



# aida

Asylum Information  
Database

## Country Report: Greece

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**GREEK  
COUNCIL  
FOR  
REFUGEES**

Edited by:



**ecre**  
European Council  
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**The information in this report is up-to-date as of 30 September 2015.**

## The AIDA project

The AIDA project is jointly coordinated by the European Council on Refugees and Exiles (ECRE), Forum Réfugiés-Cosi, Irish Refugee Council and the Hungarian Helsinki Committee. It aims to provide up-to date information on asylum practice in 16 EU Member States (AT, BE, BG, CY, DE, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 2 non-EU countries (Switzerland, Turkey) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). Furthermore the project seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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## Glossary & List of Abbreviations

<b>Αίτηση ακυρώσεως Έφεση</b>	Application for judicial review before the Administrative Court of Appeals Judicial appeal before the Council of State
<b>New Procedure</b>	Asylum procedure governed by PD 113/2013, applicable to claims lodged after 7 June 2013
<b>Objections procedure</b>	Procedure for challenging detention before the President of the Administrative Court, whose decision is non-appealable
<b>Old Procedure</b>	Asylum procedure governed by PD 114/2010, applicable to claims lodged before 7 June 2013
<b>Pink card</b>	Document granted by the Police under the Old Procedure, certifying the asylum seeker's status
<b>AAC</b>	Appeals Authority Committee, under the New Procedure
<b>AC</b>	Appeals Committee, under the Old Procedure
<b>AU</b>	Asylum Unit
<b>AMIF</b>	Asylum, Migration and Integration Fund
<b>GCR</b>	Greek Council for Refugees
<b>EASO</b>	European Asylum Support Office
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>ERF</b>	European Refugee Fund
<b>FRC</b>	First Reception Centre
<b>FRMU</b>	First Reception Mobile Unit
<b>FRS</b>	First Reception Service
<b>HCDCP</b>	Hellenic Centre for Disease Control and Prevention
<b>JMD</b>	Joint Ministerial Decision
<b>L</b>	Law
<b>MD</b>	Ministerial Decision
<b>MPOCP</b>	Ministry of Public Order and Citizen Protection
<b>MIAR</b>	Ministry of Interior and Administrative Reconstruction
<b>NCHR</b>	National Commission for Human Rights
<b>NCSS</b>	National Centre of Social Solidarity
<b>PACE</b>	Parliamentary Assembly of the Council of Europe
<b>PD</b>	Presidential Decree
<b>RAO</b>	Regional Asylum Office
<b>UAM</b>	Unaccompanied minor
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Statistics

**Table 1: Applications and granting of protection status at first and second instance: 2015 (January-August)**

	Applicants in 2015	Pending applications 31 Aug 2015	Refugee status	Subsidiary protection	Humanitarian protection	Rejection <sup>1</sup>	Refugee rate	Subs. Prot. rate	Hum. Prot. rate	Rejection rate
<b>Total</b>	8,519	Not available	3,703	479	135	7,892	30.3%	3.9%	1.1%	64.6%
<b>Old Procedure</b>	0	23,324 <sup>2</sup>	717	107	135 <sup>3</sup>	1,548	28.5%	4.2%	5.4%	61.7%
<b>New Procedure</b>	8,519	Not available <sup>4</sup>	2,986	372	0	6,344	30.7%	3.8%	0%	65.3%

Breakdown by countries of origin of the total numbers

Syria	2,511		2,380	13	0	113	95%	0.5%	0%	4.5%
Afghanistan	1,352		243	290	7	742	19%	22.6%	0.5%	57.8%
Pakistan	1,115		67	12	26	2,529	2.5%	0.5%	1%	96%
Bangladesh	490		28	3	3	942	2.9%	0.3%	0.3%	96.5%
Albania	379		6	5	23	646	0.9%	0.7%	3.4%	95%
Nigeria	257		54	4	10	408	11.3%	0.8%	2.1%	85.8%
Iraq	246		211	32	5	92	62%	9.4%	1.4%	27.2%
Stateless	179		149	0	0	15	90.8%	0%	0%	9.2%
Iran	176		75	1	1	116	38.8%	0.5%	0.5%	60.2%
Georgia	167		1	3	15	366	0.2%	0.8%	3.9%	95.1%
Somalia	94		21	20	0	41	25.6%	24.3%	0%	50.1%
Eritrea	64		65	3	0	33	64.3%	3%	0%	32.7%
Kosovo	0		0	0	0	0	-	-	-	-

Source: Statistics provided to GCR by the Asylum Service, the Appeals Authority and the Hellenic Police Headquarters - Aliens Division, September 2015.

<sup>1</sup> Rejection should include *both* in-merit and admissibility negative decisions (including Dublin decisions).

<sup>2</sup> Applications pending at second instance – Old Procedure as per 31 August 2015. There are no pending applications at first instance.

<sup>3</sup> The number refers to 10 residence permits on humanitarian grounds, granted by the General Secretary of Public Order, on applications submitted before 7 June 2013 and still pending when PD 167/2014 was published, added to 125 cases of the Appeals Committees of PD 114/2010, where it was decided to grant the relevant status before PD 167/2014 was into force. Except for applications falling under the scope of the aforementioned exceptional provision, following the amendments brought by PD 167/2014, neither the Old nor the New Procedure decision-making authorities may grant humanitarian status any more.

<sup>4</sup> Pending applications at first instance in the New Procedure were 3,633 as of 31 August 2015. Pending applications at second instance are not available.

**Table 2: Gender/age breakdown of the total number of applicants: 2015 (January-August)**

	Number	Percentage
<b>Total number of applicants</b>	8,518	100%
Men	6,403	75.2%
Women	2,115	24.8%
Children	1,651	19.4%
Unaccompanied children	282	3.3%

Source: Asylum Service, Statistics January-August 2015 provided to GCR, September 2015.

**Table 3: Comparison between first instance and appeal decision rates: 2015 (January-August)**

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	7,150	100%	4,769	100%
Positive decisions	3,050	42.6%	1,267	26.5%
• <i>Refugee status</i>	2,773	38.7%	930	19.5%
• <i>Subsidiary protection</i>	267	3.7%	212	4.4%
• <i>Humanitarian protection</i>	10	0.1%	125	2.6%
Negative decisions	4,100	57.3%	3,502	73.4%

Source: Statistics provided to GCR by the Asylum Service, the Appeals Authority and the Hellenic Police Headquarters – Aliens Division, September 2015. Data for both the Old and the New Procedure.

**Table 4: Applications processed under the accelerated procedure in 2015 (January-August)**

	Number	Percentage
<b>Total number of applications</b>	8,519	100%
<b>Applications treated under accelerated procedure</b>	64	0.7%

Source: Asylum Service, Statistics January-August 2015 provided to GCR, September 2015.

**Table 5: Subsequent applications lodged in 2015 (January-August)**

	Number	Percentage
<b>Total number of subsequent applications</b>	1,098	100%
Main countries of origin		
Pakistan	210	19.1%
Bangladesh	145	13.2%
Syria	118	10.7%
Nigeria	109	9.9%
Afghanistan	107	9.7%

Source: Asylum Service, Monthly Statistics, January-August 2015, <http://bit.ly/1PpzGcM>; Asylum Service, Statistics January-August 2015 provided to GCR, September 2015.

**Table 6: Number of applicants detained in certain locations per ground of detention: 2013-2015 (January-September)**

The information included here, provided by Source 1, regards the pre-removal centres of **Amygdaleza, Tavros** (Petrou Ralli), **Xanthi, Paranesti, Orestiada / Fylakio** and **Komotini** (the latter in operation until 13 October 2014). Statistics for the Pre-removal Detention centre of **Corinth and Lesvos**, the Detention Centre (“Special Holding Facility for Aliens”) of **Elliniko**, currently reserved to women detainees, or of detention facilities of **police stations** are not included.

Ground for detention	2013	2014	2015
To determine the applicant’s identity or nationality	754	789	501
Where the applicant presents a threat to national security or public order	125	84	39
Where detention is deemed necessary for the rapid and complete examination of the asylum application	216	243	217
More than one of the abovementioned grounds	1,460	529	261
<b>Total applicants detained in pre-removal centres, except for Lesvos and Corinth<sup>5</sup> (i.e. Amygdaleza, Tavros, Xanthi, Paranesti, Fylakio, Komotini – Old and New Procedure)</b>	<b>2,555</b>	<b>1,645</b>	<b>1,018</b>

Source 1: Statistics provided to GCR by the Hellenic Police Headquarters – Illegal Migration Control Division, September / October 2015.

<sup>5</sup> According to information provided by the Corinth Pre-removal Detention Centre, 276 asylum applications were registered in total during 2013 (under PD 114/2010), 226 during 2014 and 246 during 2015. Information regarding the Pre-removal Detention Centre of Lesvos has not been made available.



<b>Total applicants detained (All locations – New Procedure)</b>	574 (7 Jun – 31 Dec)	2,892	2,164
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Source 2: Asylum Service, Annual Statistics 2013 (7.6.2013 – 31.12.2013): <http://bit.ly/1LctMW7>, Annual Statistics 2014: <http://bit.ly/1Q49gGh> and Monthly Statistics, January-September 2015: <http://bit.ly/1H3TuRx>.

**Table 7: Number of applicants detained and subject to alternatives to detention**

Alternatives to detention are not used in practice.

Source: Statistics provided to GCR by the Hellenic Police Headquarters – Illegal Migration Control Division, September / October 2015.

## Overview of the legal framework

### Main legislative acts and regulations relevant to asylum procedures, reception conditions and detention

Title (EN)	Original Title (GR)	Abbreviation	Web Link
<p>Law 3386/2005 “Entry, Residence and Social Integration of Third Country Nationals on the Greek Territory”</p> <p><i>Abolished by:</i> L 4251/2014 except for Articles 76, 77, 78, 80, 81, 82, 83, 89(1)-(3)</p> <p><i>Amended by:</i> Law 4332/2015 “Amendment of provisions of the Greek Code of Citizenship – Amendment of L. 4521/2014 [...]”</p> <p><i>Relevant:</i> Hellenic Police Headquarters, Document No 1604/15/1423412/10.08.2015 “Implementation of L 4332/2015 ‘Amendment of provisions of the Greek Code of Citizenship etc.’”</p>	<p>Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια»</p> <p><i>Καταργήθηκε από:</i> Ν 4251/2014 πλην των διατάξεων των άρθρων 76, 77, 78, 80, 81, 82, 83, 89 παρ. 1-3</p> <p><i>Τροπ.:</i> Νόμος 4332/2015 «Τροποποίηση διατάξεων Κώδικα Ελληνικής Ιθαγένειας - Τροποποίηση του Ν.4521/2014 [...]» ΦΕΚ 76/Α/09-07-2015</p> <p><i>Σχετ.:</i> Αρχηγείο Ελληνικής Αστυνομίας, Έγγραφο με αρ. 1604/15/1423412/10.08.2015 «Εφαρμογή διατάξεων του Ν. 4332/2015 ‘Τροποποίηση διατάξεων Κώδικα Ελληνικής Ιθαγένειας κλπ.»</p>	<p>L 3386/2005</p>	<p>&lt;<a href="http://bit.ly/1Pps1eO">http://bit.ly/1Pps1eO</a>&gt; (EN)</p> <p>&lt;<a href="http://bit.ly/1Qkzh9R">http://bit.ly/1Qkzh9R</a>&gt; (GR)</p> <p>&lt;<a href="http://bit.ly/1FOuxp0">http://bit.ly/1FOuxp0</a>&gt; (GR)</p> <p>&lt;<a href="http://bit.ly/1LfUfDB">http://bit.ly/1LfUfDB</a>&gt; (GR)</p> <p>&lt;<a href="http://bit.ly/1LgoyL2">http://bit.ly/1LgoyL2</a>&gt; (GR)</p>
<p>Presidential Decree 220/2007 “on the transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers”</p> <p>Gov. Gazette 251/A/13-11-2007</p> <p><i>Relevant:</i> Circular 2/2012 “on specifications relating to access to the national healthcare system for foreigners and non-insured persons” 2 May 2012</p>	<p>Προεδρικό Διάταγμα 220/2007 «Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2003/9/ΕΚ του Συμβουλίου της 27<sup>ης</sup> Ιανουαρίου 2003, σχετικά με τις ελάχιστες απαιτήσεις για την υποδοχή των αιτούντων άσυλο στα κράτη μέλη» ΦΕΚ 251/Α/13-11-2007</p> <p><i>Σχετ:</i> Εγκύκλιος 2/2012 «Διευκρινήσεις σχετικά με την πρόσβαση στο σύστημα ιατροφαρμακευτικής και νοσηλευτικής περίθαλψης της χώρας σε Αλλοδαπούς και Ανασφάλιστους» 2 Μαΐου 2012</p>	<p>PD 220/2007</p> <p>Cir. 2/2012</p>	<p>&lt;<a href="http://bit.ly/1LWAMZj">http://bit.ly/1LWAMZj</a>&gt; (EN)</p> <p>&lt;<a href="http://bit.ly/1LWAOR6">http://bit.ly/1LWAOR6</a>&gt; (GR)</p>
<p>Presidential Decree 96/2008 “on harmonisation of Greek legislation to the provisions of Council Directive 2004/83/EC of 29 April 2004 on minimum</p>	<p>Προεδρικό Διάταγμα 96/2008 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2004/83/ΕΚ του Συμβουλίου της 29<sup>ης</sup> Απριλίου 2004 για τη θέσπιση ελάχιστων</p>	<p>PD 96/2008</p>	<p>&lt;<a href="http://bit.ly/1LWAPo0">http://bit.ly/1LWAPo0</a>&gt; (EN)</p>

<p>standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted”</p> <p>Gov. Gazette 152/A/30-7-2008</p> <p><i>Abolished by:</i> Presidential Decree 141/2013, except for art. 24 and 25 par. 1, 2 and 3.</p>	<p>απαιτήσεων για την αναγνώριση και το καθεστώς των υπηκόων τρίτων χωρών ή των απάτριδων ως προσφύγων ή ως προσώπων που χρήζουν διεθνούς προστασίας για άλλους λόγους»</p> <p>ΦΕΚ 152/A/30-7-2008</p> <p><i>Καταργήθηκε από:</i> Προεδρικό Διάταγμα 141/2013, πλην των διατάξεων του άρθρου 24 και 25 παρ. 1, 2 και 3</p>	<p>PD 141/2013</p>	<p>&lt;<a href="http://bit.ly/1FWWVGX">http://bit.ly/1FWWVGX</a>&gt; (GR)</p>
<p>Presidential Decree 114/2010 “on the establishment of a single procedure for granting the status of refugee or of beneficiary of subsidiary protection to aliens or to stateless persons in conformity with Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status”</p> <p>Gov. Gazette 195/A/22-11-2010</p> <p><i>Amended:</i> Presidential Decree 116/2012 “amending PD 114/2010 [...]”</p> <p>Gov. Gazette 201/A/19-10-2012</p> <p><i>Amended:</i> Presidential Decree 113/2013 “on the establishment of a single procedure for granting the status of refugee [...]”</p> <p>Gov. Gazette 146/A/14-06-2013</p> <p><i>Amended:</i> Presidential Decree 167/2014 “amending PD 114/2010 [...]”</p> <p>Gov. Gazette 252/A/01-12-2014</p>	<p>Προεδρικό Διάταγμα 114/2010 «Καθιέρωση ενιαίας διαδικασίας αναγνώρισης σε αλλοδαπούς και ανιθαγενείς του καθεστώτος του πρόσφυγα ή δικαιούχου επικουρικής προστασίας σε συμμόρφωση προς την Οδηγία 2005/85/ΕΚ του Συμβουλίου ‘σχετικά με τις ελάχιστες προδιαγραφές για τις διαδικασίες με τις οποίες τα κράτη μέλη χορηγούν και ανακαλούν το καθεστώς του πρόσφυγα»</p> <p>ΦΕΚ 195/A/22-11-2010</p> <p><i>Τροπ:</i> Προεδρικό Διάταγμα 116/2012 «Τροποποίηση πδ 114/2010 [...]»</p> <p>ΦΕΚ 201/A/19-10-2012</p> <p><i>Τροπ.:</i> Προεδρικό Διάταγμα 113/2013 «Καθιέρωση ενιαίας διαδικασίας αναγνώρισης σε αλλοδαπούς και ανιθαγενείς του καθεστώτος του πρόσφυγα [...]»</p> <p>ΦΕΚ 146/A/14-06-2013</p> <p><i>Τροπ:</i> Προεδρικό Διάταγμα 167/2014 «Τροποποίηση πδ 114/2010 [...]»</p> <p>ΦΕΚ 252/A/01-12-2014</p>	<p>PD 114/2010</p> <p>PD 116/2012</p> <p>PD 113/2013</p> <p>PD 167/2014</p>	<p>&lt;<a href="http://bit.ly/1LWAO3C">http://bit.ly/1LWAO3C</a>&gt; (EN)</p> <p>&lt;<a href="http://bit.ly/1GfXCwV">http://bit.ly/1GfXCwV</a>&gt; (EN)</p> <p>&lt;<a href="http://bit.ly/1M36apZ">http://bit.ly/1M36apZ</a>&gt; (EN)</p> <p>&lt;<a href="http://bit.ly/1ENgV9B">http://bit.ly/1ENgV9B</a>&gt; (GR)</p> <p>&lt;<a href="http://bit.ly/1ct2sZY">http://bit.ly/1ct2sZY</a>&gt; (GR)</p>
<p>Law 3907/2011 “on the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third country nationals" and other</p>	<p>Νόμος 3907/2011 «Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/ΕΚ «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη-μέλη για την επιστροφή των παρανόμως διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις»</p>	<p>L 3907/2011</p>	<p>&lt;<a href="http://bit.ly/1KHa9dV">http://bit.ly/1KHa9dV</a>&gt; (EN)</p>

<p>provisions. Gov. Gazette 7/A/26-01-2011</p> <p><i>Amended:</i> Presidential Decree 133/2013 “amending provisions of L. 3907/2011 [...]” Gov. Gazette 198/A/25-09-2013</p> <p><i>Amended by:</i> Law 4058/2012 “on the provision of services by armed guards to commercial vessels and other provisions” Gov. Gazette 63/A/22-03-2012</p> <p><i>Relevant:</i> Circular 37/2011 “on returns of illegally staying third-country nationals – Implementation of Articles 16 to 41 of L 3907/2011” 11 July 2011</p> <p><i>Relevant:</i> Circular 41/2012 “on issues relating to the implementation of L 3907/2011” 18 June 2012</p>	<p>ΦΕΚ 7/A/26-01-2011</p> <p><i>Τροπ.:</i> Προεδρικό Διάταγμα 133/2013 «Τροποποίηση διατάξεων του ν. 3907/2011 [...]» ΦΕΚ 198/A/25-09-2013</p> <p><i>Τροπ.:</i> Νόμος 4058/2012 «Παροχή υπηρεσιών ασφαλείας από ένοπλους φρουρούς σε εμπορικά πλοία και άλλες διατάξεις» ΦΕΚ 63/A/22-03-2012</p> <p><i>Σχετ.:</i> Εγκύκλιος 37/2011 «Αποφάσεις επιστροφής παρανόμως διαμένοντων υπηκόων τρίτων χωρών – Εφαρμογή των διατάξεων των άρθρων 16 έως και 41 του Ν. 3907/2011» 11 Ιουλίου 2011</p> <p><i>Σχετ.:</i> Εγκύκλιος 41/2012 «Ζητήματα εφαρμογής των διατάξεων του ν. 3907/2011» 19 Ιουνίου 2012</p>	<p>PD 133/2013</p> <p>L 4058/2012</p> <p>Cir. 37/2011</p> <p>Cir. 41/2012</p>	<p>&lt;<a href="http://bit.ly/1GfXFJ2">http://bit.ly/1GfXFJ2</a>&gt; (GR)</p> <p>&lt;<a href="http://bit.ly/1F0oiWx">http://bit.ly/1F0oiWx</a>&gt; (GR)</p> <p>&lt;<a href="http://bit.ly/1QjHZEb">http://bit.ly/1QjHZEb</a>&gt; (GR)</p> <p>&lt;<a href="http://bit.ly/1GfXJIZ">http://bit.ly/1GfXJIZ</a>&gt; (GR)</p>
<p>Ministerial Decision 4000/1/70-a’ “Rules of Operation of the Appeals Committees of PD 114/2010”</p>	<p>Υπουργική Απόφαση 4000/1/70-α’ «Κανονισμός Λειτουργίας των Επιτροπών Προσφυγών του π.δ. 114/2010»</p>	<p>MD 4000/1/70-a’</p>	<p>&lt;<a href="http://bit.ly/1VWdRE4">http://bit.ly/1VWdRE4</a>&gt; (GR)</p>
<p>Joint Ministerial Decision 7001/2/1454-h/2012 “on the rules of operation of the Regional First Reception Services” Gov. Gazette 64/B/26-01-2012</p>	<p>Κοινή Υπουργική Απόφαση 7001/2/1454-η’/2012 «Γενικός Κανονισμός Περιφερειακών Υπηρεσιών Πρώτης Υποδοχής» ΦΕΚ 64/B/26-01-2012</p>	<p>JMD 7001/2/1454-h/2012</p>	<p>&lt;<a href="http://bit.ly/1GfXNs2">http://bit.ly/1GfXNs2</a>&gt; (EN)</p>
<p>Presidential Decree 104/2012 “on the organisation and operation of the Asylum Service within the Ministry of Public Order and Citizen Protection” Gov. Gazette 172/A/05-09/2012</p> <p><i>Amended:</i> Presidential Decree 133/2013 “amending provisions [...] PD 104/2012”</p>	<p>Προεδρικό Διάταγμα 104/2012 «Οργάνωση και Λειτουργία Υπηρεσίας Ασύλου στο Υπουργείο Δημόσιας Τάξης και Προστασίας του Πολίτη» ΦΕΚ 172/A/05-09/2012</p> <p><i>Τροπ.:</i> Προεδρικό Διάταγμα 133/2013 «Τροποποίηση διατάξεων του [...] πδ 104/2012»</p>	<p>PD 104/2012</p> <p>PD 133/2013</p>	<p>&lt;<a href="http://bit.ly/1I40VVz">http://bit.ly/1I40VVz</a>&gt; (GR)</p> <p>&lt;<a href="http://bit.ly/1GfXFJ2">http://bit.ly/1GfXFJ2</a>&gt; (GR)</p>

Gov. Gazette 198/A/25-09-2013	ΦΕΚ 198/A/25-09-2013		
Presidential Decree 102/2012 “on the organisation and operation of the First Reception Service within the Ministry of Public Order and Citizen Protection” Gov. Gazette 169/A/03-09-2012	Προεδρικό Διάταγμα 102/2012 «Οργάνωση και Λειτουργία Υπηρεσίας Πρώτης Υποδοχής στο Υπουργείο Δημόσιας Τάξης και Προστασίας του Πολίτη» ΦΕΚ 169/A/03-09-2012	PD 102/2012	< <a href="http://bit.ly/1I410Zl">http://bit.ly/1I410Zl</a> > (GR)
Presidential Decree 113/2013 “on the establishment of a single procedure for granting the status of refugee or of subsidiary protection beneficiary to aliens or to stateless individuals in conformity with Council Directive 2005/85/EC ‘on minimum standards on procedures in Member States for granting and withdrawing refugee status’ and other provisions” Gov. Gazette 146/A/14-06-2013	Προεδρικό Διάταγμα 113/2013 «Καθιέρωση ενιαίας διαδικασίας αναγνώρισης σε αλλοδαπούς και ανιθαγενείς του καθεστώτος του πρόσφυγα ή δικαιούχου επικουρικής προστασίας σε συμμόρφωση προς την Οδηγία 2005/85/ΕΚ το Συμβουλίου «σχετικά με τις ελάχιστες προδιαγραφές για τις διαδικασίες με τις οποίες τα κράτη μέλη χορηγούν και ανακαλούν το καθεστώς του πρόσφυγα» και άλλες διατάξεις» ΦΕΚ 146/A/14-06-2013	PD 113/2013	< <a href="http://bit.ly/1M36apZ">http://bit.ly/1M36apZ</a> > (EN) < <a href="http://bit.ly/1ENgV9B">http://bit.ly/1ENgV9B</a> > (GR)
Joint Ministerial Decision 208/2013 “Constitution and composition of the Appeals Committees of art. 3 L 3907/2011”	Κοινή Υπουργική Απόφαση 208/2013 «Σύσταση και Συγκρότηση των Επιτροπών Προσφυγών του άρθρου 3 του Ν. 3907/2011»	JMD 208/2013	< <a href="http://bit.ly/1K3HIRQ">http://bit.ly/1K3HIRQ</a> > (GR)
Presidential Decree 141/2013 “on the transposition into the Greek legislation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted (recast)” Gov. Gazette 226/A/21-10-2013	Προεδρικό Διάταγμα 141/2013 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2011/95/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 13 <sup>ης</sup> Δεκεμβρίου 2011 σχετικά με τις απαιτήσεις για την αναγνώριση και το καθεστώς των αλλοδαπών ή των ανιθαγενών ως δικαιούχων διεθνούς προστασίας για ένα ενιαίο καθεστώς για τους πρόσφυγες ή για τα άτομα που δικαιούνται επικουρική προστασία και για το περιεχόμενο της παρεχόμενης προστασίας (αναδιατύπωση)» ΦΕΚ 226/A/21-10-2013	PD 141/2013	< <a href="http://bit.ly/1FWWVGX">http://bit.ly/1FWWVGX</a> > (GR)
Ministerial Decision 92490/2013 “on the Programme for medical examination, psychosocial diagnosis and support and referral of third-country nationals entering without documentation to first reception facilities” Gov. Gazette 2745/B/29-10-2013	Υπουργική Απόφαση Υ1.Γ.Π.οικ. 92490/2013 «Πρόγραμμα ιατρικού ελέγχου, ψυχοκοινωνικής διάγνωσης και υποστήριξης και παραπομπής των εισερχομένων χωρίς νομιμοποιητικά έγγραφα υπηκόων τρίτων χωρών σε δομές πρώτης υποδοχής» ΦΕΚ 2745/B/29-10-2013	MD 62490/2013	< <a href="http://bit.ly/1FI5OVT">http://bit.ly/1FI5OVT</a> > (GR)
Ministerial Decision 334/2014 “on the Rules of Procedure of the Appeals Authority” Gov. Gazette 63/B/16-01-2014	Υπουργική Απόφαση 334/2014 «Κανονισμός Λειτουργίας της Αρχής Προσφυγών» ΦΕΚ 63/B/16-01-2014	MD 334/2014	< <a href="http://bit.ly/1AHZkVr">http://bit.ly/1AHZkVr</a> > (GR)

Ministerial Decision 4000/4/59-st/2014 28 February 2014  <i>Relevant:</i> Legal Council of the State Opinion 44/2014	Υπουργική Απόφαση υπ' αρ. 4000/4/59-στ/2014 28 Φεβρουαρίου 2014  Σχετ: Γνωμοδότηση 44/2014 του Νομικού Συμβουλίου του Κράτους	MD 4000/4/59-st/2014  Opinion 44/2014	Not available  < <a href="http://bit.ly/1fUBhBD">http://bit.ly/1fUBhBD</a> > (GR)
Law 4249/2014 “on the restructuring of the Hellenic Police [...] and other provisions” Gov. Gazette 73/A/24-03-2014	Νόμος 4249/2014 «Αναδιοργάνωση της Ελληνικής Αστυνομίας [...] και άλλες διατάξεις» ΦΕΚ 73/A/24-03-2014	L 4249/2014	< <a href="http://bit.ly/1FWZ8SF">http://bit.ly/1FWZ8SF</a> > (GR)
Law 4251/2014 “Immigration and Social Integration Code and other provisions” Gov. Gazette 80/A/01-04-2014  <i>Relevant:</i> Circular 41301/07-08-2014 “Implementation of L 4251/2014  <i>Amended:</i> Law 4332/2015 “Amendment of provisions of the Greek Code of Citizenship – Amendment of L. 4521/2014 on the transposition into the Greek legislation of the European Parliament and the Council Directives 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers and other provisions” Gov. Gazette 76/A/09-07-2015  <i>Relevant:</i> Circular 28/04-08-2015 “Implementation of provisions of L 4332/2015”	Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις» ΦΕΚ 80/A/01-04-2014  Σχετ.: Εγκύκλιος 41301/07-08-2014 «Εφαρμογή των διατάξεων του Ν. 4251/2014  <i>Τροπ:</i> Νόμος 4332/2015 «Τροποποίηση διατάξεων Κώδικα Ελληνικής Ιθαγένειας - Τροποποίηση του Ν.4521/2014 για την προσαρμογή της ελληνικής νομοθεσίας στις οδηγίες του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου 2011/98/ΕΕ σχετικά με την ενιαία διαδικασία υποβολής αίτησης για τη χορήγηση στους πολίτες τρίτων χωρών ενιαίας άδειας διαμονής και εργασίας στην επικράτεια κράτους-μέλους και σχετικά με κοινό σύνολο δικαιωμάτων για τους εργαζόμενους από τρίτες χώρες που διαμένουν νομίμως σε κράτος-μέλος και 2014/36/ΕΕ σχετικά με τις προϋποθέσεις εισόδου και διαμονής πολιτών τρίτων χωρών με σκοπό την εποχιακή εργασία και άλλες διατάξεις» ΦΕΚ 76/A/09-07-2015  Σχετ.: Εγκύκλιος 28/04-08-2015 «Εφαρμογή διατάξεων του Ν. 4332/2015»	L 4251/2014 Immigration Code  Cir. 41301/ 07-08-2014  L 4332/2015    Cir. 28/2015	< <a href="http://bit.ly/1FOuxp0">http://bit.ly/1FOuxp0</a> > (GR)  < <a href="http://bit.ly/1LJfPpi">http://bit.ly/1LJfPpi</a> > (GR)  < <a href="http://bit.ly/1LfUfDB">http://bit.ly/1LfUfDB</a> > (GR)    < <a href="http://bit.ly/1RC1TfU">http://bit.ly/1RC1TfU</a> > (GR)
Joint Ministerial Decision 30651/2014 “on the establishment of a category of residence permit on	Κοινή Υπουργική Απόφαση 30651/2014 «Καθορισμός κατηγορίας άδειας διαμονής για ανθρωπιστικούς λόγους, καθώς και του	JMD 30651/2014	< <a href="http://bit.ly/1Jj6cdi">http://bit.ly/1Jj6cdi</a> > (GR)



humanitarian grounds and of the type, procedure and specific conditions for its granting” Gov. Gazette 1453/B/05-06-2014	τύπου, της διαδικασίας και των ειδικότερων προϋποθέσεων χορήγησής της» ΦΕΚ 1453/B/05-06-2014		
Ministerial Decision 30825/2014 “on determination of required documentation for the granting national visas and for the granting and renewal of residence permits in accordance with the provisions of L 4251/2014” Gov. Gazette 1528/B/06-06-2014	Υπουργική Απόφαση 30825/2014 «Καθορισμός απαιτούμενων δικαιολογητικών για τη χορήγηση εθνικών θεωρήσεων εισόδου και για τη χορήγηση και ανανέωση τίτλου διαμονής σύμφωνα με τις διατάξεις του ν. 4251/2014» ΦΕΚ 1528/B/06-06-2014	MD 30825/2014	< <a href="http://bit.ly/1FOuz01">http://bit.ly/1FOuz01</a> > (GR)
Ministerial Decision 6416/2014 “on the Rules of Procedure of the Asylum Service” Gov. Gazette 2034/B/25-07-2014	Υπουργική Απόφαση 6416/2014 «Κανονισμός Λειτουργίας Υπηρεσίας Ασύλου» ΦΕΚ 2034/B/25-07-2014	MD 6416/2014	< <a href="http://bit.ly/1dGbx4">http://bit.ly/1dGbx4</a> > (GR)
Joint Ministerial Decision 7315/2014 “Procedure for granting residence permits to beneficiaries of international protection” Gov. Gazette 2461/B/16-09-2014	Κοινή Υπουργική Απόφαση 7315/2014 «Διαδικασία χορήγησης Α.Δ.Ε.Τ. στους δικαιούχους διεθνούς προστασίας» ΦΕΚ 2461/B/16-09-2014	JMD 7315/2014	< <a href="http://bit.ly/1AETrZj">http://bit.ly/1AETrZj</a> > (GR)
Decision 8248/2014 of the Director of the Asylum Service of the Ministry of Public Order and Citizen Protection “on the validity of cards of applicants for international protection” Gov. Gazette 2365/B/03-10-2014	Απόφαση Δ/ντριας Υπηρεσίας Ασύλου 8248/2014 «Διάρκεια ισχύος δελτίων αιτούντων διεθνή προστασία» ΦΕΚ 2365/B/03-10-2014	Dec. 8248/2014	< <a href="http://bit.ly/1141df8">http://bit.ly/1141df8</a> > (GR)
Joint Ministerial Decision 10566/2014 “on the procedure for granting travel documents to beneficiaries of international protection and to applicants for international protection” Gov. Gazette 3223/B/02-12-2014	Κοινή Υπουργική Απόφαση 10566/2014 «Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους διεθνούς προστασίας, καθώς και στους αιτούντες διεθνή προστασία» ΦΕΚ 3223/B/02-12-2014	JMD 10566/2014	< <a href="http://bit.ly/1GQOtB">http://bit.ly/1GQOtB</a> > (GR)

## Overview of the main changes since the previous report update

The report was previously updated in **May 2015**.

- As of 30 September 2015, 390,814 persons are reported to have arrived in Greece since January,<sup>6</sup> compared to 43,500 during the whole of 2014.<sup>7</sup> 72,946 persons out of 390,814 entered by sea during the first two weeks of September only, bringing the average daily arrivals at 4,500.<sup>8</sup> Top nationalities include Syrians (70%), Afghans (19%) and Iraqis (4%). Despite the Greek Government's efforts to decongest the islands, the unprecedented numbers have made it impossible for the reception mechanism to meet the needs. The severe lack of hosting facilities, the inadequate registration system, the lack of a proper identification and referral system for the most vulnerable amongst the newly-arrived have been major issues of concern.<sup>9</sup> No First Reception Centre (FRC) or Mobile Unit (FRMU) has been operating in Chios, Kos, Leros or Rhodes, while Samos is still only equipped with a FRMU, unable to meet the needs.
- On 14 September 2015, the Council of the EU adopted the Decision to relocate 40,000 persons in clear need of international protection from Italy and Greece, of which 16,000 from Greece alone.<sup>10</sup> On 22 September 2015, the Council adopted the Decision to relocate 120,000 more persons from Italy and Greece. According to this Decision, 50,400 persons out of these 120,000 will be relocated from Greece.<sup>11</sup> The combination of the two Council Decisions leads us to a total of 66,400 persons to be relocated from Greece to other Member States over a period of 2 years.<sup>12</sup>
- Push backs have remained an issue of concern at the Greek-Turkish border, with a number of incidents reported in 2015 to various NGOs, such as GCR, Amnesty International, Human Rights Watch, Médecins Sans Frontières, Refugee Support Programme Aegean and the Network of Social Support for Refugees and Immigrants in Greece.
- The Regional Asylum Office (RAO) of Thessaloniki opened its doors on 8 July 2015,<sup>13</sup> and so did the FRC in Lesbos, as per 14 September 2015.<sup>14</sup>
- Syria has been the main country of origin of asylum seekers in the course of 2015, as opposed to Afghanistan in 2013 and 2014. The larger numbers of Syrian nationals applying for international protection under the fast-track procedure has brought the average recognition rate to 50%, compared to 15% of last year.<sup>15</sup>

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<sup>6</sup> UNHCR, *Refugees/Migrants Emergency Response – Mediterranean*, available at: <http://bit.ly/1PUbYmN>. At the time of publishing of the present updated report (17 November 2015), the number of arrivals had according to the UNHCR climbed to a total of 673,916.

<sup>7</sup> UNHCR, 'Numbers of refugee arrivals in Greece increase dramatically', 18 August 2015, available at: <http://bit.ly/1PjJjap>.

<sup>8</sup> UNHCR, *Greece: UNHCR Operational Update 1 – 16 September 2015*.

<sup>9</sup> For more details see GCR 2015 Reports following monitoring visits of its staff in Kos, Samos, Lesbos, Chios and Eidomeni in: <http://bit.ly/1HTEPn0>.

<sup>10</sup> See Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece, *OJ* 2015 L239/146.

<sup>11</sup> See Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, *OJ* 2015 L248/80.

<sup>12</sup> Asylum Service, *Frequently asked questions and answers on relocation*, available at: <http://bit.ly/1MqsV62>.

<sup>13</sup> Asylum Service, *Regional Asylum Office of Thessaloniki*, available at: <http://bit.ly/1jYpmN5>.

<sup>14</sup> First Reception Service, *Information provided to GCR*, September 2015.

<sup>15</sup> See Asylum Service Statistics for August 2015, suggesting that the recognition rate for August alone has reached 52,4%, with Syrians receiving refugee status 100%. See also: Asylum Service, 'Asylum Service: Two years of operation', Press Release, 22 June 2015, available at: <http://bit.ly/1G8s5xh>.



- The one-year term of office of the Appeals Committees, starting in 24 September 2014, ended in 24 September 2015. The fact that, when the previous Committees' term of office had ended, it took 3 months to have new ones in place, during which the examination of cases had to be postponed, raises particular concern, as this time the new Committees are not expected either to be able to start operations earlier than in 3 months' time.<sup>16</sup>
- L 4332/2015, *inter alia*, amending certain provisions of the Greek Code of Citizenship and of L 4521/2014 (Immigration Code) was published on 9 July 2015. A most welcome change brought about by this instrument has been the "decriminalisation" of the act of transporting newly-arrived refugees in order for the procedures of L 3386/2005 and L 3907/2011 to be applied. Under previous legislation, Lesbos citizens could be penalised for undertaking on their own initiative to transport the most vulnerable among the newcomers at their own expenses to the capital of the island, in order for them to avoid walking long distances, with a view to being registered by the competent authorities. On several occasions, these citizens were arrested and charged with criminal offences for transporting undocumented persons.
- The above-mentioned law (L 4332/2015) also introduced transitional provisions, regulating the renewal procedure for residence permits granted on humanitarian grounds under Article 28 of Presidential Decree (PD) 114/2010, allowing beneficiaries whose application for renewal of their permit has been rejected to apply for the renewal of their status before the relevant Office of the Aliens and Migration Division of the Ministry of Interior and Administrative Reconstruction (MIAR), within a deadline of 6 months following the publication of the Law (9 July 2015). According to L 4332/2015, the competent authority for both issuance and renewal of residence permits granted on humanitarian grounds is now the aforementioned Division of the MIAR.

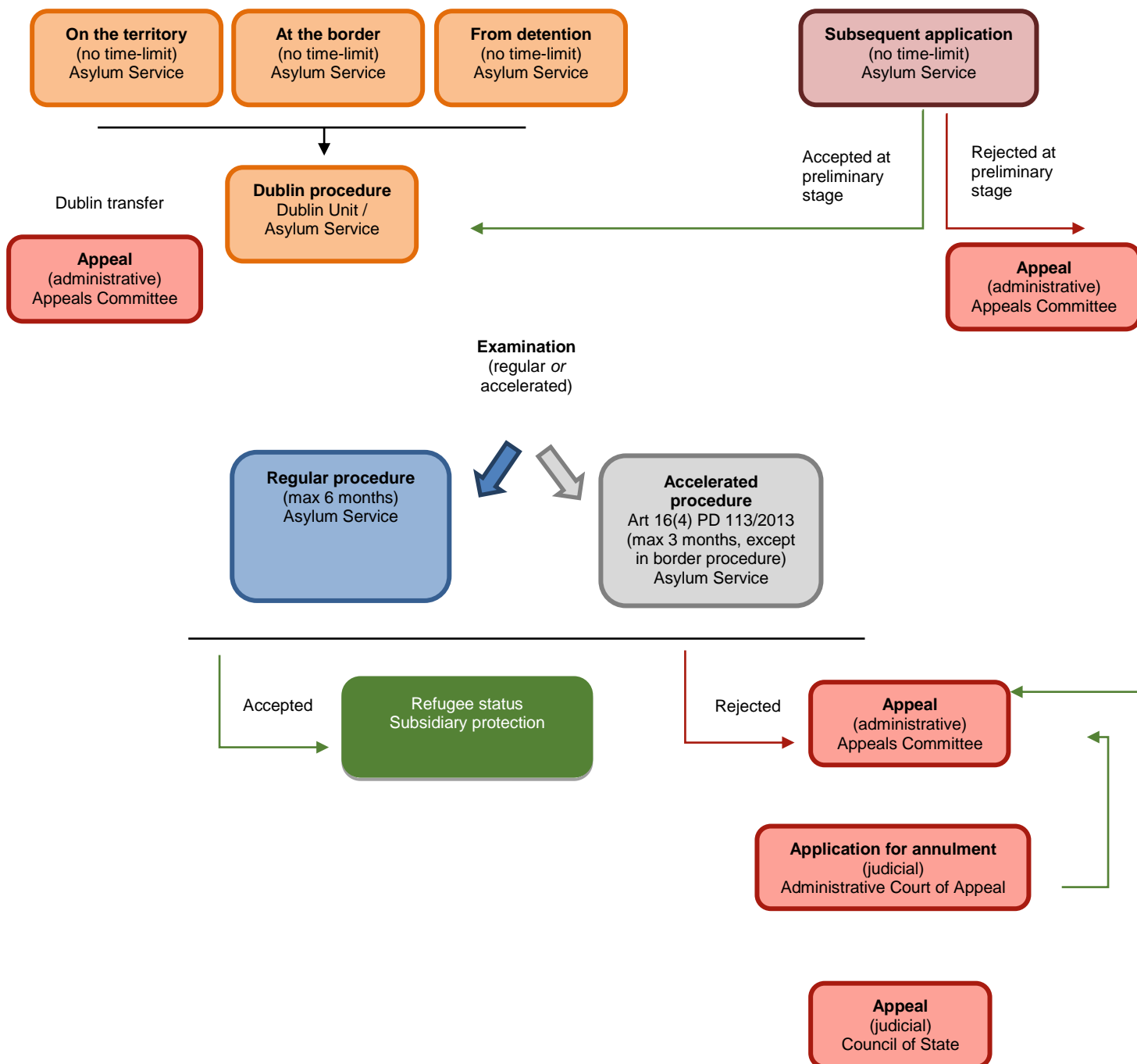
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<sup>16</sup> Appeals Authority, *Information provided to GCR*, September 2015.

# Asylum Procedure

## A. General

### 1. Flow chart: New Procedure



## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

- |  |   |                             |
|--|---|-----------------------------|
| ❖ Regular procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: <sup>17</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: <sup>18</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure:                      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure:               | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure:                      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: <sup>19</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other:                                 | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Are any of the procedures that are foreseen in national legislation, not being applied in practice? If so, which one(s)?

- Yes  No<sup>20</sup>

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

Old Procedure (applications lodged before 7 June 2013)

Stage of the procedure	Competent authority in EN	Competent authority in original language (GR)
<b>Application</b>		
❖ At the border	Greek Police	Ελληνική Αστυνομία
❖ On the territory	Greek Police	Ελληνική Αστυνομία
<b>Dublin (responsibility assessment)</b>	Greek Police	Ελληνική Αστυνομία
<b>Refugee status determination</b>	<ul style="list-style-type: none"> <li>• General Secretary of Public Order</li> <li>• Territorially Competent Police Director</li> <li>• Police Directors of the Aliens Division of Athens and Thessaloniki and Police Director of the Athens International Airport</li> </ul>	<ul style="list-style-type: none"> <li>• Γενικός Γραμματέας Δημόσιας Τάξης</li> <li>• Οικείος Αστυνομικός Διευθυντής</li> <li>• Αστυνομικοί Διευθυντές των Διευθύνσεων Αλλοδαπών Αττικής, Θεσσαλονίκης και Διευθυντής Αστυνομίας Αερολιμένα Αθηνών</li> </ul>
<b>Appeal</b>		

<sup>17</sup> For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) APD.

<sup>18</sup> Accelerating the processing of specific caseloads as part of the regular procedure. "Fast-track processing" is not foreseen in the national legislation as such. The Asylum Service implements since September 2014 a fast-track processing of applications lodged by Syrian nationals, provided that they are holders of valid identification documents (while initially these would be either IDs, passports or driving licences, lately only passports are accepted) and lodge an asylum claim for the first time. Under this procedure asylum claims are registered and decisions are issued on the same day.

<sup>19</sup> Labelled as "accelerated procedure" in national law. See Article 31(8) APD.

<sup>20</sup> Regarding prioritised examination as part of the regular procedure, it should be noted that despite the efforts of the Asylum Service, in practice vulnerable applicants may have difficulty in entering the relevant RAO for the registration of their claim, especially the one situated in Athens. In addition, in case it is necessary to re-schedule an interview (e.g. in case not enough time has been available for the interview to be completed and consequently scheduling another appointment has been deemed necessary), there may be no prioritisation.

❖ First appeal ❖ Second (onward) appeal	Appeals Committees Administrative Court of Appeal	Επιτροπές Προσφυγών Διοικητικό Εφετείο
<b>Subsequent application (admissibility)</b>	Greek Police	Ελληνική Αστυνομία

#### New Procedure (applications lodged after 7 June 2013)

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

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

##### Old Procedure (applications lodged before 7 June 2013)

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the first instance authority?
Greek Police	N/A	Ministry of Interior and Administrative Reconstruction (MIAR)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <sup>21</sup>

##### New Procedure (applications lodged after 7 June 2013)

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the first instance authority?
Asylum Service	300 <sup>22</sup>	Ministry of Interior and Administrative Reconstruction (MIAR)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <sup>23</sup>

<sup>21</sup> No relevant information has come to the attention of GCR.

<sup>22</sup> Asylum Service, *Information provided to GCR*, September 2015.

<sup>23</sup> No relevant information has come to the attention of GCR. According to the Asylum Service there is no political interference by the responsible Ministry of Interior and Administrative Reconstruction.

## 5. Short overview of the asylum procedure

### Twofold procedural framework

A new legal framework reforming the asylum system was adopted in 2011 with Law (L) 3907/2011, creating an Asylum Service, a First Reception Service and an Appeals Authority. Due to delays in the establishment of this new Asylum Service, the asylum procedure has been subject to a transitional phase, regulated by Presidential Decree (PD) 114/2010. Since the opening of the first Regional Asylum Office (RAO) of the new Asylum Service on 7 June 2013 in Athens and the immediate adoption of PD 113/2013 on 13 June 2013 (published on 14 June 2013), Greece operates a twofold examination regime for applications for international protection, whereby:

- ❖ Applications lodged before 7 June 2013 fall within the scope of PD 114/2010 (“**Old Procedure**”), modified by PD 113/2013 and PD 167/2014;
- ❖ Applications lodged after 7 June 2013 fall within the scope of PD 113/2013 (“**New Procedure**”).

The core change brought about by the New Procedure relates to the authorities competent for handling the asylum procedure. Specifically, under the Old Procedure, the Police authorities were competent of registering and assessing applications for international protection, whereas under the New Procedure this competence lies with the Asylum Service.

Asylum applications lodged before 7 June 2013 (Old Procedure), which are still pending, remain under the competence of the Police.

Other substantive changes brought about by PD 113/2013 will be explicitly referred to in the relevant sections of the report and the distinctions between the two procedures will be specifically drawn, where applicable.

### Application, registration and procedure

According to the current legal framework, applications for international protection are lodged before the Asylum Service’s RAOs or Asylum Service Units.

Following the definition of the “asylum seeker” provided in the law,<sup>24</sup> it is understood that an asylum or subsidiary protection claim may be submitted at entry points or inland in written or oral form. The asylum / international protection application, apart from an application requesting asylum or subsidiary protection, may in any other way include the request not to be deported to a country on grounds of fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion,<sup>25</sup> or on grounds of risk of suffering serious harm.<sup>26</sup>

The Central Office of the Asylum Service is in Athens. At the moment, 6 RAOs and 3 Asylum Units are operational.<sup>27</sup> The largest RAO in place, the RAO of Attica, started operations on 7 June 2013 in Athens. Access to the RAO of Attica remains problematic, as the main way to enter the RAO remains the arrangement of an appointment through Skype, often with no result. Other RAOs are currently

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<sup>24</sup> According to Article 2(d) PD 113/2013, “applicant for international protection” is the alien or stateless person, who declares in written or oral form before any Greek authority at entry points of the Greek State or inland that he/she requests asylum or subsidiary protection in Greece or who in any other way asks not to be deported to a country on the grounds of fear of persecution for the Convention reasons or because he/she risks suffering serious harm according to Article 15 PD 141/2013 and on whose application no final decision has yet been taken.

<sup>25</sup> Article 1A(2) Refugee Convention.

<sup>26</sup> Article 15 PD 141/2013, transposing Article 15 QD.

<sup>27</sup> Asylum Service, *Information provided to GCR*, March 2015.

operating in: Northern Evros as of 11 July 2013; Southern Evros as of 29 July 2013; Lesbos as of 15 October 2013; Rhodes as of 2 January 2014 and Thessaloniki as of 8 July 2015 (formerly operating as an Asylum Unit since 20 January 2014). Moreover, Asylum Units operate in: Amygdaleza as of 11 September 2013; Patras as of 1 June 2014 and Xanthi as of 20 November 2014. As discussed in the section on Registration, delays in registration in detention centres throughout Greece and in the First Reception Centre in Northern Evros are also problematic, as they result in continued detention of asylum seekers.

Applicants are provided with cards valid for 4 months, except for Egyptian, Albanian, Georgian, Bangladeshi and Pakistani nationals, whose cards are valid for 3 months only.<sup>28</sup>

Depending on whether the application falls under the Old or the New Procedure, the Police authorities and the Asylum Service are respectively responsible for examining applications for international protection at first instance and for carrying out Dublin procedures.

Applications for international protection shall be examined within the accelerated procedure when they are considered to be manifestly unfounded or when the applicant is a national of a safe country of origin or has transited through a safe third country.

## Appeal

Under both Old Procedure<sup>29</sup> and New Procedure,<sup>30</sup> applicants may lodge an administrative appeal before the Appeals Committees or Appeals Authority respectively, against a decision:

- (a) Rejecting the application on the merits or granting subsidiary protection instead of refugee status, within 30 days in the regular procedure;
- (b) Declaring the application as inadmissible or rejecting it on the merits, within 15 days in the accelerated procedure;
- (c) Rejecting the application on the merits, within 10 days for applications lodged in detention or correctional institutions;
- (d) Rejecting the application on the merits, within 3 days in border procedures or for applications lodged in First Reception facilities.

In all these cases, the appeal before the Appeals Committees under the Old Procedure or the Appeals Authority under the New Procedure has automatic suspensive effect.

The asylum seeker and the MIAR (former MPOCP) have the right to apply for the annulment (*αίτηση ακυρώσεως*) of the decision of the Appeals Committee before the Administrative Court of Appeals. This application has no automatic suspensive effect. Only by applying for interim measures before the same court may the appellant demand the suspension of his or her deportation. It is at the discretion of the court to grant suspensive effect. The appellant may also appeal against the Appeals Court's decision by an appeal (*έφεση*) before the Council of the State. This application has no automatic suspensive effect either.

## B. Procedures

### 1. Registration of the asylum application

#### Indicators: Registration

<sup>28</sup> Decision 8248/2014 of the Director of the Asylum Service.

<sup>29</sup> Article 25(1) PD 114/2010.

<sup>30</sup> Article 25(1) PD 113/2013.

1. Are specific time-limits laid down in law for asylum seekers to lodge their application?  Yes  No
2. If so, what is the time-limit for lodging an application?
3. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs?  Yes  No

### Old Procedure (applications lodged before 7 June 2013)

The authorities competent to receive and register asylum applications under the Old Procedure were:

- The Asylum Departments of the Aliens Divisions of Attica (Athens) and of Thessaloniki;
- The Security Departments of the National Airports; and
- The Sub-Directorates and Security Departments of the Police Directorates across the country. There are 53 Directorates.

The law did not set a time-limit for lodging an asylum application.<sup>31</sup>

Failure of the competent authorities to register asylum applications both in Athens and at points of entry was a major issue highlighted for over 10 years. Regional police departments across the country, competent to receive and register asylum applications, reportedly refused to do so and directed applicants to the Aliens Division of Attica. This practice, combined with the fact that Athens is more promising in terms of labour market, led to a high number of applicants far exceeding the registration capacity of the Aliens Division of Attica. Therefore the majority of asylum seekers, including vulnerable cases, remained outside the asylum procedure, deprived of rights and exposed to the risk of arrest, detention and expulsion from the country. In a report published in July 2012, Greek NGOs claimed that “access to the asylum procedure is almost impossible in Attica”.<sup>32</sup> A number of other reports have documented the difficulties in lodging an application for international protection both generally in Greece and more specifically in Athens.<sup>33</sup>

Another obstacle faced by asylum seekers under the Old Procedure was the requirement to provide an address in Greece, which the majority of asylum seekers could not fulfil, given that they faced difficulties in securing accommodation.

Those who eventually managed to apply for asylum under the Old Procedure were provided with the special asylum seeker’s card (“pink card”, due to its colour). Such cards are still valid and renewable for thousands of cases pending for years before the Appeals Committees of the Old Procedure. Even if, according to the Hellenic Police Headquarters, no cases are pending before the first instance decision-making authorities of the Old Procedure, on 30 September 2015 still 22,656 cases remained pending at second instance.<sup>34</sup> Delays in the renewal of the asylum seekers’ cards, as well as difficulties in their access to the police facilities, expose them to risks of arrest for identification reasons and deprive them of the rights provided by the law to applicants for international protection.

Lastly, because of the fact that old cases are pending before the Appeals Committees together with thousands of others, these applicants are obliged to endure great delays for the examination of their

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<sup>31</sup> Article 6 PD 114/2010 provides that “[r]equests are not dismissed, neither their examination is excluded merely on the ground that they have not been submitted the soonest possible.”

<sup>32</sup> 14 Greek NGOs, *Report of the Campaign for the Access to Asylum in Attica Area*, July 2012, available at: <http://bit.ly/1jjU6It>.

<sup>33</sup> See e.g. Amnesty International, *Greece: The end of the road for refugees, asylum-seekers and migrants*, 20 December 2012, EUR 25/011/2012, 5; Human Rights Watch, *World Report 2012: European Union*, January 2012, available at: <http://bit.ly/1N8cjlM>.

<sup>34</sup> Information provided to GCR by the Hellenic Police Headquarters – Aliens Division, September-October 2015.

claim, compared to the new applicants, who may have their application more speedily processed by the Asylum Service.

### **New Procedure (applications lodged after 7 June 2013)**

Under the New Procedure, applications for international protection are received and registered by the Regional Asylum Offices (RAOs) and Asylum Units (AUs),<sup>35</sup> depending on their local jurisdiction. The operation of the new Asylum Service since 7 June 2013 is certainly a positive step in reforming the asylum system in Greece, as it entrusted the registration, examination and first-instance decision-making on asylum applications to the jurisdiction of a state body staffed by civil servants instead of the Police.

Article 1(3) L 3907/2011 provides for 13 RAOs to be set up in Attica, Thessaloniki, Alexandroupolis, Orestiada, Ioannina, Volos, Patras, Heraklion, Lesvos, Chios, Samos, Leros and Rhodes.

Under the New Procedure, 6 RAOs and 3 AUs are currently operational:<sup>36</sup>

- The **RAO of Attica** started operations on 7 June 2013 and from January to August 2015 registered 5,215 applications;
- The **RAO of Southern Evros** started operations on 29 July 2013 and from January to August 2015 (together with the **AU of Xanthi**, which started operations on 20 November 2014 registering applications of persons in administrative detention) registered 1,017 applications;
- The **RAO of Northern Evros** started operations on 11 July 2013 and January to August 2015 registered 351 applications by persons in administrative detention;
- The **RAO of Lesvos** started operations on 15 October 2013 and from January to August 2015 registered 217 applications;
- The **RAO of Rhodes** started operations on 2 January 2014 and from January to August 2015 registered 591 applications;
- The **RAO of Thessaloniki** started operations on 8 July 2015 and from January to August 2015 registered 486 applications;
- The **AU of Amygdaleza** started operations on 11 September 2013 and from January to August 2015 registered 433 applications by persons in administrative detention;
- The **AU of Patras** started operations on 1 June 2014 and from January to August 2015 registered 204 applications.

No time-limit is set by law for lodging an asylum application.<sup>37</sup>

Applications must be submitted in person,<sup>38</sup> except under *force majeure* conditions.<sup>39</sup> According to the law, if the application is submitted before a non-competent authority, that authority is obliged to promptly notify the competent receiving authority and to refer the applicant thereto.<sup>40</sup> However, this provision has been proved problematic in practice, as persons who request protection before non-competent authorities do not have their claims officially registered and therefore are not protected from deportation until they manage to appear in person before the competent authority.

Moreover, there have been cases of asylum seekers detained in the pre-removal centre in Fylakio who, after having submitted their request for asylum with the First Reception Centre (FRC), were only registered by the RAO after spending a while in the pre-removal centre. In these cases, where the

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<sup>35</sup> Article 2(n) PD 113/2013.

<sup>36</sup> Asylum Service, *Regional Asylum Offices*, available at: <http://bit.ly/1MroZ8U>.

<sup>37</sup> Article 6 PD 113/2013 provides that “[r]equests are not dismissed, neither their examination is excluded merely on the ground that they have not been submitted the soonest possible.”

<sup>38</sup> Article 4(1) PD 113/2013.

<sup>39</sup> Article 9(1)(a) PD 113/2013.

<sup>40</sup> Article 4(5) PD 113/2013.



person applies either at the FRC or at the pre-removal centre, the request is transmitted with a referral note or a covering letter to the RAO. In a GCR visit to Fylakio pre-removal centre in September 2015, it was confirmed that the practice to detain refugees in the Fylakio pre-removal centre until it becomes possible to have them transferred to the FRC for registration is still in place. Syrians may be detained as well for this reason for 1 to 10 days.

#### *Difficulties relating to access to the procedure*

Despite the efforts made, access to the asylum procedure is still not guaranteed in practice.<sup>41</sup> The staff shortages of the Asylum Service and the non-operation of all RAOs provided by law may result in serious delays in the registration and processing of applications for international protection.

Even if currently the general trend is reported to be for the newly-arrived not to wish to apply for international protection in Greece but to opt for other EU Member States, for reasons mainly related to poor reception conditions, slow asylum procedures and inexistent integration prospects,<sup>42</sup> nevertheless it is not sure at all that the situation remains unchanged, taking into account the added task of the Asylum Service to implement the relocation procedure for 66,400 people within the next 2 years,<sup>43</sup> for the initiation of which registering an asylum application is necessary.

To date, only 6 out of 13 RAOs foreseen by law are operational throughout the country. The RAO of Attica, located in Athens, continues to receive the vast majority of asylum applications, whilst it does not have the capacity to register all applications in a timely manner.

Persons in need of international protection who do not manage to lodge their application are not protected from arrest, detention and deportation.

Among applicants are vulnerable people, such as unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, as well as victims of torture, rape or other serious forms of psychological, physical or sexual violence. According to the Asylum Service registration of such cases is prioritised. However, GCR has reported a series of vulnerable cases who had to present themselves repeatedly before they finally had their asylum claim registered.<sup>44</sup>

The RAO of Attica, which registers the largest number of applicants, has been assigning a number of registration slots on a daily basis to vulnerable cases. Since September 2015, vulnerable cases are referred for registration to the premises of the "Old Frouourachio" in Athens, where 4 NGOs provide medical, social and legal support to all citizens who request it, including migrants.<sup>45</sup> 2 staff members of the RAO of Attica, hosted in said premises, are assigned to register the vulnerable cases referred to them.

Moreover, at the end of July 2014, the Asylum Service, in an effort to improve access to the procedure by minimising queues outside the Regional Asylum Office (RAO) of Attica, inaugurated a new system

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<sup>41</sup> UNHCR, *UNHCR Observations on the current situation in Greece, Request for dissemination to the Committee of Ministers in the context of the supervision of the execution of the MSS v. Belgium and Greece judgment*, available at: <http://bit.ly/1LNcKk5>; GCR, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of MSS v Belgium & Greece*, 25 April 2014, available at: <http://bit.ly/1Rtwe0c>, 2.

<sup>42</sup> See what refugees crossing the Greek-FYROM land border in Eidomeni have stated to GCR staff on the reasons why they prefer to continue their journey to other EU Member States, instead of staying and asking for asylum in Greece: GCR, *Mission report Eidomeni*, August 2015, available in Greek at: <http://bit.ly/1HVS0sr>.

<sup>43</sup> Council Decisions (EU) 2015/1523 and 2015/1601. See Asylum Service, *Frequently asked questions and answers on relocation*, available at: <http://bit.ly/1MgsV62>.

<sup>44</sup> GCR, *Registration of asylum claims – Access to the procedure for vulnerable groups*, 8 January 2015, Doc. No 3/08.01.2015, where 4 cases of single-parent families are reported.

<sup>45</sup> Solidarity Now, Press Release *Additional 2 million euros for the relief of an increased number of refugees*, 19.10.2015, <http://bit.ly/1PjWn1W>.

for granting appointment for registration of an asylum application through Skype. Applications were first made available in English and French and were later extended to Arabic in September 2014 and Farsi/Dari in November 2014. However, GCR has reported a number of complaints of persons that had unsuccessfully tried to use this system in order to book a date for registration.<sup>46</sup>

Furthermore, since September of 2014 the Asylum Service implements a fast-track processing of applications lodged by Syrian nationals provided that they submit a first (not subsequent) asylum claim and that they are holders of valid identification documents (see section on Regular Procedure: Fast-Track Processing). Under this procedure, asylum claims are registered and decisions are issued on the same day.

In May 2015, asylum seekers, mostly Syrians, waiting for months to lodge asylum applications either queuing in front of the RAO of Attica or unsuccessfully trying to book an appointment via Skype, protested against the delays in the registration and processing of asylum applications outside the RAO closing down the main avenue in front of it.<sup>47</sup> A few days later, on 25 May 2015, the Asylum Service announced that until further notice, the RAO of Attica, due to staff shortage, is only capable to register and process applications already scheduled via Skype.<sup>48</sup> As a result asylum seekers could not have their applications registered in Athens for a while, remaining at risk of detention and deportation.

On 29 June 2015, a new schedule for registration appointments through Skype has been communicated by the Asylum Service, concerning English, French, Farsi/Dari, Arabic, Urdu/Panjabi and Bangla speakers. A separate schedule is set for fast-tracked Syrians. Unless they present some kind of vulnerability (for which see recent special arrangements mentioned above), asylum seekers speaking the aforementioned languages may only register their application through an appointment set via Skype, while speakers of other languages cannot arrange an appointment through Skype but have to present themselves directly at the premises of the Asylum Service for registration. The fact that in most cases it is necessary to have successful access to Skype in order to be able to register an asylum application, excluding the possibility to do it in person before the relevant RAO without such prior web appointment, is an issue of concern.

As regards people wishing to file a subsequent application, not only may they face obstacles to accessing the procedure, but also find themselves before an extremely slow preliminary examination (admissibility stage) of their application, which in the vast majority of cases known to GCR has amounted to several months, as the transfer of the file to the RAO by the police authorities competent for the initial asylum application examination, required at this stage, may not be conducted in a timely manner. As long as this preliminary stage lasts, repeat applicants are granted no right or benefit otherwise conferred upon asylum seekers. As no proper documentation is provided either, the arrest of these applicants for identification reasons has in certain cases resulted in – unlawful – detention.<sup>49</sup>

Access to the asylum procedure for detainees subject to removal procedures is not guaranteed either. A detainee having expressed his or her will to apply for asylum must wait for long in order to see his or her application registered, as the Asylum Service does not have the capacity to register all applications within a reasonable time. During this time, the potential asylum seeker remains detained by virtue of a removal order and is deprived of any procedural guarantees against his or her removal. It is interesting

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<sup>46</sup> GCR, *Difficulties concerning access to the Asylum Service*, 17 February 2015, Doc. No 08/17.02.2015, where 19 such cases are reported.

<sup>47</sup> AIDA, 'Greece: Syrian Refugees Protesting Outside the Asylum Service', 15 May 2015, available at: <http://bit.ly/1R6JIDA>; Asylum Service, 'Protest outside the Asylum Service', 14 May 2015, available in Greek at: <http://bit.ly/1hzExu9>.

<sup>48</sup> AIDA, 'Greece: Asylum Service reduces operations in Athens due to staff shortage', 26 May 2015, available at: <http://bit.ly/1LhhA8G>.

<sup>49</sup> Greek Ombudsman, *Delays in file transferring of subsequent application of asylum and arrest of asylum seekers*, February 2015, Doc. No 196167, available in Greek.

to notice that, according to data provided by the Corinth Pre-removal Detention Centre,<sup>50</sup> during 2014, out of 1,013 detainees having expressed the will to apply for asylum, only 226 had finally been registered, while within 2015, as per end of September, out of 500 persons, only 246 submitted their asylum claim. The distance between the number of persons having expressed the will to apply and the actual number of asylum applications registered, is indicative of the noticeable delays in the registration procedure.

#### *Staffing of the Asylum Service*

The Asylum Service reports that, initially, it was exclusively staffed either by newly appointed civil servants or by civil servants temporarily seconded or permanently transferred from other departments and ministries of the public sector. This concerns all the staff employed by the Asylum Service, i.e. both case workers and administration staff. However, since the staffing levels achieved through these recruiting methods proved inadequate to cope with the pressing needs, the Asylum Service resorted to recruiting staff on short-term (6 or 8-month) contracts. In 2014, 16 short-term staff members (all case workers) were recruited. In 2015 and following the end of the contracted period of the first group of short-term staff, two more groups of such staff were employed: one which involved 20 case workers and 16 assorted administration staff (37 persons in total), and the most recent one which involved 35 persons, all case workers.<sup>51</sup>

According to the Asylum Service, intensive efforts have been made with regard to the training of its staff. All caseworkers who are civil servants (either belonging to the Asylum Service or on secondment) have received the following training: (a) International Human Rights Law and Introduction to International Refugee Law by UNHCR affiliated staff; (b) EASO Training Curriculum Module “Inclusion”; (c) EASO Training Curriculum module “Evidence Assessment”; (d) EASO Training Curriculum Module “Interview Techniques”; (e) EASO Training Curriculum Module “Country of Origin Information”, (f) “Drafting and Decision Making” by UNHCR-affiliated staff and, more recently, by Asylum Service staff former members of the Appeals Committees established under PD 114/2010; (g) “The Dublin Regulation” by staff of the National Dublin Unit. Besides these, 38 case-workers of the same category have been trained in the EASO Training Curriculum module “Exclusion”, 30 case workers have been trained in the EASO Training Curriculum module “Interviewing Vulnerable Persons”, 40 case workers have been trained in the EASO Training Curriculum module “Interviewing Children”.

Furthermore, administration staff who are civil servants have been intensively trained by more experienced Asylum Service staff in various duties, e.g. initial interview with asylum seekers and registration of their asylum claims, use of the electronic document registry, use of the Asylum Service’s electronic platform “Alkyoni”, etc. This training involved both formal teaching and on-the-job training. As to the short-term staff, and especially the vast majority who are case workers, given the time constraints involved (i.e. 6 or 8-month contracts), their training comprises (a), (b), (f) and (g) above but the remainder of the training modules (“Evidence Assessment”, “Interview Techniques”, “Country of Origin Information”) are covered in short, intensive courses.<sup>52</sup>

The Unit on Training, Quality Assurance and Documentation of the Asylum Service has adopted a quality management system, which includes:<sup>53</sup>

- Centralisation of quality assurance and audit in the Unit on Training, Quality Assurance and Documentation, supported and assisted by affiliated UNHCR staff;
- Drafting and issuing of Standard Operation Procedures (SOPs) for the use of all caseworkers and administrative staff throughout the Service;

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<sup>50</sup> Hellenic Police Headquarters – Illegal Immigration Control Division, *Information provided to GCR*, September / October 2015.

<sup>51</sup> Information provided to GCR by the Asylum Service, September 2015.

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

<sup>53</sup> Information provided to GCR by the Asylum Service, July 2014.

- Effective communication and coordination between the Unit on Training, Quality Assurance and Documentation and UNHCR on all matters touching upon quality assurance;
- Establishment of a COI Unit (under the Unit on Training, Quality Assurance and Documentation), staffed by UNHCR-affiliated staff and staff members of the Service;
- The gradual strengthening of the Service's quality management function with a view to taking over all such responsibilities from the UNHCR in the future;
- Appointment of coordinators of teams of caseworkers in the RAO of Attica with a view to acting, *inter alia*, as mentors for their less experienced colleagues and thus to ensure uniformity of standards;
- Periodic review of decisions issued and attendance of UNHCR affiliated staff and staff of the competent Unit to interviews conducted by caseworkers;
- Individualised face-to-face feedback sessions between staff of the competent unit and case workers concerning the quality of their decisions and interviews with asylum seekers, with the aim of providing guidance for the management of the workload.

#### *Providing an address*

The Asylum Service registers applications even where asylum seekers do not provide a home address. In that respect, the Asylum Service shows good faith in the implementation of the address requirement. When it is time for a decision to be served, the Asylum Service notifies the applicants as soon as they appear for the renewal of their card.<sup>54</sup>

#### *The "asylum seeker's card"*

Applicants under the New Procedure to the Asylum Service are provided with an asylum seeker's card, valid for 4 months, with the exception of asylum seekers coming from Albania, Bangladesh, Egypt, Georgia and Pakistan, whose card is valid for 3 months.<sup>55</sup>

The card is renewed until the issuance of the final decision on the asylum application. This new card has not replaced the "pink card" issued by the Greek police for the pending cases falling under the Old Procedure, but is given to those lodging an asylum application with the Asylum Service.

### **Registration and the First Reception Service**

In order to enhance registration of asylum claims, the Greek Action Plan included the creation of asylum applications registration points within Security Departments at the Greek borders in the Eastern Aegean islands and the Evros region, on the assumption that interpreters would be promptly available and that the Security Departments would be supported by more staff. The aim of these new registration points was to operate as rapid response teams by performing first reception procedures on the spot. A smooth operation of such registration points would enhance registration of asylum applications and improve first-line reception conditions.

The First Reception Centres (FRCs) and Mobile Units (FRMUs) of the First Reception Service (FRS), established by Law 3907/2011, are required to provide information to migrants on their rights and responsibilities, to operate registration and identification procedures, especially regarding international protection, to identify vulnerable groups and to offer medical and psychosocial care.<sup>56</sup> The FRC and the Mobile Units are the competent authorities for the screening procedure of all migrants arriving without travel documents.

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<sup>54</sup> Article 7(2) PD 113/2013.

<sup>55</sup> See Decision 8248/2014 of the Director of the Asylum Service, extending the duration of validity of cards for applicants originating from Albania, Bangladesh, Egypt, Georgia and Pakistan, from 45 days to 3 months.

<sup>56</sup> Article 7 L 3907/2011.

Information is provided by UNHCR and IOM staff, while the medical and psychosocial care provision is outsourced to NGOs (namely to the Medical Intervention / Med-In and the Doctors of the World). Interpretation services are currently provided by IOM and NGO Metadrasi.<sup>57</sup>

Normally, in accordance with the provisions of Article 121(13) L 4249/2014, the competent authority should refer the third-country national immediately to the competent administrative authority in order for him or her to undergo first reception procedures.<sup>58</sup> In practice, however, the Police submits a transfer request to the FRS and, if the FRS does not respond within 48 hours, it issues a detention decision.

FRS civil personnel is assisted by seconded Greek police officers who carry out registration and identification. The FRS currently comprises of 46 staff members.<sup>59</sup> However, PD 102/2012 has foreseen a total of 444 posts for both the Central FRS and the Regional Services, i.e. the FRCs and FRMUs.<sup>60</sup> During the first 9 months of 2015, no new staff has been recruited due to the current financial situation and the relevant restrictions in recruiting civil servants. In order for the FRC in Lesvos to start operating, the appointment of 6 new civil servants was initiated in June 2015.

Two FRCs, one in Fylakio Evros and another one in Lesvos (formerly a FRMU, operating since 13 October 2013 on the island of Lesvos, in the so-called "Identification Centre", in reality a detention centre) are currently in place, the latter since 14 September 2015. A FRMU on the island of Samos is also operational in a similar "Identification Centre". On the contrary, no such FRC or FRMU currently operates in the Dodecanese islands or Chios, where large numbers of migrants also arrive.<sup>61</sup> As UNHCR underlines, the majority of newcomers do not receive first-line reception services there.<sup>62</sup> The operation of so far of only 2 FRCs, compared to a total of 8 envisaged in the Greek Action Plan on Asylum Reform and Migration Management (of which 3 would be established by October 2013),<sup>63</sup> falls short of meeting the actual reception needs.

On 13 August 2015, the FRS announced a call for the recruitment of 24 new staff members for the new FRC in Lesvos,<sup>64</sup> as well 9 staff members for the FRMU to be established in Leros,<sup>65</sup> mainly doctors, social workers, psychologists, nurses and administrative staff. On 7 September 2015, the FRS requested €9,573,000 emergency aid by the European Commission to finance the operation of the FRCs in Lesvos and Fylakio, Evros, as well as the Mobile Units on Samos, Lesvos and Kos so as to cover the needs arising by the increasing migration flow. Emergency funding is also meant to support the first reception services in Attica, as well as the establishment of a new Unit on Chios.<sup>66</sup>

The FRC in Fylakio, Evros region received its first guests on 19 March 2013. The capacity of the FRC in Evros is 240 persons. According to the management of FRC, however, the Centre can only accommodate approximately 150-180 people at a time. That is why new entrants are very often detained first in the pre-removal centre before they are transferred to the FRC.<sup>67</sup> After the initial stay of maximum 25 days in the FRC, asylum seekers and those held for deportation are transferred to Fylakio

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<sup>57</sup> First Reception Service, *Information provided to GCR*, September 2015.

<sup>58</sup> Article 121(13) L 4249/2014.

<sup>59</sup> FRS, *Information provided to GCR*, September 2015.

<sup>60</sup> Articles 7 and 12 PD 102/2012.

<sup>61</sup> For details on the numbers of arrivals per island see UNHCR, *Refugees / Migrants Emergency Response – Mediterranean*, available at: <http://bit.ly/1PUbYmN>.

<sup>62</sup> UNHCR, *UNHCR observations on the current asylum system in Greece*, December 2014, 9.

<sup>63</sup> UNHCR, *UNHCR observations on the current asylum system in Greece*, December 2014, 9, fn. 21. According to the First Reception Service, apart from the FRC in Lesvos, the creation of 3 more FRC is envisaged in 2014-2016 in Attica and other regions. See FRS, *Annual Report 2013*, April 2014, available at: <http://bit.ly/1LDwOmU>, 35.

<sup>64</sup> FRS, Press Release, 13 August 2015, available at: <http://bit.ly/1LDwN2e>.

<sup>65</sup> FRS, Press Release, 13 August 2015, available at: <http://bit.ly/1N8eHsL>.

<sup>66</sup> FRS, 'Emergency aid request to the European Commission', 9 September 2015, available at: <http://bit.ly/1MrqPGK>.

<sup>67</sup> For further details, see ECRE, *What's in a name? The reality of First "Reception" at Evros: AIDA Fact-Finding Mission in Greece*, February 2015.

pre-removal centre. So far, Syrian nationals have been released. The maximum stay of 25 days applies to vulnerable persons such as unaccompanied children identified within the FRC, families and persons identified as victims of torture, with the aim of their direct referral to open accommodation facilities. Due to the serious lack of hosting facilities, staying in the pre-removal centre after leaving the FRC, awaiting their placement in an accommodation centre may be practically inevitable, even for these categories of applicants.

The First Reception Centre (FRC) of Fylakio, Evros region does not accept newcomers immediately, without being previously informed and prepared for the arrivals, according to its Director.<sup>68</sup> Even where new entrants manage to appear at the gate, the Greek Police is notified of their arrival, apprehends them and transfers them to the Border Guard Station of Chimonio, Orestiada. The report of arrest and prosecution proceedings are drafted there. According to UNHCR's observations, in the Evros region:

"New arrivals at the land border with Turkey wishing to seek international protection are referred by the [FRC] in Fylakio (Evros) to the RAO of Northern Evros. However, the formal registration of their application often happens after they have been transferred from the FRC to the adjacent pre-removal centre."<sup>69</sup>

According to the First Reception Service, 6,370 persons had been registered in total until 31 August 2015, whereas as of 23 September 2015, 373 unaccompanied minors have been identified as such and referred to hosting facilities.<sup>70</sup>

### Push-Backs

One of the major obstacles to access the asylum procedure is the practice of informal forced returns ("push-backs") of third-country nationals at the Greek sea and land borders, which has been widely reported by UNHCR and NGOs.<sup>71</sup> By engaging in such practices, Greece could be violating the principle of *non-refoulement*, the cornerstone of international refugee protection. By engaging in such practices, Greece could be violating the principle of *non-refoulement*, the cornerstone of international refugee protection. The vast majority of those affected by push-backs are persons *prima facie* in need of international protection (e.g. Syrians or Afghans).

In the case of the shipwreck near the island of Farmakonisi, on 20 January 2014, resulting in the death of 8 children and 3 women, all 16 survivors have testified before the Prosecutor of the Piraeus' Marine Court that their boat had been towed back to Turkey by the Hellenic Coastguard. After a preliminary investigation on the liability of the coast guard personnel,<sup>72</sup> led by the Prosecutor of the Piraeus' Marine Court, the case was considered to be "manifestly unfounded in substance" and on that ground the file

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<sup>68</sup> ECRE, *AIDA Fact-Finding Mission in Greece*, February 2015, 12.

<sup>69</sup> UNHCR, *UNHCR observations on the current asylum system in Greece*, December 2014, 16.

<sup>70</sup> FRS, *Information Provided to GCR*, September 2015.

<sup>71</sup> Amnesty International, "Greece: Stop unlawful and shameful expulsion of refugees and migrants", 29 April 2014, available at: <http://bit.ly/1PqDonX>; "Greece: Frontier Europe: Human rights abuses on Greece's border with Turkey", 9 July 2013, available at: <http://bit.ly/1QyunbC>; "Greece's illegal push backs of asylum boats puts lives at risk, says Amnesty International", 25 August 2015, available at: <http://bit.ly/1PqDpYX>; Human Rights Watch, "Greece: Investigate Pushbacks, Summary Expulsions, Parliamentary Inquiry Urgently Needed", 30 January 2014, available at: <http://bit.ly/1WpVfO2>. The NGO ProAsyl in its report of November 2013 announced that illegal push-backs from Greek sea and land borders occur systematically: ProAsyl, *Pushed Back: Systematic Human Rights Violations against Refugees in the Aegean Sea and at the Greek-Turkish Land Border*, 7 November 2013, available at: <http://bit.ly/1JYsNwx>. See also Amnesty International, *Frontier Europe – Human Rights abuses on Greece's borders with Turkey*, 9 July 2013, available at: <http://bit.ly/1Ot6GBQ>; UNHCR, 'UNHCR seeks clarifications on the fate of Syrian refugees in Evros', 11 November 2013, available at: <http://bit.ly/1d978EX>; UNHCR Briefing Note, *Denied entry and pushed back: Syrian refugees trying to reach the EU*, 15 November 2013, available at: <http://bit.ly/1G8yJx8>.

<sup>72</sup> The relevant charges were "exposure to risk" (Article 306), "causing a shipwreck" (Article 277), "causing a shipwreck by negligence" (Article 278) and "bodily harm" (Article 308).



was closed.<sup>73</sup> The Prosecutor came to this decision accepting, inter alia, as an “indisputable and irrefutable fact” that push-backs do not occur in Greece. On 6 February 2015, the Criminal Appeals Court of Dodecanese convicted in 145 years imprisonment a 19 years old Syrian national, survivor of the shipwreck, as the sole perpetrator of the shipwreck resulting in the loss of 11 lives.<sup>74</sup> On appeal his case is pending at second instance before the Dodecanese Appeals Court. One of the survivors has told GCR that one month before the shipwreck he and his family (his wife and their 10 years old son) had tried to enter the Greek territory through the northern border with Turkey, but according to his allegations they were pushed back to Turkey by the Greek Police along with other people. One month later in their second attempt to enter Greece, his wife and son lost their lives in the shipwreck. The survivors of the tragedy have brought their case before the European Court of Human Rights (ECtHR).<sup>75</sup>

In its December 2014 report, UNHCR also continued to report push backs at the Greek-Turkish land and sea borders. UNHCR received calls and witnessed cases of persons, mainly Syrians, who had reached the FRC in Fylakio, Evros, not having yet been apprehended by police, asking to be registered as they feared that, failing registration, they could be summarily returned to Turkey.<sup>76</sup> Furthermore, in April 2015, UNHCR in its recommendations to the Greek Government underlined the issue of informal returns and called the Government to ensure that such practices do not occur.<sup>77</sup>

During 2014 GCR received 27 calls, regarding groups of a total of 265 persons, coming from Syria (with the exception of 1 unaccompanied minor from Egypt), asking for help after having entered the Greek territory. In many cases, the persons speaking on the phone claimed to have been pushed back before and begged GCR to intervene so that they would not be unlawfully returned to Turkey once more.

During 2015 (until August) GCR received calls regarding groups of a total of 47 persons, coming from Syria, minors, women and sick people included, asking for help claiming that they had been pushed back to Turkey by the Greek Police. In one of the above mentioned cases, concerning a group of 15 Syrians, children included, the refugees reported to CGR that after having entered Greece in Evros region through the Greek-Turkish borders, the Greek Police transferred them initially by cars and after a 10 minutes drive embarked them on rubber boats and abandoned them on the river bank. The location in which they were left by the Greek police was surrounded by water and there was no way of escape. Following their repetitive and desperate appeals for help to GCR and the organisation’s respective communications towards the Greek authorities, the refugees reported that the same group of police officers who had left them at the riverbank transferred them to another location of the riverbank from where the Turkish police arrested them and detained them for one day. A few days later they tried to cross the Greek-Turkish border once again divided in two groups. The first group managed to enter Greece through Evros and contacted GCR after they arrived in Athens. The second group was initially located by GCR in the Port of the island Agios Efstratios, from where they were transferred to the Port of Myrina in Limnos island and finally were released by the police.

An alleged push back incident was communicated to GCR in July 2015 by a relative of one the persons involved in the incident. According to the allegations received by GCR, a group comprising approximately 50 Syrian, Afghan and Iranian nationals was allegedly handed over to the Turkish authorities, after having been beaten and having their mobile phones confiscated by police officers. The person communicating the case to GCR claimed that his brother was eventually forced to return to Iran by the Turkish authorities.

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<sup>73</sup> GCR, Hellenic League for Human Rights, Network of Social Support to Refugees and Migrants, Group of lawyers for the rights of migrants and refugees, ‘Background briefing on the investigation into the Farmakonisi boat wreck of 20.1.2014’, 31 July 2014, available at: <http://bit.ly/1Jb4Ktx>.

<sup>74</sup> L Giannarou, “145 years imprisonment of a Syrian for Farmakonisi”, *Kathimerini* 7 February 2015.

<sup>75</sup> ECRE, ‘With their case shelved in Greece, survivors of the Farmakonisi tragedy seek justice at the ECtHR’, 22 January 2015, available at: <http://bit.ly/1Js5lyw>.

<sup>76</sup> UNHCR, *UNHCR observations on the current asylum system in Greece*, December 2014, 9.

<sup>77</sup> UNHCR, *Greece as a Country of Asylum*” *UNHCR’s Recommendations*, 06 April 2015.

In a GCR's visit to the Fylakio detention centre at the end of September 2015, 9 Syrian nationals (4 minors included), also claimed having been pushed back to Turkey (some of them several times) in the Evros region, after having entered the Greek territory and being arrested by the police, along with other refugees mostly from Syria.

A Syrian family (with 3 minor children aged 5 months, 1.5 years and 4 years old) complained to the Refugee Support Programme Aegean (RSPA) as well that in August 2015 along with other refugees from Syria and Afghanistan they were pushed back to Turkey by the Greek Police. According to their allegations:<sup>78</sup> early in the morning of 7 August 2015 they reached Kastanies, a village in Evros region in Greece. They were allegedly arrested by the police and were taken by car (15 minutes journey) in an detention center or jail where they remained until 9pm. In the same detention center other refugees from Syria and Afghanistan were also allegedly detained (about 100 people). At 9pm all of them were allegedly transferred on buses by 8 policemen to the Greek-Turkish borders (about half an hour drive) and then the police put them on a boat, forcing them to have their heads down and hitting anyone who did not obey. They were transferred, by several journeys in groups of 7 people, to the Turkish side of Evros river. The police officers, who were also on the boat, allegedly told them in Greek "This is Turkey, get out of here", "go back to Syria", "Greece does not accept you". A Syrian who had lived in Greece and spoke Greek translated to the other Syrian refugees. The policemen allegedly wore masks, some civilian clothes and others dark grey uniforms with white markings on them; 4 of the policemen were on the boat – one of them was driving it – and the rest remained on the buses. After they were left on the Turkish bank, the refugees allegedly walked through the woods to a village and then took a bus to the city of Edirne. Among these people there was also another Syrian family with a 2-3 year old girl with a heart problem. According to her father's allegations, the Greek Police took their passports, money and mobile phones and after they were pushed back to Turkey the little girl was hospitalised in critical situation.

Furthermore, recent articles in the Greek press also refer to complaints from refugees pushed back to Turkey. One of these articles, dated 19 August 2015,<sup>79</sup> refers to a report of the Network of Social Support for Refugees and Immigrants in Greece. According to that report: On 13 August 2015, a Syrian mother with her 5 children (aged from 9 to 17 years old) managed to enter Greece through Evros region. Her husband had previously entered Greece and was already an asylum seeker. They were arrested and detained by the greek police in a warehouse/jail near the village Himonio in the same area. A Greek lawyer was contacted by the family and she immediately informed the Greek authorities (Police Department of Orestiada), reporting the names and ages of the family members and also emphasizing on their vulnerability and their need of international protection. Nevertheless the Greek authorities refused that the specific family was detained under their jurisdiction. At the same time the family was sending photos from the detention center showing also other detainees among them women and little children. Despite the repeated complaints to the Greek authorities made by the Network, the police kept on refusing the existence of the family. Finally late at night the family along with other 2 families were transferred to the Greek-Turkish borders on a truck and were forced to return to Turkey on a boat.

Another article, dated 6 October 2015, refers to a complaint made by members of a Greek solidarity group in Northern Greece (Evros region) to the newspaper "Efimerida ton Syntakton" concerning a push back that occurred in September 2015. According to the article:<sup>80</sup> On 25 September 2015, a group of 11 Syrians crossed the border and arrived in a cafe-bar of a village in Evros region close to the Greek-Turkish borders. The refugees contacted members of the solidarity group and they were advised to call the police to proceed with the normal registration procedure and the issuance of six-month postponement of expulsion which is given to Syrian refugees. Indeed, the police was contacted and two

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<sup>78</sup> Information provided to GCR by the Refugee Support Programme Aegean (RSPA), September 2015.

<sup>79</sup> Efimerida ton Syntakton, "Push backs at sea and land?", 19 August 2015, available in Greek at: <http://bit.ly/1RRR0X0>.

<sup>80</sup> Efimerida ton Syntakton, 'Επίορκοι αστυνομικοί της αντίθετης όχθης', 6 October 2015, available in Greek at: <http://bit.ly/1OH1meC>.



police officers arrived at the point, but things turned out differently. One of the refugees reported to the newspaper:

“The policemen put us in a white van with no windows. We were taken to the police station, where they took our electronic devices and our money, about €15,000, and then we were put in jail. We were told that they will take us to the reception center, but that was a lie. The next day, a glaring man came into the cell, put us in the van and drove us to the river. There were about twenty other policemen with covered faces and dozens of refugees, including women and children. We were all put in three vessels, two police officers in each, and left us in the Turkish bank. We were arrested by the Turkish police.”

Médecins Sans Frontières have equally expressed their concerns regarding allegations on push back operations in the Aegean. According to the organisation’s responsible on Humanitarian Affairs, Constance Tisen, such allegations were addressed to the organisation in July 2015.<sup>81</sup>

Human Rights Watch has also documented incidents of collective expulsions and push backs allegedly carried out by Greek police border guards at the Evros region and the Aegean sea.<sup>82</sup>

Finally, according to Amnesty International,<sup>83</sup> collective expulsions by police continued at the Greek-Turkish land border; several refugees and asylum seekers reported instances of violent push backs. Push backs also continued at sea. Between May and August, Amnesty International documented several separate push back incidents at the Greek-Turkish land and sea borders between late November 2014 and early August 2015.

## 2. Regular procedure

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

#### Indicators: Regular Procedure: General

- |  |   |
|--|---|
| 1. Time-limit set in law for the determining authority to make a decision on the asylum application at first instance:     | 6 months  |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? |   |
| ❖ In the Old Procedure   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ In the New Procedure   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 August 2015:  |   |
| ❖ In the Old Procedure   | 0   |
| ❖ In the New Procedure   | 3,633   |

#### Old Procedure (applications lodged before 7 June 2013)

According to the statistics provided to GCR by the Hellenic Police Headquarters – Aliens Division in September 2015, no cases are pending any more at first instance under the jurisdiction of the Police. Within the first 8 months of 2015, 139 decisions have been issued at first instance on applications submitted before June 2013, of which 108 negative (on the merits), 16 granting refugee status, 5

<sup>81</sup> Efimerida ton Syntakton, ‘Express denial and unanswered questions’, 19 August 2015, available at: <http://bit.ly/1MZRj43>.

<sup>82</sup> Human Rights Watch, ‘Greece: Attacks on Boats Risk Migrant Lives’, 22 October 2015, available at: <http://bit.ly/1RpWCr6>.

<sup>83</sup> Amnesty International, *Information provided to GCR*, September 2015.

granting subsidiary protection and 10 granting humanitarian status. During the same period, 959 cases have been recorded as interrupted cases or cases where the application had been withdrawn.<sup>84</sup> In the previous years, severe criticism had been recorded by international, European and national organisations and bodies regarding the first instance examination of asylum claims by the Greek Police in the framework of the Old Procedure.<sup>85</sup>

#### *Time-limits*

A first instance decision on the application must be taken by the General Secretary of Public Order within 6 months under the regular procedure.<sup>86</sup> However, this does not constitute an obligation for those authorities vis-à-vis the asylum seeker concerned to take a decision within a specific time-frame. Indeed, delays of more than 1 year in the issuing of first instance decisions have been reported due to understaffing and heavy workload in police authorities.

### **New Procedure (applications lodged after 7 June 2013)**

Applications falling under the New Procedure are registered and examined by the Regional Asylum Offices (RAOs) of the new Asylum Service.

#### *Time-limits*

According to PD 113/2013, claims shall be examined “as soon as possible” and, in any case, no later than 6 months after the filing of the application, when the regular procedure is followed.<sup>87</sup> However, at the RAO of Attica there have been certain cases assisted by GCR, where the decision took more than 1 year to be issued and delivered.

In cases where no decision is issued within the maximum time limit of 6 months, the asylum seeker has the right to request information from the asylum service offices on the time frame within which a decision is expected to be issued. Similarly to the Old Procedure, this does not constitute an obligation on the part of the Asylum Service to take a decision within a specific time limit.<sup>88</sup> Therefore, although the new provision stating that the examination of applications shall be completed “as soon as possible” is a welcome change, the express possibility to exceed this time-frame runs the risk of practically nullifying the content of the provision.

During the period January-August 2015, 8,519 applications for international protection had been filed with the Asylum Service, of which: 1,937 applications were submitted by detainees, 1,098 were

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<sup>84</sup> Hellenic Police Headquarters – Aliens Directorate, Information provided to GCR, September 2015.

<sup>85</sup> See e.g. Greek Ombudsman, *Special Report: Protection of Persons Applying for Political Asylum in Greece: Problems in Interpretation and Practice*, Athens, February 2007, available in Greek at: <http://bit.ly/1Ppz0EI>; Greek National Commission for Human Rights, *Observations regarding Asylum Procedure and Implementation of the Relevant Legislation*, Athens, 17 January 2008, available at: <http://bit.ly/1G8A65I>; Greek Ombudsman, *Procedure suspension regarding the intake of asylum requests by the Asylum Department of the Foreign Citizens Directorate of Attica*, Athens, 27 October 2008, available at: <http://bit.ly/1PaavMm>; Greek Ombudsman, *Findings after the 16.11.2010 visit in situ of the Ombudsman to the Attica Aliens Police Directorate in Petrou Ralli*, Athens, 25 January 2011, available in Greek at <http://bit.ly/1PaazeS>; European Parliament, *Report from the LIBE Committee Delegation on the Visit to Greece (Samos and Athens)*, Brussels, 2 July 2007, PV\675423EN.doc; Council of Europe, *Report by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to Greece 8-10 December 2008*, Strasbourg, 4 February 2009, CommDH(2009)6, European Commission against Racism and Intolerance (ECRI), *ECRI Report on Greece (fourth monitoring cycle)*, 15 September 2009, CRI(2009)31, available at: <http://bit.ly/1RC6cYG>; UNHCR, *Observations on Greece as a country of asylum*, December 2009, available at: <http://bit.ly/1GE5e7D>, 6-7; UNHCR, *Asylum Situation in Greece including for Dublin II transferees*, 31 January 2011, available at: <http://bit.ly/1K3PqUD>; UNHCR, *The situation of refugees in Greece, Observations and proposals*, 16 June 2011; 14 Greek NGOs, *Report of the Campaign for the Access to Asylum in Attica Area*, July 2012, available at: <http://bit.ly/1jjU6It>.

<sup>86</sup> Article 17(2) PD 114/2010.

<sup>87</sup> Article 16(2) PD 113/2013.

<sup>88</sup> *Ibid.*

subsequent applications and 851 applications resulted in outgoing requests under the Dublin Regulation. On 31 August 2015, 3,633 cases were still pending at first instance. The average time for issuing a decision in the first instance is 90 days.<sup>89</sup> However, there have been cases where a decision took several months to be published.

Decisions granting a status are given to the person of concern in extract which does not include the decision's reasoning. Only at the request of the person of concern the entire decision is issued to him/her. However GCR has recorded 7 cases in which the Asylum Service, citing reasons of public interest, refused to grant the recognised refugee the entire/full reasoning of the decision.

In the event of a negative decision, the full reasoning is included in the decision served to the applicant.

## 2.2. Prioritised examination / Fast-track processing

### Old Procedure (applications lodged before 7 June 2013)

PD 113/2013 has amended PD 114/2010, expanding the category of cases which may be examined by priority under the regular procedure, including not only

- (a) Vulnerable groups, but also:
- (b) Persons submitting a claim while in detention or in transit zones of ports and airports or while residing in a First Reception Service facility;
- (c) Applicants who may be subject to the Dublin Regulation;
- (d) Applicants whose claim is reasonably considered to be well-founded;
- (e) Applicants whose claim is determined as manifestly unfounded;
- (f) Applicants who are identified by the police as posing a danger to national security or public order;
- (g) Applicants who submit a subsequent application during the admissibility stage.

However, while under the previous disposition, the authorities should apply the prioritised examination procedure to persons considered as vulnerable according to PD 220/2007, the new provision foresees that it is up to the discretion of the relevant authorities to examine the aforementioned categories of applicants by priority.

### New Procedure (applications lodged after 7 June 2013)

Article 16(3) PD 113/2013 includes exactly the same categories of cases that *may* be examined by priority by the competent authorities of the New Procedure, as above.

Since September 2014, the Asylum Service has been implementing fast-track processing<sup>90</sup> of applications lodged by Syrian nationals provided that they submit an asylum claim for the first time and that they are holders of original national passports. Under this procedure, asylum claims are registered and decisions issued on the same day. At first, other identification documents such as national IDs or driving licences could be used instead of passports, in order for a Syrian applicant to be subject to the fast-track procedure, but due to high fraud risk, this is no longer the case and the original passport is required.<sup>91</sup>

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<sup>89</sup> Asylum Service, *Information provided to GCR*, March 2015 (updated information has not been available as per September 2015).

<sup>90</sup> "Fast-track processing" is not foreseen in national legislation as such.

<sup>91</sup> Asylum Service, *Instruciton manual of the Skype service*, available at: <http://bit.ly/1N8gSMO>; 'Implementation by the Asylum Service of an urgent action for the speedier examination of applications for international protection, submitted by refugees from Syria, through funding from the European Commission (AMIF)', June 2015, available at: <http://bit.ly/1LDCKfJ>.

Until 31 August 2015, the Asylum Service had registered a total of 1,948 asylum applications under the fast-track procedure, of which 155 were submitted by persons of Palestinian origin coming from Syria.<sup>92</sup> This number represents the total of applications processed under the fast-track procedure since its start. Out of these applications, a total of 1,725 had been processed until the end of August 2015.

### Elements common to both procedures

Asylum applications lodged by unaccompanied children shall always be examined by priority and according to the regular procedure.<sup>93</sup> The officials conducting interviews with unaccompanied children and making recommendations on their application for international protection must have the necessary knowledge of the special needs of children and conduct the interview in such a way as to make it fully understandable, taking account, in particular, of the child's age. The law does not provide for a similar provision with regard to the automatic application of the regular procedure to other categories of vulnerable asylum seekers, however.

### 2.3. Personal interview

#### Indicators: Regular Procedure: Personal Interview

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

### Old Procedure (applications lodged before 7 June 2013)

According to the law, before a decision is taken at first instance, a personal interview should be conducted with the applicant by a Police Officer, appointed to this purpose. After the completion and recording of the interview, the officer provides the General Secretary of Public Order with a written recommendation on the decision to take.<sup>94</sup>

Prior to the interview, applicants should be given, upon request, a reasonable amount of time in order to sufficiently prepare themselves and to consult a legal or other counsellor who will assist them during the procedure. No criteria for the concept of “reasonable time” laid down in the law, save that this “reasonable time” is determined and may be extended at the discretion of the police officer conducting the interview, but cannot exceed including the prolongations, ten (10) days or three (3) days when the interview takes place in the Border Procedure or when the applicant is detained.<sup>95</sup>

The personal interview is conducted with the assistance of an interpreter, able to assure the necessary communication so that the applicant may confirm the facts stated in the application and provide explanations, particularly regarding his or her age, personal history, including the history of close relatives, identity, nationality, the country and place of former residence, former applications for international protection, the routes followed to enter the Greek territory and the reasons for flight and inability to return.<sup>96</sup>

<sup>92</sup> Information provided by the Asylum Service to GCR, September 2015.

<sup>93</sup> Article 12(2) PD 114/2010; Article 11(6) PD 113/2013.

<sup>94</sup> Article 10(1) PD 114/2010, as amended by Article 35(9a) PD 113/2013.

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*

A representative of UNHCR or a partner organisation may also be present during the interview and ask questions to the applicant. A legal advisor of the applicant may also be present during the interview and is allowed to submit questions to the applicant only after the Police Officer has finished. The UNHCR Athens Office should be informed in reasonable time of the schedule of interviews and names of the applicants interviewed.<sup>97</sup> Nevertheless, under the Old Procedure, there have been instances in practice where the UNHCR office was not informed prior to interviews, thereby compromising the quality of the interview.

A written report (record) should be presented to the applicant at the end of the interview, including the arguments of the applicant the questions addressed to him or her and the relevant answers given, in order for the asylum seeker to approve and sign it. To this end, the applicant should be assisted by the interpreter who also signs the report. Failure of an applicant to approve the report does not prevent the authority from taking a decision on the case. The law also provides that applicants shall have the right to receive, at any time, copy of the report of the personal interview.<sup>98</sup>

However, GCR lawyers have reported certain issues with regard to the transcript of first instance interviews. As there is no secretary responsible for taking minutes of the interview, the transcript is drawn by the interviewing police officer, thereby leaving room for error or insufficiency of detail. Due to time-constraints, the interviewer may paraphrase the words of the interviewee, omit crucial details or even misinterpret the asylum seeker's statements in the transcript.

More generally, the quality of asylum interviews under the Old Procedure have been repeatedly criticised by NGOs, UNHCR and the Parliamentary Assembly of the Council of Europe (PACE).<sup>99</sup> Even though UNHCR recognised some progress in 2012 in the quality of the interviews, it also highlighted that the "asylum procedure was, for many years, characterised by a lack of essential procedural guarantees, including a lack of qualified interpretation during interviews, poor quality of interviews and interview records".<sup>100</sup>

When the interview is completed and transcribed, the recommendation drafted by the police officer must also include the opinion of the UNHCR representative, if present during the interview. The said recommendation shall, where applicable, also include a proposal for examining the asylum application as a manifestly unfounded application. In case the decision diverges from UNHCR's opinion and rejects the application, it must be specifically reasoned to that effect.<sup>101</sup>

### **New Procedure (applications lodged after 7 June 2013)**

First instance interviews conducted by the RAO under the New Procedure reportedly operate more smoothly, compared to the Old Procedure.

Personal interviews may be set 1 to 2 months later, while there have also been cases, where the interview was set even 4 or 5 months later, either initially or after rescheduling a cancelled interview.

The interview on the designated day takes place at the premises of the RAO and is conducted by one interviewer.

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<sup>97</sup> *Ibid.*

<sup>98</sup> Article 10(10)-(11) PD 114/2010.

<sup>99</sup> See Parliamentary Assembly of the Council of Europe, *Migration and asylum: mounting tensions in the Eastern Mediterranean, Report, Committee on Migration, Refugees and Displaced Persons*, 23 January 2013, para. 36; UNHCR Greece, *Contribution to the dialogue on migration and asylum*, May 2012, available at: <http://bit.ly/1AxOWjg>; Greek Ombudsman, *Findings after the 16 November 2010 visit in situ of the Ombudsman to the Attica Aliens Police Directorate in PetrouRalli*, Athens, 25 January 2011, available in Greek at: <http://bit.ly/1PaazeS>.

<sup>100</sup> UNHCR Greece, *Contribution to the dialogue on migration and asylum*, May 2012.

<sup>101</sup> Article 10(3) PD 114/2010.

The law also envisages that an interpreter of a language understood by the applicant be present.<sup>102</sup> In practice, however, postponements of interviews have occurred due to the lack of interpreters, which resulted from delays in funding.<sup>103</sup>

The NGO Metadrasi provides interpretation services to the Asylum Service in all stages of the procedure. The languages in which interpretation is available are: English, French, Russian, Spanish, Arabic, Kurmanji, Sorani, Turkish, Sinhalam, Swahili, Lingala, Urdu, Punjabi, Hindi, Pashto, Farsi, Dari, Bengali, Georgian, Romanian, Ukrainian, Mandarin Chinese, Albanian, Amharic, Tigrinya and Somali. Interpretation in all the above languages is not available on a daily basis for all Regional Asylum Offices or Units, given that the number of interpreters available for each language varies.<sup>104</sup> Moreover, for certain languages there is a lack in interpreters. For example, only one interpreter is currently available for interviews in Somali.<sup>105</sup>

The lack of certified interpretation services for some languages by Metadrasi is problematic, especially for detainees outside Athens. Between September 2014 and May 2015, an interpreter for Punjabi had been present in the RAO of Northern Evros only for one week in December 2014, in order to assist in the registration of 30 asylum applications in Punjabi.

The peculiar interviewing conditions in the RAO of Northern Evros, involving technological solutions aiming to respond to the lack of staffing, raise particular concerns. Apart from the frequency of remote interpretation with the assistance of an Athens-based interpreter due to the lack of interpreters in Fylakio, interviews of applicants in the region are most frequently remotely conducted by caseworkers based in Athens, due to the lack of caseworkers in Northern Evros.<sup>106</sup> The aforementioned RAO is currently comprised of only 5 members, including the Chief Director, 1 case-worker and 3 administrative staff and is able to conduct about 4 interviews per week.

Interviews of asylum seekers in detention are also problematic. In Northern Evros, the RAO conducts interviews in a container located in the courtyard of the Fylakio pre-removal detention centre, which is run by the Hellenic Police. This means that police officers have uninhibited access to the premises where confidential interviews are conducted, all the more so since doors are left open. In practice, a police officer registering a detainee has the ability to oversee the RAO officer interviewing an asylum seeker from a distance.

The New Procedure envisages audio or video recording of the personal interview. A detailed report is drafted for every personal interview, which includes the main arguments of the applicant for international protection and all its essential elements. Where the interview is audio recorded, the audio recording accompanies the report. For interviews conducted by video conference, audio recording is compulsory. Where audio recording is not possible, the report includes a full transcript of the interview and the applicant is invited to certify the accuracy of the content of the report by signing it, with the assistance of the interpreter who also signs it, where present.<sup>107</sup>

Before personal interviews were audio recorded, the caseworker would read back the full transcript to the applicant in order for him or her to approve its content and sign it. As of April 2014, all interviews are audio-recorded. Ever since audio-recording came into play, the caseworker still writes down a full

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<sup>102</sup> Article 17 PD 113/2013.

<sup>103</sup> Asylum Service, *Information provided to GCR*, March 2015.

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

<sup>105</sup> Asylum Service, *Information provided to GCR*, September 2015.

<sup>106</sup> All the same, according to the Asylum Service, *Information provided to GCR*, March 2015, all the guarantees required by law for the conduct of an asylum interview (e.g. the provision of interpretation services, confidentiality, the right of the asylum seeker to have a counsellor/advisor present during the interview, the keeping of a full and detailed record of the interview) are scrupulously respected.

<sup>107</sup> Article 17(8)-(9) PD 113/2013.



transcript of the interview, but does not read its content back to the applicant. The applicant may at any time request a copy of the transcript, a copy of the audio file or both.

The quality of asylum interviews under the New Procedure has been criticised by the NGOs and entities participating in the Asylum-Campaign.<sup>108</sup> Following this criticism, a thematic meeting took place in April 2015 between the competent personnel of the Asylum Service and members of the Asylum-Campaign, including the Greek Council for Refugees, in which important issues were raised on the quality of asylum interviews and first instance decisions.<sup>109</sup>

### Common elements

The personal interview takes place without the presence of the applicant's family members, unless the competent police or Asylum Service officer considers their presence necessary.<sup>110</sup> The personal interview must take place under conditions which ensure appropriate confidentiality.<sup>111</sup> In that light, the conditions reported above in relation to interview conditions at the RAO of Northern Evros pose considerable challenges to the duty to conduct interviews confidentially.

The person conducting the interviews should be sufficiently qualified to take into account the personal or general circumstances regarding the application, including the applicant's cultural origin. In particular, the interviewers must be trained concerning the special needs of women, children and victims of violence and torture.<sup>112</sup>

A personal interview with the applicant may be omitted where (a) the Police or Asylum Service is able to take a positive decision on the basis of available evidence; or (b) it is not practically feasible, in particular when the applicant is declared by a medical professional as unfit or unable to be interviewed due to enduring circumstances beyond their control.<sup>113</sup> In practice, the applicants themselves or usually their legal advisor, if there is one, must collect and submit such a certificate.

When the applicant or, where applicable, a family member of the applicant is not provided with the opportunity of a personal interview due to their being unfit or unable to be interviewed, as mentioned above, the Police or Asylum Service shall "make reasonable efforts" to provide them with the possibility to submit supplementary evidence.<sup>114</sup> The omission of a personal interview does not adversely affect the decision on the application, as long as the decision states the reasons for omitting the interview.<sup>115</sup>

## 2.4. Appeal

### Indicators: Regular Procedure: Appeal

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

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it	<input checked="" type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative
❖ If yes, is it suspensive		
▪ Administrative appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
▪ Judicial appeal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
  
2. Average processing time for the appeal body to make a decision:

❖ In the Old Procedure	Not available
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<sup>108</sup> See section on Registration, Old Procedure.

<sup>109</sup> Information provided by the GCR staff member participating in the meeting with the Asylum Service.

<sup>110</sup> Article 10(7) PD 114/2010; Article 17(5) PD 113/2013.

<sup>111</sup> Article 10(8) PD 114/2010; Article 17(6) PD 113/2013.

<sup>112</sup> Article 10(8a) PD 114/2010; Article 17(7a) PD 113/2013.

<sup>113</sup> Article 10(2) PD 114/2010; Article 17(2) PD 113/2013.

<sup>114</sup> Article 10(3) PD 114/2010; Article 17(3) PD 113/2013.

<sup>115</sup> Article 10(4) PD 114/2010; Article 17(4) PD 113/2013.

**Old Procedure (applications lodged before 7 June 2013)***Time-limits*

According to the law, applicants in the regular procedure have the right to lodge an administrative appeal before the Appeals Committees established by PD 114/2010 against a first instance decision rejecting an application, granting subsidiary protection instead of refugee status or withdrawing international protection status, within 30 days.<sup>117</sup> For decisions declaring an application as manifestly unfounded,<sup>118</sup> the deadline for appeals is 15 days.<sup>119</sup>

As of December 2014, the law provided stricter rules for the processing of appeals submitted after the expiry of the aforementioned deadline. Whereas previously the Appeals Committee examined appeals with priority, by deciding on admissibility at preliminary stage and on the merits at later stage, appeals submitted after the deadline are now subject to a preliminary examination by the competent Police Director. The Police Director may declare the appeal as inadmissible, unless the applicant establishes (a) *force majeure* reasons justifying the delay and (b) that he or she immediately lodged the appeal after *force majeure* reasons ceased.<sup>120</sup> If the appeal is deemed admissible, the decision is notified to the applicant and he or she is issued a new asylum seeker's card, pending examination on the merits by the Appeals Committee.

The Appeals Committee must reach a decision on the appeal within 6 months for appeals submitted under the regular procedure, and 3 months for appeals against decisions declaring an application manifestly unfounded or concerning a subsequent application.<sup>121</sup>

However, GCR has noted many cases that the competent Appeals Committee exceeded excessively the abovementioned deadline. There have been cases where the Appeals Committee issued a decision in more than 1 year after the examination of the appeal. In a GCR case regarding a refugee victim of trafficking, head of a single-parent family, the Appeals Committee's decision has not been delivered yet, 15 months after the interview had taken place. In another case, where the appellant was an unaccompanied minor facing psychiatric problems, the decision on the admissibility of an appeal submitted out of the deadline provided by law was only issued 14 months after its examination (i.e. it was eventually issued in September 2015, following a GCR intervention, while the admissibility issue had already been examined since July 2014). Noteworthy is the fact that in this case, the said appeal had been submitted in December 2012. During all this 3-year period, the appellant remained undocumented, considering that when submitting a late appeal, no asylum seeker's card is provided until the appeal is found admissible.

Moreover, GCR is aware of 7 still pending cases that had been examined 7-10 years ago under PD 61/1999, before the Advisory Committees which were the competent authority at that time. Even though these Committees had unanimously recommended for each one of these cases that a refugee status should be granted, however, the relevant decisions have not been issued yet by the competent Minister. GCR has repeatedly intervened towards the issuance of these decisions and the Greek Ombudsman has also been involved, but still all efforts remain fruitless.

*Suspensive effect*


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<sup>116</sup> Appeals Authority, *Information provided to GCR*, September 2015.

<sup>117</sup> Article 25(1)(a) PD 114/2010, as amended by Article 35(17) PD 113/2013.

<sup>118</sup> Article 17(3) PD 114/2010.

<sup>119</sup> Article 25(1)(b) PD 114/2010.

<sup>120</sup> Article 25(4)(b) PD 114/2010, as amended by Article 2 PD 167/2014.

<sup>121</sup> Article 26(4) PD 114/2010.



Appeals have suspensive effect until the Appeals Committee reaches a decision.<sup>122</sup> Following a first instance decision, the asylum seeker's "pink card" is withdrawn, and a new one is issued when an appeal is lodged. This card is valid for 6 months in the regular procedure.<sup>123</sup>

The practice of reissuing the pink card has been different depending on the location. For an asylum claim rejected by the Aliens Division of Attica in Athens, usually an appeal has been prepared on the spot with the help of the police, containing only basic information such as the personal details of the applicant and the number of the file, the date of the application and the decision. Following the lodging of that appeal, the pink card has been automatically returned. However, in most other Aliens Divisions registering and processing asylum claims, appeals would not be submitted in such 'automatic' manner. In these cases, significant barriers have been observed in practice, as applicants have often not been informed of their appeal rights in a language which they understand, thereby missing the deadline set by law for lodging an appeal. Moreover, due to severe understaffing and lack of interpreters, applicants would present themselves to the authorities to file an appeal but find no competent officer to receive it.

#### *Personal hearing*

The Appeals Committee may decide not to call the applicant for a hearing where it considers that it can issue a decision based only upon examination of the file. . If the information included in the file is not sufficient for deciding on the appeal, the Appeals Committee shall invite the applicant to submit additional information within 10 days or to appear before it.<sup>124</sup> In the latter case the applicant shall be informed within 5 days before the date of the examination, in a language which he or she understands, of the place and date of the examination of the appeal, and for the right to attend in person or by an attorney or other advisor before the Committee to verbally explain his or her arguments with the assistance of an interpreter, to give explanations or to submit any additional information.<sup>125</sup>

In practice in the examination of most appeals a hearing takes place, since most of the times the information included in the file is not sufficient and the interview taken at first instance lacks the necessary credential. Within the period 1 January – 7 February 2015 and 1 May – 30 September 2015, the Appeals Committees issued 557 decisions in cases of Syrians, Iraqis and Palestinians, based solely on the file and without prior invitation for interview, while they also issued 606 decisions based solely on the file in cases of nationals of different countries who, albeit invited, did not present themselves before the relevant Committee.<sup>126</sup>

A decision of the Appeals Committee rejecting the administrative appeal sets a specified time-frame of no more than 90 days for the applicant to leave the Greek territory.<sup>127</sup> The Appeals Committees established under the Appeals Authority for the New Procedure do not have such competence, as seen below.

Before December 2014, when the Appeals Committee reached a positive decision this could mean either the recognition of an international protection status (refugee status or subsidiary protection) or a residence permit on humanitarian grounds. However, since December 2014 if the Appeals Committee reasons that a case fulfills one or more of the criteria for granting a residence permit on humanitarian grounds, it needs to refer the case to the Aliens and Migration Division of the MIAR, which subsequently decides upon the case.<sup>128</sup> From 1 January to 30 September 2015, the Appeals Committees of the Old Procedure referred 530 cases for the granting of a residence permit on humanitarian grounds.

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<sup>122</sup> Article 25(2) PD 114/2010.

<sup>123</sup> Article 25(1)(a) PD 114/2010, as amended by Article 3(1) PD 167/2014.

<sup>124</sup> Article 26(5) PD 114/2010, as amended by Article 3 PD 167/2014.

<sup>125</sup> *Ibid.*

<sup>126</sup> Information provided to GCR by the Hellenic Police Headquarters – Aliens Division, October 2015.

<sup>127</sup> Article 26(6) PD 114/2010.

<sup>128</sup> Article 28(1) PD 114/2010, as amended by Article 5(1) PD 167/2014.

### *The operation of the Appeal Committees*

For the Old Procedure, 20 Appeals Committees were established under PD 114/2010 and operate under the responsibility of the MIAR.<sup>129</sup> All 20 Committees are located in Athens. Each Committee consists of:

- (a) An official of the MIAR or the Ministry of Justice, Transparency and Human Rights, holding a law degree, or former judge or former public servant granted with a law university degree, or a person of recognised standing, specialised or experienced in refugee law or human rights law or international law), who chairs the Committee;
- (b) A representative of the UNHCR, or a person who holds Greek citizenship, appointed by the UNHCR;
- (c) A jurist specialised in refugee and human rights law, appointed by the relevant Ministry from a list drawn by the National Commission for Human Rights.<sup>130</sup>

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

The smooth operation of the Appeals Committees was temporarily suspended in May 2013 for approximately 1 month due to issues related to the professional qualifications of Committee members and recent allegations of abusive employment contracts. The same situation occurred in 2015. In particular, from late January 2015 to the end of April 2015 the Appeals Committees suspended once again their operation, because of the new contract terms that had been proposed but were again not deemed suitable by the majority of the Committees members. The tension that followed caused many problems to the overall operation of the Committees. In addition, no one seems to be quite aware about the impact of the contracts' expiry on 17 November 2015 on the operation of the Appeals Committees. At the time of writing, it remains unknown whether the Committees will continue their unhindered operation or if a suspension is going to take place once again as well as whether the same number of Committees will continue to operate or a reduction will occur.

Moreover, there have been incidents reported by persons assisted by GCR, raising issues around the institutional independence of Appeals Committees and affecting applicants' exercise of appeal rights in practice. In 3 reported cases, the applicant appearing before an Appeal Committee for a hearing was arrested for reasons related to his or her criminal record by police officers, who had strangely been informed of the interview date and place. These cases raise serious concerns as to the role of the Appeals Committee and their relationship with the police, as the rationale behind the establishment of these Committees was the independence of decision-making bodies in the asylum process from the police and such incidents.

### **New Procedure (applications lodged after 7 June 2013)**

#### *Time-limits*

Applicants may lodge an administrative appeal against a first instance decision of the Asylum Service rejecting the application, granting subsidiary protection instead of refugee status or withdrawing international protection under the regular procedure before the Appeals Authority, under the same time-limits as the Old Procedure: 30 days for claims deemed unfounded and 15 days for claims deemed manifestly unfounded.<sup>131</sup>

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<sup>129</sup> Article 26(1) PD 114/2010, as amended by PD 113/2013.

<sup>130</sup> MD Y139/2000, "Regulation of the National Committee on Human Rights", available at: <http://bit.ly/1KsQ33M>.

<sup>131</sup> Article 25(1)(a) PD 113/2013.

According to the law, the Appeals Committee must reach a decision on the appeal within 3 months.<sup>132</sup> However, the Rules of Procedure of the Appeals Authority<sup>133</sup> foresees that the decision shall be communicated by the President of the Committee to the Director of the Appeals Authority within 30 days when the written procedure is followed and within 60 days when a hearing has taken place. Currently, the average time within which the Appeals Committees are reaching decisions is 45 days, the minimum is 1 day (in airport transit zones) and the maximum approximately 2 months, regardless of the situation of the appellant (being in detention or not).<sup>134</sup>

Identically to the Old Procedure, as amended by PD 167/2014, if the Appeals Committee rejects the appeal on the application for international protection and considers that there are one or more criteria fulfilled for a residence permit on humanitarian grounds, the case is referred to the relevant Division of the MIAR, which decides on the granting of such permit.<sup>135</sup> Only following such a referral, the request for a residence permit on humanitarian grounds may be examined by the MIAR. The relevant residence permit is valid for 1 year. Until 24 September 2015, the Appeals Committees of the Appeals Authority had referred 269 such cases to the MIAR, 89 of which concerned persons from Albania, 25 from Georgia, 32 from Pakistan, 14 from Nigeria, 14 from Bangladesh, 11 from Egypt, 10 from Armenia, 7 from Afghanistan and few others from other countries of origin. However, in numerous cases known to GCR where such a referral should obviously have been made, often due to the degrading health condition and/or family life of the applicant in Greece, regrettably this was not the case.

#### *Suspensive effect*

Similarly to the Old Procedure, appeals before the Appeals Authority have automatic suspensive effect.<sup>136</sup> The asylum seeker's card is withdrawn following the negative first instance decision, and another is issued when the appeal is lodged. This new card may be valid and renewable every 6 months under Article 8(d) PD 113/2013. However, under that provision, the Asylum Service Director may reduce the duration of validity of asylum seekers' cards in accordance with the expected time for the issuance of a final decision on applications for international protection. On that basis, the validity of cards has been reduced to 4 months, with the exception of a 3-month validity for certain nationalities (see the section on Registration above).

#### *Personal hearing*

The appeal before the Appeals Authority is a written procedure and appeals are examined solely on the basis of information in the file. The Authority may, at its discretion, invite the applicant to a hearing where (a) doubts arise regarding the quality of the first instance interview, (b) the applicant has submitted substantial new elements, or (c) the case presents particular complexity.<sup>137</sup>

Until 24 September 2015, the Appeals Committees of the Appeals Authority had reached decisions in 6,502 cases solely upon examination of the file and had only summoned 229 cases for a hearing, most of which concerned Afghans (23), Nigerians (21), Eritreans (19), Congolese – DRC (17), Pakistanis (15), Iranians (14), Sudanese (14) and Bangladeshis (12).<sup>138</sup>

#### *The operation of the Appeals Authority*

Under Article 2 L 3907/2011, 19 Appeals Authority Committees (AACs) were set up and started operations on 1 July 2013. However, from 24 September 2014 to 24 September 2015, only 10 Committees have been in place, and since April 2015 only 8 of those have remained operational, following the departure of members of 2 Committees without being replaced.

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<sup>132</sup> Article 26(5) PD 113/2013.

<sup>133</sup> Ministerial Decision 334/2014 "on the Rules of Procedure of the Appeals Authority", Gov. Gazette 63/B/16-01-2014.

<sup>134</sup> Appeals Authority, *Information provided to GCR*, September 2015.

<sup>135</sup> Article 33 PD 113/2013; Article 1f JMD 30651/2014.

<sup>136</sup> Article 25(2) PD 113/2013.

<sup>137</sup> Article 26(4) PD 113/2013.

<sup>138</sup> Appeals Authority, *Information provided to GCR*, September 2015.

Each AAC consists of three members:<sup>139</sup>

- (a) A person of renowned status, with specialisation or expertise in refugee, human rights or international law, appointed by the relevant Ministry from a list drawn by the National Commission for Human Rights, who chairs the Committee;
- (b) A Greek citizen appointed by UNHCR;
- (c) A person who holds a university degree in law, political or social sciences, with specialisation in international protection or human rights, appointed by the relevant Ministry from a list drawn by the National Commission for Human Rights.

As of March 2014, the mandate of AAC members is reduced from 2 years to 1 year renewable. Moreover, the National Commission for Human Rights is now required to provide “at least twice the number of candidates of those needed to staff the committees.” Should the National Commission for Human Rights fail to provide the requisite number or within the given time, the Appeals Authority must draw up a list of candidates. Where the Appeals Authority also fails to provide a list, the third AAC member is directly appointed by the Ministry.<sup>140</sup>

Prior to the examination of appeals by the AACs, expert rapporteurs (civil servants) prepare the case files and draft a recommendation on the case.<sup>141</sup> Rapporteurs may make binding recommendations on procedural aspects e.g. need to invite the applicant for a hearing, and non-binding recommendations on the merits of the appeal. However, the discretion of the AACs in deciding whether or not to call applicants for a hearing, following prior recommendation of the expert-rapporteur, was put forward to the State Legal Council, whose legal opinions are binding on all public administrative authorities, including the Asylum Service and the Appeals Authority. The State Legal Council, in an Opinion of 22 October 2013, ruled that, according to Greek administrative law, a “hearing is not obligatory for the cases examining applications for international protection including refugee status recognition or the granting of subsidiary protection.”<sup>142</sup>

The State Legal Council's opinion adopts a regrettable position. Given that representation by a lawyer is not necessary by law for filing an appeal, coupled with the lack of legal aid (see the section on Legal Assistance), those asylum seekers that do not have access to a lawyer are likely to end up with an insufficiently substantiated appeal. The lack of an opportunity for them to present their case orally and in person thus greatly undermines the appeal procedure. The inherent language barriers faced by most asylum seekers make the personal hearing all the more essential, as body language and personal narration of their case at their own pace are usually an invaluable source of crucial information.

The problem is aggravated by the fact that the personnel working on first instance examination does not necessarily have adequate experience in the asylum field. Due to austerity measures, scarcity of resources and difficulties in the appointment of new civil servants, the Asylum Service has not been able to recruit new staff specialised and experienced in asylum. Instead, the government deployed lawyers, political and social scientists, psychologists and economists seconded from other departments to undertake refugee status determination at the Asylum Service.<sup>143</sup> While caseworkers have received

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<sup>139</sup> Article 3(3) L 3907/2011.

<sup>140</sup> Article 3 L 3907/2011, as amended by Article 122(5) L 4249/2014.

<sup>141</sup> Article 26(2) PD 113/2013.

<sup>142</sup> State Legal Council, Opinion 339/2013, 22 October 2013.

<sup>143</sup> In UNHCR, *Greece as a Country of Asylum: UNHCR Observations on the Current Situation of Asylum in Greece*, December 2014, 25, UNHCR noted that “Based on UNHCR monitoring of 342 asylum interviews by Asylum Service caseworkers from 1 January to 30 September 2014, UNHCR considers that they generally comply with minimum standards set out in international, EU and national legislation. UNHCR has a similar assessment with regard to the quality of decisions which include reference to the applicant's statements, an assessment of credibility, reference to relevant COI as well as legal reasoning for granting or not granting status.” However, the Asylum Service explains (*Information provided March 2015*) that all staff who join the Asylum Service, whether as newly-appointed civil servants or as a result of secondments or permanent

training on the asylum procedure, such training may not be sufficient to outweigh the lack of actual experience in the field. Accordingly, as this affects significantly the quality of first instance examination, a thorough second instance examination including a personal hearing seems all the more warranted.<sup>144</sup>

Moreover, PD 113/2013 and the Rules of Procedure of the Appeals Authority, laid down by MD 334/2014, have conferred upon the Director of the Appeals Authority powers beyond those foreseen in L 3907/2011, the framework establishing the Appeals Authority. The Director, amongst others, may decide on the admissibility of appeals submitted after the expiry of the deadline for lodging an appeal,<sup>145</sup> may regulate the volume of appeals handled by the AAC,<sup>146</sup> and works in the direction of guaranteeing the unified handling of the appeals by all AAC.<sup>147</sup> These are restrictions that are liable to interfere with the independence of the second instance asylum procedure. GCR has submitted a request for annulment of PD 113/2013 and MD 334/2014 before the Council of State. The hearing and ruling have not yet taken place.

The one-year term of office of the Appeals Committees starting in 24 September 2014, ended in 24 September 2015. The fact that when the previous Committees term of office had ended (June 2014), it took 3 months to have new ones in place, during which the examination of cases had to be postponed, raises particular concern, as this time the new Committees are not expected either to be able to start operations earlier than 3 months' time.<sup>148</sup>

In addition to the aforementioned issues, the National Commission for Human Rights reports that the (former) MPOCP appointed as AAC members candidates who were not included in the list the former had provided. Moreover, the (former) MPOCP increased the number of envisaged Committees from 8 to 10 without informing the National Commission for Human Rights thereof so as to enable it to adjust the number of candidate members accordingly.<sup>149</sup>

The largest rate of positive decisions of the Appeals Authority per country since its establishment and until end September 2015, that is 26.30%, have been cases of Afghan nationals, followed by 10.71% of cases of Pakistanis and 6.15% of cases of Democratic Republic of Congo nationals.<sup>150</sup>

### **Common elements: Judicial review**

In both Old Procedure and New Procedure, applicants for international protection may lodge an application for annulment (*αίτηση ακυρώσεως*) of a decision against which an administrative appeal is no longer possible, before the Administrative Court of Appeals.<sup>151</sup> The Minister of Interior and Administrative Reconstruction (former MPOCP) also has the right to request the annulment of the decision of the Appeals Committee before the Administrative Court of Appeals.<sup>152</sup> The possibility to file such a request, the time-limits, as well as the competent court for the judicial review must be expressly stated in the body of the administrative decision.

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transfers from other departments of the state or, finally, on short-term contracts, are by definition inexperienced and need to be (and are) intensively trained before they begin their duties as case workers.

<sup>144</sup> ECRE & ICJ, *Joint Third Intervention*, May 2014.

<sup>145</sup> Article 25(5) PD 113/2013.

<sup>146</sup> Article 9(10) MD 334/2014.

<sup>147</sup> Article 9(3) MD 334/2014.

<sup>148</sup> Appeals Authority, *Information provided to GCR*, September 2015.

<sup>149</sup> National Commission For Human Rights, *Public Statement on the procedure regarding the establishment of the Appeals Committees under Law 3907/2011*, October 2014.

<sup>150</sup> Appeals Authority, *Information provided to GCR*, September 2015.

<sup>151</sup> Article 29 PD 114/2010 and Article 29 PD 113/2013, citing Article 15 L 3068/2002.

<sup>152</sup> Article 26(7) PD 114/2010.

An application for annulment may only request an examination of the decision in law and has *no* automatic suspensive effect. However, the applicant may request the Court to grant suspensive effect while judicial review is conducted.

In practice, access to judicial review before the Administrative Court of Appeals is limited by a number of practical and legal obstacles which undermine the effectiveness of the remedy. These range from strict and complex procedural rules for judicial review, requiring applications to be well-substantiated, written in Greek and registered by a lawyer; to the Court's delays from 10 days of up to 4 months in deciding on suspensive effect, thereby leaving applicants at risk of deportation; to limited access to free legal assistance (see the section on Legal Assistance below).

## 2.5. Legal assistance

### Indicators: Regular Procedure: Legal Assistance<sup>153</sup>

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

Asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their application.<sup>154</sup> Legal representatives and other counsellors may represent the asylum seeker at all stages of the procedure, including the personal interview.<sup>155</sup> They have access to applicant's file if this information is relevant to the examination of the asylum application, except in some circumstances related to national security.<sup>156</sup> Other advisors, mainly NGOs who assist the applicant shall have access to the applicant's file, if this information is relevant to the assistance provided. Given the fact, however, that legal counsellors of NGOs are those providing legal assistance to applicants in practice, there has been no opportunity to assess the difference between the two above-mentioned provisions of the law. Legal representatives equally have access to FRCs, detention centres and sea port and airport transit zones, which may only be restricted on security or public order grounds, or in order to ensure an efficient examination of the application. In such cases, the authorities must ensure that the applicant's access to a lawyer or legal advisor is not severely hindered or rendered impossible.<sup>157</sup>

Free legal assistance is only foreseen by law for judicial appeals before the Administrative Court of Appeals, in accordance with the general provisions on free legal aid.<sup>158</sup> Free legal assistance may thus be provided upon the applicant's request,<sup>159</sup> subject to (a) an insufficient means test, establishing the applicant's inability to afford legal representation;<sup>160</sup> and (b) a merits test, determining that the

<sup>153</sup> It should be noted that, as per these indicators, free legal assistance refers to NGOs' services and not to a state-organised and funded legal aid system.

<sup>154</sup> Article 11(1) PD 114/2010; Article 10(1) PD 113/2013.

<sup>155</sup> Article 11(5) PD 114/2010; Article 10(5) PD 113/2013.

<sup>156</sup> Article 11(3) PD 114/2010; Article 10(3) PD 113/2013.

<sup>157</sup> Article 11(4) PD 114/2010; Article 10(4) PD 113/2013.

<sup>158</sup> Article 11(2) PD 114/2010; Article 10(2) PD 113/2013, citing L 3226/2004.

<sup>159</sup> Article 2(1) L 3226/2004.

<sup>160</sup> Article 2(2) L 3226/2004.

application has a “probability” of success.<sup>161</sup> The choice of legal representative is made on the basis of a list drawn up by the relevant Bar Association.<sup>162</sup>

However, a number of significant barriers to accessing free legal aid lead to an actual absence of access to free legal assistance in practice. The request for legal aid is itself an application procedure before a court.<sup>163</sup> Accordingly, in order to submit an application, which must be signed by a lawyer, the asylum seeker needs to pay a lawyer. Even where the legal aid request is submitted and deemed successful, the applicant has no choice over his or her legal representative, as lawyers are appointed from the list designated by the Bar Association. The low level and great delays in remuneration awarded to legal aid lawyers act as a severe disincentive for legal professionals to take up asylum cases. This adversely affects both the availability and the quality of free legal assistance.

In Greece, free legal assistance and representation in all stages of both the administrative and judicial procedure has always been provided by NGOs according to their capacity. The former European Refugee Fund (ERF) has until recently been one of the major funding sources for NGOs to this purpose. Following its end in February 2015, and pending the allocation of funding under the new Asylum, Migration and Integration Fund (AMIF), Greek NGOs face serious funding difficulties in their free legal assistance provision, with a direct impact in the quality of the asylum procedure. The limited provision of free legal assistance, for which NGOs currently struggle to deploy human resources, although deprived of adequate relevant funding, in no way may be perceived as satisfying the legal requirement for free legal aid provision.

It should be underlined that the free legal assistance system foreseen in the law in force, as outlined above, merely concerning the procedure before courts and not the one before the administrative decision-making authorities, is in any case deprived of efficiency; the most important part of the procedure is actually the one before the administrative authorities of first and second instance, taking into consideration that following an application for annulment, the court only examines if the decision has any errors *in law*, without considering the merits of the case (see [Regular Procedure: Appeal](#)). The recast Asylum Procedures Directive provides that Member States should provide upon request free legal assistance and representation within the framework of appeal procedures (i.e. before the Appeals Committees, as per the Greek context),<sup>164</sup> while free legal assistance and/or representation may also be provided at first instance.<sup>165</sup> Until now, this Directive has not been transposed into Greek legislation and no formal free legal aid system has been in place yet as regards either the first or second instance of the administrative asylum procedure, although the Asylum Service in September 2014 attempted a dialogue with the Greek NGOs, asking for comments on specific issues.

### 3. [Dublin](#)

#### 3.1. General

##### Indicators: Dublin: General<sup>166</sup>

1. Number of outgoing requests in 2015 (January-September):	913
❖ Top 3 receiving countries:	
	DE 529
	SE 135
	CH 67

<sup>161</sup> Article 2(4) L 3226/2004.

<sup>162</sup> Article 3(1) L 3226/2004.

<sup>163</sup> Articles 2 and 9 L 3226/2004.

<sup>164</sup> Article 20(1) recast Asylum Procedures Directive. Note, however, that Article 21(2) enables Member States to restrict free legal aid to appeals before a court or tribunal.

<sup>165</sup> Article 20(2) recast Asylum Procedures Directive.

<sup>166</sup> Greek Dublin Unit, *Information provided to GCR*, October 2015.



2. Number of incoming requests in 2015 (January-September):	65
❖ Top 3 sending countries:	
	CH 48
	DE 4
	NL/BE 3
3. Number of outgoing transfers in 2015 (January-September):	571
❖ Top 3 receiving countries:	
	DE 345
	SE 129
	CH 34
4. Number of incoming transfers in 2015 (January-September):	9
❖ Top 3 sending countries:	
	CH 8
	NL 1

### The application of the Dublin criteria

Returns of asylum seekers from another Member State to Greece under the Dublin Regulation are still frozen, since EU Member States and Associated States have halted Dublin transfers following the *MSS v Belgium & Greece* ruling of the European Court of Human Rights (ECtHR).<sup>167</sup> Between January-September 2015, only 9 transfers were carried out to Greece by Switzerland<sup>168</sup> and the Netherlands.

In the first 9 months of 2015, Greece has received 65 incoming requests under the Dublin Regulation. Out of these, Greece accepted 31. However, only 9 transfers have actually been completed, mainly concerning persons in possession of a residence permit in Greece.<sup>169</sup>

The majority of outgoing transfers under the Dublin Regulation take place in the context of family reunification. In 2015 (until end September 2015), 571 transfers are reported to have actually been accomplished, the vast majority of which on family reunification grounds.<sup>170</sup>

The most frequent case used to concern families applying for asylum in Greece, where at some point – well beyond the 3-month deadline for submitting a request – one or more members moved onwards to apply in another Member State, where they requested for their family members to be admitted for the purposes of family reunification. Under the Dublin Regulation, these claimants should be returned to Greece, could no longer be transferred after the *MSS v Belgium & Greece* ruling. Although in such cases the receiving Member State is not obliged to accept the transfer of family members from Greece, in practice it invokes the Regulation's discretionary clauses<sup>171</sup> and notifies Greece of its acceptance of the take charge request.

According to information provided by the Asylum Service in 2015, the most frequent trend currently is for families *not* to have already applied for asylum in Greece, but for one or more family members to travel onwards and lodge their first application in another EU Member State. On that basis, since Greece has not previously examined the application to apply the Regulation when the claim is lodged in another country, applicants may request their families to join them on the basis of Dublin's family unity criteria,<sup>172</sup> which are at the top of the hierarchy of responsibility criteria, rather than the discretionary clauses.<sup>173</sup>

<sup>167</sup> ECtHR, *MSS v Belgium & Greece*, Application No. 30696/09, Judgment of 21 January 2011.

<sup>168</sup> See also Swiss State Secretariat for Migration, *Asylum Statistics September 2015*, available at: <http://bit.ly/1NuZwHR>, 82.

<sup>169</sup> Greek Dublin Unit, *Information provided to GCR* October 2015.

<sup>170</sup> Greek Dublin Unit, *Information provided to GCR* October 2015.

<sup>171</sup> Article 17 Dublin III Regulation.

<sup>172</sup> Asylum Service, *Information provided to GCR*, March 2015.

<sup>173</sup> Articles 8-11 Dublin III Regulation, more particularly Article 10.

However, serious problems arise in the cases of unaccompanied children whose family members are present in another Member State. The system of appointing a guardian for minors is dysfunctional, as little is done after the Asylum Service or Police or First Reception Centre (FRC) has informed the Juvenile Public Prosecutor who acts by law as temporary guardian for unaccompanied children; the Prosecutor merely assumes that capacity in theory. Unacceptable delays take place for the actual transfer of unaccompanied children below the age of 14 to another Member State where the family reunification request has been accepted, due to severe shortage of staff to escort the child and to the need for the Dublin Unit to request the Aliens Division to provide an escort for the transfer.

In order for a “take-charge” request to be addressed to the Member State where an asylum seeker, relative of the person applying for asylum in Greece, resides, the consent of the relative is required, as well as documents proving the legal status of the relative in the receiving country (e.g. residence permit, asylum seeker’s card or other documents certifying the submission of an asylum application) and documentation bringing evidence of the family link (e.g. certificate of marriage, civil status, passport, ID),

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

Greece has been applying the discretionary clause in cases of families where is a Eurodac hit for one family member in another Member State, but in order not to separate the family, the asylum application is accepted to be examined in Greece. Another type of cases where this clause is implemented, is where there is evidence for serious health reasons hampering the transfer.<sup>174</sup>

## **3.2. Procedure**

### **Indicators: Dublin: Procedure**

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 4-5 months<sup>175</sup>

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

Generally, outgoing requests by Greece receive a reply within 1 to 1½ month after the request is submitted, in line with the time-limits imposed by the Regulation.<sup>176</sup> Most member States (e.g. Germany, Finland, Sweden, Norway, UK, Bulgaria) usually respect the 2 month deadline set in the Regulation, while certain ones tend to respond after 2 months have passed (e.g. France, Italy).

In the first 9 months of 2015, Greece has addressed 913 outgoing requests to other Member States under the Dublin Regulation. Within the same period, 507 requests were accepted and 289 were rejected.

### **Individualised guarantees**

According to the Asylum Service,<sup>177</sup> the reception conditions in the receiving state are taken into account. Nevertheless, it has not been deemed necessary to ask for individual guarantees until now.

<sup>174</sup> Asylum Service, *Information Provided to GCR*, September 2015.

<sup>175</sup> Greek Dublin Unit, *Information provided to GCR* October 2015. Actually, in most cases brought to the attention of GCR, the transfer has taken place in approximately 5 months following the responsible Member State’s take-charge response.

<sup>176</sup> Article 22(1) Dublin III Regulation.

<sup>177</sup> Asylum Service, *Information Provided to GCR* September 2015.

On the contrary, in family reunification cases through Dublin III, the reception conditions in the receiving state are not examined. It is sufficient that the applicant is willing to be transferred there and that he or she relinquishes his or her right to appeal against the decision rejecting the asylum application as inadmissible.

### Transfer procedure

In 2014, the Greek Dublin Unit was reorganised and reinforced with several new members, although there is still room for more adjustments to be made in order for the Unit to meet the actual needs attached to the high number of Dublin procedures. As a result, so far Dublin procedures appear to run smoothly and within the requisite deadlines. Delays occur and the waiting time for transfers is still extremely high, reaching 5-6 months. However, deadlines for “take charge” requests as well as transfers are usually met without jeopardising the outcome of the reunification. According to the information provided by the Asylum Service,<sup>178</sup> when an applicant is detained and another Member State accepts the “take charge” request of the Greek Dublin Unit on the basis of family reunification, the Asylum Service notifies the Hellenic Police authorities and issues a recommendation for the end of detention.<sup>179</sup>

Applicants who are to travel by plane to another Member State are picked up by the Hellenic Police from their house or from a location in proximity and are driven to the airport. The police officer escorts the applicants to the check-in counter. Once the boarding passes are issued, the escorting officer hands in the boarding passes, the *laissez-passer* and the applicant’s “asylum seeker’s card” to a police officer at the airport. The latter escorts the applicant into the aircraft, hands in the required documents to the captain of the aircraft and the applicant boards the aircraft.

During 2014, although applicants had to cover their own travel expenses due to budgetary constraints of the Asylum Service, the latter informed GCR that a sum of €60,000 has been approved for travel costs for Dublin transfers, and that an open call for tenders from travel agencies has been advertised. In fact, as of the end of 2014 and the beginning of 2015, travel expenses of ‘Dubliners’ have been financed by the Asylum Service, covering booking and issuance of the relevant tickets, as well as other relevant expenses to be met. In February 2015, the relevant financial aid provided was suspended temporarily, pending renewal of the Asylum Service’s agreement with the relevant contracting party in order to resume.<sup>180</sup> To the knowledge of GCR, applicants are currently paying for their own expenses. According to the Asylum Service, taking into account the degrading financial situation of the state, where possible, the cost is covered by the Asylum Service, all rights reserved. AMIF is expected to respond to these needs, once the relevant funding becomes available.<sup>181</sup>

### 3.3. Personal interview

#### Indicators: Dublin: Personal Interview

Same as regular procedure

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

<sup>178</sup> Asylum Service, *Information provided to GCR*, March 2015.

<sup>179</sup> Articles 8-11 Dublin III Regulation, more particularly Article 10.

<sup>180</sup> Asylum Service, *Information provided to GCR*, March 2015.

<sup>181</sup> Asylum Service, *Information Provided to GCR* September 2015.

Under the Dublin procedure, a personal interview is not always required.<sup>182</sup>

In practice, detailed personal interviews do not usually take place as per the merits, when outgoing requests are pending for the transfer of asylum seekers under the family reunification procedure, although questions mostly relating to the Dublin procedure are almost always addressed to the applicant, in an interview framework.

However, a succinct personal interview takes place in the non-family reunification cases, where the asylum seeker after being fingerprinted appears to have applied for asylum in another EU Member State before arriving in Greece. Such cases are not particularly common and usually concern people who enter Greece after having first crossed the Turkish-Bulgarian borders.

### 3.4. Appeal

**Indicators: Dublin: Appeal**  
 Same as regular procedure

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

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

Applications for international protection are declared inadmissible where the Dublin Regulation applies.<sup>183</sup> An applicant may lodge an appeal against a first instance decision rejecting an application as inadmissible due to the application of the Dublin Regulation within 15 days.<sup>184</sup> Such appeal is also directed against the transfer decision, which is incorporated in the inadmissibility decision.<sup>185</sup>

According to Asylum Service statistics, as of 28 February 2015, there have been 130 cases in which applications for international protection, declared inadmissible due to the acceptance of responsibility by Bulgaria under the Dublin Regulation, were successfully appealed before the Appeals Committee. In these cases, the asylum applications had been referred by the Committees back to the first instance in order for the examination of the claim to take place. Nevertheless, these Committees' decisions do not seem to have created any kind of legal precedent, in order for the relevant practice of the Asylum Service regarding returns to Bulgaria to change. A number of second instance decisions have upheld transfers to Bulgaria, even where the persons concerned were found to be victims of torture. As regards applicants whose appeals against their transfer were rejected, only 1 transfer to Bulgaria has taken place. The remainder have either absconded from Greece or are awaiting transfer.<sup>186</sup>

### 3.5. Legal assistance

**Indicators: Dublin: Legal Assistance**  
 Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

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

<sup>182</sup> Article 5 Dublin III Regulation.

<sup>183</sup> Article 18(b) PD 113/2013.

<sup>184</sup> Article 25(1)(b) PD 113/2013.

<sup>185</sup> *Ibid.*

<sup>186</sup> Asylum Service, *Information provided to GCR*, March 2015.

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

Access to free legal assistance and representation in the context of a Dublin procedure is available under the conditions described in the regular procedure (see section on [Regular Procedure: Legal Assistance](#)). The same problems and obstacles described in the regular procedure exist in the context of Dublin procedures, with NGOs trying in practice to cover this field as well.

Limited access to legal assistance creates difficulties for applicants in navigating through the complexities of the Dublin procedure. The case files of the applicants are communicated by the police or RAO competent for the registration of asylum applications to the Dublin Unit. Moreover, the Dublin Unit does not consider itself responsible for preparing Dublin-related case files, as the applicants bear the responsibility of submitting to the Asylum Service all documents required in order for the Dublin Unit to establish a “take charge” request, such as proof of family links. The Asylum Service claims that its registration staff has been instructed to inform applicants who express the wish to be reunited with a family member in another Member State of the need for timely submission of the relevant documents.

### 3.6. Suspension of transfers

#### Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?  Yes  No
- ❖ If yes, to which country or countries?

To GCR’s knowledge, there has been a number of 4 decisions of the Appeals Committees holding that an asylum seeker may not be transferred to **Bulgaria** due to the existence of a real risk of serious violations of Article 3 ECHR.<sup>187</sup> All cases had received free legal assistance by NGOs: the first 3 by the Ecumenical Refugee Programme and the fourth by GCR.

## 4. [Admissibility procedure](#)

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

Under the Old Procedure, an application was considered inadmissible on the following grounds:<sup>188</sup>

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

The same grounds for inadmissibility are applicable in the New Procedure.<sup>189</sup> PD 113/2013 provided for a separate admissibility procedure for a preliminary review of subsequent applications (see section on [Subsequent Applications](#) below).<sup>190</sup> As of 31 August 2015, 1,243 applications have been found to be

<sup>187</sup> 17<sup>th</sup> AAC, Decision n. 95/000190454, 21 March 2014; 11<sup>th</sup> AAC, Decision n. 95/000188424, 11 February 2014; 2<sup>nd</sup> AAC, Decision n. 95/000186004, 29 November 2013.

<sup>188</sup> Article 18 PD 114/2010.

<sup>189</sup> Article 18 PD 113/2013.

<sup>190</sup> Article 23 PD 113/2013 and Article 35(15)(a), amending PD 114/2010.

inadmissible under Article 18 PD 113/2013, most of which regarded subsequent applications and Dublin Regulation cases.<sup>191</sup>

## 4.2. Personal interview

### Indicators: Admissibility Procedure: Personal Interview

Same as regular procedure

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

As regards subsequent applications examined in a preliminary stage, the law provides that no interview takes place.<sup>192</sup> On the other hand, in Dublin Regulation cases, an interview limited in questions on the travel route, the family members' whereabouts etc. takes place (see section on Dublin: Personal Interview).

## 4.3. Appeal

### Indicators: Admissibility Procedure: Appeal

Same as regular procedure

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

Under both Old and New Procedure, an applicant may appeal against an inadmissibility decision within 15 days (instead of 30).<sup>193</sup> The appeal has suspensive effect as in the regular procedure.

Under the New Procedure, Article 26(4) PD 113/2013 precludes the possibility of an oral hearing with the appellant where the application has been rejected as inadmissible at first instance. However, if in such a case the Appeals Committee accepts the appeal, refers the case back to the RAO in order for an interview to take place.<sup>194</sup>

## 4.4. Legal assistance

### Indicators: Admissibility Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance during admissibility procedures in practice?  Yes  With difficulty  No
  - ❖ Does free legal assistance cover:  Representation in interview

<sup>191</sup> Asylum Service, *Information provided to GCR*, September 2015.

<sup>192</sup> Article 23(2) PD 113/2013.

<sup>193</sup> Article 25(1)(b) PD 114/2010; Article 25(1)(b) PD 113/2013.

<sup>194</sup> Article 26(6) PD 113/2013.

Legal advice

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

Legal Assistance in the admissibility procedure does not differ from the one granted for the regular procedure (see section on [Regular Procedure: Legal Assistance](#)). In practice it is once again provided by NGOs, according to their capacity.

## 5. [Border procedure \(border and transit zones\)](#)

### 5.1. General (scope, time-limits)

#### Indicators: Border Procedure: General

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

#### Old Procedure (applications lodged before 7 June 2013)

Under the previous regime (PD 114/2010), where applications for international protection were lodged at the border or in the transit zones of sea ports or airports, applicants should enjoy the rights set out in Articles 8, 11(1) 1 and 12 PD 114/2010.<sup>195</sup> These include the right to be informed in a language they understand or are reasonably expected to understand, to have access to UNHCR or other organisations, to receive a “pink card”, while unaccompanied minors should benefit from special guarantees.

Under this regime, applications at the border would be processed under the accelerated procedure (see section on [Accelerated Procedure](#) below).<sup>196</sup> However, where no decision would be taken within 4 weeks, the asylum seeker would be allowed entry into the Greek territory for their application to be examined according to the rest of the dispositions regarding the regular procedure.<sup>197</sup> Moreover, where the accelerated procedure could not be applied at the border or in transit zones, in particular due to the arrival of large numbers of applicants for international protection, the authorities might apply the accelerated procedure in other locations in the proximity of the border / transit zones.<sup>198</sup>

Following the amendments brought to PD 114/2010 by PD 113/2013, the procedure foreseen as “Border Procedure” has been amended so as to be the same as the one provided for the New Procedure below.

#### New Procedure (applications lodged after 7 June 2013)

<sup>195</sup> Article 24(1) PD 114/2010.

<sup>196</sup> Article 24(1) PD 114/2010.

<sup>197</sup> Article 24(2) PD 114/2010.

<sup>198</sup> Article 24(3) PD 114/2010.



Under the New Procedure, applications at the border are no longer subject to accelerated procedures but are channelled into the regular procedure.<sup>199</sup>

Where applications for international protection are lodged in the transit zones of sea ports or airports (and no longer “at the border”), applicants should enjoy the rights and guarantees set out in Articles 8, 10 and 11 PD 113/2013 (which mirror Articles 8, 11 and 12 PD 114/2010).

Where no decision is taken within 28 days, the asylum seeker is allowed entry into the Greek territory for their application to be examined according to the rest of the dispositions regarding the regular procedure.<sup>200</sup> The Asylum Service reports cases where the procedure in both instances was not concluded within 28 days, as required by Article 24 PD 113/2013, resulting in the applicant’s release from airport authorities. Applicants subsequently presented themselves to the RAO of Attica in order to be issued with an asylum seeker’s card.<sup>201</sup>

According to the Asylum Service, Article 24 PD 113/2013 is in practice applied only in airport transit zones.<sup>202</sup> On 16 November 2013, a Police Circular was communicated to all police authorities, informing them *inter alia* of the procedure to be followed when a third-country national in detention wishes to apply for international protection, including in transit zones.<sup>203</sup>

On 2 September 2015, GCR visited the detention facilities of Athens Eleftherios Venizelos International Airport in order to assist 13 Syrian refugees, including 2 families and 1 unaccompanied minor, who were detained there. All the detainees expressed the will to apply for asylum to the police authorities and within 3 days they were transferred to the RAO of Attica in order for their asylum application to be registered. The interview took place a few days later at the premises of the RAO and the decision was issued approximately 15 days after the registration of the asylum claim. The majority of the applicants were recognised as refugees.

## 5.2. Personal Interview

### Indicators: Border Procedure: Personal Interview

Same as regular procedure

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

The personal interview at the border is conducted according to the same rules described under the regular procedure (see section on Regular Procedure: Personal Interview).

As mentioned above, as per the Asylum Service, Article 24 PD 113/2013 is only applied in airport transit zones. In practice, in cases known to GCR, where the application had been submitted in the Athens International Airport transit zone, the asylum seeker is transferred for the interview to take place to the RAO of Attica. Consequently, no interview through video conferencing in the transit zones has come to the attention of GCR up to now.

<sup>199</sup> Article 24(1) PD 113/2013.

<sup>200</sup> Article 24(2) PD 114/2010.

<sup>201</sup> Asylum Service, *Information provided to GCR*, March 2015.

<sup>202</sup> Asylum Service, *Information provided to GCR*, September 2015.

<sup>203</sup> Police Cir. No. 71778/13/1766605.

### 5.3. Appeal

#### Indicators: Border Procedure: Appeal

Same as regular procedure

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

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

Under both Old and New Procedure, the time-limit for lodging an appeal against a negative decision issued under a border procedure or in First Reception premises is 3 days.<sup>204</sup>

Under the New Procedure, Article 26(4) PD 113/2013 precludes the possibility of an oral hearing with the appellant where the application has been subject to the border procedure.

However, according to the law, where the applicant makes an application for judicial review against the decision of the Appeals Committee and judicial review has suspensive effect over the deportation order, the applicant is allowed to enter the Greek territory pending a decision of the Court.<sup>205</sup>

### 5.4. Legal assistance

#### Indicators: Border Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

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

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

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

The law does not contain special provisions regarding free legal assistance in the border procedure. The general provisions regarding legal aid are also applicable here (see section on [Regular Procedure: Legal Assistance](#)). In practice, legal aid is again provided only by NGOs according to their capacity and in the locations in which they operate.

## 6. Accelerated procedure

### 6.1. General (scope, grounds for accelerated procedures, time-limits)

**Old Procedure (applications lodged before 7 June 2013)**

<sup>204</sup> Article 25(1)(d) PD 114/2010; Article 25(1)(d) PD 113/2013.

<sup>205</sup> Article 24(4) PD 114/2010; Article 24(3) PD 113/2013.

The PD 114/2010 initially left broad scope for acceleration by laying down relatively open-ended grounds for applying the accelerated procedure. Applications for international protection would be examined under the accelerated procedure where:<sup>206</sup>

- (a) The application is manifestly unfounded. This is the case where the applicant:<sup>207</sup>
  - Invokes reasons manifestly irrelevant to refugee or subsidiary protection status;
  - Has filed an abusive application or to mislead the authorities in bad faith;
- (b) The applicant comes from a “safe country of origin” or a “safe third country”.

Following the amendment of PD 114/2010 by PD 113/2013, the grounds for subjecting a case in the accelerated procedure have been modified to mirror the ones foreseen for the New Procedure discussed below.

Claims processed under the accelerated procedure should be concluded within 3 months. Failure to take a decision within that deadline has no consequences, however.<sup>208</sup> Following the personal interview, the asylum seeker’s “pink card” is renewed for a further 3 months’ time, until a decision is reached, instead of 6 months under the regular procedure.<sup>209</sup> Bearing in mind severe delays and the need for repeated appointments for the renewal of “pink cards”, however, coupled with the fact that a final decision may often be issued years later, this provision has placed considerable burden upon applicants subject to the accelerated procedure, considering that the rejected ones whose appeal is still pending before the Committees may be waiting for the examination of their case at second instance for many years.

In practice, under the Old Procedure, the accelerated procedure was applied to the vast majority of asylum applications, regardless of whether the criteria set by Article 17(3) PD 114/2010 were met or not. GCR is aware of many cases where applications of persons originating from Afghanistan, Somalia and even Syria had been processed according to the accelerated procedure, even though it is obvious that these claims do not fall within the scope of Article 17(3). Additionally, there are reported cases of victims of torture, rape or other serious forms of psychological, physical or sexual violence, whose applications are examined under the accelerated procedure under the Old Procedure.<sup>210</sup>

### **New Procedure (applications lodged after 7 June 2013)**

The PD 113/2013 has substantially increased and elaborated the permissible grounds for applying the accelerated procedure. The accelerated procedure may be applied where:<sup>211</sup>

- (a) The applicant comes from a “safe country of origin”;
- (b) The application is manifestly unfounded. This is the case where the applicant invokes reasons manifestly irrelevant to refugee or subsidiary protection status;
- (c) The applicant has presented inconsistent, contradictory, improbably or unsubstantiated information, which render his or her statement of suffering persecution clearly not credible;
- (d) The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents regarding identity and/or nationality, which could adversely affect the decision;
- (e) The applicant has submitted another application for international protection under different personal details;
- (f) The applicant has not provided information establishing, with a reasonable degree of certainty, his or her identity or nationality, or it is likely that in bad faith he or she has destroyed or

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<sup>206</sup> Article 17(3) PD 114/2010.

<sup>207</sup> Article 17(4) PD 114/2010.

<sup>208</sup> Article 17(2) PD 114/2010.

<sup>209</sup> Article 8(1)(d) PD 114/2010.

<sup>210</sup> CIR, *Maieutics Handbook: Elaborating a common interdisciplinary working methodology (legal-psychological) to guarantee the recognition of the proper international protection status to victims of torture and violence*, December 2012, 47.

<sup>211</sup> Article 16(4) PD 113/2013.

- disposed of identity or travel documents, which would help determine his or her identity or nationality;
- (g) The applicant has lodged an application for the sole purpose of delaying or impeding the enforcement of an earlier or imminent deportation decision or removal by other means;
  - (h) The applicant failed to comply with the obligations to cooperate with the authorities throughout the procedure such as by submitting travel and identity documents or notifying their address;<sup>212</sup>
  - (i) The applicant refuses to comply with the obligation to have his or her fingerprints taken;
  - (j) The application was submitted by an unmarried minor for whom an application had already been submitted by his or her parent(s) and was reject, and the applicant has not invoked new substantial elements regarding his or her personal situation or the situation in his or her country of origin.

The extensive list of grounds for accelerating the examination of applications seems highly problematic, although it has relied on the grounds set out in Article 23(4) of Directive 2005/85/EC, the original Asylum Procedures Directive. Beyond introducing new reasons for applying the accelerated procedures, the PD 113/2013 adopts the Directive's open-ended formulation of certain grounds, which may create tensions with international refugee law and runs counter to UNHCR's Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees. By way of example, Article 16(4)(f) PD 113/2013 enables the Asylum Service to channel a claim into the accelerated procedure on the sole reason that the applicant has not provided information to establish with reasonable certainty his or her nationality or identity. This ground is most likely to be deemed applicable when an asylum seeker has entered Greece without documents, which is not however a valid reason for "penalising" the applicant *per se*.<sup>213</sup>

Moreover, the permissibility of acceleration under Article 16(4)(h) PD 113/2013, where the applicant does not fulfil any of the obligations set out in Article 8 PD 113/2013, seems to leave significant ambiguity as to the exact scope of accelerated procedures. Failure to comply with some of these obligations is expressly mentioned as a ground for acceleration, for example as regards fingerprinting in Article 16(4)(i) or submitting identity and travel documents under Article 16(4)(d). Therefore the interpretation of Article 16(4)(h) seems uncertain in practice.

Nevertheless, the PD 113/2013 has marked some improvement compared to the Old Procedure, as Article 16(4) no longer permits the use of the accelerated procedure for applicants coming from a "safe third country".

Similarly to the Old Procedure, the examination of an application under the accelerated procedure must be concluded within 3 months. In cases where the examination exceeds the maximum time limit, the applicant has the right to request information by the competent examination authorities concerning the timeframe within which the decision on the application is to be expected.<sup>214</sup> The Asylum Service is in charge of taking first instance decisions under the New Procedure for both regular and accelerated procedures.

Within the period January-August 2015, 64 applications for international protection were subject to the accelerated procedure.<sup>215</sup>

## 6.2. Personal Interview

<sup>212</sup> Article 8(1) PD 113/2013.

<sup>213</sup> Article 31 Refugee Convention; UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV.3, 196.

<sup>214</sup> Article 16(2) PD 113/2013.

<sup>215</sup> Asylum Service, *Information provided to GCR*, September 2015.

### Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure<sup>216</sup>

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

Under both Old and New Procedure, the conduct of the personal interview does not differ depending on whether the accelerated or regular procedure is applied (see section on Regular Procedure: Personal Interview).

### 6.3. Appeal

#### Indicators: Accelerated Procedure: Appeal

Same as regular procedure

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

Under both Old and New Procedure, the time-limit for lodging an appeal against a decision in the accelerated procedure is 15 days,<sup>217</sup> as opposed to 30 days under the regular procedure.

The Appeals Committee or Appeals Authority Committee must reach a decision on the appeal within 3 months.<sup>218</sup> In practice, the examination of appeals according to the accelerated procedure under the Old Procedure far exceeded the time limits provided by the law, as it may have taken several years.

Under the New Procedure, however, Article 26(4) PD 113/2013 precludes the possibility of an oral hearing with the applicant for appeals placed under the accelerated procedure, which is certainly an issue of concern.

### 6.4. Legal assistance

#### Indicators: Accelerated Procedure: Legal Assistance

Same as regular procedure

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

<sup>216</sup> Article 16(1) PD 113/2013.

<sup>217</sup> Article 25(1)(b) PD 114/2010; Article 25(1)(b) PD 113/2013.

<sup>218</sup> Article 26(4) PD 114/2010; Article 26(5) PD 113/2013.

The same legal provisions and practice apply to both the regular and the accelerated procedure (see Regular Procedure: Legal Assistance).

### C. Information for asylum seekers and access to NGOs and UNHCR

#### Indicators: Information and Access to NGOs and UNHCR

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice?  Yes  With difficulty  No
  - ❖ Is tailored information provided to unaccompanied children?  Yes  No
2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No
3. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No
4. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?  Yes  With difficulty  No

#### Access to information

Third-country nationals arriving at the Greek borders have limited access to information regarding the asylum procedure, including on how to apply for international protection. However, a lot of progress has been made compared to the past. Information regarding the asylum procedure and interpretation services in certain languages used to be provided by UNHCR staff only in the Greek-Turkish land border area of Evros region, within the context of the First Reception Centre (FRC), and in the Lesbos and Samos First Reception Service Mobile Units.

Since the outbreak of the refugee emergency with unprecedented arrival numbers in 2015, UNHCR has enhanced its protection-related services, including information provision. UNHCR as of August 2015 has 20 protection / field staff positioned at key entry points and provides interpretation services through its implementing partner Metadras. In August, over 17,300 persons benefitted from individual or group information sessions by UNHCR.<sup>219</sup> The fact that during August the total number of arrivals reached 80,662 persons, is indicative of the difficulty newly arriving third nationals face in having access to information.

According to the law in place, the authorities competent to receive and examine an application must inform the applicant immediately and in any case within 15 calendar days, providing them with information in a language that they understand.<sup>220</sup>

Access to information has improved since the establishment of the New Procedure. In 2013, the Asylum Service published an informational leaflet for asylum seekers, entitled “Basic Information for People Seeking International Protection in Greece”. The leaflet has been published in 20 languages: Greek, English, Albanian, Amharic, Arabic, French, Georgian, Spanish, Chinese (Mandarin), Sorani, Moldavian, Bengali, Dari, Ukrainian, Urdu, Russian, Swahili, Turkish, Farsi and Hindi. This leaflet describes all

<sup>219</sup> UNHCR, *Greece: UNHCR Operational Update*, August 2015, available at: <http://bit.ly/1RCg0ls>.

<sup>220</sup> Article 3 PD 220/2007.

stages of the procedure and the rights of the applicants throughout. It is available online,<sup>221</sup> as well as in hardcopy in all Regional Asylum Offices (RAOs) and Units, and is given to all applicants who register their claim. In the RAO of Attica, the leaflet is also given to all third-country nationals who present themselves there but who have not been registered on the same day due to the limited capacity of the Office. Information in relation specifically to the Dublin III Regulation is available only online.<sup>222</sup>

No booklet tailored to asylum seeking children has been produced by the Asylum Service, however. Note also that the specific leaflets for unaccompanied minors foreseen under Article 4(3) of the Dublin III Regulation are also not provided.

### Access to UNHCR and NGOs

Under the Old Procedure, information on access to UNHCR and NGOs was only provided by police authorities on informal and fragmentary basis. Under the New Procedure, the law also permits communication with UNHCR or any other organisation providing legal, medical and psychological assistance.<sup>223</sup> In all RAOs and the FRC and FRMUs, UNHCR representatives are present. Moreover, all RAOs provide information on relevant NGOs. However, access and communication with NGOs is still rather limited in remote areas, as the majority of organisations operate in large cities and certain border points of importance.

Access to UNHCR and NGOs for detained asylum seekers merits particular consideration. Although UNHCR has access to detention centres, such access to detained applicants is not always effective in practice, due to the large number of persons detained and the scattered detention facilities across the country.).

NGOs' capacity to access detainees is also limited due to human and financial resource constraints. NGOs operate in specific regions of the country with large numbers of protection seekers and where detention centres are located, mostly Athens and Thessaloniki. Following the end of ERF funding, the Fylakio pre-removal centre and Rhodes (and the rest of Dodecanese islands), where GCR lawyers had been present before, have been receiving no NGO assistance focused on legal aid, since March 2015.

Moreover, authorities have not always granted NGO staff full access to detention centres, although as per the reporting period problems in access to detainees have not been recorded by GCR staff. Besides, GCR has been denied full access to the FRC of Northern Evros, until it registers with the First Reception Service (FRS).

Finally, another major practical barrier to asylum seekers' communication with NGOs is their obligation to pay for their telephone calls, which assumes that applicants have money to purchase telephone cards. In most cases, asylum seekers do not have the financial means to do so.

## D. Subsequent applications

### Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications?  Yes  No
2. Is a removal order suspended during the examination of a first subsequent application?

<sup>221</sup> Asylum Service, *Basic Information for People Seeking International Protection in Greece*, June 2013, available at: <http://bit.ly/1Wuhzb7>.

<sup>222</sup> Asylum Service, *Dublin III*, available at: <http://bit.ly/1ZuHVJh>.

<sup>223</sup> Article 8(1)(c) PD 113/2013.



- ❖ At first instance  Yes  No
- ❖ At the appeal stage  Yes  No

3. Is a removal order suspended during the examination of a second, third, subsequent application?<sup>224</sup>

- ❖ At first instance  Yes  No
- ❖ At the appeal stage  Yes  No

All subsequent applications lodged after 7 June 2013 are submitted before the Asylum Service. Where an applicant for international protection lodges a subsequent application, the competent Regional Asylum Office (RAO) or Asylum Unit must examine the elements of the subsequent application in conjunction with the elements of the previous application or appeal.<sup>225</sup> The law sets out no time-limit for lodging a subsequent application, as the very purpose of Article 23 PD 113/2013 is to allow for another examination of the case whenever new elements arise.

A claim may also be deemed a subsequent application in the case of a family member of the applicant who lodges a separate application. In this case, in the preliminary examination, the authorities assess whether there are facts which justify a separate asylum application by the dependant.<sup>226</sup>

Up to 31 August 2015, 1,098 subsequent asylum applications had been registered since the beginning of the year.

### **Preliminary examination procedure**

An applicant lodging a subsequent application must present the final decision on his or her previous application, as the information therein will be examined in conjunction with the subsequent application.<sup>227</sup> In practice, as a large number of repeat applicants are unable to meet the requirement of presenting the final decision on their initial claim, the Asylum Service proceeds with the registration of subsequent application and assumes itself the responsibility of requesting the case file of the previous application from the relevant Ministry.

Subsequent applications are subject to a preliminary examination, during which the authorities examine whether new substantial elements have arisen or are submitted by the applicant. During that preliminary stage, according to the law all information is provided in writing by the applicant,<sup>228</sup> however in practice subsequent applications have been registered with all information provided orally. It is worth highlighting, however, that the Asylum Service has used the preliminary examination procedure to assess not only whether new substantial elements have arisen in relation to the claim, but also whether the examination of the initial application has been conducted in accordance with the guarantees provided in Article 8 PD 114/2010.

If the preliminary examination concludes on the existence of new elements “which affect the assessment of the application for international protection”, the subsequent application is considered admissible and examined on the merits. The applicant is issued a new “asylum seeker’s card” in that case. If no such elements are identified, the subsequent application is deemed inadmissible.<sup>229</sup>

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<sup>224</sup> No clear answer can be given. The law provides that “Any new submission of an *identical* subsequent application shall be examined by the Determining Authority and shall be filed, in accordance with the provisions of Article 4 of the Code of Administrative Procedure”. On the contrary, no limits are set expressly to the number of subsequent applications that contain *new elements*.

<sup>225</sup> Article 23(1) PD 113/2013.

<sup>226</sup> Article 23(5) PD 113/2013.

<sup>227</sup> Article 23(1) PD 113/2013.

<sup>228</sup> Article 23(2) PD 113/2013.

<sup>229</sup> Article 23(4) PD 113/2013.

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal if applicants who have lodged a subsequent asylum application are suspended.<sup>230</sup>

Any new submission of an identical subsequent application shall be filed, in accordance with the provisions of Article 4 of the Code of Administrative Procedure.

However, subsequent applicants are in practice faced with extremely slow preliminary examination procedures, which in the vast majority of cases known to GCR have lasted several months. 3 months seems to be the minimum waiting time. In one case, supported by GCR, an asylum seeker, victim of torture and suffering from serious health problems from Tanzania had his subsequent application registered on 28 March 2014, to have a decision on the admissibility of his application only 14 months later, i.e. on 19 May 2015, following his arrest (conducted on 15 May 2015).<sup>231</sup> Until the completion of this preliminary procedure, applicants are not provided with proper documentation and have no access to the rights attached to asylum seeker status or protection.<sup>232</sup> Protection from detention (for lack of documentation) and deportation is also hindered in practice as applicants have no documents proving their right to stay pending the preliminary examination of their subsequent claim.

Up to 31 August 2015, 608 out of 1,098 subsequent asylum applications lodged had been accepted as admissible.

## E. Guarantees for vulnerable groups of asylum seekers (children, traumatised persons, survivors of torture)

### 1. Special procedural guarantees

#### Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?  
 Yes     For certain categories     No  
❖ If for certain categories, specify which: Unaccompanied minors subject to First Reception procedures<sup>233</sup>
  
2. Are there special procedural arrangements/guarantees for vulnerable people?  
 Yes     For certain categories     No  
❖ If for certain categories, specify which: Minors, unaccompanied minors, disabled, elderly, pregnant women, single parents with minor children and victims of torture, rape or other serious forms of violence<sup>234</sup>

Greek law foresees a referral system laying down minimum standards for the reception of asylum seekers.<sup>235</sup> More specifically, the competent authorities must make sure that special treatment is provided to applicants belonging to vulnerable groups such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been

<sup>230</sup> Article 23(3) PD 113/2013.

<sup>231</sup> The person was still in detention as per 30 September 2015 and no decision in the merits had been taken on his asylum claim until then.

<sup>232</sup> Greek Ombudsman, *Delays in file transferring of subsequent application of asylum and arrest of asylum seekers*, February 2015, Doc. No 196167, available in Greek.

<sup>233</sup> There is an age assessment procedure described in the relevant Ministerial Decision concerning the First Reception Service, but it is of limited scope and due to the large numbers of arrivals and other factors, its application in practice is not always unhindered.

<sup>234</sup> Legislation in place (PD 220/2007, PD 3907/2011, PD 113/2013) provides special procedural guarantees for the vulnerable, although in practice these are not fully respected.

<sup>235</sup> Articles 17 and 20 PD 220/2007, which transpose into Greek legislation Articles 17 and 20 of Council Directive 2003/9/EC respectively.

subjected to torture, rape or other serious forms of psychological, physical or sexual violence.<sup>236</sup> In addition, according to Article 11(2) L 3907/2011, relating to first reception services, vulnerable groups include unaccompanied minors, persons with disabilities or suffering from an incurable disease, elderly persons, women in pregnancy or puerperal women, single parent families with minor children, victims of torture, rape or other serious forms of psychological, physical or sexual violence or abuse.

The head of the First Reception Centre (FRC), upon receiving a recommendation of the head of the Medical Screening and Psychosocial Support Unit, refers persons belonging to vulnerable groups to the competent body of social support or protection. The referral of persons must be conducted within 15 days, and may be extended for a period of 10 days under exceptional circumstances.<sup>237</sup> These provisions are applicable only at the working frame of the FRC.

In practice, in first reception facilities, health and psychosocial care as well as interpretation services are outsourced to NGOs, so the latter are the ones to proceed to the referrals provided by L 3907/2011. Currently, only 2 FRCs and 2 Mobile Units of the First Reception Service (FRS) are operational and are rather understaffed. As a result, very few newly-arrived asylum seekers actually receive any kind of health and psychosocial care and may thus be actually identified as vulnerable.

As regards the referral of vulnerable persons, considerable delays have been reported. In the case of a person identified by the FRC in Fylakio as a victim of torture,<sup>238</sup> by a referral order dated 8 September 2014 the person was only released from the pre-removal centre in Fylakio mid-November 2014 following a decision granting subsidiary protection, issued approximately 1 month after the asylum interview had been conducted. Nevertheless, the RAO had already submitted on 9 September 2014 a request for a place in a hosting facility to the competent National Centre of Social Solidarity, to which it received no response until the final decision on the asylum application had been taken.

In other cases there is no referral at all. In the case of a person, victim of torture, who was paraplegic and suffering from Amyotrophic Lateral Sclerosis, after his arrival on 27 July 2015 on Kos island, there has been no relevant referral by the relevant authorities to any Service and no special treatment provided, neither in Kos island nor in Athens. Finally, assisted only by NGOs, the person found shelter in Athens, proper medical treatment, applied for asylum, entered the fast-track procedure and finally was recognised as a refugee.

Regarding the personal interview, caseworkers under both Old Procedure and New Procedure must be trained on the special needs of women, children and victims of violence and torture.<sup>239</sup>

Moreover, asylum applications lodged by persons belonging to vulnerable groups shall be examined by priority,<sup>240</sup> although regarding the Appeals Committees of the New Procedure, it is up to the Director of the Appeals Authority to introduce such a case by priority.<sup>241</sup>

### **Survivors of torture or other forms of violence**

The authorities competent for reception and housing or for reception and examination of an asylum application must ensure that persons who have been subjected to torture, rape or other serious acts of violence shall be referred to specialised units, in order to receive the necessary support and treatment

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<sup>236</sup> *Ibid.*

<sup>237</sup> Article 11(2)(5) L 3907/2011.

<sup>238</sup> In the FRC in Northern Evros, the medical staff of the NGO Medical Intervention (Med-in) are in practice the ones suggesting whether a newly arriving asylum seeker is a victim of torture in order for him or her to be referred either to an open reception facility or to the RAO.

<sup>239</sup> Article 17(3) and 26(6) PD 114/2010; Article 16(3) PD 113/2013.

<sup>240</sup> Article 11(2) L 3907/2011.

<sup>241</sup> Article 10(9)(a) PD 114/2010; Article 16(3) PD 113/2013.

of the trauma inflicted by the aforementioned acts.<sup>242</sup> This referral should preferably take place before the personal interview on the asylum claim.

Moreover, under the Old Procedure, if during the personal interview on the asylum claim there are serious indications that the applicant has been subjected to torture, he or she must be referred to a specialised medical centre or a doctor or a psychologist of a public hospital, who shall make a report on the existence of injuries that could be the result of maltreatment or of indications of torture.<sup>243</sup>

Under the New Procedure, a similar provision is to be applied, which however no longer requires that the indications be “serious”, and which permits the referral to be made not only to a public hospital but also to a civil society organisation.<sup>244</sup>

The aforementioned guarantees must also apply during the interviews with regards to the appeals procedure,<sup>245</sup> as well as during any necessary supplementary examination, which takes place in case doubts have arisen or more explicit information about the examined case is needed.

However, currently there are no public health structures specialised in identifying or assisting torture survivors in their rehabilitation process. As a result, it is for the NGOs running relative specialised programmes to handle the identification and rehabilitation of victims of torture. This is rather problematic for reasons that concern the sustainability of the system, given the fact that NGOs’ relevant funding is often interrupted.

Until recently, in Athens, torture survivors were referred for identification purposes to NGO Metadrasi, a service currently unavailable due to lack of funding. On the other hand, rehabilitation of victims of torture has been provided by GCR and Babel Day Centre in the context of “Prometheus” project, co-funded by the European Commission, implemented until September 2014, and is currently (since April 2015) offered by GCR<sup>246</sup> and Babel Day Centre in the context of “Prometheus II Project – Strengthening the rehabilitation of torture victims in Greece” co-funded by the European Commission (similarly co-funded by the European Commission DG HOME - Pilot Project for Victims of Torture), with the cooperation of the Médecins Sans Frontières.

In practice, however, under the Old Procedure, even applicants who did mention that they are victims of torture were not referred to any specialised centre (in practice to the NGO Metadrasi for as long as this NGO run the relevant project) during the first instance personal interview. On the other hand, under the Old Procedure, their interview used to be postponed if the applicant so requested, in order to submit the above-mentioned medical report, where there was information that a person is subjected to such an identification procedure. The Appeal Committees of the Old Procedure quite often referred appellants claiming to be victims of torture for identification.

Under the New Procedure, applicants or appellants who claim to be victims of torture are referred for identification. However, the GCR is aware of cases where no such referral has been made. Under the New Procedure, the postponement of the interview in order to submit the medical report may be granted only once. Nevertheless, as mentioned before, currently there are no public health structures specialised in identifying or assisting torture survivors in their rehabilitation process. According to the Asylum Service, since that there are no specialised state institutions for alleged torture victims to be referred to, applicants who claim to be victims of torture during the registration of their application with the Asylum Service are referred to NGOs which have developed this expertise.

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<sup>242</sup> Article 20 PD 220/2007.

<sup>243</sup> Article 10(13) PD 114/2010; Article 17(11) PD 113/2013.

<sup>244</sup> Article 17(12) PD 113/2013.

<sup>245</sup> Article 10(14) PD 114/2010.

<sup>246</sup> The relevant activity of GCR (i.e. the provision of legal and social assistance to torture victims) is also funded by the UN Voluntary Fund for Victims of Torture - Office of the High Commissioner for Human Rights.

## Women, families and children

Concerning female applicants, special efforts should be made so that the interview is conducted by a specialised female interviewer and that a female interpreter is present.<sup>247</sup> If this is not possible, the relevant reasons should be stated in the report.

In practice at the first instance Old Procedure this provision has not been applied. On the other hand, at the Asylum Service efforts are made so that the interviews are conducted by a female interviewer and a female interpreter, but this is not always possible.

In relation to families, a separate interview should be conducted with each adult family member.

Where children are interviewed, the personal interview should take into consideration their maturity and psychological effects of their traumatic experiences.<sup>248</sup> A minor, unaccompanied or not, aged more than 14 years old may apply for asylum individually, whereas an unaccompanied minor aged under 14 years old may only apply via his or her legal representative.<sup>249</sup>

## 2. Use of medical reports

### Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?  
 Yes       In some cases       No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?  
 Yes       No

As discussed above, where there are indications during the interview that the applicant has been subjected to torture, a report on the existence of injuries that could be the result of maltreatment or of indications of torture may be requested (see section on Special Procedural Guarantees above). There are no concrete criteria for carrying out a medical examination. The officials conducting the interview must have received appropriate training in order to be able to identify the indications referred to by the PD 113/2013. To this end, some special training seminars on survivors of torture were offered to caseworkers conducting interviews in the new Asylum Service, although none to the Appeals Authority staff; the impact of those trainings remains to be seen. An introduction to legal protection issues regarding the victims of torture and to the psychological impact of torture to the victims has been provided by GCR and Babel Day Centre staff to the Appeals Committees of PD 114/2010 members in a day thematic training organised by the UNHCR Greece, in June 2015.

Decisions of the Appeals Authority Committees (AACs) and Appeals Committees of the Old Procedure recognising victims of torture as refugees often refer to medical and psychological or psychiatric certificates provided by NGOs.

In the past, torture survivors were referred for identification and rehabilitation to the Medical Rehabilitation Centre for Victims of Torture. However, a 2011 Council of State decision cast doubt on the probative value of the medico-legal reports of the Centre.<sup>250</sup> The medico-legal reports provided by NGO Metadrasi have been based on the methodology laid down in the Istanbul Protocol. However, as

<sup>247</sup> Article 10(1) PD 114/2010; Article 17(1) PD 113/2013.

<sup>248</sup> *Ibid.*

<sup>249</sup> Article 3(3)-(4) PD 113/2013.

<sup>250</sup> Council of State, Decision No. 1482/2011.

was the case with the Medical Rehabilitation Centre, the medico-legal reports of Metadrasi lack the necessary state authority and are therefore not binding on state authorities as proof of torture.

### 3. Age assessment and legal representation of unaccompanied children

#### Indicators: Unaccompanied Children

1. Does the law provide for an identification mechanism for unaccompanied children?  
 Yes       No
2. Does the law provide for the appointment of a representative to all unaccompanied children?  
 Yes       No

Under the Old Procedure the competent authorities to examine applications may use medical examinations to determine the age of unaccompanied minors. In cases where medical examinations are used:

- (a) Unaccompanied minors are informed prior to the examination of their application and in a language which they understand, of the possibility that their age may be determined by medical examination, the method of examination to be used, the possible consequences of the result of the medical examination for the examination of the application, as well as the consequences of a refusal on the part of the unaccompanied minor to undergo the medical examination;
- (b) The unaccompanied minors or their guardians consent to carry out an examination to determine the age of the minors concerned;
- (c) The decision to reject an application from an unaccompanied minor who refused to undergo this medical examination shall not be based solely on that refusal;
- (d) Until the completion of the medical examination, the person who claims to be a minor shall be treated as such.

If the results of the medical examination are not firmly conclusive that the applicant is adult, s/he shall be treated as a minor. The fact that an unaccompanied minor has refused to undergo such a medical examination shall not prevent the Determining Authority from taking a decision on the asylum application. The best interests of the child should be a primary consideration when implementing the provisions of the law in matters of the applications of unaccompanied minors.<sup>251</sup>

The New Procedure mirrors the provisions of the Old Procedure.<sup>252</sup>

In both procedures the applications for international protection of the unaccompanied minors are always examined under the regular procedure.<sup>253</sup> PD 114/2010 (Old Procedure) also foresaw the prioritised examination of their claims,<sup>254</sup> contrary to PD 113/2013, according to which any prioritised examination of vulnerable persons lies upon the discretion of the relevant authorities.<sup>255</sup>

Unaccompanied minors are not always granted international protection status. According to information provided by the Asylum Service to GCR staff, a number of children's applications have been rejected at second instance.<sup>256</sup> The GCR has offered legal assistance to 2 unaccompanied minors in the appeal procedure before the Administrative Court of Appeals, where the children were not granted any kind of protection either. The hearing has already taken place in one of the cases, but the relevant decision is still pending, while in the other one, no hearing has taken place yet.

<sup>251</sup> Article 12(4)-(6) PD 114/2010.

<sup>252</sup> Article 11(3)-(7) PD 113/2013.

<sup>253</sup> Article 11(6) PD 113/2013; Article 12(4) PD 114/2010.

<sup>254</sup> Article 12(4) PD 114/2010.

<sup>255</sup> Article 16(3) PD 113/2013.

<sup>256</sup> Asylum Service, *Information provided to GCR*, March 2015.

## Age assessment in the First Reception Centres (FRCs)

As of 29 October 2013, a Ministerial Decision of the Minister of Health established for the first time in Greece an age assessment procedure applicable within the context of the First Reception Service (FRS).<sup>257</sup> However, the scope of MD 92490/2013 is not extended to cover other procedures that concern unaccompanied foreign children and are implemented by other competent authorities such as the Hellenic Police and the Asylum Service.<sup>258</sup>

According to the MD 92490/2013, in case where there is specifically justified doubt as to the age of the third-country national, and the person may possibly be a minor, then the person is referred to the medical control and psychosocial support team for an age assessment. Initially, the age assessment will be based on macroscopic features (i.e. physical appearance) such as height, weight, body mass index, voice and hair growth, following a clinical examination from a paediatrician, who will consider body-metric data. The paediatrician will justify his or her final estimation based on the aforementioned examination data and observations. In case the person's age cannot be adequately determined through the examination of macroscopic features, an assessment by the psychologist and the social worker of the division will follow in order to evaluate the cognitive, behavioural and psychological development of the individual. The psychosocial divisions' evaluation report will be submitted in writing. Wherever a paediatrician is not available or when the interdisciplinary staff cannot reach any firm conclusions, and only as a measure of last resort, the person will be referred to a public hospital for specialised medical examinations such as dental or wrist X-rays, which will be clearly explained to him or her as far as their aims and means are concerned.

This provision should be considered as a very positive development, as before MD 92490/2013 had entered into force, the competent authorities would merely use medical examinations to determine an asylum seeker's age; it should be borne in mind that medical examinations to assess the age of a person entail a considerable margin of error and are therefore unreliable. It remains to be seen how the new procedure in the FRC is practically implemented, but in any case, the ground is set for a more proper age assessment for children.

The estimations and the assessment results are delivered to the Head of the Medical Control and Psychosocial Support Division, who recommends to the Head of the FRC the official registration of age, noting also the reasons and the evidence supporting the relevant conclusion.

After the age assessment procedure is completed, the individual should be informed in a language he or she understands about the content of the age assessment decision, against which he or she has the right to appeal, in accordance with the Code of Administrative Procedure, submitting the appeal to the Secretariat of the FRC within 10 days from the notification of the decision on age assessment. However,

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<sup>257</sup> Ministerial Decision n. Y1.Γ.Π.οικ. 92490/2013 "Programme for medical examination, psychosocial diagnosis and support and referral of entering without legal documentation third country nationals, in first reception facilities".

<sup>258</sup> However, in its document No 5236 of 20 June 2014, the Asylum Service, replying to a letter communicated by GCR regarding *inter alia* age assessment issues, suggested that: "When an asylum seeker has initially stated to the competent authorities that he/she is an adult and consequently has been registered as such, if the person states before the Asylum Service that he/she is a minor, he is registered by the latter as a minor and the relevant allegation is considered as per its credibility during the interview. If prior to the registration by the Asylum Service an age assessment procedure has been conducted, taking into account that the medical certificates of forensic doctors and doctors regarding age are public documents, the conclusions may be doubted only by providing documents of the same legal force with the opposite content, namely an original document of his/her country's authorities according to which he/she is a minor. In this case, the person is considered a minor. Similarly, if the medical exams conducted before provide no certainty for the age of the person, then he/she is granted the benefit of the doubt. In this same document addressed to GCR, the Asylum Service also explained that it has taken the initiative to produce a draft of a Joint Ministerial Decision in order for a procedure to be established, further enhancing the content of the dispositions of art. 11 PD 113/2013. The suggested procedure is similar to the one provided in the above-mentioned Ministerial Decision in place in the framework of the First Reception Service."



persons claiming to be underage, who have yet been registered as adults, report that they face practical difficulties in receiving identification documents proving their age within this 10-day period, given the fact that they are restricted in the First Reception facilities. Also, although the possibility to receive mails is provided by the FRS, problems have been reported in practice regarding applicants' proper access to their correspondence. As a result, having access to identification documents sent via email before the 10-day time-limit is not always possible.

However, UNHCR has observed inconsistencies in the treatment of unaccompanied minors' cases by the various First Reception regional structures.<sup>259</sup> In practice, a large number of unaccompanied children crossing the borders of Greece are systematically wrongly registered as adults. As a result, they face the danger of prolonged detention in adult detention facilities and hindrance from the enjoyment of the rights of the child.

In 3 cases of young persons who claimed to be under 18 within the pre-removal centre of Fylakio, for whom an age assessment act had been produced by the FRC classifying them as adults, the age assessment act had been based solely on the conclusions reached on the grounds of a medical and psychosocial examination.

More recently, during a September 2015 GCR visit to the Paranesti pre-removal centre, 2 persons claiming to be (and apparently being) unaccompanied minors were found to be detained. Both had been previously subjected to first reception procedures, after which they had been identified as adults. Noteworthy is the fact that, following GCR's intervention to the Police, the second child underwent a medical examination, the result of which had been that the person was actually a minor and is currently awaiting placement in a hosting facility.

It should be noted that, according to the Director of the FRS, every document received *after* the referral of a new entrant to the pre-removal centre is forwarded to the pre-removal centre and the personal file of the detainee is updated.

### **Appointment of guardian**

Regardless of whether an application for international protection is lodged by an unaccompanied child, the competent authorities must take appropriate measures to ensure the minor's necessary representation.<sup>260</sup> This action must be taken in line with the best interests of the child.<sup>261</sup> To this end, the authorities must inform the Public Prosecutor for Minors or, in the absence thereof, the territorially competent First Instance Public Prosecutor, who shall act as a provisional guardian and shall take the necessary steps in view of the appointment of a guardian for the minor.

In practice, however, the guardianship system is completely dysfunctional, as prosecutors and the Court's office do not have the necessary resources to handle the large number of cases referred to them and as there is no institution or body in place that prosecutors can refer to in order to appoint permanent guardians. In fact, the same Prosecutor usually formally acts as guardian for far more than one children. In some cases, permanent guardianship is transferred to Directors of the Reception Centres or state social workers. In a 2012 report, UNHCR and NGOs note that it:

“[S]eems that the procedures followed in order to ensure the representation and protection of unaccompanied children depends on the discretion of the prosecutor and on the supporting

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<sup>259</sup> UNHCR, *UNHCR Observations on the current situation of asylum in Greece*, December 2014, 11.

<sup>260</sup> Article 19(1) PD 220/2007.

<sup>261</sup> Article 18(1) PD 220/2007.

services that the prosecutor may have at his or her disposal (such as NGOs, social services).”<sup>262</sup>

Currently, the NGO Metadrasi runs a project which refers to the creation of a Guardianship Network for Unaccompanied Minors. In the frame of this project the Prosecutor, acting as a temporary guardian by law, provides the staff participating in the project with certain powers but not with the guardianship *per se*.

Even now, the guardianship system has undoubtedly not reached a satisfactory level of efficiency yet. In its recent decision on the framework of the execution of the ECtHR judgment in *MSS v Belgium and Greece*, the Council on Europe Committee of Ministers regretted the fact that no relevant information was provided and called upon the Greek authorities to put in place a mechanism securing the appointment of guardians for all unaccompanied minors.<sup>263</sup>

In practice, applicants who receive an age assessment act by the FRS are referred to hosting facilities either from the FRC or the RAO staff and, if a hosting facility is found, they are accompanied to that facility by the staff of the NGO Metadrasi in the frame of the a relevant project and by the police. Immediately after the age assessment and before the transfer to the pre-removal centre, the public prosecutor is informed, following an administrative act of referral of the Head of the FRMU or the FRC, in order for the prosecutor to issue an order of protective custody. The prosecutor is also informed about those who may be presented as parents or relatives and wish to initiate the guardianship process.

During the first months of operation of the FRC, it was reported that children accompanied by their adult siblings were separated from them upon arrival due to a restrictive interpretation of the definition of family. The children were held in the FRC and were referred to hosting facilities, while their adult siblings remained detained in the adjacent pre-removal centre of Fylakio. In one case, a child who had arrived together with his adult brother was separated from him, but the two were reunited following the intervention of the prosecutor. Currently, if adult siblings are present, the prosecutor issues a provision of temporary care assignment of children to their adult siblings.

The creation of a network for guardianship for unaccompanied minors by the NGO Metadrasi may help better address the needs of this vulnerable group.<sup>264</sup> The members of the network are to be locally based and provide their services in places where shelters for unaccompanied children are located and at the borders. They are to be responsible for 3-5 children aged up to 15 years.

## F. The safe country concepts

### Indicators: Safe Country Concepts

- |  |   |  |
|--|---|--|
| 1. Does national legislation allow for the use of “safe country of origin” concept?  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Is there a national list of safe countries of origin?                              | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice?                            | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept?      | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Is the safe third country concept used in practice?                                | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |

<sup>262</sup> UNHCR, France Terre d’Asile, Save the Children and PRAKSIS, *Protection of Children on the Move: Addressing protection needs through reception, counselling and referral and enhancing cooperation in Greece, Italy and France*, July 2012, available at: <http://bit.ly/1cmO5X1>.

<sup>263</sup> CoE Committee of Ministers, *Outcome of 1214th Meeting (DH) 2-4 December 2014*, 5 December 2014, CM/Del/Dec(2014)1214, 20.

<sup>264</sup> See the Guardianship Network’s website at: [www.epitropeia.org](http://www.epitropeia.org).

Under both Old Procedure and New Procedure, an application for international protection may be rejected as inadmissible where the applicant avails him or herself of adequate protection from a “first country of asylum” or a “safe third country” (see section on [Admissibility Procedure](#)).<sup>265</sup>

### **First country of asylum**

According to Article 19 PD 114/2010 (Old Procedure) and Article 19 PD 113/2013 (New Procedure), a country is considered as “first country of asylum” for a particular applicant if he or she has been recognised by that country as a refugee and can still avail him or herself of that protection or otherwise enjoys sufficient protection in that country, including benefiting from the principle of *non-refoulement*, provided that he or she will be re-admitted to that country.<sup>266</sup>

### **Safe third country**

Under the Old Procedure, a country is considered as a “safe third country” for a specific applicant when all the following cumulative conditions are fulfilled:

- (a) The applicant's life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- (b) The country respects the principle of *non-refoulement* in accordance with the 1951 Refugee Convention;
- (c) The applicant is not at risk of suffering serious harm as described in [the Qualification Directive];
- (d) The prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected by this country;
- (e) The possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Refugee Convention.<sup>267</sup>

In the New Procedure, the criteria for a “safe third country” mirror those of PD 114/2010, subject to an additional criterion:

- (f) The applicant has a link with the third country concerned which would reasonably allow him or her to move to that country.<sup>268</sup>

The fulfilment of these conditions must be examined in each individual case and for each applicant separately.<sup>269</sup> Where the third country designated as safe does not permit the applicant to enter its territory, the asylum application must be examined in substance.<sup>270</sup> In practice, to the knowledge of GCR and as the Asylum Service has confirmed,<sup>271</sup> Greece has not applied the “safe third country” concept. Therefore these legal provisions have not been subject to interpretation.

### **Safe country of origin**

Under the Old Procedure, PD 114/2010 defines the “safe country of origin” concept as applicable where the applicant (a) has the nationality of or habitual residence in that country; and (b) has not submitted any serious grounds for considering the country not to be a safe country of origin in their particular circumstances in terms of their qualification as beneficiary of international protection.<sup>272</sup> A country may

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<sup>265</sup> Article 18(b) PD 114/2010; Article 18(c) PD 113/2013.

<sup>266</sup> Article 19 PD 114/2010; Article 19 PD 113/2013.

<sup>267</sup> Article 20(1) PD 114/2010.

<sup>268</sup> Article 20(1) PD 113/2013.

<sup>269</sup> Article 20(2) PD 114/2010; Article 20(2) PD 113/2013.

<sup>270</sup> Article 20(3) PD 114/2010; Article 20(3) PD 113/2013.

<sup>271</sup> Asylum Service, *Information provided to GCR*, September 2015.

<sup>272</sup> Article 21(2) PD 114/2010; Article 21(2) PD 113/2013.

be considered as a “safe country of origin” where it may be clearly established that its nationals are not at risk of persecution or serious harm.<sup>273</sup>

A national list of safe countries of origin was to be drawn up by the Greek Police, and could include parts of the territory of a country.<sup>274</sup> This last provision has been dropped in the New Procedure.<sup>275</sup> Moreover, the competent authority to formulate a list of safe countries of origin is the Department of International Cooperation and Documentation of the Central Asylum Service.

To date, there is no national or EU common list of safe countries. Therefore, the rules relating to safe countries of origin in Greek law have not been applied in practice and there has been no reference or interpretation of the above-mentioned provisions in decision-making practice. The adoption of such a list does not seem to be envisaged in the future.

## G. Treatment of specific nationalities

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded?  Yes  No  
❖ If yes, specify which: Syria
  
2. Are applications from specific nationalities considered manifestly unfounded?<sup>276</sup>  Yes  No  
❖ If yes, specify which: Bangladesh, Pakistan, Georgia, Egypt, Albania

### Asylum seekers from Bangladesh, Pakistan, Georgia, Egypt, Albania

As of October 2014, as opposed to a 4-month validity applicable to all other nationalities, applicants originating from Albania, Bangladesh, Egypt, Georgia and Pakistan receive an asylum seeker’s card valid for 3 months, instead of the 45-day period previously applicable to these nationalities.<sup>277</sup> The *ratio* for this distinction, according to the Asylum Service Director’s Decision, is the different period of time expected to be necessary for the issuing of a decision on the asylum claim of applicants depending on their nationality.

### Treatment of asylum seekers from Syria

Fast-track processing under the regular procedure has been applied since 23 September 2014 for Syrian nationals who wish to lodge an asylum application for the first time before the Asylum Service and who hold original passports. Under this procedure, both registration and decisions on applications take place within the same day (see section on [Regular Procedure: Fast-Track Processing](#)). Until 31 August 2015, the Asylum Service had registered a total of 1,948 asylum applications under the fast-track procedure, of which 155 were submitted by persons of Palestinian origin coming from Syria.<sup>278</sup> This number represents the total of applications processed under the fast-track procedure since its start. Out of these applications, a total of 1,725 had been processed until the end of August 2015.

However, access to the procedure in order for registration and a decision to take place on the same day has not been always guaranteed, even if an appointment for lodging an asylum application under the

<sup>273</sup> Article 21(3) PD 114/2010; Article 21(3) PD 113/2013.

<sup>274</sup> Article 21(1)(b) PD 114/2010.

<sup>275</sup> Article 21(1)(b) PD 113/2013.

<sup>276</sup> Whether under the “safe country of origin” concept or otherwise.

<sup>277</sup> Decision 8248/2014 of the Director of the Asylum Service of the Ministry of Public Order and Citizen Protection “on the validity of cards of applicants for international protection”.

<sup>278</sup> Information provided by the Asylum Service to GCR, September 2015.

fast-track procedure could be booked via Skype 3 times a week for the Syrians that fulfil the above conditions. Moreover, this fast-track procedure is not available to Syrians who wish to lodge a subsequent application. Last but not least, criminal networks have been allegedly taking profit of refugees' need to register their claim, asking for large amounts of money in order to facilitate connection to skype and assure that the communication will be successful.

In any event, the case remains that a considerable number of Syrians do not wish to apply for asylum in Greece.<sup>279</sup>

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<sup>279</sup> UNHCR, *UNHCR Observations on the current asylum system in Greece*, December 2014, 15, 22.

## Reception Conditions

### A. Access and forms of reception conditions

#### 1. Criteria and restrictions to access reception conditions

##### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?
- |                           |   |  |                             |
|---------------------------|---|--|-----------------------------|
| ❖ Regular procedure       | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Dublin procedure        | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Admissibility procedure | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Border procedure        | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Accelerated procedure   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Appeal                  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Onward appeal           | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
| ❖ Subsequent application  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Reduced material conditions | <input type="checkbox"/> No |
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?  Yes  No

Asylum seekers in Greece, including those transferred back to Greece or awaiting transfer to another EU Member State under the Dublin Regulation, generally do not benefit from any material support, notwithstanding the legal obligation of the state to provide accommodation and minimum financial assistance, as laid down in legislation. Many asylum seekers, including children, are homeless or live in substandard accommodation.

Article 12(1) PD 220/2007 provides that the authorities competent to receive and accommodate asylum seekers<sup>280</sup> shall take adequate measures in order to ensure that material reception conditions are available to applicants for asylum. These conditions must provide applicants with a standard of living adequate for their health, capable of ensuring their subsistence and to protect their fundamental rights. According to Article 17 PD 220/2007, the abovementioned standard of living must also be provided to persons who have special needs as well as to persons who are in detention.

The provision of all or some material reception conditions and health care is subject to the condition that applicants do not have sufficient means to maintain an adequate standard of living adequate for their health and capable of ensuring their subsistence.<sup>281</sup> This condition must be verified by the authorities competent to receive and accommodate asylum seekers. If it becomes clear that the applicant has sufficient means, these authorities may stop providing reception conditions to the extent that the applicant's subsistence needs are covered by own sources.<sup>282</sup> Applicants must in such case contribute, in full or in part, to the cost of the material reception conditions and of their health care depending on their own financial resources.<sup>283</sup>

The criteria and evidence used for the assessment of "sufficient means" are those applicable to Greece's social welfare framework.<sup>284</sup>

In a 2014 GCR survey with operators of open reception centres for asylum seekers in 2014,<sup>285</sup> asked about the legal entitlement of asylum seekers to material reception conditions throughout the different

<sup>280</sup> I.e. the Ministry of Labour, Social Security and Social Solidarity.

<sup>281</sup> Article 12(3) PD 220/2007.

<sup>282</sup> *Ibid.*

<sup>283</sup> Article 12(4) PD 220/2007.

<sup>284</sup> Article 12(5) PD 220/2007, citing L 57/73 "measures for the social protection of the financially weak groups and abolishment of the law concerning the poverty state".

stages of the application process, some organisations referred to L 3907/2011 which entitles refugees to services such as emergency medical treatment, food and living conditions. Since these entitlements are only applicable to those having lodged an asylum claim, irregular migrants are excluded from the benefits granted by law and are socially marginalised due to the impossibility of self-sustainment through legal means. Some of the reception centres' operators stated, however, that they provide services on a humanitarian basis also to undocumented migrants and underlined that UAMs are in any case entitled to receive material conditions until they turn 18.

Obstacles to receiving material conditions may exist mostly because the demand for support exceeds the centres' capacity to provide it (e.g. with regard to accommodation). Waiting time for being provided material assistance at the reception centres is unbearably long and centres are sometimes located far away from metropolitan areas, NGOs or hospitals where health care or other assistance not provided by the reception centres can be provided. Furthermore, experience by GCR shows that insufficient accommodation capacities of reception centres and delays or unwillingness of the relevant authorities to issue the necessary documents can prevent asylum seekers from receiving the material conditions they are entitled to.

## 2. Forms and levels of material reception conditions

### Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 30 September 2015 (in original currency and in €):<sup>286</sup> Not fixed

Material reception conditions provided in PD 220/2007 include accommodation in reception centres and a financial allowance. Asylum seekers may not stay in reception centres for more than 1 year, after which they are assisted in finding accommodation.<sup>287</sup>

For persons declared as disabled, who have a disability degree over 67% certified by the relevant health committee, where accommodation in reception centres is not feasible, a disability benefit is granted for the duration of the examination of their asylum application.<sup>288</sup> The amount of financial assistance is defined in accordance with the level of assistance provided in social welfare legislation. The level of financial assistance for asylum seekers must be equal to that available to Greek nationals.<sup>289</sup>

However, contrary to what is stipulated in the law, the vast majority of asylum seekers still do not receive adequate reception conditions in Greece to date. There is no financial allowance in practice to cover the living expenses of applicants. Reports suggest that significant numbers of asylum seekers, including persons transferred back to Greece under the Dublin Regulation before the *MSS* ruling are left

<sup>285</sup> GCR sent a questionnaire to 15 reception centres in Greece and received responses by 11 on general information such as accommodation capacity, personnel employed and services provided. Only 4 reception centres answered the more detailed questions of the questionnaire on service provision, legal obligations, government funding. These centres are LAVRIO-RED CROSS (hereinafter LAVRIO), MISSION-ATHENS ARCHDIOCESE (hereinafter ARCHDIOCESE), STEGI-PRAKSIS (hereinafter PRAKSIS) and ANOGIA, EIN (hereinafter ANOGIA).

<sup>286</sup> Only a few reception centres hand out monthly financial allowances. The amount is not fixed, however, and is subject to budgetary constraints of NGOs managing the centres.

<sup>287</sup> Article 13(2) PD 220/2007.

<sup>288</sup> Article 12(1) PD 220/2007. However the allowance is lower than for Greek nationals with similar disabilities. See UNHCR, *UNHCR Observations on the current situation of asylum in Greece*, December 2014, 21.

<sup>289</sup> Article 4(1)(e)-(f) L 330/2005.



unassisted, homeless or end up in overpriced and overcrowded shared rooms. People who are not accommodated in accommodation centres also face serious obstacles in gaining access to services including health care and education, among others.<sup>290</sup>

According to the findings of the aforementioned survey conducted by the GCR in 2014, it is noteworthy that opinions on what services are to be provided by law are highly divergent. While all institutions which answered the survey named accommodation, food and clothing as legal entitlements of refugees, only some operators provide particular services as well, such as social services, legal assistance and access to education and financial assistance, either because they consider their provision as a legal obligation or on a voluntary basis.

Another aspect of concern is the level of financial assistance provided to asylum seekers. In the framework of the aforementioned survey, the NGO PRAKSIS had expressed concern about the financial assistance they can provide, which, according to the organisation, amounted to 40% of the social welfare benefits of a Greek national and is not sufficient for a decent living at all. Other reception centres declared that the financial support they receive covers the services they provide to asylum seekers, but not for granting financial allowance or vouchers to the asylum seekers. ARCHDIOCESE admitted to be unaware of the procedure of direct financial support to asylum seekers, but highlighted that persons with disabilities that are not able to receive financial benefits would otherwise be allowed to obtain a place in shelters especially for people with such special needs.

### 3. Types of accommodation

**Indicators: Types of Accommodation**

1. Number of reception centres: 16
2. Total number of places in the reception centres: 1,123
3. Total number of places in private accommodation: 120
4. Type of accommodation most frequently used in a regular procedure:  
 Reception centre  Hotel or hostel  Emergency shelter  Private housing  Other
5. Type of accommodation most frequently used in an accelerated procedure:  
 Reception centre  Hotel or hostel  Emergency shelter  Private housing  Other

There are 16 open reception centres in Greece, with the following maximum capacity, where available:

Open reception centre	Location	Maximum capacity
Agioi Anargiroi	Attica	70
Anogia	Attica	25
Arsis Refugees Shelter	Attica	12 families and 8 single-parent families
Doctors of the World Athens	Attica	70
Missions Athens Archdiocese	Attica	20
Red Cross Lavrio	Attica	320
Hospitality Nostos	Attica	70
Future Nostos Moshato	Attica	102 (60 UAMs and 14 single-parent families)
Society of Minors' Care Isavron	Attica	18
Makrinitza Volos Arsis	Volos	30
Volos Agria	Volos	30
Oreokastro Arsis	Thessaloniki	30
Arsis Alexandroupoli	Thrace	22

<sup>290</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 21.

Praksis & Red Cross Patras	Patras	30 UAMs and 40 families
Praksis & Red Cross	Athens	30
Praksis Petralona	Attica	24

Additionally, there are 24 apartments (of which 19 in Attica, 4 in Thessaloniki and 1 in Lesbos) for a total of 120 persons, managed by the NGO Praksis (Praksis Stegi Apartments Programme).

The reception centres for asylum seekers listed above are *not* to be confused with the recently created open accommodation centre for the newly-arrived in **Eleonas**,<sup>291</sup> nor those announced to be established in **Lavrio** and **Sindos** (Thessaloniki region).<sup>292</sup> In order to enter Eleonas Open Accommodation Centre for the Newly-Arrived, it is not required to have applied for asylum, as it is for the aforementioned centres, this is why the 600 beds of Eleonas are not included in the number above. In practice, people remain in Eleonas for 3 days on average and depart, usually without having applied for asylum.

The above have been offering a total maximum of 1,243 places as of September 2015. This number derives from the total capacity of the centres (1,123) and apartments (120), following an estimation of the single parent (8x3) and nuclear family places (12x4) available, wherever the centre does not specify the exact capacity number.

Under PD 220/2007, exceptionally, the authorities may provide accommodation in a hotel or another suitable place if it is not possible to house an applicant in an accommodation centre for reasons of capacity and the applicant is neither detained nor restricted in a border post. However, in all cases, the basic needs of the applicant must be covered.<sup>293</sup>

The GCR has been housing vulnerable cases in hotels in Athens. The number of persons in hotel varies as it depends on the length of stay and the available budget. In 2014, 219 persons had been temporarily housed in hotels with an average length of stay 17.6 days.

Most of the aforementioned 16 reception centres are run by NGOs, and have been depending on funding, until recently mainly originating from the European Refugee Fund (ERF), whose disbursement in Greece has always been very slow, thereby adversely affecting the level of services delivered to the few asylum seekers provided with a space in one of the centres, including for referrals to hospitals and schools.

The latest version of the “Greek Action Plan on Asylum Reform and Migration Management”, initially presented by Greece to the European Commission in August 2010<sup>294</sup> was presented during the informal EU Justice and Home Affairs Council meeting of January 2013.<sup>295</sup> This revised Action Plan foresaw an increase in reception places, as well as some specialised facilities for children, all of which would be welcome measures if adopted and implemented in practice. However, even with the additional capacity of the proposed new and refurbished centres, the total reception capacity will still fall far short of the

<sup>291</sup> Under JMD 3/5262 (Official Gazette B' 2065/18.09.2015) a new accommodation facility for third-country nationals, asylum seekers and vulnerable groups, with capacity of 600 beds has been created in Eleonas area of Attica, to address the urgent accommodation needs of the said population. The Centre operates under the supervision of the FRS, which is responsible for its daily management. The Ministry of Labour also supports the Centre through implemented programs for vulnerable groups. The Centre is of provisional nature and is scheduled to operate up to 31 December 2015.

<sup>292</sup> To Vima, “Two new refugee reception centers in Lavrio and Sindos”, 17 September 2015, available at: <http://bit.ly/1Q4f6Qw>.

<sup>293</sup> Article 13(10) PD 220/2007.

<sup>294</sup> European Commission, *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 September 2010.

<sup>295</sup> Irish Presidency of the Council of the European Union, *Discussion Paper – Session II (Home Affairs) Greek National Action Plan on Asylum and Migration Management*, Informal Justice and Home Affairs Ministers' Meeting Dublin 17 - 18 January 2013, available at: <http://bit.ly/1PRYYm0>.

actual needs, should the number of asylum applications remain at current levels. Thus asylum seekers in Greece continue to face a high risk of homelessness, destitution and other conditions that hinder or render impossible the effective lodging of an asylum application. The previous Greek Government's commitment concerning the establishment of 2,500 places for asylum seekers by the end of 2014 was never implemented. On 12 August 2015, the former Deputy Minister of Migration Policy, Ms Christodouloupoulou reiterated that the aforementioned places will be created by the end of 2015.<sup>296</sup>

According to the Asylum Service, all applicants who are registered are asked whether they are in need of accommodation. If so, the Asylum Service communicates the applicant's request for accommodation to the National Centre of Social Solidarity (NCSS – "EKKA" in Greek), the competent authority for the allocation of applicants to the existing reception centres/facilities.

According to the NCSS, the total number of accommodation requests received in the first 2 quarters of 2015 (January-June 2015) was 1,899, compared to 1,964 in the respective period of 2014.<sup>297</sup>

Indicatively, according to the latest NCSS statistics available as of June 2015, the rate of success for accommodation was per category of applicants as follows:

Category of applicant	Number of requests	Rate of success
Adults	138	65,94%
Families	135	100%
Single-parent families	216	100%
Unaccompanied children	503	99,6%

The involvement of external service providers (NGOs and others) in the operation of the reception facilities is regulated on a case-by-case basis, depending on the provisions of the individual programme agreement concluded between the external service provider and the Division of Social Protection and Solidarity, Department for the Protection of Refugees and Asylum Seekers at the Ministry of Labour, Social Security and Social Solidarity. By virtue of Ministerial Decision 93510/2011, coordination of the third parties involved in the system for managing accommodation was assigned by the Ministry of Health to the National Centre for Social Solidarity (which is placed under the supervision of the Ministry of Labour, Social Security and Social Solidarity).<sup>298</sup>

An interesting outcome of the 2014 survey conducted by GCR was the finding that reception centres mentioned that people often stay 18 months and even longer, even though Article 13(2) PD 220/2007 limits the stay in accommodation centres to 1 year. Those asylum seekers could be children that have to be accompanied until they turn 18 or adult asylum seekers who stay in the facilities, because they have no other place to go.

Among its recommendations to the Greek government in April 2015, UNHCR called for the adequate staffing of the FRS with qualified personnel and the establishment of FRCs at main entry points, namely on the islands; adoption of the necessary legislative framework for FRS referrals of persons with special needs in hosting structures; and prompt increase of reception capacity to the target of 2,500 places.<sup>299</sup>

#### 4. Conditions in reception facilities

<sup>296</sup> MIAR, Announcement by Ms Christodouloupoulou: "Creation of 2,500 Open Reception Places for Refugees until the end of 2015", 12 August 2015, available in Greek at: <http://bit.ly/1fuGwyY>.

<sup>297</sup> NCSS, *Statistics 1st trimester 2015*, available at: <http://bit.ly/1WulyVk>; NCSS *Statistics 2nd trimester 2015*, available at: <http://bit.ly/1WulCnY>.

<sup>298</sup> EMN, *Second Focussed Study 2013: The Organisation of Reception Facilities for Asylum Seekers in the different Member States*, available at: <http://bit.ly/1J7ipn3>, 13.

<sup>299</sup> UNHCR, *Greece as a country of asylum: UNHCR Recommendations*, 6 April 2015.

### Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?  Yes  No
  
2. What is the average length of stay of asylum seekers in the reception centres? (in 2014)
  - ❖ Unaccompanied children 51 days
  - ❖ Single adults 172 days
  - ❖ Single parent families 148 days
  - ❖ Nuclear families 229 days
  
3. Are unaccompanied children ever accommodated with adults in practice?  Yes  No

Under PD 220/2007, during their stay in reception centres, families should be housed in the same place.<sup>300</sup> Moreover, children should be accommodated with their parents or with the adult family member responsible for them in full respect of their specific needs, with the aim of safeguarding their family life.<sup>301</sup> Moreover, while providing accommodation to the applicant, the competent authorities must take all adequate measures as possible to keep together the applicant's family that is present on the Greek territory, with the applicant's consent. Upon expiry of the 1-year residence in open centres, applicants must be assisted in finding an adequate private place of living.<sup>302</sup>

Each accommodation centre shall operate on the basis of its internal regulation establishing the "house rules".<sup>303</sup> Housing in accommodation centres must ensure the protection of private life and access to adequate medical and health services.<sup>304</sup> One of the ways in which the Greek Action Plan has aimed at improving reception conditions is through the provision of social, psychological, medical and pharmaceutical care, while placing emphasis on vulnerable cases. To that end, the recruitment of an adequate number of various experts such as doctors, psychologists and social workers has been envisaged.

Further, the authorities competent to receive and accommodate asylum seekers, and the persons responsible for the management of accommodation centres must ensure that the right to family life and to personal security are protected within those centres.<sup>305</sup> The staff working in accommodation centres must be adequately trained through seminars offered by the UNHCR, the relevant Ministry or other specialised organisations. Staff shall be bound by the confidentiality principle in relation to any personal information they obtain in the course of, or on the occasion of, their work in the accommodation centres.<sup>306</sup>

The Greek Action Plan provides for the safe and timely transportation of UAMs from entry points to accommodation structures. In addition, the authorities must ensure that the transfer of asylum applicants from one accommodation centre to another takes place only when necessary.<sup>307</sup> In case asylum seekers are being transferred to another accommodation centre, the competent authorities must ensure that applicants are able to inform their legal counsellors of the transfer and their new address.

<sup>300</sup> Article 13(3) PD 220/2007.

<sup>301</sup> *Ibid.*

<sup>302</sup> Article 13(2) PD 220/2007.

<sup>303</sup> Article 13(1) PD 220/2007.

<sup>304</sup> Article 13(4) PD 220/2007.

<sup>305</sup> Article 13(5) PD 220/2007.

<sup>306</sup> Article 13(6) PD 220/2007.

<sup>307</sup> Article 13(8) PD 220/2007.

Applicants whose application is finally rejected or who receive a deportation order shall be obliged to leave the accommodation centre within maximum 30 calendar days.<sup>308</sup>

According to the findings of a 2014 GCR survey of open reception centres, food service has been provided 3 times a day in 9 centres (Agiioi Anargiroi, Anogia, Arsis Refugee Shelter, Doctors of the World, Makrinitza Volos, Mission Archdiocese, Oreokastro, Red Cross, Society of Minors Care Isavron). In Praksis Stegi Programme, these services are provided by donations. No information is available for the remaining centres. As far as sanitary materials are concerned, most of the centres provide bedding and toiletries and some also clothes, milk and baby products.

Leisure activities are not provided by **Praksis**. Conversely, **Archdiocese**, **Lavrio** and **Anogia** offer extra activities. At **Archdiocese**, these include workshops, museum visits, computer access, football, theatre lessons or gymnastic activities. Residents at **Lavrio** can attend workshops, visits to museums and sports activities and have access to a library. **Anogia** has creative workshops and projects of social integration.

**Archdiocese** and **Anogia** let unaccompanied children leave the centre, but they must return at a certain time in the evening and are not allowed to stay outside overnight. Some of the centres provide transportation reimbursement in form of public transport tickets or taxi services in special situations (Praksis Stegi Programme, Oreokastro Arsis, Arsis Refugee Shelter, Agiioi Anargiroi). Also, some of the centres declared that allowances for personal expenses are provided: €21 per day in Agiioi Anargiroi and in €2 in Anogia are distributed.

When asked about possible problems in the reception centres, **Praksis**, **Archdiocese** and **Anogia** stated that there were no issues related to reception conditions.<sup>309</sup> **Lavrio** mentioned a hunger strike that was then taking place. **Praksis**, **Archdiocese** and **Lavrio** stated that the number of employees in their centre is not sufficient and that staff is not adequately trained.

#### *Destitution and racist violence*

Destitution remains a huge problem for a large number of applicants for international protection in Greece.<sup>310</sup> The NCSS reports that it has increasingly been able to meet a number of accommodation requests without increasing reception capacity in Greece, due to increasing mobility and freeing-up of places, stemming from departure from accommodation. In frequent cases, asylum seekers do not request accommodation because they are aware either of the scarcity of places or the quality of premises. Many asylum seekers are homeless and sleep on the streets, in parks, abandoned buildings or squalid and overcrowded apartments.<sup>311</sup> At times, the authorities may evacuate locations where third-country nationals reside as squatters on public health ground. However, where such evictions take place, no measures are taken to accommodate the residents elsewhere. Moreover as the new government took over in January 2015, the maximum period of administrative detention has been reduced from 18+ months to 6 months.<sup>312</sup> Many applicants, former detainees who had registered their asylum claim while in detention, have not been appropriately accommodated after their release from detention.

As Nils Muižnieks, Council of Europe Commissioner for Human Rights, has noted: “this situation leaves a large number of asylum seekers homeless and destitute and renders them particularly vulnerable to

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<sup>308</sup> Article 13(9) PD 220/2007.

<sup>309</sup> Archdiocese answered “not recently”, which might indicate that there may have been problems previously.

<sup>310</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 20 states: “The accommodation system, together with the lack of employment opportunities, frequently leads to destitution and homelessness of asylum-seekers and persons in need of international protection.”

<sup>311</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 20.

<sup>312</sup> With exceptions noted in practice, however (see section on Detention).

manifestations of intolerance and racist violence.”<sup>313</sup> The impunity of perpetrators and even discouragement of victims by the police to file an official complaint leave victims without any support mechanisms.<sup>314</sup>

In 2014, new anti-racist legislation was passed through Law 4285/2014. Moreover, MD 30651/2014 provided requirements for granting residence permits on humanitarian grounds *inter alia* to victims of racist violence and discriminatory treatment. Nevertheless, the withdrawal of a provision from the new Immigration Code on the protection of victims of racist violence, in Article 19 of the Code, sparked criticism from international organisations and national authorities. L 4332/2015 (which entered into force on 9 July 2015), codified the provisions of MD 30651/2014, introducing a new Article 19 A in L 4251/2014 (Immigration Code).

## 5. Reduction or withdrawal of reception conditions

### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?  
 Yes  No
2. Does the legislation provide for the possibility to withdraw material reception conditions?  
 Yes  No

Reception conditions may be reduced where the applicant:

- (a) abandons the place of stay assigned without informing that authority or, where required, without obtaining permission;
- (b) does not comply with the obligation to declare personal data or does not respond to a request to provide information or does not attend the personal interview within the set deadline; or
- (c) has lodged a subsequent application; or
- (d) has concealed their resources and illegitimately takes advantage of material reception conditions.<sup>315</sup>

There is no information on whether these provisions of the law are applied in practice, as there have been no cases of such practices to date.

## 6. Access to reception centres by third parties

### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
 Yes  With limitations  No

According to Article 13(7) PD 220/2007, legal advisors or lawyers and representatives of UNHCR shall have unlimited access to reception centres and other housing facilities in order to assist applicants. The Director of the Centre may extend access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the premises and of the applicants.<sup>316</sup>

In practice, lawyers, as well as NGOs, friends or family members have access to reception centres operated by NGOs. According to the 2014 survey conducted by GCR, there are two centres which deny

<sup>313</sup> Council of Europe Commissioner for Human Rights, *Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013*, 16 April 2013, paras 138-139. See also UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 19. For more information on incidents in 2011, see *Ibid*, 36.

<sup>314</sup> See e.g. Human Rights Watch, *Hate on the Streets. Xenophobic Violence in Greece*, July 2012, 78-87.

<sup>315</sup> Article 15(1) PD 220/2007.

<sup>316</sup> Article 13(7) PD 220/2007.



access to visitors (**Archdiocese** and **Society of Minors**), while **Oreokastro** stated that there may be a possibility for visitors' accommodation. There is no information available on the remaining centres.

## 7. Addressing special reception needs of vulnerable persons

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?  
 Yes       In some cases       No

Due to the large number of asylum seekers and the extremely limited number of beds in the 16 reception centres in place, NGOs which usually take care of the accommodation of the asylum seekers give priority to vulnerable persons.

Greek law foresees a referral system laying down minimum standards for the reception of asylum seekers.<sup>317</sup> More specifically, the competent authorities must make sure that special treatment is provided to applicants belonging to vulnerable groups such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.<sup>318</sup> According to Article 11(2) L 3907/2011, relating to first reception services, vulnerable groups include unaccompanied minors, persons with disabilities or suffering from an irreversible disease, elderly persons, women in pregnancy or childbed, single parent families with minor children, victims of torture, rape or other serious forms of psychological, physical or sexual violence or abuse.

The Head of the First Reception Centre (FRC), upon receiving a recommendation of the Head of the Medical Screening and Psychosocial Support Unit, refers persons belonging to vulnerable groups to the competent body of social support or protection. The referral of persons must be conducted within 15 days, and may be extended for a period of 10 days under exceptional circumstances.<sup>319</sup>

According to UNHCR's December 2014 report, an individualised assessment of specific needs through individualised counselling by medical, psychosocial or information teams upon arrival is only available to a limited number of arriving third-country nationals, thereby leaving a potentially large number of individuals with specific needs undetected.<sup>320</sup> According to the First Reception Service, 6,370 persons had been registered in total until 31 August 2015, whereas as of 23 September 2015, 373 unaccompanied children have been identified as such and referred to hosting facilities.<sup>321</sup>

Moreover, in several entry points, such as **Chios**, **Leros** or **Kos**, there is no FRMU or FRC. Despite legal safeguards in relation to the treatment of unaccompanied minors or those separated from their families, children are still being systematically detained for extended time periods until a place becomes available at a reception centre.

## 8. Provision of information

According to Article 3 PD 220/2007, the authorities competent to receive and examine an application for asylum must inform the applicant immediately and in any case within 15 calendar days, providing them with informative material on reception conditions in a language that they understand. This material must

<sup>317</sup> Articles 17 and 20 PD 220/2007, which transpose into Greek legislation Articles 17 and 20 of Council Directive 2003/9/EC respectively.

<sup>318</sup> *Ibid.*

<sup>319</sup> Article 11(5) L 3907/2011.

<sup>320</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 11.

<sup>321</sup> FRS, *Information Provided to GCR*, September 2015.



provide information on the existing reception conditions, including health and medical care, as well as on the operation of UNHCR in Greece and other organisations that provide assistance and legal counselling to asylum applicants.<sup>322</sup>

If the applicant does not understand any of the languages in which the information material is published or if the applicant is illiterate, the information must be provided orally, with the assistance of an interpreter. A relevant record must in such case be kept in the applicant's file.<sup>323</sup>

Since March 2013, UNHCR has been providing information to newly arriving applicants on their rights and obligations at entry points, including those not covered by the First Reception Service (FRS). During the summer of 2015, UNHCR has deployed 20 protection / field staff on key arrival points, such as **Lesvos, Kos, Samos, Chios, Leros, Rhodes** and **Evros**, in order to monitor arrival processes but also provide information on procedures, rights, responsibilities and assistance. In August 2015 alone over 17,300 persons are reported to have benefitted from the UNHCR group or individual information sessions.<sup>324</sup>

## 9. Freedom of movement

### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  
 Yes  No
2. Does the law provide for restrictions on freedom of movement?  
 Yes  No

Applicants may move freely within the territory of Greece or the area assigned by the authorities and choose their place of residence,<sup>325</sup> subject to the possibility of restricting their stay at a specific area for reasons of public interest, public order or to ensure a fast and effective completion of the asylum procedure.<sup>326</sup> The assigned area cannot affect their private life and must allow them sufficient scope so as to enjoy access to all reception conditions. In any case, applicants must immediately inform the authorities competent to receive and examine their application, of any change in their address.<sup>327</sup>

Such restrictions on freedom of movement occur in practice. Specifically, on the asylum seekers' cards provided by the Asylum Service, a clause is usually inserted, forbidding the holder of the card from residing or travelling to the North-Western prefecture of **Thesprotia**. This ban has been imposed in an attempt to prevent the illegal exit of asylum seekers from Greece towards Italy and other countries in the EU.

No previous authorisation is needed for changing the place of residence. However, in a 2014 survey conducted by GCR, the **Archdiocese** open centre highlighted that a legal document and a pending asylum application are necessary for this.

## B. Employment and education

### 1. Access to the labour market

<sup>322</sup> Article 3(2) PD 220/2007.

<sup>323</sup> Article 3(3) PD 220/2007.

<sup>324</sup> UNHCR, *Greece: UNHCR Operational Update*, August 2015, available at: <http://bit.ly/1Sm6zaa>.

<sup>325</sup> Article 6(1) PD 220/2007.

<sup>326</sup> Article 6(5) PD 220/2007.

<sup>327</sup> Article 6(1) PD 220/2007.

### Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers?  Yes  No  
❖ If yes, when do asylum seekers have access the labour market? Immediate
2. Does the law allow access to employment only following a labour market test?  Yes  No
3. Does the law only allow asylum seekers to work in specific sectors?  Yes  No  
❖ If yes, specify which sectors:
4. Does the law limit asylum seekers' employment to a maximum working time?  Yes  No  
❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice?  Yes  No

As soon as asylum seekers are provided with an asylum seeker's card, they can immediately apply for a work permit.<sup>328</sup>

Applicants need to apply to the Prefecture of their residence, provided they have a valid asylum seekers' card and a work permit may be granted following a labour market test: following research of the labour market for the specific profession by the Manpower Employment Organization ("OAEΔ" in Greek), no interest has been demonstrated by a Greek citizen, an EU citizen, a third-country national of Greek origin or a recognised refugee.<sup>329</sup>

Applicants who fulfil these criteria receive a temporary work permit without paying a fee. That permit expires 30 days after the expiry of the asylum seeker's card.<sup>330</sup> Further, access to the labour market is not withdrawn during an appeal procedure, until a final negative decision on the appeal is notified.<sup>331</sup>

However, the priority awarded to Greek and EU citizens under the labour market test makes it exceptionally difficult for asylum seekers to find employment in practice. This restriction is aggravated in the current context of financial crisis and xenophobia in Greece. There have been cases where an employer may be requesting to employ a specific asylum seeker but, due to this restriction prioritising Greek and EU citizens, the work permit may not be renewed, posing obstacles to both employers and potential employees. Indeed, even if an asylum seeker does obtain a job, they may not manage to obtain the work permit. As a consequence, asylum seekers may resort to illegal employment, which has severe repercussions, mainly the lack of certain basic social rights which in turn subjects them to further poverty and vulnerability.

According to UNHCR, the labour market test in PD 189/1998

"[A]nd the unemployment rate of 33 per cent for third-county nationals in Greece limits legal working opportunities. In 2013, the regional authorities issued and renewed 6,952 work permits for asylum-seekers and rejected 1,620 requests while, in the same period, there were more than 33,000 active cases of applications for international protection pending with the police and the new Asylum Service. Without a valid work permit asylum-seekers are deprived of the enjoyment of a series of rights, including the possibility to participate in EU-funded programmes for access to the labour market, access to social benefits, such as unemployment allowances, allowances for children in single-parent families, enrolment of children in nursery schools and other rights."<sup>332</sup>

<sup>328</sup> Article 10(1) PD 220/2007.

<sup>329</sup> Article 10(1) PD 220/2007, citing Article 4(1)(c) PD 189/1998.

<sup>330</sup> Article 4(2)-(3) PD 189/1998.

<sup>331</sup> Article 10(3) PD 220/2007.

<sup>332</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 21.

According to the latest statistics for the second trimester of 2015, the unemployment rate of third-country nationals is 29.6%.<sup>333</sup>

The Asylum Service has informed GCR that it has proposed amendments to the relevant legislative framework to the Ministry of Labour. According to the same information, the Ministry of Labour has responded positively to the Service's request. Until now, no change or amendment to the law has been made in this direction.

In case applicants find employment while residing in an accommodation centre, they must inform the Director of the centre. The law does not provide for consequences in case they do not inform the Director. In practice, the time of stay in these centres is very short and there are no instances known where an asylum seeker has found employment while staying there.

According to the aforementioned GCR 2014 survey and particularly according to the answers to the questionnaire of 4 centres (Agioli Anargiroi, Arsis Refugees Shelter, Makrinitza and Agria Volos), there is assistance to job orientation and search or consultancy in some of the centres, while only the Red Cross in Lavrio provides assistance in applications for working permits.

## 2. Access to education

### Indicators: Access to Education

- |  |   |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice?                        | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

According to Article 9 PD 220/2007, the minor children of applicants and children seeking international protection have access to the education system under similar conditions as Greek nationals, as long as there is no pending enforceable removal measure against them or their parents.<sup>334</sup> Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity.<sup>335</sup>

Children of citizens of a third country can enrol at public schools with incomplete documentation if they: (a) are granted refugee status by the Greek state; (b) come from regions where the situation is dangerous; (c) have filed an asylum claim; and (d) are third-country nationals residing in Greece, even if their legal residence has not been settled yet.

However, access to education is in practice impaired by the requirement of documentation by schools in order to enrol children.<sup>336</sup> It has been also observed that some schools are reluctant to enrol children when the documents submitted by the parents do not prove the biological parental relationship or the guardianship.

Registration may not take longer than 3 months, of 1 year where special language training is provided to facilitate access to the education system.<sup>337</sup> However, no preparatory classes are provided for children of asylum seekers.<sup>338</sup> Some reception centres provide a certain number of courses such as Greek lessons (Volos Agria, Agioli Anargiroi, Anogia, Arsis Refugee Shelter, Doctors of the World, Makrinitza,

<sup>333</sup> Hellenic Statistical Authority, *Press Release for the 2<sup>nd</sup> trimester of 2015*, available in Greek at: <http://bit.ly/1Q4i07R>.

<sup>334</sup> Article 9(1) PD 220/2007.

<sup>335</sup> Article 9(3) PD 220/2007.

<sup>336</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 23.

<sup>337</sup> Article 9(2) PD 220/2007.

<sup>338</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 23.

Mission, Oreokastro Arsis, Red Cross), English lessons (Volos Agria, Oreokastro Arsis), and computer lessons (Volos Agria).

In practice, except for *ad hoc* difficulties, there have been no issues, neither with children of asylum seekers nor with adults attending school. In some cases, directors of schools deny to register pupils due to ignorance of the legal framework. Such obstacles can be surpassed by interventions of NGOs. Children have problems attending school due to language barriers. Usually they attend school in neighbourhoods where classes mostly comprise of non-nationals, which becomes a difficult task for teachers who have to teach to children with different levels of fluency in Greek.

### C. Health care

#### Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?  
 Yes       No
2. Do asylum seekers have adequate access to health care in practice?  
 Yes       Limited       No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?  
 Yes       Limited       No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?  
 Yes       Limited       No

Applicants shall receive free of charge the necessary health, pharmaceutical and hospital care, on condition that they have no health insurance and no financial means. Such health care includes:

- (a) Clinical and medical examinations in public hospitals, health centres or regional medical centres;
- (b) Medication provided on prescription by a medical doctor serving in one of the above at (a) mentioned institutions and acknowledged by their director;
- (c) Hospital assistance in public hospitals, hospitalisation at a class C room.<sup>339</sup>

In practice, however, the repercussions of the financial crisis on the Greek health sector have been severe for asylum seekers. Applicants who ask for access to health services must, in some cases, obtain prior approval by a Committee. This has led to more stringent procedures to undergo surgery and access medical devices and sanitary material, as well as public hospitals' reluctance to treat asylum seekers.<sup>340</sup>

Vulnerable applicants who have special needs must receive special medical assistance.<sup>341</sup>

Social Care Services for children, if necessary, shall ensure that they receive appropriate mental health care and qualified counselling. In practice, very few NGOs provide such support to only a few children. In a 2014 survey conducted by GCR, reception centres **Praksis** and **Archdiocese** claimed not being aware of any such programmes assisting children with special needs or asylum seekers once they become 18. **Praksis** and **Archdiocese** declared that asylum seekers are eligible to healthcare. **Anogia** provides free healthcare from public institutions and covers medical expenses by private doctors.

Regarding victims of torture, specialised medical treatment is currently provided by Médecins Sans Frontières in Athens in the framework of holistic rehabilitation services addressed to the victims by a consortium of three NGOs, namely GCR, Babel Day Centre (the two acting in the context of

<sup>339</sup> Article 14(1) PD 220/2007.

<sup>340</sup> UNHCR, *UNHCR observations on the current situation of asylum in Greece*, December 2014, 21.

<sup>341</sup> Article 14(3) PD 220/2007.

“Prometheus II Project – Strengthening the rehabilitation of torture victims in Greece” co-funded by the European Commission DG HOME - Pilot Project for Victims of Torture, covering the need for legal and psychosocial assistance) and Médecins Sans Frontières (covering the need for relevant medical treatment).<sup>342</sup>

In all cases, emergency health care must be and is provided to applicants free of charge. First aid is provided in practice.<sup>343</sup>

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<sup>342</sup> The relevant activity of GCR (i.e. the provision of legal and social assistance to torture victims) is also funded by the UN Voluntary Fund for Victims of Torture - Office of the High Commissioner for Human Rights.

<sup>343</sup> Article 14(2) PD 220/2007.

## Detention of Asylum Seekers

### A. General overview

#### Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2015 (January-September): <sup>344</sup>	2,164
2. Number of asylum seekers in detention at the end of 2015:	Not available
3. Number of detention centres: <sup>345</sup>	8
4. Total capacity of detention centres: <sup>346</sup>	6,055 <sup>347</sup>

Administrative detention is imposed on third-country nationals who do not hold valid residence permits, without any individual assessment of each case.<sup>348</sup> Consequently, recognised refugees who do not hold their residence permit during police controls, refugees who did not have the chance to register asylum applications – including vulnerable groups such as unaccompanied children wrongly registered as adults upon arrest and victims of torture – as well as non-removable persons in need of international protection (e.g. Palestinian, Somali, Eritrean nationals) may be detained under particularly problematic conditions, which have been documented at length by international organisations and human rights groups.<sup>349</sup>

In the cases under Article 12(4)(a) and (c) PD 113/2013, an order for the detention of an asylum seeker is issued after a relevant recommendation of the Asylum Service.<sup>350</sup> Within the period January-August 2015, according to statistical data provided by the Asylum Service, 1,076 recommendations for continuation of detention and 514 for discontinuation of detention had been issued by the relevant RAO of the Asylum Service, while in 118 cases the initial recommendation for continuation of detention has been withdrawn.<sup>351</sup> This kind of recommendation, while necessary to be issued according to the law, is not binding on the police.

<sup>344</sup> Asylum Service, Monthly Statistics, January-September 2015, <http://bit.ly/1H3TuRx>.

<sup>345</sup> This number refers only to the 7 pre-removal detention centres in place (according to information provided to GCR by the Hellenic Police Headquarters – Illegal Migration, Control Division, September / October 2015), in Amygdaleza, Tavros, Corinth, Xanthi, Paranesti, Fylakio, Komotini, and the Special Holding Facility for Aliens in Elliniko, but there exist other detention facilities, not included here, such as the Identification centres of Samos, Chios and Lesbos (currently non-operating), and the FRCs in place in Fylakio and Lesbos (See section on Place of Detention). Police Stations where, according to the Hellenic Police Headquarters, migrants may currently only be held for a few days / weeks until their transfer in one of the centres mentioned above becomes possible are not included in this number either.

<sup>346</sup> Total capacity of detention centres intended to hold both persons subject to return and asylum seekers.

<sup>347</sup> Council of Europe, Secretariat General, Secretariat of the Committee of Ministers, Communication from the authorities in the case of *MSS v Greece* (Application No 30696/09), *Reponses aux questions identifiées dans le document H/Exec(2014)4rev6juin2014 et la decision CM-DH/1201 du 5 juin 2014 concernant les conditions de détention des demandeurs d'asile, des migrants en situation irrégulière et des mineurs non accompagnés*, DH-DD(2015)82, 19 October 2015, available at: <http://bit.ly/1LPvIHl>, 9. The capacity of detention centres in Greece was reported to be 10,357 in September 2013: Ministry of Public Order and Citizen Protection, Reply to the Parliamentary question on statistical information concerning the capacity of detention centres posed by SYRIZA on 28 September 2013.

<sup>348</sup> EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*, 2014, available at: <http://bit.ly/1ABAExK>, 20-24.

<sup>349</sup> For recent examples, see EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*; Médecins Sans Frontières, *Invisible Suffering*, 1 April 2014, available at: <http://bit.ly/1FH4wrl>.

<sup>350</sup> Article 12(4) PD 113/2013.

<sup>351</sup> Asylum Service, *Information provided to GCR*, September 2015. According to the Asylum Service, in many cases the asylum seekers had been released before their interview, so there was no reason for withdrawing the recommendation for continuation of detention. Moreover, according to the Asylum Service, in case the decision is positive and is immediately issued, it is delivered before the detainee is released and again there is no reason for withdrawing the initial recommendation.

Following 4 deaths (2 of which were suicides) in the Amygdaleza Pre-Removal Detention Centre and in police stations in Athens and Thessaloniki in mid-February 2015, the new Greek government announced on 17 February 2015 a range of measures that presented an important step towards reducing the use of immigration detention in Greece.<sup>352</sup> These announcements included the revocation of the Ministerial Decision allowing for detention beyond 18 months and the immediate release of persons concerned. Furthermore, the Amygdaleza Pre-Removal Detention Centre was set to close down within 100 days and action would be taken in order to put in place open reception centres instead of detention facilities. It was also announced that alternatives to detention would be implemented, the maximum period of detention would be limited to 6 months and persons belonging to vulnerable groups as well as asylum seekers would be immediately released (see section on Legal Framework of Detention).

In May 2015, GCR noticed that the first encouraging steps had been taken to implement some of the abovementioned measures. This means that detention did not last more than 18 months and persons who were detained for long periods (6 to 18 months) had been progressively released. Hence, the total number of detainees had actually been reduced. Moreover, an open reception centre was established in the region of Eleonas near Athens in order to accommodate refugees arriving from the Greek islands who have not applied for international protection in Greece. However, the Ministerial Decision allowing for detention beyond 18 months has not been formally revoked, Amygdaleza Pre-Removal Detention Centre is still operational and persons belonging to vulnerable groups and asylum seekers are still found under detention as of September 2015. Moreover, Iraqi nationals in need of international protection may be detained and subsequently deported to Iraq if they do not register an asylum application during detention, despite UNHCR’s position on returns to Iraq.

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

- |   |   |  |
|---|---|--|
| 1. In practice, are most asylum seekers detained                        |   |  |
| ❖ on the territory:   | <input checked="" type="checkbox"/> Yes                       | <input type="checkbox"/> No            |
| ❖ at the border:  | <input type="checkbox"/> Yes                                  | <input checked="" type="checkbox"/> No |
| 2. Are asylum seekers detained in practice during the Dublin procedure? | <input checked="" type="checkbox"/> Frequently <sup>353</sup> | <input type="checkbox"/> Rarely        |
|   | <input type="checkbox"/> Never                                |  |
| 3. Are asylum seekers detained during a regular procedure in practice?  | <input checked="" type="checkbox"/> Frequently <sup>354</sup> | <input type="checkbox"/> Rarely        |
|   | <input type="checkbox"/> Never                                |  |

A third-country national who lodges an application for international protection while in detention *remains*

<sup>352</sup> MIAR, ‘Press Release of Alternate Ministers of Interior and Administrative Reconstruction, Mr Yianni Panousi, and Ms. Anastassia Christodouloupoulou, regarding the Detention Centres’, 17 February 2015, available in Greek at: <http://bit.ly/1SG082U>.

<sup>353</sup> This is the case where a person has asked for asylum while already in detention (and is then subject to Dublin III Regulation usually because a family member has been residing as an asylum seeker in another member-state). On the contrary, this does not mean that if a person submits an asylum application for which another Member State is responsible under Dublin III Regulation will then be detained in order for the transfer to successfully take place.

<sup>354</sup> This is also the case where a person has asked for asylum while already in detention. On the contrary, this does not mean that when a person submits an asylum application subject to the regular procedure, will then be put in detention until the end of the procedure.



in detention under 3 grounds:<sup>355</sup>

- a. To determine his or her identity or nationality;
- b. Where he or she presents a threat to national security or public order; or
- c. Where detention is deemed necessary for a rapid and complete examination of the application.

In such cases, detention may only be applied exceptionally and where alternative measures may not be applied effectively.<sup>356</sup> Article 12 (6) PD 113/2013 provides that the possible lack of appropriate spaces and difficulties in ensuring decent living conditions of the detainees shall be also considered for the imposition or prolongation of detention.

Under a provision of the New Procedure,<sup>357</sup> not included in the Old Procedure, an asylum seeker may be placed in detention where he or she presents a threat to national security or public order. Even if this provision has been used by the Police in order to put in detention a person that has already applied for asylum (at liberty), such an interpretation of the law is questionable.<sup>358</sup>

It need be noted that the provisions of Article 13(2)(c) PD 114/2010 and Article 12(2)(c) PD 113/2013 are not in line with Article 8(3) of the recast Reception Conditions Directive, as the rapid and effective examination of the asylum application *per se* does not figure among the permissible grounds for detention.<sup>359</sup>

Both PD 114/2010 and PD 113/2013 mostly limit detention to persons who submit applications for international protection while already in pre-removal detention. However, due to the various obstacles to access to the asylum procedure (see section on Registration above), persons in need of protection are likely to be arrested before successfully lodging an application. Therefore the submission of applications from detention may be their only option. For example, in the pre-removal centre of Fylakio, there have been cases of asylum seekers who had submitted an application with the Regional Asylum Office (RAO) of Northern Evros but were only registered after a 3-month stay in the pre-removal centre.

The detention order is issued by the respective Police Director or the competent Aliens Division Police Director in cases falling under the competence of the General Police Directorates of Attica and Thessaloniki. The order must include a complete and comprehensive reasoning.<sup>360</sup> Under the “identity or nationality” or the “rapid and complete examination” grounds, the detention order is issued following a recommendation by the Head of the asylum examination authority (See General Overview above).<sup>361</sup> In “threat to public order” cases, the Head of the competent RAO or the Director of the Appeals Authority is informed and has to take the necessary measures to ensure the prioritised examination of the application or appeal.<sup>362</sup> However, the final decision on the detention lies with the Hellenic Police authorities.

The Asylum Service claims that, if it proposes the continuation of detention of an asylum applicant, it follows-up on those cases closely and in the event the reasons for which it proposed the continuation of the detention are no longer valid, it revokes its initial proposal. However, an asylum applicant who is detained may be released by the Hellenic Police authorities without any relevant recommendation on the part of the Asylum Service or even if the Asylum Service has previously recommended the

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<sup>355</sup> Article 13(2) PD 114/2010; Article 12(2) PD 113/2013.

<sup>356</sup> *Ibid.*

<sup>357</sup> Article 12(3) PD 113/2013.

<sup>358</sup> See E Koutsouraki, ‘The situation in Greece: Systematic, extended, indiscriminate detention’, in I. Papageorgiou (ed.), *The Administrative Detention of Aliens; International Legislation and National Practice* (Nomiki Vivliothiki, 2015), 89.

<sup>359</sup> Article 8(3)(b) recast Reception Conditions Directive only allows detention where it is necessary for the purpose of establishing elements of the claim, in particular where there is a risk of absconding.

<sup>360</sup> Article 13(3) PD 114/2010; Article 12(4) PD 113/2013.

<sup>361</sup> Article 12(4) PD 113/2013.

<sup>362</sup> *Ibid.*

continuation of his or her detention, given that the Hellenic Police is the competent authority to decide upon detention of an asylum applicant. GCR regrets that the competent asylum authorities do not make sufficient use of Article 12(4) of PD 113/2013, especially for minor asylum seekers who are detained in facilities for adults.<sup>363</sup>

### The interpretation of grounds in practice

Irregular migrants in Greece are systematically detained, without any individual assessment of the case, when apprehended at the land border with Turkey or in the territory, deprived of proper documentation. This is not the case for those arriving on the islands. The decision that orders the detention is neither taken after an individual examination, nor is it justified.

During its recent visits to detention centres, GCR has noticed that the “danger for national security or public order” ground is excessively used as a ground for detention for both asylum seekers and third country nationals in view of removal. According to the Greek Ombudsman,<sup>364</sup> the police authorities, in order to use detention, seem to rely on a “legitimising reason” of prior prosecution or earlier imposition of custodial sentences, whose execution has, however, been suspended by courts. In addition, detention orders on the ground of being dangerous are issued for third-country nationals whose removal is not feasible (e.g. Syrians, Somalis). Here, it should also be noted that this category of administrative detainees may be detained for more than 6 months, while convicted prisoners whose expulsion order cannot be executed within 3 months, after their sentence has been served, are released.<sup>365</sup> In such cases, GCR has found that return decisions are issued even for asylum seekers who do not hold their asylum seeker’s card at the moment of arrest. These persons remain in detention even after being verified that they had applied for asylum before arrest. In July 2014, a Somali national who was released following the registration of his asylum application – after 8 months in detention – was arrested the day after trying to obtain his asylum seeker’s card from the RAO of Attica. According to his allegations, the police staff, which was in charge of conducting the arrest, told him that the decision for release was wrong because it had not been taken into account that he had been detained on public security grounds. The person remained in detention until he was granted subsidiary protection.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?  Reporting duties  
 Surrendering documents  
 Financial guarantee  
 Residence restrictions  
 Other
2. Are alternatives to detention used in practice?  Yes  No

Article 13(2) PD 114/2010 and Article 12(2) PD 113/2013 expressly mention alternatives to detention. Such alternatives include regular reporting to the authorities and an obligation to reside at a specific area; the list of alternatives to administrative detention provided in Article 22(3) of L 3907/2011 is not exhaustive. The UN Working Group on Arbitrary Detention, during its mission to Greece in January

<sup>363</sup> GCR, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of MSS v Belgium & Greece*, 29 May 2015, available at: <http://bit.ly/1Q51vbN>.

<sup>364</sup> Greek Ombudsman, *Intervention following a complaint submitted by the Greek Council for Refugees for 7 Syrians detained in police stations cells and detention centres in Attica*, Document 171931/37998/2013, 26 November 2013.

<sup>365</sup> Article 74 (4) Greek Penal Code.

2013, stated that non-application of alternatives to detention as a key concern that may render the detention of an individual arbitrary.<sup>366</sup> These concerns remain valid to date.

Provisions on alternatives to detention lack a systematic application and there are no cumulative statistical data that point to a number of third-country nationals for whom such alternatives have been applied in the past five years.<sup>367</sup> According to the Greek authorities, granting a deadline for voluntary departure (applicable to those not considered a threat to public order), could be considered an alternative to detention and so could the demand for regular reporting before a police department, following a court ruling in response to objections against detention filed by the applicant. This of course is not provided for by law, which requires such restrictive measures to be implemented prior to (and instead of) detention and not after a relevant court ruling for release. However, even in case such a measure is applied right after identification, the current Hellenic Police computer systems keep no cumulative data thereon, making it impossible to draw any conclusions as to the application and efficacy of the system of alternatives to detention.

### 3. Detention of vulnerable applicants

#### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?  Frequently  
 Rarely  
 Never
  
- ❖ If frequently or rarely, are they only detained in border/transit zones?  Yes  No
  
2. Are asylum seeking children in families detained in practice?  Frequently  
 Rarely  
 Never

Despite provisions for the adoption of special measures for vulnerable groups, so far, vulnerable people, including unaccompanied children, are systematically detained in the same conditions as other migrants and asylum seekers.

The law provides that women must be detained separately from men.<sup>368</sup> Although in relation to the detention of women there seems to be a separation with men, the fact that women are often detained with their children is problematic, as these are cases which should be hosted in reception centres. At the FRC in **Fylakio** and the Police Department of **Orestiada**, families may receive an order for release of detention on completion of the first reception procedures. Nevertheless, in the pre-removal centre of Fylakio, where they remain before being referred to the FRC, the GCR reported pregnant mothers with minor children and babies to be held even for 5 days before their referral, even though this is expressly discouraged by law.<sup>369</sup> This has also been the case in **Elliniko** detention centre in Athens and **Athens Airport** Police Station. During the first half of 2015, GCR had successfully intervened in Attica region for the release of detainees whose spouses and/or children had been asylum seekers in Greece. However, in September 2015 several such requests were refused.

#### Victims of torture

<sup>366</sup> UN Working Group on Arbitrary Detention, *Statement upon the conclusion of its mission to Greece (21 - 31 January 2013)*, 31 January 2013, available at: <http://bit.ly/1MyIPf0>.

<sup>367</sup> See European Migration Network, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*, 2014, p. 4-5, available at: <http://bit.ly/1ABAEkX>.

<sup>368</sup> Article 13(6)(a) PD 114/2010; Article 12(8)(a) PD 113/2013.

<sup>369</sup> Article 13(6)(b) PD 114/2010; Article 12(8)(b) PD 113/2013.

Despite the fact PD 220/2007 provides special assistance and rehabilitation for asylum seekers victims of torture as well as the obligation of national authorities to refer them to specialised centres (preferably prior to the asylum interviews), requests made by GCR during 2015 for the referral of detained victims to specialised rehabilitation facilities had not been taken into account by the relevant authorities (e.g. the **Attica Aliens Police Directorate**, the AU of **Amygdaleza**, the RAO of **Patras**, the Appeals Authority).

On the other hand, detained persons belonging to this particularly vulnerable group have been released following interventions of GCR before the **Corinth Police Directorate** where relevant certification had been provided by the victim.

In October 2015, GCR was informed about the case of a victim of torture detained in **Athens Airport** who had been referred to a specialised centre by the registration officer of the RAO. The police refused his transfer, on the ground that it was not allowed to have him removed from the airport's detention area, which was considered to be an "international zone", although he had already been transferred to the RAO of Attica that is situated 30 km away from the airport.

### **Unaccompanied children**

GCR's recent findings regarding detention conditions of unaccompanied children have been submitted to the Committee of Ministers of the Council of Europe on 29 May 2015.<sup>370</sup>

While the law does not prohibit the detention of unaccompanied children, it enjoins authorities to "avoid" it.<sup>371</sup> Unaccompanied minors are only to be detained until a place in a special facility for minors is found.<sup>372</sup> In practice, however, this procedure may last for months, given the extremely reduced capacity of shelters for children. Detention of children is being imposed systematically as a result of the lack of places in reception centres.

Within the period February-March 2014, GCR and Médecins sans Frontières had identified a total of 102 unaccompanied children in the detention centres of **Komotini** and **Fylakio**, registered as adults, even if many of them had documents stating their age.<sup>373</sup> The Greek Ombudsman has also reported the refusal of the police to screen children whose age is obvious, with the justification that the scientific methods for age assessment are vague.<sup>374</sup> During 2014 and 2015, GCR assisted minors wrongfully registered as adults who were detained with adults in **Corinth** and **Amygdaleza** Pre-Removal Detention Centres. Following GCR's request for transfer in accommodation centres for minors, two of the minors detained in Corinth were identified as "elder than 18 years old" by vague medical exams. When the minors registered their asylum applications, Patras RAO refused registering their real age invoking the result of the medical exam. Thus, they remained detained for 6 months and they did not benefit from the Dublin III Regulation criteria for minors for determining the Member State responsible for examining their applications.

During a visit to **Amygdaleza** Pre-removal Detention Centre on 17 and 18 December 2014, GCR found 27 unaccompanied minors detained in a separate wing of the detention centre, in conditions not differing from those adults were subjected to. In a follow-up visit in March 2015, seven minors wrongfully registered as adults were detained with adults in the same wing of Amygdaleza Pre-removal Detention Centre. 3 of them were included in previous GCR's requests for transfer in accommodation centres for

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<sup>370</sup> GCR, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of MSS v Belgium & Greece*, 29 May 2015, available at: <http://bit.ly/1Q51vbN>, 18-23.

<sup>371</sup> Article 13(6)(c) PD 114/2010; Article 12(8)(c) PD 113/2013.

<sup>372</sup> *Ibid.* See also Article 32 L 3907/2011.

<sup>373</sup> Médecins Sans Frontières, *Invisible Suffering: Prolonged and systematic detention of migrants and asylum seekers in substandard conditions in Greece: MSF Operations in Immigration Detention Facilities in Greece 2008-2014*.

<sup>374</sup> Greek Ombudsman, *Field mission in the detention centres of Amygdaleza and Korinth and in the detention spaces of Petrou Ralli*, 29 May 2013.

minors, sent by fax in November 2014 and January 2015 respectively. Since then, they had remained in detention. The date of birth of these 3 minors was registered to be 1 January 1997. However, the minors claimed that they had been born in subsequent dates of 1997. Thus, they were still under 18 years old. Moreover, 3 of the minors informed GCR that Amygdaleza AU had refused to register their real age.

On 23 April 2015, GCR visited 6 unaccompanied children from Eritrea in **Petrou Ralli** Detention Centre. The minors were part of a group of 150 refugees, who were rescued near Gavdos island, south of Crete and were transferred to Petrou Ralli Detention Centre. Although they were detained in a separate wing, the conditions of their detention were similar to those prevailing in the wing for adults. Due to the lack of available places in accommodation centres, the minors were detained for 15 days in Petrou Ralli detention centre and for another 15 days in the minor wing of Amygdaleza Pre-Removal Detention Centre until they were transferred to a shelter for children.

In August 2015, a minor who had been detained in **Paranesti** Pre-removal Detention Centre and had been transferred to an accommodation centre for minors in April 2015, had been arrested again and after being wrongfully registered as adult was placed in detention with adults in Petrou Ralli and Amygdaleza Detention Centres.

In September 2015, GCR visited 4 unaccompanied children from Syria in **Petrou Ralli** detention centre, who were detained in a separate wing from adults for 15 days before they were transferred to accommodation centres for minors.

#### *First Reception Centre*

Especially regarding the procedure at the First Reception Centre in **Fylakio**, Evros, unaccompanied children can be detained in the relevant pre-removal centre in 2 cases:

- (1) Either as newly arrived children after their arrest, pending their admission to first reception procedures at the FRC. However, there have been cases where children identified as such are returned to the Fylakio pre-removal centre pending referral to relevant hosting facilities.

A relevant situation occurred on 10 October 2014, when 41 young persons, who claimed to be under 18 years old, entered the Pre-removal Centre of Fylakio after being transferred there from Komotini, where they were held in the police premises. They remained in the Pre-removal Detention Centre in Fylakio until 10-11 November 2014, before being admitted to the FRC in order to be subjected to first reception procedures. After being identified as children, they remained in the FRC until the end of November 2014 and – following a decision determining Fylakio as the competent authority of custody, pending referral to hosting facilities – they were then transferred to the Paranesti pre-removal centre.

Moreover, on 10 and 17 October 2014, 16 children identified as such by the FRC were sent to Fylakio pending their referral to hosting facilities. 2 of them were successfully accommodated in hosting facilities, 1 was left with his father and the remaining 13 were transferred to Paranesti, on the ground that there was no adequate space for their “hosting” in Fylakio, pending referral to hosting facilities.

Accordingly, newly arriving children are detained both *before* and *after* admission to the FRC.

- (2) Upon referral from Amygdaleza or other detention centres. In this case, they are not admitted to first reception services, but are subjected to age assessment by the FRS.

In such a case, children are detained on account of illegal entry or residence. If they have identification documents proving their age, the pre-removal centre forwards the documents to the relevant Police Directorate (instead of the Asylum Service). The police sends those documents to the relevant embassies in order for them to verify their authenticity. However,

sending documentation to the country of origin's authorities may amount to a disclosure to persecutors that an asylum application has been made by this person, which is a violation of international refugee law and of Article 30 of the Asylum Procedures Directive.

This is also highly problematic, since a reply by the relevant embassies may take months, during which the children may reach the age of 18. In some cases, a reply is never communicated or embassies claim not to have received the relevant documents. Applicants are thus precluded from requesting a change of their personal data when they turn 18, as they no longer possess the original documents required by the RAO.

#### 4. Duration of detention

##### Indicators: Duration of Detention

- |  |               |
|--|---------------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 18 months     |
| 2. In practice, how long in average are asylum seekers detained?           | Not available |

Where the applicant is *placed* in detention, detention may not exceed 3 months.<sup>375</sup>

For applicants *remaining* in detention, the modalities of duration vary according to the applicable procedure. Under the Old Procedure, detention may last up to 6 months and may be extended by a further 12, thereby totalling 18 months.<sup>376</sup>

Under the New Procedure, the duration of detention varies according to the applicable ground:<sup>377</sup>

- (1) Asylum seekers detained for "rapid and complete examination" of their claim under Article 12(2)(c) PD 113/2013 may not be detained beyond 6 months;
- (2) Asylum seekers detained for "identity or nationality" purposes or "threat to national security and public order" grounds may not be detained beyond 12 months.

Nevertheless, in all cases relating to applicants already in detention, detention may be prolonged for another 6 months.<sup>378</sup> Therefore applicants may be kept in detention for up to 12 and 18 months respectively.

In light of these broad limits of detention, GCR has submitted two applications to annul the prolongation of detention to 18 months by PD 116/2012 and PD 113/2013 before the Council of State. The hearing for both applications has not taken place yet.

In March 2014, the State Legal Council had endorsed in its Opinion 44/2014 the legality of "indefinite detention" beyond the 18-month maximum time-limit allowed by the Returns Directive for pre-deportation detention, until the third-country national cooperates with the authorities for their "voluntary [sic] repatriation". This was taken up by MD 4000/4/59-st/2014. GCR lodged the first objections against a relevant decision on indefinite prolongation of detention. The Administrative Court of Athens ruled on 23 May 2014 that indefinite detention in the form of compulsory stay in a detention centre as defined by the State Legal Council Opinion 44/2014 and adopted by MD 4000/4/59-st/2014 was unlawful.<sup>379</sup> As a consequence, an Afghan refugee that had already been in detention for 18 months was released.<sup>380</sup> Numerous similar decisions followed this first one.

<sup>375</sup> Article 13(4) PD 114/2010; Article 12(6) PD 113/2013.

<sup>376</sup> Article 13(4) PD 114/2010, as amended by Article 1 PD 116/2012.

<sup>377</sup> Article 12(6) PD 113/2013.

<sup>378</sup> *Ibid.*

<sup>379</sup> Administrative Court, Decision 2255/2014, 23 May 2014.

<sup>380</sup> Olga Klontza, 'Administrative Court: Indefinite Detention of Migrants is Unlawful', *To Vima* 31 May 2014.

According to the Asylum Service, the average period of time between the registration of an asylum claim of a detainee and the day of the interview is 43 days, while the average period between the interview and the issuance of a decision at first instance is 41 days. Moreover, the average period of time between the submission of an appeal and the issuance of a decision by the Appeals Authority is 100 days.<sup>381</sup>

## C. Detention conditions

### 1. Place of detention

#### Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?  Yes  No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?  Yes  No

According to Article 12(5) PD 113/2013, asylum seekers are detained in detention areas as provided in Article 31 L 3907/2011.<sup>382</sup> This provision refers to pre-removal detention centres established in accordance with the provisions of the Return Directive. 5 large pre-removal detention centres were created in 2012 in order to be used for detention of third-country nationals in view of removal (**Amygdaleza, Xanthi, Corinth, Paranesti** and **Komotini**). However, all pre-removal detention centres have been systematically used for the detention of persons applying for asylum as well.

As per current practice, asylum seekers are detained in the Pre-removal / Detention Centres of **Amygdaleza, Tavros, Corinth, Xanthi, Paranesti, Fylakio, Lesvos**<sup>383</sup> and **Elliniko**, as well as in the Identification centres of Samos and Chios and the FRC in Fylakio.<sup>384</sup> The FRC of **Lesvos**, in operation since 14 September 2015) is currently only holding unaccompanied minors until their placement in accommodation centres. Moreover, according to the Hellenic Police Headquarters, migrants may be held in Police Stations only for a few days / weeks, until their transfer in one of the centres mentioned above becomes possible.

According to information provided to GCR by the Hellenic Police Headquarters – Illegal Migration Control Division in September / October 2015, the capacity of currently operating pre-removal facilities (i.e. only including the wings of the centres already operational) is:

Pre-removal detention centre	Capacity
Amygdaleza	1,992
Corinth	768
Tavros (Petrou Ralli)	340

<sup>381</sup> Asylum Service, *Information provided to GCR*, September 2015.

<sup>382</sup> Thus, detention in police holding cells is excluded only for those who have applied for asylum after 7 June 2013 and they fall into the scope of PD 113/2013, but not for asylum seekers who fall into the scope of PD 114/2010.

<sup>383</sup> According to information provided by the Hellenic Police Headquarters - Illegal Immigration Control Division, September / October 2015, following the massive influx of arrivals, the Pre-removal Centre in Lesvos is not currently used as a detention centre, but intends to host the newly-arrived, pending their registration with the relevant authorities.

<sup>384</sup> See the different categories of detention facilities for migrants enumerated in: Council of Europe, Secretariat General, Secretariat of the Committee of Ministers, Communication from the authorities in the case of MSS v Greece (Application No 30696/09), *Reponses aux questions identifiées dans le document H/Exec(2014)4rev6juin2014 et la decision CM-DH/1201 du 5 juin 2014 concernant les conditions de détention des demandeurs d'asile, des migrants en situation irrégulière et des mineurs non accompagnés*, DH-DD(2015)82, 19 October 2015, available at: <http://bit.ly/1LPvIHJ>, 9.



Elliniko	100
Orestiada / Fylakio	374
Drama / Paranesti	620
Xanthi	480
Lesvos (pilot operation since October 2014)	420 <sup>385</sup>
<b>Total</b>	<b>5,094</b>

The number and capacity of police stations used for detention is not known, as all police stations could potentially be used as such. According to the Hellenic Police Headquarters, police stations have ceased to be used for immigration detention as of the end of 2014.<sup>386</sup> Since mid-December 2014 GCR has noticed that detention in police stations in **Attica** region actually did not last more than a couple of weeks.

Moreover, third-country nationals arrested when attempting to enter the country illegally may be provisionally detained in border guard stations and in the FRC of **Fylakio** (Orestiada) or the new FRC in **Lesvos**. There are also detention facilities called “Identification Centres” in the islands of **Chios** and **Samos**. To the above detention capacity, one should therefore add the capacity of the so-called “Identification Centres” of Samos, Lesvos and Chios (491 in total) and the capacity of the First Reception Centres (470 in total).<sup>387</sup>

According to L 3907/2011, a special detention facility should be used for unaccompanied children. However the Special Holding Facility for unaccompanied minors situated in Amygdaleza does not meet the basic standards for minors.<sup>388</sup> Children and unaccompanied children are being detained in the same facilities as adults. In October 2013, ECtHR found in *Housein v Greece* that Greece violated a child’s right to liberty as a result of his automatic detention for 2 months in a detention centre for adults.<sup>389</sup> More recently, in a visit conducted in August 2014, the Greek Ombudsman reported that children have been registered as adults without proper age assessment and have been placed in detention with adults, in conditions clearly ill-suited for children.<sup>390</sup>

Against that backdrop, in October 2014, the Greek Ombudsman published a special report concerning the age assessment procedure for unaccompanied children.<sup>391</sup> In December 2014, the MPOCP announced that a special group of doctors would be established in order to facilitate age assessment procedure for minors.<sup>392</sup> However, this is not a legally binding framework and it remains in any event to be confirmed whether the composition of the group announced and the methods followed comply with the international standards set for age assessment, respecting the best interests of the child. It also remains to be confirmed whether the number of the staff deployed for this purpose corresponds to the existing needs.

<sup>385</sup> Information provided by the Hellenic Police Headquarters - Illegal Immigration Control Division, September / October 2015.

<sup>386</sup> Hellenic Police Headquarters – Illegal Migration Control Division, *Information provided to GCR*, September / October 2015.

<sup>387</sup> See Council of Europe, Secretariat General, Secretariat of the Committee of Ministers, Communication from the authorities in the case of *MSS v Greece* (Application No 30696/09), *Reponses aux questions identifiées dans le document H/Exec(2014)4rev6juin2014 et la decision CM-DH/1201 du 5 juin 2014 concernant les conditions de détention des demandeurs d’asile, des migrants en situation irrégulière et des mineurs non accompagnés*, DH-DD(2015)82, 19 October 2015, available at: <http://bit.ly/1LPvIHI>, 9.

<sup>388</sup> CPT, *Report on the visit to Greece from 4 to 16 April 2013*, CPT/Inf(2014)26, 78-81.

<sup>389</sup> ECtHR, *Housein v Greece* Application No 71825/11, 24 October 2013.

<sup>390</sup> Greek Ombudsman, *Report following the monitoring visit at Amygdaleza Detention Centre*, August 2014, available in Greek at: <http://bit.ly/20tiyb1>.

<sup>391</sup> Greek Ombudsman, *The issue of age assessment for unaccompanied minors*, 6 October 2014, available in Greek at: <http://bit.ly/1MqE9NP>.

<sup>392</sup> MPOCP, *Age Assessment*, 10 December 2014, Doc. No 1604/14/2116634.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

- |  |   |  |
|--|---|--|
| 1. Do detainees have access to health care in practice?          | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No                       |
| ❖ If yes, is it limited to emergency health care? <sup>393</sup> | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No                       |
| 2. Is access to detention centres allowed to                     |   |  |
| ❖ Lawyers:   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |
| ❖ NGOs:  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |
| ❖ UNHCR:   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |
| ❖ Family members:  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |

The law sets out certain special guarantees on detention conditions for asylum seekers. Notably, detainees must be provided with necessary medical care, and their right to legal representation must be fully guaranteed.<sup>394</sup>

In January 2011, the ECtHR alerted as to the serious deficiencies in detention conditions in Greece in *MSS v Belgium and Greece*. 4 years later, problems relating to overcrowding, poor sanitary conditions, lack of healthcare services, insufficient and low-quality food, lack of heating and ventilation and water, no provision for leisure activities, lack of communication with the ‘outside world’ have remained at the heart of international criticism by human rights bodies and NGOs.<sup>395</sup> More specifically, detention in police holding cells also excludes or limits the possibility of access to open air, access to toilets and natural or artificial light.

The organisation Médecins Sans Frontières has highlighted problems in relation to detention conditions and detention facilities in the Greek islands and Northern Greece. Sanitary conditions are substandard, as maintenance, cleaning services and distribution of personal hygiene items are completely or almost non-existent. In some facilities there is no or insufficient provision of hot water. In the pre-removal centre in **Komotini**, malfunctioning hygiene facilities have not been repaired for almost a year. As a result, waste from the toilets on the first floor is flooding the bathrooms on the ground floor, contaminating the area and making more than three-quarters of the latrines and showers unusable. Limited access to sanitary facilities is a problem for migrants detained in Feres border police station in Evros and in a number of police stations visited by Médecins Sans Frontières teams, as people are locked in cells most of the time without direct access to the latrines or shower areas. Many detained migrants have no or limited access to the outdoors. In the detention facilities in Evros and Komotini, where Médecins Sans Frontières teams worked in recent months, migrants were allowed in the yard for a maximum of one hour in the morning and one hour in the afternoon. In the regular police stations visited by Médecins Sans Frontières teams, detainees spent several months at a time – in some cases for as long as 17 months – inside the cells area with no access to the outdoors. The lack of natural light, ventilation and heating is a serious problem in many detention facilities, particularly in regular police stations, where people detained in cells often have no access to natural light and fresh air. Overcrowding, exposure to cold and a poor diet also have an impact on the health of detained migrants.<sup>396</sup>

<sup>393</sup> Medical doctors, when available, are not daily present in all centres. However, in case of emergency, detainees are transferred to public hospitals (See section on Health Risks for more details on access to health care for detainees).

<sup>394</sup> Article 13(6) PD 114/2010; Article 12(8) PD 113/2013.

<sup>395</sup> For a recent critique, see GCR, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of M.S.S. V. Belgium & Greece*, 2 March 2015, available at: <http://bit.ly/1SG0nez>. See also ECtHR, *Mahammad v Greece* Application No 48352/12, 16 January 2015.

<sup>396</sup> Médecins Sans Frontières, *Invisible Suffering*.

The lack of interpreters and the limited provision of information regarding their rights is another major cause of frustration, anxiety and tension for the detained migrants. In most detention facilities for migrants, even in the larger ones, there is no permanent presence of interpreters or intercultural mediators, with the exception of interpreters hired for the needs of specific EU-funded projects and for limited periods of time.

Last but not least, the Greek Ombudsman has received complaints by detainees in **Corinth** for ill-treatment by the police.<sup>397</sup>

#### **Conditions in the FRC in Fylakio<sup>398</sup>**

The Director of the FRS considers the FRC in Fylakio as an open facility. However, the centre is surrounded with barbed wire, is guarded by the Greek Police and the persons concerned are not allowed to leave the centre at any moment. The FRC in Fylakio consists of 4 sections with multiple container rooms depending on the status and the profile of newly coming individuals or groups. There is one section for Syrians, one for asylum seekers, one for vulnerable groups, women and unaccompanied children and one for all other newcomers who do not belong in any of the above categories.

In the case of families, women and men are separated, but they may communicate with each other and meet between 4 and 7pm. Each container bed room has a maximum capacity of 10 people. The migrants held in the centre are allowed to keep their mobile phones, portable devices and objects related to their religion. The dorms / rooms of the above mentioned sections are unlocked, but the new entrants cannot leave the sections where they are under restriction. Within each section there is an entertainment room with TV, as well as a washing machine for clothes. A box of complaints is also available in the entertainment room as well as two pay phones for both outgoing and incoming calls.

The medical staff includes a doctor, nurse, social worker and psychologist. According to the Director of the FRS, the NGO Med-In (Medical Intervention) had interrupted the provision of services for a while because of financial constraints.

According to the Director of the First Reception Service, there has been a case where objections had been lodged against the decision on restriction of movement within the FRS, based on Article 76 L 3386/2005, as replaced by Article 55f L 3900/2010, which have been accepted. Reportedly, the objections were lodged on the basis of detention conditions.

#### **Conditions in Corinth Pre-removal Detention Centre**

GCR visited Corinth Pre-removal Detention Centre on 5 and 9 December 2014 in order to assist 137 persons from Iraq, Iran and Afghanistan who were rescued at sea, near Crete, on 25 November 2014. During the visit, GCR staff met minors wrongfully registered as adults who were detained with adults, seriously ill persons (loss of kidney function and diabetes) who complained about the total lack of medication and special food, some persons who complained about a skin disease (probably scabies) and a victim of torture. Most of them were wearing summer clothing and footwear despite the cold. According to their sayings, the quantity of food was not sufficient and they did not receive any shampoo. These persons also complained about the difficulty of access to the medical staff of the detention centre as well as public hospitals for further monitoring.

#### **Conditions in Amygdaleza Pre-removal Detention Centre**

<sup>397</sup> Greek Ombudsman, *Field mission in the detention centres of Amygdaleza and Korinth and in the detention spaces of Petrou Ralli*, 29 May 2013.

<sup>398</sup> See for detail ECRE, *What's in a Name? The Reality of First "Reception" at Evros: AIDA Fact-Finding Mission in Greece*, February 2015, available at: <http://bit.ly/1GfXlzk>.

A report of the Greek Ombudsman following a visit to the Amygdaleza Pre-removal Detention Centre in August 2014 confirmed that unacceptable conditions of detention remain a problem that needs to be addressed.<sup>399</sup> It should also be noted that since March 2015 the detained persons in Amygdaleza inform GCR that their meals consist of potatoes, pasta or rice served with bread. According to the Minister's speech of 7 July 2015 in the Parliament, riots would occur because of lack of food as the agreement with catering services for detention centres had expired.

GCR visited Amygdaleza Pre-removal Detention Centre on 17 and 18 December 2014 in order to assist the minors who had been transferred there following the above mentioned shipwreck. In a separate wing of the detention centre, GCR met 27 unaccompanied children from Afghanistan, Iran, Bangladesh and Pakistan who were detained in conditions not differing from those adults were subjected to. Many of them were wearing summer clothes and shoes, they complained about the insufficient quantity and the bad quality of food, the lack of hygiene products and the fact that they could not communicate with their families because mobile telephones were not allowed and the public telephone of their wing was out of order. In March 2015 GCR found seven minors wrongfully registered as adults who were all detained with adults in the same wing of Amygdaleza Pre-removal Detention Centre. Detention conditions were the same with those of the above-mentioned visit. Moreover, there were huge rats in the yard of the wing. In April 2015 GCR met 50 Iraqi nationals and a few Afghan and Syrian nationals who had been transferred in Amygdaleza after being rescued at sea. According to their sayings, hot water was not available in the bathrooms and clothes had not been provided. Thus, they had remained with the clothes and shoes they were wearing the day of the shipwreck for 14 days. Their daily meals consisted of rice, pasta or potatoes served with bread. Chicken and fruit had been served only once. Moreover, mobiles were not allowed and some detainees complained that a friend who had tried to visit them and bring some food was not allowed to enter the detention centre.

#### **Conditions in Petrou Ralli Detention Centre**

During recent visits in Petrou Ralli Detention Centre in July and September 2015, the detainees have complained to GCR about the poor sanitary conditions, especially in the toilets and bathrooms. Although there is a cleaning service operating in the detention centre, it is not sufficient for the number of people detained there. There were also complaints about the small portions and the bad quality of the food. Dairy products and vegetables are not provided and chicken and fruit are served only once a week.

#### **Health risks**

The health risks to which detained migrants and asylum seekers are exposed are related not only to the substandard detention conditions, but also to the lack of medical screening available. The majority of the detained migrants and asylum seekers are not new arrivals, but were detained on the mainland or trying to leave Greece. Therefore, most have not passed through the newly established 'first reception' system, which includes a medical assessment process. As a result of the absence of initial medical assessments, Médecins Sans Frontières teams have identified people in detention with serious chronic and communicable diseases, such as tuberculosis, some of whom had interrupted their treatment. Diabetics, who need special treatment and diets are not properly classified resulting in severe health risks for the individual which can be life-threatening. Not only were these people detained in conditions harmful to their health for lengthy periods of time, but no measures were taken to protect other detainees from possible disease transmission.

Medical services have been available for limited periods of time and only in the larger detention centres, through the implementation of EU-funded projects by the Hellenic Centre for Disease Control and Prevention (HCDCP), through subcontracted civil society organisations. Moreover, the MPOCP has implemented EU-funded projects for limited periods of time employing psychologists in some

<sup>399</sup> Greek Ombudsman, *Report after the monitoring visit at Amygdaleza Detention Center*, August 2014.

immigration detention facilities. Where there are no medical staff in detention facilities, which is always the case in regular police stations, detained migrants depend exclusively on the police. The police then have to decide who is in need of medical attention and how urgent it is. As the police lack the necessary expertise to identify and follow up on health conditions, there is a high risk of serious medical cases being neglected. The Greek Ombudsman has also reported complaints of non-referral of detainees to hospital who are in need of urgent care. In one incident an Afghan detainee was held for 11 months in Corinth who had repeatedly stated that he was in severe pain, despite this there was a delay in transferring him to hospital which ultimately led to his death on 27 July 2013.

Following a visit in Petrou Ralli Detention Centre in November 2014, GCR requested the release of an Afghan national suffering from tuberculosis. The HCDCP provided recommendations and guidelines to the competent authorities, mentioning that the provision of appropriate medication had been suspended and there was a serious risk for the patient's health. It was also recommended to isolate the detainee and transfer him to an appropriate health unit. However, on GCR's visit of 30 January 2015 the patient was still under detention. He was in a bad situation and his co-detainees were also afraid of the transmission of the disease because he was continuously coughing. It is also worth mentioning that the asylum appeal of a Mauritanian suffering from hepatitis, leukopenia and neutropenia whose treatment had been suspended after arrest and had not received any medical treatment during detention, despite GCR's request, was rejected by the Appeals Authority. Although the Appeals Committee had received GCR's information note, did not examine the risk of not being able to survive in Mauritania on the ground that he had not submitted any medical certificate or other element proving that he was following a treatment in Greece. On the other hand, GCR has successfully intervened for the release of patients with HIV, hepatitis, tuberculosis and psychiatric diseases during 2015.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

1. Is there an automatic review of the lawfulness of detention?  Yes  No
2. If yes, at what interval is the detention order reviewed?

Asylum seekers may challenge detention through the "objections procedure" before the Administrative Court.<sup>400</sup> Objections against detention are not examined by a court composition but solely by the President of the Administrative Court, whose decision is non-appealable. On various occasions, the ECtHR has found the "objections procedure" to be an ineffective remedy, contrary to Article 5(4) ECHR.<sup>401</sup>

Automatic review of detention decisions concerning asylum seekers is not provided in Greek law.

Moreover, it has been reported that courts do not examine the legality of detention in the case of detainees who cannot prove a known and stable residence, even for vulnerable applicants such as mentally ill persons and victims of torture.<sup>402</sup> This approach is circular, as it need be recalled that asylum seekers cannot declare an address where the state fails to fulfil its duty to provide sufficient places in reception centres. In addition, despite the fact that according to the Law the Administrative Court issues its decision immediately, there was no decision for several months in the cases of objections of three GCR beneficiaries submitted in 2015.

<sup>400</sup> Article 13(5) PD 114/2010 and Article 12(7) PD 113/2013, citing Article 76(3)-(4) L 3386/2005.

<sup>401</sup> See e.g. ECtHR, *Rahimi v Greece* Application No 8687/08, 5 April 2011; *RU v Greece* Application No 2237/08, 7 June 2011; *CD v Greece* Application No 33468/10, 19 March 2014.

<sup>402</sup> EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*.

Relating to judicial review of detention conditions, courts tend either not to take complaints into consideration or to reject them as unfounded, even against the background of numerous reports on Greece's substandard conditions of detention, brought to the attention of judges.<sup>403</sup> In its ruling in *MD v Greece*, the ECtHR found a violation of Article 5(4) ECHR, as the complaints concerning detention conditions had not been examined by the competent Greek court, despite the amendment of the relevant national legislation.<sup>404</sup>

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?  
 Yes  No
2. Do asylum seekers have effective access to free legal assistance in practice?  
 Yes  No

Neither PD 114/2010 nor PD 113/2013 provide for asylum seekers' access to free legal assistance for the review of detention. Article 9 of the recast Reception Conditions Directive, foreseeing a right to free legal assistance for asylum seekers in detention, has not been transposed into Greek legislation yet. Moreover, free legal aid for detainees provided by NGOs is extremely limited due to funding shortages which cannot accommodate the increasing number of detained asylum seekers, and obstacles to NGOs' access to detention centres.<sup>405</sup>

It should also be noted that many detention centres are located in remote areas, a fact which undermines effective access of asylum seekers in detention to a lawyer. Moreover, lawyers can only access detention centres if they have received a call of a certain person or on behalf of him or her, and are thus in possession of the name of their client, which is only the case if they have been appointed as their lawyer.

<sup>403</sup> ECtHR, *Housein v Greece*, paras 79-84.

<sup>404</sup> ECtHR, *MD v Greece* App No 60622/11, 13 November 2014, paras 62-69.

<sup>405</sup> GCR, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of M.S.S. V. Belgium & Greece*, 25 April 2014, available at: <http://bit.ly/1Rtwe0c>, 14; EMN, *The use of detention and alternatives to detention in the context of immigration policies (Greece)*, 23-24 and 27. See also Greek Ombudsman, *Document 178715/20964/2014*, 17 April 2014.



## ANNEX I – Transposition of the CEAS in national legislation

### Directives and other measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act (GR)	Web Link
<b>Directive 2011/95/EU</b> Recast Qualification Directive	21 December 2013	21 October 2013	Presidential Decree 141/2013 “on the transposition of Directive 2011/95/EU into Greek legislation” Gov. Gazette 226/A/21-10-2013 Προεδρικό Διάταγμα 141/2013 «Προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2011/95/ΕΕ [...]» ΦΕΚ 226/Α/21-10-2013	< <a href="http://bit.ly/1FWWVGX">http://bit.ly/1FWWVGX</a> > (GR)

### Pending transposition and reforms into national legislation

Directive / Regulation	Deadline for transposition	Stage of transposition / Main changes planned	Participation of NGOs
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	No draft yet.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20 July 2015	No draft yet.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Regulation (EU) No 604/2013</b> Dublin III Regulation	Directly applicable 20 July 2013	No draft yet.	<input type="checkbox"/> Yes <input type="checkbox"/> No

The European Commission has sent a Letter of Formal Notice to Greece for non-communication of transposition of the recast Asylum Procedures and Reception Conditions Directives.<sup>406</sup>

<sup>406</sup> Formal Notices 2015/0402 and 2015/0403. See European Commission, ‘More Responsibility in managing the refugee crisis: European Commission adopts 40 infringement proceedings to make the European Asylum System work’, 23 September 2015, available at: <http://bit.ly/1MS52Za>.