not possible to remove or return the asylum seeker to his/her country due to reasons such as serious health conditions, international siege, civil conflicts, mass violations of human rights, or due to the principle of non-refoulement.

### *2.1.2.4 Procedure for claiming asylum*

**Asylum applications are submitted to the Greek Police.** More specifically the applications are submitted to the Aliens’ Divisions of Athens and Thessaloniki, at the Security Division of the Athens Airport and at the Security Departments of the other provincial cities.

### *2.1.2.5 Admissibility of the asylum application*

**An application will be considered as not admissible if the asylum seeker:**

- has been granted protection from another EU country or another EU country is responsible for the examination of his/her case under the Dublin II Regulation;
- has sufficient protection from another non EU country which is considered as a 'safe third country' or 'first country of asylum';
- has submitted a similar application in Greece after the previous one was rejected and doesn't submit new evidence.

**The asylum seeker has the right to appeal a decision declaring his/her application 'inadmissible'.**

### *2.1.2.6 Procession of asylum application*

**If an application is 'admissible'** the Greek Police give the asylum seeker a special document for asylum seekers (red card) and an appointment for an asylum interview.

#### **The asylum interview**

The asylum interview is conducted by a Police officer with the help of an interpreter. A representative of the United Nations High Commissioner for Refugees and the asylum seeker's lawyer may be present. A written record of the interview is taken.

In practice, the quality of these interviews is satisfactory only when a representative of the United Nations High Commissioner for Refugees and/or a lawyer is present.

## **Regular or accelerated procedure**

The Police officer decides whether a case will be examined under 'regular' or 'accelerated' procedure. The accelerated procedure is used when an asylum application is considered as manifestly unfounded or when the applicant is a citizen of a safe country of origin or came from a safe third country.

If the application is examined under the regular procedure the decision should be issued within 6 months by the General Secretary of the Ministry of Citizen Protection.

If the application is examined under the accelerated procedure the decision will be issued by the Police Director within 3 months.

However these deadlines are not always respected in practice and there are cases where first instance decisions have not been issued even after one year has passed.

### *2.1.2.7 Remedies*

## **Right to appeal the 'first instance' decision**

The asylum seeker has the right to appeal the first instance decision within 30 days if the case is examined under the regular procedure or 15 days if the case is examined under the accelerated procedure. The deadline is established from the date the asylum seeker is given the decision.

However this presupposes that asylum seekers will be properly informed about the content of the first instance decision, which is not always the case.

## **Second instance examination by the Appeals Committees**

There are 10 Appeals Committees, all based in Athens. These committees deal with new appeals, but also have the burden of the backlog, which has been created during the last 12 years. At present there are over 20,000 backlog cases pending.

The Appeals Committees have three members and consist of representatives of the Ministry of Citizen Protection, the United Nations High Commissioner for Refugees and the National Committee for Human Rights.

Asylum seekers are very thoroughly interviewed. On average, the decisions of the Appeals Committees are issued within 3 or 4 months.

### **Right to appeal the second instance decisions**

The asylum seeker has the right to appeal the second instance decision at the Appeals Administrative Court within 60 days. The deadline is 60 days after he/she is given the decision.

The Court examines whether the authorities applied the procedure as prescribed by the law and not the merits of the claim.

#### *2.1.2.8 Other legal rights concerning the procedure*

### **Free legal aid**

There is a legal aid system for free legal assistance to people who cannot afford to hire a lawyer for their case and asylum seekers are supposed to benefit from that for advice and representation.

However, In practice asylum seekers rarely access this system and therefore legal aid is provided by three NGO's, (AITIMA, Greek Council for Refugees and Ecumenical Refugee Program) which are funded by the European Refugee Fund and employ about 30 lawyers.

### **Interpretation during the procedure**

In the Athens Aliens' Police Division there are interpreters for most of the languages spoken by asylum seekers, though not for all, which means that there are difficulties for both conducting interviews and informing asylum seekers.

However, in other cities the asylum offices of the Greek Police do not employ interpreters and rely on temporary assistance from NGOs delivering European Refugee Fund projects.

### *2.1.2.9 The rights of an asylum seeker*

#### **Temporary stay permit**

Asylum seekers get a 'temporary stay permit' for as long as their application is being examined. They are given a red card, a special document for asylum seekers, which is renewed every six months.

#### **Medical care**

Asylum seekers are entitled to free medical care in public hospitals. However, due to the lack of information of the medical personnel and the lack of interpreters in hospitals they face some difficulties in exercising this right. More specifically, there are cases where asylum seekers find it difficult to communicate with the doctors or where they are asked to pay for their treatment or medicine.

#### **Work permit**

A work permit is issued for as long as the application is being examined. According to a recent circular however, these work permits to asylum seekers are not to be issued if there are unemployed Greek or EU citizens in the same field of work. Therefore, in practice this means that it is very difficult for asylum seekers to access work in Greece.



## Accommodation

Asylum seekers are entitled to accommodation. However there are only about 900 places in reception centers while -according to the UNHCR statistics - there are over 40,000 asylum seekers residing in Greece.<sup>12</sup> Asylum seekers who are identified as being members of vulnerable groups (minors, ill/handicapped persons, torture victims, single women etc.) have priority. Consequently, the vast majority of asylum seekers remain homeless or seek shelter in very low quality accommodation.

## 2.2 Procedural background

There is one Dublin Unit (Monada Douvlinou) in the headquarters of the Greek Police dealing with the application of the Dublin II Regulation. This Unit consists of 6 Police officers.

### 2.2.1 *The Dublin II Regulation procedure is triggered when:*

- Another Member State sends Greece a request to take responsibility for a case.
- An asylum seeker applies for asylum and the Greek authorities find that another Member State is responsible for the case, through EURODAC or other evidence.
- An asylum seeker asks to be transferred to another Member State under articles 7, 8 or 15 of the Dublin II Regulation.

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<sup>12</sup> UNCHR, 2012 *Regional Operations Profile - Northern, Western, Central and Southern Europe*, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48e726#>

- In these cases the asylum seeker states that he/she has relatives in another member state and that he/she wants to be reunified with them. He/she can make this claim when applying. Under the standard procedure he/she is asked about relatives in other Member States during the registration of the application. However this procedure is not applied in Athens as explained later (see below 3.1.g).

### *2.2.2 The competent bodies for dealing with persons in the Dublin II Regulation procedure are:*

- The Police Director (Astinomikos Diefthintis)
- The Appeals Board (Epitropi Prosfygon)
- The Appeals Administrative Court (Dioikitiko Efeteio)

When the competent Police Director issues a decision that an asylum application is considered as inadmissible due to the fact that another member state is responsible for the case, the asylum seeker has the right to appeal within 15 days. This appeal is then examined by the Appeals Board. The appeal has an automatic suspensive effect.

### *2.2.3 The asylum seeker has the right to appeal the second instance decision at the Appeals Administrative Court within 60 days*

The deadline is 60 days after he/she is given the decision. This appeal does not have an automatic suspensive effect. It is at the discretion of the Court if it will grant a temporary suspensive effect.

The Court examines whether the authorities applied the procedure as prescribed by the law, i.e. whether another member state is responsible according to the Dublin II regulation, and not the merits of the claim.

#### *2.2.4 The administrative costs of the implementation of Dublin II Regulation in Greece relate mostly to:*

- The salaries of the 6 Police officers who work in the Dublin Unit.
- The salaries of the 3 Police officers who work in the EURODAC Unit.

The cost of the transfers to other Member States is usually undertaken by the asylum seekers themselves, because they realize that otherwise the transfer will be delayed due to bureaucracy and the economic crisis. Asylum seekers often want to be transferred from Greece as soon as possible so that they can leave a Member State that does not offer them support and protection and move to another Member State that can offer better asylum system and reception conditions. Also, the possibility of reunify with their family makes them willing to pay for the cost of the transfer.

It is certain that asylum seekers should not bear the costs of the transfers. However, Articles 19(2) and 20(1)(e) allow for the asylum seekers to travel to the responsible states by their own means. We note that under the proposals for the recast of the Dublin II Regulation the cost of the transfers will lie on the Member State and not on the asylum seekers.

#### *2.2.5 In 2010 there were 2 Dublin II Regulation liaison officers from Germany and the Netherlands working in Greece*

Their role was to ensure that asylum seekers transferred to Greece from their country would have access to the asylum process at the airport. At present there is only one liaison officer from Germany at the headquarters of the Greek Police. Since Germany has suspended transfers to Greece this officer is now cooperating with the Greek authorities in cases in which Germany is responsible for dealing with technical assistance on asylum issues.

# 3

## *The application of the Dublin II Regulation in Greece*

Greece used to be a receiving Member State under the Dublin II Regulation, due to the fact that it is one of the main gateways to Europe. However, following the decision of the ECtHR on the case of *MSS v. Belgium and Greece*<sup>13</sup> and the suspension of most transfers from the majority of Member and Associate States to Greece under the Dublin II Regulation this has changed. In 2011, Greece transferred more asylum seekers (84) to other Member States under the Dublin II Regulation than those who were sent back to Greece under Dublin II Regulation transfer procedures (55).

### *3.1 The Application of Dublin II Regulation Criteria*

#### *a). Heterogeneity of application within the country*

There is only one Dublin Unit and therefore there is no heterogeneity.

#### *b). Observance of the hierarchy of criteria*

The most common ground for Dublin II Regulation transfers from Greece to other Member States is the use of articles 6, 7, and 8. Article 15 is also commonly used. In 2011, there were 150 such requests.

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<sup>13</sup> *Supra* note 3.

*c). Application of the criterion related to irregular border-crossing*

Greece usually accepts requests to take charge or take back a case based on the criterion of irregular bordercrossing with the use of EURODAC evidence. At the same time Greece sends requests to take charge or take back a case based on the criterion of irregular border-crossing with the use of EURODAC evidence. These requests are mostly refused by other Member States such as Germany, France, Italy and Austria.

*d). Application of the Visa criterion within the Dublin II Regulation*

The Greek authorities have applied the Visa criterion in very few cases.

*e). Application of the Residence Permit criterion within the Dublin II Regulation*

The Greek authorities have applied the Residence permit criterion in very few cases to take back asylum seekers.

*f). Unaccompanied minors*

There were cases of asylum seekers transferred to Greece who were obviously unaccompanied minors –and were also registered as minors in Greece. Some of them had birth certificates, but were still transferred as adults after a procedure of age assessment. Greece accepted these asylum seekers based on the personal details with which they had been originally registered in Greece.

In some cases of unaccompanied minors who ask to be transferred to other Member States (e.g. Germany) for family reunification, there is no evidence proving the family bond. In these cases minors are requested to take a DNA test in order for the family bond to be determined. This poses some problems because most reception centers for minors are in distant provincial cities and DNA tests can only be conducted in Athens. We should also add that asylum seekers pay for these tests as the cost a DNA test is not included in the free medical care provided by the Greek state.

Under the law (presidential decree 220/2007) the local prosecutor acts as temporary guardian for unaccompanied minors whether in a Dublin II Regulation procedure or not. However, in practice, in most cases, prosecutors are not involved in minors' cases.

According to the Greek Council for Refugees (Unaccompanied minors in the Greek-Turkey border, June 2012):

*Guardianship is practically not working. The lawmaker's choice to assign guardianship to the local prosecutors has not proved successful. Even if prosecutors made their best efforts, the personal relationship required by the institution of guardianship could not be developed so that a prosecutor can act as a "real guardian" or a "substitute parent".*

### **g). Family unity and the definition of Family Members**

At present Greece is sending requests to other Member States relating to asylum seekers who want to be transferred to them for reasons of family reunification under Articles 7, 8 and 15 of the Dublin II regulation. These requests are sent mostly to Germany. This trend is reinforced by the fact that, on one hand, asylum seekers want to move to other Member State where they have family members and, on the other hand, other Member States have suspended transfers of asylum seekers to Greece.

In these cases, the Dublin Unit tries to process and send the respective requests to other Member States. However, the severe problems that asylum seekers face in their effort to register an asylum application in combination with the practices of Athens

Asylum Department, prevent asylum seekers from succeeding in their attempts to be reunified with their family members under the provisions of the Dublin II Regulation.

Under the procedure of registering an asylum application, a short application form should be filled in. A question about family members in other Member States is included in this form. So, normally it would be easy to locate potential family reunification cases under the Dublin II Regulation and to inform asylum seekers about the procedure. However, in the Athens Asylum Department, which receives the vast majority of asylum applications in Greece, the Police are not following this procedure. According to Police procedure the application form is only filled in when they conduct the asylum interview, which in most cases is over three months after the registration of the asylum application. Thus, asylum seekers who are not aware of the Dublin II Regulation procedure and of the three-month limit to submit a take-charge request to another Member State, inevitably miss this deadline.

Therefore, only unregistered asylum seekers who are supported by an NGO can successfully apply for family reunification under the Dublin II Regulation once they have submitted an asylum application. However, even when these asylum seekers are supported by non-governmental organizations, the procedure of the Athens Asylum Department is still problematic. More specifically, when an NGO informs the Asylum Department of an asylum seeker who wants to apply for asylum and for family reunification under the Dublin II Regulation, they are given an appointment after three weeks. During this period the asylum seeker remains undocumented and faces the danger of arrest and deportation.

As for the **definition of family members**, according to Presidential Decree 114:

*Family members of the beneficiary of international protection status, insofar as the family already existed in the country of origin, are considered the following persons:*

- i. the spouse of the beneficiary or his or her unmarried partner in a stable relationship,*
- ii. the minor, unmarried and dependent children of the beneficiary regardless of whether they were born in or out of wedlock or adopted,*

*iii. the adult children of the applicant who suffer from a mental or physical disability and are unable to submit an application on their own.*

## **Cases invoking the family provisions under the Dublin II Regulation**

**1. The Afghan national Mr. A.B.** who is in Greece asked for the help of our organization in order to be reunified with his wife and daughter who are in Germany and have applied for asylum. Since the wife and daughter's asylum claims had not yet been subjected to a first decision, Article 8 of the Dublin II Regulation was applicable.

On 12 March 2012 we informed the Asylum Department of the Attica Aliens Directorate about the case and asked for an appointment so that Mr. A.B. could apply for asylum and for family reunification under the Dublin II Regulation. The Asylum Department answered that they could not give us an appointment because the Police officer that is handling family reunification cases was on leave. After successive communications with the Asylum Department the appointment was finally arranged for 9 April 2012 when the asylum and family reunification applications were registered.

This case highlights:

- the time gap from the notification of the Police to the actual registration of the applications as well as the period during which asylum seekers are unregistered and therefore at risk of arrest and removal.
- the understaffing of the Athens Asylum Department

**2. The Afghan national Mr. H.H.** who is in Greece with his 6-year-old son asked for the help of our organization in order to be reunified with his wife and other son who are in Germany and have applied for asylum. Since the wife and son's asylum claims had not yet been subjected to a first decision, Article 8 of the Dublin II Regulation is applicable.

In mid-February we informed the Asylum Department of the Attica Aliens Directorate about the case and asked for an appointment



so that Mr. H.H. and his son could apply for asylum and for family reunification under the Dublin II Regulation. The Asylum Department answered that the appointment would be scheduled for 12 March 2012.

On 28 February the Police arrested Mr. H.H. and his son for illegal stay in Greece. Mr. H.H. was detained in a Police Station and his son was sent to the Social Service of the Athens Children Hospital for temporary stay, as there was no other place for the child to be sent.

Our organization visited Mr. H.H. at the Police Station and assisted him to register an asylum application. We also informed the Asylum Department as well as the Deportation Department about the case and asked for the immediate release of Mr. H.H.

Mr. H.H. was finally released on 8 March 2012. On 12 March 2012 his son applied for asylum and they both applied for family reunification under Dublin II Regulation.

Germany has finally taken charge of the case and Mr. H.H. and his son travelled by their own means to Germany.

This case highlights the entirely unjustified and unnecessary hardship imposed on an asylum seeker and upon a child due to the problematic procedure followed by the Athens Asylum Department and the fact that asylum seekers actually bear the cost of the transfer.

### **3. Interview with Mr. H.M.**

*Me and my family consisting of my wife and four children came to Greece in 2011. We soon found out that there is no respect and assistance for asylum seekers in Greece. Nobody helped us, we were homeless. So we decided to try to move on to Sweden. My wife and three children left for Sweden. After two months they informed me that they were safe in Sweden and had applied for asylum there. Of course me and my 14-year-old son wanted to join them. So we asked my wife to send us copies of their asylum documents so that we will apply for asylum in Greece and ask to be reunified with them under Article 8 of the Dublin II Regulation. Unfortunately at that time I got arrested. Although I tried to explain my situation, to tell the Police that I have a 14-year-old son who will be left all alone, that the rest of our family is in Sweden and that we wanted to take advantage of the family*

*provisions of the Dublin II Regulation, they wouldn't listen to me. Then my son contacted NGO "Aitima" which assisted us to apply for asylum. Although in my application I stated clearly that I want to take advantage of Article 8 of the Dublin II Regulation the Police did nothing about my case. It was the NGO "Aitima" again that ensured that the certificates proving the family relationship were submitted to the Police.*

*Unfortunately I am still detained, 2 months after my arrest. My psychological situation is very bad. I am thinking about my son all the time. I feel anxiety because I know that he is alone, without any member of his family. I fear that something bad may happen to him and that I am unable to help him.*

*The situation in the detention center is very bad. Detainees are held in small cells and they cannot go out and take any exercise. The other detainees in my cell are Sunni and they annoy me because I am Shia. They yell all the time and don't leave me in peace.*

*We cannot take a bath because there is no hot water.*

*I cannot stand staying here any more.<sup>14</sup>*

## *3.2 The Use of Discretionary Provisions*

### *a). Application of the humanitarian clause, Article 15*

The Greek authorities apply the humanitarian clause so that other Member States take responsibility for asylum seekers. More specifically, Article 15 is applied after an asylum seeker submits an application for family reunification with family members or relatives in another Member State, especially in cases when Articles 7 and 8 cannot be applied. There were 29 such cases in 2011.

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<sup>14</sup> Interview at Aspropyrgos detention center 22 October 2012.

### *b). Application of the sovereignty clause*

The Greek authorities don't apply the sovereignty clause. However, an asylum seeker has the right to request the application of the sovereignty clause when appealing the decision of the Police that considers his/her asylum application as inadmissible due to the fact that another member state is responsible. However, in practice such appeals are very rarely submitted.

## *3.3 The Practicalities of Dublin II Regulation Procedures*

### *a). Transfer of responsibility in case of disregard for deadlines (Articles 19(4) and 20(2))*

In case other Member States don't answer within the set deadlines, the Greek Dublin Unit informs that States competent authority that it became responsible according to Article 18(7) of the Dublin II Regulation.

### *b). Circumstantial Evidence and its application in the Dublin II Regulation (Article 18(3)(b))*

The Greek authorities use the evidence listed in Directive EC 1560/2003.

### *c). Stay outside the EU within the timeframes set out by the Dublin II Regulation*

The Greek authorities have a separate registration system for migrants who are deported to Turkey under the Greece-Turkey

readmission agreement. Sometimes the Greek authorities that examine a take back or take charge request don't have access to information about length of stay outside. Therefore, the authorities do not apply Article 16(3), rather, they accept responsibility for an asylum seeker who had entered the Greek territory but was later deported outside the EU.

#### *d). EURODAC*

The EURODAC Unit consists of three Policemen.

The Greek authorities use EURODAC to check the fingerprints of all asylum seekers or to document irregular border crossing.

#### *e). Timeframes*

The Greek Dublin Unit generally observes timeframes for outgoing requests. However, due to the structural problems in the Police departments that deal with asylum there have been cases of missed deadlines.

It should also be noted that during previous years when Greece was receiving thousands of take charge and take back requests the Greek Dublin Unit often did not have capacity to respond so often the Unit did not reply.

### 3.4 *Vulnerable Persons in the Asylum Procedure*

#### a). *Unaccompanied minors*

Under the law (presidential decree 220/2007) the local prosecutor acts as temporary guardian for unaccompanied minors whether in a Dublin II Regulation procedure or not. However, in practice, in most cases prosecutors are not involved in minors' cases.

#### **According to the Greek Council for Refugees<sup>15</sup>:**

*Guardianship practically is not working. The law maker's choice to assign guardianship to the local prosecutors has not proved successful. Even if prosecutors made their best efforts, the personal relationship required by the institution of guardianship couldn't not be developed, so that a prosecutor can act as a "real guardian" or a "substitute parent".*

#### b). *Vulnerable persons/Medical cases*

In the past there were transfers of vulnerable asylum seekers from other Member States to Greece. According to our survey vulnerable asylum seekers amounted to 30% of returnees. Most of them were being transferred to Greece without the transferring Member State informing the Greek authorities about their vulnerability. Thus the Greek authorities were not prepared to receive them.<sup>16</sup>

In the vast majority of cases, asylum seekers who are transferred to other Member States have requested such action because they do not wish to remain in Greece for the duration of their asylum procedure. If they have medical problems, these are usually not serious enough to render them unfit for transfer. Therefore, there is no need for a special examination to determine whether they are fit for transfer or not.

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<sup>15</sup> Greek Council for Refugees, *Unaccompanied minors on the Greek-Turkey border*, June 2012, available in Greek at: <http://www.gcr.gr/printpdf/690>

<sup>16</sup> AITIMA, *Programme for the provision of legal and social support to Asylum Seekers transferred to Greece under Dublin II Regulation* (22 February – 14 April 2010) First Conclusions And Recommendations, available at: <http://www.aitima.gr/?q=en/en/page/project-airport-elftherios-venizelos>

### *3.5 The Rights of Asylum Applicants in the Dublin II Regulation Procedure*

#### *a). Right to information*

##### **Asylum seekers transferred to Greece**

Asylum seekers who are transferred to Athens Airport under the Dublin II Regulation are informed about the asylum procedure by the Police.

The Police cooperate with the Greek NGO "METADRASI", which provides interpreters. However asylum seekers who are transferred from Bulgaria to the Greek Police Security Department of Promahonas Border Station are not informed about the procedures and their rights because of the lack of interpretation and NGO assistance.

##### **Asylum seekers who are going to be transferred to other Member States**

These asylum seekers are informed of the applicability of the Dublin II Regulation and the procedures by the Greek Police or the Athens Asylum Department (Tmima Asylou).

However, there are not a sufficient number of interpreters available in order to carry out the tasks needed. Therefore, it is common that asylum seekers-among them Dublin II Regulation cases- are not properly informed about the procedure in their case. Asylum seekers who are going to be transferred to other Member States are informed when the other Member State has taken charge of their case but there is no written information given to them in their own language.

#### *b). Access to the asylum procedure*

When an asylum seeker is returned to Greece, the asylum process is continued provided that his/her application is pending. If a final decision has been issued the asylum seeker has the right to submit a

subsequent application in which he/she should present new evidence. However, access to the asylum procedure remains difficult in Greece.<sup>17</sup>

### *c). Effective Remedy (Appeals/Judicial Remedies):*

The appeal of a first instance decision, including a Dublin II Regulation decision, has an automatic suspensive effect. However, in cases of appeal of a second instance decision at the Administrative Court of Appeals, suspension is at the discretion of the Court.

## *3.6 Reception Conditions and Detention*

### *a). Reception conditions for asylum seekers*

#### **Accommodation**

Most asylum seekers who are going to be transferred to another Member State, as well as Dublin II Regulation returnees, are homeless despite the fact that Directive 2003/9/EK and Presidential Decree 220/2007, which transposed this directive, state that Greece has the legal obligation to provide them with accommodation.

However, there are a number of obstacles to resolving this problem.

- Asylum seekers are not aware of the requirement to apply for housing support according to Presidential Decree 220/2007, as this information is not provided by the Athens Asylum Department.
- In Greece asylum seekers are entitled to a working permit. However, if they declare themselves homeless, this is written on their Special Asylum Seeker Pass, and as a result the Public Fiscal Service does not issue them with a tax number, which in turn

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<sup>17</sup> *Supra* note 5, pages 11-17

leads to them being unable to get a work permit. For that reason, asylum seekers are reluctant to declare that they are homeless.

- The main hurdle is, of course, that the existing beds can only accommodate about 900 individuals in all reception centres across Greece, when the numbers of asylum seekers are over 40,000. One should take into account that Greece receives about 12,000 new applications per year, while there are also over 30,000 pending cases. Under these circumstances, it is clear that due to the limited numbers of reception centres, only the vulnerable cases can be provided with accommodation.

Nevertheless, it is not possible to provide accommodation for all the vulnerable persons at all times, which means that asylum seekers remain homeless and destitute.

### **Allowance for daily expenses**

The Greek State does not offer asylum seekers an allowance for his/her daily expenses.

Under these circumstances asylum seekers who are transferred to Greece are impoverished.<sup>18</sup>

### *b). Notion of absconding*

Asylum seekers who are going to be transferred to other Member States under the Dublin II Regulation are not detained and appear when called for transfer. So the notion of absconding is not relevant with the application of the Dublin II regulation in Greece.

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<sup>18</sup> See *supra* note 3



c). *Detention – grounds, duration, material conditions, effective remedies applied, etc.*

Asylum seekers who live in Greece and enter the Dublin II Regulation procedure in order to be transferred to another Member State are not detained pending transfer as the authorities know that they will present themselves when called for the transfer. This is due to the fact that these asylum seekers want to leave Greece and move to other Member States.

The Dublin II Regulation is triggered when an asylum seeker applies for asylum and the Greek authorities find that another Member State is responsible for the case, through EURODAC evidence or other sources.

However, asylum seekers transferred to Greece from another Member State who apply for asylum in Greece for the first time are detained for the time needed for their fingerprints to be processed and checked. As analyzed before, the time of detention which was from one to four days in the past, has currently decreased to a couple of hours, but if transfers from other Member States resume, then the time of detention will increase again.

With regard to the legality of this detention, AITIMA would like to note that the only legal requirement for the detention of asylum seekers is that shown in Article 13(2)(3) of Presidential Decree 114. However, this requirement is not applicable in the case of asylum seekers returned to Greece under the Dublin II Regulation.

Specifically, according to Article 13(2) of Presidential Decree 114 (which transposes article 18 of European Directive 2005/85 on asylum procedures):

*Confinement of asylum seekers in a suitable space is permitted exceptionally only provided that no alternative measures can be applied, for one of the following reasons:*

- a) They don't possess or have destroyed their travelling document and it is necessary to find out their identity, conditions of entry and their real country of origin, especially in cases of mass arriving of people illegally entering the country;

- b) They constitute a danger for national security or public order for reasons specifically analyzed in the detention order;
- c) It is necessary for the quick and effective examination of the asylum application.

### **According to Article 13(3):**

The detention order is issued by the relevant Police Chief, and specifically for the Athens and Thessaloniki General Headquarters, the responsible for aliens Police Chief or a superior officer appointed by the relevant General Police Chief, and contains full and thorough reasoning.

It is obvious that this Greek national legal provision relates to asylum seekers arriving in groups through our borders and not to those returned under the Dublin II Regulation. The latter come to our country after communication has taken place between the responsible authorities of Greece and the country returning them. The Greek authorities have already conducted an investigation about the asylum seekers to be returned and have subsequently accepted responsibility for them. Therefore, in the case of asylum seekers being returned under the Dublin II Regulation, the country of origin, conditions of entry and identity of the asylum seekers are already known. As a result, the aforementioned presidential decree is not applicable in this case.

Besides, the Greek authorities do not apply the procedure prescribed in Article 13(3), i.e. they do not issue the relevant detention order in the cases of asylum seekers transferred to Greece under the Dublin II Regulation. When asked about this detention the Police say that the asylum seekers are not in detention, but under surveillance.

From the above analysis, it becomes apparent that the detention of asylum seekers returned to Greece under the Dublin II Regulation is unlawful.

At this point, we have to note that the conditions of detention of asylum seekers in the space of the airport Police department are very poor, as the available space is inadequate for the number of detainees kept there. On average, the number of detainees exceeds the ten existing beds (in some cases we were informed that 40 asylum seekers were being detained in that space), and as a consequence there is

overcrowding with several asylum seekers being forced to sleep on the floor. What is more, detainees have no access to open air throughout the period of their detention.

### 3.7 Member State Co-operation

a). *Exchange of Information with other Member States: respect of deadlines for response, etc.*

The exchange of information is carried out within the deadlines.

b). *Cooperation with other Dublin II Regulation States: existence and use of any informal communication; attempts to solve disputed cases via bilateral cooperation, etc.*

There is a good cooperation between Greek authorities and the other Member States.

c). *Use of conciliation mechanisms between Member States*

The Greek authorities have never applied the conciliation mechanism.

d). *Member State Administrative Arrangements under Article 23*

There is only one arrangement with Bulgaria for the transfer of asylum seekers to the Promahonas Border Station.

### *3.8 The Impact of European Jurisprudence at national level*

*This section links to Section 2.3 z) Suspension of Transfers to Greece and other Member States; References to Petrosian and other Dublin II Regulation judgments at the European level.*

#### *a). Suspension of Transfers to Greece and any other Member States as part of a general policy or on a case-by-case basis*

During 2011, after the MSS verdict, other Member States transferred 48 asylum seekers to Greece. These transfers were mainly from Bulgaria. There were also a few from Hungary and Switzerland.

In the case of Hungary, asylum seekers consent to be transferred to Greece. However, this consent is mostly due to the very harsh conditions asylum seekers face in Hungary and more particularly their detention. Recently, Switzerland transferred a Syrian family to Greece that had applied for asylum, on the grounds that this family had a residence permit in Greece at the time the asylum application had been submitted in Switzerland (Article 9(1) Dublin II Regulation).

#### *b). Subsequent appeals submitted to the Norwegian Appeals Board (UNE)*

In 2011, the Norwegian Appeals Board decided that asylum seekers returned to Greece by Norway from the date that MSS had submitted his appeal to the ECtHR could submit subsequent appeals asking that their cases should be examined by Norway.

As far as we know, the Norwegian Appeals Board has accepted 9 appeals so far and two asylum seekers have already been given permission (visa) to travel to Norway in order to have their cases examined there.

## COMMENTS ON THE PRACTICAL APPLICATION OF THE DUBLIN II REGULATION BY OTHER MEMBER STATES

Use of readmission agreements in order to avoid the application of Dublin II Regulation

Bulgaria, which transferred most of the asylum seekers during the first half of 2011, has started another practice that goes against the decision of the ECtHR in the case of *MSS v. Belgium and Greece*<sup>19</sup>. More specifically, the Bulgarian authorities are not registering the asylum applications of asylum seekers coming from Greece and return them as readmissions. This practice has been documented by our Bulgarian partners, the Legal Clinic for Refugees and Immigrants.<sup>20</sup>

At the same time it has been reported<sup>21</sup> that Italy is returning minors to Greece who travel illegally from the port in Patras to Italy. According to the testimonies of minors, the Italian

authorities arrested them, took them to a local hospital and conducted a quick age assessment medical examination (wrist X-ray). The authorities then stated that the examination showed that they were adults and the minors were put on a return boat to Patras. During the whole process there was no interpretation and not any chance to ask for asylum.

These practices constitute a violation of both the Dublin II Regulation and the Readmission Agreements with Italy (law 2857/2000) and Bulgaria (law 2406/1996), as asylum seekers and vulnerable groups such as unaccompanied minors are excluded from these agreements.

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<sup>19</sup> See *supra* note 3.

<sup>20</sup> See *supra* note 10.

<sup>21</sup> Proasyl and Greek Council For Refugees, *Human Cargo - Arbitrary Readmissions from the Italian Sea Ports To Greece*, July 2012, available at: <http://www.gcr.gr/sites/default/files/humancargo.pdf>

### *3.9 Good Practices in Greece*

We suggested to the competent Police authorities that they could refer asylum seekers to our organization who are going to be transferred to other Member States, so that they can get information about the asylum system and the assistance they can get in these Member States. Recently the Police have started informing these asylum seekers about the assistance they can get from the NGO AITIMA by attaching an information note on the decisions of transfer.

# Conclusion and Recommendations

# 4

## Recommendations

Greece should ensure that it will effectively deal with all aspects of the application of the Dublin II Regulation, while simultaneously fully respecting the rights of asylum seekers.

### More specifically

Greece should disengage the Police from the responsibility for asylum and allow for the realization of the New Asylum Service, which has been provided by Law 3907/2001.

Until the New Asylum Service is realized Greece should provide the competent departments of the Greek Police with the necessary human and technical resources needed to effectively deal with the application of the Dublin II Regulation. Greece should fully respect the right of access to the asylum process.

Greece should offer asylum seekers the reception conditions provided for in the Reception Directive, which was transposed into Greek Law by the Presidential Decree 220/2007.

### Greece should...

- Develop the capacity to answer all requests sent by other Member States and to check all cases, so that it will be ensured that Greece is correctly identified as responsible for a particular individual.
- Develop the capacity to detect the cases where other Member States are responsible, especially the cases of family reunification under the Dublin II Regulation, and to process these cases within the set deadlines.

- Ensure that asylum seekers who want to apply for family provisions under the Dublin II Regulation will be able to do so immediately without remaining undocumented for weeks.
- Ensure that interpretation and information is provided during all stages of the the Dublin II Regulation procedure.
- Ensure that legal and social assistance is provided to asylum seekers transferred to Greece by other Member States and to asylum seekers going to be transferred to other Member States.
- Ensure that vulnerable asylum seekers in the Dublin II Regulation procedure are detected and assisted.
- Stop detaining asylum seekers transferred by other Member States.
- Ensure that accommodation and material support is provided to all asylum seekers in the Dublin II Regulation procedure.



# Annexes

## A. Bibliography

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- Racist Violence Recording Network, "Pilot phase conclusions 1.1.2012-30.9.2012," <http://www.unhcr.gr/1againstracism/racist-violence-recording-network-findings/>
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## **B. Relevant Statistics**

See next pages.

## **C. Relevant National Case Law**

There were very few cases related to the Dublin II Regulation that were taken to the Appeals Board. These concerned appeals to the decision of the Greek Police to transfer asylum seekers to another Member State. In response to our formal request to be informed about the reasoning of these decisions (and not for the personal details of the appellants) the Ministry sent us a formal answer in which they refused to inform us about the decisions on the grounds that they contain personal data which they could not disclose to us.

## B. Relevant Statistics - Statistical data on application of the Dublin

Submitted by		Submitted						
		Total number of requests	TAKING CHARGE REQUESTS (ART. 16.1.a)				Total number of taking back requests	TAKING Art.4.5
			Total number of taking charge requests	Family reasons	Documentation and entry reasons	Humanitarian reasons		
				Art.6, Art.7, Art. 8, Art. 14	Art.9, Art.10, Art. 11, Art. 12	Art.15		
		of Regulation 343/2003						
		1.1	1.2	1.2.1	1.2.2	1.2.3	1.3	1.3.1
BELGIUM	BE	2	0	0	0	0	2	0
BULGARIA	BG	49	38	0	38	0	11	0
CZECH REPUBLIC	CZ	5	1	0	1	0	4	0
DENMARK	DK	19	5	0	5	0	14	0
GERMANY	DE	66	45	2	43	0	21	0
ESTONIA	EE	0	0	0	0	0	0	0
IRELAND	IE	13	1	0	1	0	12	0
GREECE	EL	0	0	0	0	0	0	0
SPAIN	ES	6	2	0	2	0	4	0
FRANCE	FR	71	9	0	9	0	62	9
ITALY	IT	10	5	0	5	0	5	0
CYPRUS	CY	0	0	0	0	0	0	0
LETVIA	LV	1	0	0	0	0	1	0
LITHUANIA	LT	0	0	0	0	0	0	0
LUXEMBOURG	LU	0	0	0	0	0	0	0
HUNGARY	HU	11	5	0	5	0	6	0
MALTA	MT	0	0	0	0	0	0	0
NETHERLANDS	NL	28	23	0	23	0	5	0
AUSTRIA	AT	141	81	1	80	0	60	0
POLAND	PL	3	0	0	0	0	3	0
PORTUGAL	PT	0	0	0	0	0	0	0
ROMANIA	RO	6	5	0	5	0	1	0
SLOVENIA	SI	24	6	0	6	0	18	0
SLOVAK REPUBLIC	SK	0	0	0	0	0	0	0
FINLAND	FI	1	0	0	0	0	1	0
SWEDEN	SE	2	0	0	0	0	2	0
UNITED KINGDOM	UK	0	0	0	0	0	0	0
ICELAND	IS	0	0	0	0	0	0	0
NORWAY	NO	3	3	0	3	0	0	0
SWITZERLAND	CH	34	14	0	14	0	20	0
<b>TOTAL</b>		<b>495</b>	<b>243</b>	<b>3</b>	<b>240</b>	<b>0</b>	<b>252</b>	<b>9</b>

From 01-01-2011 until 31-12-2011.

## Regulation: Incoming requests

BACK REQUESTS			EURODAC			Total number of pending requests at the end of reference period	Requests for information	
Art.16.1.c	Art.16.1.d	Art.16.1.e	EURODAC Total	Taking charge requests based on EURODAC	Taking back requests based on EURODAC		Total number of requests for information	Answers to requests for information
of Regulation 343/2003							Art.21	Art.21.5
1.3.2	1.3.3	1.3.4	1.4	1.4.1	1.4.2	1.5	1.6.1	1.6.2
2	0	0	2	0	2	10	16	6
11	0	0	6	0	6	1	3	2
2	0	2	4	0	4	2	4	2
13	0	1	13	0	13	6	27	21
18	0	3	26	13	13	2	2	0
0	0	0	0	0	0	0	0	0
12	0	0	13	1	12	1	1	0
0	0	0	0	0	0	0	0	0
2	0	2	4	0	4	0	0	0
52	1	0	62	4	58	7	12	5
5	0	0	10	5	5	0	0	0
0	0	0	0	0	0	1	1	0
1	0	0	1	0	1	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
6	0	0	8	2	6	0	0	0
0	0	0	0	0	0	0	0	0
5	0	0	8	4	4	23	51	27
57	0	3	78	23	55	21	74	59
2	0	1	3	0	3	0	1	2
0	0	0	0	0	0	0	0	0
1	0	0	0	0	0	0	0	0
13	0	5	19	1	18	0	0	0
0	0	0	0	0	0	0	0	0
1	0	0	1	0	1	1	2	1
0	0	2	2	0	2	72	162	96
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	1	1	0
0	0	0	1	1	0	4	16	12
16	0	4	19	1	18	5	7	2
<b>219</b>	<b>1</b>	<b>23</b>	<b>280</b>	<b>55</b>	<b>225</b>	<b>225</b>	<b>380</b>	<b>235</b>

## B. Relevant Statistics - Statistical data on application of the Dublin

Submitted by		Accepted					
		Total number accepted	TAKING CHARGE REQUESTS ACCEPTED (ART. 16.1.a)				Total number accepted taking back requests
			Total number accepted taking charge requests	Family reasons	Documentation and entry reasons	Humanitarian reasons	
				Art.6, Art.7, Art. 8, Art. 14	Art.9, Art.10, Art. 11, Art. 12	Art.15	
		of Regulation 343/2003					
		2.1	2.2	2.2.1	2.2.2	2.2.3	2.3
BELGIUM	BE	4	2	0	2	0	2
BULGARIA	BG	52	40	0	40	0	12
CZECH REPUBLIC	CZ	3	0	0	0	0	3
DENMARK	DK	36	15	0	15	0	21
GERMANY	DE	74	58	2	56	0	16
ESTONIA	EE	0	0	0	0	0	0
IRELAND	IE	13	1	0	1	0	12
GREECE	EL	0	0	0	0	0	0
SPAIN	ES	6	2	0	2	0	4
FRANCE	FR	93	22	0	22	0	71
ITALY	IT	12	7	0	7	0	5
CYPRUS	CY	0	0	0	0	0	0
LETVIA	LV	1	0	0	0	0	1
LITHUANIA	LT	0	0	0	0	0	0
LUXEMBOURG	LU	1	1	0	1	0	0
HUNGARY	HU	10	5	0	5	0	5
MALTA	MT	0	0	0	0	0	0
NETHERLANDS	NL	53	35	0	35	0	18
AUSTRIA	AT	125	67	1	66	0	58
POLAND	PL	1	0	0	0	0	1
PORTUGAL	PT	0	0	0	0	0	0
ROMANIA	RO	4	3	0	3	0	1
SLOVENIA	SI	20	5	1	4	0	15
SLOVAK REPUBLIC	SK	0	0	0	0	0	0
FINLAND	FI	4	2	0	2	0	2
SWEDEN	SE	18	15	0	15	0	3
UNITED KINGDOM	UK	0	0	0	0	0	0
ICELAND	IS	0	0	0	0	0	0
NORWAY	NO	4	3	0	3	0	1
SWITZERLAND	CH	73	55	0	55	0	18
<b>TOTAL</b>		<b>607</b>	<b>338</b>	<b>4</b>	<b>334</b>	<b>0</b>	<b>269</b>

From 01-01-2011 until 31-12-2011.

## Regulation: Incoming requests accepted

TAKING BACK REQUESTS ACCEPTED				EURODAC		
Art.4.5	Art.16.1.c	Art.16.1.d	Art.16.1.e	Total accepted requests based on EURODAC	Accepted taking charge requests based on EURODAC	Accepted taking back requests based on EURODAC
of Regulation 343/2003						
2.3.1	2.3.2	2.3.3	2.3.4	2.4	2.4.1	2.4.2
0	2	0	0	2	0	2
0	12	0	0	11	1	10
0	2	0	1	3	0	3
0	21	0	1	23	5	18
0	14	0	2	25	15	10
0	0	0	0	0	0	0
0	11	0	1	13	1	12
0	0	0	0	0	0	0
0	1	0	3	5	1	4
7	58	0	6	81	13	68
0	5	0	0	12	6	6
0	0	0	0	0	0	0
0	1	0	0	1	0	1
0	0	0	0	0	0	0
0	0	0	0	1	1	0
0	4	0	1	7	2	5
0	0	0	0	0	0	0
0	18	0	0	25	15	10
0	52	0	6	79	23	56
0	1	0	0	1	0	1
0	0	0	0	0	0	0
0	1	0	0	1	1	0
0	12	0	3	17	2	15
0	0	0	0	0	0	0
0	1	0	1	3	1	2
0	3	0	0	7	5	2
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	1	0	0	2	1	1
0	14	0	4	27	11	16
<b>7</b>	<b>234</b>	<b>0</b>	<b>29</b>	<b>346</b>	<b>104</b>	<b>242</b>

## B. Relevant Statistics - Statistical data on application of the Dublin

Submitted by		Refused					
		Total number refused	TAKING CHARGE REQUESTS REFUSED (ART. 16.1.a)				Total number accepted taking back requests
			Total number refused taking charge requests	Family reasons	Documentation and entry reasons	Humanitarian reasons	
				Art.6, Art.7, Art. 8, Art. 14	Art.9, Art.10, Art. 11, Art. 12	Art.15	
		of Regulation 343/2003					
		3.1	3.2	3.2.1	3.2.2	3.2.3	3.3
BELGIUM	BE	0	0	0	0	0	0
BULGARIA	BG	11	8	0	8	0	3
CZECH REPUBLIC	CZ	1	1	0	1	0	0
DENMARK	DK	1	1	0	1	0	0
GERMANY	DE	20	19	0	19	0	1
ESTONIA	EE	0	0	0	0	0	0
IRELAND	IE	0	0	0	0	0	0
GREECE	EL	0	0	0	0	0	0
SPAIN	ES	1	1	0	1	0	0
FRANCE	FR	2	2	0	2	0	0
ITALY	IT	0	0	0	0	0	0
CYPRUS	CY	0	0	0	0	0	0
LETVIA	LV	0	0	0	0	0	0
LITHUANIA	LT	0	0	0	0	0	0
LUXEMBOURG	LU	0	0	0	0	0	0
HUNGARY	HU	0	0	0	0	0	0
MALTA	MT	0	0	0	0	0	0
NETHERLANDS	NL	11	11	0	11	0	0
AUSTRIA	AT	38	37	0	37	0	1
POLAND	PL	0	0	0	0	0	0
PORTUGAL	PT	0	0	0	0	0	0
ROMANIA	RO	4	4	0	4	0	0
SLOVENIA	SI	4	4	0	4	1	0
SLOVAK REPUBLIC	SK	0	0	0	0	0	0
FINLAND	FI	0	0	0	0	0	0
SWEDEN	SE	2	2	0	2	0	0
UNITED KINGDOM	UK	0	0	0	0	0	0
ICELAND	IS	0	0	0	0	0	0
NORWAY	NO	0	0	0	0	0	0
SWITZERLAND	CH	17	13	0	13	0	4
<b>TOTAL</b>		<b>112</b>	<b>103</b>	<b>0</b>	<b>103</b>	<b>0</b>	<b>9</b>

From 01-01-2011 until 31-12-2011.



## Regulation: Incoming requests refused

TAKING BACK REQUESTS REFUSED				EURODAC		
Art.4.5	Art.16.1.c	Art.16.1.d	Art.16.1.e	Total refused requests based on EURODAC	Refused taking charge requests based on EURODAC	Refused taking back requests based on EURODAC
of Regulation 343/2003						
3.3.1	3.3.2	3.3.3	3.3.4	3.4	3.4.1	3.4.2
0	0	0	0	0	0	0
0	3	0	0	1	0	1
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	2	1	9	8	1
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	1	1	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	1	1	1	1	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	1	2	1	1
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	4	0	0	9	5	4
<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>34</b>	<b>26</b>	<b>8</b>

## B. Relevant Statistics - Statistical data on application of the Dublin

Submitted by		Total number transferred	TAKING CHARGE REQUESTS (ART. 16.1.a) - TRANSFERRED			
			Total number transferred taking charge requests	Family reasons	Documentation and entry reasons	Humanitarian reasons
				Art.6, Art.7, Art. 8, Art. 14	Art.9, Art.10, Art. 11, Art. 12	Art.15
				of Regulation 343/2003		
		4.1	4.2	4.2.1	4.2.2	4.2.3
BELGIUM	BE	0	0	0	0	0
BULGARIA	BG	43	31	0	31	0
CZECH REPUBLIC	CZ	0	0	0	0	0
DENMARK	DK	0	0	0	0	0
GERMANY	DE	1	1	0	1	0
ESTONIA	EE	0	0	0	0	0
IRELAND	IE	0	0	0	0	0
GREECE	EL	0	0	0	0	0
SPAIN	ES	0	0	0	0	0
FRANCE	FR	1	1	0	1	0
ITALY	IT	0	0	0	0	0
CYPRUS	CY	0	0	0	0	0
LETVIA	LV	0	0	0	0	0
LITHUANIA	LT	0	0	0	0	0
LUXEMBOURG	LU	0	0	0	0	0
HUNGARY	HU	3	2	0	2	0
MALTA	MT	0	0	0	0	0
NETHERLANDS	NL	0	0	0	0	0
AUSTRIA	AT	1	0	0	0	0
POLAND	PL	0	0	0	0	0
PORTUGAL	PT	0	0	0	0	0
ROMANIA	RO	1	1	0	1	0
SLOVENIA	SI	0	0	0	0	0
SLOVAK REPUBLIC	SK	0	0	0	0	0
FINLAND	FI	0	0	0	0	0
SWEDEN	SE	0	0	0	0	0
UNITED KINGDOM	UK	0	0	0	0	0
ICELAND	IS	0	0	0	0	0
NORWAY	NO	0	0	0	0	0
SWITZERLAND	CH	5	1	0	1	0
<b>TOTAL</b>		<b>55</b>	<b>37</b>	<b>0</b>	<b>37</b>	<b>0</b>

From 01-01-2011 until 31-12-2011.

## Regulation: Incoming requests - Transferred

Transferred				
TAKING BACK REQUESTS TRANSFERRED				
Total number transferred taking back requests	Art.4.5	Art.16.1.c	Art.16.1.d	Art.16.1.e
	of Regulation 343/2003			
4.3	4.3.1	4.3.2	4.3.3	4.3.4
0	0	0	0	0
12	0	12	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
1	0	0	0	1
0	0	0	0	0
0	0	0	0	0
1	0	1	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
4	0	4	0	0
<b>18</b>	<b>0</b>	<b>17</b>	<b>0</b>	<b>1</b>

## B. Relevant Statistics - Statistical data on application of the Dublin

Submitted by		Submitted						
		Total number of requests	TAKING CHARGE REQUESTS (ART. 16.1.a)				Total number of taking back requests	TAKING Art.4.5
			Total number of taking charge requests	Family reasons	Documentation and entry reasons	Humanitarian reasons		
				Art.6, Art.7, Art. 8, Art. 14	Art.9, Art.10, Art. 11, Art. 12	Art.15		
		of Regulation 343/2003						
		1.1	1.2	1.2.1	1.2.2	1.2.3	1.3	1.3.1
BELGIUM	BE	15	10	8	0	2	5	0
BULGARIA	BG	9	0	0	0	0	9	0
CZECH REPUBLIC	CZ	1	0	0	0	0	1	0
DENMARK	DK	6	5	5	0	0	0	0
GERMANY	DE	107	93	77	0	16	13	0
ESTONIA	EE	0	0	0	0	0	0	0
IRELAND	IE	0	0	0	0	0	0	0
GREECE	EL	0	0	0	0	0	0	0
SPAIN	ES	2	0	0	0	0	2	0
FRANCE	FR	20	8	5	0	3	12	0
ITALY	IT	15	3	3	0	0	12	0
CYPRUS	CY	9	0	0	0	0	9	0
LETVIA	LV	1	0	0	0	0	1	0
LITHUANIA	LT	0	0	0	0	0	0	0
LUXEMBOURG	LU	0	0	0	0	0	0	0
HUNGARY	HU	1	0	0	0	0	1	0
MALTA	MT	1	0	0	0	0	1	0
NETHERLANDS	NL	17	12	11	0	1	5	0
AUSTRIA	AT	17	2	2	0	0	15	0
POLAND	PL	5	1	0	1	0	4	0
PORTUGAL	PT	1	0	0	0	0	1	0
ROMANIA	RO	9	0	0	0	0	9	0
SLOVENIA	SI	0	0	0	0	0	0	0
SLOVAK REPUBLIC	SK	2	0	0	0	0	2	0
FINLAND	FI	7	6	6	0	0	1	0
SWEDEN	SE	20	12	7	1	4	7	0
UNITED KINGDOM	UK	12	1	0	0	1	10	0
ICELAND	IS	0	0	0	0	0	0	0
NORWAY	NO	16	11	9	0	2	5	0
SWITZERLAND	CH	7	0	0	0	0	7	0
<b>TOTAL</b>		<b>300</b>	<b>164</b>	<b>133</b>	<b>2</b>	<b>29</b>	<b>132</b>	<b>0</b>

From 01-01-2011 until 31-12-2011.

## Regulation: Outgoing requests

BACK REQUESTS			EURODAC			Total number of pending requests at the end of reference period	Requests for information	
Art.16.1.c	Art.16.1.d	Art.16.1.e	EURODAC Total	Taking charge requests based on EURODAC	Taking back requests based on EURODAC		Total number of requests for information	Answers to requests for information
of Regulation 343/2003							Art.21	Art.21.5
1.3.2	1.3.3	1.3.4	1.4	1.4.1	1.4.2	1.5	1.6.1	1.6.2
5	0	0	5	0	5	0	0	0
8	0	1	9	0	9	0	0	0
1	0	0	1	0	1	0	0	0
0	0	0	0	0	0	1	1	0
12	0	1	13	0	13	6	1	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
2	0	0	2	0	2	1	0	0
12	0	0	12	0	12	6	0	0
11	0	1	12	0	12	0	0	0
8	0	1	9	0	9	1	0	0
1	0	0	1	0	1	1	0	0
0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0
1	0	0	1	0	1	0	0	0
1	0	0	1	0	1	0	0	0
5	0	0	5	0	5	3	0	0
15	0	0	15	0	15	1	0	0
4	0	0	4	0	4	1	0	0
1	0	0	1	0	1	0	0	0
8	0	1	9	0	9	0	0	0
0	0	0	0	0	0	0	0	0
2	0	0	2	0	2	0	0	0
1	0	0	1	0	0	0	1	0
7	0	0	7	0	7	4	1	1
10	0	0	10	0	10	0	0	0
0	0	0	0	0	0	0	0	0
5	0	0	5	0	5	1	0	0
7	0	0	7	0	7	0	0	0
<b>127</b>	<b>0</b>	<b>5</b>	<b>133</b>	<b>0</b>	<b>131</b>	<b>28</b>	<b>4</b>	<b>1</b>

## B. Relevant Statistics - Statistical data on application of the Dublin

Submitted by		Accepted					
		Total number accepted	TAKING CHARGE REQUESTS ACCEPTED (ART. 16.1.a)				Total number accepted taking back requests
			Total number accepted taking charge requests	Family reasons	Documentation and entry reasons	Humanitarian reasons	
				Art.6, Art.7, Art. 8, Art. 14	Art.9, Art.10, Art. 11, Art. 12	Art.15	
		of Regulation 343/2003					
		2.1	2.2	2.2.1	2.2.2	2.2.3	2.3
BELGIUM	BE	9	6	5	0	1	3
BULGARIA	BG	5	0	0	0	0	5
CZECH REPUBLIC	CZ	0	0	0	0	0	0
DENMARK	DK	3	3	3	0	0	0
GERMANY	DE	70	65	59	0	6	5
ESTONIA	EE	0	0	0	0	0	0
IRELAND	IE	0	0	0	0	0	0
GREECE	EL	0	0	0	0	0	0
SPAIN	ES	1	0	0	0	0	1
FRANCE	FR	0	0	0	0	0	0
ITALY	IT	5	3	3	0	0	2
CYPRUS	CY	3	1	0	1	0	2
LETVIA	LV	0	0	0	0	0	0
LITHUANIA	LT	0	0	0	0	0	0
LUXEMBOURG	LU	0	0	0	0	0	0
HUNGARY	HU	0	0	0	0	0	0
MALTA	MT	1	0	0	0	0	1
NETHERLANDS	NL	7	7	7	0	0	0
AUSTRIA	AT	1	0	0	0	0	1
POLAND	PL	3	1	0	1	0	2
PORTUGAL	PT	0	0	0	0	0	0
ROMANIA	RO	0	0	0	0	0	0
SLOVENIA	SI	0	0	0	0	0	0
SLOVAK REPUBLIC	SK	0	0	0	0	0	0
FINLAND	FI	3	3	3	0	0	0
SWEDEN	SE	2	0	0	0	0	2
UNITED KINGDOM	UK	2	0	0	0	0	2
ICELAND	IS	0	0	0	0	0	0
NORWAY	NO	11	6	6	0	0	4
SWITZERLAND	CH	1	0	0	0	0	1
<b>TOTAL</b>		<b>127</b>	<b>95</b>	<b>86</b>	<b>2</b>	<b>7</b>	<b>31</b>

From 01-01-2011 until 31-12-2011. Comments: One take back request which was submitted to Norway according

## Regulation: Outgoing requests accepted

TAKING BACK REQUESTS ACCEPTED				EURODAC		
Art.4.5	Art.16.1.c	Art.16.1.d	Art.16.1.e	Total accepted requests based on EURODAC	Accepted taking charge requests based on EURODAC	Accepted taking back requests based on EURODAC
of Regulation 343/2003						
2.3.1	2.3.2	2.3.3	2.3.4	2.4	2.4.1	2.4.2
1	1	0	1	3	0	3
1	0	0	4	5	0	5
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	3	0	2	5	0	5
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	1	1	0	1
0	0	0	0	0	0	0
0	1	0	1	2	0	2
0	2	0	0	2	0	2
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	1	0	0	1	0	1
0	0	0	0	0	0	0
0	0	0	1	1	0	1
0	1	0	1	2	0	2
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	2	2	0	2
0	1	0	1	2	0	0
0	0	0	0	0	0	0
0	1	0	3	5	0	4
0	0	0	1	1	0	1
<b>2</b>	<b>11</b>	<b>0</b>	<b>18</b>	<b>32</b>	<b>0</b>	<b>29</b>

to article 16.1.C was finally accepted with Article 13 of the Regulation.

## B. Relevant Statistics - Statistical data on application of the Dublin

Submitted by		Refused					
		Total number refused	TAKING CHARGE REQUESTS REFUSED (ART. 16.1.a)				Total number accepted taking back requests
			Total number refused taking charge requests	Family reasons	Documentation and entry reasons	Humanitarian reasons	
				Art.6, Art.7, Art. 8, Art. 14	Art.9, Art.10, Art. 11, Art. 12	Art.15	
		of Regulation 343/2003					
		3.1	3.2	3.2.1	3.2.2	3.2.3	3.3
BELGIUM	BE	6	4	2	0	2	2
BULGARIA	BG	4	0	0	0	0	4
CZECH REPUBLIC	CZ	1	0	0	0	0	1
DENMARK	DK	1	1	1	0	0	0
GERMANY	DE	32	22	14	0	8	10
ESTONIA	EE	0	0	0	0	0	0
IRELAND	IE	0	0	0	0	0	0
GREECE	EL	0	0	0	0	0	0
SPAIN	ES	0	0	0	0	0	0
FRANCE	FR	14	2	1	0	1	12
ITALY	IT	10	0	0	0	0	10
CYPRUS	CY	6	0	0	0	0	6
LETVIA	LV	0	0	0	0	0	0
LITHUANIA	LT	0	0	0	0	0	0
LUXEMBOURG	LU	0	0	0	0	0	0
HUNGARY	HU	1	0	0	0	0	1
MALTA	MT	0	0	0	0	0	0
NETHERLANDS	NL	7	2	1	0	1	5
AUSTRIA	AT	15	2	2	0	0	13
POLAND	PL	2	0	0	0	0	2
PORTUGAL	PT	1	0	0	0	0	1
ROMANIA	RO	9	0	0	0	0	9
SLOVENIA	SI	0	0	0	0	0	0
SLOVAK REPUBLIC	SK	2	0	0	0	0	2
FINLAND	FI	4	3	3	0	0	1
SWEDEN	SE	14	8	4	0	4	6
UNITED KINGDOM	UK	10	2	1	0	1	8
ICELAND	IS	0	0	0	0	0	0
NORWAY	NO	6	5	3	0	2	1
SWITZERLAND	CH	6	0	0	0	0	6
<b>TOTAL</b>		<b>151</b>	<b>51</b>	<b>32</b>	<b>0</b>	<b>19</b>	<b>100</b>

From 01-01-2011 until 31-12-2011.



## Regulation: Outgoing requests refused

TAKING BACK REQUESTS REFUSED				EURODAC		
Art.4.5	Art.16.1.c	Art.16.1.d	Art.16.1.e	Total refused requests based on EURODAC	Refused taking charge requests based on EURODAC	Refused taking back requests based on EURODAC
of Regulation 343/2003						
3.3.1	3.3.2	3.3.3	3.3.4	3.4	3.4.1	3.4.2
0	2	0	0	2	0	2
0	4	0	0	4	0	4
0	1	0	0	1	0	1
0	0	0	0	0	0	0
0	5	1	4	10	0	10
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	7	0	5	12	0	12
1	9	0	0	10	0	10
0	2	3	1	6	0	6
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	0	0	0	0	0	0
0	1	0	0	1	0	1
0	0	0	0	0	0	0
0	3	0	2	5	0	5
0	10	0	3	13	0	13
0	2	0	0	2	0	2
0	1	0	0	1	0	1
0	2	0	7	9	0	9
0	0	0	0	0	0	0
0	2	0	0	2	0	2
0	1	0	0	1	0	1
0	5	0	1	6	0	6
0	8	0	0	8	0	8
0	0	0	0	0	0	0
0	0	0	1	1	0	1
0	2	1	3	6	0	6
<b>1</b>	<b>67</b>	<b>5</b>	<b>27</b>	<b>100</b>	<b>0</b>	<b>100</b>

## B. Relevant Statistics - Statistical data on application of the Dublin

Submitted by		Total number transferred	TAKING CHARGE REQUESTS (ART. 16.1.a) - TRANSFERRED			
			Total number transferred taking charge requests	Family reasons	Documentation and entry reasons	Humanitarian reasons
				Art.6, Art.7, Art. 8, Art. 14	Art.9, Art.10, Art. 11, Art. 12	Art.15
				of Regulation 343/2003		
		4.1	4.2	4.2.1	4.2.2	4.2.3
BELGIUM	BE	9	7	5	0	2
BULGARIA	BG	1	0	0	0	0
CZECH REPUBLIC	CZ	0	0	0	0	0
DENMARK	DK	3	3	0	0	3
GERMANY	DE	46	46	40	0	6
ESTONIA	EE	0	0	0	0	0
IRELAND	IE	0	0	0	0	0
GREECE	EL	0	0	0	0	0
SPAIN	ES	0	0	0	0	0
FRANCE	FR	0	0	0	0	0
ITALY	IT	4	3	3	0	0
CYPRUS	CY	1	1	0	1	0
LETVIA	LV	0	0	0	0	0
LITHUANIA	LT	0	0	0	0	0
LUXEMBOURG	LU	0	0	0	0	0
HUNGARY	HU	0	0	0	0	0
MALTA	MT	0	0	0	0	0
NETHERLANDS	NL	6	6	6	0	0
AUSTRIA	AT	0	0	0	0	0
POLAND	PL	0	0	0	0	0
PORTUGAL	PT	0	0	0	0	0
ROMANIA	RO	0	0	0	0	0
SLOVENIA	SI	0	0	0	0	0
SLOVAK REPUBLIC	SK	0	0	0	0	0
FINLAND	FI	3	3	3	0	0
SWEDEN	SE	0	0	0	0	0
UNITED KINGDOM	UK	1	0	0	0	0
ICELAND	IS	0	0	0	0	0
NORWAY	NO	10	7	7	0	0
SWITZERLAND	CH	0	0	0	0	0
<b>TOTAL</b>		<b>84</b>	<b>76</b>	<b>64</b>	<b>1</b>	<b>11</b>

From 01-01-2011 until 31-12-2011.

## Regulation: Outgoing requests - Transferred

Transferred

TAKING BACK REQUESTS TRANSFERRED				
Total number transferred taking back requests	Art.4.5	Art.16.1.c	Art.16.1.d	Art.16.1.e
	of Regulation 343/2003			
4.3	4.3.1	4.3.2	4.3.3	4.3.4
2	1	0	0	1
1	0	0	0	1
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
1	0	1	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
0	0	0	0	0
1	0	1	0	0
0	0	0	0	0
3	0	1	0	2
0	0	0	0	0
<b>8</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>4</b>

## *NOTES*

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# European network for technical cooperation on the application of the Dublin II Regulation

By creating a European-wide network of NGOs assisting and counselling asylum seekers subject to a Dublin procedure, the aim of the network is to promote knowledge and the exchange of experience between stakeholders at national and European level. This strengthens the ability of these organisations to provide accurate and appropriate information to asylum seekers subject to a Dublin procedure.

This goal is achieved through research activities intended to improve knowledge of national legislation, practice and jurisprudence related to the technical application of the Dublin II Regulation. The project also aims to identify and promote best practice and the most effective case law on difficult issues related to the application of the Dublin II Regulation including family unity, vulnerable persons, detention.

During the course of the project, national reports were produced as well as a European comparative report. This European comparative report provides a comparative overview of the application of the Dublin II Regulation based on the findings of the national reports. In addition, in order to further enhance the knowledge, we created information brochures on different Member States, an asylum seekers' monitoring tool and a training module, aimed at legal practitioners and civil society organisations. They are available on the project website.

The Dublin II Regulation aims to promptly identify the Member State responsible for the examination of an asylum application. The core of the Regulation is the stipulation that *the Member State responsible for examining the asylum claim of an asylum seeker is the one where the asylum seeker first entered.*

[www.dublin-project.eu](http://www.dublin-project.eu)

## European Partner Organisations:

